

# TCEQ Interoffice Memorandum

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TO: Office of the Chief Clerk  
Texas Commission on Environmental Quality

THRU: Chris Kozlowski, Team Leader  
Water Rights Permitting Team

FROM: Hal E. Bailey, Jr., Project Manager  
Water Rights Permitting Team

DATE: November 9, 2021

SUBJECT: Clancy Utility Holdings LLC  
WRPERM 13777  
CN605924489, RN111319745  
Application No. 13777 for a Water Use Permit  
Texas Water Code § 11.121, Published and Mailed Notice Required  
Pedernales River, Colorado River Basin  
Hays County

The application and partial fees were received on August 18, 2021. Additional information and fees were received on October 27 and October 28, 2021. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on November 9, 2021. Published and mailed notice to the water right holders of record in the Colorado River Basin is required, pursuant to Title 30 Texas Administrative Code §§ 295.152 and 295.153.

All fees have been paid and the application is sufficient for filing.

*Hal E. Bailey, Jr.*

\_\_\_\_\_  
Hal E. Bailey, Jr., Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

OCC Mailed Notice Required  YES  NO

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 9, 2021

Mr. Ed McCarthy, Attorney  
McCarthy & McCarthy L.L.P.  
1122 Colorado Street, Suite 2399  
Austin, Texas 78701

VIA E-MAIL

RE: Clancy Utility Holdings LLC  
WRPERM 13777  
CN605924489, RN111319745  
Application No. 13777 for a Water Use Permit  
Texas Water Code § 11.121, Mailed and Published Notice Required  
Pedernales River, Colorado River Basin  
Hays County

Dear Mr. McCarthy:

This acknowledges receipt, on October 27 and October 28, 2021, of additional information and fees in the amount of \$1,133.27 (Receipt No. M202347, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on November 9, 2021. Staff will continue processing the application for consideration by the Executive Director.

Please be advised that additional information may be requested during the technical review phase of the application process.

If you have any questions concerning this matter, please contact me via email at [hal.bailey@tceq.texas.gov](mailto:hal.bailey@tceq.texas.gov) or by telephone at (512) 239-4615.

Sincerely,

*Hal E. Bailey, Jr.*

Hal E. Bailey, Jr., Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

Attachment



29-OCT-21 08:56 AM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M202346	1084		BS00089677	29-OCT-21	-\$1,593.98
	WUP		102821	N	D2800451		
WATER USE PERMITS		YACKTMAN, ELLYN	RHDAVIS	CK			
	WUP	M202347	1898		BS00089677	29-OCT-21	-\$1,133.27
	WUP	13777	102821	N	D2800451		
WATER USE PERMITS		MCCARTHY & MCCARTHY LLP	RHDAVIS	CK			

Total (Fee Code): -\$2,727.25

Grand Total: -\$3,727.25

**RECEIVED**  
NOV 01 2021  
Water Availability Division

## Hal Bailey

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**From:** Ed McCarthy <[REDACTED]>  
**Sent:** Wednesday, October 27, 2021 3:58 PM  
**To:** Hal Bailey  
**Cc:** Chris Kozlowski; Humberto Galvan; Shaun Miller; George Murfee - Murfee Engineering  
<[REDACTED]>  
**Subject:** RE: Clancy Utility Holdings LLC Application No. 13777 RFI  
**Attachments:** 10-27-21 Clancy RFI Responses to RFI 9-27-21 as filed .pdf

Good afternoon Hal.

Attached please find a copy of the RFI Responses to your September 27<sup>th</sup> RFI Request Letter. I mailed the original to you today with my Firm's Check payable to the TCEQ for the balance of the Fees due according to the information in your letter.

Please note that in addition to the information responsive to the RFIs, I included additional information to supplement the Application.

Please let me know if you have any additional questions, or need further information.

Best wishes.  
Ed

---

**From:** Hal Bailey <Hal.Bailey@tceq.texas.gov>  
**Sent:** Monday, September 27, 2021 8:30 AM  
**To:** Ed McCarthy <[REDACTED]>  
**Cc:** Chris Kozlowski <chris.kozlowski@tceq.texas.gov>; Humberto Galvan <Humberto.Galvan@tceq.texas.gov>  
**Subject:** Clancy Utility Holdings LLC Application No. 13777 RFI

Good morning Mr. McCarthy,

Attached is a Request for Information (RFI) letter for Clancy Utility Holdings LLC., application no. 13777.

Please provide a response by COB on 10/27/2021.

Should you have any questions, or if you need additional time to respond, please let me know.

Thank you,

*Hal E. Bailey, Jr.*  
*Natural Resources Specialist III*  
*Water Rights Permitting Team*  
*Water Availability Division*  
*Texas Commission on Environmental Quality*  
512-239-4615 [Hal.Bailey@tceq.texas.gov](mailto:Hal.Bailey@tceq.texas.gov)

LAW OFFICES OF  
**McCARTHY & McCARTHY, L.L.P.**

1122 COLORADO STREET, SUITE 2399  
AUSTIN, TEXAS 78701  
(512) 904-2310  
(512) 692-2826 (FAX)

October 27, 2021

**RECEIVED**  
OCT 28 2021

**Water Availability Division**  
*via e-mail*  
*and U.S. Mail*

Mr. Hal Bailey, Project Manager  
Water Rights Permits Team  
Water Availability Division  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Clancy Utility Holdings LLC  
WRPERM 13777  
CN605924489, RN111319745  
Application No. 13777 for a Water Use Permit  
Texas Water Code § 11.121, Mailed and Published Notice Required  
Pedernales River, Colorado River Basin  
Hays County

Dear Mr. Bailey:

I am writing in response to your letter dated September 27, 2021, Requesting Additional Information (“RFIs”) in response to the above referenced Application filed on behalf of the Clancy Utility Holdings LLC (“Clancy”). In addition to the responses to the specific RFIs, I have also attached hereto as **Appendix “E”** a copy of the Agreement between the Applicant, Clancy, and the property owner, Marisol Springs LLC, authorizing Clancy’s utility operations on the property to be benefitted by Clancy’s Application No. 13777, including the filing of the Application.

Each of the four individual Requests for Information (“RFIs”) are restated and responded to separately below:

**RFI No. 1.** Provide a copy of the ordinance, resolution, or tariff indicating official adoption of the water conservation and drought contingency plans by the water supplier as a means of implementation and enforcement of the plans.

**Response:** A copy of the Resolution of the Clancy Utility Holdings LLC adopting its water conservation and drought contingency plans as a means of implementation and enforcement of the plans is attached hereto as **Appendix “A”**.

**RFI No. 2.** Provide the coordinates of the diversion point in decimal degrees to at least six decimal places. Staff notes the coordinates for the diversion point on WORKSHEET 3.0 are in degrees, minutes, and seconds and do not match the included maps.

**Response:** The Longitude and Latitude coordinates of the proposed Mirasol diversion point in decimal degrees to at least six decimal places are as follows:

Longitude: -98.142019° W  
Latitude: 30.333460° N

These coordinates reflect corrections. Additionally, to address the corrections an amended WORKSHEET 3.0 with the revised Coordinates set out to 6-decimal places is attached hereto as **Appendix “B”**. A new Map depicting the proposed diversion point based upon the revised Coordinates set out to 6-decimal places is also attached hereto as **Appendix “C”**. This Map follows immediately behind the revised WORKSHEET 3.0, and is Bates Stamped as Page 0033A. Please substitute the revised WORKSHEET 3.0 and Map in the Application as pages 0032, 0033 and 0033A.

**RFI No. 3.** Provide the ZIP Code, Survey No., Abstract No., and County for the location of the proposed diversion point.

**Response:** The proposed Diversion Point is located at the Coordinates identified in Paragraph 2., above. The Diversion Point is located in Zip Code 78620, which includes the J.B Hammett Survey, Abstract No. 636, that covers a portion of the Property to be served by the Applicants located in Hays County, Texas. This updated information is also contained in the amended WORKSHEET 3.0 attached hereto as **Appendix “B”**.

**RFI No. 4.** Please remit fees in the amount of \$1,133.27 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

**Response:** Attached is my Firm’s Check No. 1898 payable to TCEQ in the amount of \$1,133.27 for the additional fees identified in your RFI No. 4. A copy of the Check is also attached hereto as **Appendix “D”**.

In light of the revisions to the Map of the proposed Diversion Point location included in the Application, I have attached as **Appendix “F”** additional copies of the Map included as Appendix “C.” These copies have been Bates Stamped separately as Pages 0070 and 0200, respectively. Please substitute these Bates Stamped updated versions of the Map for the corresponding Bates Stamp numbered pages in the Application so that the Application will be appropriately revised and updated.

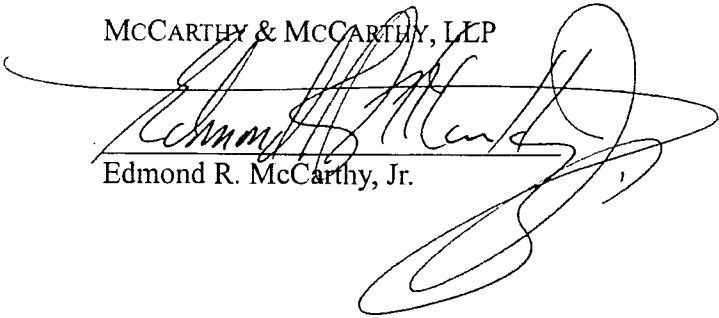
With this set of RFI Responses, and additional supplemental information included with this letter, I believe that Clancy has fully responded to your September 27, 2021, RFIs. Should you need any additional information, please let me know. I can be reached at (512) 904-2313.

October 27, 2021  
Page 3

Thank you for assistance in this matter. Best wishes.

Sincerely,

MCCARTHY & MCCARTHY, LLP

  
Edmond R. McCarthy, Jr.

ERM/tn  
Encl.

cc: Clancy Utility Holdings LLC  
Attn: Shaun Miller, President

Murfee Engineering, Inc.  
Attn: George Murfee, P.E.

**Appendix "A"**

**Resolution of Clancy Utility Holdings LLC**



**WRITTEN CONSENT OF THE SOLE MANAGER  
OF CLANCY UTILITY HOLDINGS, LLC TO THE ADOPTION & RATIFICATION OF  
THE COMPANY'S WATER CONSERVATION AND DROUGHT CONTINGENCY  
PLANS**

The undersigned, being the sole Manager of Clancy Utility Holdings, LLC, a Texas limited liability company (the "Company"), pursuant to the Company Agreement and Section 101.359 of the Texas Business Organizations Code, and Article III of the Company Agreement, including Section 3.08, hereby gives written consent to the taking of the following actions without the holding of a meeting, and hereby gives written consent to the adoption of and approval of and, by written consent, hereby takes the following actions and adopts the following preambles and resolutions, which actions, preambles and resolutions shall operate to the same extent and shall have the same force and effect as if adopted by the vote of the Manager of the Company at a meeting of the Manager of the Company, duly called and held to act upon such matters:

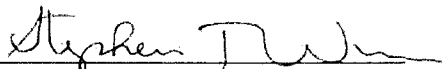
**RESOLVED**, the Manager, acting on behalf of the Company as authorized, and does hereby adopt and ratify the Water Conservation Plan attached hereto as Appendix "A", and incorporated herein for all purposes by reference; and

**BE IT FURTHER RESOLVED**, the Manager, acting on behalf of the Company as authorized, and does hereby adopt and ratify the Drought Contingency Plan attached hereto as Appendix "B", and incorporated herein for all purposes by reference; and

**BE IT FURTHER RESOLVED**, the Manager, acting on behalf of the Company as authorized, and does hereby direct the President of the Clancy Utility Holdings LLC as chief operating officer of the Company to insure the implementation and enforcement of both the Water Conservation Plan and the Drought Contingency Plan in the day to day operations of the Clancy Utility Holdings LLC's retail water and wastewater utility operations, including the use of all water supply permits and wastewater permits issued to the Clancy Utility Holdings LLC.

Adopted to be effective this 18<sup>th</sup> day of October, 2021.

MIRASOL SPRINGS, LLC, a Texas limited liability company

  
Stephen T. Winn, Manager  
Being the sole Member of the Company

**APPENDIX "A"**

**Water Conservation Plan**

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# **WATER CONSERVATION PLAN**

**for**

## **Mirasol Firm Water Contract**

---

September, 2020

Prepared for:

Clancy Utility Holdings, LLC  
4143 Maple Avenue Street, Suite 400  
Dallas, Texas 75219

Prepared by:

Murfee Engineering Company, Inc.  
Texas Registered Firm No. F-353  
1101 Capital of Texas Hwy., South, Building D  
Austin, Texas 78746

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## APPLICANT INFORMATION

Applicant Name: Clancy Utility Holdings, LLC

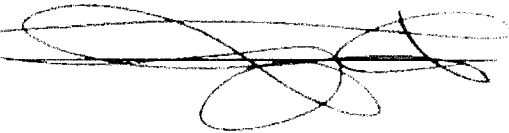
Address: 4143 Maple Avenue Street, Suite 400 Dallas, Texas 75219

Telephone Number: (214)301-4253

Application Prepared by: Dennis Lozano, P.E.

Title: Engineer

Signature:



Date: 4-7-20

## UTILITY PROFILE

The proposed Mirasol service area is an approximately 1,400-acre (2.19 square mile) mixed used development located in southwestern Travis County and northern Hays County approximately 25 miles west of downtown Austin. The development is proposed to have single-family residential connections along with supporting and associated recreational, research, and conservation amenity uses for a total living unit equivalent (LUE) count of 216.

Please note that Table A is not applicable and has not been included due to the fact that the development has not been constructed and has no connections and therefore has no historical use.

Due to the mixed-use nature of this development, Living Unit Equivalents (LUEs) have been used to estimate the projected water demand in lieu of population since water demand will be generated by more than just the permanent population. An LUE is defined as a single-family residence inhabited by 3.5 persons. By using conversion factors, water usage by entities such as restaurants and hotels can be directly combined and projected with single-family residences. It is estimated that there will be approximately 216 LUEs at full build-out. The development is expected to grow at 9% per year with a projected completion year of 2030.

Table 1 provides developer-projected estimates of population.

**Table 1: Projected Population**

<b>Year</b>	<b>Estimated LUEs</b>
2020	20
2030 (full build-out)	216

According to the American Water Works Association Manual of Water Supply Practice, M22, 2014 the per capita water use is expected to be 39 gallons per person per day and 175 gallons per LUE per day. However, the State of Texas has regulatory authority over public water systems (PWSs) which is administrated by the Texas Commission on Environmental Quality (TCEQ). Minimum criteria for PWSs require a minimum water supply of 0.6 gpm/connection. Balancing guidance and regulation and factoring in the seasonal nature of water system demands, the projected full built out demand recommends a contractual Maximum Annual Quantity (MAQ) of 108 ac-ft.

The water distribution system will consist of typical pipes, valves, fire hydrants, and connections designed and specified in accordance with TCEQ rules for PWSs as well as standard engineering practice.

A portion of the entire service area will be provided wastewater service by the District via a wastewater treatment plant designed for 30,000 gallons per day.

## **WATER CONSERVATION GOALS**

Water conservation goals will be established once baseline data is available for comparison.

## **WATER CONSERVATION MEASURES**

1. Mirasol Meadows will test and calibrate production (master) meters to within the accuracy of plus or minus 5%, as well as all meters over 1" in size at intervals not to exceed one year. Meters smaller than 1" will be tested and replaced according to manufacturer recommendations.
2. All connections, including any temporary connections, to the water distribution system shall be metered. All meters will be tested and replaced as necessary, in accordance with manufacturer recommendations.
3. The contracted water system operator shall be required to conduct water loss audits in accordance with all applicable laws.
4. Continuing education and information on water conservation will be provided by Mirasol Meadows to its customers primarily via informational material included in monthly retail billings.
5. The rate structure includes a base monthly cost and graduated volumetric rates that increase with usage in order to encourage conservation. The billing system is capable of separating water-use per customer type into the following categories: residential, commercial, hydrant, tracking, and reclaimed.
6. The primary means of implementation and enforcement shall be contractual, via the retail water service agreement each customer will be required to execute prior to service. Additionally, the Water Conservation Plan will be adopted by the Board of Directors and established as official policy along with the service rates and impact fees.
7. Mirasol will coordinate with the Lower Colorado Region (Region K) of the Lower Colorado Regional Water Planning Group to ensure consistency with the letter and intent of the regional water plans. Once this Water Conservation Plan is approved by the LCRA and adopted by Mirasol Meadows, a copy will be made available to the Region K Planning Group.

## CONSERVATION LANDSCAPE BEST MANAGEMENT PRACTICES

### Planting Specifications:

1. Landscape Option: Builders shall offer homeowners a conservation landscape package such as the LCRA Hill Country Landscape Option (HCLO) which includes only plants selected from Central Texas native and adapted plant list such as the Grow Green Native and Adapted Landscape Plants Guide (available at [www.austintexas.gov/department/grow-green](http://www.austintexas.gov/department/grow-green)) or other native plant source.
2. Turf Selection: Turf that is used as part of the landscape package shall be the appropriate variety for the site location and intended use (see below).

Variety	Drought Tolerance	Shade Tolerance	Heat Tolerance	Wear Tolerance	Water Tolerance	Growing Height
Bermuda (Common and Hybrid)	Good	Poor	Good	Excellent	Medium	½ - 2 inches
Zoysia (Japonica)	Fair	Fair (JaMur)	Good	Good	Medium	¾ - 2 inches
Buffalo (Prairie or 609)	Excellent	Poor	Excellent	Good	Low	3 – 8 inches
St. Augustine	Fair	Good	Fair	Fair	High	2 – 3 inches

3. Invasive Plants: Plants considered to be invasive or environmentally detrimental shall not be used. For a list of invasive plants to Central Texas and their alternatives, reference the Grow Green Native and Adapted Landscape Plants Guide.
4. Turf Limitation: In new homes, no more than 50 percent of the landscape may be planted in turf.

### Soil Specifications:

1. Soil Depth: All irrigated and newly planted turf areas will have a minimum settled soil depth of at least 6 - 8 inches:
  - a. builders and owners will import soil if needed to achieve sufficient soil depth;
  - b. soil in these areas may be either native soil from the site or imported, improved soil;
  - c. improved soil shall have a minimum organic content of 5 percent or will be an amended mix of no less than twenty percent compost blended with sand and loam (caliche shall not be considered as soil);
  - d. undisturbed, non-irrigated natural areas are exempt from these requirements.
2. Soil in new developments:
  - a. native soil shall be stockpiled and reused on site;



- b. topsoil that is added to the site shall be incorporated in a 2 to 3 inch scarified transition layer to improve drainage.

**Irrigation System Installation, Design, and Maintenance Specifications:**

1. Irrigation systems: Landscape irrigation systems shall not be mandatory.
2. Installation: Irrigation systems, if installed, shall be designed, installed, inspected, and maintained according to TCEQ Chapter 344 Landscape Irrigation rules, as well as the following additional criteria:
  - a. New irrigation systems utilizing an automatic controller must be capable of (at minimum) the following functions:
    - i. Multiple irrigation programs, with at least three (3) start times per program; and
    - ii. The ability to limit irrigation frequency to a weekly schedule as well as once every seven (7) days and once every fourteen (14) days.
3. Spray Irrigation: Spray irrigation for each home/business shall be limited to 2.5 times the foundation footprint, with a 12,000 sq foot maximum. The footprint may include both the house and the garage, but not the driveway or patio.
4. Common areas: Irrigation systems for entryways and common areas shall incorporate design and conservation features applicable to lots within the subdivision. Drip irrigation in common areas will be used where feasible. Color-bed changes and turfgrass overseeding in common areas is prohibited

**Irrigation System Maintenance Specifications:**

1. Watering Schedule: The developer, builder and/or homeowner association shall promote a watering schedule for both residences and common areas which conserves water and reduces run-off, as follows:
  - June, July, August and September** – ½ inch of water no more than twice per week
  - March, April, May and October** – ½ inch of water once per week
  - November through February** – turn off irrigation system
2. Monitoring: Irrigation systems in common areas shall be monitored once per month, and any repairs will be made in a timely manner.
3. Time of Day Irrigation: Watering of common areas and residential landscapes shall be limited to the recommended time of day watering schedule (no watering between 10:00 AM and 7:00 PM) unless irrigation of reclaimed water during the day is necessary to meet regulatory requirements.

## **APPENDIX “B”**

### **Drought Contingency Plan**

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# **DROUGHT CONTINGENCY PLAN**

**for**

## **Mirasol Firm Water Contract**

---

**September 2020**

Prepared for:

Clancy Utility Holdings, LLC  
4143 Maple Avenue Street, Suite 400  
Dallas, Texas 75219

Prepared by:

Murfee Engineering Company, Inc.  
Texas Registered Firm No. F-353  
1101 Capital of Texas Hwy., South, Building D  
Austin, Texas 78746

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## **1.0 Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, Mirasol (the "District") adopts the following Drought Contingency Plan (the "Plan").

## **2.0 Authorization**

The designated manager or official of Mirasol is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The designated manager or official of Mirasol shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. This authorization was designated as part of the plan's approval by the Mirasol Board of Directors.

## **3.0 Public Education**

The general manager of Mirasol will periodically provide its employees, members, and the general public with information about this Plan, including the importance of the Plan, information about the conditions under which each stage of the Plan is to be initiated, processes used to reduce water use, and impending or current drought conditions.

## **4.0 Coordination with Regional Planning Groups**

Mirasol has provided a copy of this Plan to the Lower Colorado Regional Planning Group (Region K).

## **5.0 Notice Requirements**

Mirasol shall notify the executive director of the Texas Commission on Environmental Quality and LCRA General Manager in writing within five (5) business days of the implementation of any mandatory provisions of the Drought Contingency Plan.

## **6.0 Permanent Water Use Restrictions**

The following restrictions apply to all of Mirasol water utility system on a year-round basis, regardless of water supply or water treatment plant production conditions. According to the restrictions, a water user must not:

- 1) Fail to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
- 2) Operate an irrigation system with:
  - a broken head;
  - a head that is out of adjustment and the arc of the spray head is over a street or parking area; or
  - a head that is fogging or misting because of excessive water pressure.
- 3) During irrigation, allow water:
  - to run off a property and form a stream of water in a street for a distance of 50 feet or greater; or
  - to pool in a street or parking lot to a depth greater than one-quarter of an inch.

## **7.0 Initiation and Termination of Response Stages**

The Mirasol general manager shall monitor water supply and demand conditions on a regular basis and shall determine when conditions warrant initiation and termination of each stage of this Plan in accordance with LCRA's Water Management Plan. Water supply conditions will be determined by the source of supply, system capacity, and weather conditions. Water demand will be measured by the peak daily demands on the system.

Public notification of the initiation or termination of drought response stages shall be by a variety of means, examples include: bill inserts, e-mail and automated telephone calls, signs posted at entry points to the service area or a combination of these methods.

The following triggering criteria shall apply to the Mirasol water utility system(s) and customer service area:

### **7.1 *Triggering Criteria for Initiation and Termination of Drought Response Stages***

#### **(1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)**

- A. **Requirements for initiation** - Customers shall be requested to adhere to the Stage 1 Drought Response Measures when one or a combination of such triggering criteria occurs:
  1. Treatment Capacity:
    - When total daily water demand equals or exceeds 80 percent of the total operating system treatment capacity for three consecutive days, or 85 percent on a single day.
  2. Water Supply:

- Combined storage of Lakes Travis and Buchanan reaches 1.4 million acre-feet in accordance with the LCRA Drought Contingency Plan for Firm Water Customers (DCP).

**B. Requirements for termination** - Stage 1 of the plan may be rescinded when:

1. Treatment Capacity:

- The water treatment plant capacity condition listed above as a triggering event for Stage 1 has ceased to exist for five consecutive days.

2. Water Supply:

- LCRA announces that voluntary restrictions by its firm raw water customers are no longer needed in accordance with the LCRA DCP.

**(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)**

**A. Requirements for initiation** - Customers shall be required to adhere to the Stage 2 Drought Response Measures when one or a combination of such triggering criteria occurs:

1. Treatment Capacity:

- For surface water systems, when total daily water demand equals or exceeds 93 percent of the total operating system treatment capacity for three consecutive days, or 95 percent on a single day.

2. Water Supply:

- Combined storage of Lakes Travis and Buchanan reaches 900,000 acre-feet in accordance with the LCRA DCP.

**B. Requirements for termination** - Stage 2 of the Plan may be rescinded when:

1. Treatment Capacity:

- The water treatment plant capacity condition listed above as a triggering event for Stage 2 has ceased to exist for five consecutive days.

2. Water Supply:

- LCRA announces that voluntary compliance to implement a utility's mandatory water restrictions are no longer needed in accordance with the LCRA DCP.

*Upon termination of Stage 2, Stage 1 becomes operative.*

**(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

- A. **Requirements for initiation** - Customers shall be required to adhere to the Stage 3 Drought Response Measures when one or a combination of such triggering criteria occurs:
1. Treatment Capacity:
    - For surface water systems, when total daily water demand equals or exceeds 95 percent of the total operating system treatment capacity for three consecutive days, or 97 percent on a single day.
  2. Water Supply:
    - Combined storage of Lakes Travis and Buchanan reaches 600,000 acre-feet, in accordance with the LCRA DCP, or
    - The LCRA Board declares a drought worse than the Drought of Record or other water supply emergency and orders the mandatory curtailment of firm water supplies.
- B. **Requirements for termination** - Stage 3 of the Plan may be rescinded when:
1. Treatment Capacity:
    - The water treatment plant capacity condition listed above as a triggering event for Stage 3 has ceased to exist for five consecutive days.
  2. Water Supply:
    - LCRA announces that mandatory water restrictions for firm water customers are no longer required in accordance with the LCRA DCP.

*Upon termination of Stage 3, Stage 2 becomes operative.*

#### **(4) STAGE 4- Emergency Water Conditions**

- A. **Requirements for initiation** - Customers shall be required to adhere to the Stage 4 Drought Response Measures when one or a combination of such triggering criteria occurs:
1. Treatment Capacity:
    - Major water line breaks, loss of distribution pressure, or pump system failures that cause substantial loss in its ability to provide water service.
  2. Water Supply:
    - Natural or man-made contamination of the water supply source; or
    - Any other emergency water supply or demand conditions that the LCRA general manager or the LCRA Board determines that either constitutes a water supply emergency or is associated with the LCRA Board declaration of a drought worse than the drought of record.



B. **Requirements for termination** - Stage 4 of the Plan may be rescinded when:

1. Treatment Capacity:
  - The water treatment plant capacity condition listed above as a triggering event for Stage 4 has ceased to exist for five consecutive days; or
2. Water Supply:
  - LCRA announces that mandatory water restrictions for firm water customers are no longer required in accordance with the LCRA DCP.

*Upon termination of Stage 4, Stage 3 becomes operative.*

## **8.0 Drought Response Measures**

### **8.1 Targets for Water-Use Reductions**

#### **(1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a 5% reduction in water use.

#### **(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a 10-20% reduction in water use.

#### **(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a minimum 20% reduction in water use.

#### **(4) STAGE 4 - Severe Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Achieve a minimum 30% reduction in water use.

Water Supply Reduction Target: As determined by the LCRA Board.

## 8.2 Retail Customers Measures

### (1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)

- A. Supply Management Measures: Mirasol will review system operations and identify ways to improve system efficiency and accountability.
- B. Demand Management Measures:
  - 1. Ask customers to voluntarily comply with the water-use restrictions outlined in Stage 2 of this plan, including watering landscapes no more than twice per week; and
  - 2. Actively promote drought related issues and the need to conserve.

### (2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)

- A. Supply Management Measures:
  - 1. Apply all water-use restrictions prescribed for Stage 2 of the plan for Mirasol's utility owned facilities and properties;
  - 2. Discontinue water main and line flushing unless necessary for public health reasons; and
  - 3. Keep customers informed about issues regarding current and projected water supply and demand conditions.
- B. Demand Management Measures: Under threat of penalty, the following water-use restrictions shall apply to all retail water customers:
  - 1. Irrigation of Landscaped Areas:
    - a. **If the combined water storage of lakes Buchanan and Travis are less than 900,000 AF but greater than 750,000 AF** - Irrigation of landscaped areas with hose-end sprinklers or in-ground irrigation systems shall be limited to a no more than a TWICE weekly watering schedule determined by Mirasol and based on the nature of the current drought or water emergency. Irrigation of commercial landscapes and recreational areas may apply for a variance but must still develop a schedule where no part of the landscape is watered more than twice per week. *See Appendix A - Mirasol Water System - Watering Schedules.*

- b. **If the combined water storage of lakes Buchanan and Travis are less than or equal to 750,000 AF** - Irrigation of landscaped areas with hose-end sprinklers or in-ground irrigation systems shall be limited to a no more than a TWICE weekly watering schedule with restricted hours as determined by Mirasol and based on the nature of the current drought or water emergency. *See Appendix A - Mirasol Water System - Watering Schedules.*
  
- c. Outdoor watering hours will be limited to between midnight and 10 a.m. and between 7 p.m. and midnight on designated days. This prohibition does not apply to irrigation of landscaped areas if it is by means of:
  - i. a hand-held hose; or
  - ii. a faucet-filled bucket or watering can of five gallons or less; or
  - iii. sub-surface drip irrigation.

- d. New landscapes may be installed and re-vegetation seeding performed under these specific criteria:
  - i. A completed variance form for new landscapes has been submitted to the Mirasol and has been approved prior to the installation of the landscape, or re-vegetation seed application
  - ii. Irrigation of the new landscape follows the schedule identified in the new landscape variance. The schedule will be developed to minimize water waste.
  - iii. Areas being re-vegetated for soil stabilization must also comply with the (i) and (ii) specific criteria above. Options for re-vegetation may be available in times of low water supply. Specific information regarding options is available in the LCRA Highland Lakes Watershed Ordinance Technical Manual.
  - iv. Variances for new landscapes may be issued for a period of no more than 30 days from the day of issuance. A variance is not an exemption from compliance with the permanent water use restrictions under Section 6.0 of this plan. Variances will not be granted for seasonal "color bed" or temporary grass installation (overseeding).

2. Vehicle Washing:

Use of water to wash any motor vehicle, such as a motorbike, boat, trailer, or airplane is prohibited except on designated watering days between the hours of midnight and 10 a.m. and between 7 p.m. and midnight. Such activity, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle. A vehicle may be washed any time at a commercial car wash facility or commercial service station. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

3. Pools:

- a. Filling of existing swimming pools, hot tubs, and wading pools, shall be discouraged and subject to a variance. Replenishing to maintenance level is permitted. Draining is permitted only onto pervious surfaces or onto a surface where water will be transmitted directly to a pervious surface, and only if:
  - i. Draining excess water from pool due to rain in order to lower water to maintenance level;
  - ii. Repairing, maintaining or replacing pool components that have become hazardous; or
  - iii. Repair of a pool leak.

b. Refilling of public/community swimming pools permitted only if pool has been drained for repairs, maintenance, or replacement as outlined in items above.

4. Outside Water Features:

Operation of outside water features, such as, but not limited to, fountains, splash pad type fountains or outdoor misting systems, is prohibited, except where such features are used to sustain aquatic life or maintain water quality. (This provision includes fountains associated with aesthetic ponds and swimming pools).

5. Ponds:

Ponds used for aesthetic, amenity, and/or storm water purposes may maintain water levels only necessary to preserve the integrity of the liner and operating system. Mirasol may request specific design documentation regarding a pond and the intended purpose.

6. Events:

Events involving the use of water such as: car washes, festivals, parties, water slides, and other activities involving the use of water are permitted, if the water being used drains to a recirculating device, or onto a pervious surface to prevent water waste.

7. Fire Hydrants:

Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed under special conditions and requires a meter; a variance application must be submitted with an explanation of the special conditions.

8. Recreational areas (includes parks and athletic fields):

The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering must follow a no more than twice per week schedule. A variance can be obtained if watering cannot be completed on the designated two day schedule.

11. Water Waste:

The following non-essential uses of water are prohibited at all times during periods in which restrictions have gone into effect:

- a. Washing sidewalks, walkways, driveways, parking lots, street, tennis courts, and other impervious surfaces is prohibited except for immediate health and safety;
- b. Washing buildings, houses or structures with a pressure washer or garden hose is prohibited for aesthetic purposes but allowable for surface preparation of maintenance work to be performed;
- c. Flushing gutters or flooding gutters is prohibited except for immediate health and safety; and
- d. Controlling dust is prohibited, unless there is a demonstrated need to do so for reasons of public health and safety, or as part of an approved construction plan.

**(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

- A. Supply Management Measures: In addition to measures implemented in the preceding stages of the plan, affected Mirasol water utility systems will explore additional emergency water supply options.
- B. Demand Management Measures: Under threat of penalty, all retail customers are required to further reduce non-essential water uses as follows. All requirements of Stage 2 shall remain in effect during Stage 3, with the following modifications and additions.
  1. Irrigation of Landscaped Areas:
    - a. Irrigation of landscaped areas, except with hand-held hoses, hand-held buckets, or sub-surface drip irrigation, is restricted to once per week. *See Appendix A - Mirasol Water System - Watering Schedules*
    - b. New landscapes may be installed and re-vegetation seeding performed under these specific criteria:
      - i. A completed variance form for new landscapes has been submitted to the Mirasol and has been approved prior to the installation of the landscape, or re-vegetation seed application
      - ii. Irrigation of the new landscape follows the schedule identified in the new landscape variance. The schedule will be developed to minimize water waste.

- iii. Areas being re-vegetated for soil stabilization must also comply with the (i) and (ii) specific criteria above. Options for re-vegetation may be available in times of low water supply. Specific information regarding options is available in the LCRA Highland Lakes Watershed Ordinance Technical Manual.
- iv. Variances for new landscapes may be issued for a period of no more than 30 days from the day of issuance. A variance is not an exemption from compliance with the permanent water use restrictions under Section 6.0 of this plan. Variances will not be granted for seasonal “color bed” or temporary grass installation (overseeding).

2. Vehicle Washing:

Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is prohibited. A vehicle can be washed at any time at a commercial car wash facility or commercial service station that recycles its water. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

3. Pools:

Installation of swimming pools is prohibited. The filling or replenishing of water to swimming pools, hot tubs, wading pools, and other types of pools is prohibited. Public/community swimming pools may be exempt from this prohibition to maintain safe levels of water quality for human contact.

4. Events:

Events involving the use of water such as: car washes; festivals; parties; water slides; and other activities involving the use of water are prohibited.

5. Recreational areas (includes parks and athletic fields):

The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering is prohibited except with a hand-held hose.

**(4) STAGE 4 - Emergency Water Conditions**

Under threat of penalty for violation, all retail customers are required to reduce nonessential water uses during an emergency. All requirements of Stages 1 through 3 are also in effect during stage 4, with the following modifications and additions:

- A. Irrigation of landscaped areas is prohibited.
- B. Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare only.
- C. No applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

*Upon declaration of Stage 4 - Emergency Water Conditions, water use restrictions outlined in Stage 4 Emergency Response Measures shall immediately apply.*

## **9.0 Enforcement**

### **9.1 Enforcement Provisions**

Appendix C contains the enforcement provisions applicable to all Mirasol water customers.

### **9.2 Variances**

- (1) Mirasol General Manager may grant variances:
  - A. From specific applications of the outdoor water schedule, providing that the variances do not increase the time allowed for watering but rather alter the schedule for watering; and
  - B. Allowing the use of alternative water sources (*i.e.*, ground water, reclaimed wastewater) that do not increase demand on potable water sources for outdoor use. Variance requests may be submitted to the General Manager and need not meet the requirements of subsection below.
- (2) The general manager, or his designee, may grant in writing temporary variances for existing water uses otherwise prohibited under this plan if it is determined that failure to do so would cause an emergency adversely affecting the public health, sanitation, or fire protection, and if one or more of the following conditions are met:
  - A. Compliance with this plan cannot be accomplished during the duration of the time the plan is in effect; or



- B. Alternative methods can be implemented that will achieve the same level of reduction in water use.
- (3) Persons requesting a variance from the provisions of this plan shall file a petition for variance with the Mirasol water utility system any time the plan or a particular drought response stage is in effect. The general manager or his designee will review petitions for variances. The petitions shall include the following:
- Name and address of the petitioner
  - Purpose of water use
  - Specific provision of the plan from which the petitioner is requesting relief.
  - Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm the petitioner or others will sustain if petitioner complies with this plan
  - Description of the relief requested
  - Period of time for which the variance is sought
  - Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date
  - Other pertinent information
- (4) Variances granted by a Mirasol water utility system shall be subject to the following conditions, unless waived or modified by the general manager, or his designee:
- A. Variances granted shall include a timetable for compliance.
- B. Variances granted shall expire when the plan, or its requirements, is no longer in effect, unless the petitioner has failed to meet specified requirements.
- (5) No variance shall be retroactive or otherwise excuse any violation occurring before the variance was issued.

### **9.3 Plan Updates**

The plan will be reviewed and updated as needed to meet both TCEQ and LCRA drought contingency plan rules.

## 10 Appendices

### ***Appendix A – Watering Schedules***

#### Mirasol Water System

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **TWICE per week** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays and Saturdays

Even number addresses: Thursdays and Sundays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays and Fridays

##### **Watering Hours:**

Midnight to 10 a.m. and 7 p.m. to midnight

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **TWICE per week with restricted hours** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays and Saturdays

Even number addresses: Thursdays and Sundays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays and Fridays

##### **Watering Hours:**

7 p.m. to midnight

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **ONCE per week** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays

Even number addresses: Thursdays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays

**Watering Hours:**

Midnight to 10 a.m. and 7 p.m. to midnight

## ***Appendix B – Enforcement Provisions***

### **Enforcement for Retail Customers**

The following enforcement provisions shall apply to all Mirasol retail water customers:

- (1) No person shall knowingly or intentionally allow the use of water from the Mirasol water utility system for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time.
- (2) Any person who violates this plan shall be subject to the following surcharges and conditions of service:
  - A. Following the first documented violation, the violator shall be given a notice specifying the type of violation and the date and time it was observed. Surcharges and restrictions on service that may result from additional violations;
  - B. Following the second documented violation, the violator shall be sent by certified mail a notice of violation and shall be assessed a surcharge of \$50.00;
  - C. Following the third documented violation, the violator shall be sent by certified mail a notice of violation and shall be assessed a surcharge of \$75.00;
  - D. Following the fourth documented violation, Mirasol shall, upon due notice to the customer, discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$50.00, and any outstanding charges including late payment fees or penalties. In addition, suitable assurance must be given to Mirasol so that the same action shall not be repeated while the plan is in effect. Mirasol may apply the deposit to any surcharges or penalties subsequently assessed under this plan against a customer. The deposit, if any, shall be returned to the customer at the time of the customer's voluntary disconnection from the utility system.
- (3) Each day that one or more of the provisions in this plan is violated shall constitute a separate violation. Any person, including one classified as a water customer of Mirasol, in apparent control of the property where a violation occurs or originates, shall be presumed to be the violator. Any such person, however, shall have the right to show that they did not commit the violation. *See enforcement process diagram in Appendix C - Drought Response Retail Enforcement Process.*

**Legal Authority applicable to Water Districts in Regard to Drought Contingency Plan Enforcement**

*Please note that the following list is not intended to be exhaustive and statutes listed below may not apply to all Water Districts. Citations below may change following the publication date of this Drought Contingency Plan Model. Each Water District is encouraged to consult with legal counsel in regard to enforcement of drought contingency plans and specific enforcement authority available to each Water District.*

Texas Water Code sec. 49.004

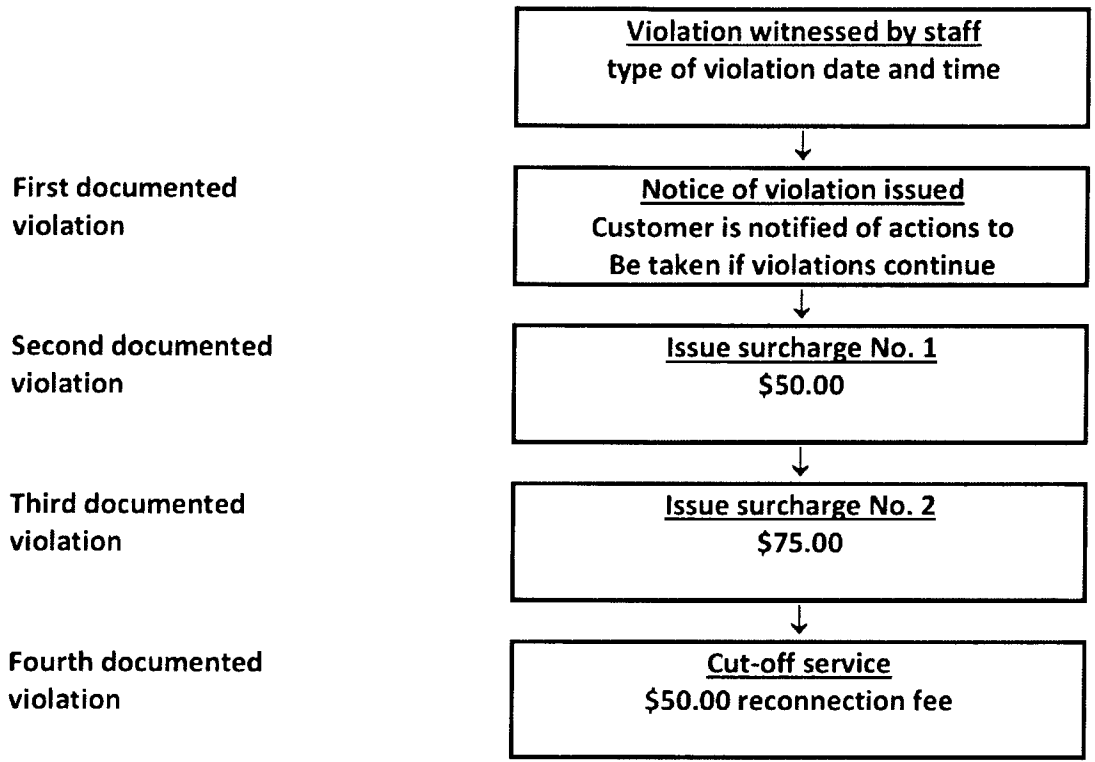
Texas Water Code sec. 49.2.12

Texas Water Code sec. 5.1.122

Texas Water Code sec. 54.205

Texas Water Code sec. 65.205

**Appendix C – Drought Response Retail Enforcement**



**Appendix “B”**

**Amended WORKSHEET 3.0**

## WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet is **required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

*The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g. maps).*

### 1. Diversion Information (Instructions, Page. 24)

a. This Worksheet is to add new (select 1 of 3 below):

1.  Diversion Point No.
2.  Upstream Limit of Diversion Reach No.
3.  Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point**   N/A   cfs (cubic feet per second)  
or   750   gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N   NO    
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches*   N/A   cfs or   N/A   gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N   N/A  

*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

e. Check (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed):

Check one		Write: Existing or Proposed
X	Directly from stream	Proposed
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. Y / N   NO  

If yes, the drainage area is   N/A   sq. miles.

*(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)*



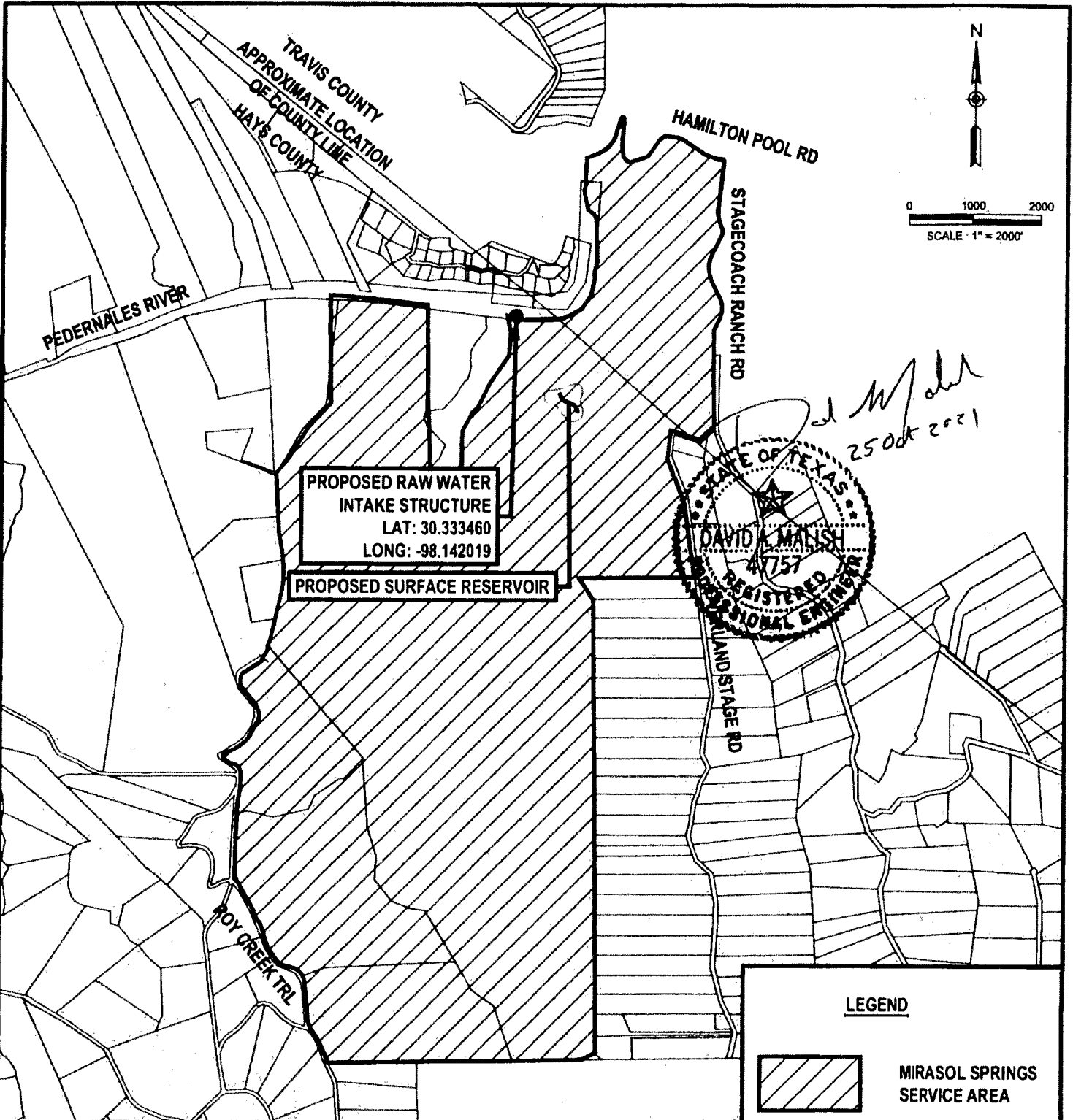
**2. Diversion Location (Instructions, Page 25)**

- a. On watercourse (USGS name): Pedernales, a Tributary of the Colorado River, Colorado River Basin
- b. Zip Code: 78620
- c. Location of point: In the J.B Hammell Original Survey No. N/A, Abstract No. 636, Hays County, Texas.

***A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure.***

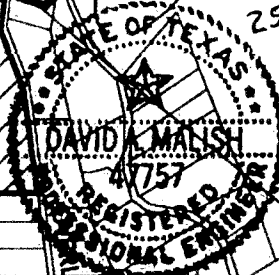
***For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, or consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to: a recorded easement, a land lease, a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.***

- d. Point is at: Latitude 30.333460 °N, Longitude -98.142019 °W.  
***Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Mapping Program
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38. **See attached Map at page 33A-33B**
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.



PROPOSED RAW WATER  
INTAKE STRUCTURE  
LAT: 30.333460  
LONG: -98.142019

PROPOSED SURFACE RESERVOIR



**LEGEND**



MIRASOL SPRINGS  
SERVICE AREA



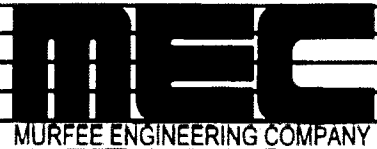
PROPOSED RAW  
WATER INTAKE  
STRUCTURE

**MIRASOL MEADOWS FIRM WATER APPLICATION**

TRAVIS/HAYS COUNTY, TEXAS

EXHIBIT B  
FUTURE POINT OF DIVERSION

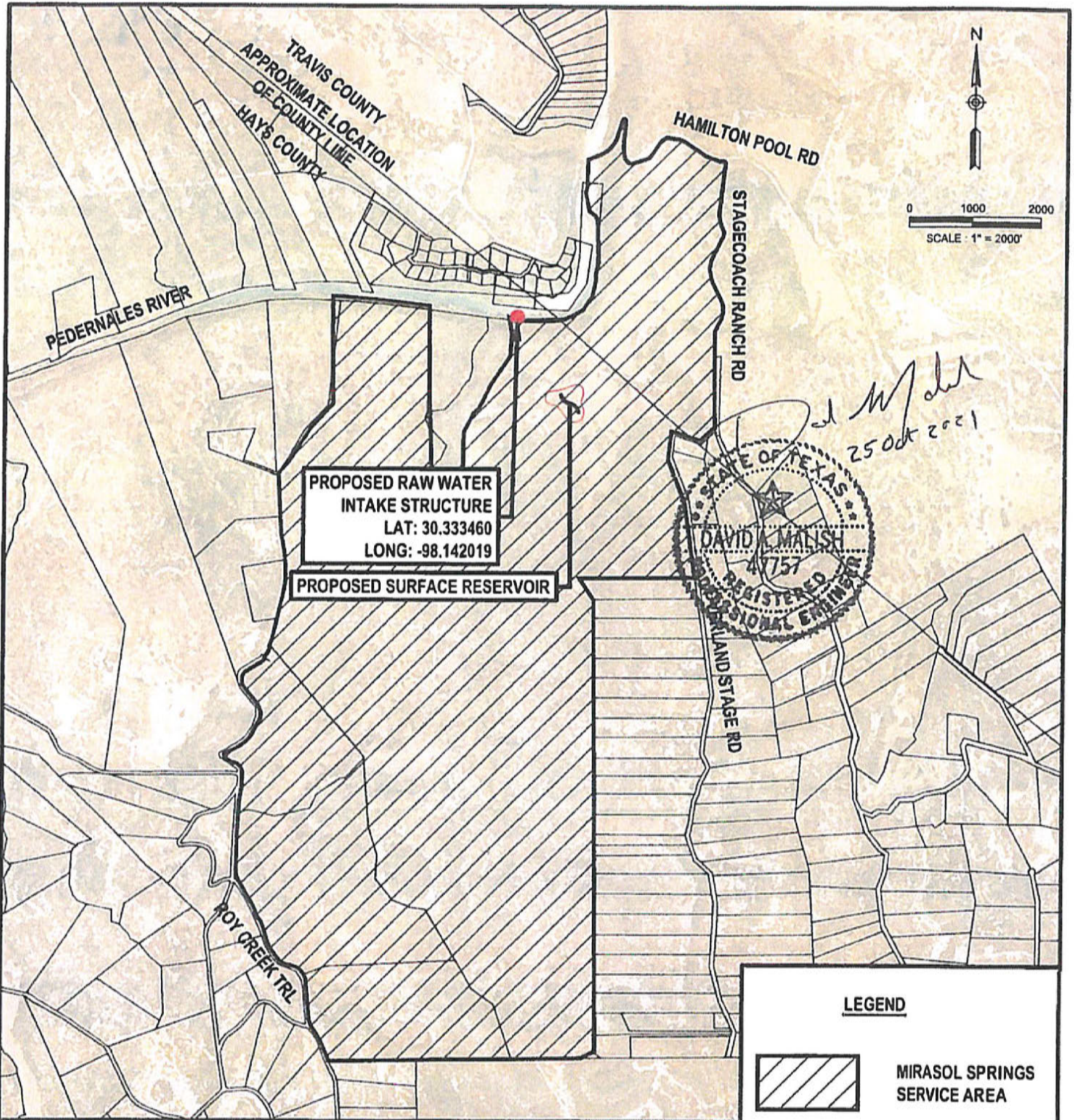
DESIGNED BY: \_\_\_\_\_  
DRAWN BY: SJA  
CHECKED BY: DL  
APPROVED BY: \_\_\_\_\_  
DATE: October 25, 2021



1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
BUILDING D, SUITE 110  
AUSTIN, TEXAS 78746  
(512) 327-9204  
Texas Registered Engineering Firm F-353

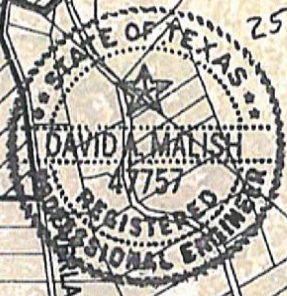
## **Appendix “C”**

### **Revised Map of Diversion Point**



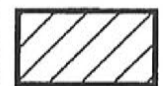
PROPOSED RAW WATER  
INTAKE STRUCTURE  
LAT: 30.333460  
LONG: -98.142019

PROPOSED SURFACE RESERVOIR



*David Malish*  
25 Oct 2021

**LEGEND**



MIRASOL SPRINGS  
SERVICE AREA



PROPOSED RAW  
WATER INTAKE  
STRUCTURE

**MIRASOL MEADOWS FIRM WATER APPLICATION**  
TRAVIS/HAYS COUNTY, TEXAS

**EXHIBIT B**  
FUTURE POINT OF DIVERSION

DESIGNED BY: \_\_\_\_\_  
DRAWN BY: SJA  
CHECKED BY: DL  
APPROVED BY: \_\_\_\_\_  
DATE: October 25, 2021



1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
BUILDING D, SUITE 110  
AUSTIN, TEXAS 78746  
(512) 327-9204  
Texas Registered Engineering Firm F-353

**Appendix “D”**

**Copy of Check No. 1898 payable to  
TCEQ in the amount of \$1,133.27**

**Appendix “E”**

**Consent Agreement between Marisol Springs LLC  
and  
Clancy Utility Holdings LLC  
regarding Utility Operations within Marisol Springs Development**

STATE OF TEXAS                    §  
   §  
COUNTIES OF HAYS & TRAVIS   §

**CONSENT AGREEMENT RELATED TO PERMITTING &  
OPERATION OF RETAIL WATER & WASTEWATER  
UTILITY SERVICES AT MIRASOL SPRINGS**

**Recitals**

WHEREAS, Mirasol Springs, LLC, a Texas limited liability company formerly known as Mirasol Meadows LLC (“Mirasol”) is the owner of 1400 acres, more or less, in Hays and Travis Counties (the “Property”); and

WHEREAS, as evidenced by the Certificate of Filing dated February 2, 2021, issued by the Texas Secretary of State’s Office, a copy of which is attached hereto as Appendix “A” and incorporated herein by reference for all purposes, Mirasol Meadows LLC changed its name to Mirasol Springs LLC; and

WHEREAS, the Property is more particularly described in that certain Special Warranty Deed executed April 5, 2018, and recorded as Document No. 108011916 in the Official Public Records of Hays County, Texas, and recorded as Document No. 2018051535 in the Official Public Records of Travis County, Texas (the “Deed”). A true and correct copy of the Deed is attached hereto as Appendix “A” and incorporated herein for all purposes (the “Deed”); and

WHEREAS, Mirasol desires to have Clancy Utility Holdings, LLC, a Texas limited liability company (“Clancy”) develop, construct, operate and maintain retail water and wastewater utility services on, over and within the Property, and has entered into separate agreements with Clancy for said purposes; and

WHEREAS, Clancy has entered into a long-term Firm Water Supply Contract effective December 2020 to provide a source of surface water from storage in the Highland Lakes with the Lower Colorado River Authority (“LCRA”); and

WHEREAS, Clancy requires access to the Property to construct, operate and maintain certain facilities for purposes of providing retail water and wastewater utility services to the Property, including a diversion point for the diversion of water from the Pedernales River authorized by a separate contract between Mirasol and the Lower Colorado River Authority; and

WHEREAS, Clancy further desires to construct, operate and maintain an off-channel impoundment capable of storing approximately 15.9 acre-feet of water on the Property for use in connection with the provision of retail potable water service to the Property; and

WHEREAS, true and correct copies of maps reflecting the general locations of the proposed diversion point and proposed off-channel reservoir are attached hereto as Appendix “B” and incorporated herein by reference for all purposes; and

WHEREAS, Clancy filed an application with the Texas Commission on Environmental Quality (“TCEQ”) on August 18, 2021, for purposes of implementing the diversion and beneficial use of the water rights authorized by the LCRA Contract, including authorization of the off-channel impoundment; and

WHEREAS, Mirasol desires to authorize Clancy to file and pursue such application with the TCEQ; and

WHEREAS, Clancy further desires to file separate applications with the Hays Trinity Groundwater Conservation District (“HTGCD”) and the Southwest Travis County Groundwater Conservation District (“SWGCD”) for the purpose of securing permits pursuant to Chapter 36, Texas Water Code, to produce for beneficial use groundwater from wells to be completed on the Property, and Mirasol desires to authorize Clancy to pursue such applications and drill, complete, construct, maintain and operate such groundwater wells for the purposes of providing potable water supply to the Property; and

WHEREAS, Clancy further desire to file applications with the TCEQ to permit and, thereafter construct and operate wastewater collection, treatment and disposal facilities under a TLAP permit and Chapter 210 beneficial reuse authorization; and

WHEREAS, Mirasol and Clancy (the “Parties”) desire to enter into this “Consent Agreement” to memorialize the matters described herein;

NOW THEREFORE, inconsideration of the premises, the mutual benefits to be derived by the Parties, and Ten Dollars (\$10.00) and other good and valuable consideration, the Parties agree as follows:

#### **Consent Agreement**

Mirasol Springs, LLC, a Texas limited liability company (“Mirasol”), the owner of the Property, and Clancy Utility Holdings, LLC, a Texas limited liability company (“Clancy”), the operator of retail water and wastewater utility operations at the property, for the mutual benefits to be derived pursuant to this Consent Agreement, and consistent with and pursuant to the terms and conditions of separate agreements entered into by and between the Parties, hereby agree as follows:

- a) Mirasol consents to Clancy’s construction, operation and maintenance of the facilities necessary to provide retail water and wastewater utility services in, on and over the Property;
- b) Mirasol consents to Clancy filing an application with the Texas Commission on Environmental Quality (“TCEQ”) pursuant to Section 11.121, Texas Water Code, for a permit to divert and beneficially use the surface water contracted from the Lower Colorado River Authority for diversion from the Pedernales River for treatment and beneficial municipal use within the Property;
- c) Mirasol consents to Clancy constructing and operating a diversion point and diversion works within the property at the location generally depicted on the plat attached hereto as Appendix “C”;



- d) Mirasol consents to Clancy's construction, operation and maintenance of an off-channel impoundment capable of storing approximately 15.9 acre-feet of surface water to be diverted from the Pedernales River in the impoundment the location of which is generally depicted on the plat included herewith as Appendix "C";
- e) Mirasol consents to Clancy's filing applications with both the Hays Trinity Groundwater Conservation District ("HTGCD") and the Southwest Travis County Groundwater Conservation District ("SWGCD") for the purpose of securing authorization to drill, construct, operate and maintain groundwater wells to produce groundwater from within the respective Districts for utilization, as needed, for beneficial purposes to provide continuous, adequate and reliable retail water service to retail customers within the Property;
- f) Clancy agrees to pursue the applications with the TCEQ, HTGCD and SWGCD and, thereafter, to construct, operate and maintain the facilities contemplated herein necessary to provide retail water and wastewater utility services to the Property;
- g) Mirasol consents to Clancy's filing of applications with the TCEQ necessary to implement the construction, operation and maintenance of facilities for the collection, treatment and disposal of wastewater and treated wastewater effluent on and at the property pursuant to a Texas Land Application Permit ("TLAP") and Beneficial Use Authorization pursuant to Chapter 210 of the TCEQ's rules (30 TAC Ch. 210); and
- h) Clancy and Mirasol agree that as additional locations for utility infrastructure facilities are identified, the Parties will cause said locations to be surveyed and, thereafter, enter into specific agreements and easements for the same to memorialize their use as appropriate.

Agreed to and accepted by the Parties this 23<sup>rd</sup> day of September, 2021, as evidenced by the signatures below.

CLANCY UTILITY HOLDINGS, LLC,  
a Texas limited liability company



Shaun Miller, President

MIRASOL SPRINGS, LLC,  
a Texas limited liability company



Shaun Miller, President

**ACKNOWLEDGEMENT**

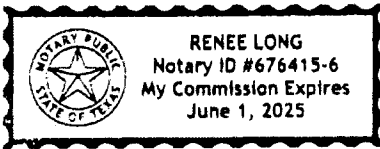
**THE STATE OF TEXAS**

§  
§  
§

**COUNTY OF DALLAS**

This instrument was acknowledged before me on the 24 day of September, 2021, by Shaun Miller, acting in his capacity as President of Clancy Utility Holdings LLC, a Texas limited liability company, on behalf of said company, for the purposes recited in this Consent Agreement.

Notary Seal:



Renee Long  
Notary Public, State of Texas

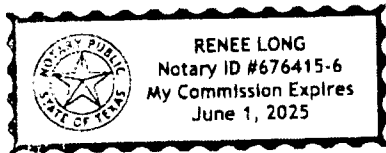
Printed Name: Renee Long  
My Commission Expires: 6/1/25  
Notary ID No.: \_\_\_\_\_

**ACKNOWLEDGEMENT**

**THE STATE OF TEXAS       §**  
**§**  
**COUNTY OF DALLAS       §**

This instrument was acknowledged before me on the 24 day of September, 2021, by Shaun Miller, acting in his capacity as President of Mirasol Springs, LLC, a Texas limited liability company, on behalf of said company, for the purposes recited in this Consent Agreement.

