

**Agenda Back-Up
for the
Barton Springs/Edwards Aquifer Conservation District
Board of Directors**

Regular Meeting

**June 13, 2019
6:00 P.M.**

NOTICE OF OPEN MEETING

Notice is given that a **Regular Meeting** of the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District will be held at the **District office**, located at 1124 Regal Row, Austin, Texas, on **Thursday, June 13, 2019**, commencing at **6:00 p.m.** for the following purposes, which may be taken in any order at the discretion of the Board.

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to meet in Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. **Call to Order.**
2. **Citizen Communications (Public Comments of a General Nature).**
3. **Routine Business**
 - a. **Consent Agenda.** *(Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as a separate item of Regular Business on this agenda.)*
 1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000. **Not for public review**
 2. Approval of minutes of the Board's May 23, 2019, Regular Meeting. **Not for public review at this time**
 3. Approval of the Master Technical Services Agreement Work Order Number 1, Revision 2 (no-cost time extension) with INTERA Incorporated related to the groundwater and water well management system – the database. **Pg. 13**
 4. Approval for out-of-state travel for Brian Smith to attend the National Speleological Society conference in Cookville, Tennessee on June 17-21, 2019. **Pg. 20**
 - b. **General Manager's Report.** *(Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action unless the topic is specifically listed elsewhere in this agenda for consideration. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.)*

Topics

1. Personnel matters.

2. Aquifer conditions and status of drought indicators.
3. Upcoming public events of possible interest.
4. Review of Status Report Update – at directors’ discretion. **Pg. 22**
5. Update on projects and activities of individual teams.
6. Update on the Travis County ILA.
7. Update on development activities over aquifer recharge and contributing zones.
8. Update on activities related to area roadway projects.
9. Update on GMA and regional water planning activities.
10. Update on the State Office of Administrative Hearings proceedings for the Electro Purification LLC permit applications.

4. Discussion and Possible Action.

- a. Presentation, discussion, and possible action related to the 86th Legislative Session Debriefing Report. **NBU**
- b. Discussion and possible action related to the Hill Country Conservancy Fund (Fund) including appointing a Director to serve as a director of the Fund and authorizing the appointee to take necessary action to accomplish creation and governance of the Fund. **Pg. 32**
- c. Discussion and possible action related to the draft State Auditor’s Office report. **Pg. 61**

5. Adjournment.

Please note: This agenda and available related documentation, if any, have been posted on the District website, www.bseacd.org. If you have a special interest in a particular item on this agenda and would like any additional documentation that may be developed for Board consideration, please let staff know at least 24 hours in advance of the Board Meeting so that we can have those copies made for you.

The Barton Springs/Edwards Aquifer Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-282-8441 at least 24 hours in advance if accommodation is needed.

Item 1

Call to Order

Item 2

Citizen Communications

Item 3

Routine Business

a. Consent Agenda

(Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as a separate item of Regular Business on this agenda.)

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- 4. Approval for out-of-state travel for Brian Smith to attend the National Speleological Society conference in Cookville, Tennessee on June 17-21, 2019.**

June 6, 2019

Ms. Alicia Reinmund-Martinez
General Manager
Barton Springs – Edwards Aquifer Conservation District
1124 Regal Row
Austin, Texas 78748

RE: INTERA Update on Data Management Services

Dear Ms. Reinmund-Martinez,

This letter is to update the Barton Springs-Edwards Aquifer Conservation District on progress with development of the Integrated Data Management and Reporting System and accompany the modified work order that is before the Board this month.

Since our last update to the Board, we have primarily been working with District staff on the most complex portion of the project relating to well registration, permitting and production reporting. The development process has been very iterative to ensure that the system meets the needs of the District. We meet each week with District staff to review development progress, review District input and feedback, and prioritize efforts for the following week. The attachment to the scope of work for this project developed by the District divides the components of the data management system into modules. Below we have estimated the percent completion of each module, though it is important to note that many of the modules are interdependent.

Modules and Estimated Percent Complete

- Management and Administration – 50%
- Web Mapping – 70%
- Well Data – 80%
- Well Registration, Permitting and Production Reporting – 80%
- Permit Compliance – 70%
- Field Data and Services – 60%
- Custom Queries, Reports and Export Tools – 20%

The modifications to the work order for the Integrated Data Management and Reporting System are limited to *Section 2.0 - Term* and include a change of the expiration date to the end of 2019 and a milestone project review meeting in September with District staff at the BSEACD offices. We do not anticipate the project extending through the rest of 2019 but chose the end of the year in consultation with District staff to ensure an additional amendment is not necessary.

June 6, 2019
Page 2

We appreciate the opportunity to work with the District and are committed to making sure this system meets the District's needs moving forward. If you have any questions or need any further clarification, please do not hesitate to contact me.

Sincerely,



Wade Oliver, P.G.
INTERA Incorporated

Attachment A: MASTER TECHNICAL SERVICES AGREEMENT – WORK ORDER

PROJECT NUMBER/ID: BSEACD.M001.SVCS

WORK ORDER NO: 1, rev2

1.0 SCOPE OF SERVICES

OVERVIEW

INTERA will develop a web-based groundwater and water well management system for the District named DripDrop (Digital Repository and Interactive Portal for District Records and Operations), which is custom-designed by INTERA to enhance the current data and workflows of the Barton Springs/Edwards Aquifer Conservation District (the "District"). We identified DripDrop's basic functional requirements using input District staff as part of the RFP and incorporated them into the work plan described below. We have selected commonly-used core technologies, such as PostgreSQL, Apache, and Python, so that DripDrop will be reliable over the long term with minimal cost to the District. We will only use open source technologies to ensure the District will not have to pay license fees. The District will be able to transfer maintenance to staff or a 3rd party at the District's discretion.

DripDrop will be composed of several core components and a collection of application modules. The core components consist of standard low-level technologies: an enterprise geospatial database backend (PostgreSQL) for data storage and retrieval, a geospatial server (Geoserver) for spatial analysis, and a web server (Apache) for serving content to the user. The application modules, which will be designed and built by INTERA to meet the current and future needs of the District, consist of web applications for desktop and mobile users. These application modules will facilitate data entry, data evaluation, visualization, and online payments and generally support the desired functionality identified by the District in Attachment A of the RFP. These are also included as an appendix to this work order below. Based on our meeting with District staff, we have outlined the proposed modules and their functions below.

Management and Administrative

- Assign and edit user permissions
- Detailed access to database objects
- Provides Management and Admin interface to data for bulk management and administration
- Includes interface with outside firm (e.g., PayPal) to securely process fees

Web Mapping

- Mapping interface for staff and public use that is capable of being accessed on both desktop and mobile interfaces and displays geospatial layers specified by the District such as wells and aquifers.
- Staff interface will have access to all spatially enabled data and analysis capabilities
- Public interface will have more limited access to protect user data and facilitate a simpler interface as directed by the District
- Spatial layers within the web mapping module will include at least aerial imagery, basemap layers such as USGS topographic maps, reference layers such as roads and political boundaries, District management zones and hydrogeological zones, surface geology, and data from the GAMs
- Module will be used to automatically evaluate the aquifer formation for each well based on the surface geology and GAM surfaces. As new geologic information becomes available, these surfaces and aquifer assignments can be updated if directed by the District.
- Will be used to generate custom cross-sections showing aquifer formations and well completions
- Will include link to access non-spatial data for individual wells such as well reports, geophysical logs, pictures, or water quality analysis results
- Will connect to and display third-party data sources specified by the District during Phases 1 and 2. These are likely to include TWDB, TDLR, TCEQ, and USGS databases and county appraisal districts.

Well Data

- The main interface for adding, editing, and removing District data
- Will include all data associated with wells in the District. This includes but is not limited to owner, contact information, location, well construction, water levels, water quality, groundwater production, and classification.
- Will access and sync with outside databases specified by the District during Phases 1 and 2 such as the TWDB groundwater database, TWDB submitted drillers reports database, and TCEQ databases. We anticipate the sync will update daily since most of these databases are available as online downloads and not as web services.
- Will handle well data of many different types in many different formats (PDFs, videos and images of logs, well construction diagrams, downhole videos, or any other files deemed relevant by the District).
- Search functions for identifying wells meeting specific criteria
- Web forms will be used for most functions
- Will have capabilities to import/export all well data and other District data housed within the system

Well Registration, Permitting, and Production Reporting

- Well drillers and owners will be able to register a well, apply for a permit and view/edit information as needed
- District staff will be able to track, review and approve permit applications through a desktop and/or mobile interface
- District rules, such as well location, will be incorporated into the module to help applicants site wells and remain in compliance
- District staff will be able to view and modify contact information directly in the interface (through a behind-the-scenes link to the Well Data module)
- Well owners will be able to submit meter readings/production reports for verification and approval by District staff.
- If directed by the District during Phases 1 and 2, will include on-the-fly quality control such as performing all unit conversions, comparing water use to previous readings, and handling meter rollovers.
- District staff will be able to send out mass, customized notifications to well owners (e.g. drought declarations/compliance)
- District staff will be able to easily query, view, and follow up on Wells that are out-of-compliance
- An interface for facilitating permit renewals and viewing/displaying certificates
- Tracks permit amendments, pumping targets, primary use, and special provisions

Attachment A: MASTER TECHNICAL SERVICES AGREEMENT – WORK ORDER

Permit Compliance and Other Analysis Tools

- Tracking of investigations, violations, enforcement actions, special permit provisions, curtailments, etc.
- Includes scripts/processes defined during Phases 1 and 2 that automatically run against the database to check permit compliance, enforce and log quality assurance, and drought compliance management. This will work in conjunction with the Custom Queries, Reports, and Exports module, but also supports contextual information that can be displayed throughout the DripDrop user interface.

Field Data and Services

- Mobile application/device for field collection
- Enter hydrological data collected by the District as defined during Phases 1 and 2. We anticipate these will include water level measurements, water quality lab results, and aquifer test data.
- Facilitate regular activities of District field staff (e.g. well inspections)
- Will have background quality assurance processes defined by the District during Phases 1 and 2 (e.g., ensuring mobile device GPS location is near stored well location)
- If determined necessary by the District during Phases 1 and 2, will contain ability to take and store pictures to document field activities or issues

Custom Queries, Reports, and Export Tools

- Common summaries needed for District Board meetings and annual reports
- Water production report showing usage by time-period and water use type
- Report on new well registrations and permits for user-specified time-period
- Customized District reports defined during Phases 1 and 2. We anticipate these will include annual usage letters, delinquent payments, drought compliance, water level trends vs. DFCs, water use vs. MAGs, and Habitat Conservation Plan tracking.
- "Smart" lookups and dynamic query builders for easy lookup boxes, search boxes, and dropdown menus. These will be embedded throughout the online application.

WORK PLAN

Phase 1 – Planning and Needs Analysis.

The District has already put time and resources into formalizing a list of basic functional requirements, which were included as attachments to the RFP. This provides INTERA with a great starting point for an initial round of interviews with the District. In Phase 1 we will hold a kickoff meeting with the District to overview the project scope, schedule, roles and processes (e.g. communication frequency and points-of-contact). We will then interview District staff, either individually or in small groups, to work through specific modules relevant to their work. These discussions will include input from District staff on what works well with the existing system and what can be improved. This will help clearly define the overall goals of the project and ensure that both INTERA and District staff are on the same page regarding later phases.

The kickoff meeting and on-site interviews will be used to develop an outline of the functional requirements of the database. In coordination with the District we will also finalize a decision on the options for the database backend and hosting. The hosting solutions include options such as hosting by INTERA, on-site hosting by the District, or cloud-based hosting solutions. Hosting requirements include CPU storage and connectivity and specifications for housing the applications and data. This will guide development of the data management system prototype in Phase 2. We estimate Phase 1 will be completed within 2 weeks of notice to proceed.

Phase 2 – Design.

In this phase, INTERA will review the District's current database system in detail, set up the server, install basic software dependencies (PostgreSQL, Python, etc.) and develop prototypes of the desktop, mobile and mapping interfaces. Through the pre-proposal meeting, supporting materials made available for this RFP, and discussions with District staff, we have a good understanding of the structure of the District's current database system and how it is used. The focus of the evaluation during Phase 2 will be the data itself – identifying data structures and types to guide system design. We will also perform an initial migration of District data for use during development.

District staff will have the opportunity to explore the prototype modules and interfaces. Following deployment of the prototype and a review period, we will meet with District staff to discuss the design and solicit feedback on how to ensure that it best meets the needs of the District. We will also review on a conceptual level the design of the data management system, how users interact with it, and how the different parts relate to one another. These discussions will create a more complete understanding of needs and expectations by both INTERA and the District. As part of developing the functional requirements, INTERA will provide a clear range of options for the District with respect to any functionality/cost tradeoffs.

At the end of Phase 2, INTERA will provide the detailed data management system design and functional requirements for all modules. We will also develop a work plan, project schedule and level-of-effort/cost breakdown for Phases 3 through 5 reflecting the detailed design. We estimate Phase 2 will be completed 2 months following Phase 1. We will not proceed to Phase 3 until directed to do so by the District following review and approval of the functional requirements.

Phase 3 – Development and Testing.

This phase involves finalizing all modules consistent with the design and functional requirements defined in Phase 2. It includes designing the data structures, developing the database objects (tables, schemas, procedures, triggers, etc.), developing non-database objects (files, documents, pictures, etc.) and developing the module code. Our Quality Assurance (QA) Technical Lead will then oversee the testing of each module by individuals not involved in its development to ensure it is operating properly and consistently with District requirements. We anticipated using a District staff member for this "alpha" testing phase to provide feedback from the District's perspective and reduce costs. This phase includes development of both the front end (user interface) and back end of the data management system. We estimate this will be completed 5 months following the end of Phase 2.

Phase 4 – Migration and Deployment (Implementation).

In Phase 4, we will load the District's data and deploy all modules for use by the District. Unlike the alpha system testing in Phase 3, this deployment will be for all District staff and will be the point when the data management system "goes live." We will also launch the system backups and security features defined in coordination with the District during Phases 1 and 2 at this stage. We estimate this will be completed within 2 weeks of the end of Phase 3. It is critical that District staff are able to use the system as soon as it is online and available. For this reason, Phase 5 – Documentation and Technical Support will overlap with Phase 4.

Attachment A: MASTER TECHNICAL SERVICES AGREEMENT – WORK ORDER

Phase 5 – Documentation and Technical Support (Maintenance)

This phase includes training in the use of the new system for District staff, documentation, as-needed technical support, and maintenance of the system.

- **Training:** Immediately prior to deployment, INTERA will hold an on-site meeting and training session with District staff. The purpose of this meeting will be to orient staff to the data management system so that it can be used as the “current” version as soon as it is deployed. This training meeting will also introduce staff to documentation and serve as an opportunity to either train staff on maintenance or set a formal maintenance schedule.
- **Documentation:** We will develop four forms of documentation: in-place contextual help, a User Guide, a Developer Manual, and In-Code Documentation. In-place help is comprised of tool tips, form feedback such as error notices, and supplementary text. The User Guide is a more comprehensive overview of the product and how it is used. The User Guide will be developed for the core framework, functionality modules, and data migration tools. The core framework documentation will cover the description of components and basic management of the system. Each functionality module will contain detailed documentation of its design, purpose, and operating procedure with accompanying pictures/screenshots to assist District staff. The Developer Manual is aimed at programmers tasked with maintaining or extending the code. This is the primary document that would be used to facilitate the transition of code maintenance to a third-party developer. In-Code documentation refers to supplementary, low-level documentation embedded in the application code itself. The User Guide and Developer Manual are delivered both as a stand-alone PDF and a collection of searchable webpages within the application for easy access by users with sufficient account privileges. To limit costs to the District, we anticipate using a District staff member for up to 2 weeks to assist with development and/or review of documentation.
- **Technical Support and Maintenance:** While DripDrop is designed to be a stand-alone system, INTERA will provide continued support and maintenance on an hourly basis at the rates shown in the Master Services Agreement at the direction of Client. This includes software upgrades, security patches, and any enhancements or functionality extensions. Dependent software upgrades, security patches and bug fixes will be at no additional cost to Client for a period of 1 year following initial deployment. For these purposes, a “bug” is defined as a response of the system after it is deployed that is different from the reasonable expectation of the user based on the functional requirements defined in Phases 1 and 2 above. A “bug” differs from an enhancement or functionality extension in that it ties back to meeting the previously defined functional requirements and will not typically require any changes to the user interface.
 Technical support refers to the person-to-person training and troubleshooting that occurs after deployment. INTERA has a staff of six full-time programmers and will respond to all technical support inquiries within 1 business day either by phone, email or in-person.
 Maintenance refers to ongoing security upgrades, patches and other activities needed to keep the system operating as-designed. These are included for the first year. Enhancements and functionality extensions beyond the functional requirements defined in Phases 1 and 2 will be billed at the hourly rates shown in the Master Services Agreement.
 For the purposes of section 8.3 (“Intellectual Property”) of the Master Technical Services Agreement provision, “joint ownership” includes the right of one owner to create derivative works and otherwise to exploit the jointly-owned property for all purposes, royalty-free and without any obligation for an accounting by one owner to the other. At all times the District will own the data stored within the system developed under this scope of work.

2.0 TERM

The term of this Work Order will commence on 12 October 2017 and will continue until 31 December 2019 unless sooner terminated by the Client and as provided in the Master Agreement. INTERA will hold a milestone meeting with District staff during September 2019 to show the most up-to-date version of the system and solicit feedback.

3.0 COSTS

The total cost for DripDrop is not to exceed \$100,000 without written consent of the District. Note that this cost statement does not include the cost of hosting, which will be the responsibility of the District.

PHASE	TASK/DESCRIPTION	ESTIMATED DURATION	COST (\$)
1	Planning and Needs Analysis	2 weeks	\$6,000
2	Design	2 months	\$13,000
3	Development and Testing	6 months	\$66,000
4	Migration and Deployment	2 weeks	\$7,000
5	Documentation and Support	1 month	\$8,000
	Ongoing Maintenance and Technical Support		As needed
TOTAL		10 months	\$100,000

Attachment A: MASTER TECHNICAL SERVICES AGREEMENT – WORK ORDER

4.0 DESIGNATED REPRESENTATIVES

The Services and Goods in this Work Order shall be performed in accordance with the terms and conditions set forth in the Master Technical Services Agreement made as of the 10/12/2017 by the Client and INTERA.

This Work Order is agreed and entered into on 10/12/2017.

Barton Springs/Edwards Aquifer Conservation District

Printed Name: Vanessa Escobar

Address: 1124 Regal Row

Austin, TX 78748

Phone: 512-282-8441

Email: vescobar@bseacd.org

INTERA Incorporated

Printed Name: Wade Oliver

Address: 52 Sugar Creek Center Blvd, Ste. 375

Sugar Land, TX 77479

Phone: 281-560-4562

Email: woliver@intera.com

Barton Springs - Edwards Aquifer Conservation District

Schedule for Development of an Integrated Groundwater Data Management and Reporting System

June 6, 2019

	June	July	August	September	October	November
Phase 2 - Design Procure/setup server, install basic software Review existing system Design core database Design basic layouts Load existing SQL data Develop prototype application: Core database + basic web views + "placeholder" layouts Testing and meeting with District to discuss prototype Finalize design, functional requirements, work plan, and project schedule for Phases 3 and 4.						
Phase 3 - Development and Testing Back-End Database and Scripts Web-Mapping Interface Administrative Module (incl. permissions, bulk I/O functions) Well Registration and Permitting Meter Production Reporting and Permit Compliance Drought Compliance Field Interface Edits (Registration, Inspection) Scientific Tools and Geodatabase Well Data Module Custom queries and reports Iterative Development with District <i>Alpha Testing (with District Assistance)</i>						
Phase 4 - Migration and Deployment Final data migration <i>Beta testing (with District Assistance)</i> Backup and security launch						
Phase 5 - Documentation and Support On-site training meeting User documentation Developer documentation Technical support and maintenance plans						
Meetings Weekly Progress Meetings (Conf. Call) On-Site Meetings	★	★	★	★	★	★



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

MEMORANDUM

Date: 6/7/2019

To: Alicia Reinmund-Martinez

From: Brian Smith

Re: Attendance at the National Speleological Society Convention, Cookeville, TN, June 17 – 21, 2019

I would like to request permission to travel to Cookeville, TN to attend the National Speleological Society Convention. There will be numerous talks about karst hydrogeology, speleogenesis, and contamination of karst aquifers. And there will be field trips focusing on the geology and hydrogeology of the Cumberland Plateau. This variety of topics in hydrogeology of karst aquifers will be beneficial as these topics are all very relevant to the aquifer science issues the District is involved with.