Notary Seal:



Renee Long  
Notary Public, State of Texas  
Printed Name: Renee Long  
My Commission Expires: 6/1/25  
Notary ID No.: \_\_\_\_\_

**Appendix “A”**

**Certificate of Filing issued by the Texas Secretary of State’s  
Office dated February 2, 2021**

Corporations Section  
P.O.Box 13697  
Austin, Texas 78711-3697



Ruth R. Hughs  
Secretary of State

## Office of the Secretary of State

### CERTIFICATE OF FILING OF

Mirasol Springs, LLC  
802944056

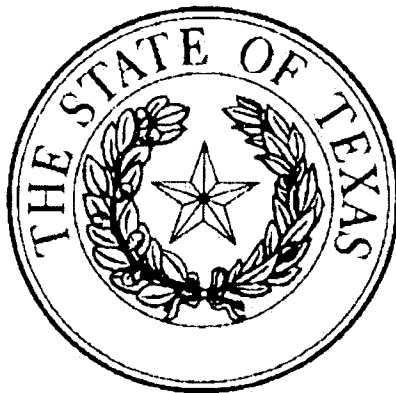
[formerly: Mirasol Meadows, LLC]

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Amendment for the above named entity has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

Dated: 02/02/2021

Effective: 02/02/2021



A handwritten signature in black ink, appearing to read "Ruth R. Hughs".

Ruth R. Hughs  
Secretary of State

**Appendix "B"**

**Special Warranty Deed executed April 5, 2018, and recorded in  
Travis County as Document No. 2018051535 and  
Hays County as Document No. 108011916**

**SPECIAL WARRANTY DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS                                   §  
   §     KNOW ALL MEN BY THESE PRESENTS:  
COUNTIES OF HAYS AND TRAVIS     §

George H. Norsworthy, Jr., an individual ("Grantor"), for and in consideration of the sum of \$10 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, AND CONVEY unto Mirasol Meadows, LLC, a Texas limited liability company ("Grantee") the real property in Hays and Travis Counties, Texas, fully described in Exhibit A hereto, together with all rights, titles, and interests appurtenant thereto (collectively, the "Property").

This Special Warranty Deed and the conveyance hereinabove set forth is executed by Grantor and accepted by Grantee subject to the matters described in Exhibit B hereto, to the extent the same are validly existing and applicable to the Property (collectively, the "Permitted Encumbrances").

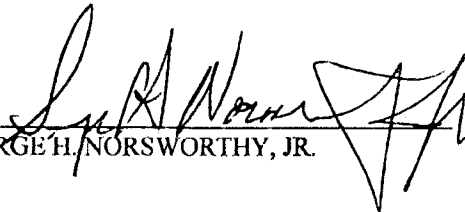
TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereunto in anywise belonging, unto Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, its successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantor but not otherwise, subject to the Permitted Encumbrances.

Grantee accepts the Property conveyed by this Deed subject to ad valorem taxes for the year 2018 and subsequent years.

Grantee's address for tax notices is: 2201 Lakeside Boulevard, Suite 200, Richardson, Texas 75082, Attention: Shaun Miller.

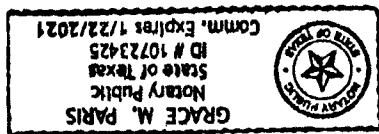
[Signatures Page Follows]

EXECUTED as of April 5, 2018.

  
\_\_\_\_\_  
GEORGE H. NORSWORTHY, JR.

STATE OF TEXAS       §  
                                  §  
COUNTY OF Dallas   §

This instrument was acknowledged before me on April 5, 2018, by GEORGE H. NORSWORTHY, JR. an individual.



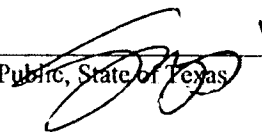
  
\_\_\_\_\_  
Notary Public, State of Texas

Exhibit A - Legal Description  
Exhibit B - Permitted Encumbrances



**EXHIBIT A**

**LEGAL DESCRIPTION**

**TRACT I**

CALLED 260.40 ACRES OF LAND SITUATED IN THE H & OB R.R. SURVEY NO. 3, PHILLIP CAMMANS SURVEY AND THE A. REUSE SURVEY IN HAYS COUNTY, TEXAS, BEING ALL OF THAT CALLED 260.40 ACRES IDENTIFIED AS PARCEL ONE, TRACT I AND COMPRISED OF THAT CALLED 227.39 ACRES DESIGNATED AS TRACT ONE AND THAT CALLED 33.01 ACRES DESIGNATED AS TRACT TWO DESCRIBED IN THE DEED WITH GENERAL WARRANTY TO NORSWORTHY RANCH, LTD. IN VOLUME 12345, PAGE 595 AND VOLUME 12345, PAGE 607, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND VOLUME 1126, PAGE 369 AND VOLUME 1126, PAGE 381, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**TRACT II**

CALLED 433.42 ACRES OF LAND SITUATED IN THE H & OB R.R. SURVEY NO. 3, PHILLIP CAMMANS SURVEY AND THE A. REUSE SURVEY IN HAYS COUNTY, TEXAS, BEING ALL OF THAT CALLED 433.42 ACRES IDENTIFIED AS PARCEL ONE, TRACT II AND DESCRIBED IN THE DEED WITH GENERAL WARRANTY TO NORSWORTHY RANCH, LTD. IN VOLUME 12345, PAGE 595 AND VOLUME 12345, PAGE 607, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND VOLUME 1126, PAGE 369 AND VOLUME 1126, PAGE 381, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**TRACT III**

CALLED 425.192 ACRES OF LAND SITUATED IN THE C. & M. R.R. SURVEY NO. 171, C. & M. R.R. SURVEY NO. 172, P. H. COMMONS SURVEY, J. B. HAMMETT SURVEY NO. 156, J.M. HAMMET SURVEY NO. 534, J.C. LITTLE SURVEY NO. 428, IN HAYS AND TRAVIS COUNTY, BEING ALL OF THAT CALLED 425.192 ACRES IDENTIFIED AS PARCEL TWO, 425.192 ACRES AND DESCRIBED IN THE DEED WITH GENERAL WARRANTY TO NORSWORTHY RANCH, LTD. IN VOLUME 12345, PAGE 595 AND VOLUME 12345, PAGE 607, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND VOLUME 1126, PAGE 369 AND VOLUME 1126, PAGE 381, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**TRACT IV**

CALLED 2.452 ACRES OF LAND SITUATED IN THE C. & M. R.R. SURVEY NO. 171 AND THE J.M. HAMMET SURVEY NO. 534, IN TRAVIS COUNTY, BEING ALL OF THAT CALLED 2.452 ACRES IDENTIFIED AS PARCEL THREE AND DESCRIBED IN THE DEED WITH GENERAL WARRANTY TO NORSWORTHY RANCH, LTD. IN VOLUME 12345, PAGE 595 AND VOLUME 12345, PAGE 607, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND VOLUME 1126, PAGE 369 AND VOLUME 1126, PAGE 381, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

**TRACT V**

CALLED 278.480 ACRES OF LAND SITUATED IN THE H & OB R.R. SURVEY NO. 3, PHILLIP CAMMANS SURVEY AND THE A. REUSE SURVEY IN HAYS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN CALLED 278.480 ACRES DESCRIBED IN THE GENERAL WARRANTY DEED TO GEORGE H. NORSWORTHY IN VOLUME 1456, PAGE 691, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS. SAID 278.480 ACRES BEING ALL OF LOTS 2, 3 AND 4, BLOCK C, HURLBUT RANCH EAST A SUBDIVISION IN HAYS COUNTY, TEXAS ACCORDING TO THE PLAT OF RECORD IN VOLUME 3, PAGES 161 THRU 170, PLAT RECORDS OF HAYS COUNTY, TEXAS.

**Tracts I through V above also having a perimeter description as follows:**

DESCRIPTION OF 1400.809 ACRES OF LAND IN THE J.C. LITTLE SURVEY NO. 428, A-493, J.M. HAMMETT SURVEY NO. 534, A-420, J.B. HAMMETT SURVEY NO. 212, A-2438, W. HAMMETT SURVEY, A-2406 AND THE C. & M.R.R. SURVEY NO. 171, A- 2161, TRAVIS COUNTY, TEXAS AND ALSO IN THE J.B. HAMMETT SURVEY, A-636, W.J. MONCKTON SURVEY NO. 172, A-782, H.&O.B. R.R. CO. SURVEY NO. 3, A-553, P.H. CAMMANS SURVEY, A-129, AND THE A. RUESS SURVEY, A-562, HAYS COUNTY, TEXAS, SAID 1400.809 ACRES BEING ALL OF THAT CERTAIN CALLED 278.480 ACRE TRACT OF LAND DESCRIBED IN THE GENERAL WARRANTY DEED TO GEORGE H. NORSWORTHY OF RECORD IN VOLUME 1456, PAGE 691, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAID 278.480 ACRE TRACT BEING COMPRISED OF LOTS 2, 3 AND 4, BLOCK C, HURLBUT RANCH EAST, A SUBDIVISION ACCORDING TO THE PLAT OF RECORD IN VOLUME 3, PAGES 161 THRU 170, PLAT RECORDS OF HAYS COUNTY, TEXAS, ALSO SAID 1400.809 ACRES BEING ALL OF THAT CERTAIN CALLED 1121.464 ACRES, COMPRISED OF A CERTAIN CALLED 260.40 ACRES DESIGNATED PARCEL ONE, TRACT I AND 433.42 ACRES DESIGNATED AS PARCEL ONE, TRACT II, AND A CERTAIN CALLED 425.192 ACRES DESIGNATED AS PARCEL TWO AND A CERTAIN CALLED 2.452 ACRES DESIGNATED AS PARCEL THREE AND DESCRIBED IN THE DEED WITH GENERAL WARRANTY FROM BETTY MORONEY NORSWORTHY (95% INTEREST) TO NORSWORTHY RANCH, LTD OF RECORD IN VOLUME 1126, PAGE 381, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS AND VOLUME 12345, PAGE 607, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND FROM GEORGE H. NORSWORTHY, JR. (5% INTEREST) TO NORSWORTHY RANCH, LTD OF RECORD IN VOLUME 1126, PAGE 369, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS AND VOLUME 12345, PAGE 595, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 1400.809 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD. AND SHOWN ON PLAN NO. 3603, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found in the east right-of-way line of Roy Creek Trail, a 60 foot road as shown on said Hurlbut Ranch East, at the southwest corner of the said 278.480 acre Norsworthy tract, same being the southwest corner of said Lot 2, Block C, Hurlbut Ranch East, and the northwest corner of Lot 1, Vista Ridge Estates, a subdivision according to the plat of record in Volume 6, Pages 51 and 52, Plat Records of Hays County, Texas, for the southwest corner and POINT OF BEGINNING of the tract described herein;

THENCE with the east right-of-way line of said Roy Creek Trail and the west line of the said 278.480 acre Norsworthy tract, with the west lines of Lot's 2, 3 and 4, Block C, Hurlbut Ranch East and with the west line of the tract described herein, the following forty (40) courses and distances:

1. N 22°56'16" W, a distance of 317.61 feet to a 1/2-inch iron rod found at a point of curvature,
2. with the arc of a curve to the left, having a radius of 430.75 feet, an arc distance of 105.21 feet, and a chord which bears N 29°29'19" W, a distance of 104.95 feet to a 1/2-inch iron rod found at a point of tangency,
3. N 37°01'58" W, a distance of 142.11 feet to a 1/2-inch iron rod found at a point of curvature,
4. with the arc of a curve to the right, having a radius of 225.00 feet, an arc distance of 123.93 feet, and a chord which bears N 20°53'29" W, a distance of 122.37 feet to a 60d nail found in fence post at a point of tangency,
5. N 05°18'57" W, a distance of 563.42 feet to a 1/2-inch iron rod found at a point of curvature,
6. with the arc of a curve to the left, having a radius of 275.00 feet, an arc distance of 333.65 feet, and a chord which bears N 39°55'47" W, a distance of 313.56 feet to a calculated point of tangency,
7. N 75°07'04" W, a distance of 114.52 feet to a 1/2-inch iron rod found at a point of curvature,
8. with the arc of a curve to the right, having a radius of 225.00 feet, an arc distance of 158.77 feet, and a chord with bears N 54°00'55" W, a distance of 155.50 feet to a 60d nail found in a fence post at a point of tangency,
9. N 34°32'58" W, a distance of 217.64 feet to a 1/2-inch iron rod found at a point of curvature,
10. with the arc of a curve to the right, having a radius of 225.00 feet, an arc distance of 71.49 feet, and a chord which bears N 25°01'11" W, a distance of 71.19 feet to a 1/2-inch iron rod found at an angle point,
11. N 15°57'42" W, a distance of 239.96 feet to a 1/2-inch iron rod found at a point of curvature,
12. with the arc of a curve to the left, having a radius of 276.00 feet, an arc distance of 123.19 feet, and a chord which bears N 28°45'35" W, a distance of 122.17 feet to a 1/2-inch iron rod found at a point of reverse curvature,
13. with the arc of a curve to the right, having a radius of 226.15 feet, an arc distance of 117.82 feet, and a chord which bears N 26°32'27" W, a distance of 116.50 feet to a 1/2-inch iron rod found at a point of reverse curvature,
14. with the arc of a curve to the left, having a radius of 276.00 feet, an arc distance of 86.41 feet, and a chord which bears N 20°45'42" W, a distance of 86.05 feet to a 1/2-inch iron rod found for a point of tangency,
15. N 29°36'13" W, a distance of 458.31 feet to a calculated angle point,
16. with the arc of a curve to the right, having a radius of 223.63 feet, an arc distance of 120.51 feet, and a chord which bears N 14°12'49" W, a distance of 119.06 feet to a 1/2-inch iron rod found at a point of tangency,
17. N 01°06'54" E, a distance of 526.33 feet to a calculated angle point,
18. N 03°08'41" E, a distance of 355.16 feet to a 1/2-inch iron rod found at the northeast corner of said Lot 3, Block C, Hurlbut Ranch East, same being the southwest corner of Lot 4, Block C, Hurlbut Ranch East,
19. N 03°08'41" E, a distance of 177.76 feet to a calculated point of curvature,
20. with the arc of a curve to the right, having a radius of 400.00 feet, an arc distance of 100.31 feet, and a chord which bears N 10°16'09" E, a distance of 100.05 feet to a calculated point of reverse curvature,

21. with the arc of a curve to the left, having a radius of 400.00 feet, an arc distance of 105.13 feet, and a chord which bears N 09°55'28" E, a distance of 104.83 feet to a 1/2-inch iron rod found at a point of tangency,
22. N 02°28'44" E, a distance of 199.78 feet to a 1/2-inch iron rod found for a point of curvature,
23. with the arc of a curve to the left, having a radius of 161.96 feet, an arc distance of 226.84 feet, and a chord which bears N 37°40'42" W, a distance of 208.75 feet to a calculated point of reverse curvature,
24. with the arc of a curve to the right, having a radius of 240.98 feet, an arc distance of 162.93 feet, and a chord which bears N 58°26'02" W, a distance of 159.84 feet to a 1/2-inch iron rod found at a point of tangency,
25. N 39°22'28" W, a distance of 20.53 feet to a calculated point of curvature,
26. with the arc of a curve to the right, having a radius of 21.90 feet, an arc distance of 39.58 feet, and a chord which bears N 12°40'59" E, a distance of 34.41 feet to a calculated point of tangency,
27. N 64°27'41" E, a distance of 189.40 feet to a 1/2-inch iron rod found for a point of curvature,
28. with the arc of a curve to the left, having a radius of 415.00 feet, an arc distance of 104.73 feet, and a chord with bears N 57°13'49" E, a distance of 104.45 feet to a bolt found at a point of tangency,
29. N 50°01'36" E, a distance of 75.36 feet to a calculated point of curvature,
30. with the arc of a curve to the left, having a radius of 310.00 feet, an arc distance of 116.55 feet, and a chord which bears N 39°15'51" E, a distance of 115.86 feet to a 1/2-inch iron rod found at a point of tangency,
31. N 28°28'48" E, a distance of 247.42 feet to a 1/2-inch iron rod found at a point of curvature,
32. with the arc of a curve to the left, having a radius of 187.51 feet, an arc distance of 166.33 feet, and a chord which bears N 02°57'05" E, a distance of 160.93 feet to a 1/2-inch iron rod found at a point of tangency,
33. N 22°03'44" W, a distance of 41.42 feet to a 1/2-inch iron rod found at a point of curvature,
34. with the arc of a curve to the left, having a radius of 385.00 feet, an arc distance of 113.53 feet, and a chord which bears N 30°55'40" W, a distance of 113.12 feet to a 1/2-inch iron rod found at a point of tangency,
35. N 39°17'08" W, a distance of 254.67 feet to a calculated point of curvature,
36. with the arc of a curve to the right, having a radius of 126.65 feet, an arc distance of 87.09 feet, and a chord which bears N 19°35'34" W, a distance of 85.38 feet to a 1/2-inch iron rod found at a point of tangency,
37. N 00°12'36" E, a distance of 64.22 feet to a 1/2-inch iron rod found at a point of curvature,
38. with the arc of a curve to the right, having a radius of 101.33 feet, an arc distance of 101.85 feet, and a chord which bears N 28°54'10" E, a distance of 97.61 feet to a 1/2-inch iron rod found at a point of tangency,
39. N 57°44'59" E, a distance of 251.38 feet to a 1/2-inch iron rod found at a point of curvature, and
40. with the arc of a curve to the left, having a radius of 343.68 feet, an arc distance of 114.09 feet, and a chord which bears N 48°14'17" E, a distance of 113.57 feet to a calculated point in the southwest line of the said 1121.464 acre Norsworthy tract, for the northeast corner of said Roy Creek Trial and the northwest corner of the said 278.480 acre Norsworthy tract, same being the

northwest corner of said Lot 4, Block C, Hurlbut Ranch East, for an angle point in the east line of the tract described herein;

THENCE N 67°01'54" W, with the southwest line of the said 1121.464 acre Norsworthy tract, a distance of 23.99 feet to cotton gin spindle found in the approximate center-line of the terminus of said Roy Creek Trail, at the most westerly southwest corner of the said 1121.464 acre Norsworthy tract, same being a re-entrant corner in the east line of Lot 2, Block E, said Hurlbut Ranch East, for an angle point in the east line of the tract described herein;

THENCE with the west line of the said 1121.464 acre Norsworthy tract, with the west line of said Parcel One, Tract II and the east line of said Lot 2, Block E, Hurlbut Ranch East, with the west line of the tract described herein, the following eighteen (18) courses and distances:

1. N 33°35'56" E, a distance of 87.90 feet to a 1/2-inch iron rod found at an angle point,
2. N 25°28'23" E, a distance of 84.37 feet to a 1/2-inch iron rod found at an angle point,
3. N 41°34'03" W, a distance of 21.81 feet to a 1/2-inch iron rod found at an angle point,
4. N 21°51'13" E, a distance of 111.91 feet to a cotton gin spindle found at an angle point,
5. N 13°03'19" E, at a distance of 300.03 feet passing a cotton gin spindle and continuing for a total distance of 761.58 feet to a calculated point of curvature,
6. with the arc of a curve to the left, having a radius of 1015.00 feet, an arc distance of 297.49 feet, and a chord with bears N 04°35'07" E, a distance of 296.43 feet to a calculated point of tangency,
7. N 03°40'11" W, a distance of 261.51 feet to a 1/2-inch iron rod found at an angle point,
8. N 11°08'12" W, a distance of 278.54 feet to a calculated angle point,
9. N 03°09'46" W, a distance of 905.36 feet to a cotton gin spindle found at an angle point,
10. N 40°39'34" E, a distance of 278.77 feet to a calculated angle point,
11. N 32°09'11" E, a distance of 553.07 feet to a 1/2-inch iron rod found at an angle point,
12. N 43°29'41" E, a distance of 487.74 feet to a 1/2-inch iron rod found at an angle point,
13. N 00°30'24" W, a distance of 712.96 feet to a 1/2-inch iron rod found at an angle point,
14. N 00°27'16" W, a distance of 296.00 feet to a 1/2-inch iron rod found at an angle point,
15. N 03°56'58" W, a distance of 121.84 feet to a 1/2-inch iron rod found at an angle point,
16. N 04°11'07" E, a distance of 164.58 feet to a 1/2-inch iron rod found at an angle point,
17. N 05°18'24" W, a distance of 75.10 feet to a calculated angle point, and
18. N 00°23'23" W, a distance of 227.07 feet to a calculated point in the approximate south bank of the Pedernales River, for the most westerly northwest corner of the said 1121.464 acre Norsworthy Tract, for the most westerly northwest corner of the tract described herein;

THENCE with the approximate south bank of the Pedernales River and a north line of the said 1121.464 acre Norsworthy tract, with a north line of the tract described herein, the following four (4) courses and distances:

1. N 89°28'10" E, a distance of 126.44 feet to a calculated angle point,
2. S 84°31'50" E, a distance of 481.79 feet to a calculated angle point,

3. S 83°50'50" E, a distance of 17.59 feet to a calculated angle point, and
4. S 83°50'50" E, a distance of 821.93 feet to an iron pipe found at a northeast corner of the said 1121.464 tract, for a northeast corner of the tract described herein;

THENCE with an interior east line of the said 1121.464 acre Norsworthy tract, with the east line of said Parcel One, Tract I, with the west line of the tract described herein, the following twelve (12) courses and distances:

1. S 02°56'17" E, a distance of 20.88 feet to an iron pipe found at an angle point,
2. S 01°40'54" E, a distance of 58.86 feet to an iron pipe found at an angle point,
3. S 00°19'13" W, a distance of 53.88 feet to a 1/2-inch iron rod found at an angle point,
4. S 00°23'34" W, a distance of 104.25 feet to a 1/2-inch iron rod found at an angle point,
5. S 00°20'16" E, a distance of 249.65 feet to a 1/2-inch iron rod found at an angle point,
6. S 00°42'08" E, a distance of 314.50 feet to an iron pipe in a rock mound found at an angle point,
7. S 00°26'33" E, a distance of 431.09 feet to an iron pipe in a rock mound found at an angle point,
8. S 00°18'45" E, a distance of 188.81 feet to an iron pipe in a rock mound found at an angle point,
9. S 02°24'10" E, a distance of 561.40 feet to a 1/2-inch iron rod found at an angle point,
10. S 02°30'07" E, a distance of 145.85 feet to a 1/2-inch iron rod found at an angle point,
11. S 00°37'20" E, a distance of 260.41 feet to an iron pipe found at an angle point, and
12. S 32°40'37" W, a distance of 266.65 feet to a cypress tree trunk found a re-entrant corner of the said 1121.464 acre Norsworthy tract, at the most westerly northwest corner of said Parcel Two, at the southwest corner of a certain called 24.86 acre tract described in the deed to Adams Management Trust of record in Volume 3204, Page 176, Deed Records of Hays County, Texas, for a re-entrant corner of the tract described herein;

THENCE with a north and northwest line of the said 1121.464 acre Norsworthy tract and the southeast line of the said 24.86 acre tract, with a north and northwest line of the tract described herein, the following eleven (11) courses and distances:

1. S 82°23'37" E, a distance of 87.39 feet to an iron pipe in a rock mound found at an angle point,
2. N 89°44'08" E, a distance of 310.37 feet to an iron pipe in a rock mound found at an angle point,
3. N 41°28'01" E, a distance of 349.73 feet to an iron pipe in a rock mound found at an angle point,
4. N 00°19'48" E, a distance of 385.57 feet to an iron pipe found at an angle point,
5. N 03°17'19" E, a distance of 129.62 feet to an iron pipe found at an angle point,
6. N 28°08'58" E, a distance of 299.66 feet to an iron pipe found at an angle point,
7. N 48°05'10" E, a distance of 111.56 feet to an iron pipe found at an angle point,
8. N 26°25'14" E, a distance of 389.87 feet to an iron pipe in a rock mound found at an angle point,
9. N 34°20'18" E, a distance of 499.40 feet to a 1/2-inch iron rod found at an angle point,
10. N 04°29'23" E, a distance of 319.53 feet to a 1/2-inch iron rod found at an angle point, and

11. N 09°08'32" W, a distance of 249.20 feet to a calculated point in the approximate south bank of the Pedernales River, for a northwest corner of the said 1121.464 acre Norsworthy tract, same being a northwest corner of said Parcel Two, for a northwest corner of the tract described herein;

THENCE with the approximate south and east bank of the Pedernales River, with a west line of the said 1121.464 acre Norsworthy tract, with a west line of said Parcel Two, with a west line of the tract described herein, the following twenty-one (21) courses and distances:

1. S 49°35'45" E, a distance of 27.13 feet to a calculated angle point,
2. S 85°28'55" E, a distance of 168.06 feet to a calculated angle point,
3. S 88°37'06" E, a distance of 199.92 feet to a calculated angle point,
4. S 88°50'27" E, a distance of 82.05 feet to a calculated angle point,
5. N 88°36'18" E, a distance of 157.74 feet to a calculated angle point,
6. N 85°47'50" E, a distance of 85.56 feet to a calculated angle point,
7. N 80°40'55" E, a distance of 106.22 feet to a calculated angle point,
8. N 65°25'04" E, a distance of 132.14 feet to a calculated angle point,
9. N 60°26'14" E, a distance of 180.72 feet to a calculated angle point,
10. N 31°35'25" E, a distance of 99.30 feet to a calculated angle point,
11. N 35°55'59" E, a distance of 135.62 feet to a calculated angle point,
12. N 13°01'10" E, a distance of 235.17 feet to a calculated angle point,
13. N 00°08'37" E, a distance of 114.13 feet to a calculated angle point,
14. N 14°19'41" E, a distance of 156.09 feet to a calculated angle point,
15. N 02°03'39" W, a distance of 281.76 feet to a calculated angle point,
16. N 01°42'46" W, a distance of 360.78 feet to a calculated angle point,
17. N 21°29'08" W, a distance of 67.11 feet to a calculated angle point,
18. N 52°04'28" W, a distance of 122.72 feet to a calculated angle point,
19. N 12°45'20" W, a distance of 274.04 feet to a calculated angle point,
20. N 13°42'36" E, a distance of 102.49 feet to a calculated angle point, and
21. N 01°24'02" E, a distance of 401.78 feet to a calculated point in the approximate east bank of the Pedernales River and the south right-of-way line of Hamilton Pool Road, for northwest corner of the said 1121.464 acre Norsworthy tract, same being the most northerly northwest corner of said Parcel Two, for a northwest corner of the tract described herein,

THENCE with the south right-of-way line of Hamilton Pool Road and a north line of the said 1121.464 acre Norsworthy tract, with the north line of said Parcel Two, with a north line of the tract described herein, the following twenty-seven (27) courses and distances:

1. N 69°32'38" E, a distance of 182.83 feet to a calculated angle point,
2. N 61°43'12" E, a distance of 100.52 feet to a calculated angle point,
3. N 52°16'37" E, a distance of 87.43 feet to a calculated angle point,

4. N 38°55'24" E, a distance of 78.60 feet to a calculated angle point,
5. N 28°55'27" E, a distance of 84.03 feet to a calculated angle point,
6. N 18°26'20" E, a distance of 281.11 feet to a calculated angle point,
7. N 27°26'55" E, a distance of 35.28 feet to a calculated angle point,
8. N 76°01'49" E, a distance of 19.29 feet to a calculated angle point,
9. S 49°36'18" E, a distance of 10.91 feet to a calculated angle point,
10. S 18°15'16" E, a distance of 17.21 feet to a calculated angle point,
11. S 01°08'10" W, a distance of 58.85 feet to a calculated angle point,
12. S 05°28'14" W, a distance of 72.37 feet to a calculated angle point,
13. S 04°37'52" W, a distance of 183.53 feet to a calculated angle point,
14. S 01°23'24" W, a distance of 113.24 feet to a calculated angle point,
15. S 07°58'07" E, a distance of 139.61 feet to a calculated angle point,
16. S 39°58'32" E, a distance of 76.10 feet to a calculated angle point,
17. S 70°46'22" E, a distance of 55.48 feet to a calculated angle point,
18. N 71°29'25" E, a distance of 262.66 feet to a calculated angle point,
19. N 72°06'25" E, a distance of 12.05 feet to a calculated angle point,
20. N 34°37'10" E, a distance of 313.39 feet to a calculated angle point,
21. N 58°53'29" E, a distance of 85.58 feet to a calculated angle point,
22. S 83°48'41" E, a distance of 109.55 feet to a calculated angle point,
23. S 79°54'39" E, a distance of 121.13 feet to a calculated angle point,
24. S 59°22'14" E, a distance of 57.06 feet to a calculated angle point,
25. S 56°12'17" E, a distance of 371.87 feet to a calculated angle point,
26. S 70°14'37" E, a distance of 231.76 feet to a calculated angle point, and
27. N 87°22'28" E, a distance of 52.36 feet to a calculated point of curvature in the intersecting south right-of-way line of Hamilton Pool Road and the west right-of-way line of a 60 foot road, known as Stagecoach Ranch Road and described in the Street Dedication of record in Volume 10446, Page 673, Real Property Records of Travis County, Texas, for the most northerly northeast corner of the said 1121.464 acre Norsworthy tract, for the most northerly northeast corner of the tract described herein;

THENCE with the west right-of-way line of said Stagecoach Ranch Road and the east line of the said 1121.464 acre Norsworthy tract, with the east line of the tract described herein, the following seventeen (17) courses and distances:

1. with the arc of a curve to the right, having a radius of 25.00 feet, an arc distance of 43.25 feet, and a chord with bears S 43°04'11" E, a distance of 38.05 feet to a calculated point of tangency,
2. S 06°29'11" W, a distance of 788.53 feet to a 3/8-inch iron rod found at an angle point,
3. S 14°11'02" E, a distance of 153.11 feet to a 3/8-inch iron rod found at an angle point,



4. S 22°28'53" E, a distance of 94.89 feet to a 3/8-inch iron rod found at an angle point,
5. S 04°34'39" W, a distance of 62.09 feet to a 3/8-inch iron rod found at an angle point,
6. S 26°32'18" W, a distance of 318.87 feet to a 3/8-inch iron rod found at an angle point,
7. S 23°10'37" W, a distance of 104.42 feet to a 3/8-inch iron rod found at an angle point,
8. S 09°42'27" W, a distance of 107.98 feet to a calculated angle point,
9. S 08°06'50" E, a distance of 106.54 feet to a calculated angle point,
10. S 15°17'10" E, a distance of 105.02 feet to a calculated angle point,
11. S 26°42'43" E, a distance of 299.98 feet to a 3/8-inch iron rod found at an angle point,
12. S 16°42'00" E, a distance of 93.13 feet to a 3/8-inch iron rod found at an angle point,
13. S 00°44'43" W, a distance of 91.28 feet to a 3/8-inch iron rod found at an angle point,
14. S 13°00'40" W, a distance of 93.02 feet to a 3/8-inch iron rod found at an angle point,
15. S 28°06'24" W, a distance of 202.58 feet to a 3/8-inch iron rod found at an angle point,
16. S 00°10'37" E, a distance of 744.26 feet to a calculated angle point, and
17. S 00°42'32" E, a distance of 698.37 feet to a 3/8-inch iron rod found at a re-entrant corner of the said 60 foot road dedication, at the intersecting west right-of-way line of Stagecoach Ranch Road and the north right-of-way line of Overland Stage Road, same being southeast corner of the said 1121.464 acre Norsworthy Tract, for a southeast corner of the tract described herein;

THENCE with the north and west right-of-way lines of Overland Stage Road and a south and east line of the said 1121.464 acre Norsworthy tract, with a south and east line of the tract described herein, the following seven (7) courses and distances:

1. S 47°25'35" W, a distance of 291.97 feet to a 3/8-inch iron rod found at an angle point,
2. N 71°40'53" W, a distance of 200.05 feet to a 1/2-inch iron rod found at an angle point,
3. N 71°36'18" W, a distance of 250.63 feet to a calculated angle point,
4. S 06°27'21" W, a distance of 423.78 feet to a calculated angle point,
5. S 20°49'44" E, a distance of 695.38 feet to a 1/2-inch iron rod found at an angle point,
6. S 08°20'46" E, a distance of 512.04 feet to a 1/2-inch iron rod found at an angle point, and
7. S 07°53'16" E, a distance of 604.47 feet to a 3/8-inch iron rod found at a southeast corner of the said 1121.464 acre Norsworthy tract, same being the southwest corner of said Parcel Two, same being the northeast corner of Lot 24 W, Stagecoach Ranch Section Two, a subdivision according to the plat of record in Volume 2, Page 357, Plat Records of Hays County, Texas, for a southeast corner of the tract described herein;

THENCE S 89°29'52" W, with a south line of the said 1121.464 acre Norsworthy tract, with the south line of said Parcel Two and the north line of said Lot 24 W, Stagecoach Ranch Section Two, with a south line of the tract described herein, a distance of 1713.06 feet to a calculated point for a re-entrant corner of the said 1121.464 acre Norsworthy tract, at the most easterly northeast corner of said Parcel One, Tract I, same being the northwest corner of said Lot 24 W, Stagecoach Ranch Section Two, for re-entrant corner in the east line of the tract described herein;

THENCE with an east line of the said 1121.464 acre Norsworthy tract and the west line of Lots 24 W thru 1A W, Stagecoach Ranch Section Two, with an east line of the tract described herein, the following seven (7) courses and distances:

1. S 33°26'09" E, a distance of 390.12 feet to a 1/2-inch iron rod found at an angle point,
2. S 00°33'27" E, a distance of 1185.72 feet to a 3/8-inch iron rod found at an angle point,
3. S 00°51'31" E, a distance of 885.25 feet to a 3/8-inch iron rod found at an angle point,
4. S 00°58'22" E, a distance of 564.44 feet to a 3/8-inch iron rod found at an angle point,
5. S 00°33'24" E, a distance of 2376.11 feet to a 3/8-inch iron rod found at an angle point,
6. S 00°37'29" E, a distance of 969.57 feet to a 3/8-inch iron rod found at an angle point, and
7. S 00°45'59" E, a distance of 746.66 feet to a 1/2-inch iron rod found at angle point in the north line of a certain called 200.01 acre tract of land described in a deed to Lance Clawson and Kathleen Clawson of record in Document No. 17035142, Official Public Records of Hays County, Texas, same being the most southerly southeast corner of the said 1121.464 acre Norsworthy tract, at the southeast corner of said Parcel One, Tract II, same being the southwest corner of said Lot 1A W, Stagecoach Ranch Section Two, for the most southerly southeast corner of the tract described herein;

THENCE with the south line of the said 1121.464 acre Norsworthy tract, with the north lines of the said 200.01 acre Clawson tract and said Lot 1, Vista Ridge Estates, with the south line of the tract described herein, the following five (5) courses and distances:

1. S 63°30'31" W, a distance of 235.90 feet to a 1/2-inch iron rod found at an angle point,
2. S 89°03'23" W, a distance of 1038.76 feet to a 1/2-inch iron rod found at an angle point,
3. S 89°27'59" W, a distance of 1173.83 feet to a 1/2-inch iron rod found at an angle point,
4. S 88°26'57" W, a distance of 231.36 feet to a 1/2-inch iron rod found at the northwest corner of the said 200.01 acre Clawson Tract and the northeast corner of said Lot 1, Vista Ridge Estate, at an angle point of the tract described herein, and
5. S 89°16'24" W, a distance of 1319.83 feet to the **POINT OF BEGINNING** and containing **1400.809 acres of land**, more or less.

**EXHIBIT B**

**PERMITTED ENCUMBRANCES**

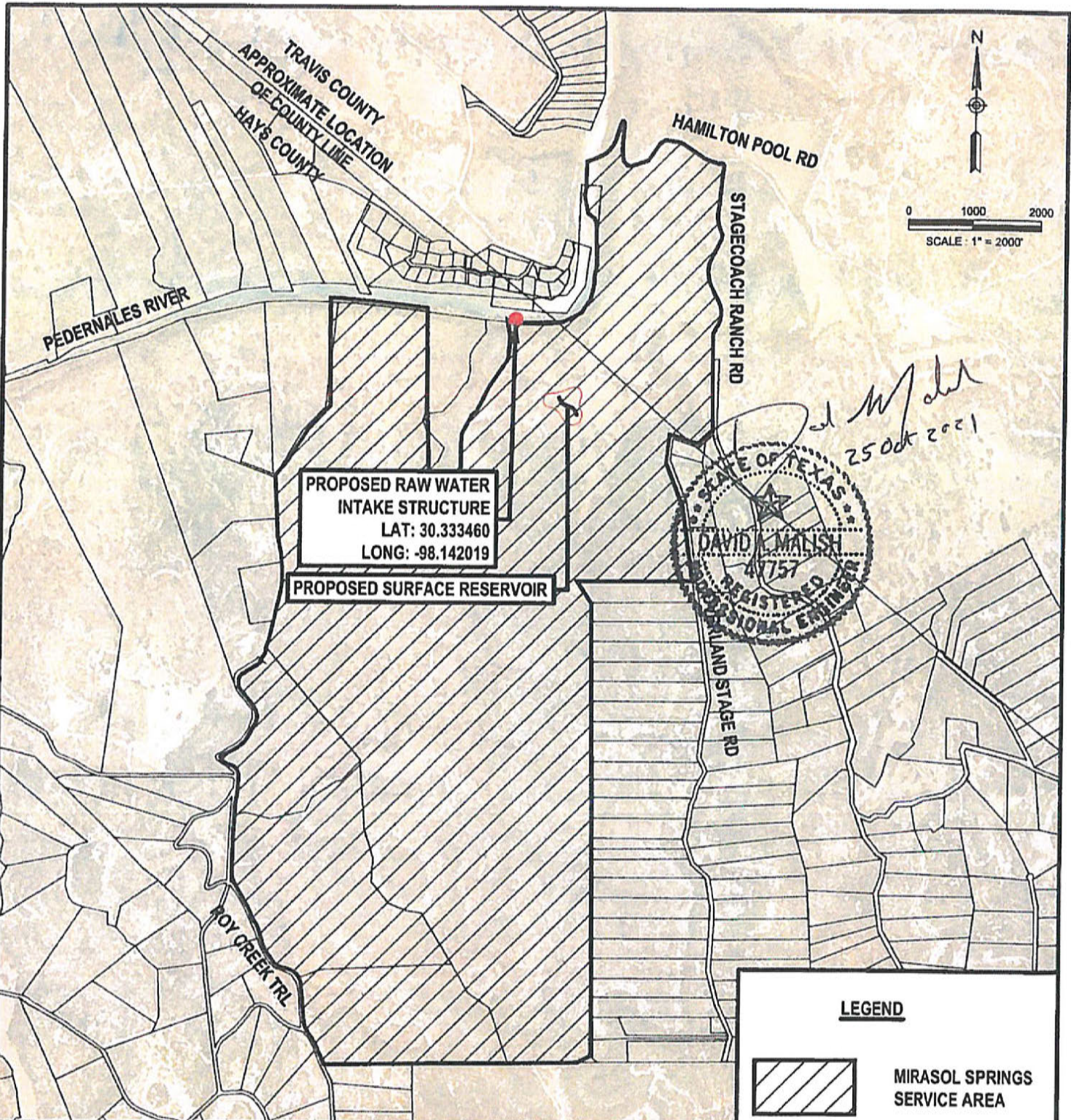
1. Easements and dedications as set forth in plat recorded under Volume 3, Page 161 of the Map Records of Hays County, Texas, and as shown on an ALTA/NSPS Land Title Survey dated December 28, 2017, by John D. Barnard, RPLS No. 5749, for and on behalf of Bowman Consulting Group, Ltd., Job No. 005546-01-003, last revised April 4, 2018. (Affects Tract V)
2. Terms, conditions and stipulations set forth in Overflow Right-of-Way and Easement Agreement granted in favor of Lower Colorado River Authority, recorded June 2, 1941, in Volume 122, Page 240, Deed Records of Hays County, Texas, and as shown on an ALTA/NSPS Land Title Survey dated December 28, 2017, by John D. Barnard, RPLS No. 5749, for and on behalf of Bowman Consulting Group, Ltd., Job No. 005546-01-003, last revised April 4, 2018. (Affects Tracts I and II)
3. Roadway Dedication set forth in that instrument recorded December 9, 1975, in Volume 280, Page 115, Deed Records of Hays County, Texas; as ratified by that instrument recorded in Volume 280, Page 122, Deed Records of Hays County, Texas, and as shown on an ALTA/NSPS Land Title Survey dated December 28, 2017, by John D. Barnard, RPLS No. 5749, for and on behalf of Bowman Consulting Group, Ltd., Job No. 005546-01-003, last revised April 4, 2018. (Affects Tract II)
4. Ingress and Egress Right-of-Way and Easement as set forth in that instrument recorded April 6, 1977, in Volume 677, Page 397, Deed Records of Travis County, Texas; and in Volume 294, Page 613, Deed Records of Hays County, Texas.
5. Ingress and Egress Right-of-Way and Easement as set forth in that instrument recorded July 12, 1982, in Volume 7797, Page 854, Deed Records of Travis County, Texas; and in Volume 379, Page 677, Deed Records of Hays County, Texas.
6. Ingress and Egress Right-of-Way and Easement as reserved in that instrument recorded April 4, 1983, in Volume 8040, Page 643, Deed Records of Travis County, Texas; and in Volume 391, Page 46, Deed Records of Hays County, Texas, and as shown on an ALTA/NSPS Land Title Survey dated December 28, 2017, by John D. Barnard, RPLS No. 5749, for and on behalf of Bowman Consulting Group, Ltd., Job No. 005546-01-003, last revised April 4, 2018. (Affects Tract IV)
7. Street and Roadway Dedication as set forth in that instrument recorded October 8, 1987, in Volume 10446, Page 678, Real Property Records of Travis County, Texas, and as shown on an ALTA/NSPS Land Title Survey dated December 28, 2017, by John D. Barnard, RPLS No. 5749, for and on behalf of Bowman Consulting Group, Ltd., Job No. 005546-01-003, last revised April 4, 2018. (Affects Tract IV)
8. Communications Lines Right-of-Way and Easement being ten (10') feet in width as granted in favor of GTE Southwest Incorporated in that instrument recorded March 9, 1993, in Volume 979, Page 42, Official Public Records of Hays County, Texas. (Affects portion of Tract V, being Lot 4, Block C, Hurlbut Ranch East)

9. Terms, conditions and stipulations contained in Right-of-Way Agreement recorded March 17, 1983, in Volume 8024, Page 421, Deed Records of Travis County, Texas; and in Volume 390, Page 9, Deed Records, Hays County, Texas, and as approximately shown on an ALTA/NSPS Land Title Survey dated December 28, 2017, by John D. Barnard, RPLS No. 5749, for and on behalf of Bowman Consulting Group, Ltd., Job No. 005546-01-003, last revised April 4, 2018.
10. Terms, conditions and stipulations contained in Boundary Line Agreement recorded January 30, 1984, in Volume 416, Page 40, Real Property Records of Hays County, Texas; as re-recorded in Volume 453, Page 717, Real Property Records, Hays County, Texas, and as shown on an ALTA/NSPS Land Title Survey dated December 28, 2017, by John D. Barnard, RPLS No. 5749, for and on behalf of Bowman Consulting Group, Ltd., Job No. 005546-01-003, last revised April 4, 2018. (Affects Tracts II and V)
11. Mineral and/or royalty interest set forth in instrument recorded May 20, 1927, in Volume 400, Page 503, Deed Records of Travis County, Texas; and in Volume 104, Page 149, of the Deed Records of Hays County, Texas.
12. Mineral and/or royalty interest set forth in instrument recorded September 15, 1948, in Volume 141, Page 591, of the Deed Records of Hays County, Texas.
13. Mineral and/or royalty interest set forth in instrument recorded September 15, 1948, in Volume 141, Page 592, of the Deed Records of Hays County, Texas.
14. Mineral and/or royalty interest set forth in Partition Deed recorded December 9, 1975, in Volume 280, Page 81, of the Deed Records of Hays County, Texas.
15. Mineral and/or royalty interest set forth in instrument recorded December 9, 1975, in Volume 280, Page 130, of the Deed Records of Hays County, Texas.
16. Mineral and/or royalty interest set forth in Warranty Deed recorded April 24, 1979, in Volume 325, Page 256, of the Deed Records of Hays County, Texas.
17. Mineral and/or royalty interest set forth in instrument recorded October 26, 1979, in Volume 6761, Page 576, Deed Records of Travis County, Texas; and in Volume 333, Page 445, of the Deed Records of Hays County, Texas.
18. Mineral and/or royalty interest set forth in Warranty Deed recorded April 4, 1983, in Volume 8040, Page 643, Deed Records of Travis County, Texas; and in Volume 391, Page 46, of the Deed Records of Hays County, Texas.
19. Mineral and/or royalty interest set forth in Warranty Deed recorded March 27, 1984, in Volume 427, Page 585, of the Real Property Records of Hays County, Texas.
20. Mineral and/or royalty interest set forth in Warranty Deed recorded June 15, 1984, in Volume 446, Page 369, of the Real Property Records of Hays County, Texas.
21. Mineral and/or royalty interest set forth in Warranty Deed recorded September 16, 1985, in Volume 548, Page 474, of the Real Property Records of Hays County, Texas.

22. Mineral and/or royalty interest set forth in Mineral Deed recorded September 11, 2002, in Instrument No. 2002169719, Official Public Records, Travis County, Texas; and in Volume 2064, Page 245, of the Official Public Records of Hays County, Texas.
23. Oil, Gas and Mineral Lease recorded November 4, 1968, in Volume 226, Page 534, of the Deed Records of Hays County, Texas.
24. Oil, Gas and Mineral Lease recorded April 13, 1970 in Volume 3833, Page 685, of the Deed Records of Travis County, Texas.
25. Oil, Gas and Mineral Lease recorded October 17, 1979 in Volume 6754, Page 1565, Deed Records of Travis County, Texas; and in Volume 334, Page 310, of the Deed Records of Hays County, Texas.
26. Oil, Gas and Mineral Lease recorded June 9, 1981, in Volume 359, Page 95, of the Deed Records of Hays County, Texas.
27. Oil, Gas and Mineral Lease recorded March 4, 1982, in Volume 371, Page 705, of the Deed Records of Hays County, Texas.

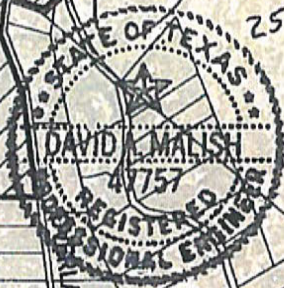
## **Appendix “C”**

**True and correct copy of map reflecting the general location of the proposed diversion point and proposed off-channel reservoir**



PROPOSED RAW WATER  
INTAKE STRUCTURE  
LAT: 30.333460  
LONG: -98.142019

PROPOSED SURFACE RESERVOIR



*David Malish*  
25 Oct 2021

**LEGEND**



MIRASOL SPRINGS  
SERVICE AREA



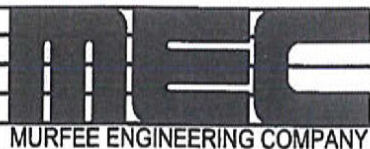
PROPOSED RAW  
WATER INTAKE  
STRUCTURE

**MIRASOL MEADOWS FIRM WATER APPLICATION**

TRAVIS/HAYS COUNTY, TEXAS

EXHIBIT B  
FUTURE POINT OF DIVERSION

DESIGNED BY: \_\_\_\_\_  
DRAWN BY: SJA  
CHECKED BY: DL  
APPROVED BY: \_\_\_\_\_  
DATE: October 25, 2021



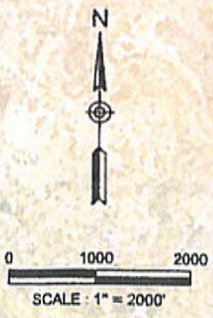
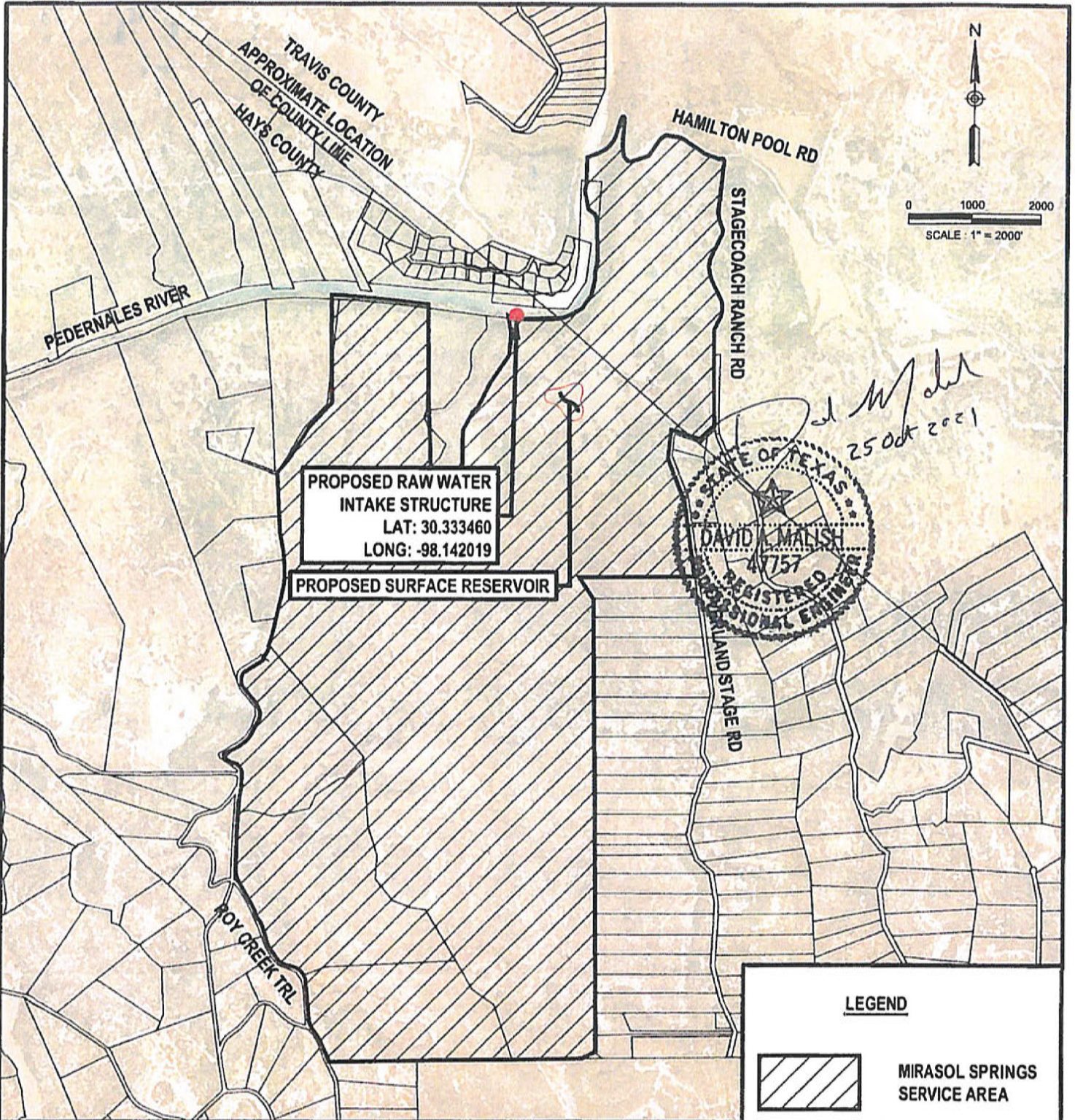
MURFEE ENGINEERING COMPANY

1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
BUILDING D, SUITE 110  
AUSTIN, TEXAS 78746  
(512) 327-9204  
Texas Registered Engineering Firm F-353


**Appendix "F"**


**Copies of the Map included as Appendix "C"  
(Bates Stamped as Pages 0070 and 0200)**





**LEGEND**

 MIRASOL SPRINGS SERVICE AREA

 PROPOSED RAW WATER INTAKE STRUCTURE

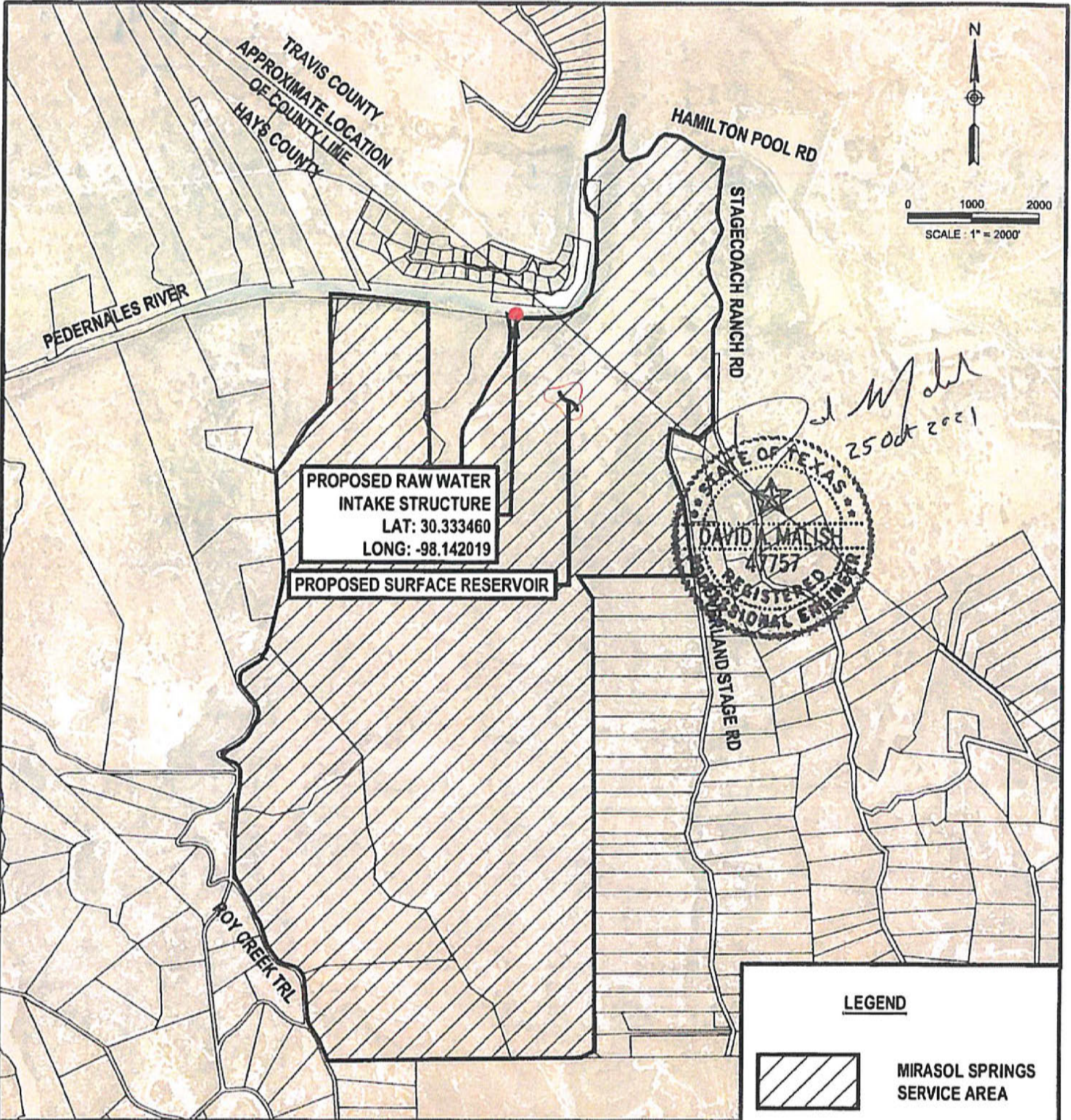
**MIRASOL MEADOWS FIRM WATER APPLICATION**  
TRAVIS/HAYS COUNTY, TEXAS

**EXHIBIT B**  
FUTURE POINT OF DIVERSION

DESIGNED BY: \_\_\_\_\_  
 DRAWN BY: SJA  
 CHECKED BY: DL  
 APPROVED BY: \_\_\_\_\_  
 DATE: October 25, 2021

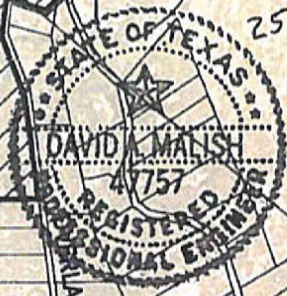
**MEC**  
MURFEE ENGINEERING COMPANY

1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
 BUILDING D, SUITE 110  
 AUSTIN, TEXAS 78746  
 (512) 327-9204  
 Texas Registered Engineering Firm F-353



PROPOSED RAW WATER  
INTAKE STRUCTURE  
LAT: 30.333460  
LONG: -98.142019

PROPOSED SURFACE RESERVOIR



*25 Oct 2021*

**LEGEND**



MIRASOL SPRINGS  
SERVICE AREA

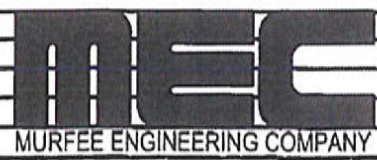


PROPOSED RAW  
WATER INTAKE  
STRUCTURE

**MIRASOL MEADOWS FIRM WATER APPLICATION**  
TRAVIS/HAYS COUNTY, TEXAS

**EXHIBIT B**  
FUTURE POINT OF DIVERSION

DESIGNED BY: \_\_\_\_\_  
DRAWN BY: SJA  
CHECKED BY: DL  
APPROVED BY: \_\_\_\_\_  
DATE: October 25, 2021



MURFEE ENGINEERING COMPANY

1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
BUILDING D, SUITE 110  
AUSTIN, TEXAS 78746  
(512) 327-9204  
Texas Registered Engineering Firm F-353

## Hal Bailey

---

**From:** Ed McCarthy <[REDACTED]>  
**Sent:** Monday, September 27, 2021 9:20 AM  
**To:** Hal Bailey  
**Cc:** Chris Kozlowski; Humberto Galvan  
**Subject:** RE: Clancy Utility Holdings LLC Application No. 13777 RFI

Thank you Hal.

We'll get you the responses and additional fees.

Ed

---

**From:** Hal Bailey <Hal.Bailey@tceq.texas.gov>  
**Sent:** Monday, September 27, 2021 8:30 AM  
**To:** Ed McCarthy <[REDACTED]>  
**Cc:** Chris Kozlowski <chris.kozlowski@tceq.texas.gov>; Humberto Galvan <Humberto.Galvan@tceq.texas.gov>  
**Subject:** Clancy Utility Holdings LLC Application No. 13777 RFI

Good morning Mr. McCarthy,

Attached is a Request for Information (RFI) letter for Clancy Utility Holdings LLC., application no. 13777.

Please provide a response by COB on 10/27/2021.

Should you have any questions, or if you need additional time to respond, please let me know.

Thank you,

*Hal E. Bailey, Jr.  
Natural Resources Specialist III  
Water Rights Permitting Team  
Water Availability Division  
Texas Commission on Environmental Quality  
512-239-4615 [Hal.Bailey@tceq.texas.gov](mailto:Hal.Bailey@tceq.texas.gov)*

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 27, 2021

Mr. Ed McCarthy, Attorney  
McCarthy & McCarthy L.L.P.  
1122 Colorado Street, Suite 2399  
Austin, Texas 78701

VIA E-MAIL

RE: Clancy Utility Holdings LLC  
WRPERM 13777  
CN605924489, RN111319745  
Application No. 13777 for a Water Use Permit  
Texas Water Code § 11.121, Mailed and Published Notice Required  
Pedernales River, Colorado River Basin  
Hays County

Dear Mr. McCarthy:

This acknowledges receipt, on August 18, 2021, of the referenced application and fees in the amount of \$412.00 (Receipt No. M121682, copy attached).

Additional information and fees are required before the application can be declared administratively complete.

1. Provide a copy of the ordinance, resolution, or tariff indicating official adoption of the water conservation and drought contingency plans by the water supplier as a means of implementation and enforcement of the plans.
2. Provide the coordinates of the diversion point in decimal degrees to at least six decimal places. Staff notes the coordinates for the diversion point on WORKSHEET 3.0 are in degrees, minutes, and seconds and do not match the included maps.
3. Provide the ZIP Code, Survey No., Abstract No., and County for the location of the proposed diversion point.
4. Please remit fees in the amount of \$1,133.27 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (100 - 5,000 ac-ft)	\$	250.00
Recording Fee	\$	25.00
Storage Fee (15.9 ac-ft x \$0.50)	\$	7.95
Use Fee	\$	108.00
Notice Fees (Full Basin)	\$	1,154.32
<b>Total Fees</b>	<b>\$</b>	<b>1,545.27</b>
Fees Received	\$	412.00
<b>Fees Due</b>	<b>\$</b>	<b>1,133.27</b>

Mr. Ed McCarthy  
Application No. 13777  
September 27, 2021  
Page 2 of 2

Please provide the requested information and fees by October 27, 2021 or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

Be aware that this Water Use Permit, if granted, may result in annual Water Use Assessment Fees (WUF). For more detailed information on these fees, see the attached WUF: *The Annual Fee Associated with Water Rights Permits* fact sheet or contact the Water Quality Monitoring & Assessment Section at [wateruse@tceq.texas.gov](mailto:wateruse@tceq.texas.gov).

If you have any questions concerning this matter, please contact me via email at [hal.bailey@tceq.texas.gov](mailto:hal.bailey@tceq.texas.gov) or by telephone at (512) 239-4615.

Sincerely,



Hal E. Bailey, Jr., Project Manager  
Water Rights Permitting Team  
Water Rights Permitting and Availability Section

Attachments



20-AUG-21 12:02 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M121681	10273		BS00088154	20-AUG-21	-\$112.50
	WUP	122814	082021	N	D1804069		
<i>J. Schauer</i> WATER USE PERMITS		NATURAL	VHERNAND	CK			
		DAIRY					
		GROWER LAND					
		LP					
	WUP	M121682	1869		BS00088154	20-AUG-21	-\$412.00
	WUP		082021	N	D1804069		
<i>H. Bailey</i> WATER USE PERMITS		MCCARTHY &	VHERNAND	CK			
<i>WRPERM 13777</i>		MCCARTHY					
		LLP					
Total (Fee Code):							-\$524.50

RECEIVED  
AUG 23 2021  
Water Availability Division

# Water Use Assessment Fee (WUF): The Annual Fee Associated with Water Rights Permits

## How can this affect me?

You are receiving this notice if you are the owner of a water right permit and you have recently changed your permit. Any change to your permit, including adding an authorized use, changing a diversion point, or a change of ownership, would cause the Water Use Fee assessor to review your permit for billable uses and may (depending on the change) result in you receiving a bill when you previously did not.