Anticipated costs for attending the conference are listed below:

Conference registration: \$249

Hotel/camping: \$300

Per diem: \$357.50 (5 days at \$55.00/day plus 2 travel days at \$41.25/day)

Personal vehicle (gasoline): ~\$350

Field trip: \$80

Total estimated cost: \$1,336.50

Item 3

Routine Business

- b. General Manager's Report.** *(Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action unless the topic is specifically listed elsewhere in this agenda.)*

Topics

- 1. Personnel matters.**
- 2. Aquifer conditions and status of drought indicators.**
- 3. Upcoming public events of possible interest.**
- 4. Review of Status Report Update – at directors' discretion.**
- 5. Update on projects and activities of individual teams.**
- 6. Update on the Travis County ILA.**
- 7. Update on development activities over aquifer recharge and contributing zones.**
- 8. Update on activities related to area roadway projects.**
- 9. Update on GMA and regional water planning activities.**
- 10. Update on the State Office of Administrative Hearings proceedings for the Electro Purification LLC permit applications.**

**STATUS REPORT UPDATE
FOR THE JUNE 13, 2019 BOARD MEETING**

Summary of Significant Activities - Prepared by District Team Leaders

GENERAL MANAGEMENT TEAM

Staff: ARM
June 7, 2019

Meetings, Training, Presentations, and Conferences

Meetings: City of Kyle, City of Buda, City of Austin * First quarterly meeting with Integritek regarding District IT needs * Meeting with Electro Purification LLC **Presentations:** None * **Conferences:** Attended TAGD Business Meeting. **Teleconference calls:** Kirk Holland regarding each team's implementation of the HCP * City of Austin regarding drilling protocols for the risk management area * Several calls with lobbyist * Staff retreat at Shields Ranch.

Ongoing Special Projects, Committees, and Workgroups

Continue internal discussions with attorney on EP contested cases.* Preparing District's response to the State Auditor's Office draft report.

Routine Activities and Day-to-Day Operations

Provided general oversight of staff activities and oversight of day-to-day operations * Approved administrative documents * Prepared agendas and backup for June 13 Board meetings * Prepared GM report and assigned tasks * Held one Planning team meetings * Served as liaison between Board and staff * Weekly meetings with Board President * Meetings with teams on the status of 2019 Incentive Projects * Consultation with Attorney on EP LLC and Needmore LLC permit applications and April 11, 25 and May 23 meeting agendas.

REGULATORY COMPLIANCE TEAM

Staff: VE, KBE, and ES
June 7, 2019

Electro Purification Production Permit

Staff is currently working on developing pre-filed testimony which is due on 6/12/19.

Needmore Water LLC Conversion to a Regular Permit

On April 10th, the District received the ALJ's response to the District's request for additional explanation and guidance regarding the previously issued proposal for decision (PFD) that was issued on 7/23/18. The April 10th decision describes that SOAH does not have jurisdiction to issue a PFD on whether the Board should issue the Needmore Permit. The ALJ did not weigh in on the uncontested portions of the permit. The ALJ's previous 7/23/18 Proposal for Decision was limited to a few specific contested issues (Needmore's eligibility for a Temporary Permit) and her decision on those contested issues remains in effect. **The District has scheduled a Public Hearing for July 29, 2019 at 4PM at Buda City Hall Council Chambers (405 Loop St, Buda, TX 78610).**

SH 45 SW/ Mopac Intersections Roadway Projects

SH 45 opened to the public on June 1, 2019. There will be at least one more post inspection scheduled later this summer, to verify all permanent storm water controls and water quality ponds are in working order. All disturbed areas must be stabilized and revegetated before final erosion control protections can be removed.

Mopac Intersection work is still underway. Staff continues to perform periodic site inspections.

Database Development Intera Contract

Intera and staff have primarily been working with District staff on the most complex portions of the project relating to well registration, permitting and production reporting. The development process has been very iterative to ensure that the system meets the needs of the District. We meet each week to review development progress, review input, provide feedback, and prioritize efforts for the following week. Below we have estimated the percent completion of each module, though it is important to note that many of the modules are interdependent.

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Other Project Efforts/ Planning Discussions

- Finalizing a coordination document with City of Austin on protocols for Barton Springs Risk Management Zone.

- Ongoing coordination with Texas Department of Licensing and Registration (TDLR) on updating the interagency variance agreements for well construction.
- Internal coordination on preparation and planning for Annual Reports including Management Plan Annual Report & USFWS HCP Annual Report. (General Management Team/Regulatory Compliance Team)
- Finalize responses to Official Audit of from State Auditor's Office. (General Management Team / Regulatory Compliance Team)
- Preparation and planning for pre-filed testimony.
- Review of proposed legislative bills.

Permits

- Individual Production Permits – staff has had 5 pre-application meetings or conference call for landowners who are interested in drilling individual wells. The uses have ranged from commercial, irrigation, and public water supply.
- Exempt/ Limited Production Permits – five permit applications are currently in review. 10 applications, have been approved, wells have been drilled, and staff is scheduling field work to conduct post – inspections.
- Plugging/ Capping – three well sites are currently in review and may require plugging applications.

Drought Compliance – May 1st is the water conservation period where voluntary 10% curtailments are in effect.

AQUIFER SCIENCE TEAM

Staff: BAS, BH, and JC
June 7, 2019

Central Hays County Groundwater Evaluation - Well and Hydrogeology Characterization

Aquifer Science staff are continuing to work on enhancing the monitor well network in the EP area and are continuing to collect water-level and water-quality data from wells in the area.

Antioch Cave - Onion Creek Recharge Enhancement Project

Antioch Cave is recharging a considerable amount of water due to above average rainfall in April and an even greater amount of rainfall in the first half of May. Aquifer Science staff have taken advantage of the flow in Onion Creek to better quantify the amount of recharge going into Antioch Cave. A presentation about Antioch was made to the Board on May 23 by Justin Camp.

Alternative Water Supplies (ASR and Desalination)

Ruby Ranch has completed Cycle 4 testing of injection of Edwards water into their Trinity well and will be starting the extraction phase of the test in the second week of June. Extraction testing will continue until the fall. Buda is expected to start drilling a Trinity well in the fall of 2019 for their ASR project.

Drought and Water-Level Monitoring

With continued flow in the major creeks providing recharge to the Edwards Aquifer, water levels continue to rise. On 6/7/19, the Lovelady well had a level of 535.5 ft msl and is still rising. The water level in the Lovelady well is currently at its fourth highest level in the past 27 years but is quickly approaching the third highest level. Barton Springs is flowing at 109 cfs.

Presentations, Conferences, Reports, and Publications

Aquifer Science staff have finished three manuscripts that will be chapters in a Geological Society of America (GSA) Memoir on the Edwards Aquifer, which will likely be published in the fall of 2019. One chapter has already been published online as an open document and copies have been given to the Board.

Travis County ILA - Hydrogeologic Atlas of Western Travis County

District staff have continued to collect hydrogeologic data in Western Travis County such as water levels and geophysical logging. A monthly status report was prepared in early June 2019.

EDUCATION TEAM

Staff: RHG and JV

June 7, 2019

Groundwater to the Gulf

The Aquifer District, in collaboration with 12 other agencies, helps host this annual 3-day, field-trip-based, hands-on training. A few spots remain for this summer's Groundwater to the Gulf: Summer Institute for Educators on June 11-13, 2019. It allows teachers a chance to dip their hands into local water topics and try activities that help bring those topics back to the classroom. It mixes science with caving, creeks, benthic macroinvertebrates, endangered species, and all things water. The District is a lead organizer for the event. This year there is strong local teacher and agency representation.

Travis County ILA - Hydrogeologic Atlas of Western Travis County

Staff have wrapped up field data collection and have transitioned to data compilation and documentation. While it's an ambitious goal, staff estimates that a draft of the Western Travis County Hydrogeologic Atlas will be ready by the deliverable deadline set forth in the Travis County ILA—August 31, 2019. The Atlas will be modelled after the Hill Country Trinity Atlas and will summarize data collected and analyzed during the project.

Camp and College Scholarship Awards Ceremony

The winner ceremony was held at the May 23 Board meeting. Both Kent Butler Memorial Groundwater Stewardship Scholarship winners and twelve of the 20 Aquatic Science Adventure Camp winners attended. *This year's sponsors include the City of Austin, Texas Lehigh Cement Company, Centex, Creedmoor-Maha WSC, Goforth SUD, and Slaughter Creek Acres WSC.*

Well Owner Feedback Survey

Over half of the Well Water Checkup participants provided feedback through an online survey designed to help inform the groundwater user education. There was a lot of interest in aquifer status and water levels, well operation and maintenance tips, and drought hearty landscaping tips. They identified the need to educate their neighbors about irrigation and high water use on groundwater supply. And the preferred method for receiving information was through the monthly eNews and on the District website. Staff will include identified information through future eNews editions.