## What is this fee?

The Water Use Assessment Fee is a fee that is assessed annually on applicable water rights permits. Texas Water Code, Sections 26.0135 & 26.0291 authorizes the TCEQ to establish fees to recover the reasonable costs of water quality assessment programs from wastewater and water right permit holders. TCEQ rules, 30 Texas Administrative Code (TAC), Sections 21.1-21.4, set out the methodology for assessing water use fees, described below.

## Why are you billed?

If you hold a water right and do not fall under an exemption, then you are subject to the Water Use Assessment Fee. Unless the water right is amended to fall under an exemption, you will be billed for this water right on an annual basis.

Amendments can make a water right that was not previously billed now billable. For example, if you amend your water right to add an authorized use you could receive a bill in the year following your amendment.

## What are reasons for exemption?

Exemptions are listed in 30 TAC, Section 21.3(c). Exemptions from the Water Use Assessment Fee include: municipal/domestic or industrial water rights directly associated with a facility that is assessed a Consolidated Water Quality Fee; agriculture (irrigation) water rights; non-priority hydroelectric water rights for a facility with a capacity of less than 2 megawatts; consumptive authorization less than 250 acre-feet; and non-consumptive authorization less than 2,500 acre-feet. If you can provide proof of these exemptions, please contact us using the information at the end of this document.

## How is the fee assessed?

Fees are based on the annual authorization in the water right, not actual use. The total fee is the sum of the separate fees for each authorized use in each of the following categories for each permit.

The fee rate of **\$0.385** per acre-foot per year applies to authorized consumptive use (municipal/domestic, industrial, or mining purposes) if the specified limit is more than 250 acre-feet per year.

The fee rate of **\$0.021** per acre-foot per year applies to authorized non-consumptive use (including hydroelectric and some recreation) if the specified limit is more than 2,500 acre-feet per year.

The maximum water use fee for a single permit is \$115,000, which may be adjusted annually using the latest Consumer Price Index.

### **How are diversion amounts distributed amongst uses?**

For permits with multiple uses that do not specify the amount per use, the total authorized amount is divided equally among all uses.

**Example:** 10,000 ac-ft for irrigation, municipal, industrial, and mining  
 $10,000/4 = 2,500$  ac-ft per use  
Irrigation is exempt; municipal/domestic not billed because wastewater treatment plant that uses the water already pays the Consolidated Water Quality Fee; industrial is billed \$962.50 at the consumptive rate for 2,500 ac-ft; mining billed \$962.50 at the consumptive rate for 2,500 ac-ft.

### **Where Do I Get More Information?**

For copies of the fee rules (30 TAC, Sections 21.1-21.4), refer to the TCEQ rules from the Texas Administrative Code on the Secretary of State's web site at [www.sos.state.tx.us](http://www.sos.state.tx.us). To learn more about the fee, please visit:

<http://www.tceq.state.tx.us/agency/drought/waterfees.html>

For billing and account balance information, call the TCEQ's Financial Administration Division, Revenue Section at (512) 239-0344.

If you have any questions about the Water Use Assessment Fee or the rates for your water right, contact the Water Quality Monitoring & Assessment Section at (512) 239-3838, or via email at [wateruse@tceq.texas.gov](mailto:wateruse@tceq.texas.gov), or write to:

Texas Commission on Environmental Quality  
Water Quality Planning Division, MC 234  
Water Use Fees  
P.O. Box 13087  
Austin, TX 78711-3087



LAW OFFICES OF  
**McCARTHY & McCARTHY, L.L.P.**

1122 COLORADO STREET, SUITE 2399  
AUSTIN, TEXAS 78701  
(512) 904-2310  
(512) 692-2826 (FAX)

August 18, 2021

Brooke McGregor, Manager (MC 160)  
Water Rights Permitting and Availability Section TCEQ  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**Via E-File, Certified Mail  
Return Receipt Requested  
& E-Mail**

Re: Application of the Clancy Utility Holdings LLC for New Diversion Right Permit  
for LCRA Contract Water

Dear Kim:

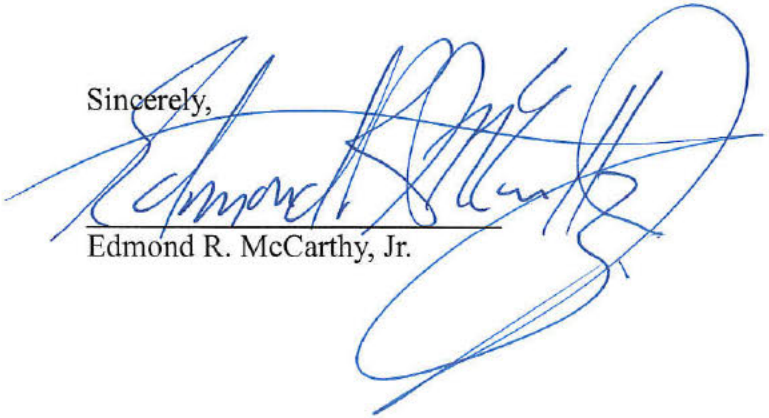
Enclosed please find the original of the Clancy Utility Holdings LLC's Application, together with my Firm's Check No. 1869 payable to the TCEQ in the amount of \$412.00 to cover the initial estimated filing fees.

The purpose of the Application is limited to authorizing a diversion point on the Pedernales River upstream of Lake Travis to divert up to 108 acre-feet of water contracted from the Lower Colorado River Authority ("LCRA").

Should you or your team have any questions, or need additional information, please call me. I can be reached here in Austin by phone at (512) 904-2313 (office) or (512) 426-7138 (cell), or e-mail at [REDACTED]. Thank you for your assistance.

Best wishes.

Sincerely,

  
Edmond R. McCarthy, Jr.

ERM/tn  
Encl.

cc: Clancy Utility Holdings, LLC  
Attn: Shaun Miller, President

# **Application for a Section 11.121 Permit Pursuant to Section 11.036, Texas Water**

**Clancy Utility Holdings LLC, Applicant**

**August 18, 2021**

## **Points of Contact**

### **Applicant's Engineer**

**Murfee Engineering Company, Inc.  
Texas Registration No.F-00353  
Attn: George Murfee, P.E.  
1101 S. Capital of TX Hwy  
Building D  
Austin, Texas 78746  
Ph: (512) 327-9204  
E-mail: [REDACTED]**

### **Applicant's Attorney**

**Ed McCarthy  
McCarthy & McCarthy LLP  
1122 Colorado  
Suite 2399  
Austin, Texas 78701  
Ph: (512) 904-2313  
E-mail: [REDACTED]**

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<b>Addendum</b>	<b>Description</b>	
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**H Copy of Notification Letter to Hays County Judge and Commissioners per 30 TAC §295.42 .....204**

**I Copy of Comptroller’s confirmation of Applicant’s “good standing” .....207**

**J Copy of Check No. 1841 for Application Fee .....209**

# I. Introduction

## INTRODUCTION

The Applicant, Clancy Utility Holdings LLC (“Clancy”), is a public retail utility, which has contracted with the Developer, Mirasol Springs LLC, to provide retail water and wastewater services within a 1400-acre primarily residential development, with limited mixed-use. The property for this Development is located in western Hays and Travis Counties adjacent to the Pedernales River, a tributary of the Colorado River upstream of Lake Travis. The property is generally located within the Regions K and L State Water Planning Regions. The Development will be known as “Mirasol Springs.” The Applicant will own and operate the municipal retail public water utility system planned for construction to meet the retail potable water utility needs of Mirasol Springs.

The geographic region as a whole, including the planned Mirasol Springs Development, is in the fast-growing hill country region of the Austin metropolitan area. The region is experiencing significant population growth along with an attendant increase in the water supply demand to meet the needs of that growth. To source the base water supply needs of the Mirasol Springs Development, the Applicant has entered into a surface water supply contract referred to as the “2020 Firm Water Supply Agreement” (the “Agreement”) with the Lower Colorado River Authority (“LCRA”).

The LCRA Agreement, which will provide Applicant with up to 108 acre-feet of annual diversion rights, reflects an effort to address the water supply needs of Mirasol Springs primarily through the use of *existing* surface water supply resources as contemplated, in part, by the Region K and L State Water Plans. See the 2021 TWDB regional water planning Reports filed by the separate Regions K and L State Water Planning Groups 2016 for additional information. Consistent with its statutory duty to provide continuous and adequate retail water supply service with a consistent quality and water supply volume to its retail municipal supply customers within the Mirasol Springs development, the Applicant plans to provide redundancy for its water supply system within permits for the production of groundwater to be issued by the Hays Trinity Groundwater Conservation District and Southwestern Travis County Groundwater Conservation District. The combined groundwater production authorization for potable municipal use sought from the two Districts is 89.67 acre-feet per annum.

**II.**  
**Applicants' Administrative Information Report**  
**(TCEQ Form No. 10214B)**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## TCEQ WATER RIGHTS PERMITTING APPLICATION

### ADMINISTRATIVE INFORMATION CHECKLIST

Complete and submit this checklist for each application. See Instructions Page. 5.

APPLICANT(S): Clancy Utility Holdings, LLC, a Texas limited liability company

Indicate whether the following items are included in your application by writing either Y (for yes) or N (for no) next to each item (all items are not required for every application).

Y/N

- Administrative Information Report**
- Additional Co-Applicant Information
- Additional Co-Applicant Signature Pages
- Written Evidence of Signature Authority
- Technical Information Report**
- USGS Map (or equivalent)
- Map Showing Project Details
- Original Photographs
- Water Availability Analysis
- Worksheet 1.0**
- Recorded Deeds for Irrigated Land
- Consent For Irrigation Land
- Worksheet 1.1**
- Addendum to Worksheet 1.1
- Worksheet 1.2**
- Addendum to Worksheet 1.2
- Worksheet 2.0**
- Additional W.S 2.0 for Each Reservoir
- Dam Safety Documents
- Notice(s) to Governing Bodies
- Recorded Deeds for Inundated Land
- Consent For Inundation Land

Y/N

- Worksheet 3.0**
- Additional W.S 3.0 for each Point
- Recorded Deeds for Diversion Points
- Consent For Diversion Access
- Worksheet 4.0**
- TPDES Permit(s)
- WWTP Discharge Data
- 24-hour Pump Test
- Groundwater Well Permit
- Signed Water Supply Contract
- Worksheet 4.1**
- Worksheet 5.0**
- Addendum to Worksheet 5.0
- Worksheet 6.0**
- Water Conservation Plan(s)
- Drought Contingency Plan(s)
- Documentation of Adoption
- Worksheet 7.0**
- Accounting Plan
- Worksheet 8.0**
- Fees

**For Commission Use Only:**

Proposed/Current Water Right Number: \_\_\_\_\_

Basin: \_\_\_\_\_ Watermaster area Y/N: \_\_\_\_\_



# ADMINISTRATIVE INFORMATION REPORT

The following information is required for all new applications and amendments.

**\*\*\* Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Staff to discuss Applicant's needs prior to submitting an application. Call the Water Rights Permitting Team to schedule a meeting at (512) 239-4600.**

## 1. TYPE OF APPLICATION (Instructions, Page. 6)

Indicate, by marking X, next to the following authorizations you are seeking.

- New Appropriation of State Water  
 Amendment to a Water Right \*  
 Bed and Banks

***\*If you are seeking an amendment to an existing water rights authorization, you must be the owner of record of the authorization. If the name of the Applicant in Section 2, does not match the name of the current owner(s) of record for the permit or certificate or if any of the co-owners is not included as an applicant in this amendment request, your application could be returned. If you or a co-applicant are a new owner, but ownership is not reflected in the records of the TCEQ, submit a change of ownership request (Form TCEQ-10204) prior to submitting the application for an amendment. See Instructions page. 6. Please note that an amendment application may be returned, and the Applicant may resubmit once the change of ownership is complete.***

Please summarize the authorizations or amendments you are seeking in the space below or attach a narrative description entitled "Summary of Request."

Authorization for an upstream diversion point on the Pedernales River, Colorado River Basin for  
108 acre-feet/year of water authorized for diversion under a LCRA FIRM WATER CONTRACT  
for water in storage pursuant to LCRA's existing highland lakes existing impoundment and  
diversion rights (LCRA Permits). Applicant intends to use the water for municipal  
purposes within a mixed use development covering 1400 acres of land. The requested water  
permit will be one of several water inventory supply sources relied upon by Applicant. Applicant  
has plans to develop groundwater supply sources available from the property within the proposed  
service area - See Appendix "H".

## 2. APPLICANT INFORMATION (Instructions, Page. 6 )

### a. Applicant

Indicate the number of Applicants/Co-Applicants One (1)  
(Include a copy of this section for each Co-Applicant, if any)

What is the Full Legal Name of the individual or entity (applicant) applying for this permit?

Clancy Utility Holdings, LLC, a Texas limited liability company

*(If the Applicant is an entity, the legal name must be spelled exactly as filed with the Texas Secretary of State, County, or in the legal documents forming the entity.)*

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?  
You may search for your CN on the TCEQ website at

<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>

CN : \_\_\_\_\_ ( leave blank if you do not yet have a CN).

What is the name and title of the person or persons signing the application? Unless an application is signed by an individual applicant, the person or persons must submit written evidence that they meet the signatory requirements in 30 TAC § 295.14.

First/Last Name: Shaun Miller

Have President you provided written evidence meeting the signatory requirements in 30 TAC § 295.14, as an attachment to this application?

Yes - See Appendix "B"

What is the applicant's mailing address as recognized by the US Postal Service (USPS)? You may verify the address on the USPS website at

<https://tools.usps.com/go/ZipLookupAction!input.action>.

Name: Clancy Utility Holdings LLC

Mailing Address: 4143 Maple Avenue Street

City: Dallas

State: Texas

ZIP Code: 75219

Indicate an X next to the type of Applicant:

<input type="checkbox"/> Individual	<input type="checkbox"/> Sole Proprietorship-D.B.A.
<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation
<input type="checkbox"/> Trust	<input type="checkbox"/> Estate
<input type="checkbox"/> Federal Government	<input type="checkbox"/> State Government
<input type="checkbox"/> County Government	<input type="checkbox"/> City Government
<input type="checkbox"/> Other Government	<input checked="" type="checkbox"/> Other <u>limited liability company</u>

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: 32074761407 SOS Charter (filing) Number: 803659689

### 3. APPLICATION CONTACT INFORMATION (Instructions, Page. 9)

If the TCEQ needs additional information during the review of the application, who should be contacted? Applicant may submit their own contact information if Applicant wishes to be the point of contact.

First and Last Name: Ed McCarthy

Title: Attorney

Organization Name: McCarthy & McCarthy LLP

Mailing Address: 1122 Colorado, Suite 2399

City: Austin

State: Texas

ZIP Code: 78701

Phone No.: (512) 904 2313

Extension: N/A

Fax No.: (512) 692-2826

E-mail Address: [REDACTED]

#### 4. WATER RIGHT CONSOLIDATED CONTACT INFORMATION (Instructions, Page. 9)

This section applies only if there are multiple Owners of the same authorization. Unless otherwise requested, Co-Owners will each receive future correspondence from the Commission regarding this water right (after a permit has been issued), such as notices and water use reports. Multiple copies will be sent to the same address if Co Owners share the same address. Complete this section if there will be multiple owners and all owners agree to let one owner receive correspondence from the Commission. Leave this section blank if you would like all future notices to be sent to the address of each of the applicants listed in section 2 above.

I/We authorize all future notices be received on my/our behalf at the following:

First and Last Name: N/A

Title: N/A

Organization Name: N/A

Mailing Address: N/A

City: N/A

State: N/A

ZIP Code: N/A

Phone No.: N/A

Extension: N/A

Fax No.: N/A

E mail Address: N/A

## 5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)

a. The application will not be processed unless all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol by all applicants/co-applicants. If you need assistance determining whether you owe delinquent penalties or fees, please call the Water Rights Permitting Team at (512) 239-4600, prior to submitting your application.

1. Does Applicant or Co-Applicant owe any fees to the TCEQ? **Yes / No NO**

If **yes**, provide the following information:

Account number: **N/A**

Amount past due: **N/A**

2. Does Applicant or Co-Applicant owe any penalties to the TCEQ? **Yes / No NO**

If **yes**, please provide the following information:

Enforcement order number: **N/A**

Amount past due: **N/A**

b. If the Applicant is a taxable entity (corporation or limited partnership), the Applicant must be in good standing with the Comptroller or the right of the entity to transact business in the State may be forfeited. See Texas Tax Code, Subchapter F. Applicant's may check their status with the Comptroller at <https://mycpa.cpa.state.tx.us/coa/>

Is the Applicant or Co-Applicant in good standing with the Comptroller? **Yes / No Yes**

c. The commission will not grant an application for a water right unless the applicant has submitted all Texas Water Development Board (TWDB) surveys of groundwater and surface water use - if required. See TWC §16.012(m) and 30 TAC § 297.41(a)(5).

Applicant has submitted all required TWDB surveys of groundwater and surface water? **Yes / No YES**

**6. SIGNATURE PAGE (Instructions, Page. 11)**

Applicant:

I, Shaun Miller President  
(Typed or printed name) (Title)

certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I further certify that I am authorized under Title 30 Texas Administrative Code §295.14 to sign and submit this document and I have submitted written evidence of my signature authority.

Signature: Shaun Miller Date: 8-16-21  
(Use blue ink)

Subscribed and Sworn to before me by the said Shaun Miller, President

on this 16<sup>th</sup> day of August, 2021.

My commission expires on the 1<sup>st</sup> day of June, 2025.

[Signature]  
Notary Public

Dallas  
County, Texas



*If the Application includes Co-Applicants, each Applicant and Co-Applicant must submit an original, separate signature page*

**III.**  
**Applicants' Technical Information Report**  
**(TCEQ Form No. 10214C)**

# TECHNICAL INFORMATION REPORT

## WATER RIGHTS PERMITTING

This Report is required for applications for new or amended water rights. Based on the Applicant's responses below, Applicant are directed to submit additional Worksheets (provided herein). A completed Administrative Information Report is also required for each application.

**Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please call Water Availability Division at (512) 239-4600 to schedule a meeting.** Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N<sup>YES</sup> \_\_\_\_\_ (If yes, date :10-15-20 \_\_\_\_\_).

### **I. New or Additional Appropriations of State Water. Texas Water Code (TWC) § 11.121 (Instructions, Page. 12)**

**State Water is:** *The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state. TWC § 11.021.*

- a. Applicant requests a new appropriation (diversion or impoundment) of State Water? Y / N<sup>Yes\*</sup> \_\_\_\_\_
- b. Applicant requests an amendment to an existing water right requesting an increase in the appropriation of State Water or an increase of the overall or maximum combined diversion rate? Y / N<sup>No</sup> \_\_\_\_\_ (If yes, indicate the Certificate or Permit number: \_\_\_\_\_)

*If Applicant answered yes to (a) or (b) above, does Applicant also wish to be considered for a term permit pursuant to TWC § 11.1381? Y / N<sup>No</sup> \_\_\_\_\_*

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? Y / N<sup>N/A</sup> \_\_\_\_\_ (If yes, indicate the Term Certificate or Permit number: N/A)

*If Applicant answered yes to (a), (b) or (c), the following worksheets and documents are required:*

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir requested in the application)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for each diversion point and/or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach requested in the application)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees**
- **Fees calculated on Worksheet 8.0 – see instructions Page. 34.**
- **Maps – See instructions Page. 15.**
- **Photographs – See instructions Page. 30.**

*Additionally, if Applicant wishes to submit an alternate source of water for the project/authorization, see Section 3, Page 3 for Bed and Banks Authorizations (Alternate sources may include groundwater, imported water, contract water or other sources).*

**Additional Documents and Worksheets may be required (see within).**



**2. Amendments to Water Rights. TWC § 11.122 (Instructions, Page. 12)**

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. *If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. If the application does not contain consent from the current owner to make the requested amendment, TCEQ will not begin processing the amendment application until the Change of Ownership has been completed and will consider the Received Date for the application to be the date the Change of Ownership is completed. See instructions page. 6.*

Water Right (Certificate or Permit) number you are requesting to amend: N/A

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? Y / N<sup>N/A</sup> (if yes, complete chart below):

List of water rights to sever	Combine into this ONE water right
N/A	N/A

a. Applicant requests an amendment to an existing water right to increase the amount of the appropriation of State Water (diversion and/or impoundment)? Y / N<sup>N/A</sup>

*If yes, application is a new appropriation for the increased amount, complete Section 1 of this Report (PAGE. 1) regarding New or Additional Appropriations of State Water.*

b. Applicant requests to amend existing Term authorization to extend the term or make the water right permanent (remove conditions restricting water right to a term of years)? Y / N<sup>N/A</sup>

*If yes, application is a new appropriation for the entire amount, complete Section 1 of this Report (PAGE. 1) regarding New or Additional Appropriations of State Water.*

c. Applicant requests an amendment to change the purpose or place of use or to add an additional purpose or place of use to an existing Permit or Certificate? Y / N<sup>N/A</sup>

*If yes, submit:*

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 1.2 - Notice: "Marshall Criteria"**

d. Applicant requests to change: diversion point(s); or reach(es); or diversion rate? Y / N<sup>N/A</sup>  
*If yes, submit:*

- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for each diversion point or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach)
- **Worksheet 5.0 – Environmental Information** (Required for any new diversion points that are not already authorized in a water right)

e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? Y / N<sup>N/A</sup>

*If yes, submit: Worksheet 2.0 - Impoundment/Dam Information Worksheet* (submit one worksheet for each impoundment or reservoir)

- f. Other - Applicant requests to change any provision of an authorization not mentioned above? Y / N<sup>N/A</sup>            If yes, call the Water Availability Division at (512) 239-4600 to discuss.

**Additionally, all amendments require:**

- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

### **3. Bed and Banks. TWC § 11.042 (Instructions, Page 13)**

- a. Pursuant to contract, Applicant requests authorization to convey, stored or conserved water to the place of use or diversion point of purchaser(s) using the bed and banks of a watercourse? TWC § 11.042(a). Y/N<sup>N/A</sup>

*If yes, submit a signed copy of the Water Supply Contract pursuant to 30 TAC §§ 295.101 and 297.101. Further, if the underlying Permit or Authorization upon which the Contract is based does not authorize Purchaser's requested Quantity, Purpose or Place of Use, or Purchaser's diversion point(s), then either:*

1. *Purchaser must submit the worksheets required under Section 1 above with the Contract Water identified as an alternate source; or*
2. *Seller must amend its underlying water right under Section 2.*

- b. Applicant requests to convey water imported into the state from a source located wholly outside the state using the bed and banks of a watercourse? TWC § 11.042(a-1). Y / N<sup>N/A</sup>

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps and fees from the list below.*

- c. Applicant requests to convey Applicant's own return flows derived from privately owned groundwater using the bed and banks of a watercourse? TWC § 11.042(b). Y / N<sup>N/A</sup>

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps, and fees from the list below.*

- d. Applicant requests to convey Applicant's own return flows derived from surface water using the bed and banks of a watercourse? TWC § 11.042(c). Y / N<sup>N/A</sup>

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0, Maps, and fees from the list below.*

***\*Please note, if Applicant requests the reuse of return flows belonging to others, the Applicant will need to submit the worksheets and documents under Section 1 above, as the application will be treated as a new appropriation subject to termination upon direct or indirect reuse by the return flow discharger/owner.***

- e. Applicant requests to convey water from any other source, other than (a)-(d) above, using the bed and banks of a watercourse? TWC § 11.042(c). Y / N<sup>N/A</sup>

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps, and fees from the list below.*

*Worksheets and information:*

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)
- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)

- Worksheet 5.0 – Environmental Information Worksheet
- Worksheet 6.0 – Water Conservation Information Worksheet
- Worksheet 7.0 – Accounting Plan Information Worksheet
- Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34
- Maps – See instructions Page. 15.
- Additional Documents and Worksheets may be required (see within).

4.

**General Information, Response Required for all Water Right**

**Application instructions, Page 15)**

- a. Provide information describing how this application addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement (*not required for applications to use groundwater-based return flows*). Include citations or page numbers for the State and Regional Water Plans, if applicable. Provide the information in the space below or submit a supplemental sheet entitled “Addendum Regarding the State and Regional Water Plans”:

SEE ATTACHED PAGE

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- b. Did the Applicant perform its own Water Availability Analysis? Y / N No\*

*If the Applicant performed its own Water Availability Analysis, provide electronic copies of any modeling files and reports.*

- c. Does the application include required Maps? (Instructions Page. 15) Y / N Yes

# WORKSHEET 1.0

## Quantity, Purpose and Place of Use

### I. New Authorizations (Instructions, Page. 16)

Submit the following information regarding quantity, purpose and place of use for requests for new or additional appropriations of State Water or Bed and Banks authorizations:

Quantity (acre- feet) <i>(Include losses for Bed and Banks)</i>	State Water Source (River Basin) or Alternate Source <i>*each alternate source (and new appropriation based on return flows of others) also requires completion of Worksheet 4.0</i>	Purpose(s) of Use	Place(s) of Use <i>*requests to move state water out of basin also require completion of Worksheet 1.1 Interbasin Transfer</i>
108	LCRA Firm Contract	Municipal	Hays/Travis Counties
	water from existing permitted storage		See Maps
	in LCRA Highland Lakes		

108 ac-ft Total amount of water (in acre-feet) to be used annually (*include losses for Bed and Banks applications*)

If the Purpose of Use is Agricultural/Irrigation for any amount of water, provide:

a. Location Information Regarding the Lands to be Irrigated

i) Applicant proposes to irrigate a total of N/A acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of N/A acres in N/A County, TX.

ii) Location of land to be irrigated: In the N/A Original Survey No. N/A, Abstract No. N/A.

***A copy of the deed(s) or other acceptable instrument describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds.***

***If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.***

***Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.***

**2. Amendments - Purpose or Place of Use (Instructions, Page. 12)**

a. Complete this section for each requested amendment changing, adding, or removing Purpose(s) or Place(s) of Use, complete the following:

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**
N/A	N/A	N/A	N/A	N/A

\*If the request is to add additional purpose(s) of use, include the existing and new purposes of use under "Proposed Purpose(s) of Use."

\*\*If the request is to add additional place(s) of use, include the existing and new places of use under "Proposed Place(s) of Use."

*Changes to the purpose of use in the Rio Grande Basin may require conversion. 30 TAC § 303.43.*

b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:

i. Applicant proposes to irrigate a total of N/A acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of N/A acres in N/A County, TX.

ii. Location of land to be irrigated: In the N/A Original Survey No. N/A, Abstract No. N/A.

***A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.***

***Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.***

c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.

d. See Worksheet 1.2, Marshall Criteria, and submit if required.

e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

# WORKSHEET 1.1

## INTERBASIN TRANSFERS, TWC § 11.085

Submit this worksheet for an application for a new or amended water right which requests to transfer State Water from its river basin of origin to use in a different river basin. A river basin is defined and designated by the Texas Water Development Board by rule pursuant to TWC § 16.051.

Applicant requests to transfer State Water to another river basin within the State? Y / N No

### 1. Interbasin Transfer Request (Instructions, Page. 20)

- a. Provide the Basin of Origin. N/A
- b. Provide the quantity of water to be transferred (acre-feet). N/A
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:  
N/A

### 2. Exemptions (Instructions, Page. 20), TWC § 11.085(v)

Certain interbasin transfers are exempt from further requirements. Answer the following:

- a. The proposed transfer, which in combination with any existing transfers, totals less than 3,000 acre-feet of water per annum from the same water right. Y/N N/A
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N N/A
- c. The proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, not within the basin of origin? Y/N N/A
- d. The proposed transfer is for water that is imported from a source located wholly outside the boundaries of Texas, except water that is imported from a source located in the United Mexican States? Y/N N/A

### 3. Interbasin Transfer Requirements (Instructions, Page. 20)

For each Interbasin Transfer request that is not exempt under any of the exemptions listed above Section 2, provide the following information in a supplemental attachment titled "Addendum to Worksheet 1.1, Interbasin Transfer": N/A

- a. the contract price of the water to be transferred (if applicable) (also include a copy of the contract or adopted rate for contract water);
- b. a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;
- c. the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users (example - expert plans and/or reports documents may be provided to show the cost); N/A

- d. describe the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years (the need can be identified in the most recently approved regional water plans. The state and regional water plans are available for download at this website: N/A (<http://www.twdb.texas.gov/waterplanning/swp/index.asp>);
- e. address the factors identified in the applicable most recently approved regional water plans which address the following: N/A
- (i) the availability of feasible and practicable alternative supplies in the receiving basin to the water proposed for transfer; N/A
  - (ii) the amount and purposes of use in the receiving basin for which water is needed; N/A
  - (iii) proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures; N/A
  - (iv) proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use; N/A
  - (v) the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and N/A
  - (vi) the projected impacts of the proposed transfer that are reasonably expected to occur on existing water rights, instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under Sections 11.147, 11.150, and 11.152 in each basin (*if applicable*). If the water sought to be transferred is currently authorized to be used under an existing permit, certified filing, or certificate of adjudication, such impacts shall only be considered in relation to that portion of the permit, certified filing, or certificate of adjudication proposed for transfer and shall be based on historical uses of the permit, certified filing, or certificate of adjudication for which amendment is sought; N/A
- f. proposed mitigation or compensation, if any, to the basin of origin by the applicant; and
- g. the continued need to use the water for the purposes authorized under the existing Permit, Certified Filing, or Certificate of Adjudication, if an amendment to an existing water right is sought. N/A

## WORKSHEET 1.2 NOTICE. "THE MARSHALL CRITERIA"

This worksheet assists the Commission in determining notice required for certain **amendments** that do not already have a specific notice requirement in a rule for that type of amendment, and *that do not change the amount of water to be taken or the diversion rate*. The worksheet provides information that Applicant **is required** to submit for such amendments which include changes in use, changes in place of use, or other non-substantive changes in a water right (such as certain amendments to special conditions or changes to off-channel storage). These criteria address whether the proposed amendment will impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

*This worksheet is not required for Applications in the Rio Grande Basin requesting changes in the purpose of use, rate of diversion, point of diversion, and place of use for water rights held in and transferred within and between the mainstems of the Lower Rio Grande, Middle Rio Grande, and Amistad Reservoir. See 30 TAC § 303.42.*

*This worksheet is not required for amendments which are only changing or adding diversion points, or request only a bed and banks authorization or an IBT authorization. However, Applicants may wish to submit the Marshall Criteria to ensure that the administrative record includes information supporting each of these criteria*

### 1. The "Marshall Criteria" (Instructions, Page. 21)

Submit responses on a supplemental attachment titled "Marshall Criteria" in a manner that conforms to the paragraphs (a) - (g) below: SEE ATTACHED PAGE

- a. Administrative Requirements and Fees. Confirm whether application meets the administrative requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 Texas Administrative Code (TAC) Chapters 281, 295, and 297. An amendment application should include, but is not limited to, a sworn application, maps, completed conservation plan, fees, etc.
- b. Beneficial Use. Discuss how proposed amendment is a beneficial use of the water as defined in TWC § 11.002 and listed in TWC § 11.023. Identify the specific proposed use of the water (e.g., road construction, hydrostatic testing, etc.) for which the amendment is requested.
- c. Public Welfare. Explain how proposed amendment is not detrimental to the public welfare. Consider any public welfare matters that might be relevant to a decision on the application. Examples could include concerns related to the well-being of humans and the environment.
- d. Groundwater Effects. Discuss effects of proposed amendment on groundwater or groundwater recharge.



- e. State Water Plan. Describe how proposed amendment addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement. The state and regional water plans are available for download at:  
<http://www.twdb.texas.gov/waterplanning/swp/index.asp>.
- f. Waste Avoidance. Provide evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined in TWC § 11.002. Examples of evidence could include, but are not limited to, a water conservation plan or, if required, a drought contingency plan, meeting the requirements of 30 TAC Chapter 288.
- g. Impacts on Water Rights or On-stream Environment. Explain how proposed amendment will not impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

SEE ATTACHED PAGE

## WORKSHEET 1.2

### MARSHALL CRITERIA

This is an application for a new water right based upon water made available from existing appropriations for the Lower Colorado River Authority's (LCRA) highland lakes pursuant to an LCRA Firm Water Contract for 108 acre-feet of water per annum dated December 10, 2020 (the "LCRA Contract" a copy of which is attached hereto as Appendix "A"). The need for the new water right is Applicant's need to divert the water from a point on the Pedernales River, on the property to be served by the water to be diverted, which point of diversion is located upstream of the LCRA's highland lakes where the water is impounded pursuant to existing Water Rights.

The 108 acre-feet of water is from LCRA's existing water supply inventory. It does not require any new appropriation of state water. The water will originate in the Colorado River Basin and be applied to beneficial use within the Colorado River Basin.

- a. **Administrative Requirements and Fees.** Confirm whether application meets the administrative requirements for an Application to a water use permit pursuant to TWC Chapter 11 and Title 30 Texas Administrative Code (TAC) Chapters 281, 295, and 297. An Application should include, but is not limited to, a sworn application, maps, completed conservation plan, fees, etc.

**RESPONSE:** Based upon a review of the completed responses to the application for a new water right authorizing diversion of the LCRA Contract water on the Pedernales River, including a review of the requirements of Chapter 11, Texas Water Code, and Chapters 281, 295 and 297 of Title 30 of the Texas Administrative Code, and Chapter 8503, Texas Special District Local Laws Code, the Applicant believes the application to be complete. The Applicant further believes the application includes all the required documentation including maps and appropriate fees, as well as evidence of the authority to execute the same by the Applicant.

- b. **Beneficial Use.** Discuss how the proposed Application is a beneficial use of the water as defined in TWC § 11.002 and listed in TWC § 11.023. Identify the specific proposed use of the water (e.g., road construction, hydrostatic testing, etc.) for which the bed and banks authorization is requested.

**RESPONSE:** The water to be made available for beneficial use by the proposed Application pursuant to the LCRA Contract may be used in the short term for development within the Applicant's proposed service area. Long term the water will be used for municipal water supply purposes in the Applicant's Public Water Supply System to meet municipal needs within its Service Area in Travis and Hays Counties within the Region K and L Planning Areas.

- c. **Public Welfare.** Explain how the proposed Application is not detrimental to the public welfare. Consider any public welfare matters that might be relevant to a decision on the application. Examples could include concerns related to the well-being of humans and the environment.

**RESPONSE:** Consistent with the beneficial uses described in paragraph b. above, the public welfare will be benefitted by reallocating existing water supplies appropriated to the LCRA for such beneficial purposes to provide for municipal water supply needs within the Regional Planning Areas, and without the need to appropriate additional limited available unappropriated surface water resources. The proposed municipal use for the 108 acre-feet per year associated with the LCRA Contract pursuant to this Application is consistent with the water needs and proposed strategies identified in both the 2021 Region K and Region L Plans, as well as in the 2022 State Water Plan.

- d. **Groundwater Effects.** Discuss effects of the proposed Application on groundwater or groundwater recharge.

**RESPONSE:** The proposed Application should have no new or additional impacts on groundwater or groundwater recharge. As noted, the Application is supported by the LCRA Contract with LCRA to use a portion of LCRA's existing appropriated surface water inventory. No groundwater is anticipated to be used to satisfy the LCRA Contract or the requested Water Right, subject to the Commission's hydrologic water availability analysis. In the unanticipated event the LCRA Contract is inadequate to supply the projected needs for the Applicant's Service Area, the Applicant has options to explore both an increase in the authorized volume of the LCRA Contract and/or the development of available groundwater resources.

- e. **State Water Plan.** Describe how the proposed Application addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement. The state and regional water plans are available for download at: <http://www.twdb.texas.gov/waterplanning/swp/index.asp>.

**RESPONSE:** The Region K and Region L Planning Groups' 2021 Water Plans, as forwarded to the Texas Water Development Board for incorporation into the 2022 State Water Plan, includes components for beneficial use of existing water supply resources capable of being reallocated within the respective Regions. As described above, the Application facilitates the implementation of the LCRA Contract to provide a means to address some of the demand for water within the Regions contemplated by the 2022 State Water Plan, through the reallocation of LCRA's existing surface water right appropriations. Finally, as this is not an application for the appropriation of additional or new state water, but rather a reallocation of already appropriated State Water, the proposed Application maximizes the beneficial use of available state water resources and impoundment structures that have already been authorized by the State to such purposes and constructed for such uses.

- f. **Waste Avoidance.** Provide evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined in TWC § 11.002. Examples of evidence could include, but are not limited to, a water conservation plan or, if required, a drought contingency plan, meeting the requirements of 30 TAC Chapter 288.

**RESPONSE:** The Applicant is committed to the avoidance of waste of the water resources associated with this Application. This is evidenced by the LCRA Contract requirements for Water Conservation Plans and Drought Contingency Plans, and the plans the Applicant submitted in support of its LCRA Application for the Firm Water Contract, which are compliant with both Section 11.002, Texas Water Code, and Chapter 288, of the Commission's Rules (30 TAC). The Applicant intends to apply the criteria in its plans in the beneficial use of the 108 acre-feet per annum.

- g. **Impacts on Water Rights or On-stream Environment.** Explain how the proposed Application will not impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

**RESPONSE:** While technically seeking a "new water right," the Application is for a diversion point for water already appropriated to LCRA and authorized for use by the Applicant pursuant to the LCRA Contract. Accordingly, the Application is not for an appropriation for additional state water but the right to divert water from storage in the LCRA highland lakes, *i.e.*, an upstream diversion right to utilize the existing water rights of LCRA to meet projected municipal water supply needs within the Regions. The Applicant is not aware of any senior water rights between the requested point of diversion on the Pedernales River and the highland lakes where the water is authorized for storage. Additionally, the Application will be subject to the terms and conditions of the existing affected water rights, as well as the terms of the LCRA Contract. As such, the impacts, if any, have been accounted for and addressed. Additionally, by utilizing existing LCRA water rights, the Applicant and Commission will avoid the need to appropriate additional water for these purposes. Further, the existing LCRA water rights that will supply the water authorized by the LCRA Contract are subject to LCRA's Water Management Plan, which was approved by the Commission. The Water Management Plan includes provisions to help meet environmental flow needs in the Colorado River Basin

## WORKSHEET 2.0

### Impoundment/Dam Information

This worksheet **is required** for any impoundment, reservoir and/or dam. Submit an additional Worksheet 2.0 for each impoundment or reservoir requested in this application.

*If there is more than one structure, the numbering/naming of structures should be consistent throughout the application and on any supplemental documents (e.g. maps).*

#### 1. Storage Information (Instructions, Page. 21)

- a. Official USGS name of reservoir, if applicable: N/A
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: 15.9 ac-ft.
- c. The impoundment is on-channel \_\_\_\_\_ or off-channel <sup>xxxx</sup> \_\_\_\_\_ (mark one)
- i. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4600? Y / N<sup>No</sup>
  - ii. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? Y / N<sup>N/A</sup>
- d. Is the impoundment structure already constructed? Y / N<sup>No</sup>
- i. For already constructed **on-channel** structures:
    1. Date of Construction: N/A
    2. Was it constructed to be an exempt structure under TWC § 11.142? Y / N<sup>N/A</sup>
      - a. If Yes, is Applicant requesting to proceed under TWC § 11.143? Y / N<sup>N/A</sup>
      - b. If No, has the structure been issued a notice of violation by TCEQ? Y / N<sup>N/A</sup>
    3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? Y / N<sup>N/A</sup>
      - a. If yes, provide the Site No. N/A and watershed project name N/A;
      - b. Authorization to close "ports" in the service spillway requested? Y / N<sup>N/A</sup>
  - ii. For **any** proposed new structures or modifications to structures:
    1. Applicant **must** contact TCEQ Dam Safety Section at (512) 239-0326, *prior to submitting an Application*. Applicant has contacted the TCEQ Dam Safety Section regarding the submission requirements of 30 TAC, Ch. 299? Y / N<sup>Y</sup>  
Provide the date and the name of the Staff Person Warren Samuelson via e-mail 6-25-21. See Attached Pages.
    2. As a result of Applicant's consultation with the TCEQ Dam Safety Section, TCEQ has confirmed that: **Applicant is Awaiting Response from Dam Safety Section.**
      - a. No additional dam safety documents required with the Application. Y / N<sup>TBD</sup>
      - b. Plans (with engineer's seal) for the structure required. Y / N<sup>TBD</sup>
      - c. Engineer's signed and sealed hazard classification required. Y / N<sup>TBD</sup>
      - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. Y / N<sup>TBD</sup>

3. Applicants **shall** give notice by certified mail to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir to be constructed, will be located. (30 TAC § 295.42). Applicant must submit a copy of all the notices and certified mailing cards with this Application. Notices and cards are included? Y / N Y

iii. Additional information required for **on-channel** storage: N/A

1. Surface area (in acres) of on-channel reservoir at normal maximum operating level: N/A.
2. Based on the Application information provided, Staff will calculate the drainage area above the on-channel dam or reservoir. If Applicant wishes to also calculate the drainage area they may do so at their option. Applicant has calculated the drainage area. Y/N N/A  
If yes, the drainage area is N/A sq. miles.  
(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4600).

## 2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): N/A
- b. Zip Code: N/A
- c. In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_,  
\_\_\_\_\_ County, Texas.

**\* A copy of the deed(s) with the recording information from the county records must be submitted describing the tract(s) that include the structure and all lands to be inundated.**

**\*\*If the Applicant is not currently the sole owner of the land on which the structure is or will be built and sole owner of all lands to be inundated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.**

- d. A point on the centerline of the dam (on-channel) or anywhere within the impoundment (off-channel) is:

Latitude \_\_\_\_\_°N, Longitude \_\_\_\_\_°W.

**\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places**

- di. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): \_\_\_\_\_
- dii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. Y / N \_\_\_\_\_

**PRELIMINARY DESIGN INFORMATION FOR OFF-CHANNEL POND  
SUBJECT TO UPDATING/REVISION IN FINAL POND DESIGN PROCESS**

**Texas Commission on Environmental Quality**

**INFORMATION SHEET: PROPOSED NEW CONSTRUCTION,  
MODIFICATION, REPAIR, ALTERATION, OR REMOVAL OF A DAM**  
(PLEASE PRINT OR TYPE)

Reference 30 Texas Administrative Code, Chapter 299, Dams and Reservoirs

PLEASE CHECK ONE:  New  Modification  Repair  Removal  Alteration

**SECTION 1: OWNER INFORMATION**

Owner's Name Clancy Utility Holdings LLC Title Shaun Miller, President

Organization Clancy Utility Holdings LLC

I have authorized the submittal of the final construction plans and specifications to the TCEQ Dam Safety Program according to 30 TAC Chapter 299.



(Signature of Owner)

8-13-21

(Date)

Owner's Address 4143 Maple Ave.

City Dallas State Texas Zip Code 75219

Phone Number (214) 301-4255 Emergency Contact Ph ck Russey

Fax Number N/A E-mail [REDACTED]

Owner Code (Please check one):  Federal (F)  Local Government (L)  Utility (U)  Private (P)  State (S)  
 Other (O) please specify: \_\_\_\_\_

Dam and Reservoir Use (Please check one):  Augmentation  Diversion  Domestic  Erosion Control  Evaporation  
 Flood Control  Fire Control  Fish  Hydroelectric  Industrial  Irrigation  Mining  Municipal  Pollution  
Control  Recreation  Stock Water  Settling Ponds  Tailings  Waste Disposal  Other, please specify: \_\_\_\_\_

Engineering Firm Murfee Engineering Company (Texas Registered Firm No. F-353)

Project Engineer David A. Malish, P.E. Texas P.E. License Number 47757

Engineering Firm Address 1101 Capital of Texas Hwy., South, Building D, Suite 110

City Austin State Texas Zip Code 78746

Phone ( [REDACTED] ) Fax (512) 327-2947

E-mail [REDACTED]

**SECTION 2: GENERAL INFORMATION**

Name of Dam N/A

Other Name(s) of Dam N/A

Reservoir Name N/A

Location Mirasol Springs Ranch fka Norworthy Ranch, Hays County, Texas

Latitude 30 19 48 Longitude 98 08 26

County Hays Stream Name N/A - off-channel

River Basin Colorado Topographic Map No. \_\_\_\_\_

Distance and Direction from Nearest City or Town 12.6 west of Bee Cave, TX

TX Number N/A - structure is proposed Water Rights Number N/A - water right is being applied for

*If you have questions on how to fill out this form or about the Dam Safety Program, please contact us at 512-239 5195. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512 239-3282.*

# PRELIMINARY DESIGN INFORMATION FOR OFF-CHANNEL POND SUBJECT TO UPDATING/REVISION IN FINAL POND DESIGN PROCESS

## SECTION 3: INFORMATION ON ~~DAM~~ Off-Channel Pond

Classification **TBD based upon final ongoing design**

Size Classification:  Large  Medium  Small

Hazard Classification:  High  Significant  Low

Number of People at Risk \_\_\_\_\_ Study Year \_\_\_\_\_

Type of Dam:  Concrete  Gravity  Earthfill  Rockfill  Masonry  Other (specify)

Dam Structure (dimensions to nearest tenth of foot, volume to nearest acre-foot or cubic yard, areas to nearest acre):

Spillway Height	<u>No spillway</u>	ft (natural surface of ground to bottom of emergency spillway at longitudinal centerline)
Embankment Height	<u>12</u>	ft (natural surface of ground to crest of dam at centerline)
Structural Height	<u>12</u>	ft (bottom of cutoff trench to crest of dam at centerline)
Length of Dam	<u>1000</u>	ft
Normal Pool Elevation	<u>840</u>	ft-MSL
Emergency Spillway Elevation	<u>No spillway</u>	ft-MSL
Embankment Volume	<u>10 000</u>	cu yd
Maximum Impoundment Capacity	<u>15.9</u>	ac-ft (at top of dam)
Normal Reservoir Capacity	<u>10.7</u>	ac-ft (at normal or conservation pool)
Reservoir Surface Area	<u>2.5</u>	acres (at normal or conservation pool)

Outlet **N/A - Off-Channel Pond**

Outlet Diameter: 12" \_\_\_\_\_  in  ft (check one)

Type: Pipe w/Gate Valve

Principal Spillway **N/A - Off-Channel Pond**

Type:  Natural  Riprap  Concrete  CMP  RCP  Other

Width (Diam.): \_\_\_\_\_ ft Capacity: \_\_\_\_\_ cfs

Emergency Spillway **N/A - Off-Channel Pond**

Type:  Natural  Riprap  Concrete  CMP  RCP  Other

Width (Diam.): \_\_\_\_\_ ft Capacity: \_\_\_\_\_ cfs

Total Spillway Capacity: \_\_\_\_\_ cfs (crest of the dam)

## SECTION 4: HYDROLOGIC INFORMATION **N/A - Off-Channel Pond (TBD????)**

Required Hydrologic Criteria (% PMF) \_\_\_\_\_ % PMF Passing \_\_\_\_\_

PMF Study Year \_\_\_\_\_

Drainage Area: \_\_\_\_\_ acres, or \_\_\_\_\_ sq mi

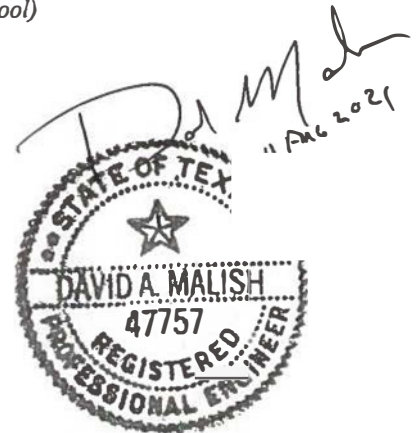
Curve Number (AMC III condition) \_\_\_\_\_

Time of Concentration \_\_\_\_\_ hr

Peak Discharge \_\_\_\_\_ cfs

Peak Stage \_\_\_\_\_ ft-MSL

Storm Duration Causing Peak Stage \_\_\_\_\_ hr



**NOTE: SEE ATTACHED PAGES WITH PRELIMINARY DRAWINGS & LOCATION MAPS OF PROPOSED OFF-CHANNEL POND**



## WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet **is required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

*The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g. maps).*

### 1. Diversion Information (Instructions, Page. 24)

a. This Worksheet is to add new (select 1 of 3 below):

1.  Diversion Point No.
2.  Upstream Limit of Diversion Reach No.
3.  Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point** <sup>N/A</sup> \_\_\_\_\_ cfs (cubic feet per second)  
or <sup>750</sup> \_\_\_\_\_ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Y / N** <sup>No</sup> \_\_\_\_\_  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* <sup>N/A</sup> \_\_\_\_\_ cfs or <sup>N/A</sup> \_\_\_\_\_ gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? **Y / N** <sup>N/A</sup> \_\_\_\_\_

*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

e. Check (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed):

Check one		Write: Existing or Proposed
XX	Directly from stream	Proposed
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. **Y / N** <sup>No</sup> \_\_\_\_\_

If yes, the drainage area is <sup>N/A</sup> \_\_\_\_\_ sq. miles.

*(If assistance is needed, call the Surface Water Availability Team at (512) 239-4600, prior to submitting application)*

## 2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Pedernales, a Tributary of the Colorado River, Colorado River Basin
- b. Zip Code: \_\_\_\_\_
- c. Location of point: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, \_\_\_\_\_ County, Texas.

***A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure.***

***For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, or consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to: a recorded easement, a land lease, a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.***

- d. Point is at:  
Latitude 30°19'59.91" N \_\_\_\_\_ °N, Longitude 90°08'32.84" W \_\_\_\_\_ °W.  
***Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Mapping Program
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

## WORKSHEET 4.0 DISCHARGE INFORMATION

This worksheet required for any requested authorization to discharge water into a State Watercourse for conveyance and later withdrawal or in-place use. Worksheet 4.1 is also required for each Discharge point location requested. **Instructions Page. 26. Applicant is responsible for obtaining any separate water quality authorizations which may be required and for insuring compliance with TWC, Chapter 26 or any other applicable law.**

- a. The purpose of use for the water being discharged will be N/A.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses N/A % and explain the method of calculation: N/A

Is the source of the discharged water return flows? Y / N N/A If yes, provide the following information:

1. The TPDES Permit Number(s). N/A (attach a copy of the **current** TPDES permit(s))
2. Applicant is the owner/holder of each TPDES permit listed above? Y / N N/A

*PLEASE NOTE: If Applicant is not the discharger of the return flows, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.*

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
  4. The percentage of return flows from groundwater N/A, surface water N/A ?
  5. If any percentage is surface water, provide the base water right number(s) N/A.
- c. Is the source of the water being discharged groundwater? Y / N N/A If yes, provide the following information:
1. Source aquifer(s) from which water will be pumped: N/A
  2. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbprpt.asp>. Additionally, provide well numbers or identifiers N/A.
  3. Indicate how the groundwater will be conveyed to the stream or reservoir.  
If groundwater is needed, it will be pumped from the well to the off-channel reservoir or treatment plant.
  4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- ci. Is the source of the water being discharged a surface water supply contract? Y / N N/A  
If yes, provide the signed contract(s).
- cii. Identify any other source of the water N/A

## WORKSHEET 4.1 DISCHARGE POINT INFORMATION

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 for each discharge point. If there is more than one discharge point, the numbering of the points should be consistent throughout the application and on any supplemental documents (e.g. maps).  
**Instructions, Page 27.**

**For water discharged at this location provide:**

- a. The amount of water that will be discharged at this point is N/A acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of N/A cfs or N/A gpm.
- c. Name of Watercourse as shown on Official USGS maps: N/A
- d. Zip Code N/A
- f. Location of point: In the N/A Original Survey No. N/A, Abstract No. N/A, N/A County, Texas.
- g. Point is at:  
Latitude N/A°N, Longitude N/A°W.  
*\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): N/A

**Map submitted must clearly identify each discharge point. See instructions Page. 15.**

# WORKSHEET 5.0

## ENVIRONMENTAL INFORMATION

### 1. Impingement and Entrainment

This section is required for any new diversion point that is not already authorized. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 29.**

Applicant will coordinate with Staff to determine appropriate screening to avoid impingement and entrainment of aquatic organisms.

### 2. New Appropriations of Water (Canadian, Red, Sulphur, and Cypress Creek Basins only) and Changes in Diversion Point(s)

This section is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins and in all basins for requests to change a diversion point. **Instructions, Page 30.**

Description of the Water Body at each Diversion Point or Dam Location. (Provide an Environmental Information Sheet for each location),

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: N/A

Other, specify: N/A

b. Flow characteristics

If a stream, was checked above, provide the following. For new diversion locations, check one of the following that best characterize the area downstream of the diversion (check one).

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

Check the method used to characterize the area downstream of the new diversion location.

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: \_\_\_\_\_

c. Waterbody aesthetics

Check one of the following that best describes the aesthetics of the stream segments affected by the application and the area surrounding those stream segments.

Wilderness: outstanding natural beauty; usually wooded or ungrazed area; water clarity exceptional

Natural Area: trees and/or native vegetation common; some development evident (from fields, pastures, dwellings); water clarity discolored

Common Setting: not offensive; developed but uncluttered; water may be colored or turbid

Offensive: stream does not enhance aesthetics; cluttered; highly developed; dumping areas; water discolored

d. Waterbody Recreational Uses

Are there any known recreational uses of the stream segments affected by the application?

Primary contact recreation (swimming or direct contact with water)

Secondary contact recreation (fishing, canoeing, or limited contact with water)

Non-contact recreation

Submit the following information in a Supplemental Attachment, labeled Addendum to Worksheet 5.0:

1. Photographs of the stream at the diversion point or dam location. Photographs should be in color and show the proposed point or reservoir and upstream and downstream views of the stream, including riparian vegetation along the banks. Include a description of each photograph and reference the photograph to the map submitted with the application indicating the location of the photograph and the direction of the shot.
2. If the application includes a proposed reservoir, also include:
  - i. A brief description of the area that will be inundated by the reservoir.
  - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
  - iii. A description of how any impacts to wetland habitat, if any, will be mitigated if the reservoir is greater than 5,000 acre-feet.

### 3. Alternate Sources of Water and/or Bed and Banks Applications

This section is required for applications using an alternate source of water and bed and banks applications in any basins. **Instructions, page 31.**

- a. For all bed and banks applications:
  - i. Submit an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.
- b. For all alternate source applications:
  - i. If the alternate source is treated return flows, provide the TPDES permit number N/A
  - ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:  
Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

Parameter	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Sulfate, mg/L					
Chloride, mg/L					
Total Dissolved Solids, mg/L					
pH, standard units					
Temperature*, degrees Celsius					

\* Temperature must be measured onsite at the time the groundwater sample is collected.

- iii. If groundwater will be used, provide the depth of the well \_\_\_\_\_ and the name of the aquifer from which water is withdrawn \_\_\_\_\_.

# WORKSHEET 6.0

## Water Conservation/Drought Contingency Plans

This form is intended to assist applicants in determining whether a Water Conservation Plan and/or Drought Contingency Plans is required and to specify the requirements for plans.  
**Instructions, Page 31.**

*The TCEQ has developed guidance and model plans to help applicants prepare plans. Applicants may use the model plan with pertinent information filled in. For assistance submitting a plan call the Resource Protection Team (Water Conservation staff) at 512-239-4600, or e-mail [wras@tceq.texas.gov](mailto:wras@tceq.texas.gov). The model plans can also be downloaded from the TCEQ webpage. Please use the most up-to-date plan documents available on the webpage.*

### 1. Water Conservation Plans

a. The following applications must include a completed Water Conservation Plan (30 TAC § 295.9) for each use specified in 30 TAC, Chapter 288 (municipal, industrial or mining, agriculture - including irrigation, wholesale):

1. Request for a new appropriation or use of State Water.
2. Request to amend water right to increase appropriation of State Water.
3. Request to amend water right to extend a term.
4. Request to amend water right to change a place of use.  
*\*does not apply to a request to expand irrigation acreage to adjacent tracts.*
5. Request to amend water right to change the purpose of use.  
*\*applicant need only address new uses.*
6. Request for bed and banks under TWC § 11.042(c), when the source water is State Water  
*\*including return flows, contract water, or other State Water.*

b. If Applicant is requesting any authorization in section (1)(a) above, indicate each use for which Applicant is submitting a Water Conservation Plan as an attachment:

1.  Municipal Use. See 30 TAC § 288.2. \*\*
2.  Industrial or Mining Use. See 30 TAC § 288.3.
3.  Agricultural Use, including irrigation. See 30 TAC § 288.4.
4.  Wholesale Water Suppliers. See 30 TAC § 288.5. \*\*

**\*\*If Applicant is a water supplier, Applicant must also submit documentation of adoption of the plan. Documentation may include an ordinance, resolution, or tariff, etc. See 30 TAC §§ 288.2(a)(1)(J)(i) and 288.5(1)(H). Applicant has submitted such documentation with each water conservation plan? Y / N<sub>No</sub>**

c. Water conservation plans submitted with an application must also include data and information which: supports applicant's proposed use with consideration of the plan's water conservation goals; evaluates conservation as an alternative to the proposed



appropriation; and evaluates any other feasible alternative to new water development. See 30 TAC § 288.7.

Applicant has included this information in each applicable plan? Y / N Yes

## 2. Drought Contingency Plans

- a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above - indicate each that applies:
1.  Municipal Uses by public water suppliers. See 30 TAC § 288.20.
  2.  Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
  3.  Wholesale Water Suppliers. See 30 TAC § 288.22.
- b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc. See 30 TAC § 288.30*) Y / N

# WORKSHEET 7.0

## ACCOUNTING PLAN INFORMATION WORKSHEET

The following information provides guidance on when an Accounting Plan may be required for certain applications and if so, what information should be provided. An accounting plan can either be very simple such as keeping records of gage flows, discharges, and diversions; or, more complex depending on the requests in the application. Contact the Surface Water Availability Team at 512-239-4600 for information about accounting plan requirements, if any, for your application. **Instructions, Page 34.**

### 1. Is Accounting Plan Required

Accounting Plans are generally required:

- For applications that request authorization to divert large amounts of water from a single point where multiple diversion rates, priority dates, and water rights can also divert from that point;
- For applications for new major water supply reservoirs;
- For applications that amend a water right where an accounting plan is already required, if the amendment would require changes to the accounting plan;
- For applications with complex environmental flow requirements;
- For applications with an alternate source of water where the water is conveyed and diverted; and
- For reuse applications.

### 2. Accounting Plan Requirements

a. A **text file** that includes:

1. an introduction explaining the water rights and what they authorize;
2. an explanation of the fields in the accounting plan spreadsheet including how they are calculated and the source of the data;
3. for accounting plans that include multiple priority dates and authorizations, a section that discusses how water is accounted for by priority date and which water is subject to a priority call by whom; and
4. Should provide a summary of all sources of water.

b. A **spreadsheet** that includes:

1. Basic daily data such as diversions, deliveries, compliance with any instream flow requirements, return flows discharged and diverted and reservoir content;
2. Method for accounting for inflows if needed;
3. Reporting of all water use from all authorizations, both existing and proposed;
4. An accounting for all sources of water;
5. An accounting of water by priority date;
6. For bed and banks applications, the accounting plan must track the discharged water from the point of delivery to the final point of diversion;
7. Accounting for conveyance losses;
8. Evaporation losses if the water will be stored in or transported through a reservoir. Include changes in evaporation losses and a method for measuring reservoir content resulting from the discharge of additional water into the reservoir;
9. An accounting for spills of other water added to the reservoir; and
10. Calculation of the amount of drawdown resulting from diversion by junior rights or diversions of other water discharged into and then stored in the reservoir.

## WORKSHEET 8.0 CALCULATION OF FEES

This worksheet is for calculating required application fees. Applications are not Administratively Complete until all required fees are received. **Instructions, Page. 34**

### 1. NEW APPROPRIATION

	Description	Amount (\$)	
<b>Filing Fee</b>	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under <b>Amount (\$)</b> . <u>In Acre-Feet</u>	<b>\$250.00</b>	
	a. Less than 100		\$100.00
	b. 100 - 5,000		\$250.00
	c. 5,001 - 10,000		\$500.00
	d. 10,001 - 250,000		\$1,000.00
	e. More than 250,000		\$2,000.00
<b>Recording Fee</b>		\$25.00	
<b>Agriculture Use Fee</b>	<i>Only for those with an Irrigation Use.</i> Multiply 50¢ x <sup>0</sup> Number of acres that will be irrigated with State Water. **	<b>\$0.00</b>	
<b>Use Fee</b>	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x <sup>108</sup> Maximum annual diversion of State Water in acre-feet. **	<b>\$108.00</b>	
<b>Recreational Storage Fee</b>	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x <sup>0</sup> acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.		
<b>Storage Fee</b>	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x <sup>108</sup> acre-feet of State Water to be stored at normal max operating level.	<b>\$54.00</b>	
<b>Mailed Notice</b>	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4600.	<b>TBD</b>	
<b>TOTAL</b>		<b>\$ 412.00*</b>	

### 2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
<b>Filing Fee</b>	Amendment: \$100	N/A
	<b>OR</b> Sever and Combine: \$100 x ___ of water rights to combine	N/A
<b>Recording Fee</b>		N/A
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		<b>\$ N/A</b>

### 3. BED AND BANKS

	Description	Amount (\$)
<b>Filing Fee</b>		N/A
<b>Recording Fee</b>		N/A
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		<b>\$ N/A</b>

**IV.**  
**Addenda**

**Addendum A**

**2020 LCRA FIRM WATER CONTRACT**

**FIRM WATER CONTRACT**

**By and Between**

**LOWER COLORADO RIVER AUTHORITY**

**And**

**CLANCY UTILITY HOLDINGS, LLC**

**FIRM WATER CONTRACT**

This Contract is entered by and between the LOWER COLORADO RIVER AUTHORITY (hereinafter, together with its successors and assigns, "LCRA") and CLANCY UTILITY HOLDINGS, LLC (hereinafter, together with its successors and assigns as provided herein, "PURCHASER"), who, in mutual consideration of the provisions herein contained, agree as follows:

**CONTRACT**

1. PERMIT REQUIRED ..... 1  
2. STANDARD TERMS AND CONDITIONS ..... 1  
3. GENERAL TERMS, EXCEPTIONS & SPECIAL CONDITIONS ..... 1  
    3.1 INCORPORATION OF EXHIBITS. .... 1  
    3.2 MAXIMUM ANNUAL QUANTITY..... 2  
    3.3 POINTS OF AVAILABILITY..... 2  
    3.4 MAXIMUM DIVERSION RATE. .... 2  
    3.5 TYPE OF USE. .... 2  
    3.6 SERVICE AREA..... 2  
    3.7 TERM OF CONTRACT. .... 2  
    3.8 PREVIOUS CONTRACT. .... 2  
    3.9 NOTICE..... 2

**1. PERMIT REQUIRED**

PURCHASER may not impound, divert, or use water under this contract unless PURCHASER, in accordance with the substantive rules of the Texas Commission on Environmental Quality ("TCEQ") for upstream sales of water, obtains and maintains in effect a Water Rights Permit from the TCEQ that authorizes such impoundment, diversion, or use at the Point(s) of Availability consistent with the limitations set forth in Section 3.2 below.