Other meetings and activities:

- **South Central Texas Water Resources Interest Group:** Staff attended the meeting at Bamburger Ranch near Johnson City. Presentations of interest included updates on the New Braunfels ASR project, Well Intel systems and analytics, and innovative methods for gain/loss studies in streams. After presentations, the executive director and ranch manager gave participants a tour of the ranch to see restoration activities.
- **Honoring William Russell:** A City of Austin proclamation recently renamed Blowing Sink Research Management Unit (near Brodie and Davis Lane) to the William H Russell Karst Preserve. He was integral to exploration and preservation of that tract.
- **eNews:** The May eNews edition included articles on scholarship winners, Groundwater to the Gulf, groundwater user tips, and Needmore public hearing notice.

Internet Traffic Report - Page views and visits to the District Website

From May 1 to June 7, the District website had 2,716 total page views by 2,210 unique sessions. Top sites in order of number of views are the home page (681), maps (136), Kinder Morgan Pipeline (107), Drought Status (106), Staff (90). The District Facebook page now has 821 likes 'Likes' and responses to posts have been very positive. The most popular FB posts were Groundwater to the Gulf teacher training (1,400), and Scholarship winners post (144).

ADMINISTRATION TEAM

Staff: SD, TR, and DW
June 6, 2019

Accounts Receivable

July monthly billings will be mailed out on June 14th (due on July 5th and late on July 16th) for \$29,157. There is only one more monthly billing cycle (for \$29,157) this fiscal year.

Budgets

FY 2019 Budget Revision 2 is ready to be presented to the Budget and Finance Committee for the June 18th committee meeting.

FY 2020 Draft Preliminary Budget is in process. This will also be presented to the Budget and Finance Committee on June 18th.

Fee Schedule - Excess Pumpage Fee Calculation

A proposal with different options (volume vs percentage) had been submitted to the General Manager for further discussion.

Fee Schedule – FY 2020

The Fee Schedule is presented with the budget. The Fee Schedule, according to our Bylaws, has to be adopted by the Board thirty days before the end of the fiscal year, or July 31. It can then be amended later if further changes are needed.

Financial Reporting – Website

Transparency Star-related. Most current, available financial reports are to be posted. Balance Sheet, Profit and Loss Statements, and Check Registers through April 2019 have been posted on the District website.

Southwest Travis County ILA Project

Tracking expenses and in-kind services through August 31st. Current spreadsheets contain up-to-date labor and expenses.

State Auditor's Office (SAO) Audit

The document requests are mostly administrative/financial, so the bulk of this project so far has been directed towards administration. Currently waiting on draft report.

The Administration Team typically has repetitive monthly tasks e.g. monthly bank reconciliations, daily phone answering, monthly adjusting journal entries, contract/grant/and project tracking, monthly meter reading reporting; etc. These types of tasks are not listed here because they are so repetitive. Administration status reports are generally much smaller than the other teams as we list only the extraordinary tasks.

UPCOMING DATES OF INTEREST

- June 12 and 13: Groundwater to the Gulf
- June 12 and 13: American Groundwater Trust/Texas Aquifer Conference, Austin
- June 17: GMA 9 Meeting, Boerne
- June 19-21: TWCA Mid-Year Conference, Galveston
- August 20 – 22: TAGD Groundwater Summit:

Item 4

Board Discussions and Possible Actions

- a. Presentation, discussion, and possible action related to the 86th Legislative Session Debriefing Report.**

Item 4

Board Discussions and Possible Actions

b. Discussion and possible action related to the Hill Country Conservancy Fund (Fund) including appointing a Director to serve as a director of the Fund and authorizing the appointee to take necessary action to accomplish creation and governance of the Fund.

**CERTIFICATE OF FORMATION
NON-PROFIT CORPORATION
OF
HILL COUNTRY CONSERVANCY FUND**

ARTICLE I

NAME

The name of the corporation (“Corporation”) is **HILL COUNTRY CONSERVANCY FUND**.

ARTICLE II

NON-PROFIT CORPORATION

The Corporation is a non-profit corporation.

ARTICLE III

DURATION

The period of the Corporation’s duration is perpetual.

ARTICLE IV

PURPOSES

The Corporation is organized under and by virtue of the laws of the State of Texas concerning non-profit corporations and shall have and may exercise all of the rights, powers, privileges and immunities granted to such corporations by those laws, as amended from time to time, subject to the restrictions and limitations contained in this Certificate.

A. The general purpose or purposes for which the Corporation is formed are to receive and maintain a fund or funds of cash and ownership of real or personal property, or both, and subject to the restrictions and limitations hereinafter set forth, to use and apply the whole or any part of the funds, property or income therefrom exclusively for charitable, scientific, literary, or educational purposes by either direct expenditures or by contributions or expenditures for the benefit of or in conjunction with to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) and the Regulations as promulgated under the Code as they now exist or as they may hereafter be amended (the “Regulations”) and the assets and property of the Corporation are hereby pledged for use in performing its charitable purposes. All references herein to the Code shall infer a reference to its Regulations.

B. The primary and specific purposes of the Corporation are to receive assessments from certain landowners and to use such proceeds for (i) the acquisition and preservation of additional open space within or adjacent to the Edwards Aquifer Recharge Zone, as defined by the City of Austin Code of Ordinances, (ii) regional watershed and habitat protection planning, (iii) environmental education programs, and (iv) other purposes ancillary to the foregoing, as contemplated in that certain Development Agreement dated effective August 15, 2002 (the "**Development Agreement**") executed by the City of Austin, Texas, a Texas home rule municipality and Circle C Land Corp., a Texas corporation and recorded in Document No. 2002151984 of the Real Property Records of Travis County, Texas, and Document No. 02022402 of the Real Property Records of Hays County, Texas, as amended from time to time.

C. The foregoing purposes and powers of the Corporation shall be subject to the following limitations:

1. No act may be performed which would violate Section 501(c)(3) of the Code.

2. No loans shall be made by the Corporation to any director, trustee or officer of the Corporation. Any director, trustee or officer who assents to or participates in the making of any such loan shall be liable to the Corporation for the amount of such loan until it is repaid.

3. No part of the net earnings of the Corporation shall be distributed to, or inure to the benefit of, any member, director, trustee, officer, agent or employee of the Corporation, or to any private individual, except to further the exempt purposes of the Corporation as described above and except that reasonable compensation may be paid for services duly rendered, and reimbursement may be made for expenses duly incurred, to or for the Corporation affecting one or more of its authorized purposes.

4. No substantial part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation, provided that the Corporation shall be permitted to make the election described in Section 501(h) of the Code and, if it so elects, to make lobbying and grass roots expenditures that do not normally exceed the ceiling amounts prescribed by Section 501(h) of the Code; nor shall the Corporation participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office.

5. The Corporation shall at all times be operated in such a manner as will assure its qualification as: (i) an organization which is exempt from taxation pursuant to Section 501(c)(3) of the Code; (ii) an organization which is not a private foundation, in accordance with Section 509(a)(1), (a)(2) or (a)(3) of the Code; and, (iii) an organization, contributions to which are deductible under Section 170(c)(2) of the Code. In the event that the Corporation becomes a private foundation as defined in Section 509(a) of the Code, then, during any period of time in which the Corporation is such a private foundation:

(a) the Corporation shall not engage in any act of "self-dealing," as defined in Section 4941(d) of the Code, so as to give rise to any liability for the tax imposed by Section 4941(a) of the Code;

(b) the Corporation shall distribute its income for each taxable year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by Section 4942(a) of the Code;

(c) the Corporation shall not retain any "excess business holdings," as defined in Section 4943(c) of the Code, so as to give rise to any liability for the tax imposed by Section 4943(a) of the Code;

(d) the Corporation shall not make any investments which would jeopardize the carrying out of any of the exempt purposes of the Corporation, within the meaning of Section 4944 of the Code, so as to give rise to any liability for the tax imposed by Section 4944(a) of the Code; and

(e) the Corporation shall not make any "taxable expenditure," as defined in Section 4945(d) of the Code, so as to give rise to any liability for the tax imposed by Section 4945(a) of the Code.

6. Upon the dissolution of the Corporation or the winding up of its affairs, all of the funds or property of the Corporation shall be disposed of by transfer and distribution to charitable, scientific, literary, or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Code and its regulations as they now exist or as they may hereafter be amended. The following shall be characteristic of the receiving organization:

(a) that it be operated exclusively for charitable, scientific, literary or educational purposes;

(b) that no part of the net earnings of the receiving organization shall inure to the benefit of any private shareholder or individual;

(c) that no substantial part of the activities of the receiving organization constitutes the carrying on of propaganda or otherwise attempting to influence legislation;

(d) that it does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office;

(e) that it qualifies under the provisions of §501(c)(3) of the Code; and

(f) any such receiving organization(s) shall be selected by vote of the majority of the directors of the Corporation at a meeting called for this purpose. If for any reason such disposition cannot be effected, then the funds and property shall be distributed pursuant to an order, judgment or decree of a court having jurisdiction over the assets and property of the Corporation.

D. The general purposes and powers are:

1. To purchase, lease, or otherwise acquire, improve, construct, own, hold, use, maintain, operate, exchange, encumber, sell, convey, or otherwise dispose of, real and personal property of every kind, nature, or description, as may be necessary or desirable to promote the primary purpose of this Corporation.

2. To make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, corporation, municipality, state, government, or municipal or political subdivision.

3. To have and exercise all the rights and powers conferred on non-profit corporations under the Texas Non-Profit Corporation Act, as such law is now in effect or may at any time hereafter be amended.

4. To do all other acts necessary or expedient for the administration to the affairs and attainment of the purposes of this Corporation.

This Corporation is organized pursuant to the Texas Non-Profit Corporation Act and does not contemplate pecuniary gain or profit to the directors or members thereof and is organized for non-profit purposes.

ARTICLE V

INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the Corporation is 800 Brazos, Suite 400, Austin, Texas 78701, and the name of the initial registered agent at such address is Capitol Corporate Services, Inc.

ARTICLE VI

BOARD OF DIRECTORS

The board of the Corporation shall consist of five (5) directors (the “**Directors**,” and each a “**Director**”). Each of the four (4) following entities or organizations (the “**Appointing Entities**,” and each an “**Appointing Entity**”) shall appoint one (1) Director, respectively (together the “**Appointed Directors**”); the City of Austin, a Texas home rule municipality; Circle C Land, L.P., a Texas limited partnership; Hill Country Conservancy, a Texas non-profit corporation; and Barton Springs Edwards Aquifer Conservation District, a Texas ground water conservation district. In the event of the resignation, removal or failure to serve of any Appointed Director, the Appointing Entity that appointed such Director or the successor of such Appointing Entity shall appoint a Director to fill such vacancy. Each Appointing Entity in its sole discretion may remove the Director appointed by such Appointing Entity for any reason or no reason at all.

The initial Appointed Directors appointed by each of the Appointing Entities is listed below. The names and street addresses of the persons who are to serve as initial Directors until the first annual meeting or until their successors are elected and qualified are as follows:

<u>Name</u>	<u>Address</u>	<u>Appointing Entity</u>
_____	_____	City of Austin
	Austin, Texas 787__	
_____	_____	Circle C Land, L.P.
	Austin, Texas 787__	
_____	_____	Hill Country Conservancy
	Austin, Texas 787__	
_____	_____	Barton Springs Edwards Aquifer Conservation District
	Austin, Texas 787__	

The Appointed Directors shall appoint the fifth Director (the “**Independent Director**”) by a unanimous vote. The Independent Director shall serve a term of two (2) years, after which the Appointed Directors shall unanimously appoint a new Independent Director. In the event of the resignation, removal or failure to serve of the Independent Director, the Appointed Directors shall unanimously appoint an Independent Director to fill such vacancy. The Appointed Directors may unanimously remove the Independent Director for any reason or no reason at all.

ARTICLE VII

INCORPORATOR

The name and street address of the incorporator are:

<u>Name</u>	<u>Address</u>
Kevin R. Leiske	Armbrust & Brown, PLLC 100 Congress Avenue, Suite 1300 Austin, Texas 78701-2744

ARTICLE VIII

NO MEMBERS

The Corporation shall have no members.

ARTICLE IX

LIMITATION OF LIABILITY

To the full extent permitted by Texas law, no Director of the Corporation shall be liable to the Corporation or its members for monetary damages for an act or omission in such Director's capacity as a Director of the Corporation, except that this Article does not eliminate or limit the liability of a Director to the extent the Director is found liable for (i) a breach of the Director's duty of loyalty to the Corporation or its members, (ii) an act or omission not in good faith that constitutes a breach of duty of the Director to the Corporation or an act or omission that involves intentional misconduct or a knowing violation of the law, (iii) a transaction from which the Director received an improper benefit whether or not the benefit resulted from an action taken within the scope of the Director's office, or (iv) an act or omission for which the liability of a Director is expressly provided by an applicable statute. Any repeal or amendment of this Article by the members of the Corporation shall be prospective only and shall not adversely affect any limitation on the liability of a Director of the Corporation existing at the time of such repeal or amendment. In addition to the circumstances in which a Director of the Corporation is not liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any provision of the statutes of Texas hereafter enacted that further limits the liability of a member or director of a non-profit corporation. The foregoing limitation of the liability to the Corporation or its members for monetary damages shall not be deemed exclusive of any other rights or limitations of liability or indemnity to which a Director may be entitled under any other provision of the Certificate of Formation or the Bylaws of the Corporation, contract or agreement, vote of Directors and/or disinterested Directors of the Corporation, or otherwise.

ARTICLE X

ACTION BY WRITTEN CONSENT

Any action required to, or which may, be taken at a meeting of the members or of the Directors or of a committee may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by not less than the number of members, directors, or committee members that are necessary to take such action at a meeting at which all of the members, Directors, or committee members were present and voted.

Dated: _____, 2018

Kenneth Jones, Incorporator

**BYLAWS
OF THE
HILL COUNTRY CONSERVANCY FUND**

**BYLAWS
OF THE
HILL COUNTRY CONSERVANCY FUND**

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**BYLAWS
OF THE
HILL COUNTRY CONSERVANCY FUND**

**ARTICLE ONE
OFFICES**

HILL COUNTRY CONSERVANCY FUND, a Texas non-profit corporation (the “**Corporation**”), may have, in addition to its registered office, offices and places of business at such places, both within and without the State of Texas, as the Board of Directors may from time to time determine or the business and affairs of the Corporation may require.

**ARTICLE TWO
PURPOSES**

The Corporation is organized under and by virtue of the laws of the State of Texas concerning nonprofit corporations and shall have and may exercise all of the rights, powers, privileges and immunities granted to such corporations by those laws, as amended from time to time, subject to the restrictions and limitations contained in these Bylaws and the Certificate of Formation of the Corporation (the “**Certificate**”). The Corporation shall be operated and act in furtherance of the purposes stated in Article IV of the Certificate.

**ARTICLE THREE
BOARD OF DIRECTORS**

Section 1. Management of the Corporation. The business and affairs of the Corporation shall be managed by its Board of Directors, who may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate or by these Bylaws directed or required to be exercised or done by the members.

Section 2. Number and Qualifications. The Board of Directors consists of the number of directors appointed in accordance with the Certificate. None of the directors need be members of the Corporation or residents of the State of Texas.

Section 3. Advisory Directors. In addition to the voting directors described in Section 2 above, the directors may also appoint such advisory or honorary directors as the directors shall deem necessary and proper, to act in advisory or honorary capacities without the power of vote or decision as a director, but with all other rights and benefits of a director.

Section 4. Appointment and Removal of Directors. The directors shall be appointed and removed in accordance with the Certificate.

Section 5. Conflict of Interest Policy. The Board of Directors shall adopt a policy regarding conflicts of interests and keep such policy on the books and records of the Corporation, as amended from time to time.

Section 6. Place of Meetings. Meetings of the Board of Directors, annual, regular or special, may be held either within or without the State of Texas.

Section 7. Annual Meetings. An annual meeting of the Board of Directors shall be held following the annual meeting of members or another date approved by resolution of the Board of Directors, if not a legal holiday in the place where the meeting is to be held, and if a legal holiday in such place, then on the next full business day following, at which they shall elect officers, proceed with organization, and transact any and all other business as may properly come before the meeting. Written or printed notice stating the place, date, and hour of each annual meeting of the Board of Directors shall be delivered not less than ten (10) days nor more than fifty (50) days before the date of such meeting, either personally or by mail, electronic mail, or facsimile, by or at the direction of the President or Secretary, to each director entitled to vote at such meeting.

Section 8. Regular Meetings. Regular meetings of the Board of Directors, of which no notice shall be necessary, shall be held at such times and places as may be fixed from time to time by resolution adopted by the Board of Directors and communicated to all directors. Except as otherwise provided by statute, the Certificate or these Bylaws, any and all business may be transacted at any regular meeting.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, if elected and serving, or by the President on at least twenty-four (24) hours notice to each director, either personally or by mail or by telegram. Special meetings shall be called by the President or Secretary in like manner and on like notice on the written request of one (1) director. Except as may be otherwise expressly provided by statute or by the Certificate or by these Bylaws, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or the waiver of notice of such meeting.

Section 10. Quorum and Manner of Acting. At all meetings of the Board of Directors, the presence of a majority of the number of directors fixed by these Bylaws shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by statute, by the Certificate or by these Bylaws. The act of a majority of the number of directors fixed by these Bylaws shall be the act of the Board of Directors unless the act of a greater number is required by statute, by the Certificate or by these Bylaws, in which case the act of such greater number shall be requisite to constitute the act of the Board of Directors. If a quorum shall not be present at any meeting of the directors, the directors 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 any such adjourned meeting, any business may be transacted which might have been transacted at the meeting if originally convened. And, if a quorum of directors is present at a meeting and a director is recused, or recuses herself or himself, due to a conflict of interest, and leaves the meeting for action on the matter causing the conflict, then any provision to the contrary contained in these Bylaws notwithstanding (i) a quorum shall not be lost on such action solely because such recused director is not present for such action and (ii) the act of a majority of the then serving non-conflicted directors shall be the act of the Board of Directors.

Section 11. Directors' Compensation. Directors as such will not receive any compensation for their services. However, any director may be reimbursed for his actual reasonable expenses incurred in the performance of his duties. Nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 12. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all the members of the Board of Directors. Such consent shall have the same force and effect as a unanimous vote at a meeting and may be stated as such in any document. Provided, however, the proceeding sentences in this Section notwithstanding, so long as the Certificate so provides, any action required to, or which may, be taken at a meeting of the directors may be taken without a meeting if a consent in writing setting forth the action is signed by a sufficient number of directors as would be necessary to take that action at a meeting at which all of the directors were present and voted. Provided, further, as a condition precedent to the effectiveness of any action approved by such written consent (and without a meeting), at least three (3) days prior written notice of the action so approved must be delivered to the President (for filing in the records of the Corporation) and to each of the directors of the Corporation.

Section 13. Action Without a Meeting by Use of a Conference Telephone. Subject to the provisions required or permitted by the controlling law for notice of meetings, members of the Board of Directors or members of any committee designated by the Board of Directors may participate in and hold a meeting of the Board of Directors or such committee by means of a 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 the 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 14. Director Proxies. Every Director entitled to vote at a meeting or without a meeting, as herein provided, may authorize another person to act for such Director by proxy. Provided, however, Directors present by proxy may not be counted toward a quorum. Every proxy must be in writing and signed by the authorizing Director. No proxy shall be valid after the expiration of three (3) months from the date of its execution. Every proxy shall be revocable at the pleasure of the director executing it, unless expressly provided therein to be irrevocable or otherwise made irrevocable by law. And, each Director may only grant a proxy two (2) times in any given calendar year, unless otherwise permitted by the Board of Directors.