**2. STANDARD TERMS AND CONDITIONS**

Except as expressly provided in Section 3 of this Contract, the Parties agree to the standard terms and conditions attached hereto as Exhibit A.

**3. GENERAL TERMS, EXCEPTIONS & SPECIAL CONDITIONS**

**3.1 Incorporation of Exhibits.**

All Exhibits attached to this Contract are incorporated herein by this reference in their entirety and made a part hereof for all purposes. In the event of a conflict between Exhibit A (Standard Terms and Conditions) and these General Terms, the General Terms will govern.

### **3.2 Maximum Annual Quantity**

Subject to obtaining and maintaining a water right permit consistent with the authorizations in this section, PURCHASER shall have the right to divert from the Pedernales River, tributary to the Colorado River (Lake Travis) in Hays County, Texas up to 108 acre-feet of raw water per year. Following issuance of the permit contemplated in section 1, LCRA shall have the ability to amend this contract to reflect any relevant deviations between the authorization provided by LCRA herein, and the permit, including but not limited to any permit provisions related to the impoundment of water.

### **3.3 Points of Availability.**

The Point of Availability is the Pedernales River, tributary to the Colorado River in Hays County, Texas, described and depicted in Exhibit B.

### **3.4 Maximum Diversion Rate.**

The maximum diversion rate authorized under this contract is two (2) cubic feet per second.

### **3.5 Type of Use.**

This Contract is authorized for Municipal use consistent with Section 1.F. of Exhibit A.

### **3.6 Service Area.**

Water supplied under this contract shall only be used within that certain area of 1,401 acres in Hays and Travis Counties, as described in Exhibit "C" attached hereto and depicted in Exhibit "D" attached hereto, together hereinafter called the Service Area".

### **3.7 Term of Contract.**

The term of this Contract is 40 years unless terminated earlier by either party consistent with Exhibit A.

### **3.8 Previous Contract.**

There is no contractual relationship between the parties prior to the Effective Date.

### **3.9 Notice.**

All notices and invoices to PURCHASER shall be addressed to:

Clancy Utility Holdings, LLC  
4143 Maple Avenue Street, Suite 400  
Dallas, Texas 75219

All payments to LCRA shall be made to the address on the invoices received by PURCHASER. All notices to LCRA shall be addressed to:



Lower Colorado River Authority  
Attn: Raw Water Sales  
P.O. Box 220  
Austin, Texas 78767  
(512) 473-3551 for facsimile transmission

and

Lower Colorado River Authority  
Attn: River Operations  
P.O. Box 220  
Austin, Texas 78767  
(512) 473-3551 for facsimile transmission

**SIGNED BY:**

Lower Colorado River Authority

By: Monica P. Masters  
Monica Masters, P.E.  
Vice President, Water Resources

Date: 12/10/2020



Clancy Utility Holdings, LLC

By: [Signature]  
James F. Adams  
President

Date: 12/1/2020

**EXHIBITS**

- A. Standard Contract Terms and Conditions
- B. Description of Point(s) of Availability
- C. Description of Service Area
- D. Depiction of Service Area
- E. Water Conservation Plan
- F. Drought Contingency Plan
- G. Demand Schedule
- H. Arbitration Procedures

**Exhibit A**

**Standard Contract Terms and Conditions**

Exhibit A

STANDARD CONTRACT TERMS AND CONDITIONS

I. WATER SUPPLY..... 2

    A. PERMIT(S) MAY BE REQUIRED ..... 2

    B. MAXIMUM ANNUAL QUANTITY & LOSS FACTOR ..... 2

    C. EXCEEDANCE OF MAXIMUM ANNUAL QUANTITY..... 3

    D. MAXIMUM DIVERSION RATE ..... 3

    E. SOURCE OF WATER SUPPLY ..... 3

    F. TYPE OF USE ..... 4

    G. SERVICE AREA..... 4

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**I. WATER SUPPLY**

**A. PERMIT(S) MAY BE REQUIRED**

PURCHASER may not impound, divert, or use water under this Contract unless PURCHASER, in accordance with the substantive rules of the Texas Commission on Environmental Quality (“TCEQ”), U.S. Corps of Engineers, or any other local, state, or federal regulatory authority, obtains and maintains any water rights permit, wastewater discharge permit, dredge and fill permits, or any other similar permit, that is necessary to authorize PURCHASER’S impoundment, diversion and/or consumptive use, and subsequent discharge, of water consistent with this Contract.

**B. MAXIMUM ANNUAL QUANTITY & LOSS FACTOR**

From and after the Effective Date hereof, PURCHASER shall have the right to a Maximum Annual Quantity (MAQ) of raw or untreated water per annum made available by LCRA as set forth in the terms of the Contract. For purposes of this Contract, the term “made available” refers to the greatest of: (i) the amount of water released from LCRA firm supplies to allow for diversions by or on behalf of PURCHASER; or (ii) the amount of water diverted by or on behalf of PURCHASER at the Point(s) of Availability plus, if applicable, the Loss Factor (defined below) times the amount of water diverted.

Notwithstanding the foregoing, in the event that PURCHASER's Point(s) of Availability are located downstream of Lake Travis, PURCHASER and LCRA agree that calculations of Maximum Annual Quantity and the amount of water made available under this Contract will be based on the amount of water which LCRA makes available for diversion by or on behalf of PURCHASER at the Point(s) of Availability plus the Loss Factor as set forth in this Contract.

In the event that PURCHASER'S Point(s) of Availability are located downstream of Lake Travis, the Contract will specify a Loss Factor. The Loss Factor represents LCRA's best available estimate of the conveyance, delivery, or system loss incurred to provide water under this Contract. LCRA hereby reserves the right to modify the Loss Factor and make any associated changes to the MAQ, at any time, based on any revised estimates of conveyance, delivery, or system loss associated with the delivery of water to PURCHASER, including but not limited to changes in the source of supply LCRA uses to make water available to PURCHASER or updated and substantiated information related to river or canal losses.

PURCHASER may, at its option, conduct its own investigation of conveyance, delivery, or system losses, associated with the delivery of water by LCRA under this Contract. If PURCHASER conducts such study in accordance with LCRA's then-current Water Contract Rules, it shall provide to LCRA in a written report the results of any such investigation within sixty (60) calendar days of completion and LCRA agrees to consider whether any adjustment to the Loss Factor is appropriate under this Contract. If LCRA determines that an adjustment to the Loss Factor is appropriate, it shall provide PURCHASER written notice, by certified mail, of any change to the Loss Factor and resulting change to the Contract MAQ, within fifteen (15) business days of adopting such change. A change to the Loss Factor that results in an increase in the MAQ of 500 acre-feet per year or more shall not take effect until approved by the LCRA Board as an amendment to this Contract. Notwithstanding the foregoing or any provision in LCRA's raw water contract rules, LCRA will not require PURCHASER to obtain a new contract on the most current standard form water contract where the change to the MAQ is based solely on a change to the Loss Factor.

PURCHASER shall designate a point or points of availability for such water as described and depicted in Exhibit "B" attached hereto (the "Point(s) of Availability"), said Exhibit depicting the location by reference to a corner of an original land survey and/or other survey point, giving course and distance and providing the latitude and longitude. Such Points of Availability may be located on the Colorado River or a LCRA-operated canal. In the event that the Point(s) of Availability are located on a LCRA operated-canal, PURCHASER shall also identify a point or points of diversion for such water on the Colorado River ("Point(s) of Diversion"). Such Point(s) of Diversion, if any, shall be described and depicted in Exhibit "B" in the same manner described for Point(s) of Availability.

**C. EXCEEDANCE OF MAXIMUM ANNUAL QUANTITY.**

If the amount of water made available to PURCHASER for any reason exceeds the Maximum Annual Quantity stated in PURCHASER's Contract during two (2) consecutive years, or two (2) out of any four (4) consecutive years, PURCHASER shall submit an application (including the application fee) for a new standard form water contract for an adjusted MAQ, the reasonableness of which shall be determined consistent with LCRA's then effective Water Contract Rules, to the extent LCRA has water supplies available.

**D. MAXIMUM DIVERSION RATE**

PURCHASER may not divert water made available by LCRA under this Contract at a rate greater than as set forth in this Contract ("Maximum Diversion Rate").

**E. SOURCE OF WATER SUPPLY.**

1. The water made available for impoundment, diversion and/or use under this Contract will be water provided from any source available to LCRA at the time PURCHASER uses

water under this Contract.

2. LCRA may make water available under this Contract in accordance with LCRA's Water Management Plan, as may be amended in accordance with state law from time to time, from storage in Lakes Buchanan and/or Travis in accordance with water rights held by LCRA as set forth in Certificates of Adjudication No. 14-5478, as amended, and 14-5482, as amended.
3. LCRA may make water available under this Contract from water rights owned by LCRA based on that certain water right previously owned by the Garwood Irrigation Company and identified as Certificate of Adjudication No. 14-5434 issued by the Texas Water Commission on June 28, 1989, as amended (herein, "Garwood's Right"). That portion of Garwood's Right that is owned by LCRA (and for which reference is made to Certificate of Adjudication No. 14-5434C issued by the Texas Natural Resource Conservation Commission) is referred to herein as "Garwood's Remaining Right."
  - a) PURCHASER acknowledges and agrees that LCRA may make water available for impoundment, diversion and/or use under this Contract from Garwood's Remaining Right only following approval by the Texas Commission on Environmental Quality or its successors (hereafter, "TCEQ"), of amendments to allow use of Garwood's Remaining Right for the type of use authorized by this Contract at the Point of Diversion and/or Point of Availability.
  - b) In this event, this Contract is subject to the commitments and conditions set forth in Section 7.08 of that certain Purchase Agreement, dated July 20, 1998, between Garwood Irrigation Company, as seller, and the Lower Colorado River Authority, as buyer (the "LCRA-Garwood Purchase Agreement"), and is further subject to all terms, provisions and special conditions contained within Garwood's Remaining Right, as amended. Copies of the LCRA-Garwood Purchase Agreement and Garwood's Remaining Right, as amended, are available at the following internet web-site address:

<http://www.lcra.org/water/contracts.html>

PURCHASER also may obtain copies of the LCRA Purchase Agreement and Garwood's Remaining Right, as amended, by request to LCRA's address for notices herein. By executing this Contract, PURCHASER hereby acknowledges receipt of copies of the LCRA Purchase Agreement and Garwood's Remaining Right, as amended.

#### **F. TYPE OF USE.**

PURCHASER represents to LCRA and LCRA relies on such representation that all water made available under this Contract will be impounded, diverted, and/or used by PURCHASER for the type of use as described in this Contract, as such use is defined by the substantive rules for water rights of the TCEQ. In accordance with state law, any part of the water that PURCHASER impounds or diverts but does not use or consume for such use in accordance with this Contract shall be returned to the Colorado River or a tributary of the Colorado River.

#### **G. SERVICE AREA.**

Water made available under this Contract shall only be used within that certain area, as described in Exhibit "C" attached hereto and depicted in Exhibit "D," attached hereto, together hereinafter called the "Service Area."

## **H. WATER CONSERVATION AND DROUGHT CONTINGENCY MEASURES.**

1. PURCHASER agrees to implement the water conservation program contained in the water conservation plan (the "Water Conservation Plan") described in Exhibit "E" attached hereto. PURCHASER further agrees that the water impounded and/or diverted by PURCHASER pursuant to this Contract will be used in accordance with such Water Conservation Plan. LCRA, in accordance with applicable law, may from time to time adopt reasonable rules and regulations relating to water conservation measures. PURCHASER shall update its Water Conservation Plan every five years, or on such schedule as may be required by LCRA or other state law. PURCHASER further agrees to amend its Water Conservation Plan, as necessary, to reflect amendments in state law, regulations or LCRA's water conservation rules and regulations. PURCHASER further agrees to do so within 180 days of the effective date of such amendments, provided that, if the amendments are adopted by LCRA (rather than, for example, TCEQ), the deadline for PURCHASER to make corresponding amendments to its Water Conservation Plan shall run from the date LCRA provides written notice of the amendments to PURCHASER. PURCHASER further agrees to submit its amended Water Conservation Plan to LCRA within 30 days after its adoption. Revisions to PURCHASER's Water Conservation Plan are not required under this section if PURCHASER has not initiated diversions; however, PURCHASER shall update its Water Conservation Plan to be consistent with LCRA's rules and regulations related to water conservation at least sixty (60) days prior to initiating diversions under this Contract. In the event that PURCHASER agrees to furnish water or water services to a third party, who in turn will furnish the water or water services to an ultimate consumer, PURCHASER agrees to include in its agreement with the third party provisions that obligate the third party to: a) develop and implement a water conservation program consistent with PURCHASER's Water Conservation Plan; and, b) amend its water conservation program to reflect amendments in state law, regulations or LCRA's water conservation rules and regulations within the same timelines that apply to PURCHASER.
  
2. PURCHASER agrees to implement the drought contingency program contained in the drought contingency plan (the "Drought Contingency Plan") described in Exhibit "F" attached hereto. PURCHASER further agrees that the water impounded and/or diverted by PURCHASER pursuant to this Contract will be used in accordance with such Drought Contingency Plan. PURCHASER shall review and update the Drought Contingency Plan not less than once every five (5) years or following written request by LCRA consistent with any other schedule required by LCRA's Water Contract Rules. PURCHASER further agrees to submit any amended Drought Contingency Plan to LCRA within 30 days after its adoption. LCRA, in accordance with applicable law, may from time to time adopt reasonable rules and regulations relating to drought contingency measures, including LCRA's Water Management Plan. PURCHASER agrees to amend its Drought Contingency Plan, as necessary, to reflect amendments in state law or regulations or LCRA's rules, regulations or Water Management Plan. PURCHASER further agrees to do so within 180 days of the effective date of such amendments, provided that, if the amendments are adopted by LCRA (rather than, for example, TCEQ), the deadline for PURCHASER to make corresponding amendments to its Drought Contingency Plan shall run from the date LCRA provides written notice of the amendments to PURCHASER. Revisions to PURCHASER's Drought Contingency Plan are not required under this section if PURCHASER has not initiated diversions; however, PURCHASER shall update its Drought Contingency Plan to be consistent with LCRA's rules and regulations related to water conservation at least sixty (60) days prior to initiating diversions under this Contract. In the event that PURCHASER agrees to furnish water or water services to a third party, who in turn will furnish the water or water services to an ultimate consumer, PURCHASER agrees to include in its agreement with the third party provisions that obligate the third party to: a) develop and implement a drought contingency program consistent with PURCHASER's Drought Contingency Plan; and b) amend its drought

contingency program to reflect amendments in state law, regulations, or LCRA's rules, regulations, or Water Management Plan within the same timelines that apply to PURCHASER.

**I. AVAILABILITY OF WATER.**

LCRA is committing to make available to PURCHASER under this Contract a portion of LCRA's firm water supply, as defined in LCRA's Water Contract Rules; provided, however, LCRA may interrupt or curtail the water supplied under this Contract as required by state law or in accordance with LCRA's Water Management Plan or Drought Contingency Plan, as such Plans and any amendments thereto have been approved and may be approved in the future by the TCEQ.

**J. DELIVERY OF WATER.**

LCRA is responsible for making water available under this Contract only up to the MAQ. LCRA makes no guarantee that the water made available under this Contract will be available at any particular time or place or that any LCRA owned/operated reservoir or the Colorado River will be maintained at any specific elevation or flow at any particular time. Furthermore, PURCHASER acknowledges and agrees that LCRA's obligations under this Contract shall not require LCRA to make additional releases of water from LCRA firm water supplies beyond the MAQ or to make releases to raise the water elevations or flows at the Point(s) of Availability at a particular time sufficient for PURCHASER's intake and/or diversion facilities to operate.

**K. DEMAND SCHEDULE.**

PURCHASER has provided a Demand Schedule (Exhibit G) that reflects PURCHASER's best estimate of the scheduled initiation of diversions, initial usage, annual water usage, and any increases of usage over time, of the water to be made available by LCRA under this Contract, consistent with LCRA's Water Contract Rules. PURCHASER shall review, update if needed, and provide to LCRA an updated Demand Schedule not less than once every five (5) years coincident with any updated Water Conservation Plans required by this Contract or LCRA's Water Contract Rules, or following written request by LCRA consistent with any other schedule that may be required by LCRA's Water Contract Rules.

**L. REDUCTION IN MAQ FOR NON-USE.**

Upon sixty (60) days' written notice to PURCHASER, LCRA may consider reducing the MAQ under this Contract at any time after ten year(s) after the Effective Date of this Contract if PURCHASER's maximum annual use has not been at least ten percent of the MAQ on an annual basis within the first ten years. Within thirty (30) days of LCRA's written notice that it is considering reduction of the MAQ, PURCHASER shall provide LCRA with a written assurance and updated Demand Schedule that demonstrates PURCHASER's intent to increase its diversions under this Contract within the next two (2) years to an amount that will be at least ten percent (10%) of the original MAQ secured by this Contract. If PURCHASER fails to or is unable provide such written assurance, or if at least ten percent (10%) of the MAQ is not put to use on an annual basis within the two year period, LCRA may thereafter, at its sole option, terminate the contract or reduce the MAQ to any amount LCRA deems appropriate and reasonable under LCRA's raw water contract rules in effect at the time. An adjustment to the MAQ of this Contract under this section does not require PURCHASER to obtain a new contract on the most current standard form contract.

**M. STATE REGULATION OF LCRA WATER SUPPLIES.**

PURCHASER acknowledges and agrees that the water LCRA makes available under this Contract may be regulated in whole or in part by the State of Texas or local regulatory authorities. PURCHASER further acknowledges and agrees that LCRA's water rights are subject to regulation by the State of Texas, including but not limited to periodic review and amendment of LCRA's Water Management Plan by



the TCEQ. LCRA and PURCHASER acknowledge and agree that LCRA shall be obligated to exercise due diligence to manage its water supplies within such regulatory regimes to make water available to PURCHASER in accordance with the terms of this Contract. PURCHASER acknowledges and agrees, however, that LCRA's obligations under this Contract may be affected by orders of the State of Texas, its agencies or local regulatory authorities. Orders of the State of Texas, its agencies or local regulatory authorities may constitute a "force majeure" event in accordance with this Contract.

**N. OPERATIONS OF DAMS AND RESERVOIRS.**

The right of LCRA to maintain and operate its several dams and their appurtenances on the Colorado River and its associated tributaries and at any and all times in the future to impound and release waters thereby in any lawful manner and to any lawful extent LCRA may see fit is recognized by PURCHASER; and, except as otherwise provided herein, there shall be no obligation upon LCRA to release or not to release any impounded waters at any time or to maintain any waters at any specified elevation or flow. PURCHASER acknowledges that the elevations of said reservoirs and the Colorado River will vary as a result of hydrologic events, or lack thereof, (e.g. floods or droughts) in the watershed and LCRA's operations of its dams on the Colorado River.

PURCHASER acknowledges that Longhorn Dam, which is owned and operated by the City of Austin, may lie upstream of the Point(s) of Availability and/or Point(s) of Diversion, if any, and downstream of Lake Travis. PURCHASER agrees to hold LCRA harmless for any claims that PURCHASER has against LCRA for any action or inaction by the City of Austin relating to its ownership and operation of Longhorn Dam.

**O. QUALITY OF WATER.**

LCRA makes no representation as to the quality of the water made available under this Contract, and PURCHASER hereby releases LCRA and agrees to hold it harmless from any and all claims that PURCHASER or PURCHASER's customers or users have or may have against LCRA for any diminution in or impairment of the quality of water made available under this Contract.

**P. INTERBASIN TRANSFER.**

Any surface water made available under this Contract may not be transferred or used outside of the Colorado River basin unless such transfer or use is within LCRA's water service area or is otherwise in strict compliance with LCRA Board Policies, LCRA water rights and a final permit for interbasin transfer ("IBT") issued by the TCEQ. In the event that PURCHASER intends to transfer or use surface water made available under this Contract outside of the Colorado River basin in accordance with this section, PURCHASER, by executing this Contract, authorizes LCRA to apply to the TCEQ for the necessary authorization pursuant to Texas Water Code § 11.085 and 11.122 within forty-five (45) days of the Effective Date of this Contract. LCRA shall diligently pursue such authorization after it is filed. PURCHASER shall pay for any filing and notice fees related to such application after LCRA bills PURCHASER for such fees in accordance with this Contract.

**Q. REQUIRED NOTICES.**

1. PURCHASER shall notify LCRA in writing of its intention to initiate diversions of water under this Contract not more than eight (8) weeks, nor less than four (4) weeks, prior to PURCHASER's initiation of diversions. Such notice shall include PURCHASER's anticipated diversion rate, not to exceed the Maximum Diversion Rate. If impoundments or diversions of water are being continued from a previous contract or other right to divert, and no change in diversion rate is anticipated, no notice is necessary.
2. PURCHASER shall notify LCRA in writing not more than two (2) weeks prior to making any change in its planned diversion rate, not to exceed the Maximum Diversion Rate specified in this Contract.

3. If PURCHASER's Point(s) of Availability and/or Point(s) of Diversion, if any, are located downstream of Lake Travis or on a tributary which flows into the Colorado River downstream of Lake Travis, PURCHASER shall notify LCRA's River Operations Center (ROC) of its intent to impound and/or divert water under this Contract and shall either: (1) develop with the ROC a written process or mechanism for notifying the ROC of its intent to divert water under this Contract; or (2) notify the ROC prior to making any impoundment and/or diversion under this Contract in accordance with any requirements set forth in the Special Conditions in the Contract.
4. In the event the PURCHASER is required by state law to obtain a water right permit or water right permit amendment – including but not limited to contractual, term, or temporary water right permits – from TCEQ related to water that is reserved or purchased pursuant to an LCRA water contract, PURCHASER shall provide LCRA: (i) a copy of the application for the water right permit or water right permit amendment within five (5) business days of its filing with TCEQ; (ii) a copy of any proposed notice related to the application; and (iii) a copy of the water right permit or water right permit amendment promptly following the issuance of the water right permit or water right permit amendment. PURCHASER shall incorporate LCRA's reasonable comments into the application notice provided that: (i) LCRA provides its comments to PURCHASER within ten (10) business days of LCRA's receipt of the draft notice, unless a shorter response period is required by the TCEQ; and (ii) TCEQ accepts LCRA's comments in the final version of the notice. Applicant also shall provide LCRA two copies of any notice or action by TCEQ of a violation or termination of the water right permit or water right permit amendment within ten (10) days of Applicant receiving notice from TCEQ.
5. PURCHASER shall notify LCRA in writing not more than eight (8) weeks, nor less than four (4) weeks, prior to implementing a program for reuse of water that is reserved or purchased pursuant to this Contract and that falls within the type of use and Service Area provided in this Contract. PURCHASER will make available to LCRA non-privileged documents regarding PURCHASER's reuse program within a reasonable amount of time, not to exceed fifteen (15) business days, following a written request by LCRA staff. For all purposes of this Contract, the term "reuse" means the authorized use of water, which water was diverted and used pursuant to this Contract, but which water remains unconsumed and has yet to be either disposed of or discharged or otherwise allowed to flow into a watercourse, lake or other body of state-owned water.
6. PURCHASER shall notify LCRA in writing of its intentions to divert or deliver water for a Secondary Purchaser at least thirty (30) days prior to any diversions or deliveries from PURCHASER to the Secondary Purchaser.
7. Prior to the Effective Date of this Contract, PURCHASER shall provide to LCRA a demand or use schedule that estimates PURCHASER's annual usage, and any increases to it over time, of the water to be made available by LCRA under this Contract (the "Demand Schedule"). PURCHASER shall review, update if needed, and provide to LCRA the Demand Schedule not less than once every five (5) years or following written request by LCRA consistent with any other schedule required by LCRA's Water Contract Rules.

## **II. CONTRACT ADMINISTRATION**

### **A. TERM OF CONTRACT.**

This Contract shall be for the term of years as set forth in this Contract, which shall commence on the Effective Date and end on the anniversary of the Effective Date in the last year of the contract term as set forth in this Contract, unless terminated earlier by either party as provided below.

**B. PAYMENT.**

1. The "Water Rate" is the rate determined by the Board of Directors of LCRA to then be in effect for all sales of firm water for the same use as provided in this Contract. The "Reservation Rate" is the rate determined by the Board of Directors of LCRA to then be in effect for the reservation of firm water for the same use as provided in this Contract. The "Inverted Block Rate" is the rate determined by the Board of Directors of LCRA to then be in effect for diversion or use of water in amounts in excess of the Maximum Annual Quantity.
2. The Water Rate presently in effect is \$145 per acre-foot (\$0.44 per 1,000 gallons) of water. The Reservation Rate presently in effect is \$72.50 per acre-foot. The Inverted Block Rate presently in effect is \$290 per acre-foot of water. LCRA reserves all rights that it may have under law to modify the Water Rate, the Reservation Rate, or the Inverted Block Rate. PURCHASER understands and acknowledges that the Water Rate, Reservation Rate, and the Inverted Block Rate set forth in this Contract have been approved by LCRA's Board of Directors, and that the Board may change all rates, fees and charges under the Contract from time to time.
3. PURCHASER agrees and covenants to pay LCRA – on a monthly basis beginning with the first billing period after the Effective Date of this contract – an amount of money (the "Use Charge") equal to the Water Rate less the Reservation Rate multiplied by the amount of water made available to PURCHASER during the previous billing period ("Monthly Use").

In the event that PURCHASER'S Point(s) of Availability are located on Lake Buchanan, Inks Lake, Lake LBJ, Lake Marble Falls or Lake Travis, the Monthly Use shall be amount of water diverted by or on behalf of PURCHASER.

In the event that PURCHASER'S Point(s) of Availability are located downstream of Lake Travis the Monthly Use shall be the sum of i) the Monthly Diversion, plus ii) the Loss Factor, times the Monthly Diversion, as such Loss Factor is established under this Contract. In the event the amount diverted at the Point(s) of Availability is less than the amount LCRA made available (through releases from storage and/or pumping into LCRA canals) at the Point(s) of Availability at PURCHASER's request, for purposes of this Section II.B, the Monthly Diversion shall be the amount of water made available at the Point(s) of Availability. Otherwise the Monthly Diversion shall be calculated from the actual amount diverted at the Point(s) of Availability.

4. PURCHASER agrees and covenants to pay – on a monthly basis beginning with the first billing period after the Effective Date of this Contract – the "Monthly Reservation Charge," which shall be an amount equal to the Reservation Rate multiplied by one-twelfth (1/12) of the MAQ.
5. PURCHASER further agrees and covenants to pay LCRA – on a calendar year basis – an amount of money (the "Excess Use Charge") equal to the Inverted Block Rate multiplied by any amount of water made available to PURCHASER in excess of the Maximum Annual Quantity during the previous calendar year, less any amount PURCHASER has previously paid for the same water through the Use Charge and/or Reservation Charge. In the event the amount of water made available to PURCHASER is limited because of a curtailment imposed by LCRA or state law in accordance with this Contract to an amount less than the MAQ, then PURCHASER shall pay a surcharge, in excess of any Use or Reservation Charges, to be set by LCRA's Board of Directors, multiplied by any amount of water made available to PURCHASER in excess of the amount PURCHASER is authorized to have available during the curtailment (the "Curtailment Surcharge").

6. The term "billing period," as used for purposes of metering and billing in this Contract, shall refer to each period between readings of the Meter(s), which readings typically are performed on a monthly basis. All charges under this Contract shall be pro-rated as necessary to reflect the Effective Date or date of termination of this Contract; in other words, LCRA may include in an invoice up to thirty (30) additional days in a billing period to account for water reserved, released, diverted or impounded during days following execution or prior to termination of this Contract. For purposes of metering and billing, the "calendar year" may be based upon the 12-month period from the December meter reading date to the next December reading date.
7. Each month, LCRA will mail an invoice to PURCHASER showing the Monthly Use. Such invoice shall also show the amount of money owed by PURCHASER to LCRA in accordance with the Monthly Reservation Charge and/or Use Charge and any late payment charges, as specified herein.
8. The invoice mailed by LCRA to PURCHASER in the month of January each year, in addition to showing the amount of money owed by PURCHASER to LCRA in accordance with the Monthly Reservation Charge, and/or Use Charge, shall also show any amount of water that PURCHASER had made available to it in excess of the Maximum Annual Quantity during the previous calendar year, as well as the corresponding Excess Use Charge.
9. PURCHASER shall pay LCRA for water provided under this Contract in the amount of each invoice submitted to PURCHASER by LCRA on or before thirty (30) days from the date of the invoice. PURCHASER shall mail checks for payments to the address indicated on the invoice. PURCHASER may pay by hand-delivery of checks or cash to LCRA's headquarters in Austin, Travis County, Texas, or by bank-wire if PURCHASER obtains LCRA's approval and makes arrangements for doing so prior to the due date. Payment must be received at the address provided on the invoice, or, if approved, at LCRA's headquarters or bank, not later than thirty (30) days from the invoice date in order not to be considered past due or late. In the event PURCHASER fails to make payment of that invoice within thirty (30) days of the invoice date, PURCHASER shall then pay a late payment charge of five percent (5%) of the unpaid amount of the invoice. For each calendar month or fraction thereof that the invoice remains unpaid, PURCHASER shall pay interest at the rate of one and one-half percent (1.5%) per month on the unpaid portion of the invoice. In the event PURCHASER attempts to pay LCRA by check, draft, credit card or any other similar instrument and the instrument is returned or refused by the bank or other similar institution as insufficient or non-negotiable for any reason, PURCHASER shall be assessed and must pay to LCRA, per each returned instrument, the LCRA's current returned instrument fee. If the invoice has not been paid within thirty (30) days of the invoice date, PURCHASER further agrees to pay all costs of collection and reasonable attorney's fees, regardless of whether suit is filed, as authorized by Chapter 271, Texas Local Government Code.

**C. MEASURING WATER.**

1. To measure the amount of water diverted by PURCHASER hereunder, PURCHASER agrees at PURCHASER's expense to install such measuring and recording devices or methods as are approved by LCRA (the "Meter"), such Meter to permit, within five percent (5%) accuracy, determination of quantities of raw water diverted from the reservoir or stream hereunder in units of 1,000 gallons. LCRA shall have the right to approve both the design of the meter as well as the location of its installation. PURCHASER must repair, replace or make necessary improvements to a meter that is not in compliance with this Contract or LCRA's Water Contract Rules promptly after PURCHASER becomes aware of the deficiency that causes the meter to not comply with this Contract or LCRA's Water Contract Rules.

- a) PURCHASER agrees to read Meter and submit meter readings to LCRA via electronic mail, online portal or other format as specified by LCRA, on a monthly basis, on or about the 15th day of each month or on such date as specified by LCRA.
- b) PURCHASER agrees to provide LCRA's representatives access across PURCHASER's property for inspection, testing and reading of the Meter. PURCHASER shall locate the meter in a manner that provides LCRA with reasonably safe access to the Meter for the purpose of making meter readings, testing, and/or periodic inspections.
- c) PURCHASER agrees that the Meter shall be tested for accuracy by qualified personnel as approved by LCRA and at the expense of PURCHASER once each calendar year at intervals of approximately twelve (12) months if the MAQ is greater than 20 acre-feet per year and at intervals of approximately (24) months if the MAQ is less than or equal to 20 acre-feet per year.
- d) PURCHASER shall furnish to LCRA a report of such test results. Readings within five percent (5%) of accuracy shall be considered correct.
- e) In the event PURCHASER fails to test the Meter for a period of fifteen (15) consecutive months for contracts with a MAQ greater than 20 acre-feet per year or fails to test the Meter for a period of 25 consecutive months for contracts with a MAQ of 20 acre-feet per year or less, PURCHASER agrees to pay LCRA for the actual cost of testing the Meter plus a fifty dollar (\$50) administrative fee. LCRA will provide PURCHASER a written invoice of the cost of testing the Meter, and said invoice will be subject to the payment terms provided in section II.B of this Contract.
- f) If, at any time, LCRA provides PURCHASER a written notice that questions the accuracy of the Meter, PURCHASER promptly shall test the Meter and, in this event, the expense of such test will be paid by LCRA if the Meter is found to be correct and by PURCHASER if it is found to be incorrect.
- g) Any party that tests the Meter shall provide written notice of the test to the other party at least five (5) business days in advance of the test and shall allow the other party to observe the test.
- h) PURCHASER shall be required to take necessary steps to correct any inaccuracy in the Meter discovered during any test. LCRA may install, at its expense, check meters in or to any of PURCHASER's Meters at any time and may leave such check meters installed for such periods as is reasonably necessary to determine the accuracy of PURCHASER's Meters.
- i) If, as a result of any test, the Meter is found to be registering inaccurately (i.e., in excess of five percent (5%) of accuracy), the readings of the Meter shall be corrected at the rate of its inaccuracy for any period which is definitely known and agreed upon or, if no such period is known and agreed upon, the shorter of the following periods shall be used as the basis for correction:
  - (1) a period extended back either sixty (60) days from the date of demand for the test or, if no demand for the test was made, sixty (60) days from the date of the test; or

- (2) a period extending back half of the time elapsed since the last previous test; and the records of reading shall be adjusted accordingly.
2. In the event PURCHASER is charged based on water released from LCRA firm water supplies under this Contract rather than the actual amount withdrawn from the reservoir or stream by PURCHASER, LCRA shall include the amount of such releases in the monthly invoice provided to PURCHASER. LCRA shall make available information regarding its calculation of the amount of water released attributable to PURCHASER's actual diversions under this Contract within a reasonable period following PURCHASER's written request.

**D. TERMINATION OF CONTRACT OR REDUCTION IN MAXIMUM ANNUAL QUANTITY.**

This Contract may be terminated as follows:

1. If PURCHASER is current on all payments due to LCRA under this Contract and the MAQ is less than 500 acre-feet, PURCHASER may terminate this Contract or reduce the MAQ as set forth in this section at any time following the expiration of five (5) years, measured from the Effective Date, by providing at least one year's prior written notice to LCRA. If the MAQ is 500 acre-feet or more, Purchaser's ability to terminate or reduce the MAQ is limited as follows: beginning with the five-year anniversary of the Effective Date of the contract, Purchaser may: (a) reduce its MAQ by up to 25 percent of the original contract quantity once every five years; or (b) if LCRA's other firm, non-temporary commitments have increased in an amount greater than projected under LCRA's Water Supply Resource Plan, Purchaser may terminate the contract or reduce the MAQ by a quantity greater than 25 percent.
2. LCRA at its sole option, in accordance with the terms and conditions set forth in Section II.E, "Non-Payment," may terminate this Contract without recourse should PURCHASER fail to comply with the terms and conditions of this Contract for the payment of moneys owed to LCRA pursuant to Section II.B. "Payment."
3. If PURCHASER fails to comply with its Water Conservation Plan, its Drought Contingency Plan, or any applicable LCRA nonpoint source water pollution abatement ordinance, or if PURCHASER fails to amend its Water Conservation Plan or its Drought Contingency Plan to reflect changes in LCRA's Water Conservation Plan Rules, LCRA's Drought Contingency Plan Rules, or state law or rules, LCRA may terminate, at its sole option, this Contract without recourse unless such default is cured within thirty (30) days of the date LCRA provides written notice to PURCHASER (or, if the nature of such default is not susceptible of being cured within such thirty (30) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days of PURCHASER's receipt of written notice of such default.
4. If PURCHASER fails to comply with the requirements of Sections III.A, "Nonpoint Source Pollution Abatement," III.B, "Sewage Regulations," or III.C, "Documentation of Compliance; right of Entry," LCRA may, at its sole option, terminate this Contract without recourse unless such default is cured within thirty (30) days of the date LCRA provides written notice to PURCHASER (or if the nature of such default is not susceptible of being cured within such thirty (30) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days of PURCHASER's receipt of written notice of such default. For purposes of this section, LCRA shall not deem PURCHASER to be in default for so long as PURCHASER is in compliance with any remedial or enforcement agreement authorized by an agency of appropriate jurisdiction.

5. If PURCHASER fails to comply with other requirements of this Contract not specifically stated above, LCRA may, at its sole option, terminate this Contract without recourse unless such default is cured within thirty (30) days (or, if the nature of such default is not susceptible of being cured within such thirty (30) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days of PURCHASER's receipt of written notice of such default.
6. Subject to the requirements of applicable bankruptcy laws, including the rights of a trustee to assume contracts under applicable bankruptcy laws, this Contract may be terminated immediately by LCRA upon the declaration of bankruptcy by PURCHASER.
7. In the event TCEQ or any other local, state, or federal regulatory agency denies to PURCHASER, or terminates for any reason, a permit required by this Contract, PURCHASER shall notify LCRA within three (3) business days and immediately cease diversions under this Contract. LCRA, at its sole option, may this Contract terminate on or after the denial or termination of any permit required by this Contract..

PURCHASER shall remain liable for all fees and charges, including any non-refundable Pre-paid Reservation Charges, accruing under the Contract through the date the Contract is terminated, including but not limited to a pro-rated Reservation Charge, which shall be calculated based upon the excess of the Maximum Annual Quantity, pro-rated to the date of termination, over the amount of water made available to PURCHASER through the date of termination. In the event LCRA terminates this Contract as provided herein, PURCHASER shall suspend immediately upon such termination all withdrawal of water from the Colorado River, or any tributaries thereof, under this Contract. LCRA may exercise any rights that it may have at law or in equity to prevent unauthorized withdrawals by PURCHASER or enforce the requirements of PURCHASER's Water Permit, if any. In the event that the contract is terminated based upon the denial or termination of a permit required by this Contract, PURCHASER shall be required to pay an early termination fee equal to the Reservation Rate times the MAQ.

#### **E. NON-PAYMENT.**

1. If LCRA determines that PURCHASER has not paid the full amount owed for any payment due under Section II.B, "Payment", hereof within the time provided therefore, LCRA shall give written notice to PURCHASER stating the amount LCRA has determined is due and unpaid. If LCRA gives notice as provided herein and PURCHASER fails to pay within thirty (30) days the amounts claimed in such notice to be due and unpaid, LCRA may, at its sole option: (1) upon giving ten (10) days written notice to PURCHASER terminate this Contract without recourse; and/or, (2) request injunctive relief from a court of competent jurisdiction to prevent PURCHASER from impounding and/or diverting additional water pursuant to this Contract.
2. If PURCHASER should dispute PURCHASER's obligation to pay all or any part of the amount stated in any invoice or notice, PURCHASER may, in addition to all other rights that PURCHASER may have under law, pay such amount under protest in which case such amount shall be deposited by LCRA in an interest bearing account mutually acceptable to both LCRA and PURCHASER pending final resolution of such dispute in accordance with Section IV.H, "Dispute Resolution." LCRA may not terminate this Contract, or request injunctive relief to prevent additional impoundments and/or diversions, for failure to pay the amount stated in any invoice or notice if PURCHASER pays such amount under protest and until there is a final resolution of such dispute in accordance with Section IV.H, "Dispute Resolution," favorable to LCRA.

#### **F. EQUITABLE REMEDIES.**

PURCHASER agrees that diversions or impoundments of water by PURCHASER without the authorization provided by this Contract will result in damages to LCRA that cannot be adequately

compensated by money alone. As a result, PURCHASER agrees that LCRA shall have available to it equitable remedies, including injunctive relief against additional diversions or impoundments by PURCHASER unless PURCHASER demonstrates that it is otherwise authorized to divert or impound water. In addition, PURCHASER agrees that the provisions of Section IV.H, "DISPUTE RESOLUTION," will not apply to any legal action brought by LCRA seeking equitable remedies under this Contract except as expressly provided by Section II.E.2 regarding "NON-PAYMENT."

#### **G. NOTICE.**

Any notice under this Contract may be delivered by facsimile transmission or by certified mail, return receipt requested. If delivered by facsimile transmission, notice shall be deemed effective as of the facsimile send date, provided that any notice sent by facsimile must also be sent the same date by first-class mail. If delivered by certified mail, return receipt requested, notice shall be deemed effective five (5) days after the date on which the notice is post-marked.

All notices and invoices to PURCHASER shall be addressed as set forth in the General Terms of this Contract.

All notices and payments to LCRA shall be addressed as set forth in the General Terms of this Contract.

Either party may change its address by giving written notice of such change to the other party. PURCHASER is required to provide notice of change in address or contact person within ten (10) days of such change. PURCHASER shall maintain a physical address on file with LCRA.

#### **H. ASSIGNMENT OF CONTRACT.**

PURCHASER shall have the right to assign this Contract provided that: i) there is no change to the MAQ, source, type of use or Service Area provided in this Contract; ii) prior to such assignment, this Contract is amended to be consistent with all terms of LCRA's then-current standard form contract for purchase of firm water from Lake Travis and LCRA's then-current Water Contract Rules as determined by LCRA; iii) the Water Conservation Plan and Drought Contingency Plan are updated as may be necessary in accordance with this Contract as determined by LCRA; iv) PURCHASER provides LCRA at least sixty (60) days prior written notice of such assignment; and, v) PURCHASER is not in default under this Contract at the time of such assignment.

#### **I. COMPLIANCE WITH FILING REQUIREMENTS.**

LCRA agrees to file a copy of this Contract with the Executive Director of the TCEQ, P.O. Box 13087, Capitol Station, Austin, Texas 78711, it being fully recognized by PURCHASER hereunder that the effectiveness of this Contract is dependent upon compliance with the substantive rules and procedural rules for water rights of the TCEQ.

### **III. ENVIRONMENTAL, PERMITTING AND OTHER ISSUES RELATED TO WATER SUPPLY**

#### **A. NONPOINT SOURCE WATER POLLUTION ABATEMENT.**

If PURCHASER will use water under this Contract to serve areas located within the jurisdictional area of LCRA Lake Travis Nonpoint Source Pollution Control Ordinance, the Upper Highland Lakes Nonpoint Source Pollution Control Ordinance, or any other LCRA water quality ordinance that has been adopted by the LCRA Board, PURCHASER agrees to comply with and shall comply with the provisions of that respective ordinance, which ordinance may require a permit and compliance with other applicable local, state, and federal rules and regulations pertaining to water quality protection. If PURCHASER will use water under this Contract to serve areas wholly outside the jurisdiction of an LCRA water quality ordinance, PURCHASER agrees to comply with and shall comply with any applicable local, state, and federal rules and regulations pertaining to water quality protection. PURCHASER further agrees to



distribute to its customers in its service area water quality protection educational materials that LCRA provides to PURCHASER.

**B. SEWAGE REGULATIONS.**

PURCHASER agrees to obtain, or cause to be obtained, all approvals required by all applicable local, state or federal agencies for any sanitary sewage system or systems that collect sewage derived from water diverted herein or any sanitary sewage system whose effluent is discharged within the boundaries of LCRA's statutory district. Failure of PURCHASER to meet any standards imposed by such agencies for sanitary sewage systems, including on-site systems, shall subject PURCHASER under this Contract to all remedies allowed by law including, without limitation, termination or suspension of this Contract by LCRA. PURCHASER further agrees that if a sewage treatment plant is located within the Service Area, LCRA shall have reasonable access to such plant for the purpose of taking samples of sewage effluent from such plant for testing by LCRA to determine whether PURCHASER is in compliance with regulatory standards imposed by such agencies.

**C. DOCUMENTATION OF COMPLIANCE; RIGHT OF ENTRY.**

1. In addition to notices required by Section I.Q of this Contract, PURCHASER shall provide LCRA copies of any approvals that PURCHASER has received from federal, state, or local agencies that relate to water reserved or purchased pursuant to PURCHASER's Contract or to facilities intended to impound, divert, transport, or use water provided under PURCHASER's Contract within a reasonable amount of time, not to exceed fifteen (15) business days, following a written request by LCRA staff.
2. PURCHASER agrees that LCRA employees and agents shall be entitled to enter any property where facilities impound or deliver water to the service area of PURCHASER at any reasonable time following a reasonable attempt at prior notification for the purpose of inspecting and investigating conditions relating to the quality of water; the compliance by PURCHASER with any rule, regulation, permit or other order of the state, its agencies, local regulatory authorities or LCRA; compliance by PURCHASER with the requirements of this Contract; or, inspection of any of PURCHASER's facilities related to the use, diversion or impoundment of water under this Contract. LCRA employees or agents acting under this Contract who enter PURCHASER's property shall observe rules and regulations concerning safety, internal security, and fire protection, and shall notify any occupant or management of their presence and shall exhibit proper credentials.

**D. ANNUAL REPORTS OF DUE DILIGENCE; AS-BUILT PLANS.**

1. PURCHASER shall report to LCRA, on a yearly basis, progress made toward obtaining any and all necessary authorizations (e.g. TCEQ permits, Army Corps of Engineers permits, etc.) as well as progress towards commencing and completing construction of facilities which will be used to divert, impound, and/or convey water under PURCHASER's Contract.
2. PURCHASER shall provide to LCRA "as-built" drawings and plans (including GPS coordinates of any intakes or impoundments) for facilities which will be used to divert, impound, and/or convey water under PURCHASER's Contract were actually built within thirty (30) days of completion of construction.

#### **IV. GENERAL PROVISIONS**

##### **A. EFFECTIVE DATE.**

“Effective Date” means the last date of execution of this Contract by the Parties; provided all of the Parties must execute this Contract for it to be effective.

##### **B. PREVIOUS CONTRACT.**

In the event of a previous contract between the Parties related to the Service Area of this Contract prior to the Effective Date, this Contract replaces such prior contract unless specified otherwise hereunder.

##### **C. INDEMNIFICATION.**

PURCHASER will indemnify and hold LCRA harmless from any and all claims and demands whatsoever to which LCRA may be subjected by reason of any injury to any person or damage to any property resulting from any and all actions and activities (or failure to act) of PURCHASER under this Contract except to the extent caused by LCRA's gross negligence or willful misconduct. PURCHASER's pumping and related facilities shall be installed, operated and maintained by PURCHASER at PURCHASER's sole risk. Nothing in this Contract shall be construed as authorizing PURCHASER, or recognizing that PURCHASER has any right, to install any equipment or improvements on property owned by LCRA or third parties.

LCRA will hold PURCHASER harmless from any and all claims or demands whatsoever to which LCRA may be subjected by reason of any injury to any person or damage to any property resulting from or in any way connected with any and all actions and activities (or failure to act) of LCRA under this Contract.

##### **D. FORCE MAJEURE.**

The term “Force Majeure” as used herein, shall mean those situations or conditions that are beyond the control of LCRA or PURCHASER and that, after the exercise of due diligence to remedy such situation or condition, render LCRA or PURCHASER unable, wholly or in part, to carry out the covenants contained herein. Such force majeure includes, but is not limited to acts of God, strikes, lockouts, acts of the public enemy, orders of any kind of the government or agencies of the United States or of the State of Texas, excluding LCRA, or any civil or military authority, insurrections, riots epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or dams, partial or entire failure of water supply insofar as each of the foregoing are beyond the reasonable control of the party in question. LCRA shall not be held liable or responsible for any damage that may be caused by its inability, after the exercise of due diligence, to make the supply of water available to PURCHASER due to any force majeure. LCRA shall use reasonable and timely diligence to repair or recondition LCRA's machinery, canals, or dams in the event such machinery, canals or dams are damaged or made unserviceable from any force majeure.

##### **E. NO THIRD-PARTY BENEFICIARY.**

The Parties hereto are entering into this Contract solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the Parties hereto.

##### **F. NO RIGHTS OR TITLE ACQUIRED.**

PURCHASER agrees and acknowledges that it acquires by this Contract no rights or title to the water that is the subject of this Contract other than those rights explicitly set forth herein.

## **G. REPRESENTATIONS AND WARRANTIES.**

Each of LCRA and PURCHASER represents and warrants to the other that this Contract has been duly executed by an authorized officer and constitutes a valid and binding Contract, enforceable against it in accordance with its terms (except as such enforceability may be limited by bankruptcy laws or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles).

## **H. DISPUTE RESOLUTION.**

### **1. Settlement by Mutual Agreement.**

In the event any dispute, controversy or claim between or among the Parties arises under this Contract or is connected with or related in any way to this Contract or any right, duty or obligation arising hereunder or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to, a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation, or enforcement of this Contract, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with the terms of this subsection (1). In the event a Dispute or Controversy arises, any party shall have the right to notify the other party to such Dispute or Controversy that it has elected to implement the procedures set forth in this subsection (1). Within thirty (30) days after delivery of any such notice by one party to the other regarding a Dispute or Controversy, the designated representatives of the Parties shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should a mutual resolution and settlement not be obtained at the meeting of the Parties' designated representatives for such purpose or should no such meeting take place within such thirty (30) day period, then any party may by notice to the other party, as the case may be, refer the Dispute or Controversy to senior management of the Parties for resolution. Within thirty (30) days after delivery of any such notice by one party to the other referring such Dispute or Controversy to senior management of the Parties for resolution, representatives of senior management of each of the Parties shall meet at a mutually agreed upon time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should mutual resolution and settlement not be obtained at the meeting of representatives of senior management of each of the Parties for such purposes or should no such meeting take place within such thirty (30) day period (unless extended by mutual agreement), then any party may by notice to the other party, as the case may be, submit the Dispute or Controversy to binding arbitration in accordance with the provisions of subsection (2) and Exhibit H. Upon the receipt of notice of referral to arbitration hereunder, and except as otherwise expressly provided by this Contract, the Parties shall be compelled to arbitrate the Dispute or Controversy in accordance with the terms of this Section IV.H and Exhibit H without regard to the justiciable character or executory nature of such Dispute or Controversy.

### **2. Arbitration.**

Except as otherwise expressly provided by this Contract, each party hereby agrees that any Dispute or Controversy that is not resolved pursuant to the provisions of subsection (1) may be submitted to binding arbitration hereunder and, if submitted timely according to this Contract, shall be resolved exclusively and finally through such binding arbitration. Except as otherwise expressly provided by this Contract, this Section IV.H and Exhibit H constitute a written agreement by the Parties to submit to arbitration any Dispute or Controversy arising under or in connection with this Contract within the meaning of Section 171.001 of the Texas Civil Practice and Remedies Code.

### **3. Emergency Relief.**

Notwithstanding the Parties' agreement to arbitrate Dispute and Controversies, either party may seek injunctive relief or other form of emergency relief at any time from any state court of competent jurisdiction in Austin, Texas, the federal court for such district, or any state or federal regulatory agency of competent jurisdiction.

4. Survival.

The provisions of this Section IV.H shall survive expiration or earlier termination of this Contract.

**I. ACTUAL DAMAGES.**

NEITHER PARTY SHALL BE LIABLE OR HAVE ANY RESPONSIBILITY TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR DELAY-RELATED OR PERFORMANCE-RELATED DAMAGES INCLUDING, WITHOUT LIMITATION, LOST EARNINGS OR PROFITS. SUCH LIMITATION ON LIABILITY SHALL APPLY TO ANY CLAIM OR ACTION, WHETHER IT IS BASED IN WHOLE OR IN PART ON CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, STATUTE OR ANY OTHER THEORY OF LIABILITY. THE PROVISIONS OF THIS SECTION IV.I SHALL HAVE NO EFFECT ON THE PARTY'S INDEMNITY OBLIGATIONS UNDER SECTION IV.C.

**J. AMENDMENT.**

This Contract may not be modified or amended except by an instrument in writing signed by authorized representatives of the Parties.

**K. BINDING EFFECT.**

The terms of this Contract shall be binding upon, and inure to the benefit of, the Parties and their permitted successors and assigns.

**L. COMPLETE CONTRACT.**

This Contract, together with all Exhibits attached hereto, constitutes the entire agreement of the Parties relating to the subject matter of this Contract and supersedes all prior contracts, agreements or understandings with respect to the subject matter hereof, both oral or written.

Each party agrees that the other party (and its agents and representatives) has not made, and has not relied upon, any representation, warranty, covenant or agreement relating to the transactions contemplated hereunder other than those expressly set forth herein.

**M. COUNTERPARTS.**

This Contract may be executed by the Parties in any number of separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts shall together constitute one and the same agreement. All signatures need not be on the same counterpart.

**N. FURTHER ASSURANCES.**

Each party agrees to do all acts and things and to execute and deliver such further written instruments, as may be from time to time reasonably required to carry out the terms and provisions of this Contract.

**O. GOVERNING LAW.**

This Contract and the rights and duties of the Parties arising out of this Contract shall be governed by, and construed in accordance with, the laws of the State of Texas, without reference to the conflict of laws rules thereof.

**P. HEADINGS; TABLE OF CONTENTS.**

The headings of the Articles and Sections of this Contract and the Table of Contents are included for convenience only and shall not be deemed to constitute a part of this Contract.

**Q. INCORPORATION OF WATER CONTRACT RULES.**

PURCHASER acknowledges receipt of LCRA's Water Contract Rules ("Rules"), and further acknowledges that, unless expressly stated otherwise in this Contract, such Rules, as may be amended by LCRA's Board of Directors from time to time, are incorporated herein by reference in their entirety and made a part hereof for all purposes.

**R. INTERPRETATION AND RELIANCE.**

No presumption will apply in favor of any party in the interpretation of this Contract or in the resolution of any ambiguity of any provisions thereof.

**S. RELATIONSHIP OF PARTIES.**

This Contract and the transactions contemplated hereunder are based upon the active participation of all Parties.

Neither the execution nor delivery of this Contract, nor the consummation of the transactions contemplated hereunder, shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Parties, except for the contractual arrangements specifically set forth in this Contract. Except as is expressly agreed to in writing in this Contract, no party (or any of its agents, officers or employees) shall be an agent or employee of the other party, nor shall a party (or any of its agents, officers or employees) have any power to assume or create any obligation on behalf of the other party. Nothing contained in this Contract shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement among LCRA on the one hand and the PURCHASER on the other hand, except for the contractual arrangements specifically set forth herein.

**T. SEVERABILITY.**

In the event that any provision of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the Parties shall negotiate an equitable adjustment to the provisions of this Contract with the view to effecting, to the extent possible, the original purpose and intent of this Contract, and the validity and enforceability of the remaining provisions shall not be affected thereby.

**U. NO ADDITIONAL WAIVER IMPLIED.**

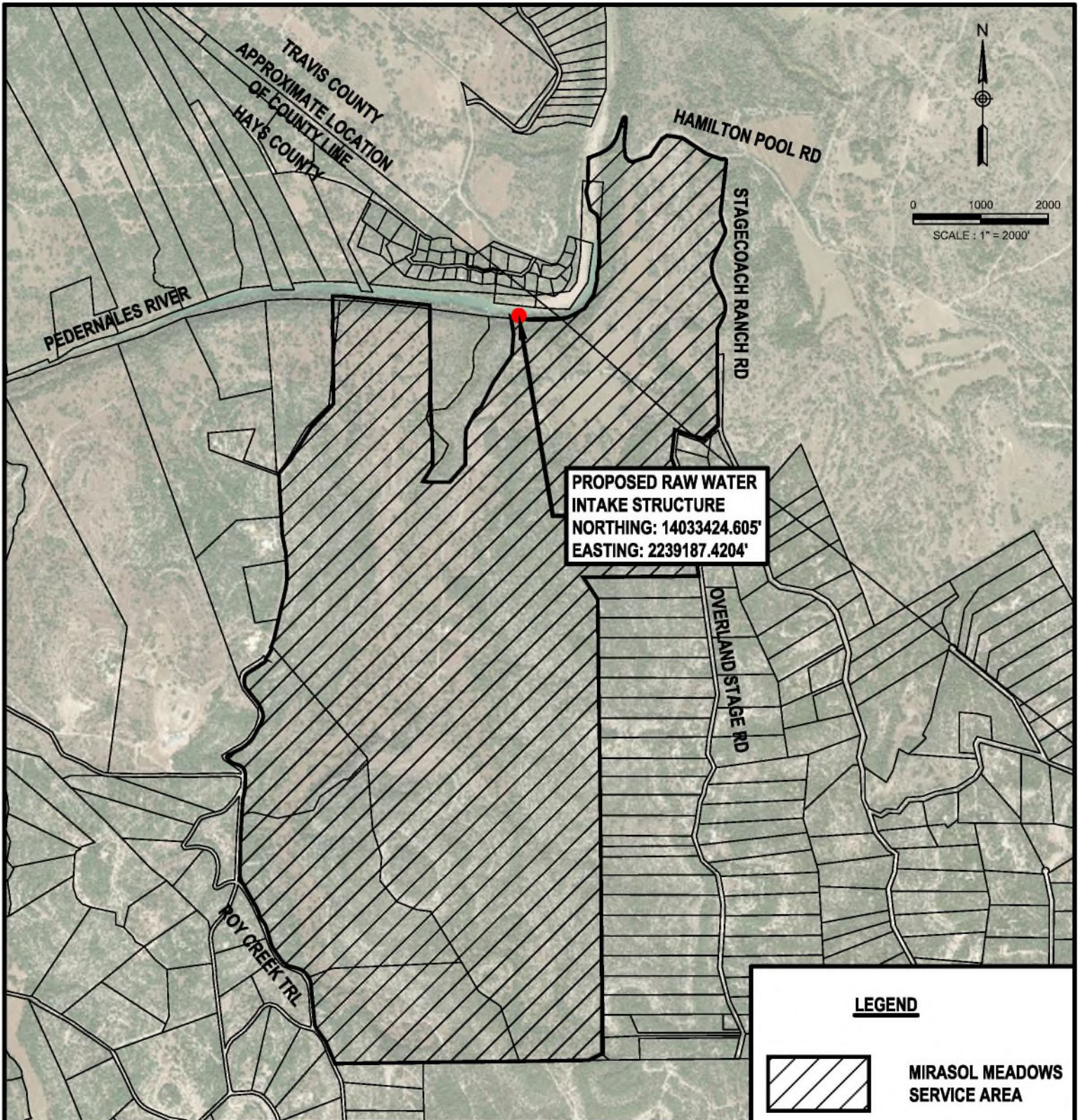
No waiver or waivers of any breach or default (or any breaches or defaults) of any term, covenant, condition or liability under this Contract, or of performance by the other party of any duty or obligation under this Contract, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

**V. SHORT TERM SALES OF FIRM WATER TO THIRD PARTIES.**

In accordance with LCRA Board Policy 501, Water Resources Management, LCRA and PURCHASER agree that LCRA may market and re-sell any portion of PURCHASER's Reserved Water to third parties on a limited term basis for a management fee and under terms mutually acceptable to LCRA and PURCHASER and in accordance with LCRA Board Policies.