ARTICLE FOUR EXECUTIVE COMMITTEE

Section 1. Constitution and Powers. The Board of Directors, by resolution adopted by affirmative vote of a two-thirds (2/3) majority of the number of directors fixed by the Certificate, may designate two (2) or more directors (with such alternates, if any, as may be deemed desirable) to constitute an Executive Committee, which Executive Committee shall have and may exercise, when the Board of Directors is not in session, all of the authority and powers of

the Board of Directors in regard to matters of urgency (as reasonably determined by the Executive Committee, under the applicable circumstances) and to those matters specifically designated to the Executive Committee by the Board of Directors; provided, that the foregoing shall not be construed as authorizing action by the Executive Committee with respect to any action which by statute, the Certificate or these Bylaws is required to be taken by vote of a specified proportion of the number of directors fixed by these Bylaws, or any other actions required or specified by the controlling law or other applicable law or by these Bylaws or by the Certificate to be taken by the Board of Directors, as such. The designation of the Executive Committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any member thereof of any responsibility imposed upon it or him by law. So far as practicable, members of the Executive Committee and their alternates (if any) shall be appointed by the Board of Directors at its annual meeting or the first meeting after each annual meeting of members and, unless sooner discharged by affirmative vote of a majority of the number of directors fixed by these Bylaws, shall hold office as long as such individuals remain directors of the Corporation or until their respective successors are appointed and qualify or until their earlier respective deaths, resignations, retirements or disqualifications.

Section 2. Meetings. Regular meetings of the Executive Committee, of which no notice shall be necessary, shall be held at such times and places as may be fixed from time to time by resolution adopted by affirmative vote of a majority of the whole Executive Committee and communicated to all the members thereof. Special meetings of the Executive Committee may be called by the Chairman of the Board, if elected and serving, the President or any two (2) member(s) thereof at any time on twenty-four (24) hours' notice to each member, either personally or by mail, electronic mail or facsimile. Except as may be otherwise expressly provided by statute or by the Certificate or by these Bylaws, neither the business to be transacted at, nor the purpose of, any meeting of the Executive Committee need be specified in the notice or waiver of notice of such meeting. A majority of the Executive Committee shall constitute a quorum for the transaction of business, and (1) for matters delegated to the Executive Committee by the Board of Directors, the act of a two-thirds (2/3) majority of the number of Executive Committee members at a meeting of the Executive Committee (at which a quorum of such members is present) shall be the act of the Executive Committee, and (2) for urgent matters, as determined under Section 1 of this Article Four, the act of a majority of the number of Executive Committee members at a meeting of the Executive Committee (at which a quorum of such members is present) shall be the act of the Executive Committee. The members of the Executive Committee shall act only as a committee, and the individual members shall have no power as such. The Executive Committee, at each meeting thereof, may designate one of its members to act as chairman and preside at the meeting or, in its discretion, may appoint a chairman from among its members to preside at all its meetings held during such period as the Executive Committee may specify. And, if a quorum of the Executive Committee is present at a meeting and a member thereof is recused, or recuses herself or himself, due to a conflict of interest, and leaves the meeting for action on the matter causing the conflict, then any provision to the contrary contained in these Bylaws notwithstanding (i) a quorum shall not be lost on such action solely because such recused member is not present for such action and (ii) the act of a majority of the then serving non-conflicted members shall be the act of the Executive Committee.

Section 3. Director Proxies. Every Executive Committee member entitled to vote at a meeting or without a meeting, as herein provided, may authorize another person to act for such member by proxy. Provided, however, Executive Committee members present by proxy may not be counted toward a quorum. Every proxy must be in writing and signed by the authorizing Executive Committee member. No proxy shall be valid after the expiration of three (3) months from the date of its execution. Every proxy shall be revocable at the pleasure of the member executing it, unless expressly provided therein to be irrevocable or otherwise made irrevocable by law. And, each Executive Committee member may only grant a proxy two (2) times in any given calendar year, unless otherwise permitted by the Executive Committee.

Section 4. Records. The Executive Committee shall keep a record of its acts and proceedings and shall report the same, from time to time, to the Board of Directors. The Secretary of the Corporation, or, in the Secretary's absence, an Assistant Secretary, shall act as Secretary of the Executive Committee, or the Executive Committee may, in its discretion, appoint its own secretary.

Section 5. Vacancies. Any vacancy in the Executive Committee may be filled by affirmative vote of a majority of the number of directors fixed by these Bylaws.

ARTICLE FIVE OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board of Directors may, by resolution adopted by affirmative vote of a majority of the number of directors fixed by the Certificate, designate two or more directors (with such alternates, if any, as may be deemed desirable) to constitute any committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and the Executive Committee and of carrying out and implementing any instructions or any policies, plans and programs theretofore approved, authorized and adopted by the Board of Directors or the Executive Committee.

ARTICLE SIX NOTICES

Section 1. Manner of Giving Notice. Whenever, under the provisions of any statute, the Certificate or these Bylaws, notice is required to be given to any committee member, director, officer or member of the Corporation, and no provision is made as to how such notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given (A) in writing by mail, postage prepaid, addressed to such committee member, director, officer, or member at his or her address as it appears on the records of the Corporation, and (B) by electronic mail (e-mail) to such person at his or her e-mail address provided by such person and as it appears on the records of the Corporation. Any notice required or permitted to be given by mail shall be deemed to be delivered at the time when the same shall be thus deposited in the United States mail, as aforesaid.

Section 2. Waiver of Notice. Whenever any notice is required to be given to any committee member, director or member of the Corporation under any statute, the Certificate, or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice,

whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance by a director at a meeting of the Board of Directors shall constitute a waiver of notice of such meeting, except where a director 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.

**ARTICLE SEVEN
OFFICERS, EMPLOYEES AND AGENTS:
POWERS AND DUTIES**

Section 1. Elected Officers. The elected officers of the Corporation shall be a President (which office shall automatically be filled by the end of a then serving President-Elect's term, unless otherwise determined by the Board of Directors) and a Secretary, who may not be the same person as the then serving President. The Board of Directors may, if it so desires, elect a President-Elect, one or more Vice Presidents as may be determined from time to time by the Board of Directors (and in case of each such Vice President, with such descriptive title, if any, as the Board of Directors shall deem appropriate), and a Treasurer. None of the elected officers need be members of the Board of Directors, except for President-Elect.

Section 2. Election. So far as is practicable, all elected officers shall be elected by the Board of Directors at its first meeting and at each annual meeting of the Board of Directors.

Section 3. Appointed Officers. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers and such other officers and assistant officers and agents (none of whom need be members of the Board) as it shall from time to time deem necessary, who shall exercise such powers and perform such duties as shall be set forth in these Bylaws or determined from time to time by the Board of Directors.

Section 4. Two or More Offices. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 5. Compensation. The officers of the Corporation will not receive compensation and no part of the net earnings of the Corporation shall be distributed to, or inure to the benefit of, any member, trustee, officer, agent or employee of the Corporation, or to any private individual, except to further the exempt purposes of the Corporation as described above and except that reasonable compensation may be paid for services duly rendered, and reimbursement may be made for reasonable expenses duly incurred, to or for the Corporation affecting one or more of its authorized purposes.

Section 6. Term of Office; Removal; Filling of Vacancies. Each elected officer of the Corporation shall hold office generally for a period of one (1) year and until his or her successor is chosen and qualified in his or her stead or until his or her earlier death, resignation, retirement, disqualification or removal from office. Each appointed officer shall hold office at the pleasure of the Board of Directors without the necessity of periodic reappointment. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby,

but such removal shall be without prejudice to any contract rights. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

Section 7. Chairman of the Board. The Chairman of the Board, if serving and in attendance, shall preside when present at all meetings of the members and the Board of Directors. He shall advise and counsel the President and other officers of the Corporation and may exercise all of the powers granted to the President and shall exercise such other powers and perform such other duties as shall be assigned to or required by the Chairman from time to time by the Board of Directors.

Section 8. President. The President shall be the chief executive officer of the Corporation and, subject to the provisions of these Bylaws, shall have general supervision of the affairs of the Corporation and shall have general and active control of all its business and operations. In the absence of the Chairman of the Board, or if such officer shall not have been elected or be serving, the President shall preside when present at meetings of the members and the Board of Directors. Subject to such consents, approvals and parameters determined by the Board of Directors, the President shall have general authority to execute bonds, deeds and contracts in the name of the Corporation and to affix the corporate seal thereto, if adopted; to sign membership certificates, to cause the employment or appointment of such employees and agents of the Corporation as the proper conduct of operations may require and to fix their compensation, subject to the provisions of these Bylaws; to remove or suspend any employee or agent who shall have been employed or appointed under his authority or under authority of an officer subordinate to him; to suspend for cause, pending final action by the authority which shall have elected or appointed him, any officer subordinate to the President; to create new committees (excepting the Executive Committee and the Nominating Committee) and sub-committees and to appoint members to any such committee or sub-committee; and in general to exercise all the powers usually appertaining to the office of president of a corporation, except as otherwise provided by statute, the Certificate or these Bylaws. In the absence or disability of the President, his or her duties shall be performed and his powers may be exercised by the President-Elect, if elected and then serving, and then, the Vice Presidents in the order of their seniority, unless otherwise determined by the President or the Board of Directors.

Section 9. President-Elect. The President-Elect shall be elected from the directors of the Corporation to serve for a term of one (1) year and shall substitute for the President in his or her absence and shall perform such duties as assigned by the President. The President-Elect shall automatically serve on the Executive Committee during the President-Elect term, if such a committee is then appointed, and shall succeed to the presidency in the event that office becomes vacant, unless otherwise determined by the Board of Directors. At the end of the President's term, the President-Elect shall automatically assume the office of President for a one (1) year term and until the next President is elected or then serving President-Elect succeeds and assumes the duties of President of the Corporation.

Section 10. Vice Presidents. Each Vice President, if any is elected and serving, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board of Directors (which shall control).