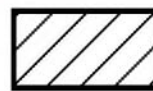
## **Exhibit B**

### **Description of Point(s) of Availability**



**PROPOSED RAW WATER  
INTAKE STRUCTURE**  
 NORTHING: 14033424.605'  
 EASTING: 2239187.4204'

**LEGEND**



**MIRASOL MEADOWS  
SERVICE AREA**



**PROPOSED RAW  
WATER INTAKE  
STRUCTURE**

**MIRASOL MEADOWS FIRM WATER APPLICATION**

TRAVIS/HAYS COUNTY, TEXAS

EXHIBIT B  
 FUTURE POINT OF DIVERSION

DESIGNED BY: \_\_\_\_\_  
 DRAWN BY: SJA  
 CHECKED BY: DL  
 APPROVED BY: \_\_\_\_\_  
 DATE: August 4, 2020



1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
 BUILDING D, SUITE 110  
 AUSTIN, TEXAS 78746  
 (512) 327-9204

Texas Registered Engineering Firm F-353  
 0070

## **Exhibit C**

### **Description of Service Area**



**Bowman CONSULTING**

ALTA/NPS LAND TITLE SURVEY  
 1400.809 ACRES OUT OF THE  
 P.H. COMMONS SURVEY A-129, W. & J. MCKONKON  
 SURVEY A-719, W. HAMMETT SURVEY A-782  
 AND OTHERS IN HAY COUNTY, TEXAS  
 AND TRAVIS COUNTY, TEXAS

TYPE Form No. F-4509 | TPSC Form No. 101205-00

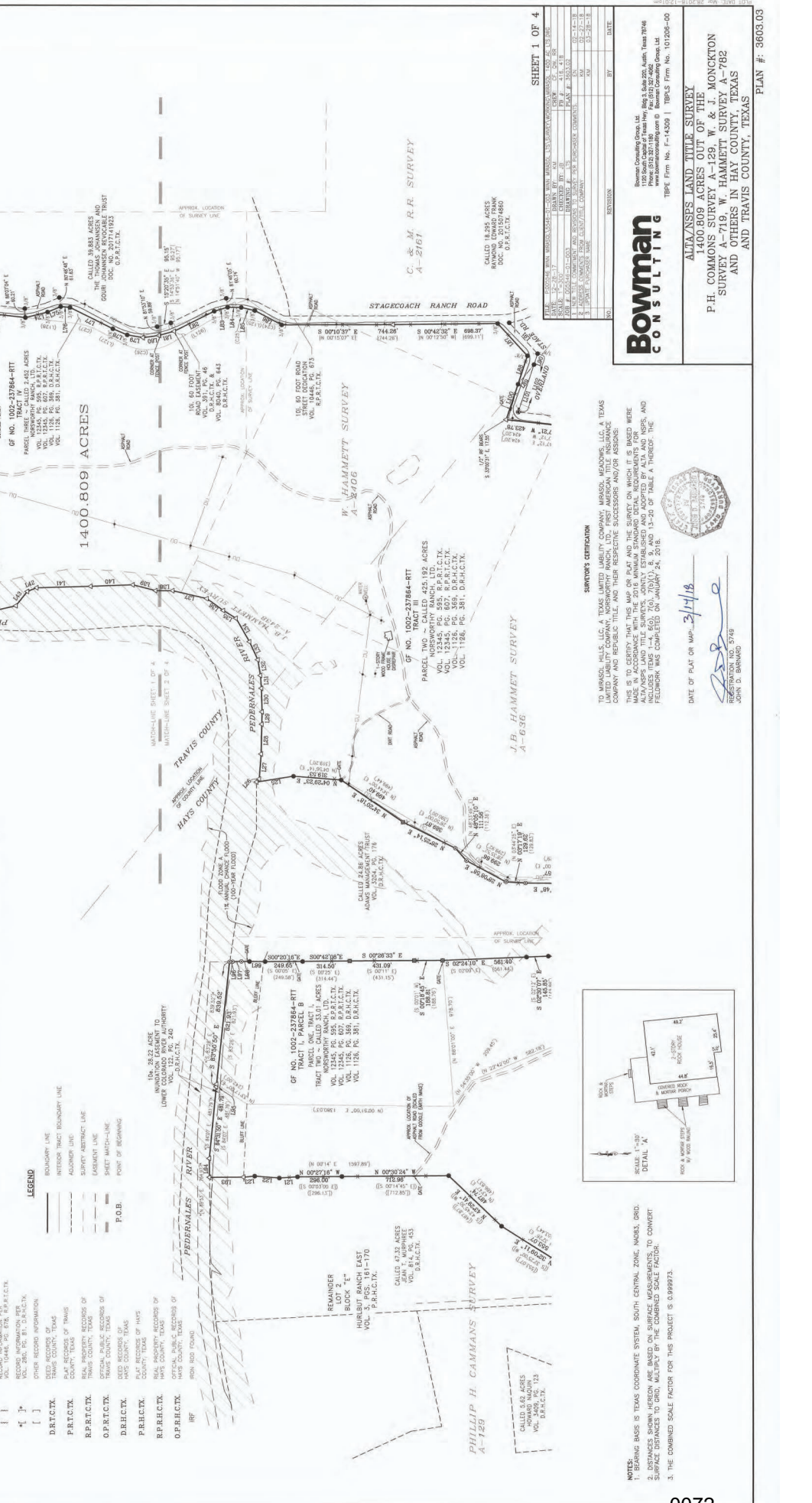
Bowman Consulting Group, Ltd.  
 1514 S. Loop West, Suite 1000, Houston, Texas 77046  
 Phone: 281.302.1155  
 www.bowmanconsulting.com | Bowen Consulting Group, Ltd.

DATE: 11/19/2018  
 DRAWN BY: J.P. McLeod  
 CHECKED BY: J.P. McLeod  
 1. SURVEY INFORMATION AND REFERENCES TO PREVIOUS SURVEYS.  
 2. IDENTIFICATION OF ALL INTERESTS AND ENCUMBRANCES.  
 3. PROPERTY LINES AND LOCATIONS.  
 4. AREA CALCULATIONS.  
 5. DATE OF SURVEY.

NO.	DESCRIPTION	DATE
1	J.C. LITTLE SURVEY A-493	11/19/2018
2	W. HAMMETT SURVEY A-7406	06/22/2017
3	P.H. COMMONS SURVEY A-129	12/20/2017
4	J.B. HAMMETT SURVEY A-636	11/19/2018
5	PHILLIP H. CAMMANS SURVEY A-129	11/19/2018
6	HURBUT RANCH EAST	11/19/2018
7	STACECOACH RANCH ROAD	11/19/2018
8	PEDEARNALLES RIVER	11/19/2018
9	POOL ROAD	11/19/2018

NO.	DESCRIPTION
1	BOUNDARY LINE
2	INTERIOR TRACT BOUNDARY LINE
3	ADJOINING LINE
4	SURVEY ABSTRACT LINE
5	EASEMENT LINE
6	SHEET MATCH-LINE
7	POINT OF BEGINNING
8	UTILITY LINE
9	OVERHEAD UTILITY LINE
10	DOWN-CUT ANCHOR
11	IRON ROD FOUND
12	IRON PIPE FOUND IN ROCK GROUND
13	IRON PIPE FOUND
14	NAIL FOUND
15	COTTON ON SNAKLE FOUND
16	BOLT FOUND
17	FENCE POST FOUND
18	1/2" IRON ROD W/ PLASTIC CAP
19	STAMPED "X" SET
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21	WIRE FENCE
22	UTILITY POLE
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88	RECORD INFORMATION FOR SURVEY A-719
89	RECORD INFORMATION FOR SURVEY A-782
90	RECORD INFORMATION FOR SURVEY A-636

NO. 1002-237864-RTT TRACT 190 - CALLED 33.07 ACRES VOL. 12345, PG. 589, D.B.A.C.T.X.  
 NO. 1002-237864-RTT TRACT 191 - CALLED 33.07 ACRES VOL. 12345, PG. 589, D.B.A.C.T.X.  
 NO. 1002-237864-RTT TRACT 192 - CALLED 33.07 ACRES VOL. 12345, PG. 589, D.B.A.C.T.X.  
 NO. 1128, PG. 381, D.B.A.C.T.X.  
 NO. 1128, PG. 381, D.B.A.C.T.X.



**LEGEND**

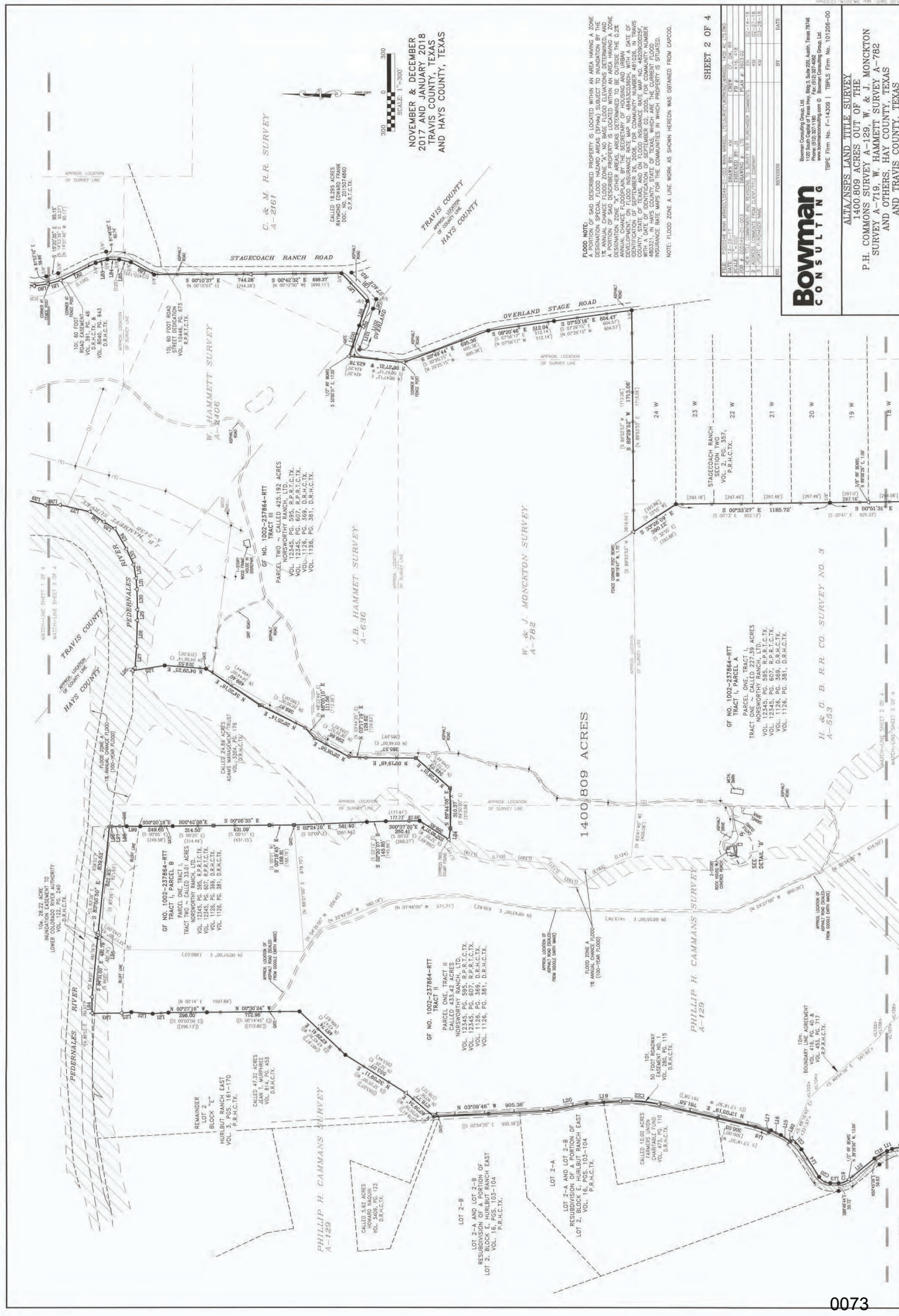
- 1/2" IRON ROD FOUND
- 3/4" IRON ROD FOUND
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- NAIL FOUND
- COTTON ON SNAKLE FOUND
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- RECORD INFORMATION FOR SURVEY A-636

**NOTES:**  
 1. BEARING BASIS IS TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83, GRID.  
 2. DISTANCES SHOWN HEREON ARE BASED ON SURFACE MEASUREMENTS; TO CONVERT SURFACE DISTANCES TO GRID, MULTIPLY BY THE COMBINED SCALE FACTOR.  
 3. THE COMBINED SCALE FACTOR FOR THIS PROJECT IS 0.999973.

**SURVEYOR'S CERTIFICATION**  
 TO MR. JAMES L. HENNING, A TEXAS LIMITED LIABILITY COMPANY, MIRASOL MEADOWS, LLC, A TEXAS LIMITED LIABILITY COMPANY, FOR THE PROPOSED DEVELOPMENT OF THE PROPOSED SUBDIVISION OF THE PROPOSED 1400.809 ACRES, INCLUDING THE SURVEY HEREON, AND THE SURVEY ON WHICH IT IS BASED, MADE IN ACCORDANCE WITH THE 2018 MANUAL STANDARD DETAIL REQUIREMENTS FOR ALTA/NPS SURVEYS, INCLUDING THE SURVEY OF THE PROPOSED 1400.809 ACRES AND 1/4" AND 1/2" OF TABLE THEREON, THE FIELDWORK WAS COMPLETED ON JANUARY 24, 2018.

DATE OF PLAN ON MAP: 11/19/18  
 SIGNATURE: J.P. McLeod  
 REGISTERED NO. 5749  
 JOHN S. SHAWNO

STAMP: TEXAS SURVEYOR  
 JOHN S. SHAWNO  
 REG. NO. 5749  
 EXPIRES 11/19/21



NOVEMBER & DECEMBER  
2017 AND JANUARY 2018  
TRAVIS COUNTY, TEXAS  
AND HAYS COUNTY, TEXAS

SCALE 1"=300'  
0 100 200 300  
FEET

ALTA NOTE: THIS DESCRIBED PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION SPECIAL FLOOD HAZARD AREA (SFHA), SUBJECT TO INUNDATION BY THE DESIGNATED FLOODING, AND IS SUBJECT TO INUNDATION BY THE DESIGNATED FLOODING. A PORTION OF THIS DESCRIBED PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION SPECIAL FLOOD HAZARD AREA (SFHA), SUBJECT TO INUNDATION BY THE DESIGNATED FLOODING, AND IS SUBJECT TO INUNDATION BY THE DESIGNATED FLOODING. ANNUAL CHANCE FLOODPLAIN AT THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT'S OFFICE OF SPECIAL INSURANCE SERVICES, 441 R STREET, WASHINGTON, D.C. 20548, AND/OR THE STATE OF TEXAS, AND ON FLOOD INSURANCE RATE MAP NO. 48290C002ZF, WHICH IS A FLOOD INSURANCE RATE MAP, IN HAYS COUNTY, TEXAS, WHICH ARE THE CURRENT FLOOD INSURANCE RATE MAPS FOR THE COMMUNITIES IN WHICH PROPERTY IS SITED.

NOTE: FLOOD ZONE A LINE WORK AS SHOWN HEREON WAS OBTAINED FROM CARCO.

NO.	BY	DATE
1	W. & J. MONKTON SURVEY	11/15/17
2	P.H. COMMONS SURVEY	12/15/17
3	ALTA/NSES SURVEY	01/10/18
4	ALTA/NSES SURVEY	01/10/18
5	ALTA/NSES SURVEY	01/10/18
6	ALTA/NSES SURVEY	01/10/18
7	ALTA/NSES SURVEY	01/10/18
8	ALTA/NSES SURVEY	01/10/18

Bowman  
CONSULTING

ALTA/NSES LAND TITLE SURVEY  
1400.809 ACRES OUT OF THE  
P.H. COMMONS SURVEY A-129, W. & J. MONKTON  
SURVEY A-719, W. HAMMETT SURVEY A-782  
AND OTHERS, HAY COUNTY, TEXAS  
AND TRAVIS COUNTY, TEXAS

PLAN # - 3603.03



NOVEMBER & DECEMBER  
2017 AND JANUARY 2018  
TRAVIS COUNTY, TEXAS  
AND HAYS COUNTY, TEXAS

- LEGEND**
- 1/2" IRON ROD FOUND
  - 3/4" IRON ROD FOUND
  - IRON PIPE FOUND IN ROCK MOUND
  - IRON PIPE FOUND
  - NAIL FOUND
  - COTTON OIL SPWALE FOUND
  - BOLT FOUND
  - FENCE POST FOUND
  - 1/2" IRON ROD W/ PLASTIC CAP STAMPED "BOC" SET
  - CALCULATED POINT
  - △ BLUFF DIB
  - WIRE FENCE
  - STUMP PILE
  - DIRT ROAD
  - CONCRETE UTILITY LINE
  - RECORD INFORMATION PER VOL. 1126, PG. 381, D.P.R.H.C.T.X.
  - RECORD INFORMATION PER VOL. 12345, PG. 697, P.P.R.I.C.T.X.
  - RECORD INFORMATION PER VOL. 1456, PG. 891, D.P.R.H.C.T.X.
  - RECORD INFORMATION PER VOL. 284, PG. 81, D.P.R.H.C.T.X.
  - OTHER RECORD INFORMATION
  - D.P.R.H.C.T.X.
  - P.P.R.I.C.T.X.
  - P.P.R.H.C.T.X.
  - O.P.R.H.C.T.X.
  - D.R.H.C.T.X.
  - P.R.H.C.T.X.
  - R.F.R.H.C.T.X.
  - O.P.R.H.C.T.X.
  - IRF
  - ROUGHEN LINE
  - PROPERTY BOUNDARY LINE
  - PROPERTY LINE
  - SPLIT MEASURE
  - POINT OF BEGINNING

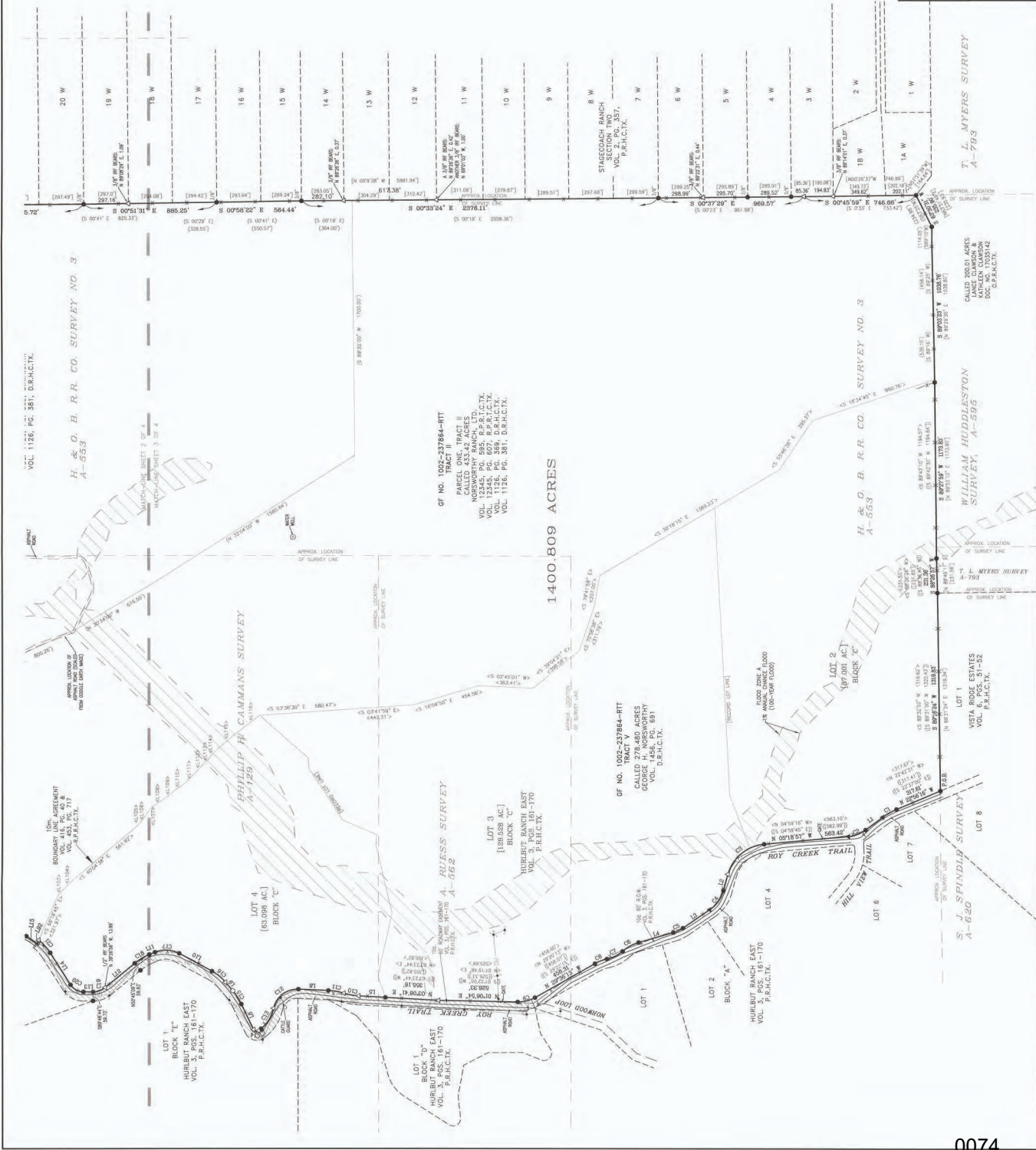
SHEET 3 OF 4

NO.	REVISION	BY	DATE
1	ISSUED FOR RECORD	W.M.	11/15/17
2	REVISION	W.M.	12/15/17
3	REVISION	W.M.	01/15/18

**Bowman**  
CONSULTING

ALTA/NSRS LAND TITLE SURVEY  
1400.809 ACRES OUT OF THE  
P.H. COMMONS SURVEY A-129, W. & J. MONCKTON  
SURVEY A-719, W. HAMMETT SURVEY A-782  
AND OTHERS, HAYS COUNTY, TEXAS  
AND TRAVIS COUNTY, TEXAS

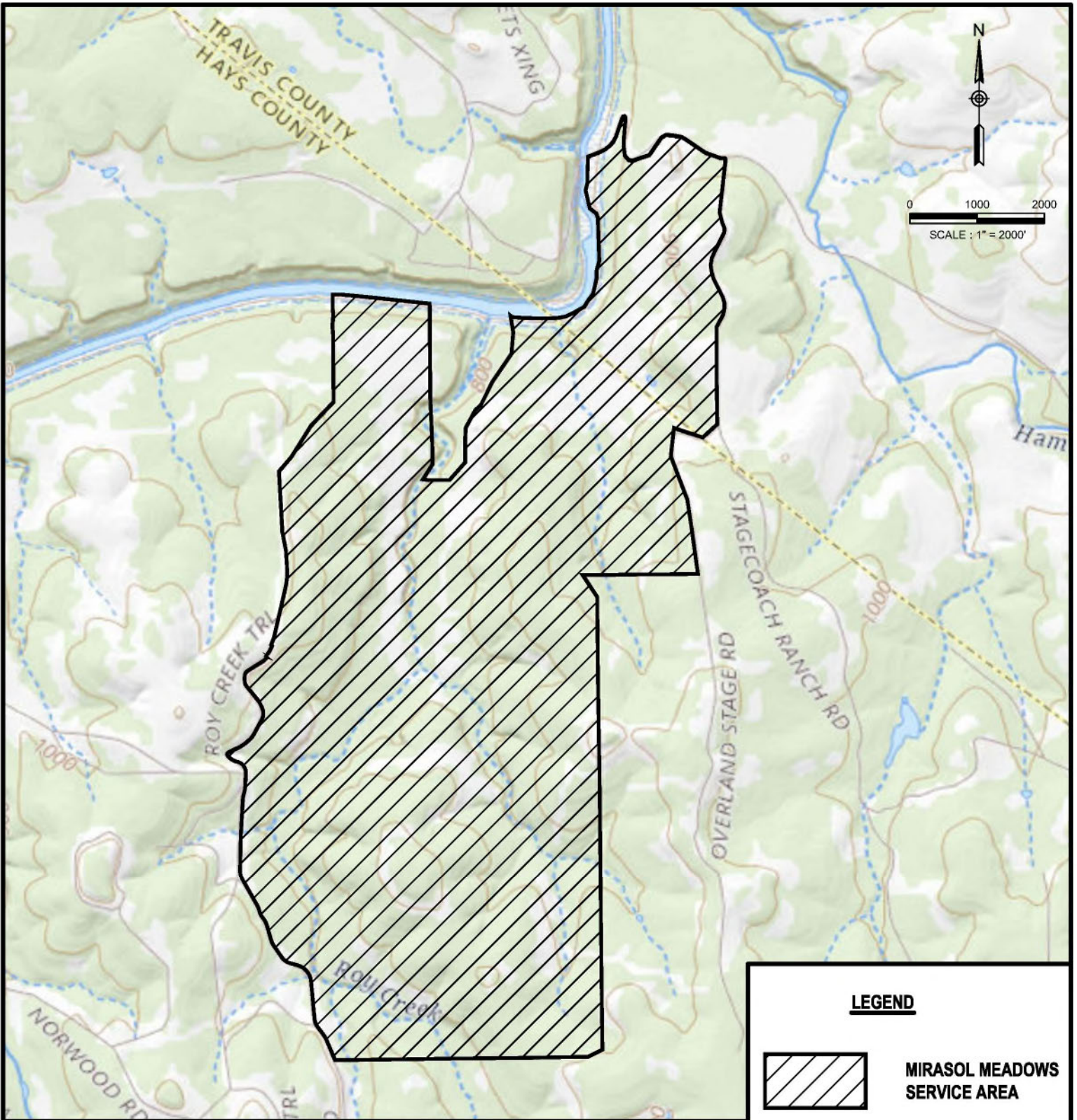
PLAN #: 3603.03





## **Exhibit D**

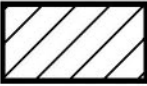
### **Depiction of Service Area**




**MIRASOL MEADOWS FIRM WATER APPLICATION**  
 TRAVIS/HAYS COUNTY, TEXAS

**EXHIBIT D**  
 MIRASOL MEADOWS SERVICE AREA

**LEGEND**

 **MIRASOL MEADOWS SERVICE AREA**

DESIGNED BY: \_\_\_\_\_  
 DRAWN BY: SJA  
 CHECKED BY: DL  
 APPROVED BY: \_\_\_\_\_  
 DATE: August 4, 2020

 <b>MURFEE ENGINEERING COMPANY</b>	1101 CAPITAL OF TEXAS HIGHWAY SOUTH
	BUILDING D, SUITE 110
	AUSTIN, TEXAS 78746
	(512) 327-9204
Texas Registered Engineering Firm F-353	
0077	

**Exhibit E**

**Water Conservation Plan**

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# WATER CONSERVATION PLAN

for

## Mirasol Firm Water Contract

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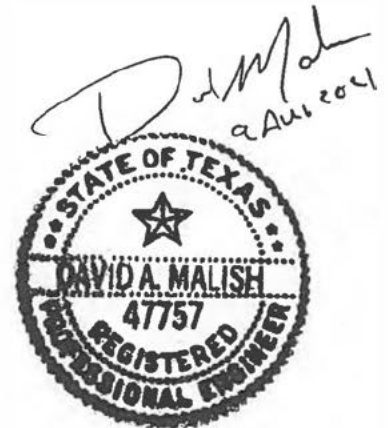
September, 2020

Prepared for:

Clancy Utility Holdings, LLC  
4143 Maple Avenue Street, Suite 400  
Dallas, Texas 75219

Prepared by:

Murfee Engineering Company, Inc.  
Texas Registered Firm No. F-353  
1101 Capital of Texas Hwy., South, Building D  
Austin, Texas 78746





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WATER CONSERVATION MEASURES.....	3
CONSERVATION LANDSCAPE BEST MANAGEMENT PRACTICES.....	4

**APPLICANT INFORMATION**

Applicant Name: Clancy Utility Holdings, LLC

Address: 4143 Maple Avenue Street, Suite 400 Dallas, Texas 75219

Telephone Number: (214)301-4253

Application Prepared by: Dennis Lozano, P.E.

Title: Engineer

Signature: 

Date: 4-2-20

**UTILITY PROFILE**

The proposed Mirasol service area is an approximately 1,400-acre (2.19 square mile) mixed used development located in southwestern Travis County and northern Hays County approximately 25 miles west of downtown Austin. The development is proposed to have single-family residential connections along with supporting and associated recreational, research, and conservation amenity uses for a total living unit equivalent (LUE) count of 216.

Please note that Table A is not applicable and has not been included due to the fact that the development has not been constructed and has no connections and therefore has no historical use.

Due to the mixed-use nature of this development, Living Unit Equivalent (LUEs) have been used to estimate the projected water demand in lieu of population since water demand will be generated by more than just the permanent population. An LUE is defined as a single-family residence inhabited by 3.5 persons. By using conversion factors, water usage by entities such as restaurants and hotels can be directly combined and projected with single-family residences. It is estimated that there will be approximately 216 LUEs at full build-out. The development is expected to grow at 9% per year with a projected completion year of 2030.

Table 1 provides developer-projected estimates of population.

**Table 1: Projected Population**

Year	Estimated LUEs
2020	20
2030 (full build-out)	216

According to the American Water Works Association Manual of Water Supply Practice, M22, 2014 the per capita water use is expected to be 39 gallons per person per day and 175 gallons per LUE per day. However, the State of Texas has regulatory authority over public water systems (PWSs) which is administrated by the Texas Commission on Environmental Quality (TCEQ). Minimum criteria for PWSs require a minimum water supply of 0.6 gpm/connection. Balancing guidance and regulation and factoring in the seasonal nature of water system demands, the projected full built out demand recommends a contractual Maximum Annual Quantity (MAQ) of 108 ac-ft.

The water distribution system will consist of typical pipes, valves, fire hydrants, and connections designed and specified in accordance with TCEQ rules for PWSs as well as standard engineering practice.

A portion of the entire service area will be provided wastewater service by the District via a wastewater treatment plant designed for 30,000 gallons per day.

## **WATER CONSERVATION GOALS**

Water conservation goals will be established once baseline data is available for comparison.

## **WATER CONSERVATION MEASURES**

1. Mirasol Meadows will test and calibrate production (master) meters to within the accuracy of plus or minus 5%, as well as all meters over 1" in size at intervals not to exceed one year. Meters smaller than 1" will be tested and replaced according to manufacturer recommendations.
2. All connections, including any temporary connections, to the water distribution system shall be metered. All meters will be tested and replaced as necessary, in accordance with manufacturer recommendations.
3. The contracted water system operator shall be required to conduct water loss audits in accordance with all applicable laws.
4. Continuing education and information on water conservation will be provided by Mirasol Meadows to its customers primarily via informational material included in monthly retail billings.
5. The rate structure includes a base monthly cost and graduated volumetric rates that increase with usage in order to encourage conservation. The billing system is capable of separating water-use per customer type into the following categories: residential, commercial, hydrant, tracking, and reclaimed.
6. The primary means of implementation and enforcement shall be contractual, via the retail water service agreement each customer will be required to execute prior to service. Additionally, the Water Conservation Plan will be adopted by the Board of Directors and established as official policy along with the service rates and impact fees.
7. Mirasol will coordinate with the Lower Colorado Region (Region K) of the Lower Colorado Regional Water Planning Group to ensure consistency with the letter and intent of the regional water plans. Once this Water Conservation Plan is approved by the LCRA and adopted by Mirasol Meadows, a copy will be made available to the Region K Planning Group.

## CONSERVATION LANDSCAPE BEST MANAGEMENT PRACTICES

### Planting Specifications:

1. Landscape Option: Builders shall offer homeowners a conservation landscape package such as the LCRA Hill Country Landscape Option (HCLO) which includes only plants selected from Central Texas native and adapted plant list such as the Grow Green Native and Adapted Landscape Plants Guide (available at [www.austintexas.gov/department/grow-green](http://www.austintexas.gov/department/grow-green)) or other native plant source.
2. Turf Selection: Turf that is used as part of the landscape package shall be the appropriate variety for the site location and intended use (see below).

Variety	Drought Tolerance	Shade Tolerance	Heat Tolerance	Wear Tolerance	Water Tolerance	Growing Height
Bermuda (Common and Hybrid)	Good	Poor	Good	Excellent	Medium	½ - 2 inches
Zoysia (Japonica)	Fair	Fair (JaMur)	Good	Good	Medium	¾ - 2 inches
Buffalo (Prairie or 609)	Excellent	Poor	Excellent	Good	Low	3 – 8 inches
St. Augustine	Fair	Good	Fair	Fair	High	2 – 3 inches

3. Invasive Plants: Plants considered to be invasive or environmentally detrimental shall not be used. For a list of invasive plants to Central Texas and their alternatives, reference the Grow Green Native and Adapted Landscape Plants Guide.
4. Turf Limitation: In new homes, no more than 50 percent of the landscape may be planted in turf.

### Soil Specifications:

1. Soil Depth: All irrigated and newly planted turf areas will have a minimum settled soil depth of at least 6 - 8 inches:
  - a. builders and owners will import soil if needed to achieve sufficient soil depth;
  - b. soil in these areas may be either native soil from the site or imported, improved soil;
  - c. improved soil shall have a minimum organic content of 5 percent or will be an amended mix of no less than twenty percent compost blended with sand and loam (caliche shall not be considered as soil);
  - d. undisturbed, non-irrigated natural areas are exempt from these requirements.
2. Soil in new developments:
  - a. native soil shall be stockpiled and reused on site;

- b. topsoil that is added to the site shall be incorporated in a 2 to 3 inch scarified transition layer to improve drainage.

**Irrigation System Installation, Design, and Maintenance Specifications:**

1. Irrigation systems: Landscape irrigation systems shall not be mandatory.
2. Installation: Irrigation systems, if installed, shall be designed, installed, inspected, and maintained according to TCEQ Chapter 344 Landscape Irrigation rules, as well as the following additional criteria:
  - a. New irrigation systems utilizing an automatic controller must be capable of (at minimum) the following functions:
    - i. Multiple irrigation programs, with at least three (3) start times per program; and
    - ii. The ability to limit irrigation frequency to a weekly schedule as well as once every seven (7) days and once every fourteen (14) days.
3. Spray Irrigation: Spray irrigation for each home/business shall be limited to 2.5 times the foundation footprint, with a 12,000 sq foot maximum. The footprint may include both the house and the garage, but not the driveway or patio.
4. Common areas: Irrigation systems for entryways and common areas shall incorporate design and conservation features applicable to lots within the subdivision. Drip irrigation in common areas will be used where feasible. Color-bed changes and turfgrass overseeding in common areas is prohibited

**Irrigation System Maintenance Specifications:**

1. Watering Schedule: The developer, builder and/or homeowner association shall promote a watering schedule for both residences and common areas which conserves water and reduces run-off, as follows:
  - June, July, August and September** – ½ inch of water no more than twice per week
  - March, April, May and October** – ½ inch of water once per week
  - November through February** – turn off irrigation system
2. Monitoring: Irrigation systems in common areas shall be monitored once per month, and any repairs will be made in a timely manner.
3. Time of Day Irrigation: Watering of common areas and residential landscapes shall be limited to the recommended time of day watering schedule (no watering between 10:00 AM and 7:00 PM) unless irrigation of reclaimed water during the day is necessary to meet regulatory requirements.

**Exhibit F**

**Drought Contingency Plan**

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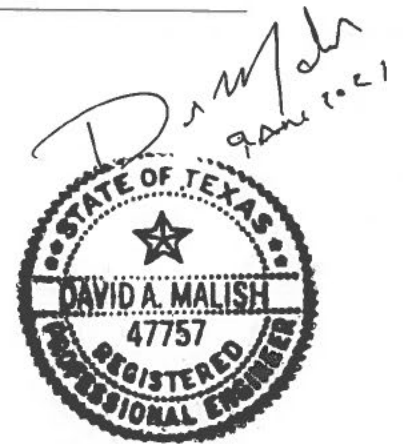
# DROUGHT CONTINGENCY PLAN

for

## Mirasol Firm Water Contract

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September 2020



Prepared for:

Clancy Utility Holdings, LLC  
4143 Maple Avenue Street, Suite 400  
Dallas, Texas 75219

Prepared by:

Murfee Engineering Company, Inc.  
Texas Registered Firm No. F-353  
1101 Capital of Texas Hwy., South, Building D  
Austin, Texas 78746



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## **1.0 Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, Mirasol (the “District”) adopts the following Drought Contingency Plan (the “Plan”).

## **2.0 Authorization**

The designated manager or official of Mirasol is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The designated manager or official of Mirasol shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. This authorization was designated as part of the plan’s approval by the Mirasol Board of Directors.

## **3.0 Public Education**

The general manager of Mirasol will periodically provide its employees, members, and the general public with information about this Plan, including the importance of the Plan, information about the conditions under which each stage of the Plan is to be initiated, processes used to reduce water use, and impending or current drought conditions.

## **4.0 Coordination with Regional Planning Groups**

Mirasol has provided a copy of this Plan to the Lower Colorado Regional Planning Group (Region K).

## **5.0 Notice Requirements**

Mirasol shall notify the executive director of the Texas Commission on Environmental Quality and LCRA General Manager in writing within five (5) business days of the implementation of any mandatory provisions of the Drought Contingency Plan.

## **6.0 Permanent Water Use Restrictions**

The following restrictions apply to all of Mirasol water utility system on a year-round basis, regardless of water supply or water treatment plant production conditions. According to the restrictions, a water user must not:

- 1) Fail to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
- 2) Operate an irrigation system with:
  - a broken head;
  - a head that is out of adjustment and the arc of the spray head is over a street or parking area; or
  - a head that is fogging or misting because of excessive water pressure.
- 3) During irrigation, allow water:
  - to run off a property and form a stream of water in a street for a distance of 50 feet or greater; or
  - to pool in a street or parking lot to a depth greater than one-quarter of an inch.

## **7.0 Initiation and Termination of Response Stages**

The Mirasol general manager shall monitor water supply and demand conditions on a regular basis and shall determine when conditions warrant initiation and termination of each stage of this Plan in accordance with LCRA's Water Management Plan. Water supply conditions will be determined by the source of supply, system capacity, and weather conditions. Water demand will be measured by the peak daily demands on the system.

Public notification of the initiation or termination of drought response stages shall be by a variety of means, examples include: bill inserts, e-mail and automated telephone calls, signs posted at entry points to the service area or a combination of these methods.

The following triggering criteria shall apply to the Mirasol water utility system(s) and customer service area:

### **7.1 *Triggering Criteria for Initiation and Termination of Drought Response Stages***

#### **(1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)**

- A. **Requirements for initiation** - Customers shall be requested to adhere to the Stage 1 Drought Response Measures when one or a combination of such triggering criteria occurs:
  1. Treatment Capacity:
    - When total daily water demand equals or exceeds 80 percent of the total operating system treatment capacity for three consecutive days, or 85 percent on a single day.
  2. Water Supply:

- Combined storage of Lakes Travis and Buchanan reaches 1.4 million acre-feet in accordance with the LCRA Drought Contingency Plan for Firm Water Customers (DCP).

**B. Requirements for termination** - Stage 1 of the plan may be rescinded when:

1. Treatment Capacity:

- The water treatment plant capacity condition listed above as a triggering event for Stage 1 has ceased to exist for five consecutive days.

2. Water Supply:

- LCRA announces that voluntary restrictions by its firm raw water customers are no longer needed in accordance with the LCRA DCP.

**(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)**

**A. Requirements for initiation** - Customers shall be required to adhere to the Stage 2 Drought Response Measures when one or a combination of such triggering criteria occurs:

1. Treatment Capacity:

- For surface water systems, when total daily water demand equals or exceeds 93 percent of the total operating system treatment capacity for three consecutive days, or 95 percent on a single day.

2. Water Supply:

- Combined storage of Lakes Travis and Buchanan reaches 900,000 acre-feet in accordance with the LCRA DCP.

**B. Requirements for termination** - Stage 2 of the Plan may be rescinded when:

1. Treatment Capacity:

- The water treatment plant capacity condition listed above as a triggering event for Stage 2 has ceased to exist for five consecutive days.

2. Water Supply:

- LCRA announces that voluntary compliance to implement a utility's mandatory water restrictions are no longer needed in accordance with the LCRA DCP.

*Upon termination of Stage 2, Stage 1 becomes operative.*

**(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

- A. **Requirements for initiation** - Customers shall be required to adhere to the Stage 3 Drought Response Measures when one or a combination of such triggering criteria occurs:
1. Treatment Capacity:
    - For surface water systems, when total daily water demand equals or exceeds 95 percent of the total operating system treatment capacity for three consecutive days, or 97 percent on a single day.
  2. Water Supply:
    - Combined storage of Lakes Travis and Buchanan reaches 600,000 acre-feet, in accordance with the LCRA DCP, or
    - The LCRA Board declares a drought worse than the Drought of Record or other water supply emergency and orders the mandatory curtailment of firm water supplies.
- B. **Requirements for termination** - Stage 3 of the Plan may be rescinded when:
1. Treatment Capacity:
    - The water treatment plant capacity condition listed above as a triggering event for Stage 3 has ceased to exist for five consecutive days.
  2. Water Supply:
    - LCRA announces that mandatory water restrictions for firm water customers are no longer required in accordance with the LCRA DCP.

*Upon termination of Stage 3, Stage 2 becomes operative.*

#### **(4) STAGE 4- Emergency Water Conditions**

- A. **Requirements for initiation** - Customers shall be required to adhere to the Stage 4 Drought Response Measures when one or a combination of such triggering criteria occurs:
1. Treatment Capacity:
    - Major water line breaks, loss of distribution pressure, or pump system failures that cause substantial loss in its ability to provide water service.
  2. Water Supply:
    - Natural or man-made contamination of the water supply source; or
    - Any other emergency water supply or demand conditions that the LCRA general manager or the LCRA Board determines that either constitutes a water supply emergency or is associated with the LCRA Board declaration of a drought worse than the drought of record.

B. **Requirements for termination** - Stage 4 of the Plan may be rescinded when:

1. Treatment Capacity:
  - The water treatment plant capacity condition listed above as a triggering event for Stage 4 has ceased to exist for five consecutive days; or
2. Water Supply:
  - LCRA announces that mandatory water restrictions for firm water customers are no longer required in accordance with the LCRA DCP.

*Upon termination of Stage 4, Stage 3 becomes operative.*

## **8.0 Drought Response Measures**

### **8.1 Targets for Water-Use Reductions**

#### **(1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a 5% reduction in water use.

#### **(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a 10-20% reduction in water use.

#### **(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a minimum 20% reduction in water use.

#### **(4) STAGE 4 - Severe Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Achieve a minimum 30% reduction in water use.

Water Supply Reduction Target: As determined by the LCRA Board.

## 8.2 Retail Customers Measures

### (1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)

- A. Supply Management Measures: Mirasol will review system operations and identify ways to improve system efficiency and accountability.
- B. Demand Management Measures:
  - 1. Ask customers to voluntarily comply with the water-use restrictions outlined in Stage 2 of this plan, including watering landscapes no more than twice per week; and
  - 2. Actively promote drought related issues and the need to conserve.

### (2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)

- A. Supply Management Measures:
  - 1. Apply all water-use restrictions prescribed for Stage 2 of the plan for Mirasol's utility owned facilities and properties;
  - 2. Discontinue water main and line flushing unless necessary for public health reasons; and
  - 3. Keep customers informed about issues regarding current and projected water supply and demand conditions.
- B. Demand Management Measures: Under threat of penalty, the following water-use restrictions shall apply to all retail water customers:
  - 1. Irrigation of Landscaped Areas:
    - a. **If the combined water storage of lakes Buchanan and Travis are less than 900,000 AF but greater than 750,000 AF** - Irrigation of landscaped areas with hose-end sprinklers or in-ground irrigation systems shall be limited to a no more than a TWICE weekly watering schedule determined by Mirasol and based on the nature of the current drought or water emergency. Irrigation of commercial landscapes and recreational areas may apply for a variance but must still develop a schedule where no part of the landscape is watered more than twice per week. *See Appendix A - Mirasol Water System - Watering Schedules.*

- b. **If the combined water storage of lakes Buchanan and Travis are less than or equal to 750,000 AF** - Irrigation of landscaped areas with hose-end sprinklers or in-ground irrigation systems shall be limited to a no more than a TWICE weekly watering schedule with restricted hours as determined by Mirasol and based on the nature of the current drought or water emergency. *See Appendix A - Mirasol Water System - Watering Schedules.*
  
- c. Outdoor watering hours will be limited to between midnight and 10 a.m. and between 7 p.m. and midnight on designated days. This prohibition does not apply to irrigation of landscaped areas if it is by means of:
  - i. a hand-held hose; or
  - ii. a faucet-filled bucket or watering can of five gallons or less; or
  - iii. sub-surface drip irrigation.



- d. New landscapes may be installed and re-vegetation seeding performed under these specific criteria:
  - i. A completed variance form for new landscapes has been submitted to the Mirasol and has been approved prior to the installation of the landscape, or re-vegetation seed application
  - ii. Irrigation of the new landscape follows the schedule identified in the new landscape variance. The schedule will be developed to minimize water waste.
  - iii. Areas being re-vegetated for soil stabilization must also comply with the (i) and (ii) specific criteria above. Options for re-vegetation may be available in times of low water supply. Specific information regarding options is available in the LCRA Highland Lakes Watershed Ordinance Technical Manual.
  - iv. Variances for new landscapes may be issued for a period of no more than 30 days from the day of issuance. A variance is not an exemption from compliance with the permanent water use restrictions under Section 6.0 of this plan. Variances will not be granted for seasonal “color bed” or temporary grass installation (overseeding).

2. Vehicle Washing:

Use of water to wash any motor vehicle, such as a motorbike, boat, trailer, or airplane is prohibited except on designated watering days between the hours of midnight and 10 a.m. and between 7 p.m. and midnight. Such activity, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle. A vehicle may be washed any time at a commercial car wash facility or commercial service station. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

3. Pools:

- a. Filling of existing swimming pools, hot tubs, and wading pools, shall be discouraged and subject to a variance. Replenishing to maintenance level is permitted. Draining is permitted only onto pervious surfaces or onto a surface where water will be transmitted directly to a pervious surface, and only if:
  - i. Draining excess water from pool due to rain in order to lower water to maintenance level;
  - ii. Repairing, maintaining or replacing pool components that have become hazardous; or
  - iii. Repair of a pool leak.

b. Refilling of public/community swimming pools permitted only if pool has been drained for repairs, maintenance, or replacement as outlined in items above.

4. Outside Water Features:

Operation of outside water features, such as, but not limited to, fountains, splash pad type fountains or outdoor misting systems, is prohibited, except where such features are used to sustain aquatic life or maintain water quality. (This provision includes fountains associated with aesthetic ponds and swimming pools).

5. Ponds:

Ponds used for aesthetic, amenity, and/or storm water purposes may maintain water levels only necessary to preserve the integrity of the liner and operating system. Mirasol may request specific design documentation regarding a pond and the intended purpose.

6. Events:

Events involving the use of water such as: car washes, festivals, parties, water slides, and other activities involving the use of water are permitted, if the water being used drains to a recirculating device, or onto a pervious surface to prevent water waste.

7. Fire Hydrants:

Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed under special conditions and requires a meter; a variance application must be submitted with an explanation of the special conditions.

8. Recreational areas (includes parks and athletic fields):

The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering must follow a no more than twice per week schedule. A variance can be obtained if watering cannot be completed on the designated two day schedule.

11. Water Waste:

The following non-essential uses of water are prohibited at all times during periods in which restrictions have gone into effect:

- a. Washing sidewalks, walkways, driveways, parking lots, street, tennis courts, and other impervious surfaces is prohibited except for immediate health and safety;
- b. Washing buildings, houses or structures with a pressure washer or garden hose is prohibited for aesthetic purposes but allowable for surface preparation of maintenance work to be performed;
- c. Flushing gutters or flooding gutters is prohibited except for immediate health and safety; and
- d. Controlling dust is prohibited, unless there is a demonstrated need to do so for reasons of public health and safety, or as part of an approved construction plan.

**(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

- A. Supply Management Measures: In addition to measures implemented in the preceding stages of the plan, affected Mirasol water utility systems will explore additional emergency water supply options.
- B. Demand Management Measures: Under threat of penalty, all retail customers are required to further reduce non-essential water uses as follows. All requirements of Stage 2 shall remain in effect during Stage 3, with the following modifications and additions.
  1. Irrigation of Landscaped Areas:
    - a. Irrigation of landscaped areas, except with hand-held hoses, hand-held buckets, or sub-surface drip irrigation, is restricted to once per week. *See Appendix A - Mirasol Water System - Watering Schedules*
    - b. New landscapes may be installed and re-vegetation seeding performed under these specific criteria:
      - i. A completed variance form for new landscapes has been submitted to the Mirasol and has been approved prior to the installation of the landscape, or re-vegetation seed application
      - ii. Irrigation of the new landscape follows the schedule identified in the new landscape variance. The schedule will be developed to minimize water waste.

- iii. Areas being re-vegetated for soil stabilization must also comply with the (i) and (ii) specific criteria above. Options for re-vegetation may be available in times of low water supply. Specific information regarding options is available in the LCRA Highland Lakes Watershed Ordinance Technical Manual.
- iv. Variances for new landscapes may be issued for a period of no more than 30 days from the day of issuance. A variance is not an exemption from compliance with the permanent water use restrictions under Section 6.0 of this plan. Variances will not be granted for seasonal “color bed” or temporary grass installation (overseeding).

2. Vehicle Washing:

Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is prohibited. A vehicle can be washed at any time at a commercial car wash facility or commercial service station that recycles its water. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

3. Pools:

Installation of swimming pools is prohibited. The filling or replenishing of water to swimming pools, hot tubs, wading pools, and other types of pools is prohibited. Public/community swimming pools may be exempt from this prohibition to maintain safe levels of water quality for human contact.

4. Events:

Events involving the use of water such as: car washes; festivals; parties; water slides; and other activities involving the use of water are prohibited.

5. Recreational areas (includes parks and athletic fields):

The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering is prohibited except with a hand-held hose.

**(4) STAGE 4 - Emergency Water Conditions**

Under threat of penalty for violation, all retail customers are required to reduce nonessential water uses during an emergency. All requirements of Stages 1 through 3 are also in effect during stage 4, with the following modifications and additions:

- A. Irrigation of landscaped areas is prohibited.
- B. Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare only.
- C. No applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

*Upon declaration of Stage 4 - Emergency Water Conditions, water use restrictions outlined in Stage 4 Emergency Response Measures shall immediately apply.*

## **9.0 Enforcement**

### **9.1 Enforcement Provisions**

Appendix C contains the enforcement provisions applicable to all Mirasol water customers.

### **9.2 Variances**

- (1) Mirasol General Manager may grant variances:
  - A. From specific applications of the outdoor water schedule, providing that the variances do not increase the time allowed for watering but rather alter the schedule for watering; and
  - B. Allowing the use of alternative water sources (*i.e.*, ground water, reclaimed wastewater) that do not increase demand on potable water sources for outdoor use. Variance requests may be submitted to the General Manager and need not meet the requirements of subsection below.
- (2) The general manager, or his designee, may grant in writing temporary variances for existing water uses otherwise prohibited under this plan if it is determined that failure to do so would cause an emergency adversely affecting the public health, sanitation, or fire protection, and if one or more of the following conditions are met:
  - A. Compliance with this plan cannot be accomplished during the duration of the time the plan is in effect; or

- B. Alternative methods can be implemented that will achieve the same level of reduction in water use.
- (3) Persons requesting a variance from the provisions of this plan shall file a petition for variance with the Mirasol water utility system any time the plan or a particular drought response stage is in effect. The general manager or his designee will review petitions for variances. The petitions shall include the following:
- Name and address of the petitioner
  - Purpose of water use
  - Specific provision of the plan from which the petitioner is requesting relief.
  - Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm the petitioner or others will sustain if petitioner complies with this plan
  - Description of the relief requested
  - Period of time for which the variance is sought
  - Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date
  - Other pertinent information
- (4) Variances granted by a Mirasol water utility system shall be subject to the following conditions, unless waived or modified by the general manager, or his designee:
- A. Variances granted shall include a timetable for compliance.
- B. Variances granted shall expire when the plan, or its requirements, is no longer in effect, unless the petitioner has failed to meet specified requirements.
- (5) No variance shall be retroactive or otherwise excuse any violation occurring before the variance was issued.

### **9.3 Plan Updates**

The plan will be reviewed and updated as needed to meet both TCEQ and LCRA drought contingency plan rules.

## 10 Appendices

### ***Appendix A – Watering Schedules***

#### Mirasol Water System

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **TWICE per week** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays and Saturdays

Even number addresses: Thursdays and Sundays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays and Fridays

##### **Watering Hours:**

Midnight to 10 a.m. and 7 p.m. to midnight

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **TWICE per week with restricted hours** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays and Saturdays

Even number addresses: Thursdays and Sundays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays and Fridays

##### **Watering Hours:**

7 p.m. to midnight

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **ONCE per week** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays

Even number addresses: Thursdays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays

**Watering Hours:**

Midnight to 10 a.m. and 7 p.m. to midnight



## ***Appendix B – Enforcement Provisions***

### **Enforcement for Retail Customers**

The following enforcement provisions shall apply to all Mirasol retail water customers:

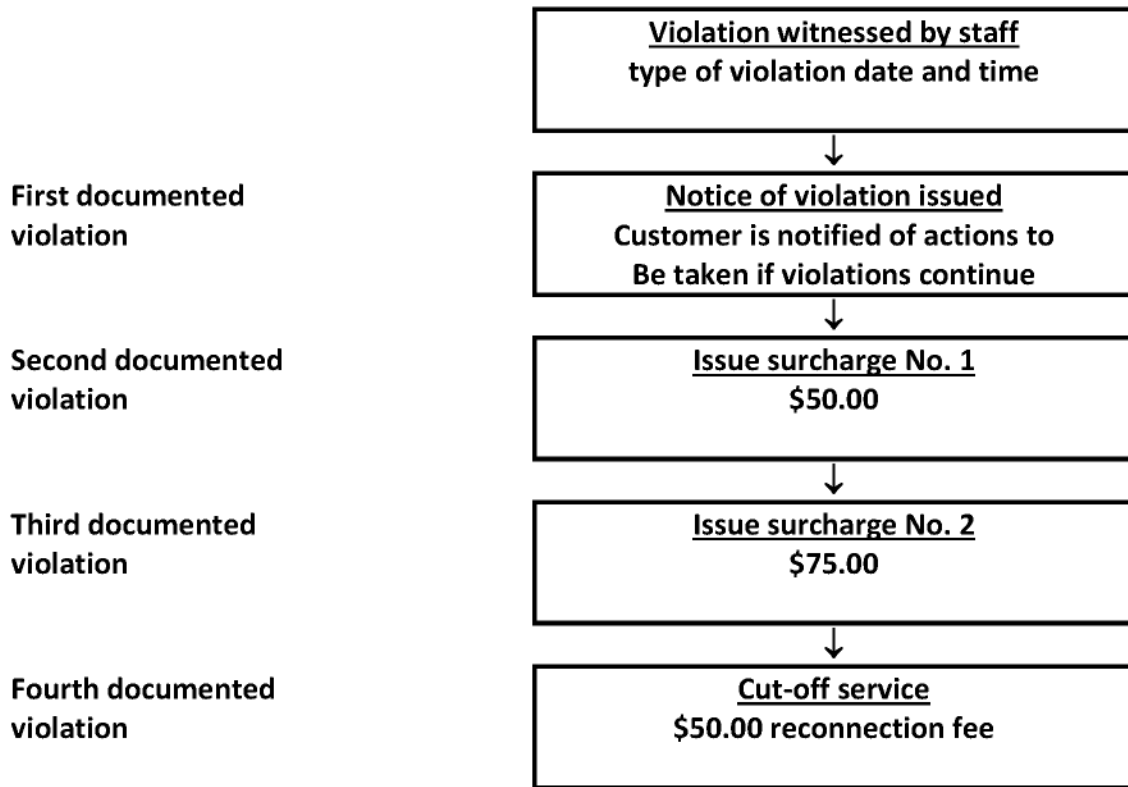
- (1) No person shall knowingly or intentionally allow the use of water from the Mirasol water utility system for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time.
- (2) Any person who violates this plan shall be subject to the following surcharges and conditions of service:
  - A. Following the first documented violation, the violator shall be given a notice specifying the type of violation and the date and time it was observed. Surcharges and restrictions on service that may result from additional violations;
  - B. Following the second documented violation, the violator shall be sent by certified mail a notice of violation and shall be assessed a surcharge of \$50.00;
  - C. Following the third documented violation, the violator shall be sent by certified mail a notice of violation and shall be assessed a surcharge of \$75.00;
  - D. Following the fourth documented violation, Mirasol shall, upon due notice to the customer, discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$50.00, and any outstanding charges including late payment fees or penalties. In addition, suitable assurance must be given to Mirasol so that the same action shall not be repeated while the plan is in effect. Mirasol may apply the deposit to any surcharges or penalties subsequently assessed under this plan against a customer. The deposit, if any, shall be returned to the customer at the time of the customer's voluntary disconnection from the utility system.
- (3) Each day that one or more of the provisions in this plan is violated shall constitute a separate violation. Any person, including one classified as a water customer of Mirasol, in apparent control of the property where a violation occurs or originates, shall be presumed to be the violator. Any such person, however, shall have the right to show that they did not commit the violation. *See enforcement process diagram in Appendix C - Drought Response Retail Enforcement Process.*

**Legal Authority applicable to Water Districts in Regard to Drought Contingency Plan Enforcement**

*Please note that the following list is not intended to be exhaustive and statutes listed below may not apply to all Water Districts. Citations below may change following the publication date of this Drought Contingency Plan Model. Each Water District is encouraged to consult with legal counsel in regard to enforcement of drought contingency plans and specific enforcement authority available to each Water District.*

- Texas Water Code sec. 49.004
- Texas Water Code sec. 49.2.12
- Texas Water Code sec. 5.1.122
- Texas Water Code sec. 54.205
- Texas Water Code sec. 65.205

**Appendix C – Drought Response Retail Enforcement**




## **Exhibit G**

### **Demand Schedule**

**Demand Schedule**

<b>Year</b>	<b>Percent Building (at end of year)</b>	<b>Demand (afy)</b>
2022	9%	10
2021	18%	20
2022	27%	29
2023	36%	39
2024	45%	49
2025	55%	59
2026	64%	69
2027	73%	79
2028	82%	88
2029	91%	98
2032	100%	108

*David Malish*  
9 Aug 2021



STATE OF TEXAS  
★  
DAVID A. MALISH  
47757  
REGISTERED  
PROFESSIONAL ENGINEER

## **Exhibit H**

### **Arbitration Procedures**

## EXHIBIT H

### ARBITRATION PROCEDURES

#### **Section 1. Arbitration.**

**1.1. Binding Arbitration.** Binding arbitration shall be conducted in accordance with the following procedures:

- (a) The party seeking arbitration hereunder shall request such arbitration in writing, which writing shall be delivered to the opposing party or parties and include a clear statement of the matter(s) in dispute. If a legal proceeding relating to the matter(s) in dispute has previously been filed in a court of competent jurisdiction (other than a proceeding for injunctive or ancillary relief) then such notice of election under this section shall be delivered within ninety (90) days of the date the electing party receives service of process in such legal proceeding. Otherwise, the legal proceeding shall be allowed to continue and binding arbitration shall not apply to the matter(s) in dispute in that legal proceeding.
  
- (b) Except to the extent provided in this Exhibit, the arbitration shall be conducted in accordance with the commercial rules of the American Arbitration Association by a single arbitrator to be appointed as follows: (i) upon the issuance and receipt of a request for arbitration, the requesting and receiving party each shall designate a representative for the sole purpose of selecting, by mutual agreement with the other party's designee, the individual who shall arbitrate the Dispute or Controversy referred to arbitration hereunder; (ii) within twenty (20) days of their appointment, the two representatives shall designate a third individual who shall be the arbitrator to conduct the arbitration of the Dispute or Controversy; (iii) said individual shall be qualified to arbitrate the Dispute or Controversy referred to arbitration hereunder and have a schedule that permits him or her to serve as arbitrator within the time periods set forth herein. In order to facilitate any such appointment, the party seeking arbitration shall submit a brief description (no longer than two (2) pages) of the Dispute or Controversy to the opposing party. In the event the parties' two representatives are unable to agree on a single arbitrator of the Dispute or Controversy within the twenty (20) day period, then the arbitrator shall be appointed by the then-serving chief administrative district judge of Travis County, Texas, or any successor thereto within the next ten (10) day period. The party seeking arbitration shall make the parties' request for appointment of an arbitrator and furnish a copy of the aforesaid description of the Dispute or Controversy to said judge. Each party may, but shall not be required to, submit to said judge a list of up to three (3) qualified individuals as candidates for appointment as the arbitrator whose schedules permit their service as arbitrator within the time periods set forth herein. The arbitrator appointed by the judge need not be from such lists.
  
- (c) Within thirty (30) days of the date the arbitrator is appointed, the arbitrator shall notify the parties in writing of the date of the arbitration hearing, which hearing date shall be not less than one-hundred twenty (120) days from the date of the arbitrator's appointment. The arbitration hearing shall be held in Austin, Texas. Except as otherwise provided

herein, the proceedings shall be conducted in accordance with the procedures of the Texas General Arbitration Act, Tex. Civ. Prac. & Remedies Code § 171.001 et seq. (the "Texas General Arbitration Act"). Depositions may be taken and other discovery may be made in accordance with the Texas Rules of Civil Procedure, provided that (i) depositions and other discovery shall be completed within ninety (90) days of the appointment of the arbitrator, (ii) there shall be no evidence by affidavit allowed, and (iii) each party shall disclose a list of all documentary evidence to be used and a list of all witnesses and experts to be called by the party in the arbitration hearing at least twenty (20) days prior to the arbitration hearing. The arbitrator shall issue a final ruling within thirty (30) days after the arbitration hearing. Any decision of the arbitrator shall state the basis of the award and shall include both findings of fact and conclusions of law. Any award rendered pursuant to the foregoing, which may include an award or decree of specific performance hereunder, shall be final and binding on, and not appealable by, the parties, and judgment thereon may be entered or enforcement thereof sought by either party in a court of competent jurisdiction. The foregoing deadlines shall be tolled during the period that no arbitrator is serving until a replacement is appointed in accordance with this Exhibit.

- (d) Notwithstanding the foregoing, nothing contained herein shall be deemed to give the arbitrator appointed hereunder any authority, power or right to alter, change, amend, modify, waive, add to or delete from any of the provisions of the contract.

**Section 2. Further Qualifications of Arbitrators; Conduct.** All arbitrators shall be and remain at all times wholly impartial and, upon written request by any party, shall provide the parties with a statement that they can and shall decide any Dispute or Controversy referred to them impartially. No arbitrator shall be employed by any party, the State of Texas, or have any material financial dependence upon a party, the State of Texas, nor shall any arbitrator have any material financial interest in the Dispute or Controversy.

**Section 3. Applicable Law and Arbitration Act.** The agreement to arbitrate set forth in this Exhibit shall be enforceable in either federal or state court. The enforcement of such agreement and all procedural aspects thereof, including the construction and interpretation of this agreement to arbitrate, the scope of the arbitrable issues, allegations of waiver, delay or defenses as to arbitrability and the rules (except as otherwise expressly provided herein) governing the conduct of the arbitration, shall be governed by and construed pursuant to the Texas General Arbitration Act. In deciding the substance of any such Dispute or Controversy, the arbitrator shall apply the substantive laws of the State of Texas. The arbitrator shall have authority, power and right to award damages and provide for other remedies as are available at law or in equity in accordance with the laws of the State of Texas, except that the arbitrator shall have no authority to award incidental or punitive damages under any circumstances (whether they be exemplary damages, treble damages or any other penalty or punitive type of damages) regardless of whether such damages may be available under the laws of the State of Texas. The parties hereby waive their right, if any, to recover punitive damages in connection with any arbitrated Dispute or Controversy.



**Section 4. Consolidation.** If the parties initiate multiple arbitration proceedings, the subject matters of which are related by common questions of law or fact and which could result in conflicting awards or obligations, then the parties hereby agree that all such proceedings may be consolidated into a single arbitration proceeding.