Section 11. Secretary. The Secretary shall see that notice is given of all meetings of the members and meetings of the Board of Directors and shall keep and attest true records of all proceedings at all meetings thereof. The Secretary shall have charge of the corporate seal and have authority to attest any and all instruments or writings to which the same may be affixed; shall keep and account for all books, documents, papers and records of the Corporation except those for which some other officer or agent is properly accountable; shall have authority to sign membership certificates; and shall generally perform all duties usually appertaining to the office of secretary of a corporation. In the absence or disability of the Secretary, his duties shall be performed and his powers may be exercised by the Assistant Secretaries in the order of their seniority, unless otherwise determined by the Secretary, the President or the Board of Directors (which shall control).

Section 12. Assistant Secretaries. Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the Secretary, the President or the Board of Directors (which shall control).

Section 13. Treasurer. The Treasurer shall be the chief accounting and financial officer of the Corporation and shall have active control of and shall be responsible for all matters pertaining to the accounts and finances of the Corporation. Subject to such approvals, consents and parameters determined by the Board of Directors, the Treasurer shall audit all payrolls and vouchers of the Corporation and shall direct the manner of certifying the same; shall supervise the manner of keeping all vouchers for payments by the Corporation and all other documents relating to such payments; shall receive, audit and consolidate all operating and financial statements of the Corporation and its various departments; shall have supervision of the books of account of the Corporation, their arrangement and classification; shall supervise the accounting and auditing practices of the Corporation and shall have charge of all matters relating to taxation. Subject to such approvals, consents and parameters determined by the Board of Directors, the Treasurer shall have the care and custody of all monies, funds and securities of the Corporation; shall deposit or cause to be deposited all such funds in and with such depositories as the Board of Directors shall from time to time direct or as shall be selected in accordance with procedures established by the Board; shall advise upon all terms or credit granted by the Corporation; shall be responsible for the collection of all its accounts and shall cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation. Subject to such approvals, consents and parameters determined by the Board of Directors, the Treasurer shall have the power to endorse for deposit or collection or otherwise all checks, drafts, notes, bills of exchange or other commercial papers payable to the Corporation and to give property receipts or discharges for all payments to the Corporation and shall generally perform all duties usually appertaining to the office of treasurer of a corporation. In the absence or disability of the Treasurer, his duties shall be performed and his powers may be exercised by the Assistant Treasurers in the order of their seniority, unless otherwise determined by the Treasurer, the President or the Board of Directors (which shall control).

Section 14. Assistant Treasurers. Each Assistant Treasurer shall generally assist the Treasurer and shall have such powers and perform such duties and services as shall from time to

time be prescribed or delegated to him by the Treasurer, the President or the Board of Directors (which shall control).

Section 15. Additional Powers and Duties. In addition to the foregoing especially enumerated duties, services and powers, the several elected and appointed officers of the Corporation shall perform such other duties and services and exercise such further powers as may be provided by statute, the Certificate or these Bylaws, or as the Board of Directors may from time to time determine or as may be assigned to them by any competent superior officer.

Section 16. Executive Director and Employees. The Board of Directors on behalf of the Corporation may employ an Executive Director and such other employees upon terms and conditions as it deems appropriate.

ARTICLE EIGHT MISCELLANEOUS

Section 1. Dividends Prohibited. No part of the earnings of the Corporation shall inure to the benefit of any director or officer of the Corporation or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes), and no director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

Section 2. Loans to Officers and Directors Prohibited. No loans shall be made by the Corporation to its officers and directors, and any director voting for or assenting to the making of any such loan, and any officer participating in the making thereof, shall be jointly and severally liable to the Corporation for the amount of such loan until repayment thereof.

Section 3. Signature of Negotiable Instruments. All bills, notes, checks or other instruments for the payment of money shall be signed or countersigned by such officer, officers, agent or agents, and in such manner, as are permitted by these Bylaws and as from time to time may be prescribed by resolution (whether general or special) of the Board of Directors.

Section 4. Fiscal Year. The fiscal year of the Corporation shall be the calendar year, unless otherwise fixed by resolution of the Board of Directors.

Section 5. Seal. The seal of the Corporation, if any, shall be in such form as shall be adopted and approved from time to time by the Board of Directors. The seal may be used by causing it, or a facsimile thereof, to be impressed, affixed, imprinted or in any manner reproduced.

Section 6. Indemnification.

A. **Definitions.** In this Section:

(1) *"Indemnitee"* means (i) any present or former director, advisory director or officer of the Corporation; (ii) any person who, while serving in any of the capacities referred to in clause (i) hereof, served at the Corporation's request as a director, officer,

partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, 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 Board of Directors or any committee thereof to serve in any of the capacities referred to in clauses (i) or (ii) hereof.

(2) “*Official Capacity*” means (i) when used with respect to a director, the office of director of the Corporation, and (ii) when used with respect to a person other than a director, the elective or appointive office of the Corporation held by such person or the employment or agency relationship undertaken by such person on behalf of the Corporation, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

(3) “*Proceeding*” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral 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.

B. Indemnification. The Corporation shall as a mandatory obligation indemnify every Indemnitee against all judgments, penalties (including excise and similar taxes), fines, amounts paid in settlement, and reasonable expenses actually incurred by the Indemnitee in connection with any Proceeding in which he was, is or is threatened to be named a defendant or respondent, or in which he was or is a witness without being named a defendant or respondent, by reason, in whole or in part, of his serving or having served, or having been nominated or designated to serve, in any of the capacities referred to in Section 6.A.; *provided, however*, that in the event that an Indemnitee is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the Indemnitee, the indemnification (i) is limited to reasonable expenses actually incurred by the Indemnitee in connection with the Proceeding and (ii) shall not be made in respect of any Proceeding in which the Indemnitee shall have been found liable for willful or intentional misconduct in the performance of his duty to the Corporation. Except as provided in (i) above in this Section 6.B., no indemnification shall be made under this Section 6.B. in respect of any Proceeding in which such Indemnitee shall have been (i) found liable on the basis that personal benefit was improperly received by him, whether or not the benefit resulted from an action taken in the Indemnitee’s Official Capacity, or (ii) found liable to the Corporation. The termination of any Proceeding by judgment, order, settlement or conviction, or on a plea of nolo contendere or its equivalent, is not of itself determinative that the Indemnitee is not entitled to indemnification. An Indemnitee shall be deemed to have been found liable in respect of any claim, issue or matter only after the Indemnitee shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. Reasonable expenses shall include, without limitation, all court costs and all fees and disbursements of attorneys for the Indemnitee.

C. Successful Defense. Without limitation of Section 6.B. and in addition to the indemnification provided for in Section 6.B., the Corporation shall indemnify every Indemnitee against reasonable expenses incurred by such person in connection with any Proceeding in which he is a witness or a named defendant or respondent because he served in any of the capacities

referred to in Section 6.B., if such person has been wholly successful, on the merits or otherwise, in defense of the Proceeding.

D. Deemed Authorization. The obligation to provide mandatory indemnification to Indemnitees of the Corporation as provided, and limited, by this Section 6 shall be deemed to constitute authorization of indemnification in the manner required by Article 1396-2.22A of the Texas Non-Profit Corporation Act even though such provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

E. Advancement of Expenses. Reasonable expenses (including court costs and attorneys' fees) incurred by an Indemnitee who was or is a witness or who is or is threatened to be made a named defendant or respondent in a Proceeding shall be paid by the Corporation at reasonable intervals in advance of the final disposition of such Proceeding, after receipt by the Corporation of (i) a written affirmation by such Indemnitee of his good faith belief that he has met the standard of conduct necessary for indemnification by the Corporation under this Section and (ii) a written undertaking by or on behalf of such Indemnitee to repay the amount paid or reimbursed by the Corporation if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Section. Such written undertaking shall be an unlimited obligation of the Indemnitee but need not be secured and it may be accepted without reference to financial ability to make repayment. Notwithstanding any other provision of this Section, the Corporation shall pay or reimburse expenses incurred by an Indemnitee in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not named a defendant or respondent in the Proceeding.

F. Other Indemnification and Insurance. The indemnification provided by this Section shall (i) not be deemed exclusive of, or to preclude, any other rights to which those seeking indemnification may at any time be entitled under the Corporation's Certificate, any law, agreement or vote of members or disinterested directors, or otherwise, or under any policy or policies of insurance purchased and maintained by the Corporation on behalf of any Indemnitee, both as to action in his Official Capacity and as to action in any other capacity, (ii) 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 (iii) inure to the benefit of the heirs, executors, and administrators of such a person.

G. Notice. Any indemnification of or advance of expenses to an Indemnitee in accordance with this Section shall be reported in writing to the members of the Corporation with or before the notice or waiver of notice of the next members' meeting or with or before the next submission to members of a consent to action without a meeting and, in any case, within the twelve-month period immediately following the date of the indemnification or advance.

H. Construction. The indemnification provided by this Section shall be subject to all valid and applicable laws, including, without limitation, Article 1396-2.22A of the Texas Non-Profit Corporation Act, and, in the event this Section or any of the provisions hereof or the indemnification contemplated hereby are found to be inconsistent with or contrary to any such valid laws, the latter shall be deemed to control and this Section shall be regarded as modified accordingly, and, as so modified, to continue in full force and effect.

I. Continuing Offer. Reliance, etc. The provisions of this Section (i) are for the benefit of, and may be enforced by, each Indemnitee of the Corporation the same as if set forth in their entirety in a written instrument duly executed and delivered by the Corporation and such Indemnitee, and (ii) constitute a continuing offer to all present and future Indemnitees. The Corporation, by its adoption of these Bylaws, (i) acknowledges and agrees that each Indemnitee of the Corporation has relied upon and will continue to rely upon the provisions of this Section in becoming, and serving in any of the capacities referred to in Section 6.A.(1) hereof, (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 Section in accordance with their terms by any act or failure to act on the part of the Corporation.