**Section 5. Pendency of Dispute; Interim Measures.** The existence of any Dispute or Controversy eligible for referral or referred to arbitration hereunder, or the pendency of the dispute settlement or resolution procedures set forth herein, shall not in and of themselves relieve or excuse either party from its ongoing duties and obligations under the contract or any right, duty or obligation arising therefrom; provided, however, that during the pendency of arbitration proceedings and prior to a final award, upon written request by a party, the arbitrator may issue interim measures for preservation or protection of the status quo.

**Section 6. Complete Defense.** The parties agree that compliance by a party with the provisions of this Exhibit shall be a complete defense to any Action or Proceeding instituted in any federal or state court, or before any administrative tribunal by any other party with respect to any Dispute or Controversy that is subject to arbitration as set forth herein, other than a suit or action alleging non-compliance with a final and binding arbitration award rendered hereunder.

**Section 7. Costs.** Each party shall bear the costs of its appointed representative to select the arbitrator of the Dispute or Controversy and its own attorneys' fees, while the costs of the arbitrator of the Dispute or Controversy incurred in accordance with the foregoing shall be shared equally by the parties. Additional incidental costs of arbitration shall be paid for by the nonprevailing party in the arbitration; provided, however, that where the final decision of the arbitrator is not clearly in favor of either party, such incidental costs shall be shared equally by the parties.

## **Addendum B**

### AUTHORITY TO SIGN APPLICATION

**MINUTES OF AN ANNUAL MEETING  
OF THE SOLE MANAGER OF CLANCY UTILITY HOLDINGS, LLC**

The undersigned, being the sole Manager of Clancy Utility Holdings, LLC, a Texas limited liability company (the "Company"), pursuant to Section 101.359 of the Texas Business Organizations Code and Section 3.07 of the Regulations of the Company, does hereby give written consent to the taking of the following actions without the holding of an annual meeting, and does hereby give written consent to the adoption of and approval of and does, by written consent, hereby take the following actions and adopt the following preambles and resolutions, which actions, preambles and resolutions shall operate to the same extent and shall have the same force and effect as if adopted by the vote of the Manager of the Company at a formal annual meeting of the Manager of the Company, duly called and held to act upon such matters:

**RESOLVED**, that the following person be, and he hereby is, elected to serve as an officer of the Company until the next annual meeting of the Manager or until his successors have been duly elected and qualified, or until his earlier death, resignation or removal from office:

Shaun Miller

President, Secretary, Treasurer

**BE IT FURTHER RESOLVED**, that the signing of these minutes shall constitute full consent, confirmation, ratification, adoption and approval of the holding of the above meeting, the actions hereby taken, the resolutions herein adopted and waiver of notice of the meeting by the signatory.

**BE IT FURTHER RESOLVED**, that all previous actions taken by the officers and Manager of the Company are hereby ratified and approved.

Dated effective as of July 1, 2021.



---

Stephen T. Winn, Manager

Being the sole Manager of the Company.

**WRITTEN CONSENT  
IN LIEU OF THE FIRST MEETING OF THE SOLE MANAGER  
OF  
CLANCY UTILITY HOLDINGS, LLC**

The undersigned, being the sole Manager of Clancy Utility Holdings, LLC, a Texas limited liability company (the "Company"), pursuant to the Company Agreement and Section 101.359 of the Texas Business Organizations Code, hereby gives written consent to the taking of the following actions without the holding of an organizational meeting, and hereby gives written consent to the adoption of and approval of and, by written consent, hereby takes the following actions and adopts the following preambles and resolutions, which actions, preambles and resolutions shall operate to the same extent and shall have the same force and effect as if adopted by the vote of the Manager of the Company at the first meeting of the Manager of the Company, duly called and held to act upon such matters:

**RESOLVED**, that the copy of the Certificate of Formation attached hereto is a true copy of the Certificate of Formation of this Company filed with the Secretary of State of Texas on the 23<sup>rd</sup> day of June 2020, and that this copy and the Certificate of Formation shall be retained in the records of the Company.

**RESOLVED FURTHER**, that the Articles appearing in that certain document hereto attached entitled "Company Agreement of Clancy Utility Holdings, LLC, (a Texas Limited Liability Company)" are adopted as the Company Agreement.

**RESOLVED FURTHER**, that the Company accept for membership in the Company the following persons or entities in consideration of the capital contributions set forth opposite his, her or its name:

<u>Name</u>	<u>Description of Capital Contribution</u>	<u>Membership Interest</u>
Mirasol Meadows, LLC	\$100.00	100%

**RESOLVED FURTHER**, that James F. Adams be, and he hereby is, elected to serve as President of the Company until his successor has been duly elected and qualified, or until his earlier death, resignation or removal from office.

**RESOLVED FURTHER**, that James F. Adams be, and he hereby is, elected to serve as Secretary and Treasurer of the Company until his successor has been duly elected and qualified, or until his earlier death, resignation or removal from office.

**RESOLVED FURTHER**, that James E. Truitt be, and he hereby is, elected to serve as Executive Vice President of the Company until his successor has been duly elected and qualified, or until his earlier death, resignation or removal from office.

**RESOLVED FURTHER**, that consideration has been received for the issuance of membership interest, and that consequently the Company is able to commence and transact business and to incur indebtedness.

**RESOLVED FURTHER**, that the officers of the Company are directed to obtain in the name of the Company such other licenses and tax permits as may be required for the conduct of the business of the Company by any federal, state, county, or municipal governmental statute, ordinance, or regulations, and to do all things necessary or convenient to qualify the Company to transact its business in compliance with the laws and regulations of any appropriate federal, state, or municipal governmental authority.

**RESOLVED FURTHER**, that the President is hereby authorized to pay all fees and expenses incident to and necessary for the qualification of the Company to do business in any such state or foreign country.

**RESOLVED FURTHER**, that the President of the Company be, and he hereby is, authorized and directed (i) to execute and deliver such form resolutions (as approved by the Manager) of any state or national banking institution that the President of the Company may select (such selected banks designated by the President being collectively referred herein to as the "Bank") and (ii) to establish whatever checking accounts and borrowing accounts the President of the Company shall deem necessary and appropriate.

**RESOLVED FURTHER**, that the form resolutions of the Bank be retained with the records of the Company.

**RESOLVED FURTHER**, that the President of the Company be, and he hereby is, authorized to verify to the Bank the names and specimen signatures of the officers authorized hereby to sign, and if and when any new officer is elected, to verify the fact of the change and name and specimen signature of the new officer.

**RESOLVED FURTHER**, that the President of the Company be, and he hereby is, authorized to individually sign for and receive the statements and cancelled vouchers of the Company, or to appoint in writing, agents to sign for and receive such documents, and the President is hereby further authorized to stop payment against checks of the Company and to bind the Company thereto. Endorsements for deposit may be by written or stamped endorsement of the Company without designation of the party making the endorsement.

**RESOLVED FURTHER**, that the form of membership certificate attached hereto is adopted as the form of membership certificate representing membership interests in the Company.

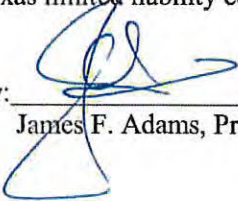
**RESOLVED FURTHER**, that the fiscal year of the Company shall be the year ending December 31.

**RESOLVED FURTHER**, that the Company proceed to carry on the business for which it was organized.

**RESOLVED FURTHER**, that the signing of these minutes shall constitute full consent, confirmation, ratification, adopting and approval of the holding of the above meeting, the actions hereby taken, the resolutions herein adopted and waiver of notice of the meeting by the signatory.

Dated effective as of the 24<sup>th</sup> day of June 2020.

SEREN CAPITAL MANAGEMENT II, LLC, a  
Texas limited liability company

By:   
James F. Adams, President

Being the sole Manager of the Company.

COMPANY AGREEMENT  
OF  
CLANCY UTILITY HOLDINGS, LLC  
A Texas Limited Liability Company

DATED EFFECTIVE AS OF THE 23<sup>RD</sup> DAY OF JUNE, 2020

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**COMPANY AGREEMENT**  
**OF**  
**CLANCY UTILITY HOLDINGS, LLC**  
**(A Texas Limited Liability Company)**

**ARTICLE I.**  
**OFFICES AND REGISTERED AGENT**

**Section 1.01 Principal Office.** The principal office of Clancy Utility Holdings, LLC (hereinafter referred to as the "Company") shall be in Dallas County, Texas. The Company also may have offices at such other places both within and without the State of Texas as the Managers may from time to time determine or the business of the Company may require.

**Section 1.02 Registered Office.** The Company shall have and continuously maintain in the State of Texas a registered office which may be, but need not be, the same as the principal office in the State of Texas. The address of the registered office may be changed from time to time by the Managers. The present registered office of the Company is as set forth in the Certificate of Formation.

**Section 1.03 Other Offices.** The Company also may have offices at such other places both within and without the State of Texas as the Managers may from time to time determine or the business of the Company may require.

**Section 1.04 Registered Agent.** The Company shall have and continuously maintain in the State of Texas a registered agent, which agent may be either an individual resident of the State of Texas whose business office is identical with the Company's registered office, or a domestic corporation, or a foreign corporation authorized to transact business in the State of Texas which has a business office identical with the Company's registered office. The registered agent may be changed from time to time by the Managers. The present registered agent of the Company is as set forth in the Certificate of Formation.

**ARTICLE II.**  
**MEMBERS**

**Section 2.01 Admission of Members.** The initial Members of the Company are the persons or entities set forth in the "Written Consent in Lieu of the First Meeting of the Sole Manager of Clancy Utility Holdings, LLC" who are admitted to the Company as Members effective contemporaneously with the adoption of this Company Agreement by the Managers.

After the formation of the Company, a person becomes a new Member:

(a) in the case of a person acquiring a Membership Interest directly from the Company, as provided in Section 6.05 hereof; and

(b) in the case of an assignee of a Membership Interest, as provided in ARTICLE VI hereof.

**Section 2.02 Time and Place of Meeting.** The Managers or the President may designate any place, either within or without the State of Texas, unless otherwise prescribed by the Texas Business Organizations Code (as it may be amended, hereinafter referred to as the "TBOC"), as the place of meeting for any annual meeting or for any special meeting of the Members. A waiver of notice signed by all Members entitled to vote at a meeting may designate any place, either within or without the State of Texas, unless otherwise prescribed by the TBOC, as the place for the holding of such meeting. If no designation is made, the place of meeting shall be the registered office of the Company in the State of Texas. All meetings of the Members shall be held at such time as shall be determined by the Managers, the President, or by the written consent of all Members entitled to vote thereat.

**Section 2.03 Annual Meetings.** Annual meetings of the Members shall be held on or before July 31<sup>st</sup> of each calendar year. At each annual meeting, the Members shall elect Managers and transact such other business as may properly be brought before the meeting. The date of the annual meeting of the Members shall be stated in the minutes of the Members' meeting or in a duly executed waiver thereof. If the annual meeting is not held on or before July 31<sup>st</sup>, then the Managers shall cause a special meeting in lieu thereof, to be held at such date thereafter as may be convenient, and any business transacted or election held at that special meeting shall be as valid as if held at the annual meeting. Failure to hold the annual Members' meeting at the designated time shall not work a dissolution of the Company.

**Section 2.04 Special Meetings.** Unless otherwise proscribed by the TBOC, special meetings of the Members may be called at any time and for any purpose or purposes by the President or the Managers, and such other person or persons as may be authorized in the Certificate of Formation or this Company Agreement, and unless otherwise provided by the Certificate of Formation, shall be called by the President or the Secretary at the request in writing of the Members having not less than ten percent (10%) of all the Membership Interests entitled to vote at the special meeting. Such request shall state the purpose of such special meeting. Business transacted at all special meetings of the Members shall be confined to the purpose or purposes stated in the notice of the meeting.

**Section 2.05 Notice.** Written or printed notice stating the place, day and hour of any Members meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary or the officer or person calling the meeting, to each Member of record entitled to vote at such meeting, provided that such notice may be waived as provided in this Company Agreement. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to each Member at his address as it appears on the Company's record book reflecting Membership Interest of each Member of each class, if more than one class, of the Company. The Managers or the President may designate any place, either within or without the State of Texas, unless otherwise prescribed by the TBOC, as the place of meeting for any annual meeting or for any special meeting of the Members. A waiver of notice signed by all Members entitled to vote at a meeting may designate any place, either within or without the State of Texas, unless otherwise prescribed by the TBOC, as the place for the holding of such meeting. If no designation is made of the place of the Members' meeting, the place of meeting shall be the registered office of the Company in the State of Texas. Notice of an adjourned meeting is not necessary unless the meeting is adjourned for thirty (30) days or more, in which case, note of the adjourned meeting shall be given as in the case of any special meeting.

Notice need not be given to any Member if (i) notice of two consecutive annual meetings and all notices of meetings held during the period between those annual meetings, if any, or (ii) all (but in no event less than two) payments (if sent by first class mail) of distributions or interest on securities during a 12-month period have been mailed to such Member, addressed at his address as shown on the records of the Company, and have been returned undeliverable. Any action or meeting taken or held without notice to such a person shall have the same force and effect as if the notice had been duly given and, if the action taken by the Company is reflected in any certificate, articles or document filed with the Secretary of State, those articles or that certificate or document may state that notice was duly given to all persons to whom notice was required to be given. If the Member delivers to the Company a written notice setting forth his then current address, the requirement that notice be given to such Member shall be reinstated.

**Section 2.06 Record Date.** For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or entitled to receive payment of any distribution, or in order to make a determination of Members for any other proper purpose, the Managers of the Company shall fix in advance a date as the record date for any such determination of Members, such date in any case to be not more than fifty (50) days and not less than ten (10) days prior to the date on which the particular action requiring such determination of Members entitled to vote at any meeting of Members. In lieu of fixing a record date, the Managers may provide that the Company's record book reflecting Membership Interest of each Member of each class, if more than one class, shall be closed for a stated period, but not to exceed, in any case, twenty (20) days. If the record books reflecting Membership Interests of each Member of each class is closed for the purpose of determining Members entitled to notice of, or to vote at, a meeting of the Members, such record book shall be closed for at least ten (10) days immediately preceding such meeting. If the Company's record book reflecting Membership Interests of each Member of each class is not closed and no record date is fixed for the determination of the Members entitled to notice of or to vote at a meeting of the Company's Members, the date on which notice of the meeting is mailed shall be the record date for such determination of the Company's Members. When a determination of the Company's Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof except where the determination has been made through the closing of the record book and the stated period of closing has expired.

**Section 2.07 Voting List.** The Manager, officer or agent of the Company having charge of the Company's record book reflecting Membership Interests of each Member of each class shall make, at least ten (10) days before each meeting of the Members, a complete list of the Members entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the percentage of Membership Interest of each Member of each class, if more than one class, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the registered office or principal place of business of the Company and shall be subject to inspection by any Member at any time during the usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Member during the whole time of the meeting. The original of the Company's record book reflecting the Membership Interests of each Member of each class shall be prima facie evidence as to who are the Members entitled to examine such list or book reflecting Membership Interest of each Member of each class, if more than one class, or to vote at any meeting of Members. Failure to comply with any requirements of this Section shall not affect the validity of any action taken at such meeting.

**Section 2.08 Classes.** Unless the Certificate of Formation states to the contrary or as otherwise provided by this Company Agreement, there shall be one class of Members. The Certificate

of Formation or any amendments thereof or the Members owning a majority of the Membership Interests entitled to vote at a duly authorized annual or special meeting of the Members may elect to establish two or more classes or groups of one or more Members. In the event of the establishment of two or more classes or groups of one or more Members, then the following provisions shall apply:

(a) The rights, powers, or duties of a class or group may be senior to those of one or more existing classes or groups of Members.

(b) If two or more classes or groups of one or more Members are established, then each class or group of Members, as far as waiver of notices, action by consent without a meeting, establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter relating to the exercise of the right to vote, shall be governed by the same provisions of this Company Agreement as pertain to one class or group of Members.

(c) Prompt notice of the taking of an action under this Company Agreement that requires less than unanimous written consent of the Members and that may be taken without a meeting shall be given to the Members who have not consented in writing to the taking of the action.

(d) For the purposes of this Section, the taking of an action includes amending this Company Agreement or creating, under provisions of this Company Agreement, a class of Membership Interests that was not previously outstanding.

**Section 2.09 Quorum.** Unless otherwise provided in the Certificate of Formation or the TBOC, the Members owning a majority of the Membership Interests entitled to vote, present in person or represented by proxy executed in writing by him or his duly authorized attorney-in-fact shall constitute a quorum at a meeting of Members, but in no event shall a quorum consist of the Members owning less than a majority of the Membership Interests entitled to vote for each class, if more than one class. If, however, such quorum shall not be present or represented at any meeting of the Members, the Members having Membership Interests entitled to vote, present in person or represented by proxy executed in writing by him or his duly authorized attorney-in-fact, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. Once a quorum is constituted, the Members present or represented by proxy at a meeting may continue to transact business until adjournment, notwithstanding the subsequent withdrawal therefrom of such number of Members as to leave less than a quorum.

**Section 2.10 Voting.** When a quorum is present at any meeting, the vote of the Members owning a majority of the Membership Interests of the Company (entitled to vote thereat) for each class, if more than one class, shall decide any question brought before such meeting and shall be the act of the Members' meeting, unless the vote of a greater number is required by the TBOC, the Certificate of Formation or this Company Agreement. As such, to carry the vote of the Members shall require at all times the vote of at least a majority of the Membership Interests of the Company (entitled to vote).

**Section 2.11 Voting of Membership Interest.** Each outstanding Membership Interest, regardless of class, shall be entitled to one vote or a fraction of one vote per one percent of Membership

Interest or fraction of Membership Interest owned by the Member, in person or by proxy executed in writing by him or his duly authorized attorney-in-fact, on each matter submitted to a vote at a meeting of Members, except to the extent that the Certificate of Formation provides for more or less than one vote per one percent of Membership Interest or fraction of Membership Interest or limit or deny voting rights to the holders of the Membership Interests of any class or series, and except as otherwise provided by the TBOC. Notwithstanding anything herein to the contrary, an assignee of a Membership Interest is not a Member until such assignee has been admitted to the Company as a Member as set forth in ARTICLE VI hereof and, as such, an assignee of a Membership Interest shall have no right to vote on any matter submitted to a vote at a meeting of Members.

At each election for Managers, every Member shall be entitled to vote, in person or by proxy executed in writing by him or his duly authorized attorney-in-fact, the percentage of Membership Interest owned by the Member for as many persons as there are Managers to be elected and for whose election he has a right to vote, or, unless expressly prohibited by the Certificate of Formation, to cumulate his votes by giving one candidate as many votes as the product of the number of such Managers multiplied by the percentage of Membership Interest owned by that Member, or by distributing such votes on the same principle among any number of such candidates.

Voting upon any resolution at the meeting shall be by voice or a show of hands, unless any Member demands a ballot vote before the voting begins.

Every proxy must be executed in writing by the Member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of execution of such proxy unless otherwise provided therein. Each proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an "interest." An "interest" specifically includes, for the purpose of the appointment as a proxy, (i) a pledgee of the Membership Interest, (ii) a person who purchased or agreed to purchase, or owns or holds an option to purchase, the Membership Interest, (iii) a creditor of the Company who extended it credit under terms requiring the appointment, (iv) an employee of the Company whose employment contract requires the appointment of a proxy, or (v) a party to a voting agreement created under the TBOC. A revocable proxy shall be deemed to have been revoked if the Secretary of the Company shall have received at or before the meeting instructions of revocation of the proxy or a proxy bearing a later date, which instructions or proxy shall have been duly executed and dated in writing by the Member.

A Membership Interest held by the Company in a fiduciary capacity shall not be voted, directly or indirectly, at any meeting, and shall not be counted in determining the total number of Membership Interests at any given time.

A Membership Interest standing in the name of another corporation or limited liability company, domestic or foreign, who shall then be a Member may be voted by such officer, agent, or proxy as the bylaws or company agreement of such corporation or limited liability company may authorize or, in the absence of such authorization, as the managers or board of directors of such limited liability company or corporation, as the case may be, may determine; provided, however that when any foreign corporation or limited liability company without a permit to do business in this State lawfully owns or may lawfully own or acquire a Membership Interest in the Company, it shall not be unlawful for such foreign corporation to vote said Membership Interest and participate in the management and control of the business and affairs of the Company, as other Members, subject to all of the laws, rules and regulations governing Texas corporations, especially subject to the provisions of the antitrust laws of the State of Texas.



Except as may otherwise be limited or restricted by the TBOC, the Certificate of Formation or this Company Agreement, (i) a Membership Interest held by an administrator, executor, guardian, or conservator may be voted by him so long as such Membership Interest forming a part of an estate are in the possession and forming a part of the estate being served by him, either in person or by proxy, without a transfer of such Membership Interest into his name, and (ii) a Membership Interest standing in the name of a trustee may be voted by that trustee, either in person or by proxy, but no trustee shall be entitled to vote the Membership Interests held by him without a transfer of such Membership Interest into his name as trustee.

Membership interests or shares of stock owned by the Company in another limited liability company or corporation shall be voted by the Managers.

**Section 2.12 Fixing Record Dates for Actions by Written Consent.** Unless a record date shall have previously been fixed or determined herein, whenever action by Members is proposed to be taken by consent in writing without a meeting of Members, the Managers may fix a record date or purposes of determining who are the Members entitled to consent to that action, which record date shall not precede, and shall not be more than ten (10) days after, the date upon which the resolution fixing the record date is adopted by the Managers. If no record date has been fixed by the Managers and the prior action of the Managers is not required by the TBOC and any amendments thereto, the record date for determining who are the Members entitled to consent to action in writing without a meeting shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company by delivery to its registered office, its principal place of business, or an officer of the Company having custody of the books in which proceedings of meetings of Members are recorded. Delivery shall be by hand or by certified or registered mail, return receipt requested. Delivery to the Company's principal place of business shall be addressed to the president or the principal executive officer of the Company. If no record date has been fixed by the Managers and prior action of the Managers is required by the statute, the record date for determining who are the Members entitled to consent to action in writing without a meeting shall be at the close of business on the date on which the Managers adopts a resolution taking such prior action. For purposes of this Section, the taking of an action includes amending this Company Agreement or creating, under the provisions of this Company Agreement, a class of Membership Interest that was not previously outstanding.

**Section 2.13 Action by Written Consent.**

(a) Any action required to be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Members, and may be stated as such in any certificates, articles or documents filed with the Secretary of State. The consent may be in one or more counterparts, so long as each Member signs one of the counterparts. The signed consent, or a signed copy thereof, shall be placed in the minute book of the Company with minutes of the meetings of Members.

(b) Unless prohibited by the Certificate of Formation, any action permitted or required by the TBOC to be taken at any annual or special meeting of the Members, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by Members owning

the Membership Interests having not less than the minimum number of votes that would be necessary to take such action at a meeting at which the holders of all Membership Interests entitled to vote on the action were present and voted.

Prompt notice of the taking of any action by Members without a meeting by less than unanimous written consent shall be given to those Members owning Membership Interests who did not consent in writing to the action.

(c) Every written consent shall bear the date and signature of each Member owning a Membership Interest who signs the consent. No written consent shall be effective to take the action that is the subject of the consent unless, within sixty (60) days after the date of the earliest dated consent delivered to the Company in the manner required by this Section, a consent or consents signed by the Members owning Membership Interests having not less than the minimum number of votes that would be necessary to take the action that is the subject of the consent are delivered to the Company by delivery to its registered office, its principal place of business, or an officer or agent of the Company having custody of the books in which proceedings of meetings of Members are recorded. Delivery shall be by hand or certified or registered mail, return receipt requested. Delivery to the Company's principal place of business shall be addressed to the president or principal executive officer of the Company.

(d) A telegram, e-mail, cablegram, or similar transmission by a Member, or a photographic, photostatic, facsimile, or similar reproduction of a writing signed by a Member, shall be regarded as signed by the Member for purposes of this Section.

**Section 2.14 Presence at Meetings by Means of Communication Equipment.** Subject to the provisions required or permitted by the TBOC for Notice of Meetings, and unless otherwise restricted by the Certificate of Formation, Members may participate in and hold a meeting of such Members by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section shall constitute presence in person at such meeting, except where a person participates in a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 2.15 Voting Agreements.** Any number of Members of the Company may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their Membership Interests by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the Company at its registered office, and by transferring their Membership Interests to such trustee or trustees for the purpose of the agreement. The counterpart of the voting trust agreement so deposited with the Company shall be subject to the same right of examination by a Member of the Company, in person or by agent or attorney, as are the books and records of the Company, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

**Section 2.16 Presiding Officers.** The President of the Company shall preside at, and the Secretary shall keep the records of each meeting of the Members. In the absence of either such officer,

his duties shall be performed by another Manager or officer of the Company as appointed by the Members at such meeting.

**Section 2.17 Lack of Authority.** No Member (other than a Member who is also a Manager or officer of the Company) has the authority or power to act for or on behalf of the Company, to do any act that would be binding upon the Company, or to incur any expenditures on behalf of the Company.

**Section 2.18 Liabilities to Third Parties.** Except as otherwise expressly agreed in writing, no Member or Manager shall be liable for the debts, obligations, or liabilities of the Company, including any judgment decree or order of a court.

**Section 2.19 Confidential Information.** The Members acknowledge that from time to time, they may receive information from or regarding the Company in the nature of trade secrets or that otherwise is confidential, the release of which may be damaging to the Company or person with which it does business. Each Member shall hold in strict confidence any information it receives regarding the Company that is identified as being confidential (and if that information is provided in writing, that is so marked) and may not disclose it to any person other than another Member or a Manager, except for disclosures (i) compelled by law (but the Member must notify the Managers promptly of any request for that information before disclosing same, if practical), (ii) to advisors or representatives of the Members or persons to which that Member's Membership Interest may be disposed as permitted by this Company Agreement, but only if the recipients have agreed to be bound by the provisions of this Section, or (iii) of information that a Member has received from a source independent of the Company that the Member reasonably believes obtained the information without breach of any obligation of confidentiality. The Members acknowledge that breach of the provisions of this Section may cause irreparable injury to the Company for which monetary damages are inadequate, difficult to compute, or both. Accordingly, the Members agree that the provisions of this Section may be enforced by specific performance.

### ARTICLE III. MANAGERS

**Section 3.01 General Powers.** The powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, its Managers, which may exercise all of the powers of the Company and do all such lawful acts and things, as are not by the TBOC, the Certificate of Formation or this Company Agreement directed or required to be exercised or done by the Members. Managers need not be residents of the State of Texas. Every Manager is an agent of the Company for the purpose of its business and the act of a Manager, including the execution in the name of the Company of any instrument for apparently carrying on the usual way the business of the Company binds the Company unless the Manager so acting otherwise lacks the authority to act for the Company and the person whom the Manager is dealing has knowledge of the fact that the Manager has no such authority.

Any person dealing with the Company, other than a Member, shall rely on the authority of any Manager or officer in taking any action in the name of the Company without inquiry into the provisions of this Company Agreement or compliance herewith, regardless of whether that action actually is taken in accordance with the provisions of this Company Agreement.

**Section 3.02 Number of Managers.** The number of Managers of the Company shall be fixed from time to time by the vote of the Members. The number of initial Managers shall be the

number fixed by the Certificate of Formation. Thereafter, the number of Managers shall be determined by the vote of the Members. References in this Company Agreement to "Managers" shall refer to the Manager, if the number of Managers fixed by or in the manner provided by this Section is one (1), or the Managers, if the number of Managers fixed by or in the manner provided by this Section is more than one (1). No decrease in the number of Managers shall have the effect of reducing the term of any incumbent Manager. Until otherwise fixed by unanimous resolution of the Managers, the Managers shall be elected at each annual meeting of the Members, except as provided in this Section, Section 3.03, or Section 3.14 of this Company Agreement, and each Manager shall hold office, until his sooner death, resignation or removal in accordance with this Company Agreement.

**Section 3.03 Vacancies.** Subject to other provisions of this Section and Section 3.14, any vacancy occurring in the Managers may be filled by the affirmative vote of a majority of the remaining Managers, though the remaining Managers may constitute less than a quorum of the Managers as fixed by Section 3.09 of this Company Agreement, or, if none, then by election at a special meeting of Members called for that purpose. A Manager elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any Manager position to be filled by reason of an increase in the number of Managers may be filled by election at an annual meeting or at a special meeting of Members called for that purpose.

**Section 3.04 Place of Meetings.** The Managers of the Company may hold meetings, either annual, regular or special, either within or without the State of Texas. In the absence of a specific designation, the meetings shall be held at the registered office of the Company located in the State of Texas.

**Section 3.05 Annual Meetings.** The annual meeting of the Managers shall be held, without further notice, immediately following the annual meeting of the Members at the same place unless, by unanimous consent of the Managers then elected and serving, such time or place shall be changed. No notice of any kind to either old or new Managers for the annual meeting shall be necessary.

**Section 3.06 First Meeting.** The first meeting of the newly elected Managers shall be held without further notice immediately following the annual meeting of the Members, and at the same place, unless by unanimous consent of the Managers then elected and serving, such time or place shall be changed.

**Section 3.07 Regular Meetings.** Regular meetings of the Managers may be held at such time and place as shall be determined from time to time by the resolution of the Managers. Notice of any regular meeting shall be given at least twenty-four (24) hours previous thereto if given either personally (including written notice delivered personally or by telephone), by telegram, or by facsimile transmission and at least seventy-two (72) hours previous thereto if given by written notice mailed to each Manager at the address of his business and residence. Neither the business to be transacted at, nor the purpose of, any regular meeting of the Managers need be specified in the notice or waiver of notice of such meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed, in the above-specified manner, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Manager may waive notice of any regular meeting, as provided in Section 4.02 of this Company Agreement. The attendance of a Manager at a regular meeting shall constitute a waiver of notice of such meeting, except where such Manager attends a regular meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Notice of any meeting of the Managers shall be deemed properly made and given upon the execution by all the Managers of an instrument in writing setting forth all resolutions of the Managers adopted at such meeting.

**Section 3.08 Special Meetings.** Special meetings of the Managers may be called by or at the request of the President and shall be called by the Secretary on the written request of a majority of the Managers. The person or persons authorized to call special meetings of the Managers may fix the time and place for holding any special meeting of the Managers called by them. Notice of any special meeting shall be given at least twenty-four (24) hours previous thereto if given either personally (including written notice delivered personally or by telephone), by telegram, or by facsimile transmission and at least seventy-two (72) hours previous thereto if given by written notice mailed to each Manager at the address of his business and residence. Neither the business to be transacted at, nor the purpose of, any special meeting of the Managers need be specified in the notice or waiver of notice of such meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed, in the above-specified manner, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Manager may waive notice of any special meeting, as provided in Section 4.02 of this Company Agreement. The attendance of a Manager at a special meeting shall constitute a waiver of notice of such special meeting, except where such Manager attends a special meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Notice of any special meeting of the Managers shall be deemed properly made and given upon the execution by all the Managers of an instrument in writing setting forth all resolutions of the Managers adopted at such special meeting.

**Section 3.09 Quorum and Voting.** At all meetings of the Managers, the presence of a majority of the number of Managers fixed in the manner provided by Section 3.02 of this Company Agreement shall be necessary and sufficient to constitute a quorum for the transaction of business, and the affirmative vote of at least a majority of the Managers present at any meeting at which there is a quorum shall be the act of the Managers, except as may be otherwise specifically provided by the TBOC, other applicable laws, the Certificate of Formation or this Company Agreement. If a quorum shall not be present at any meeting of Managers, a majority of the Managers present thereat may adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum shall be present. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified. Once a quorum is constituted, the Managers present at a meeting may continue to transact business until adjournment, notwithstanding the subsequent withdrawal therefrom of such number of Managers as to leave less than a quorum.

**Section 3.10 Executive Committee.** The Managers may, by resolution adopted by a majority of the Managers, designate an Executive Committee, to consist of two or more Managers, one of whom shall be designated as Chairman and shall preside at all meetings of such Committee. To the extent provided in the resolution of the Managers, the Executive Committee shall have and may exercise all of the authority of the Managers in the management of the business and affairs of the Company, subject to the limitations on the authority of committees of the Managers by the TBOC or applicable law, but the designation of such committee and the delegation thereof of authority shall not operate to relieve the Managers, or any of them, of any responsibility imposed by law. The Executive Committee shall keep regular minutes of its proceedings and report the same to the Managers when required. Any member of the Executive Committee may be removed, with or without cause, by the affirmative vote of a

majority of the Managers. If any vacancy or vacancies shall occur in the Executive Committee, such vacancy or vacancies may be filled by the affirmative vote of a majority of the Managers.

**Section 3.11 Other Committees.** The Managers may, by resolution adopted by a majority of the Managers, designate committees other than an Executive Committee, to consist of two or more Managers, one of whom shall be designated its Chairman and shall preside at all meetings of such committee. The functions and responsibilities of any such committee shall be specified in the resolution of the Managers creating the same. All such committees shall keep regular minutes of their proceedings and report the same to the Managers when requested.

**Section 3.12 Compensation of Managers.** The Managers shall be entitled to reasonable annual compensation as approved by the vote of the Members owning a majority of the Membership Interests. In addition, the Managers shall be entitled to reimbursement for expenses incurred in serving as a Manager hereunder. Nothing herein contained shall be construed to preclude any Manager from serving the Company in any other capacity and receiving compensation therefor. Executive Committee members and members of other standing committees may, by resolution of the Managers, be allowed like compensation.

**Section 3.13 Classification of Managers.** At any time by unanimous vote of the Managers or by affirmative vote of the Members owning a majority of Membership Interests, this Company Agreement may provide that the Managers shall be divided into either two or three classes, each class to be as nearly equal in number as possible, the terms of office of Managers of the first class to expire at the first annual meeting of Members after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. If this classification of Managers is implemented, (1) the entire number of Managers of the Company need not be elected annually, and (2) at each annual meeting after such classification, then number of Managers equal to the number of the class whose term is expiring shall be elected to succeed them.

**Section 3.14 Removal of Managers.** A Manager may be removed, with or without cause, at any time, at a special meeting of the Members at which a quorum is present or represented, by the affirmative vote of Members owning a majority of the Membership Interests entitled to vote at elections of Managers, if notice of intention to act upon the question of removing such Manager shall have been stated as one of the purposes for the calling of such meeting and such meeting shall have been called in accordance with this Company Agreement. Such removal shall be effective immediately. The vacancy caused by such removal may be filled at such meeting by the Members in accordance with the quorum and voting requirements set forth at Section 2.09 and Section 2.10 hereinabove.

**Section 3.15 Resignation of Managers.** Any Manager may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, then at the time of its receipt by the President of the Company. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

**Section 3.16 Election of Managers.** The Managers shall be elected at each annual meeting of the Members, except as provided in Section 3.03 and Section 3.14 of this Company Agreement, and each Manager shall hold office until the annual meeting of Members following his election or until his successor is elected and qualified. Unless otherwise provided by the Certificate of Formation, the Managers shall be elected by the vote of the Members owning a majority of the Membership Interests

(entitled to vote thereat) present or represented by proxy (executed in writing by him or his duly authorized attorney-in-fact) and entitled to vote in the election of Managers at a meeting of Members at which a quorum is present.

**Section 3.17 Attendant and Presumption of Assent.** Attendance of a Manager at a meeting shall constitute a waiver of notice of such meeting, except where such Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. A Manager who is present at a meeting of the Managers at which action on any company matter is taken shall be presumed to have assented to the action taken unless that Manager's dissent shall be entered in the minutes of the meeting or unless that Manager shall file a written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Company immediately after the adjournment of the meeting. Such right to dissent shall not apply to any Manager who voted in favor of such action.

**Section 3.18 Limitation of Liability.** No Manager of the Company shall be liable to the Company or its Members for any act or omission in his capacity as a Manager, except to the extent otherwise expressly provided by the TBOC or other laws of the State of Texas. In addition, no Manager of the Company shall be liable to the Company or its Members for any act or omission in his capacity as a Manager of the Company if such Manager relied in good faith upon the records of the Company or upon information, opinions, reports or statements presented to the Company by its officers, employees, agents, board committees, or any other person as to matters the Manager reasonably believes are within such other person's profession or expert competence. Further, no Manager shall be liable to the Company in connection with the Manager's vote for or assent to a distribution by the Company if, in the exercise of ordinary care, he relied and acted in good faith upon financial statements or other information of the Company represented to him to be correct in all material respects by the President or the officer of the Company having charge of its books of account, or stated in a written report by an independent public or certified accountant or firm of such accountants fairly to reflect the financial condition of the Company, or if, in the exercise of ordinary care and in good faith, in voting for or assenting to a distribution by the Company, he considered the assets to be of their book value.

**Section 3.19 Interested Managers.** No contract or transaction between the Company and one or more of its Managers or officers, or between the Company and any other corporation, limited liability company, partnership (general or limited), association, or other organization in which one or more of its Managers or officers are Managers or officers or have a financial interest, shall be void or voidable solely because (i) the reason that such Manager or officer may be a party to or may have an interest in any such contract or transaction, (ii) such Manager or officer is present at or participates in the meeting of the Board of Managers or committee thereof which authorizes the contract or transaction, or (iii) such Manager's vote is counted for such purpose, if:

(a) either the material facts as to such Manager's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the Managers or the committee, and the Managers or committee in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested Managers, even though the disinterested Managers may be less than a quorum; or

(b) the material facts as to such Manager's or officer's relationship or interest and as to the contract or transactions are disclosed or are known to the Members of the

Company entitled to vote thereon, and the contract or transaction is specifically approved in good faith by the vote of the Members entitled to vote thereon; or

(c) the contract or transaction is fair to the Company as of the time it is authorized, approved, or ratified by the Managers, a committee thereof, or the Members.

Upon compliance with this Section, no Manager or officer having an interest in any contract or transaction shall be liable to the Company or to any Member or creditor thereof, or to any other person, for any loss incurred by the Company under or by reason of such contract or transaction nor shall any such Manager or officer be accountable for any reason for any gains or profits realized thereon. This Section shall not be construed to invalidate any contract or transaction which would be valid in the absence of this Section. Interested Managers may be counted in determining the presence of a quorum at a meeting of the Managers or of a committee which authorizes the contract or transaction.

**Section 3.20 Action Without Meeting.** Any action required or permitted to be taken at any meeting of the Managers or of any committee thereof may be taken without a meeting if a written consent, setting forth the action so taken, is signed by all the Managers or the committee, as the case may be, and such written consent shall have the same force and effect as a unanimous vote at a meeting lawfully called and held, and may be stated as such in any instrument or document filed with the Secretary of State of Texas or delivered to any other person. Any such consent may be in one or more counterparts, so long as each Manager signs one of the counterparts. The signed consent, or a signed copy thereof, shall be placed in the minute book of the Company with the minutes of the meetings of the Managers.

**Section 3.21 Procedure.** The Managers shall keep regular minutes of its proceedings. The minutes shall be placed in the minute book of the Company.

**Section 3.22 Presence at Meetings by Means of Communication Equipment.** Subject to the provisions required or permitted by the TBOC for Notice of Meetings, and unless otherwise restricted by the Certificate of Formation, Managers or any committee designated by the Managers may participate in and hold a meeting of the Managers or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section shall constitute presence in person at such meeting except for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 3.23 Approval or Ratification.** The Managers in their discretion may submit any act or contract for approval or ratification at any special meeting for the Members called for the purpose of considering such act or contract, and any act or contract that shall be approved or be ratified by a Members owning a majority of the Membership Interests entitled to vote shall be valid and as binding upon the Company and upon all the Member as if it shall have been approved or ratified by every Member of the Company.

**Section 3.24 Presiding Officers.** The President of the Company shall preside at, and the Secretary shall keep the records of each meeting of the Managers. In the absence of either such officer, his duties shall be performed by another Manager or officer of the Company as appointed by the Managers at such meeting.



#### ARTICLE IV. NOTICES

**Section 4.01 Form of Notice.** Whenever under the provisions of the TBOC, the Certificate of Formation or this Company Agreement, notice is required to be given to any Manager or Member, and no provision is made as to how such notice shall be given, it shall not be construed to mean personal notice exclusively, but any such notice may be given in writing, by mail, first class postage prepaid, addressed to such Manager or Member at such address as appears on the books of the Company. Any notice required or permitted to be given by mail shall be deemed to be given at the time when the same be thus deposited, first class postage prepaid, in the United States mail as aforesaid.

**Section 4.02 Waiver.** Whenever any notice is required to be given to any Member of the Company under the provisions of the TBOC, the Certificate of Formation or this Company Agreement, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be equivalent to the giving of such notice.

#### ARTICLE V. OFFICERS

**Section 5.01 General.** The officers of the Company shall consist of a President, a Secretary, a Treasurer, and such other officers as the Managers shall deem appropriate for the conduct of the business of the Company. Such offices may be held by the same person. The President, Vice-President (if any), Secretary, Treasurer, shall have the duties and powers set forth in this Article, and any other officers elected or appointed by the Managers shall have the duties and powers which are set forth in the resolution electing or appointing such other officers. Such officers, including assistant officers, and agents as may be deemed appropriate may be elected or appointed by the Managers or chosen in such other manner as may be prescribed by this Company Agreement. Every officer is an agent of the Company for the purpose of its business and the act of an officer, including the execution in the name of the Company of any instrument for apparently carrying on in the usual way the business of the Company, binds the Company unless the officer so acting otherwise lacks the authority to act for the Company and the person with whom the officer is dealing has knowledge of the fact that the officer has no such authority. In addition, each officer shall have, subject to the Company Agreement, in addition to the duties and powers specifically set forth herein, such powers and duties as are commonly incident to his office and such duties and powers as the Managers shall from time to time designate. All officers shall perform their duties subject to the directions and under the supervision of the Managers.

**Section 5.02 Election.** The Managers, at their first meeting after each annual meeting of Members, shall choose a president and secretary. The Managers shall determine the salaries of all officers from time to time. The officers shall hold office until their successors are chosen and qualified. Officers need not be Members, Managers or residents of Texas.

**Section 5.03 Powers of President.** The President shall be the chief operating officer of the Company and, subject to the Managers, shall have general executive charge, manage and control of the properties and operations of the Company in the ordinary course of its business with all such powers with respect to such properties and operations as may be reasonably incident to such responsibilities. The President shall preside at all meetings of the Members and of the Managers, may agree upon and execute all division and transfer orders, bonds, conveyances, security instruments, contracts, and other obligations in the name of the Company, and may sign all certificates for Membership Interests in the Company.

The President shall present at each annual meeting of the Members a report of the condition of the Company.

In addition to the foregoing, the President shall specifically have the power, on behalf of the Company, to (a) acquire, hold, rent, lease, purchase, sell, convey, exchange, convert, improve, repair, manage, create, operate, control, license, and invest and reinvest the funds of the Company in real, personal and intellectual property (both tangible and intangible), including property acquired "subject to" or "in assumption of" an existing indebtedness or property acquired in whole or in part for the promissory obligation of the Company. Investments may include the acquisition of and the exercise of options to purchase real, personal and/or intellectual property. The Company may make any payment, receive any money, take any action, negotiate, and make, execute, deliver and receive any contract, deed, agreement, instrument or document which may be considered necessary or advisable to exercise any of the powers conferred hereunder or to carry into effect any provisions herein contained and which in the judgment of the authorized representative of the Company are necessary or prudent for the proper administration and conservation of the investments of the Company; (b) lend, borrow, mortgage, lease, sell, and purchase real, personal and/or intellectual property, including undivided fractional interests in property, and upon such terms and conditions as are reasonably prudent under the facts and circumstances then existing, and issue evidences of indebtedness in furtherance of the Company's businesses and secure any such indebtedness by mortgage, deed of trust, pledge, or other lien; (c) hold, acquire and sell, on behalf of the Company, the following as investment property (1) publicly traded securities, including stocks, bonds, warrants, options, futures, mutual funds, partnerships, real estate investment trusts, diversified asset funds, including international investments and investment funds; (2) interests in a closely-held corporation, partnership, limited liability company or trust, whether registered or not registered for public sale, including any domestic or foreign corporation, partnership, limited partnership, limited liability company, investment trust, joint venture, proprietorship, bank or other entity, this authority to further include: the acquisition of a general partner's interest or a limited partner's interests, the execution of a partnership agreement in the capacity of a general partner or as a limited partner, participation as a member of a joint venture, or participation in any other form of syndication for investment; (3) obligations of the United States government or of any foreign government; (4) cash deposits, money market funds, brokerage company investment and money market accounts, certificates of deposit, savings accounts, and checking accounts, without limitation as to the location of the account or depository; (5) promissory notes, secured and unsecured, including mortgage notes purchased at a discount; (6) land, improved and unimproved, whether presently income producing or held for potential appreciation in value; and (7) annuities and insurance policies (including life insurance policies); (d) execute such deeds, contracts, division orders, conveyance instruments, debt instruments, security agreements, deeds of trust, mortgage documents, investment account agreements, leases, and independent contractor agreements; and (e) borrow funds from any other person (including a Manager or an entity either controlled by a Manager or of which a Manager owns an equity interest therein), on such terms and provisions as determined by the President, and to issue promissory notes or other evidences of indebtedness therefor and securing same with real property and/or personal property by mortgage, deed of trust, pledge or other lien or security interest.

**Section 5.04 Vice President(s).** The Vice President(s) shall generally assist the President in the management of the Company and shall perform the duties and exercise the powers delegated by the President or from time to time assigned by the Managers. The Vice Presidents, in the order of their seniority or in any other order determined by the Managers, shall, in the absence or disability of the President, perform the duties and exercise the powers of the President.

**Section 5.05 Powers of Secretary.** The Secretary shall attend all meetings of the Managers and all meetings of the Members and shall record all votes and the minutes of all proceedings in a book suitable for that purpose, and shall perform like duties for the standing committees when required. The Secretary shall give or cause to be given notice of all meetings of the Members and all meetings of the Managers required by this Company Agreement or law to be given. If for any reason the Secretary shall fail to give notice of any special meeting of the Managers called by one or more of the persons identified in this Company Agreement, or if he shall fail to give notice of any special meeting of the Members called by one or more of the persons identified in this Company Agreement, then any such person or persons may give notice of any such special meeting. The Secretary shall also keep or cause to be kept, a membership ledger in which shall be correctly recorded all transactions pertaining to the Membership Interests of the Company. The Secretary shall have such other powers and perform such other duties as from time to time may be prescribed by him by the Managers or this Company Agreement. In the absence of a Secretary, the minutes of all meetings of the Managers and Members shall be recorded by such person as shall be designated by the President or by the Managers.

**Section 5.06 Assistant Secretaries.** Any Assistant Secretary shall, in the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary and shall perform such other duties as may be prescribed by the Managers or the President.

**Section 5.07 Treasurer.** The Treasurer shall be the chief financial and accounting officer of the Company and, subject to the direction of the President and the Managers, shall have custody of all corporate funds and securities, shall deposit all monies and other valuable effects in the name and to the credit of the Company in such depositories as may be designated from time to time by the Managers, shall manage the disbursements of the Company's funds in satisfaction of its corporate obligations and in a manner consistent with its business objectives, taking proper receipts and vouchers for such disbursements, shall keep full and accurate records and books of account of all the Company's receipts and disbursements, shall render to the President and/or Managers from time to time upon request an accounting of all his financial transactions on behalf of the Company and of the financial condition of the Company, shall be responsible for planning and budgeting the Company's receipts, disbursements and capital requirements, and shall perform such other duties as may from time to time be prescribed by the President or the Managers.

**Section 5.08 Assistant Treasurers.** Any Assistant Treasurer shall, in the absence or disability of the Treasurer, perform the duties and exercise the powers of the Treasurer and shall perform such other duties as may be prescribed by the Managers or the President.

**Section 5.09 Bonding.** If required by the Managers, all or certain of the officers shall give the Company a bond in such form, in such sum and with such surety or sureties as shall be satisfactory to the Managers, for the faithful performance of the duties of their office and for the restoration to the Company, in case of their death, resignation, retirement or removal from office, of all books, papers, vouchers, money, and other property of whatever kind in their possession or under their control belonging to the Company.

**Section 5.10 Delegation of Authority.** In the case of the absence of any officer of the Company or any other reason that the Managers may deem sufficient, the Managers may delegate some or all of the powers or duties of such officer to any other officer or to any Manager, employee, Member or agent for whatever period of time seems desirable, providing that a majority of the Managers concurs therein.

**Section 5.11 Reliance by Officers.** In addition to any other defenses for or limitations of liability of officers of the Company, as allowed by law, an officer shall not be liable for any claims or damages that may result from any action taken or any failure to take any action, in the discharge of any duty imposed or power conferred on that officer in any capacity as an officer, if, in the exercise of ordinary care, the officer acted in good faith and, where applicable, the officer relied on information, opinions, reports or statements and other financial data, concerning the Company or another person, which were prepared or presented by (i) one or more other officers or employees of the Company; (ii) legal counsel, public accountants, investment bankers or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or (iii) a member, other than the officer, of a committee, of which the officer is not a member. An officer is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by this Section unwarranted.

**Section 5.12 Salaries.** The salaries of the officers shall be fixed from time to time by the Managers and no officer shall be prevented from receiving such salary by reason of the fact that the officer is also a member of the Company.

**Section 5.13 Vacancies.** If the office of any officer of the Company becomes vacant by reason of death, resignation, removal or otherwise, the Managers may elect or appoint a successor who shall hold office for the unexpired term, and until a successor is elected. Until a successor is so elected or appointed by the Managers, the power and authority of the vacated office shall be held by the Managers.

**Section 5.14 Contracts.** Debts, liabilities, notes, agreements, contracts and other indebtedness or obligations of the Company may be contracted by or incurred on behalf of the Company by either (a) the President of the Company, or (b) as authorized by the affirmative vote of at least a majority of the Managers present at any meeting at which there is a quorum.

**Section 5.15 Removal.** Any officer, employee or agent elected or appointed by the Managers may be removed at any time by resolution of the Managers, with or without cause, whenever in its judgment the best interests of the Company would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

## **ARTICLE VI. ASSIGNMENT OF MEMBERSHIP INTERESTS AND ADMISSION OR WITHDRAWAL OF MEMBERS**

**Section 6.01 General.** Except as provided in this Article, no Member shall sell, transfer, assign, pledge, gift, hypothecate, encumber or otherwise dispose of, by operation of law or otherwise, the whole or any part of its Membership Interest in the Company. No assignment shall be valid or effective unless in compliance with the conditions contained in this Company Agreement, and any unauthorized transfer or assignment shall be void ab initio.

The following are permitted assignees of a Member's Membership Interest, subject to Section 6.02 hereof, without satisfying the requirements set forth in Section 6.03 hereof (who shall become an assignee of such Member's Membership Interest):

(a) Gifts. Any Member who is a natural person or any person who is the beneficiary of a trust under which such person has a power to appoint an interest in Membership Interests held in such trust may, during the lifetime of such person or at such person's death, without the consent or approval of any other Member, transfer, by gift, all or any portion of such person's interest in Membership Interests to the following persons who shall become an assignee (but not a substituted Member except as provided in Section 6.04 hereof) of such Membership Interest:

- One or more existing or past Members or a spouse of any existing or past Member, other than a spouse who is legally separated from any said existing or past Member under a decree of divorce or separate maintenance.
- Any descendant (including descendants by adoption) of a parent of an individual who is a current or past Member.
- A partnership, limited liability company or corporation of which there are no owners other than a person identified in this Subsection (a), and/or a trust created for the benefit of any such person.
- Any trust created for the use and benefit of any person identified in this Subsection (a).

The interest may pass to any such person or entity under the last will and testament of the individual, duly admitted to probate, or under the beneficiary designation of a trust in which the individual has the right, limited or unlimited, to appoint the beneficiaries of the trust, or under a written and acknowledged designation of beneficiary or beneficiaries delivered by the individual to the Managers prior to the death of the individual Member.

(b) Death of Member. The person or entity acting in his, her, or its capacity as personal representative of a deceased Member's estate, is a permitted assignee and, as such, will be permitted to receive distributions of cash or other property, on behalf of such Member's estate and heirs and devisees, from the Company. In addition, in the event that all of the Members of Company are then deceased, then the personal representative of the last living Member shall have the right (acting on behalf of such deceased Member's estate) to serve as a substituted Member (with voting rights) of the Company. Neither the Company nor any officer, Manager, or Member will have a duty to inquire as to the application or use of funds delivered to a personal representative.

(c) Incapacity of a Member. The personal representative of an incapacitated Member, acting under a durable power of attorney or letters of guardianship, is a permitted assignee and, as such, will be permitted to receive distributions of cash or other property, on behalf of such incapacitated Member, from the Company. In addition, in the event that there are no Members having mental capacity, then the personal representative of such incapacitated Member shall have the right (acting on behalf of such incapacitated Member) to serve as a substituted Member (with voting rights) of the Company. Neither the Company nor any officer, Manager, or Member

will have a duty to inquire as to the application or use of funds delivered to a personal representative.

An assignment of a Membership Interest **does not** entitle the assignee to become, or to exercise rights (including the right to vote) or powers of a Member, except upon compliance with Section 6.04 hereof. An assignment entitles the **assignee** to receive distributions to which the assignor was entitled, to the extent those items are assigned. Until the assignee becomes a Member in compliance with Section 6.04 hereof, the assignor Member will continue to be a Member and to have the power to exercise any rights (including voting rights) or powers of a Member, except to the extent that the rights to distributions are assigned, but such assignment shall not entitle the assignee to exercise a right to participate in the business or affairs of the Company unless and until the assignee has been admitted as a Member.

**Section 6.02 Restrictions on Transfer.** The Membership Interests have been acquired for investment and have not been registered under the Securities Act of 1933, as amended, or applicable state securities laws. Without such registration, such Membership Interests may not be sold, assigned, transferred, hypothecated, pledged, gifted or otherwise transferred at any time whatsoever, except upon delivery to the Company of an opinion of counsel satisfactory to the Company that registration is not required for such transfer or the submission to the Company of such other evidence as may be satisfactory to the Company to the effect that any such transfer shall not be in violation of the Securities Act of 1933, as amended, or applicable state securities laws or any rule or regulation promulgated thereunder. In addition to the foregoing requirements, no Membership Interests may be sold, transferred, assigned, pledged, encumbered or otherwise disposed of, in whole or in part, except in the sole discretion of the Company, and then only with its express written consent and in compliance with the provisions of this Article and all applicable laws.

**Section 6.03 Assignment of Membership Interests.**

(a) Upon compliance with Section 6.02 hereinabove and this Section, except with regard to a gift of a Member's interest in accordance with Section 6.01 hereinabove, a Membership Interest (all or any portion) may be sold, assigned, transferred, hypothecated, pledged or otherwise disposed of or encumbered only with (i) the prior written consent of all the Members, (ii) a written instrument of assignment, the terms of which shall not be in contravention of any of the provisions of this Company Agreement, and (iii) such assignee's agreement in writing to be bound by all of the terms and conditions of this Company Agreement (including the restrictions against transferability as provided in this Article). No other assignment or transfer of Membership Interests shall be permitted.

(b) An assignment of a Membership Interest **does not** entitle the assignee to become, or to exercise rights (including the right to vote) or powers of a Member, except upon compliance with Section 6.04 hereof. An assignment only entitles the **assignee** to receive allocations of income and loss and distributions to which the assignor was entitled, to the extent those items are assigned. Until the assignee becomes a Member in compliance with Section 6.04 hereof, the assignor Member will continue to be a Member and to have the power to exercise any rights (including voting rights) or powers of a Member, except to the extent that the rights to distributions are assigned, but such assignment shall not entitle the assignee to exercise a right to participate in the business

or affairs of the Company unless and until the assignee has been admitted as a Member in accordance with Section 6.04 hereof.

An Assignee of any Membership Interest shall receive federal and all relevant state Forms K-1 and report all income and loss on his, her, or its income tax returns each year in accordance with Rev. Rul. 77-137, 1977-1 C.B. 178.

(c) The assigning Member shall deliver to the Company a written instrument of assignment in form and substance satisfactory to the Company, duly executed by the assigning Member or his personal representative or authorized agent. Said assignment shall be accompanied by such assurance of genuineness and effectiveness and by such consents or authorizations of any governmental or other authorities as may be reasonably required by the Company. Such documentation shall be accompanied by a fee to the Company, in an amount reasonably necessary to cover the out-of-pocket costs and expenses of the Company in connection with said assignment.

(d) An assignee shall be entitled to receive distributions from the Company attributable to the Membership Interest acquired by reason of any such assignment from and after the effective date of the assignment of such Membership Interest to such assignee; provided, however, that the Company shall be entitled to treat the assignor of such Membership Interest as the absolute owner thereof in all respects, and shall incur no liability for distributions made in good faith to such assignor until such time as the written instrument of assignment has been approved by the Company and recorded on its books and the effective date of the assignment has passed.

**Section 6.04 Right of Assignee to Become Member.**

(a) With regard to a gift of a Member's interest in accordance with Section 6.01 hereinabove, such assignee shall have the right to become a Member (with voting rights) in place of its assignor upon the Company being provided with all documents and agreements it reasonably requests, and such assignee's agreement in writing to be bound by all of the terms and conditions of this Company Agreement (including the restrictions against transferability as provided in this Article). In the case of the assignee being other than a person designated in Section 6.01 hereinabove, such assignee shall have the right to become a Member (with voting rights) in place of its assignor only upon the Company being provided with all documents and agreements it reasonably requests, the written consent thereto of all Members shall have been obtained, and such assignee's agreement in writing to be bound by all of the terms and conditions of this Company Agreement (including the restrictions against transferability as provided in this Article).

(b) An assignee who becomes a Member has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a Member under this Company Agreement and the TBOC.

(c) Whether or not an assignee of a Membership Interest becomes a Member, the assignor is not released from the assignor's liability to the Company.

(d) An assignee of a Membership Interest will be recognized by the Company as a substituted Member as of the day following the date of satisfaction of the foregoing conditions.

**Section 6.05 Admission of Members.**

(a) Each person acquiring a Membership Interest from the Company in connection with the formation of the Company shall become a Member as of the date set forth in such person's subscription agreement, if any, otherwise as of the date set forth in such person's membership certificate.

(b) After formation of the Company, a person may become a Member by either (i) acquiring a Membership Interest directly from the Company, in which case such person shall become a Member upon obtaining the written consent of all Members and the acceptance of such person's subscription agreement by the Company, or (ii) acquiring a Membership Interest by an authorized assignment from a Member, in which case such person shall become a Member upon compliance with Section 6.04 hereinabove.

**Section 6.06 Withdrawal of Members.** Members may not withdraw or retire from the Company, except with the written consent of all Members, and then only upon such terms as the Company and the withdrawing Member shall approve.

**Section 6.07 Nonrecognition of an Unauthorized Transfer.** The Company will not be required to recognize the interest of any transferee who has obtained a purported interest as the result of a transfer of ownership which is not an authorized transfer in accordance with Section 6.01 or Section 6.03 hereinabove. If the ownership of a Membership Interest is in doubt, or if there is reasonable doubt as to who is entitled to a distribution of the income realized from a Membership Interest, the Company may accumulate the income until this issue is finally determined and resolved. Accumulated income will be credited to the capital account of the Member(s) whose interest is in question.

**Section 6.08 Acquisition of a Membership Interest Conveyed to Another Without Authority.** If any person (including a spouse of a member), organization or agency should acquire the interest of a Member, including voting rights, other than an authorized transfer in accordance with Section 6.01 or Section 6.03 hereinabove, which would include a Member's spouse acquiring the interest of a Member as the result of the death or divorce of such Member, the bankruptcy of a Member or an order of a court of competent jurisdiction which the Company is required by law to recognize, or if a Member's Membership Interest in the Company is subjected to a lawful "charging order" by a court of competent jurisdiction, or if a Member makes a unauthorized transfer of a Membership Interest, including voting rights, which the Company is required by law (and by order of a court of competent jurisdiction) to recognize, the Company will have the unilateral option (but not the obligation) to acquire the interest of the transferee, or any fraction or part thereof, upon the following terms and conditions:

(a) The Company will have the option (but not the obligation) to acquire the interest by giving written notice to the transferee of its intent to purchase within two (2) years from the date that the Company receives written notice that it is finally determined that the Company is required to recognize the transfer.



(b) The Company will have 180 days from the first day of the month following the month in which it delivers notice exercising its option to purchase the interest. The valuation date for the Member's interest will be the first day of the month preceding the month in which notice is delivered.

(c) The fair market value of a Membership Interest, or any fraction or part thereof to be acquired by the Company, is to be determined by the written appraisal of a person or firm selected by the Company (as determined by the Managers of the Company in their absolute discretion) and qualified to value limited liability companies. The Company's selection of the appraiser shall be binding upon all parties; provided that the appraiser selected by the Company must be qualified by training and experience to perform business appraisals of limited liability companies and ownership interests therein. It will be appropriate to consider the use of valuation discounts for lack of control and lack of marketability when the appraiser determines the fair market value of the subject Membership Interests.

(d) Closing of the sale will occur at the business office of the Company [as designated in the Agreement] at 10 o'clock A.M. on the first Tuesday of the month following the month in which the written appraisal has been delivered to the transferee or assignee. Prior to completion of the written appraisal, the transferee will be considered a non-voting owner of the Membership Interest, but will be entitled to all items of income, deduction, gain or loss from the Membership Interest, plus any additions or subtractions therefrom until closing.

(e) In order to reduce the burden upon the resources of the Company, the Company will have the option, to be exercised in writing and evidenced by a promissory note delivered at closing, to pay its purchase money obligation in 15 equal annual installments (or the remaining term of the Company if less than 15 years) with interest thereon at market rates, adjusted annually as the first day of each calendar year at the option of the Company. The term "market rates" will mean the rate of interest identified as the "prime rate" by the WALL STREET JOURNAL in its *Money Rates* column, or, if two rates are reported as the "prime rate," the average of the two. If Internal Revenue Code Sections 483 and 1274A apply to this transaction, the rate of interest of the purchase money obligation will be fixed at the rate of interest then required by law. The first installment of principal, with interest due thereon, will be due and payable on the first day of the calendar year following closing, and subsequent annual installments, with interest due thereon, will be due and payable, in order, on the first day of each calendar year which follows until the entire amount of the obligation, principal and interest, is fully paid. The Company will have the right to prepay all or any part of the purchase money obligation at any time without premium or penalty.

(f) The Managers may assign the Company's option to purchase to one or more of the remaining Members (this with the affirmative vote of the Member's owning a majority of the Membership Interests in the Company (excluding the Membership Interests of the Member or transferee whose interest is to be acquired), and when done, any rights or obligations imposed upon the Company will instead become, by substitution, the rights and obligations of the Member(s) who are assignees.

(g) Neither the transferee of an unauthorized transfer or the Member causing the transfer will have the right to vote during the prescribed option period or, if the option to purchase is timely exercised, until the sale is actually closed, and then only if any such assignee or transferee becomes a substitute Member in accordance with Section 6.04 hereinabove.

**ARTICLE VII.  
INDEMNIFICATION OF OFFICERS AND MANAGERS**

**Section 7.01 Definitions.** As used in this Article:

(a) "Indemnitee" means (i) any present or former Manager or officer of the Company, its affiliates, and their respective officers, directors, partners, employees, managers and/or agents; (ii) any person who while serving in any of the capacities referred to in clause (i) hereof served at the Company's request as a Manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise; and (iii) any person nominated or designated by (or pursuant to authority granted by) the Managers or any committee thereof to serve in any of the capacities referred to in clauses (i) or (ii) hereof.

(b) The terms "liability" and "reasonable expense" shall include, but shall not be limited to, legal fees and disbursements, amounts of judgments, fines or penalties against, and amounts paid in settlement by an Indemnitee.

(c) "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

**Section 7.02 Indemnification.** Subject to the provisions of the TBOC, to the fullest extent permitted by law and notwithstanding any other provision herein to the contrary, the Company shall indemnify every Indemnitee against any and all liability and reasonable expense that may be incurred by any Indemnitee in connection with or resulting from any Proceeding (whether brought by or in the right of the Company or otherwise) or in connection with an appeal relating thereto, in which the Company, its affiliates, or their respective managers, officers, directors, partners, employees and/or agents may have become involved as a party or otherwise arising from or in connection with (a) any activities of the Company, (b) the performance by the Indemnitee of any of his, her or its responsibilities, (c) the provisions of this Company Agreement, and/or (d) any acts by or omissions of the Indemnitee. In this regard, all reasonable attorney's fees and legal expenses incurred by or on behalf of the Indemnitee, its affiliates, or their respective managers, officers, directors, partners, employees and/or agents who were, are, or are threatened to be made a named defendant or respondent in a Proceeding shall be paid by the Company, without prior Court approval, as the same are incurred and in advance of the final disposition of any such Proceeding. This right to advance payment of reasonable attorney's fees and legal expenses shall be binding on the Company, regardless of the nature of the claims brought against the Indemnitee, regardless of the plaintiff's good faith or probable right of recovery, and regardless of the ability of the Indemnitee to pay such amount from his, her or its own resources or to satisfy a judgment for such amounts; provided, however, this right to advance payment shall not limit any the Company's right to

recover, either from the Indemnitee or its affiliate or their respective officers, directors, partners, employees, managers and/or agents, as applicable, paid on behalf of any such person if any cause of action for gross negligence, fraud, or willful misconduct is reduced to a final and non-appealable judgment against the Indemnitee, its affiliates, or their respective officers, directors, partners, employees, managers or agents, as applicable. The rights of indemnification provided for in this Section shall be in addition to any rights to which any such individual may be entitled as a matter of law or otherwise.

**Section 7.03 Employee Benefit Plans.** For purposes of this Article, the Company shall be deemed to have requested an Indemnitee to serve an employee benefit plan whenever the performance by him of his duties to the Company also imposes duties on or otherwise involves services by him to the plan or participants or beneficiaries of the plan. Excise taxes assessed on an Indemnitee with respect to an employee benefit plan pursuant to applicable law shall be deemed fines. Action taken or omitted by an Indemnitee with respect to an employee benefit plan in the performance of his duties for a purpose reasonably believed to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the Company.

**Section 7.04 Insurance.** The Company may purchase and maintain insurance or other arrangement on behalf of any person who is or was a manager, officer, employee or agent of the Company or who is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, limited liability company, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or any other enterprise against any liability asserted against him and incurred by him in such a capacity or arising out of his status as such a person, whether or not the Company would have the power to indemnify him against that liability under this Article. In the absence of fraud, the judgment of the Managers as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive and the insurance or arrangement shall not be voidable and shall not subject the Managers approving the insurance or arrangement to liability, on any ground, regardless of whether Managers participating in the approval are beneficiaries of the insurance or arrangement. The indemnification provided by this Article shall continue as to a person who has ceased to be in the capacity by reason of which he was an Indemnitee with respect to matters arising during the period he was in such capacity, and shall inure to the benefit of the heirs, executors and administrators of such a person.

**Section 7.05 Effect of Amendment.** No amendment, modification or repeal of this Article or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future manager or officer of the Company, its affiliates, and their respective officers, directors, partners, employees, managers and/or agents to be indemnified by the Company, nor the obligation of the Company to indemnify any such manager or officer, under and in accordance with the provisions of this Article as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

**Section 7.06 Continuing Offer Reliance, Etc.** The provisions of this Article (i) are for the benefit of, and to be enforced by, each Indemnitee of the Company, the same as if set forth in their entirety in a written instrument duly executed and delivered by the Company and such Indemnitee, and (ii) constitute a continuing offer to all present and future Indemnitees. The Company, by its adoption of this Company Agreement, (i) acknowledges and agrees that each Indemnitee of the Company has relied upon and will continue to rely upon the provisions of this Article in becoming, and serving in any of the

capacities referred to in Section 7.01(a), (ii) waives reliance upon, and all notices of acceptance of, such provisions by such Indemnitees, and (iii) acknowledges and agrees that no present or future Indemnitee shall be prejudiced in his right to enforce the provisions of this Article in accordance with their terms by any act or failure to act on the part of the Company.

## **ARTICLE VIII. CAPITAL CONTRIBUTIONS AND WITHDRAWALS**

**Section 8.01 Capital Contributions.** Each Member shall, upon admission to the Company in accordance with Section 6.05(a) or Section 6.05(b) hereof, make a Capital Contribution to the Company set forth in such Member's subscription agreement or the Company's organizational minutes of the managers, as applicable. Except as may be required by this Company Agreement or applicable law, or upon the written consent of all Members, the Members shall not have any obligation to make further contributions to the capital of the Company. Further, no Member shall be entitled to make additional contributions to the capital of the Company without the prior written consent of Members owning a majority of the Membership Interests of the Company. If any Member, with such prior written consent, makes additional Capital Contributions and such additional Capital Contributions are not made pro rata from all of the Members based upon their percentage Membership Interests, then the Members' percentage Membership Interest shall be adjusted accordingly based upon the gross asset value of said additional Capital Contributions and the gross asset value of the Company's assets as of date of any such additional Capital Contributions. Gross asset value shall mean the fair market value of any property, as fair market value is determined by the Managers using any reasonable method of valuation; provided, that the gross asset value of any asset shall be adjusted in accordance with the principles set forth in Sections 1.704-1(b)(2)(iv)(f),(g),(h) and (m) of the Treasury Regulations.

**Section 8.02 Withdrawal of Capital.** No Member shall have any right to withdraw or make a demand for withdrawal of any Member's Capital Contribution but shall only be entitled to distributions as provided herein.

**Section 8.03 Capital Accounts.** The Company shall maintain for each Member a Capital Account in accordance with the following rules:

(a) Balance. The balance of a Member's Capital Account shall be increased and decreased as follows:

(1) The balance of a Member's Capital Account shall be increased by (a) the amount of such Member's Capital Contribution to the Company and (b) the amount of Capital Account Gross Income that is allocated to such Member pursuant to this Company Agreement.

(2) The balance of a Member's Capital Account shall be decreased by (a) the amount of money and the Distribution Value of any property that the Company distributes to such Member and (b) the amount of Capital Account Deductions and expenditures of the Company described in Section 705(a)(2)(B) of the Code that is allocated to such Member pursuant to this Company Agreement.

(b) Adjustments for Unrealized Gain and Unrealized Loss. For purposes of computing and maintaining Capital Accounts pursuant to (a), immediately prior to the distribution of any property of the Company to a Member (including a distribution in liquidation of the Company), the amount of unrealized income or gain with respect to such property shall be deemed to be an item of Capital Account Gross Income recognized by the Company and shall be allocated to the Members as provided in Section 10.02, and the amount of unrealized loss or deduction with respect to such property shall be deemed to be an item of Capital Account Deduction recognized by the Company and shall be allocated to the Members as provided in Section 10.03. For purposes of this Subsection (b), the unrealized income or gain with respect to a property of the Company shall be equal to the excess of the fair market value of such property (taking Section 7701(g) of the Code into account) on the date of distribution over the adjusted tax basis of such property and the unrealized loss or deduction with respect to a property of the Company shall be equal to the adjusted tax basis of such property over the fair market value of such property (taking Section 7701(g) of the Code into account) on the date of distribution. For purposes of this Subsection (b), the fair market value of distributed property shall be determined by the Company using such reasonable method of valuation as it deems appropriate.

(c) Capital Accounts of Transferees. A transferee of a Membership Interest in the Company shall succeed to the Capital Account attributable to such Membership Interest, and there shall be no adjustment to the Capital Accounts as a result of such transfer; provided, however, that in the event the Company makes an election under Section 754 of the Code, appropriate adjustments pursuant to such Section shall be made to the Capital Account of each Member affected by such election; provided further, that if the transfer causes a termination of the Company pursuant to Section 708(b)(1)(B) of the Code, the assets of the Company shall be deemed to have been contributed to a new limited liability company in exchange for all of the membership interests therein and the new limited liability company shall be deemed to have been distributed to the Members and such assignee or transferee in proportion to their respective membership interests in the Company in liquidation of the Company, and thereupon recontributed by such Members and such assignee or transferee in reconstitution of the Company. The Capital Accounts of the Company following such deemed reconstitution shall be maintained in accordance with the principles of this Section.

(d) Compliance with Treasury Regulations. The Members intend that the terms of this Company Agreement with respect to the computation and maintenance of Capital Accounts comply in all respects with the provisions of Section 1.704-1(b)(2)(iv) of the Treasury Regulations. Notwithstanding any other provision of this Company Agreement, (1) the Company shall make all adjustments to the Capital Accounts required by Section 1.704-1(b)(2)(iv) of the Treasury Regulations and (2) if at any time during the term of the Company it shall be determined by the Company that the Capital Accounts have not been computed and maintained in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations, the Capital Accounts shall be retroactively adjusted so that they are computed and maintained in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

(e) Transfer of Membership Interests. On the transfer of all or part of a Membership Interest, the Capital Account of the transferor that is attributable to the transferred Membership Interest or part thereof shall carry over to the transferee in accordance with the provisions of Treas. Reg. 1.704-1(b)(2)(iv)(1).

**Section 8.04 No Interest on Capital Contributions.** No interest shall be paid on any Capital Contribution.

**ARTICLE IX.  
BOOKS, FISCAL YEAR AND TAX MATTERS**

**Section 9.01 Books.** The Company shall maintain full and complete books and records at its principal office. The books of account shall be kept on such basis for accounting and tax purposes as the Company shall deem to be in the best interest of the Members. The Company shall adopt a fiscal year beginning on the first day of January and ending on the last day of December of each year.

**Section 9.02 Tax Matters Partner.** It is hereby agreed by all Members that the president of the Company shall be the "tax matters partner" for the Company as that term is defined in Section 6231(a)(7) of the Code. As the tax matters partner, the president of the Company shall be empowered to represent the Company and the Members, at Company expense, in any administrative or judicial proceeding involving the federal income tax liability of the Members resulting from Company activities.

**ARTICLE X.  
CASH DISTRIBUTIONS AND ALLOCATIONS OF INCOME AND LOSS**

**Section 10.01 Determination of Profit and Loss.** At the end of the fiscal year of the Company, or at the end of such intervening accounting period as the Company may select, all Company costs and revenues shall be determined and charged or credited, as the case may be, to the Members or assignees of a Member in accordance with the provisions of this Article.

**Section 10.02 Allocation of Profits.** After giving effect to the special allocations set forth in this Article, profits for any fiscal year shall be allocated among the Members in the following manner:

(a) First, to the Members to the extent of the excess of and in proportion to the cumulative losses allocated to the Members pursuant to Section 10.03 hereinbelow for all prior fiscal years, over the cumulative profits allocated pursuant to this Subsection (a) for all prior fiscal years;

(b) Second, one hundred percent (100%) to the Members in the ratio of their Membership Interests in the Company specified in Schedule A attached hereto, until the Members receive cumulative distributions pursuant to this Subsection (b) equal to their Invested Capital (as defined below);

(c) Third, to the Members in the ratio of their Membership Interests in the Company.

“Invested Capital” means, as to each Member, the sum of the Gross Asset Values of the aggregate Capital Contributions made to the Company by such Member, reduced by the aggregate distributions to such Member from the Company. Contributions to capital shall be added to Invested Capital and distributions shall be subtracted from Invested Capital. “Gross Asset Values” means, for any asset, the fair market value of any property (including with regard to contributed or distributed property), as fair market value is determined by the Managers using any reasonable method of valuation or, if such property is acquired by purchase by the Company, the fair market value shall be the adjusted tax basis of the property acquired; provided, that the Gross Asset Value of any asset shall be further adjusted in accordance with the principles set forth in Sections 1.704-1(b)(2)(iv)(f),(g),(h) and (m) of the Treasury Regulations. The Gross Asset Value shall mean, with respect to any asset contributed by a Member to the Company, the gross fair market value of such asset as of the date of said contribution to the Company, as determined by the Managers.

Notwithstanding the foregoing, all profits and losses from the operation of the Company and all tax credits as determined for federal income tax purposes shall be determined as of the close of the Company’s fiscal year and shall be allocated among the Members and assignees and transferees of a Membership Interest, and shall be credited or debited to their respective Capital Accounts in accordance with Treas. Reg. §1.704-1(b)(2)(iv), so as to ensure to the maximum extent possible (i) that such allocations satisfy the economic effect equivalence test of Treas. Reg. §1.704-1(b)(2)(ii)(i), and (ii) that all allocations of items that cannot have economic effect (including nonrecourse deductions) are allocated to the Members or assignees or transferees of a Membership Interest, as applicable, in accordance with each Member's or assignee's or transferee's interest in the Company, which, unless otherwise required by Section 704(b) and the Treasury Regulations promulgated thereunder, shall be in accordance with each Member's or assignee's or transferee's Membership Interest. The Managers may, as and when they deem necessary, amend this Section to comply with applicable provisions of federal tax law.

**Section 10.03 Allocation of Losses.** After giving effect to the special allocations set forth in this Article, losses for any fiscal year shall be allocated among the Members in the following manner:

(a) First, to the Members to the extent of the excess of and in proportion to the cumulative profits allocated to the Members pursuant to Section 10.02 hereinabove for all prior years, over the cumulative losses allocated pursuant to this Subsection (a) for all prior fiscal years; and

(b) Second, to the Members in the ratio of their Membership Interests in the Company specified in Schedule A (or any subsequent amendments thereto) subject to the limitations set forth in (c) hereinbelow.

(c) Notwithstanding the foregoing, losses allocated pursuant to (a) and (b) shall not exceed the maximum amount of losses that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit (as hereinafter defined) at the end of any fiscal year. In the event that some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of losses pursuant to (a) and (b), the limitation set forth in this Section shall be applied on a Member by Member basis so as to allocate the maximum permissible losses to each Member under Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations. As used in this Company Agreement, “Adjusted Capital Account Deficit” means, with respect to any Member,

the deficit balance, if any, in such Member's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments: (a) credit to such Capital Account any amounts which such Member is obligated to restore or is deemed to be obligated to restore pursuant to Section 1.704-2(g) or otherwise as required by the Section 704 Treasury Regulations; and (b) debit to such Capital Account any amounts described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations. The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations and shall be interpreted consistently therewith.

**Section 10.04 Amounts Withheld.** All amounts withheld pursuant to the Internal Revenue Code of 1986, as amended, or any provision of any state or local tax law with respect to any payment, distribution, or allocation to the Company, the Managers, or the Members shall be treated as amounts distributed to the Members pursuant to this Section for all purposes under this Company Agreement. The Managers are authorized to withhold from distributions, or with respect to allocations, to the Members and to pay over to any federal, state, or local government any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, or local law.

**Section 10.05 Special Limitation on Allocations; Qualified Income Offset.** Notwithstanding any provision in this Company Agreement to the contrary, no item of loss, deduction, credit or Code Section 705(a)(2)(B) expenditure shall be allocated to any Member or assignee or transferee of a Membership Interest to the extent that such allocation would result in or increase an Adjusted Capital Account Deficit with respect to such Member or assignee or transferee in excess of any limited dollar amount of such deficit balance that such Member is obligated to restore.

If any Member unexpectedly receives an adjustment, allocation or distribution which either results in or increases an Adjusted Capital Account Deficit, in excess of any dollar amount of such deficit balance that such Member or assignee or transferee of a Membership Interest is obligated or is deemed obligated to restore, then such Member or assignee or transferee shall be specially allocated items of income and gain in a manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible.

**Section 10.06 Section 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any Company Property pursuant to Section 734(b) or Section 743(b) of the Internal Revenue Code is required, pursuant to Section 1.704-1(b)(2)(iv)(m) of the Treasury Regulations, to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of such Company Property) or loss (if the adjustment decreases the basis of such Company Property), and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Treasury Regulations.

**Section 10.07 Tax Allocations.** In accordance with Section 704(c) of the Internal Revenue Code and the Treasury Regulations promulgated thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members using the "traditional method" set forth in Treas. Reg. § 1.704-3(b) to account for any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market value. In the event that the Gross Asset Value of any Company Property



is adjusted pursuant to this Company Agreement, subsequent allocations of income, gain, loss, and deduction with respect to such Company Property shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Section 704(c) of the Internal Revenue code and the Treasury Regulations promulgated thereunder.

It is intended that the allocations set forth in this Article effect an allocation for federal income tax purposes consistent with Section 704 of the Internal Revenue Code and comply with any limitations or restrictions therein. The Managers shall make the allocations pursuant to this Article in a manner consistent with Section 704 of the Internal Revenue Code.

An assignee of any Membership Interest shall receive federal and all relevant state Forms K-1 and report all income and loss on his, her or its income tax returns each year in accordance with Rev. Rul. 77-137, 1977-1 C.B. 178.

**Section 10.08 Allocations with Respect to Transferred Interests.** Unless otherwise required by the provisions of the Internal Revenue Code, if a Membership Interest in the Company is considered to have been transferred during any taxable year of the Company, all amounts attributable to such transferred Membership Interest through and including the effective date of said transfer shall be allocated to the assignor or transferor, and all amounts attributable to such transferred Membership Interest after the effective date of such transfer shall be allocated to the assignee or transferee. On the transfer of all or part of a Membership Interest, the Capital Account of the transferor that is attributable to the transferred Membership Interest or part thereof shall carry over to the assignee or transferee in accordance with the provisions of Treas. Reg. 1.704-1(b)(2)(iv)(1).

**Section 10.09 Minimum Gain Chargeback.** Except as otherwise provided in Section 1.704-2(f) of the Treasury Regulations, notwithstanding any other provision of this Article, if there is a net decrease in Minimum Gain (as defined in Sections 1.704-2(b)(2) and 1.704-2(d) of the Treasury Regulations) during any Company fiscal year and it is required for the allocations under this Article to have substantial economic effect, each Member shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Minimum Gain, determined in accordance with Section 1.704-2(g) of the Treasury Regulations. Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Treasury Regulations. This Section is intended to comply with the minimum gain chargeback requirements of Section 1.704-2(f) of the Treasury Regulations and shall be interpreted consistently therewith.

**Section 10.10 Distributions.** From time to time, the Managers will review the Company's accounts to determine whether cash distributions are appropriate. If the Managers, in their sole discretion, determine that cash distributions are appropriate, the Company will distribute to the Members cash funds, less reasonable reserves as determined by the Company, that may be distributed to the Members without violation of law; such funds will be distributed to the Members in the same proportions that the revenues giving rise to such funds were credited to the Members pursuant to this Article. No Member shall be entitled to any distribution until, in the sole discretion of the Managers of the Company, such distribution is actually made. The provisions of this Section shall not apply to distributions in liquidation of the Company.

Notwithstanding the provisions of this Section, if at any time distributions to a Member would create or increase an Adjusted Capital Account Deficit and if another Member has a positive Capital Account balance (after such Adjusted Capital Account Deficit and Capital Account balances have been adjusted to reflect the allocation of profits and losses pursuant to this Article, taking into account interim profits and losses for the period ending on or before such distribution), such Net Cash Flow shall be distributed first to the Member having a positive Capital Account balance in an amount equal to such positive balance, and the remaining Net Cash Flow, if any, shall be distributed in accordance with this Section. Further, no Member shall be entitled to any priority or preference over any other Member as to distributions pursuant to this Section, in respect to the return of such Member's contributed capital.

It is the intention of the Company that no distribution will be made to any Member to the extent that it is reasonably anticipated that such distribution will create a deficit in such Member's, or transferee or assignee of a Membership Interest of a Member's Capital Account (as determined at the end of the Company's taxable year after reducing such Capital Account in accordance with Treas. Reg. § 1.704-1(b)(2)(ii)(d)(4)-(6)) in excess of any limited dollar amount of such deficit balance which such Member is obligated to restore pursuant to Treas. Reg. § 1.704-1(b)(2)(ii)(d).

**Section 10.11 Single Member.** Notwithstanding the provisions set forth in this Article or otherwise in this Company Agreement, in the event that the Company's Membership Interests are owned by a single Member, then the Company may be taxed as a sole proprietorship for federal income tax purposes (unless the Company elects to be taxed as a corporation).

#### **ARTICLE XI. DISSOLUTION AND TERMINATION OF THE COMPANY**

Except as otherwise provided in this Company Agreement, no Member shall have the right to cause dissolution of the Company before the expiration of the term for which it is formed. The Company shall be dissolved only upon the first of the following to occur:

- (a) The expiration of the period, if any, fixed for the duration of the Company set forth in the Certificate of Formation; or
- (b) Written consent of all of the Members to dissolve.

#### **ARTICLE XII. LIQUIDATION AND LIQUIDATION DISTRIBUTIONS**

**Section 12.01 Liquidation.** In the event of the dissolution of the Company, the person responsible for liquidation the Company (as provided in Section 12.03 hereof) shall wind up the affairs of the Company and its assets shall be paid or transferred in the following order of priority:

- (a) payment of all liabilities of the Company (including liabilities to Members who are creditors [other than liabilities for distributions] and expenses incurred in liquidation of the Company), and the establishment of such reserves or cash escrow funds as the Managers shall deem necessary for the payment of unliquidated or contingent claims, or otherwise make adequate provision for payment and discharge thereof;

(b) to the Members (or assignees or transferees of a Membership Interests in the Company) in the ratio of their Membership Interests in the Company, until the Members have received cumulative distributions equal to the positive balances in their respective Capital Accounts (after taking into account all adjustments thereto required by the provisions of Section 8.03 and ARTICLE X as a result of the operations of the Company during its final accounting period, as a result of the sale or other disposition of assets of the Company in connection with the winding up and liquidation of the Company and as a result of any unrealized gain or unrealized loss inherent in assets of the Company to be distributed in kind); and

(c) to the Members (or assignees or transferees of a Membership Interest in the Company) in the ratio of their percentage ownership of Membership Interests in the Company.

**Section 12.02 Liquidating Distributions.** Upon the liquidation of the Membership Interest of a Member, liquidating distributions with respect thereto shall be made on or before the later of the end of the taxable year of the Company (determined without regard to Section 706(c)(2)(A) of the Code) in which such liquidation occurs or the 90th day after the date of such liquidation. For purposes of this Section, a liquidation of a Membership Interest shall be deemed to occur upon the earlier of (i) the date on which the Company is terminated pursuant to Section 708(b)(1) of the Code, (ii) the date on which the Company ceases to be a going concern or (iii) the date on which there is a liquidation of the Membership Interest within the meaning of Section 1.761-1(d) of the Treasury Regulations.

In connection with the termination and liquidation of the Company, the Managers may, but shall not be required to, sell all or any portion of the Company's assets. The Members and assignees and transferees of a Membership Interest in the Company, shall receive their respective shares of Company assets in cash or in kind, or both, and the portion of such shares that is received in cash may vary from Member to Member, as the Managers may determine, but subject to the order of priorities set forth in Section 12.01 hereinabove. Unless all of the Members agree on the value of the Company assets (as determined by the Managers), any property distributed in kind upon liquidation of the Company shall be valued on the basis of an independent appraisal obtained by the Managers and treated as though the Company assets had been sold and the cash proceeds distributed.

The Managers, in making or preparing to make a partial or final distribution, will have the authority to: (i) partition any asset or class of assets and deliver divided and segregated interests to Members (or their assignees); (ii) sell any asset or class of assets (whether or not susceptible to partition in kind), and deliver to the Members (or their assignees) a divided interest in the proceeds of sale and/or divided or undivided interests in any note and security arrangement taken as part of the purchase price; and/or (iii) deliver undivided interests in an asset or class of assets to the Members (or their assignees) subject to any indebtedness which may be secured by the property.

**Section 12.03 Winding Up.** On the dissolution of the Company, the Company's affairs shall be wound up as soon as reasonably practicable. The winding up shall be accomplished by the Managers, as liquidator, or the Managers may appoint one or more Members to act as liquidator. If there are no Managers, then the Members shall appoint one or more Members to act as liquidator. In addition, a court of competent jurisdiction, on cause shown, may wind up the Company's affairs on application of any Member or the Member's legal representative or assignee and, in connection with the winding up,

may appoint a person to carry out the liquidation and may make all other orders, directions, and inquiries that the circumstances require.

Upon the demand of any Member, the person responsible for liquidating the Company shall as promptly as possible after dissolution and upon final liquidation cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs and the liquidation is completed, as applicable.

### **ARTICLE XIII. CERTIFICATES REPRESENTING MEMBERSHIP INTERESTS**

**Section 13.01 Form of Certificates.** The Company may deliver certificates representing all Membership Interests to which Members are entitled. Certificates representing Membership Interests shall be in such form as shall be approved and adopted by the Managers and shall be entered in the books of the Company as they are issued. Each certificate shall state on the face thereof that the Company is organized as a limited liability company under the laws of the State of Texas, the name of the registered holder and the amount of or percentage of Membership Interests which said certificate represents. Each certificate shall also set forth on the back thereof, a full or summary statement of matters required by the TBOC or the Certificate of Formation to be described on certificates representing Membership Interests. Certificates shall be signed by the President and Secretary of the Company, or such Manager or other officer as shall be determined by the Managers. In case any Manager or officer who has signed, or whose facsimile signature or signatures have been used on such certificate or certificates, shall cease to be such Manager or officer of the Company, whether because of death, resignation or otherwise, before such certificate or certificates have been delivered by the Company or its agents, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed the certificate or certificates or whose facsimile signature or signatures have been used thereon had not ceased to be such Manager or officer of the Company.

**Section 13.02 Lost Certificates.** The Company may direct that a new certificate be issued in place of any certificate theretofore issued by the Company alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate to be lost or destroyed. When authorizing the issue of a new certificate, the Managers, in their discretion and as a condition precedent to the issuance thereof, may require the owner of the lost or destroyed certificate, or his legal representative, to advertise the same in such manner as it shall require and/or give the Company a bond in such form, in such sum, and with such surety or sureties as it may direct as indemnity against any claim that may be made against the Company with respect to the certificate alleged to have been lost or destroyed.

**Section 13.03 Transfer of Certificates.** Certificates representing Membership Interests shall be transferable only on the books of the Company by the holder thereof in person or by his duly authorized attorney. Subject to any restrictions on transfer set forth in this Company Agreement, or any agreement among Members to which the Company is a party or has notice, upon surrender to the Company or to the transfer agent of the Company of a certificate representing a Membership Interest duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Company or the transfer agent of the Company to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

**Section 13.04 Registered Holders.** The Company shall be entitled to recognize the holder of record of any certificate representing a Membership Interest as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such certificate on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law. The Managers may appoint one or more transfer agents or registrars of any class of Membership Interests of the Company. Unless and until such appointment is made, the Secretary of the Company shall maintain, among other records, a book reflecting Membership Interest of each Member of each class, if more than one class, containing the names and address and percentage interests of all Members, and whether or not such Membership Interests originate from original issues or from transfer. The names and addresses of Members as they appear on the book reflecting Membership Interest of each Member shall be the official list of Membership Interests of record of the Company for all purposes.

**Section 13.05 Subscriptions.** Unless otherwise provided in the subscription agreement, subscriptions for Membership Interests, whether made before or after organization of the Company, shall be paid in full at such time or in such installments and at such times as shall be determined by the Managers. Any call made by the Managers for payment on subscriptions shall be uniform as to all Membership Interests of the same class or as to all Membership Interests of the same series, as the case may be. In case of default in the payment on any installment or call when payment is due, the Company may proceed to collect the amount due in the same manner as any debt due to the Company.

**Section 13.06 Restriction on Transfer.** Any restrictions imposed by the Company on the sale or other disposition of its Membership Interests and on the transfer thereof must be noted conspicuously at length or in summary form on the face, or so copied on the back and referred to on the face, of each certificate representing the Membership Interests to which the restriction applies. The certificate may, however, state on the face or back that such a restriction exists pursuant to a specified document and that the Company will furnish a copy of the document to the holder of the certificate without charge upon written request to the Company at its principal place of business.

**Section 13.07 Classes and Series of Membership Interests; Preemptive Rights.** If the Certificate of Formation so provides, Membership Interests may be divided into one or more classes or series of Membership Interests, or both, with full, limited, or no voting rights, and with such other preferences, rights, privileges, and restrictions as are stated or authorized in the Certificate of Formation. All Membership Interests of any one class shall have the same voting rights, conversion, redemption, and other rights, preferences, privileges, and restrictions, unless the class is divided into series. If a class is divided into series, all the Membership Interests of any one series shall have the same voting rights, conversion, redemption, and other rights, preferences, privileges, and restrictions. There shall always be a class or series of Membership Interests outstanding that has complete voting rights except as limited or restricted by voting rights conferred on some other class or series of outstanding shares.

Unless prohibited by the Certificate of Formation, the members of the Company shall have preemptive rights to acquire additional or treasury Membership Interests of the Company, or securities of the Company convertible into or carrying a right to subscribe to or acquire Membership Interests.

If the Company is authorized to issue Membership Interests of more than one class, the certificate shall set forth, either on the face or back of the certificate, a full or summary statement of all of the designations, preferences, limitations, and/or relative rights of the Membership Interests of each class authorized to be issued. If the Company is authorized to issue any preferred or special class in series, the statement must set forth the variations among the relative rights and preferences of the Membership

Interests of each such series so far as the same have been fixed and determined, and the authority of the Managers to fix and determine the relative rights and preferences of any subsequent series. In lieu of providing such a statement in full on the certificate, a statement on the face or back of the certificate may provide that the Company will furnish this information to any Member without charge upon written request to the Company at its principal place of business or registered office and that copies of the information are on file in the office of the Secretary of State.

**Section 13.08 Liens.** The Company shall have a first and prior lien on all Membership Interests and upon all distributions being declared upon the same for any indebtedness of the respective holders thereof to the Company.

#### **ARTICLE XIV. TERM**

The Company will continue for a period ending the earlier of (i) the term of the Company provided in the Certificate of Formation of the Company, (ii) the date on which the Company is dissolved upon the happening of the events set forth in ARTICLE XI, or (iii) the date on which the Company is dissolved by operation of law or judicial decree.

#### **ARTICLE XV. GENERAL PROVISIONS**

**Section 15.01 Name.** All Company business must be conducted in the name of the Company or such other names that comply with applicable laws as the Managers may select from time to time.

**Section 15.02 Foreign Qualification.** Prior to the Company's conducting business in any jurisdiction other than Texas, the Managers shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Managers, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Managers, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Company Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

**Section 15.03 No State Law Partnership.** Any reference to the Members as partners for federal income tax purposes shall not constitute the Members as waiving the protection afforded by the TBOC, it being the intent of the parties to constitute themselves as a Texas Limited Liability Company and not any other entity, and this Company Agreement may not be construed to suggest otherwise.

**Section 15.04 Construction.** Whenever the context requires, the gender of all words used in this Company Agreement includes the masculine, feminine, and neuter.

**Section 15.05 Invalid Provisions.** If any part of this Company Agreement shall be held invalid or inoperative for any reason, the remaining parts, so far as possible and reasonable, shall be valid and operative.

**Section 15.06 Headings.** The headings used in this Company Agreement have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

**Section 15.07 Governing Law.** In the absence of any specific provision in this Company Agreement with respect to any matter, reference is here made to the TBOC and other corporation laws of the State of Texas governing the existence and operation of this Company.

**Section 15.08 Amendments.** This Company Agreement may be altered, amended, modified or repealed, or a new Company Agreement may be adopted at any annual meeting of the Members or at any special meeting of the Members at which a quorum is present or represented, provided that notice of the proposed alteration or repeal is contained in the notice of such special meeting, by the affirmative vote of Members owning a majority of the Membership Interests entitled to vote at such meeting and present or represented thereat.

## **ARTICLE XVI. DEFINITIONS**

**Section 16.01 Arbitration.** The Members expressly agree that the Manager shall have the right (as determined by the Manager in its sole and absolute discretion), but not the obligation, to submit any dispute, difference, question, controversy or claim arising out of these Regulations or out of agreements or other documents implementing these Regulations between the Members or out of or relating to the Manager's performance of his, her or its duties, to binding arbitration conducted exclusively in either Dallas County, Texas in accordance with the rules as then in effect of the America Arbitration Association; provided that the arbitrator shall comply with the Federal Rules of Civil Procedure. In this regard, each Member expressly waives any right to trial by a court or trial by a jury. If a dissolution proceeding or declaratory judgment proceeding is filed in Texas, the Members expressly agree that the arbitrator appointed by the Manager pursuant to this Section shall simultaneously be designated as special master under the Texas Rules of Civil Procedure, and the Members agree to jointly apply to the court for any orders that are necessary to vest said arbitrator with all powers and authority of a special master under the rules. The Members agree that an arbitrator shall be selected by the Manager (as selected in its sole and absolute discretion), and said arbitrator's decision shall be binding in all respects. Any arbitrator appointed by the Manager must be an attorney whose has undergone arbitration training and who is in good standing with the State Bar of Texas. Subject to Section 7.02 hereinabove, the award of the arbitrator will be binding and conclusive on all of the Members, and a judgment setting forth the arbitration award may be entered in and enforced by any court of competent jurisdiction. The prevailing party in any dispute shall be entitled to recover the costs of such arbitration (including, without way of limitation, reasonable fees and expenses of counsel and experts for the prevailing party and all costs to enforce or preserve the rights awarded in the arbitration).

**Section 16.02 Capital Account.** With respect to each Member or assignees of a Member, the account computed and maintained for such Member or assignee pursuant to Section 8.03.

**Section 16.03 Capital Account Deduction.** For any taxable year of the Company, each item of deduction or loss of the Company for such taxable year, determined in the same manner as such item of deduction or loss is determined for federal income tax purposes.

**Section 16.04 Capital Account Gross Income.** For any taxable year of the Company, each item of gross income of the Company for such taxable year, determined in the same manner as such item of gross income is determined for federal income tax purposes, except any income received by the Company that is exempt from federal income tax shall be included.

**Section 16.05 Capital Contribution.** The amount of money or property contributed or agreed to be contributed to the capital of the Company by a Member (as set forth in the applicable subscription agreement (if any) or Company resolutions). In the case of a contribution of property to the Company by the Member, the Capital Contribution of the Member shall be deemed to be the fair market value (determined without regard to Section 7701(g) of the Code) of such property at the time of contribution (net of liabilities secured by such contributed property that the Company assumes or takes subject to or in connection with such contribution), as set forth in such person's subscription agreement in the case of a person acquiring a Membership Interest in the Company, or as determined by the Company using such reasonable method of valuation as it deems appropriate in the case of a Member making an additional Capital Contribution.

**Section 16.06 Code.** The Internal Revenue Code of 1986, as the same may be amended from time to time. All references herein to sections of the Code shall include any corresponding provision or provisions of succeeding law.

**Section 16.07 Company.** Clancy Utility Holdings, LLC, a Texas limited liability company, as such limited liability company may from time to time be constituted.

**Section 16.08 Distribution Value.** With respect to any property distributed to a Member or assignee of a Member, as applicable, by the Company, the fair market value (determined without regard to Section 7701(g) of the Code) of such property at the time of distribution (net of liabilities secured by such distributed property that such Member assumes or takes subject to in connection with such distribution), as determined by the Company using such reasonable method of valuation as it deems appropriate.

**Section 16.09 Member.** Any person or entity who is admitted to the Company as a Member or an assignee thereof who has been admitted to the Company as a Member as set forth in ARTICLE VI hereof.

**Section 16.10 Membership Interest.** The interest of a Member in the Company acquired either from the Company or as from an existing Member pursuant to ARTICLE VI hereinabove.

**Section 16.11 Subscription Agreement.** The subscription agreement (if any) pursuant to which a Member subscribes to purchase a Membership Interest in the Company.

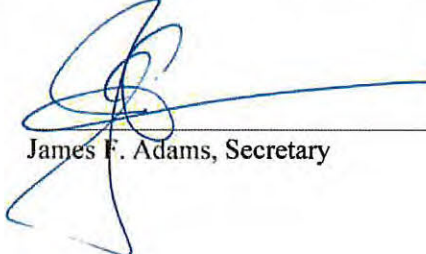
**Section 16.12 TBOC.** The Texas Business Organizations Code, as the same may be amended from time to time. All references herein to the TBOC shall include any corresponding provision or provisions of succeeding law.

**Section 16.13 Treasury Regulations.** The regulations promulgated by the United States Department of the Treasury pursuant to and in respect of provisions of the Code. All references herein to sections of the Treasury Regulations shall include any corresponding provision or provisions of succeeding, similar, substitute, proposed or final Treasury Regulations.



**CERTIFICATE OF ADOPTION**

The undersigned, Secretary of **Clancy Utility Holdings, LLC**, hereby certifies that the foregoing Company Agreement was duly adopted by a written consent of the Manager of the Company, dated effective as of the 23<sup>rd</sup> day of June, 2020.



James F. Adams, Secretary

## **Addendum C**

### APPLICANT'S WATER CONSERVATION PLAN

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# WATER CONSERVATION PLAN

for

## Mirasol Firm Water Contract

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September, 2020

Prepared for:

Clancy Utility Holdings, LLC  
4143 Maple Avenue Street, Suite 400  
Dallas, Texas 75219

Prepared by:

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**APPLICANT INFORMATION**

Applicant Name: Clancy Utility Holdings, LLC

Address: 4143 Maple Avenue Street, Suite 400 Dallas, Texas 75219

Telephone Number: (214)301-4253

Application Prepared by: Dennis Lozano, P.E.

Title: Engineer

Signature: 

Date: 4-2-20

**UTILITY PROFILE**

The proposed Mirasol service area is an approximately 1,400-acre (2.19 square mile) mixed used development located in southwestern Travis County and northern Hays County approximately 25 miles west of downtown Austin. The development is proposed to have single-family residential connections along with supporting and associated recreational, research, and conservation amenity uses for a total living unit equivalent (LUE) count of 216.

Please note that Table A is not applicable and has not been included due to the fact that the development has not been constructed and has no connections and therefore has no historical use.

Due to the mixed-use nature of this development, Living Unit Equivalent (LUEs) have been used to estimate the projected water demand in lieu of population since water demand will be generated by more than just the permanent population. An LUE is defined as a single-family residence inhabited by 3.5 persons. By using conversion factors, water usage by entities such as restaurants and hotels can be directly combined and projected with single-family residences. It is estimated that there will be approximately 216 LUEs at full build-out. The development is expected to grow at 9% per year with a projected completion year of 2030.

Table 1 provides developer-projected estimates of population.

**Table 1: Projected Population**

Year	Estimated LUEs
2020	20
2030 (full build-out)	216

According to the American Water Works Association Manual of Water Supply Practice, M22, 2014 the per capita water use is expected to be 39 gallons per person per day and 175 gallons per LUE per day. However, the State of Texas has regulatory authority over public water systems (PWSs) which is administrated by the Texas Commission on Environmental Quality (TCEQ). Minimum criteria for PWSs require a minimum water supply of 0.6 gpm/connection. Balancing guidance and regulation and factoring in the seasonal nature of water system demands, the projected full built out demand recommends a contractual Maximum Annual Quantity (MAQ) of 108 ac-ft.

The water distribution system will consist of typical pipes, valves, fire hydrants, and connections designed and specified in accordance with TCEQ rules for PWSs as well as standard engineering practice.

A portion of the entire service area will be provided wastewater service by the District via a wastewater treatment plant designed for 30,000 gallons per day.

## **WATER CONSERVATION GOALS**

Water conservation goals will be established once baseline data is available for comparison.

## **WATER CONSERVATION MEASURES**

1. Mirasol Meadows will test and calibrate production (master) meters to within the accuracy of plus or minus 5%, as well as all meters over 1" in size at intervals not to exceed one year. Meters smaller than 1" will be tested and replaced according to manufacturer recommendations.
2. All connections, including any temporary connections, to the water distribution system shall be metered. All meters will be tested and replaced as necessary, in accordance with manufacturer recommendations.
3. The contracted water system operator shall be required to conduct water loss audits in accordance with all applicable laws.
4. Continuing education and information on water conservation will be provided by Mirasol Meadows to its customers primarily via informational material included in monthly retail billings.
5. The rate structure includes a base monthly cost and graduated volumetric rates that increase with usage in order to encourage conservation. The billing system is capable of separating water-use per customer type into the following categories: residential, commercial, hydrant, tracking, and reclaimed.
6. The primary means of implementation and enforcement shall be contractual, via the retail water service agreement each customer will be required to execute prior to service. Additionally, the Water Conservation Plan will be adopted by the Board of Directors and established as official policy along with the service rates and impact fees.
7. Mirasol will coordinate with the Lower Colorado Region (Region K) of the Lower Colorado Regional Water Planning Group to ensure consistency with the letter and intent of the regional water plans. Once this Water Conservation Plan is approved by the LCRA and adopted by Mirasol Meadows, a copy will be made available to the Region K Planning Group.

## CONSERVATION LANDSCAPE BEST MANAGEMENT PRACTICES

### Planting Specifications:

1. Landscape Option: Builders shall offer homeowners a conservation landscape package such as the LCRA Hill Country Landscape Option (HCLO) which includes only plants selected from Central Texas native and adapted plant list such as the Grow Green Native and Adapted Landscape Plants Guide (available at [www.austintexas.gov/department/grow-green](http://www.austintexas.gov/department/grow-green)) or other native plant source.
2. Turf Selection: Turf that is used as part of the landscape package shall be the appropriate variety for the site location and intended use (see below).

Variety	Drought Tolerance	Shade Tolerance	Heat Tolerance	Wear Tolerance	Water Tolerance	Growing Height
Bermuda (Common and Hybrid)	Good	Poor	Good	Excellent	Medium	½ - 2 inches
Zoysia (Japonica)	Fair	Fair (JaMur)	Good	Good	Medium	¾ - 2 inches
Buffalo (Prairie or 609)	Excellent	Poor	Excellent	Good	Low	3 – 8 inches
St. Augustine	Fair	Good	Fair	Fair	High	2 – 3 inches

3. Invasive Plants: Plants considered to be invasive or environmentally detrimental shall not be used. For a list of invasive plants to Central Texas and their alternatives, reference the Grow Green Native and Adapted Landscape Plants Guide.
4. Turf Limitation: In new homes, no more than 50 percent of the landscape may be planted in turf.

### Soil Specifications:

1. Soil Depth: All irrigated and newly planted turf areas will have a minimum settled soil depth of at least 6 - 8 inches:
  - a. builders and owners will import soil if needed to achieve sufficient soil depth;
  - b. soil in these areas may be either native soil from the site or imported, improved soil;
  - c. improved soil shall have a minimum organic content of 5 percent or will be an amended mix of no less than twenty percent compost blended with sand and loam (caliche shall not be considered as soil);
  - d. undisturbed, non-irrigated natural areas are exempt from these requirements.
2. Soil in new developments:
  - a. native soil shall be stockpiled and reused on site;



- b. topsoil that is added to the site shall be incorporated in a 2 to 3 inch scarified transition layer to improve drainage.

**Irrigation System Installation, Design, and Maintenance Specifications:**

1. Irrigation systems: Landscape irrigation systems shall not be mandatory.
2. Installation: Irrigation systems, if installed, shall be designed, installed, inspected, and maintained according to TCEQ Chapter 344 Landscape Irrigation rules, as well as the following additional criteria:
  - a. New irrigation systems utilizing an automatic controller must be capable of (at minimum) the following functions:
    - i. Multiple irrigation programs, with at least three (3) start times per program; and
    - ii. The ability to limit irrigation frequency to a weekly schedule as well as once every seven (7) days and once every fourteen (14) days.
3. Spray Irrigation: Spray irrigation for each home/business shall be limited to 2.5 times the foundation footprint, with a 12,000 sq foot maximum. The footprint may include both the house and the garage, but not the driveway or patio.
4. Common areas: Irrigation systems for entryways and common areas shall incorporate design and conservation features applicable to lots within the subdivision. Drip irrigation in common areas will be used where feasible. Color-bed changes and turfgrass overseeding in common areas is prohibited

**Irrigation System Maintenance Specifications:**

1. Watering Schedule: The developer, builder and/or homeowner association shall promote a watering schedule for both residences and common areas which conserves water and reduces run-off, as follows:
  - June, July, August and September** – ½ inch of water no more than twice per week
  - March, April, May and October** – ½ inch of water once per week
  - November through February** – turn off irrigation system
2. Monitoring: Irrigation systems in common areas shall be monitored once per month, and any repairs will be made in a timely manner.
3. Time of Day Irrigation: Watering of common areas and residential landscapes shall be limited to the recommended time of day watering schedule (no watering between 10:00 AM and 7:00 PM) unless irrigation of reclaimed water during the day is necessary to meet regulatory requirements.

## **Addendum D**

### APPLICANT'S DROUGHT CONTINGENCY PLAN

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**DROUGHT CONTINGENCY PLAN**

**for**

**Mirasol  
Firm Water Contract**

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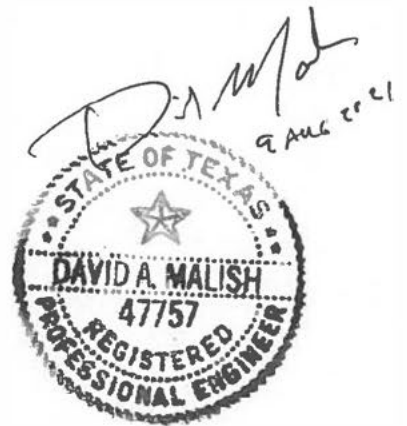
**September 2020**

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## **1.0 Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, Mirasol (the “District”) adopts the following Drought Contingency Plan (the “Plan”).

## **2.0 Authorization**

The designated manager or official of Mirasol is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The designated manager or official of Mirasol shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. This authorization was designated as part of the plan’s approval by the Mirasol Board of Directors.

## **3.0 Public Education**

The general manager of Mirasol will periodically provide its employees, members, and the general public with information about this Plan, including the importance of the Plan, information about the conditions under which each stage of the Plan is to be initiated, processes used to reduce water use, and impending or current drought conditions.

## **4.0 Coordination with Regional Planning Groups**

Mirasol has provided a copy of this Plan to the Lower Colorado Regional Planning Group (Region K).

## **5.0 Notice Requirements**

Mirasol shall notify the executive director of the Texas Commission on Environmental Quality and LCRA General Manager in writing within five (5) business days of the implementation of any mandatory provisions of the Drought Contingency Plan.

## **6.0 Permanent Water Use Restrictions**

The following restrictions apply to all of Mirasol water utility system on a year-round basis, regardless of water supply or water treatment plant production conditions. According to the restrictions, a water user must not:

- 1) Fail to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
- 2) Operate an irrigation system with:
  - a broken head;
  - a head that is out of adjustment and the arc of the spray head is over a street or parking area; or
  - a head that is fogging or misting because of excessive water pressure.
- 3) During irrigation, allow water:
  - to run off a property and form a stream of water in a street for a distance of 50 feet or greater; or
  - to pool in a street or parking lot to a depth greater than one-quarter of an inch.

## **7.0 Initiation and Termination of Response Stages**

The Mirasol general manager shall monitor water supply and demand conditions on a regular basis and shall determine when conditions warrant initiation and termination of each stage of this Plan in accordance with LCRA's Water Management Plan. Water supply conditions will be determined by the source of supply, system capacity, and weather conditions. Water demand will be measured by the peak daily demands on the system.

Public notification of the initiation or termination of drought response stages shall be by a variety of means, examples include: bill inserts, e-mail and automated telephone calls, signs posted at entry points to the service area or a combination of these methods.

The following triggering criteria shall apply to the Mirasol water utility system(s) and customer service area:

### ***7.1 Triggering Criteria for Initiation and Termination of Drought Response Stages***

#### **(1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)**

- A. **Requirements for initiation** - Customers shall be requested to adhere to the Stage 1 Drought Response Measures when one or a combination of such triggering criteria occurs:
  1. Treatment Capacity:
    - When total daily water demand equals or exceeds 80 percent of the total operating system treatment capacity for three consecutive days, or 85 percent on a single day.
  2. Water Supply:

- Combined storage of Lakes Travis and Buchanan reaches 1.4 million acre-feet in accordance with the LCRA Drought Contingency Plan for Firm Water Customers (DCP).

**B. Requirements for termination** - Stage 1 of the plan may be rescinded when:

1. Treatment Capacity:

- The water treatment plant capacity condition listed above as a triggering event for Stage 1 has ceased to exist for five consecutive days.

2. Water Supply:

- LCRA announces that voluntary restrictions by its firm raw water customers are no longer needed in accordance with the LCRA DCP.

**(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)**

**A. Requirements for initiation** - Customers shall be required to adhere to the Stage 2 Drought Response Measures when one or a combination of such triggering criteria occurs:

1. Treatment Capacity:

- For surface water systems, when total daily water demand equals or exceeds 93 percent of the total operating system treatment capacity for three consecutive days, or 95 percent on a single day.

2. Water Supply:

- Combined storage of Lakes Travis and Buchanan reaches 900,000 acre-feet in accordance with the LCRA DCP.

**B. Requirements for termination** - Stage 2 of the Plan may be rescinded when:

1. Treatment Capacity:

- The water treatment plant capacity condition listed above as a triggering event for Stage 2 has ceased to exist for five consecutive days.

2. Water Supply:

- LCRA announces that voluntary compliance to implement a utility's mandatory water restrictions are no longer needed in accordance with the LCRA DCP.

*Upon termination of Stage 2, Stage 1 becomes operative.*

**(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

- A. **Requirements for initiation** - Customers shall be required to adhere to the Stage 3 Drought Response Measures when one or a combination of such triggering criteria occurs:
1. Treatment Capacity:
    - For surface water systems, when total daily water demand equals or exceeds 95 percent of the total operating system treatment capacity for three consecutive days, or 97 percent on a single day.
  2. Water Supply:
    - Combined storage of Lakes Travis and Buchanan reaches 600,000 acre-feet, in accordance with the LCRA DCP, or
    - The LCRA Board declares a drought worse than the Drought of Record or other water supply emergency and orders the mandatory curtailment of firm water supplies.
- B. **Requirements for termination** - Stage 3 of the Plan may be rescinded when:
1. Treatment Capacity:
    - The water treatment plant capacity condition listed above as a triggering event for Stage 3 has ceased to exist for five consecutive days.
  2. Water Supply:
    - LCRA announces that mandatory water restrictions for firm water customers are no longer required in accordance with the LCRA DCP.

*Upon termination of Stage 3, Stage 2 becomes operative.*

#### **(4) STAGE 4- Emergency Water Conditions**

- A. **Requirements for initiation** - Customers shall be required to adhere to the Stage 4 Drought Response Measures when one or a combination of such triggering criteria occurs:
1. Treatment Capacity:
    - Major water line breaks, loss of distribution pressure, or pump system failures that cause substantial loss in its ability to provide water service.
  2. Water Supply:
    - Natural or man-made contamination of the water supply source; or
    - Any other emergency water supply or demand conditions that the LCRA general manager or the LCRA Board determines that either constitutes a water supply emergency or is associated with the LCRA Board declaration of a drought worse than the drought of record.



B. **Requirements for termination** - Stage 4 of the Plan may be rescinded when:

1. Treatment Capacity:
  - The water treatment plant capacity condition listed above as a triggering event for Stage 4 has ceased to exist for five consecutive days; or
2. Water Supply:
  - LCRA announces that mandatory water restrictions for firm water customers are no longer required in accordance with the LCRA DCP.

*Upon termination of Stage 4, Stage 3 becomes operative.*

## **8.0 Drought Response Measures**

### **8.1 Targets for Water-Use Reductions**

#### **(1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a 5% reduction in water use.

#### **(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a 10-20% reduction in water use.

#### **(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Limit daily water demand to no more than 80% capacity for three days or 85% for one day.

Water Supply Reduction Target: Achieve a minimum 20% reduction in water use.

#### **(4) STAGE 4 - Severe Water Shortage Conditions (Mandatory Measures)**

System Capacity Reduction Target: Achieve a minimum 30% reduction in water use.

Water Supply Reduction Target: As determined by the LCRA Board.

## 8.2 Retail Customers Measures

### (1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)

- A. Supply Management Measures: Mirasol will review system operations and identify ways to improve system efficiency and accountability.
- B. Demand Management Measures:
  - 1. Ask customers to voluntarily comply with the water-use restrictions outlined in Stage 2 of this plan, including watering landscapes no more than twice per week; and
  - 2. Actively promote drought related issues and the need to conserve.

### (2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)

- A. Supply Management Measures:
  - 1. Apply all water-use restrictions prescribed for Stage 2 of the plan for Mirasol's utility owned facilities and properties;
  - 2. Discontinue water main and line flushing unless necessary for public health reasons; and
  - 3. Keep customers informed about issues regarding current and projected water supply and demand conditions.
- B. Demand Management Measures: Under threat of penalty, the following water-use restrictions shall apply to all retail water customers:
  - 1. Irrigation of Landscaped Areas:
    - a. **If the combined water storage of lakes Buchanan and Travis are less than 900,000 AF but greater than 750,000 AF** - Irrigation of landscaped areas with hose-end sprinklers or in-ground irrigation systems shall be limited to a no more than a TWICE weekly watering schedule determined by Mirasol and based on the nature of the current drought or water emergency. Irrigation of commercial landscapes and recreational areas may apply for a variance but must still develop a schedule where no part of the landscape is watered more than twice per week. *See Appendix A - Mirasol Water System - Watering Schedules.*

- b. **If the combined water storage of lakes Buchanan and Travis are less than or equal to 750,000 AF** - Irrigation of landscaped areas with hose-end sprinklers or in-ground irrigation systems shall be limited to a no more than a TWICE weekly watering schedule with restricted hours as determined by Mirasol and based on the nature of the current drought or water emergency. *See Appendix A - Mirasol Water System - Watering Schedules.*
  
- c. Outdoor watering hours will be limited to between midnight and 10 a.m. and between 7 p.m. and midnight on designated days. This prohibition does not apply to irrigation of landscaped areas if it is by means of:
  - i. a hand-held hose; or
  - ii. a faucet-filled bucket or watering can of five gallons or less; or
  - iii. sub-surface drip irrigation.

- d. New landscapes may be installed and re-vegetation seeding performed under these specific criteria:
  - i. A completed variance form for new landscapes has been submitted to the Mirasol and has been approved prior to the installation of the landscape, or re-vegetation seed application
  - ii. Irrigation of the new landscape follows the schedule identified in the new landscape variance. The schedule will be developed to minimize water waste.
  - iii. Areas being re-vegetated for soil stabilization must also comply with the (i) and (ii) specific criteria above. Options for re-vegetation may be available in times of low water supply. Specific information regarding options is available in the LCRA Highland Lakes Watershed Ordinance Technical Manual.
  - iv. Variances for new landscapes may be issued for a period of no more than 30 days from the day of issuance. A variance is not an exemption from compliance with the permanent water use restrictions under Section 6.0 of this plan. Variances will not be granted for seasonal “color bed” or temporary grass installation (overseeding).

2. Vehicle Washing:

Use of water to wash any motor vehicle, such as a motorbike, boat, trailer, or airplane is prohibited except on designated watering days between the hours of midnight and 10 a.m. and between 7 p.m. and midnight. Such activity, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle. A vehicle may be washed any time at a commercial car wash facility or commercial service station. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

3. Pools:

- a. Filling of existing swimming pools, hot tubs, and wading pools, shall be discouraged and subject to a variance. Replenishing to maintenance level is permitted. Draining is permitted only onto pervious surfaces or onto a surface where water will be transmitted directly to a pervious surface, and only if:
  - i. Draining excess water from pool due to rain in order to lower water to maintenance level;
  - ii. Repairing, maintaining or replacing pool components that have become hazardous; or
  - iii. Repair of a pool leak.

b. Refilling of public/community swimming pools permitted only if pool has been drained for repairs, maintenance, or replacement as outlined in items above.

4. Outside Water Features:

Operation of outside water features, such as, but not limited to, fountains, splash pad type fountains or outdoor misting systems, is prohibited, except where such features are used to sustain aquatic life or maintain water quality. (This provision includes fountains associated with aesthetic ponds and swimming pools).

5. Ponds:

Ponds used for aesthetic, amenity, and/or storm water purposes may maintain water levels only necessary to preserve the integrity of the liner and operating system. Mirasol may request specific design documentation regarding a pond and the intended purpose.

6. Events:

Events involving the use of water such as: car washes, festivals, parties, water slides, and other activities involving the use of water are permitted, if the water being used drains to a recirculating device, or onto a pervious surface to prevent water waste.

7. Fire Hydrants:

Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed under special conditions and requires a meter; a variance application must be submitted with an explanation of the special conditions.

8. Recreational areas (includes parks and athletic fields):

The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering must follow a no more than twice per week schedule. A variance can be obtained if watering cannot be completed on the designated two day schedule.

11. Water Waste:

The following non-essential uses of water are prohibited at all times during periods in which restrictions have gone into effect:

- a. Washing sidewalks, walkways, driveways, parking lots, street, tennis courts, and other impervious surfaces is prohibited except for immediate health and safety;
- b. Washing buildings, houses or structures with a pressure washer or garden hose is prohibited for aesthetic purposes but allowable for surface preparation of maintenance work to be performed;
- c. Flushing gutters or flooding gutters is prohibited except for immediate health and safety; and
- d. Controlling dust is prohibited, unless there is a demonstrated need to do so for reasons of public health and safety, or as part of an approved construction plan.

**(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)**

- A. Supply Management Measures: In addition to measures implemented in the preceding stages of the plan, affected Mirasol water utility systems will explore additional emergency water supply options.
- B. Demand Management Measures: Under threat of penalty, all retail customers are required to further reduce non-essential water uses as follows. All requirements of Stage 2 shall remain in effect during Stage 3, with the following modifications and additions.
  1. Irrigation of Landscaped Areas:
    - a. Irrigation of landscaped areas, except with hand-held hoses, hand-held buckets, or sub-surface drip irrigation, is restricted to once per week. *See Appendix A - Mirasol Water System - Watering Schedules*
    - b. New landscapes may be installed and re-vegetation seeding performed under these specific criteria:
      - i. A completed variance form for new landscapes has been submitted to the Mirasol and has been approved prior to the installation of the landscape, or re-vegetation seed application
      - ii. Irrigation of the new landscape follows the schedule identified in the new landscape variance. The schedule will be developed to minimize water waste.

- iii. Areas being re-vegetated for soil stabilization must also comply with the (i) and (ii) specific criteria above. Options for re-vegetation may be available in times of low water supply. Specific information regarding options is available in the LCRA Highland Lakes Watershed Ordinance Technical Manual.
- iv. Variances for new landscapes may be issued for a period of no more than 30 days from the day of issuance. A variance is not an exemption from compliance with the permanent water use restrictions under Section 6.0 of this plan. Variances will not be granted for seasonal “color bed” or temporary grass installation (overseeding).

2. Vehicle Washing:

Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is prohibited. A vehicle can be washed at any time at a commercial car wash facility or commercial service station that recycles its water. Further, this activity is exempt from these regulations if the health, safety, and welfare of the public are served by washing the vehicle, such as a truck used to collect garbage or used to transport food and perishables.

3. Pools:

Installation of swimming pools is prohibited. The filling or replenishing of water to swimming pools, hot tubs, wading pools, and other types of pools is prohibited. Public/community swimming pools may be exempt from this prohibition to maintain safe levels of water quality for human contact.

4. Events:

Events involving the use of water such as: car washes; festivals; parties; water slides; and other activities involving the use of water are prohibited.

5. Recreational areas (includes parks and athletic fields):

The areas can only be used for designated or scheduled events or activities. Unnecessary foot traffic must be discouraged. Watering is prohibited except with a hand-held hose.

**(4) STAGE 4 - Emergency Water Conditions**

Under threat of penalty for violation, all retail customers are required to reduce nonessential water uses during an emergency. All requirements of Stages 1 through 3 are also in effect during stage 4, with the following modifications and additions:

- A. Irrigation of landscaped areas is prohibited.
- B. Use of water from fire hydrants shall be limited to firefighting and activities necessary to maintain public health, safety, and welfare only.
- C. No applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

*Upon declaration of Stage 4 - Emergency Water Conditions, water use restrictions outlined in Stage 4 Emergency Response Measures shall immediately apply.*

## **9.0 Enforcement**

### **9.1 Enforcement Provisions**

Appendix C contains the enforcement provisions applicable to all Mirasol water customers.