J. Effect of Amendment. No amendment, modification or repeal of this Section or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitees to be indemnified by the Corporation, nor the obligation of the Corporation to indemnify any such Indemnitees, under and in accordance with the provisions of this Section 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. Books and Records. The Corporation shall keep correct and complete books and records of account for at least three (3) years after the end of each fiscal year, and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at its registered or principal office a record giving the names and addresses of the members entitled to vote. Any member in good standing or prospective member shall be entitled to inspect and copy the books and records of account of the Corporation upon reasonable notice being given to the secretary of the Corporation.

Section 8. Surety Bond. Such officers and agents of the Corporation (if any) as the Board of Directors may direct from time to time shall be bonded for the faithful performance of their duties and for the restoration to the Corporation, in such amounts and by such surety companies as the Board of Directors may determine. The premiums on such bonds shall be paid by the Corporation, and the bonds so furnished shall be in the custody of the Secretary.

ARTICLE NINE AMENDMENTS

The power to alter, amend or repeal these Bylaws or adopt new bylaws shall be vested solely in the Board of Directors.

The undersigned does hereby certify that the above and foregoing Bylaws were adopted as the Bylaws of the Corporation by action of the Board of Directors as of and effective the _____ day of _____, 2018.

Return: Heritage Title U[#] 11
Attn: Kathy Nov...

TRV 2002151984
243 pgs

DEVELOPMENT AGREEMENT
BETWEEN
CITY OF AUSTIN
AND
CIRCLE C LAND CORP.

Effective as of August 15, 2002

disagrees with the estimate it will inform the owner of such fact. In that event, Dedicated Review Team and the owner will attempt to resolve the discrepancy. If they cannot do so within fifteen (15) days, then the Dedicated Review Team and the owner will jointly select an independent third party civil engineer to review the proposed maintenance plan and develop an estimate of the initial annual maintenance costs for the Facility. If the Dedicated Review Team and the Landowner cannot agree on the engineer, then each will select an independent third party engineer and those engineers will select an independent third party engineer to perform the required review. The third party engineer's estimate of the annual maintenance costs will be binding on City and the owner of the Facility for determining the initial amount of the required fiscal deposit. Each of the engineers selected must be experienced in the design and operation of water control facilities. Each party will be responsible for its respective engineering costs and will split the costs for the engineer making the ultimate determination of the estimated annual maintenance costs.

g. **Continuing Fiscal.** Each time an application for an Operating Permit for a Facility is filed with the City, the owner of the Facility will submit its estimate of the costs necessary to implement the maintenance plan contained in the permit application. If the Dedicated Review Team disagrees with the cost estimate for such maintenance, it will inform the owner of the Facility of such fact. If the Dedicated Review Team and the owner do not agree on the estimated costs within fifteen days, the dispute will be resolved in accordance with the procedure established for estimating the initial maintenance costs. The estimate of the annual maintenance costs will be binding on the City and the owner of the Facility for purposes of determining the amount of the fiscal deposit required for the annual period covered by the Operating Permit.

h. **City Approval.** All provisions of any and all documents, including, without limitation, any declaration of restrictive covenants or other documents creating an Association or establishing the assessments contemplated by this Section, regarding the performance monitoring, maintenance, and repair and remediation of any Facility, and/or the assessments to pay costs incurred in connection therewith and/or liens to secure payment of such assessments must be approved by the City, which approval will not be unreasonably withheld or delayed, and the documents in which such provisions are contained must provide that any such provisions may not be modified, amended or terminated without the City's consent. The City hereby agrees that if a portion of the Land is subjected to, and made a part of, either (i) that certain Circle C Commercial Master Declaration of Covenants, Conditions, Restrictions and Easements recorded under Document No. 2002151143 of the Real Property Records of Travis County, Texas, or (ii) that certain Bear Lake PUD Master Declaration of Covenants, Conditions, Restrictions and Easements recorded under Document No. 2002151142 of the Real Property Records of Travis County, Texas and under Document No. 02022306 of the Real Property Records of Hays County, Texas, then such action will satisfy the requirement of Subsection 7.1Q(d)(i).

7.1R Hill Country Conservancy Trust

Within 180 days of the full execution of this Agreement, the City and CCLC will cause a trust to be formed under the name "Hill Country Conservancy Trust" to receive proceeds from

assessments on certain commercial Landowners (as described below) to be used for (i) the acquisition and preservation of additional open space within or adjacent to the Edwards Aquifer Recharge Zone, as defined by the Austin City Code, (ii) regional watershed and habitat protection planning, (iii) environmental education programs and (iv) other purposes ancillary thereto (the "Conservancy Trust"). The Conservancy Trust will be governed by five trustees appointed as follows:

1. One trustee will be appointed by the City.
2. One trustee will be appointed by CCLC.
3. One trustee will be appointed by the Hill Country Conservancy, a Texas not for profit corporation.
4. One trustee will be appointed by the Barton Springs Edwards Aquifer Conservation District.
5. One trustee will be appointed by the Wildflower Center.

All areas of the Land that are developed for Office Use Category will be subject to a mandatory assessment (the "HCCT Assessment") administered by a commercial owners association (the "Commercial Owners Association") created pursuant to that certain Circle C Commercial Master Declaration of Covenants, Conditions, Restrictions and Easements recorded in Document No. 2002151143 of the Real Property Records of Travis County, Texas. (the "Commercial Properties Declaration"). No Parcel may be developed or used for Office use unless the City has been provided evidence reasonably satisfactory to the City that (i) such Parcel has been made irrevocably and perpetually subject to the Commercial Properties Declaration through the filing of a Notice of Applicability (as defined in the Commercial Properties Declaration), (ii) such Parcel is included within a "Development Area" and within an "Assessment Unit" (as such terms are defined in the Commercial Properties Declaration), and (iii) the Commercial Owners Association is in existence.

The portions of the Land that are allocated Office Use Category Development Allocation from time to time will be subject to the HCCT Assessment pursuant to the terms of the Commercial Properties Declaration. The Commercial Properties Declaration includes the following terms with respect to the HCCT Assessments:

- i. The annual HCCT Assessment for all the Land will be (i) 25¢ per year per \$100.00 of building value used for Office, minus (ii) the Commercial Owners Association's costs for the relevant year incurred under the cost sharing agreement dated August 15, 2002 between the Commercial Owners Association and the Circle C. Homeowners Association for street landscape maintenance, with the deduction for such costs not to exceed \$70,000.00 per year (with the \$70,000.00 maximum deduction being escalated by 3% per year).
- ii. The HCCT Assessment for a particular Parcel will be levied no earlier than six months after an Office use occupant has commenced occupation of the building on that Parcel.

- iii. There will be prorations for (i) buildings with mixed use (i.e., Office and Retail) based on the Development Allocations for the Parcel upon which such building is located, and (ii) assessments for partial years.
- iv. There is a lien to secure the payment of the HCCT Assessment obligation.
- v. The HCCT Assessments designated for funding the Conservancy Trust will be paid by the Commercial Owners Association to the Conservancy Trust within 10 days of collection.
- vi. The City and the Conservancy Trust will have the right to inspect and audit the Commercial Owners Association's books and records with respect to the HCCT Assessments.
- vii. The provisions of the Commercial Properties Declaration affecting the HCCT Assessments cannot be amended without the prior written consent of the City and the Conservancy Trust.

Any Landowner providing an Apportionment of Development Allocation or an Assignment of Development Allocation to the City under the terms of this Agreement in connection with the allocation or assignment of Office Use Category must at the same time provide a copy of that apportionment or assignment to the Commercial Owners Association and the Conservancy Trust. It will be the responsibility of that Landowner to determine the then current address of the Commercial Owners Association and the Conservancy Trust when providing that copy. The Conservancy Trust will file its current address for notices in the Real Property Records of Travis County, Texas.

The document creating the Conservancy Trust will provide that in all literature, brochures and other advertising, the Conservancy Trust will credit Commercial Owners Association with funding the acquisition and preservation of property for open space preservation and the funding of education programs.

7.1S Pipelines

a. **Special Provisions Regarding Parcels Adjacent to the Longhorn Pipeline.** Initial Parcels 102, 103 and 106 are encumbered by that certain pipeline currently located in easements granted to Humble Pipeline Co. and Exxon Pipeline Co. as described in instruments recorded in Volume 993, Page 355, Volume 994, Page 397, Volume 9263, Page 995, and Volume 9684, Page 844 of the Real Property Records of Travis County, Texas and commonly referred to as the "Longhorn Pipeline." It is anticipated that the Longhorn Pipeline will soon be transporting refined gasoline. Accordingly, in addition to all the other requirements in this Agreement for the construction of any structure on Parcels 102, 103, and 106, CCLC will file, concurrently with the submission of a site plan relating to such structure, a technical opinion from a qualified engineer (the "Report") that verifies that the proposed structure is designed to: (1) have at least a one hour fire rating for exposure from the Longhorn Pipeline and (2) allow persons one hour to

Item 4

Board Discussions and Possible Actions

c. Discussion and possible action related the draft State Auditor's Office report.



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

MEMORANDUM

Date: June 7, 2019
To: Board of Directors
From: Alicia Reinmund-Martinez, General Manager
Re: Item 4c – Draft State Auditor’s Office Report

The State Auditor’s Office has concluded its review of the BSEACD and other selected Groundwater Conservation Districts for 2019. Attached to this memorandum is the draft report of their audit of the BSEACD. Overall, the BSEACD received a “Low” rating for its achievement of the Management Plan goals – a summary of this evaluation begins on page 1. Also, the BSEACD received a “Low” rating for its compliance with a majority of the Statutory Requirements – a summary of this evaluation begins on page 10.

A “Low” or green rating means that their audit identified strengths that support the BSEACD’s ability to administer the program or the issues identified do not present significant risks or effects that would negatively affect the BSEACD’s ability to effectively administer the program. A “Low” rating is good.

The SAO did include five recommendations in its draft report – these are found on pages 12 and 13.

Also, for your information, I have also included in your backup documentation (provided electronically), the State Auditor’s Office report on selected Groundwater Conservation Districts from May 2018.

Item 5

Adjournment