### **9.2 Variances**

- (1) Mirasol General Manager may grant variances:
  - A. From specific applications of the outdoor water schedule, providing that the variances do not increase the time allowed for watering but rather alter the schedule for watering; and
  - B. Allowing the use of alternative water sources (*i.e.*, ground water, reclaimed wastewater) that do not increase demand on potable water sources for outdoor use. Variance requests may be submitted to the General Manager and need not meet the requirements of subsection below.
- (2) The general manager, or his designee, may grant in writing temporary variances for existing water uses otherwise prohibited under this plan if it is determined that failure to do so would cause an emergency adversely affecting the public health, sanitation, or fire protection, and if one or more of the following conditions are met:
  - A. Compliance with this plan cannot be accomplished during the duration of the time the plan is in effect; or



- B. Alternative methods can be implemented that will achieve the same level of reduction in water use.
- (3) Persons requesting a variance from the provisions of this plan shall file a petition for variance with the Mirasol water utility system any time the plan or a particular drought response stage is in effect. The general manager or his designee will review petitions for variances. The petitions shall include the following:
- Name and address of the petitioner
  - Purpose of water use
  - Specific provision of the plan from which the petitioner is requesting relief.
  - Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm the petitioner or others will sustain if petitioner complies with this plan
  - Description of the relief requested
  - Period of time for which the variance is sought
  - Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date
  - Other pertinent information
- (4) Variances granted by a Mirasol water utility system shall be subject to the following conditions, unless waived or modified by the general manager, or his designee:
- A. Variances granted shall include a timetable for compliance.
- B. Variances granted shall expire when the plan, or its requirements, is no longer in effect, unless the petitioner has failed to meet specified requirements.
- (5) No variance shall be retroactive or otherwise excuse any violation occurring before the variance was issued.

### **9.3 Plan Updates**

The plan will be reviewed and updated as needed to meet both TCEQ and LCRA drought contingency plan rules.

## 10 Appendices

### ***Appendix A – Watering Schedules***

#### Mirasol Water System

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **TWICE per week** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays and Saturdays

Even number addresses: Thursdays and Sundays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays and Fridays

##### **Watering Hours:**

Midnight to 10 a.m. and 7 p.m. to midnight

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **TWICE per week with restricted hours** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays and Saturdays

Even number addresses: Thursdays and Sundays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays and Fridays

##### **Watering Hours:**

7 p.m. to midnight

Irrigate outdoors using an in-ground irrigation system or hose-end sprinkler no more than **ONCE per week** and only during scheduled days and times as indicated below:

##### **Residential**

Odd number addresses: Wednesdays

Even number addresses: Thursdays

**Commercial** (including large landscapes such as HOA common areas)

Tuesdays

**Watering Hours:**

Midnight to 10 a.m. and 7 p.m. to midnight

## ***Appendix B – Enforcement Provisions***

### **Enforcement for Retail Customers**

The following enforcement provisions shall apply to all Mirasol retail water customers:

- (1) No person shall knowingly or intentionally allow the use of water from the Mirasol water utility system for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time.
- (2) Any person who violates this plan shall be subject to the following surcharges and conditions of service:
  - A. Following the first documented violation, the violator shall be given a notice specifying the type of violation and the date and time it was observed. Surcharges and restrictions on service that may result from additional violations;
  - B. Following the second documented violation, the violator shall be sent by certified mail a notice of violation and shall be assessed a surcharge of \$50.00;
  - C. Following the third documented violation, the violator shall be sent by certified mail a notice of violation and shall be assessed a surcharge of \$75.00;
  - D. Following the fourth documented violation, Mirasol shall, upon due notice to the customer, discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$50.00, and any outstanding charges including late payment fees or penalties. In addition, suitable assurance must be given to Mirasol so that the same action shall not be repeated while the plan is in effect. Mirasol may apply the deposit to any surcharges or penalties subsequently assessed under this plan against a customer. The deposit, if any, shall be returned to the customer at the time of the customer's voluntary disconnection from the utility system.
- (3) Each day that one or more of the provisions in this plan is violated shall constitute a separate violation. Any person, including one classified as a water customer of Mirasol, in apparent control of the property where a violation occurs or originates, shall be presumed to be the violator. Any such person, however, shall have the right to show that they did not commit the violation. *See enforcement process diagram in Appendix C - Drought Response Retail Enforcement Process.*

## **Legal Authority applicable to Water Districts in Regard to Drought Contingency Plan Enforcement**

*Please note that the following list is not intended to be exhaustive and statutes listed below may not apply to all Water Districts. Citations below may change following the publication date of this Drought Contingency Plan Model. Each Water District is encouraged to consult with legal counsel in regard to enforcement of drought contingency plans and specific enforcement authority available to each Water District.*

Texas Water Code sec. 49.004

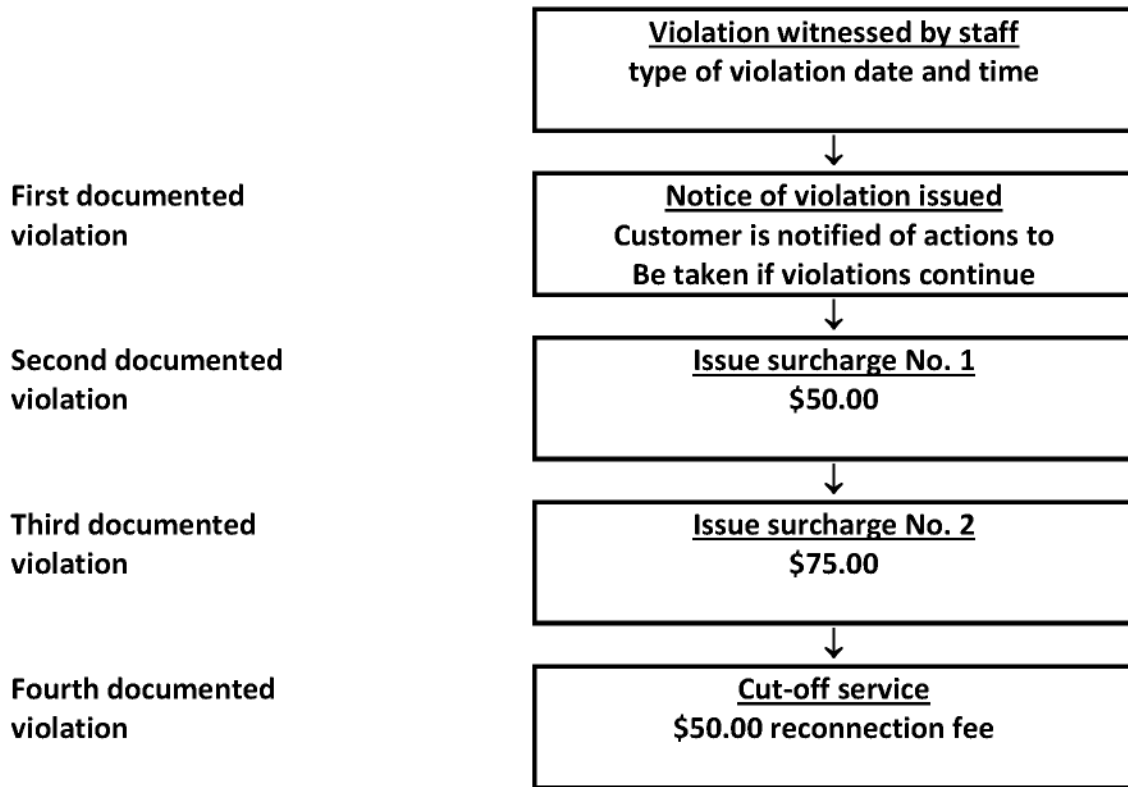
Texas Water Code sec. 49.2.12

Texas Water Code sec. 5.1.122

Texas Water Code sec. 54.205

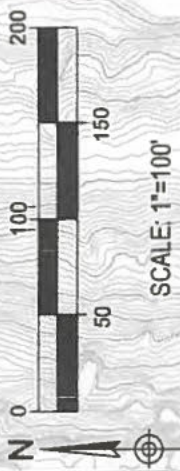
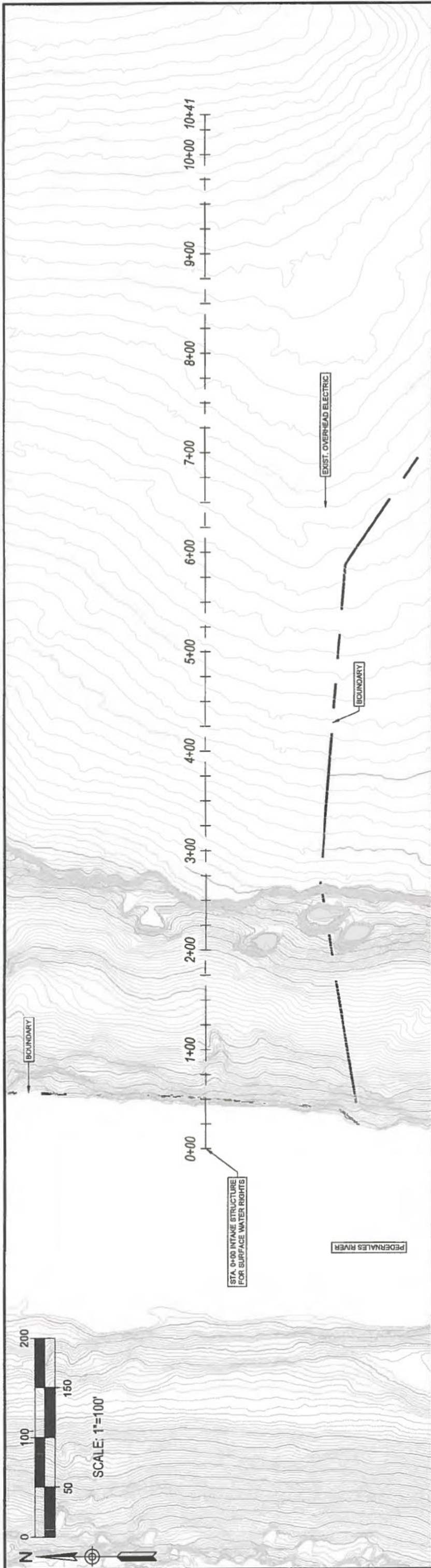
Texas Water Code sec. 65.205

**Appendix C – Drought Response Retail Enforcement**

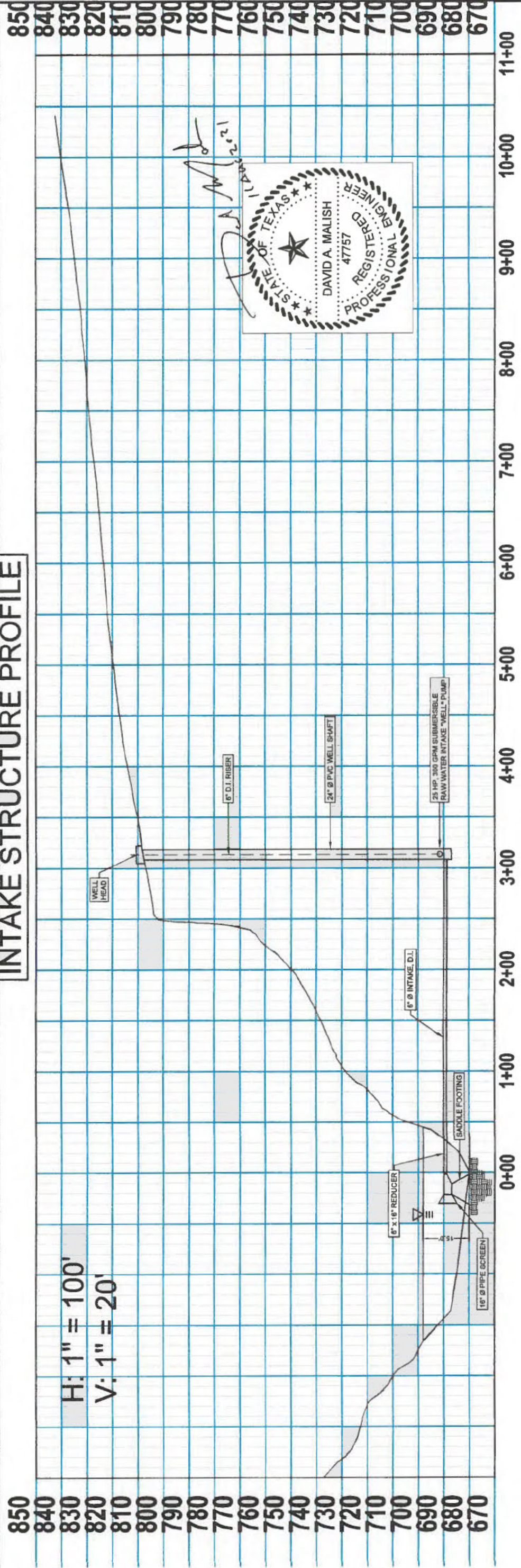


## **Addendum E**

### **APPLICANT'S PROPOSED INTAKE STRUCTURE & OFF-CHANNEL RESERVOIR**



**INTAKE STRUCTURE PROFILE**



**MIRASOL**  
INTAKE STRUCTURE  
PLAN AND PROFILE

**MEC**

Murfree Engineering Company  
Texas Registered Engineering Firm F-353  
1101 Capital of Texas Highway, South, Building D, Suite 110  
Austin, Texas 78746, (512) 327-5204

DATE: 8/11/2021	JOB NO. 20-001-10	SCALE: AS NOTED	CHECKED BY: DAM
DESIGNED BY: DAM	DRAWN BY: RLW	FILE: W:\Mirasol\Conceptual\MIRASOL-E-INTAKE-STRUCTURE-PP.dwg	

**PRELIMINARY DRAWING  
FOR PLANNING PURPOSES ONLY**



## **Addendum F**

### **PHOTOGRAPHS (UPSTREAM/DOWNSTREAM) OF APPLICANT'S PROPOSED DIVERSION POINT**





## **Addendum G**

COPY of TCEQ's Dam Safety Forms per 30 TAC Chapter 299

**PRELIMINARY DESIGN INFORMATION FOR OFF-CHANNEL POND  
SUBJECT TO UPDATING/REVISION IN FINAL POND DESIGN PROCESS**

**Texas Commission on Environmental Quality**

**INFORMATION SHEET: PROPOSED NEW CONSTRUCTION,  
MODIFICATION, REPAIR, ALTERATION, OR REMOVAL OF A DAM**

(PLEASE PRINT OR TYPE)

Reference 30 Texas Administrative Code, Chapter 299, Dams and Reservoirs

PLEASE CHECK ONE:  New  Modification  Repair  Removal  Alteration

**SECTION 1: OWNER INFORMATION**

Owner's Name Clancy Utility Holdings LLC Title Shaun Miller, President

Organization Clancy Utility Holdings LLC

I have authorized the submittal of the final construction plans and specifications to the TCEQ Dam Safety Program according to 30 FAC Chapter 299.

(Signature of Owner)

(Date)

Owner's Address 4143 Maple Ave.

City Dallas State Texas Zip Code 75219

Phone Number (214) 301-4255 Emergency Contact Phone (512) 422-1174 (Derek Russey)

Fax Number N/A E-mail smiller@winnfamily.org

Owner Code (Please check one):  Federal (F)  Local Government (L)  Utility (U)  Private (P)  State (S)

Other (O) please specify: \_\_\_\_\_

Dam and Reservoir Use (Please check one):  Augmentation  Diversion  Domestic  Erosion Control  Evaporation  
 Flood Control  Fire Control  Fish  Hydroelectric  Industrial  Irrigation  Mining  Municipal  Pollution  
Control  Recreation  Stock Water  Settling Ponds  Tailings  Waste Disposal  Other, please specify: \_\_\_\_\_

Engineering Firm Murfee Engineering Company (Texas Registered Firm No. F-353)

Project Engineer David A. Malish, P.E. Texas P.E. License Number 47757

Engineering Firm Address 1101 Capital of Texas Hwy., South, Building D, Suite 110

City Austin State Texas Zip Code 78746

Phone (512) 327-9204 Fax (512) 327-2947

E-mail davidm@murfee.com



**SECTION 2: GENERAL INFORMATION**

Name of Dam N/A

Other Name(s) of Dam N/A

Reservoir Name N/A

Location Mirasol Springs Ranch fka Norsworthy Ranch, Hays County, Texas

Latitude 30 19 48 Longitude 98 08 26

County Hays Stream Name N/A - off-channel

River Basin Colorado Topographic Map No. \_\_\_\_\_

Distance and Direction from Nearest City or Town 12.6 west of Bee Cave, TX

TX Number N/A - structure is proposed Water Rights Number N/A - water right is being applied for

*If you have questions on how to fill out this form or about the Dam Safety Program, please contact us at 512-239-5195. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512-239-3282.*

TCEQ-20345 (1/07)

**PRELIMINARY DESIGN INFORMATION FOR OFF-CHANNEL POND  
SUBJECT TO UPDATING/REVISION IN FINAL POND DESIGN PROCESS**

**SECTION 3: INFORMATION ON ~~DAM~~ Off-Channel Pond**

**Classification** *TBD based upon final ongoing design*

Size Classification:     Large     Medium     Small  
Hazard Classification:  High     Significant     Low  
Number of People at Risk \_\_\_\_\_ Study Year \_\_\_\_\_

**Type of Dam:**  Concrete     Gravity     Earthfill     Rockfill     Masonry     Other (specify)  
\_\_\_\_\_

**Dam Structure** (dimensions to nearest tenth of foot, volume to nearest acre-foot or cubic yard, areas to nearest acre):

Spillway Height No spillway \_\_\_\_\_ ft (natural surface of ground to bottom of emergency spillway at longitudinal centerline)  
Embankment Height 12 \_\_\_\_\_ ft (natural surface of ground to crest of dam at centerline)  
Structural Height 12 \_\_\_\_\_ ft (bottom of cutoff trench to crest of dam at centerline)  
Length of Dam 1000 \_\_\_\_\_ ft Crest Width 2 \_\_\_\_\_ ft  
Normal Pool Elevation 840 \_\_\_\_\_ ft-MSL Principal Spillway Elevation No spillway \_\_\_\_\_ ft-MSL  
Emergency Spillway Elevation No spillway \_\_\_\_\_ ft-MSL Top of Dam Elevation 842 \_\_\_\_\_ ft-MSL  
Embankment Volume 10,000 \_\_\_\_\_ cu yd  
Maximum Impoundment Capacity 15.9 \_\_\_\_\_ ac-ft (at top of dam)  
Normal Reservoir Capacity 10.7 \_\_\_\_\_ ac-ft (at normal or conservation pool)  
Reservoir Surface Area 2.5 \_\_\_\_\_ acres (at normal or conservation pool)

**Outlet** *N/A - Off-Channel Pond*

Outlet Diameter: 12" \_\_\_\_\_  $\sqrt{\text{in}}$   ft (check one)  
Type: Pipe w/Gate Valve \_\_\_\_\_

**Principal Spillway** *N/A - Off-Channel Pond*

Type:  Natural     Riprap     Concrete     CMP     RCP     Other  
Width (Diam.): \_\_\_\_\_ ft Capacity: \_\_\_\_\_ cfs

**Emergency Spillway** *N/A - Off-Channel Pond*

Type:  Natural     Riprap     Concrete     CMP     RCP     Other  
Width (Diam.): \_\_\_\_\_ ft Capacity: \_\_\_\_\_ cfs  
Total Spillway Capacity: \_\_\_\_\_ cfs (crest of the dam)

**SECTION 4: HYDROLOGIC INFORMATION** *N/A - Off-Channel Pond (TBD)*

Required Hydrologic Criteria (% PMF) \_\_\_\_\_ % PMF Passing \_\_\_\_\_  
PMF Study Year \_\_\_\_\_  
Drainage Area: \_\_\_\_\_ acres, or \_\_\_\_\_ sq mi  
Curve Number (AMC III condition) \_\_\_\_\_  
Time of Concentration \_\_\_\_\_ hr  
Peak Discharge \_\_\_\_\_ cfs  
Peak Stage \_\_\_\_\_ ft-MSL  
Storm Duration Causing Peak Stage \_\_\_\_\_ hr

**NOTE: SEE ATTACHED PAGES WITH PRELIMINARY DRAWINGS & LOCATION MAPS  
OF PROPOSED OFF-CHANNEL POND**

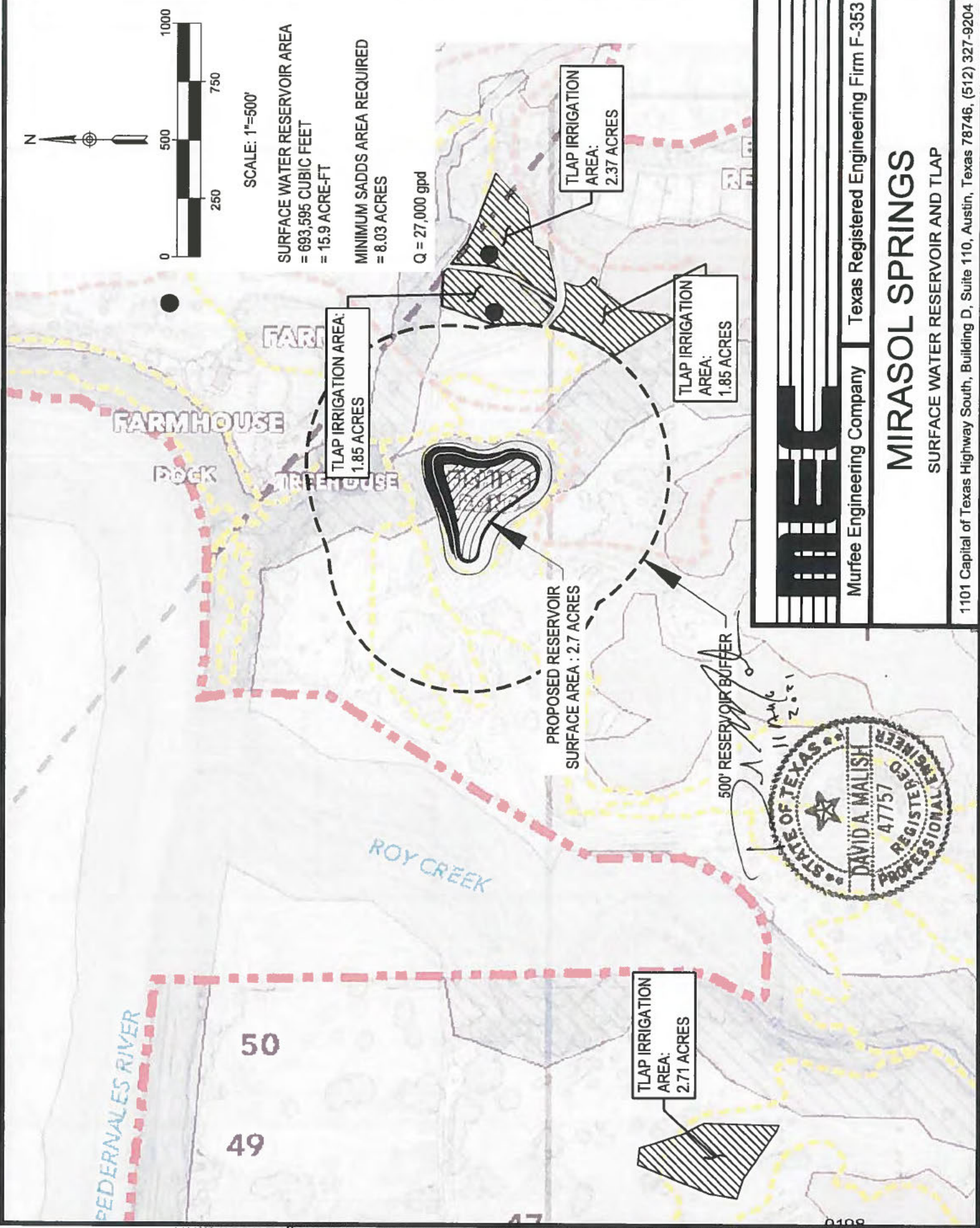


SCALE: 1"=500'

SURFACE WATER RESERVOIR AREA  
= 693,595 CUBIC FEET  
= 15.9 ACRE-FT

MINIMUM SADDLE AREA REQUIRED  
= 8.03 ACRES

Q = 27,000 gpd



TLAP IRRIGATION AREA:  
1.85 ACRES

TLAP IRRIGATION AREA:  
2.37 ACRES

TLAP IRRIGATION AREA:  
1.85 ACRES

PROPOSED RESERVOIR  
SURFACE AREA : 2.7 ACRES

500' RESERVOIR BUFFER

TLAP IRRIGATION AREA:  
2.71 ACRES

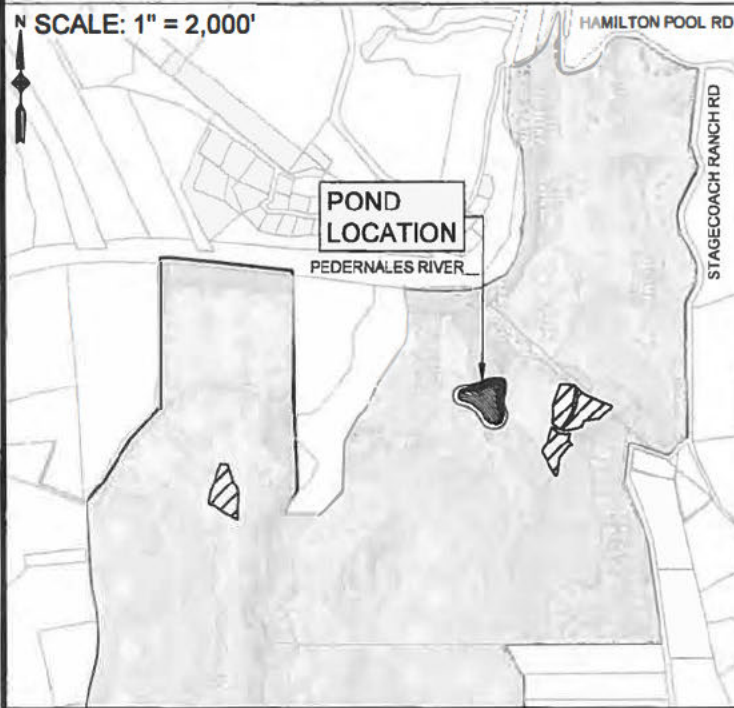
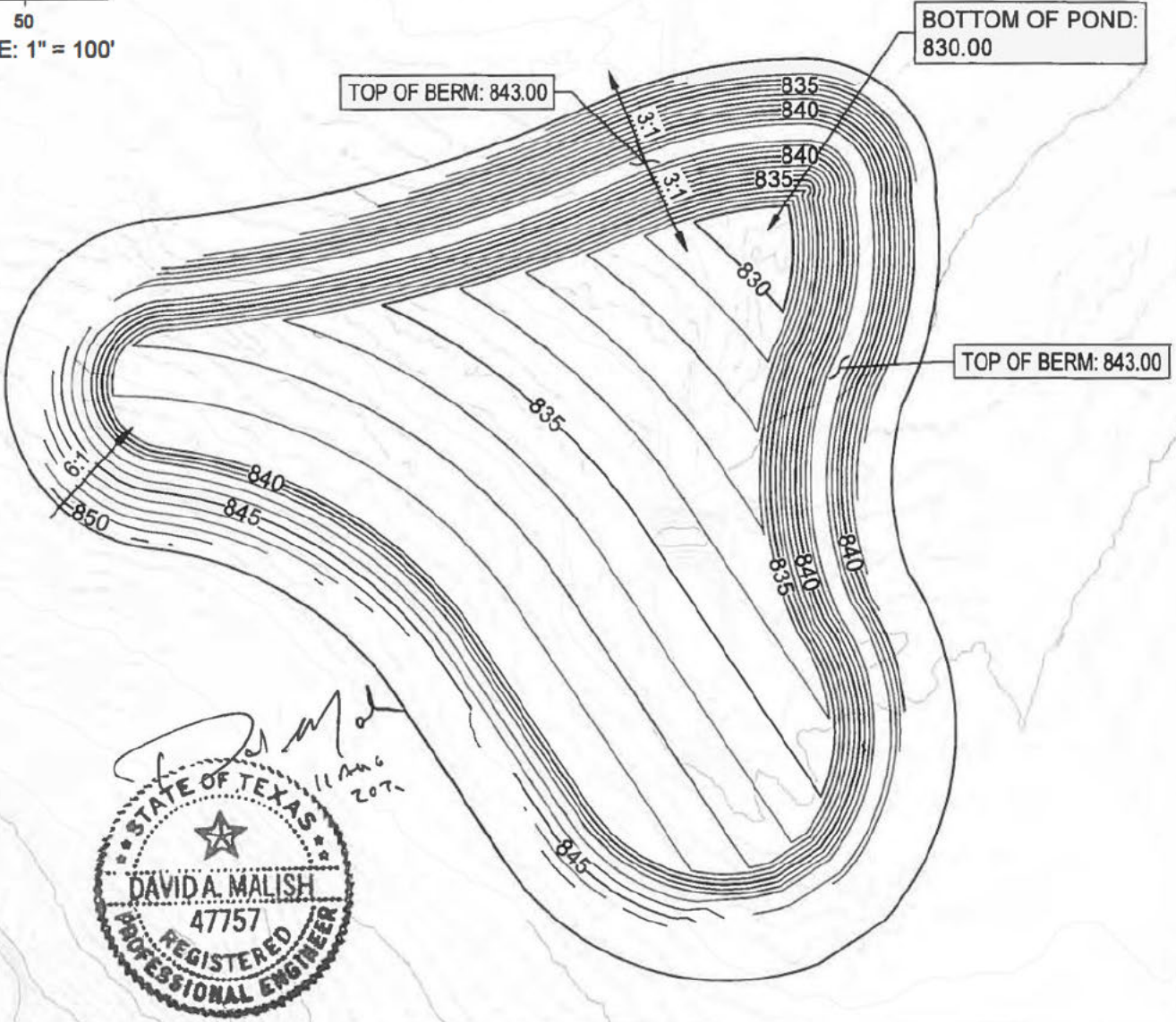
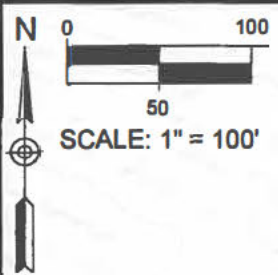


Murfree Engineering Company | Texas Registered Engineering Firm F-353

# MIRASOL SPRINGS

SURFACE WATER RESERVOIR AND TLAP

1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746, (512) 327-9204



**POND SURFACE AREA:  
2.7 ACRES**

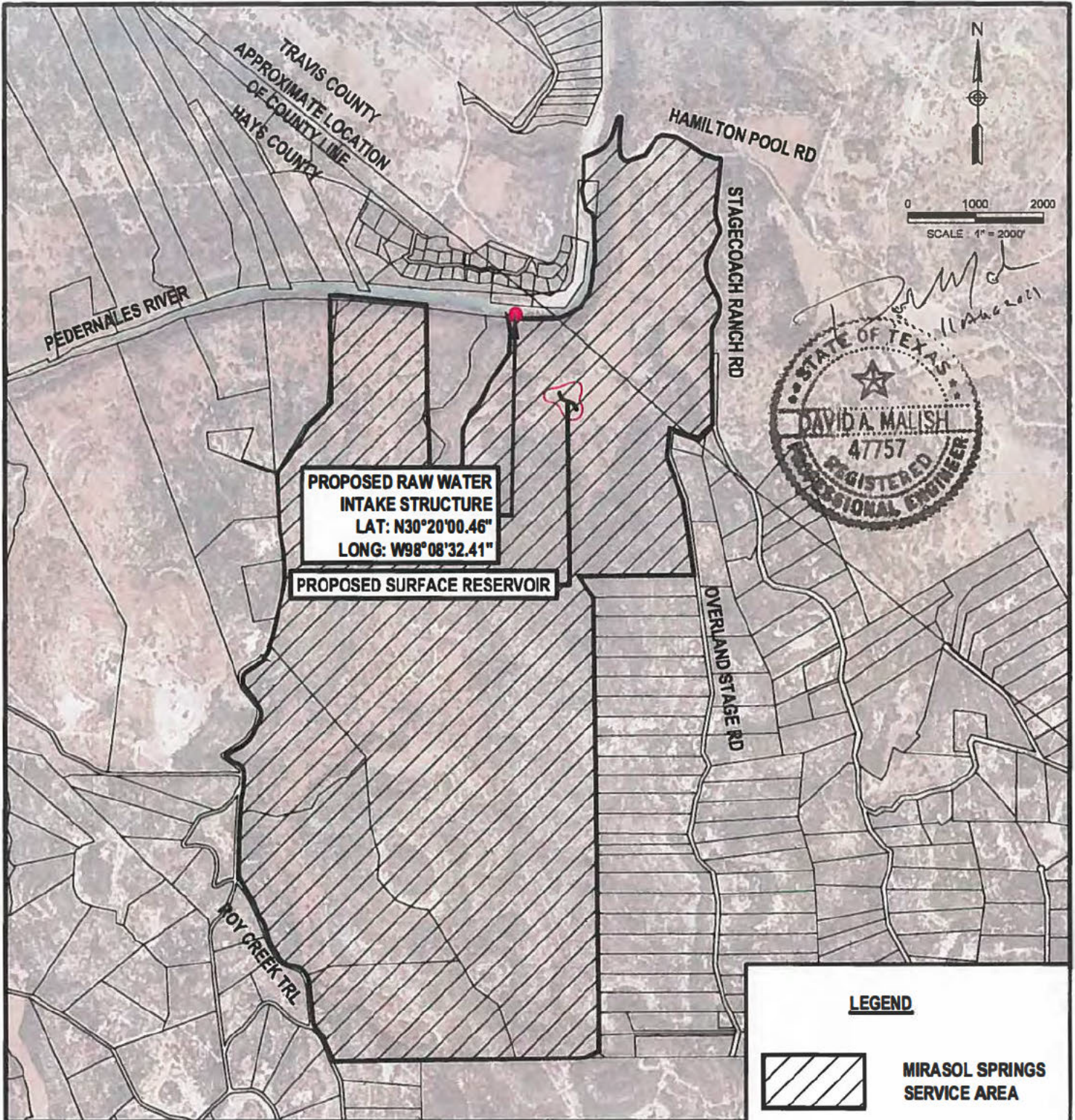


Murfee Engineering Company  
Texas Registered Engineering Firm F-353  
1101 Capital of Texas Highway South, Building D, Suite 110, Austin, Texas 78746, (512) 327-9204

**MIRASOL SPRINGS  
SURFACE WATER RESERVOIR**

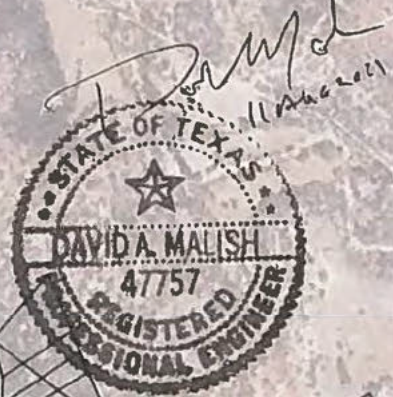
DATE: 6/2/2021	JOB NO. 19-011-21	SCALE: AS NOTED
DESIGNED BY: JFS	DRAWN BY: RLW	







**PROPOSED RAW WATER  
INTAKE STRUCTURE**  
 LAT: N30°20'00.46"  
 LONG: W98°08'32.41"

**PROPOSED SURFACE RESERVOIR**



**LEGEND**

	<b>MIRASOL SPRINGS SERVICE AREA</b>
	<b>PROPOSED RAW WATER INTAKE STRUCTURE</b>

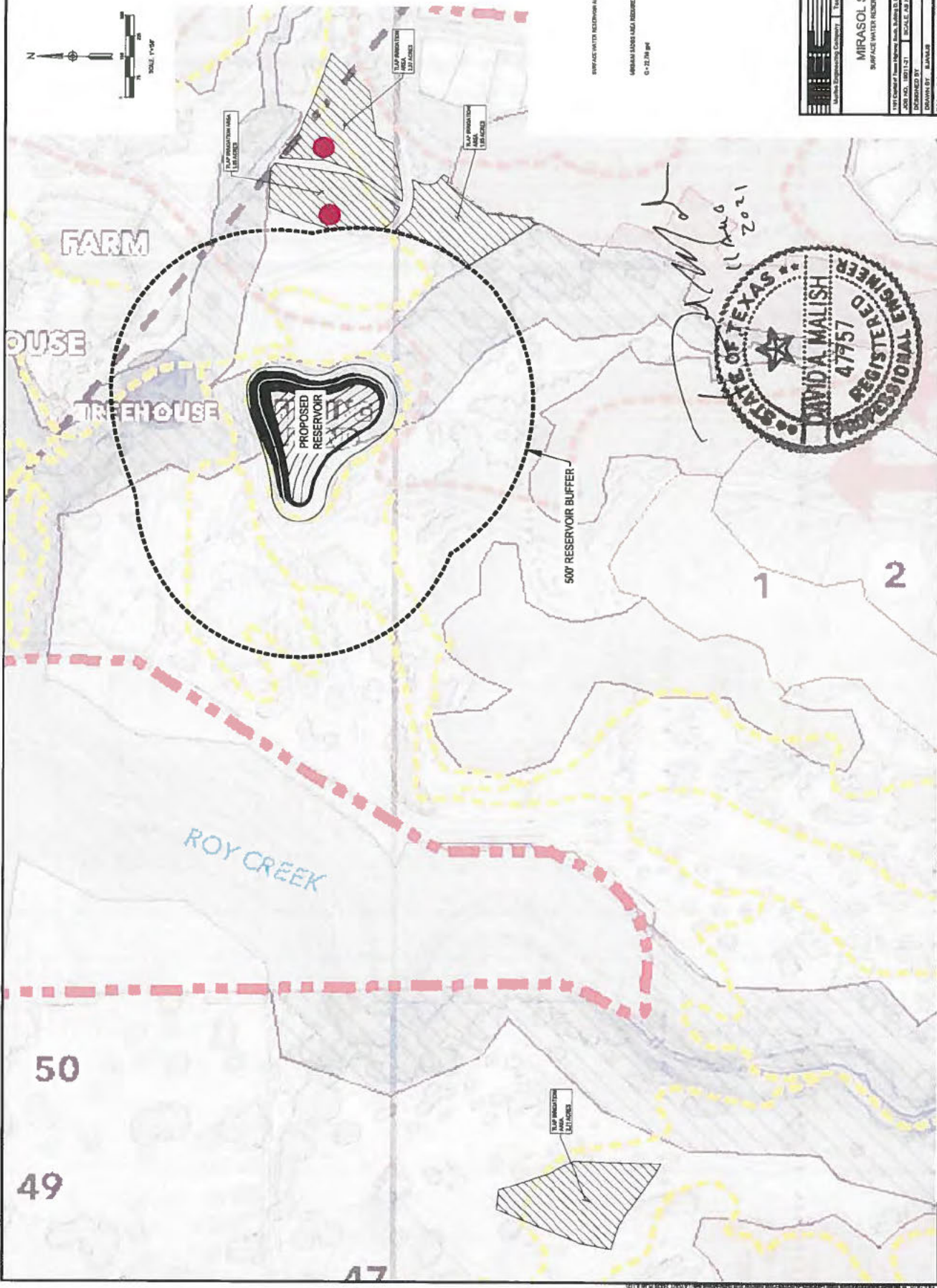
**MIRASOL SPRINGS FIRM WATER APPLICATION**  
 TRAVIS/HAYS COUNTY, TEXAS

**EXHIBIT B**  
 FUTURE POINT OF DIVERSION

DESIGNED BY: \_\_\_\_\_  
 DRAWN BY:           SJA            
 CHECKED BY:           DL            
 APPROVED BY: \_\_\_\_\_  
 DATE:           June 24, 2021          

**MEC**  
 MURFEE ENGINEERING COMPANY

1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
 BUILDING D, SUITE 110  
 AUSTIN, TEXAS 78746  
 (512) 327-9204  
 Texas Registered Engineer Firm 353  
 0200



SURFACE WATER RESERVOIR AREA - HELD AS OPEN SPACE  
- 13.1 ACRES  
LANDS TO BE ACQUIRED - 1.88 ACRES  
0-12-20-21

*David A. Malish*  
11 Feb 2021



Mirasol Engineering Company   Texas Registered Engineering Firm #2621	
MIRASOL SPRINGS	
SURFACE WATER RESERVOIR AND LAND PLAN	
1977 Capitol of Texas Highway, Suite 300, Austin, Texas 78704, 512.333.2222	PROJECT - 1 OF 1
JOB NO. 18071-21	SCALE: AS NOTED
DESIGNED BY: [blank]	DATE: 02/11/21
DRAWN BY: [blank]	DATE: 02/11/21

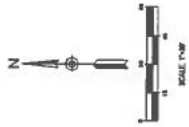
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49

47

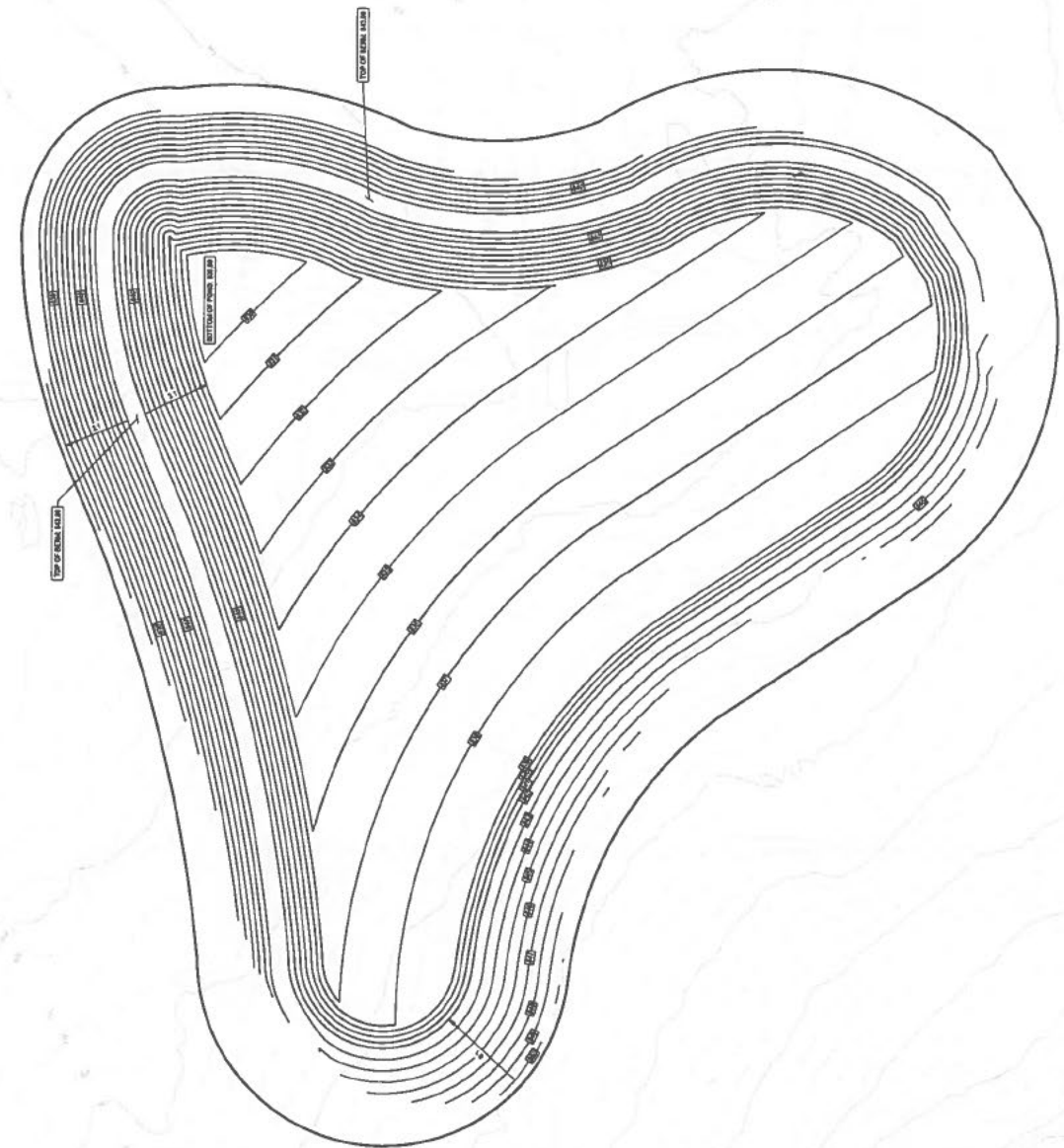
1

2



SURFACE WATER INSPECTION AREA - 400 JMS CLING FEET  
- 15.5 HUBBET



*David Malish*  
11 Aug 2021



Miraflores Engineering Company		Texas Registered Engineering Firm F-403	
SURFACE WATER INSPECTION			
MIRASOL SPRINGS			
1181 Capital of Texas Highway, Suite 400, Dallas, TX 75241, Texas, Phone: (214) 342-8200			
JOB NO.	10011-21	SCALE AS NOTED	SHEET 1 OF 1
DESIGNED BY		DATE	07/14/2021
DRAWN BY	SJA	DATE	07/14/2021
THE INFORMATION CONTAINED HEREIN IS THE PROPERTY OF MIRAFLORES ENGINEERING COMPANY. IT IS TO BE USED ONLY FOR THE PROJECT AND DATE SPECIFIED HEREON.			

Calculation of Pond Volume for Mirasol Springs

Elevation	Surface Area	Avg Area	EL2-EL1	Vol (cf)	Cumulative Vol	
					CF	AC-FT
830	2015	-	-	-	0	0.0
831	4880	3448	1	3448	3447.5	0.1
832	9400	7140	1	7140	10587.5	0.2
833	15755	12578	1	12578	23165	0.5
834	25445	20600	1	20600	43765	1.0
835	38590	32018	1	32018	75782.5	1.7
836	53560	46075	1	46075	121857.5	2.8
837	70625	62093	1	62093	183950	4.2
838	88410	79518	1	79518	263467.5	6.0
839	104545	96478	1	96478	359945	8.3
840	108960	106753	1	106753	466697.5	10.7
841	113435	111198	1	111198	577895	13.3
842	117965	115700	1	115700	693595	15.9

  
  
 11 Aug 2021

## **Addendum H**

COPY OF NOTIFICATION LETTER TO HAYS COUNTY JUDGE  
& COMMISSIONERS PER 30 TAC §295.42

**Clancy Utility Holdings LLC  
4143 Maple Ave  
Suite 400  
Dallas, Texas 75219**

August 9, 2021

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Honorable Ruben Beccera  
Hays County Judge  
Hays County Courthouse  
111 E. San Antonio St., Ste. 300  
San Marcos, Texas 78666

Honorable Mark Jones  
Hays County Commissioner, Pct. 2  
P.O. Box 1180  
5458 FM 2770 at Crystal Meadow Drive  
Kyle, Texas 78640

Commissioner Debbie Ingalsbe  
Hays County Commissioner, Pct. 1  
Hays County Courthouse  
111 E. San Antonio St., Ste. 304  
San Marcos, Texas 78666

Honorable Lon Shell  
Hays County Commissioner, Pct. 3  
P.O. Box 2085  
200 Stillwater  
Wimberley, TX 78676

Honorable Walt Smith  
Hays County Commissioner, Pct. 4  
195 Roger Hanks Parkway  
Dripping Springs, TX 78620

Re: Notice of Application for Small Off-Channel Storage Reservoir Pursuant to 30 TAC §295.42

Dear Judge Becerra and Commissioners Ingalsbe, Jones, Shell and Smith:

Pursuant to Rule 295.42, Texas Commission on Environmental Quality ("TCEQ"), I am writing to apprise you of Clancy Utility Holdings LLC's ("Clancy"), filing of its Application for authorization to use water contracted from the Lower Colorado River Authority ("LCRA") as the primary water supply for Clancy's service area with the Mirasol Springs development at the former Norsworthy Ranch located within Hays County Precinct 4. Clancy will divert the LCRA contracted water from the Pedernales River for municipal use at Mirasol Springs. Clancy is requesting authorization to construct and maintain an off-channel reservoir capable of storing up to 15.9 acre feet of water at Mirasol Springs to enhance the reliability of the water contracted from LCRA. The attached map shows the reservoir location.

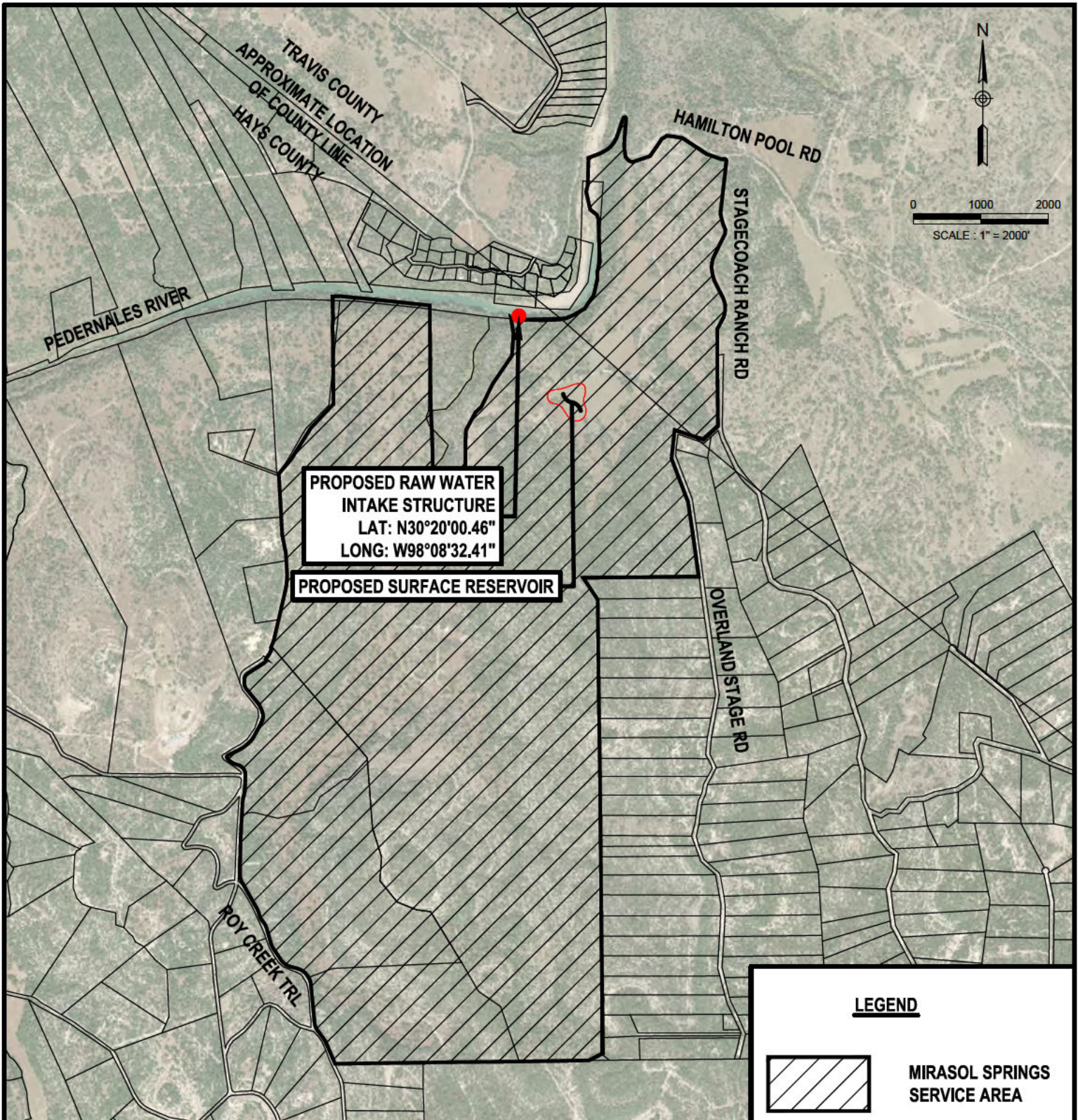
If you would like to receive a copy of Clancy's complete Application to the TCEQ, please let me know.

Sincerely,

Clancy Utility Holdings LLC



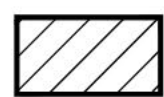
Shaun Miller, President



**PROPOSED RAW WATER  
INTAKE STRUCTURE**  
LAT: N30°20'00.46"  
LONG: W98°08'32.41"

**PROPOSED SURFACE RESERVOIR**

**LEGEND**



**MIRASOL SPRINGS  
SERVICE AREA**

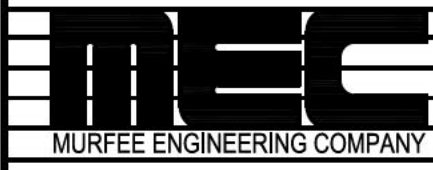


**PROPOSED RAW  
WATER INTAKE  
STRUCTURE**

**MIRASOL SPRINGS FIRM WATER APPLICATION**  
TRAVIS/HAYS COUNTY, TEXAS

**EXHIBIT B**  
**FUTURE POINT OF DIVERSION**

DESIGNED BY: \_\_\_\_\_  
DRAWN BY: SJA  
CHECKED BY: DL  
APPROVED BY: \_\_\_\_\_  
DATE: June 24, 2021



1101 CAPITAL OF TEXAS HIGHWAY SOUTH  
BUILDING D, SUITE 110  
AUSTIN, TEXAS 78746  
(512) 327-9204

Texas Registered Engineering Firm F-353  
0200

7020 1290 0001 9362 2110

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Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ [redacted]

Return Receipt (electronic) \$ [redacted]

Certified Mail Restricted Delivery \$ [redacted]

Adult Signature Required \$ [redacted]

Adult Signature Restricted Delivery \$ [redacted]

Postage \$ [redacted]

**Total** \$ [redacted]

**Sent To** Honorable Lon Shell  
Hays County Commissioner, Pct. 3  
P.O. Box 2085  
Wimberley, TX 78676

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7020 1290 0001 9362 2127

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Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ [redacted]

Return Receipt (electronic) \$ [redacted]

Certified Mail Restricted Delivery \$ [redacted]

Adult Signature Required \$ [redacted]

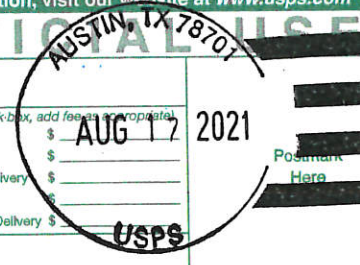
Adult Signature Restricted Delivery \$ [redacted]

Postage \$ [redacted]

**Total** \$ [redacted]

**Sent To** Honorable Walt Smith  
Hays County Commissioner, Pct. 4  
195 Roger Hanks Parkway  
Dripping Springs, TX 78620

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7020 1290 0001 9362 2097

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Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ [redacted]

Return Receipt (electronic) \$ [redacted]

Certified Mail Restricted Delivery \$ [redacted]

Adult Signature Required \$ [redacted]

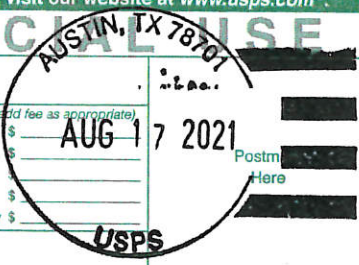
Adult Signature Restricted Delivery \$ [redacted]

Postage \$ [redacted]

**Total Postage** \$ [redacted]

**Sent To** Honorable Mark Jones  
Hays County Commissioner, Pct. 2  
P.O. Box 1180  
Kyle, TX 78640

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7020 1290 0001 9362 2103

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Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ [redacted]

Return Receipt (electronic) \$ [redacted]

Certified Mail Restricted Delivery \$ [redacted]

Adult Signature Required \$ [redacted]

Adult Signature Restricted Delivery \$ [redacted]

Postage \$ [redacted]

**Total Postage** \$ [redacted]

**Sent To** Commissioner Debbie Ingalsbe  
Hays County Commissioner, Pct. 1  
Hays County Courthouse  
111 E. San Antonio St., Ste. 304  
San Marcos, TX 78666

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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Certified Mail Fee \$ [redacted]

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ [redacted]

Return Receipt (electronic) \$ [redacted]

Certified Mail Restricted Delivery \$ [redacted]

Adult Signature Required \$ [redacted]

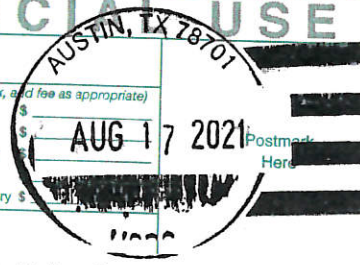
Adult Signature Restricted Delivery \$ [redacted]

Postage \$ [redacted]

**Total Postage** \$ [redacted]

**Sent To** Honorable Ruben Beccera  
Hays County Judge  
Hays County Courthouse  
111 E. San Antonio St., Ste. 300  
San Marcos, TX 78666

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions





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Adult Signature Required \$ \_\_\_\_\_

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Commissioner Debbie Ingalsbe  
 Hays County Commissioner, Pct. 1  
 Hays County Courthouse  
 111 E. San Antonio St., Ste. 304  
 San Marcos, TX 78666

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Certified Mail Restricted Delivery \$ \_\_\_\_\_

Adult Signature Required \$ \_\_\_\_\_

Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postage \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

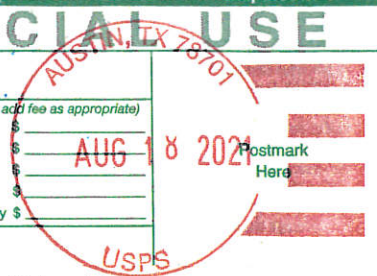
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Honorable Ruben Beccera  
 Hays County Judge  
 Hays County Courthouse  
 111 E. San Antonio St., Ste. 300  
 San Marcos, TX 78666

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Return Receipt (electronic) \$ \_\_\_\_\_

Certified Mail Restricted Delivery \$ \_\_\_\_\_

Adult Signature Required \$ \_\_\_\_\_

Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postage \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

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City, State, ZIP+4® \_\_\_\_\_

Honorable Walt Smith  
 Hays County Commissioner, Pct. 4  
 195 Roger Hanks Parkway  
 Dripping Springs, TX 78620

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Return Receipt (hardcopy) \$ \_\_\_\_\_

Return Receipt (electronic) \$ \_\_\_\_\_

Certified Mail Restricted Delivery \$ \_\_\_\_\_

Adult Signature Required \$ \_\_\_\_\_

Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postage \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

Sent To \_\_\_\_\_

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Honorable Mark Jones  
 Hays County Commissioner, Pct. 2  
 P.O. Box 1180  
 Kyle, TX 78640

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Certified Mail Restricted Delivery \$ \_\_\_\_\_

Adult Signature Required \$ \_\_\_\_\_

Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postage \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

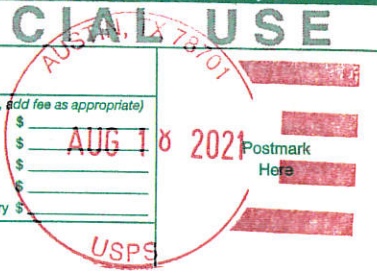
Sent To \_\_\_\_\_

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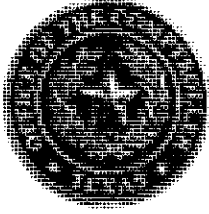
Honorable Lon Shell  
 Hays County Commissioner, Pct. 3  
 P.O. Box 2085  
 Wimberley, TX 78676

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## **Addendum I**


**COPY OF COMPTROLLER'S CONFIRMATION  
OF APPLICANT'S "GOOD STANDING"**



## Franchise Tax Account Status

As of : 08/03/2021 11:41:33

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

CLANCY UTILITY HOLDINGS LLC	
Texas Taxpayer Number	32074761407
Mailing Address	4143 MAPLE AVE STE 400 DALLAS, TX 75219-3289
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	06/23/2020
Texas SOS File Number	0803659689
Registered Agent Name	SEREN CAPITAL MANAGEMENT II LLC
Registered Office Street Address	4143 MAPLE AVENUE SUITE 400 DALLAS, TX 75219

## **Addendum J**

COPY OF CHECK NO. 1841 FOR APPLICATION FEE

**McCARTHY & McCARTHY LLP**  
1122 COLORADO STREET  
SUITE 2399  
AUSTIN, TX 78701

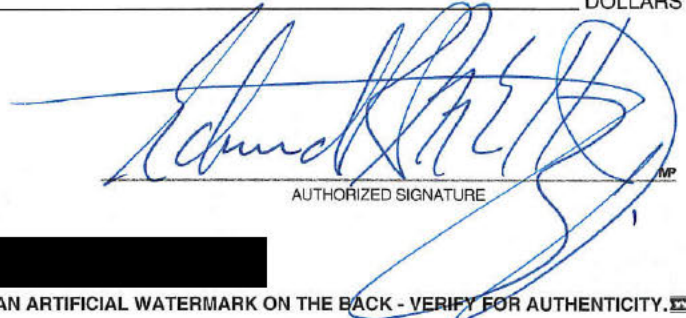
8/17/2021

PAY TO THE ORDER OF Texas Commission on Environmental Quality

\$ \*\*412.00

Four Hundred Twelve and 00/100\*\*\*\*\* DOLLARS

Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711



AUTHORIZED SIGNATURE

MEMO Application Fee



THIS DOCUMENT MUST HAVE A COLORED BACKGROUND, ULTRAVIOLET FIBERS AND AN ARTIFICIAL WATERMARK ON THE BACK - VERIFY FOR AUTHENTICITY.

**McCARTHY & McCARTHY LLP**

1869

Texas Commission on Environmental Quality  
Application, etc. Fees for 11.121 Permit - Clancy Utilit

8/17/2021

412.00

Firm Checking 3496 Application Fee

412.00

**McCARTHY & McCARTHY LLP**

1869

Texas Commission on Environmental Quality  
Application, etc. Fees for 11.121 Permit - Clancy Utilit

8/17/2021

412.00

Firm Checking 3496 Application Fee

412.00

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Details on Back Security Features Included