

# TCEQ Interoffice Memorandum

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

THRU: Chris Kozlowski, Team Leader  
Water Rights Permitting Team

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

DATE: November 20, 2023

SUBJECT: City of Pflugerville  
WRPERM 5790  
CN600412985, RN104071709  
Application No. 5790A to Amend Water Use Permit No. 5790  
Texas Water Code §§ 11.042, 11.122, Limited Mailed Notice Required  
Unnamed tributary of Wilbarger Creek, Colorado River Basin  
Travis County

The application was received on April 18, 2023, and partial fees were received on April 25, 2023. Additional information was received on November 13, 2023, and additional fees were received on November 17, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on November 20, 2023. Mailed notice to the downstream water right holders of record in the Colorado River Basin is required pursuant to 30 Texas Administrative Code (TAC) § 295.161(a), and notice to the Texas Parks and Wildlife Department and the Public Interest Council is required pursuant to 30 TAC § 295.161(c).

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

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

OCC Mailed Notice Required  YES  NO

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Kelly Keel, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 20, 2023

Ms. Sereniah Breland, City Manager  
City of Pflugerville  
P.O. Box 589  
Pflugerville, TX 78691-6400

**VIA E-MAIL**

RE: City of Pflugerville  
WRPERM 5790  
CN600412985, RN104071709  
Application No. 5790A to Amend Water Use Permit No. 5790  
Texas Water Code §§ 11.042, 11.122, Limited Mailed Notice Required  
Unnamed tributary of Wilbarger Creek, Colorado River Basin  
Travis County

Dear Ms. Breland:

This acknowledges receipt, on November 13, 2023, of additional information, and on November 17, 2023 of additional fees in the amount of \$13.16 (Receipt No. M404361, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on November 20, 2023. Staff will continue processing the application for consideration by the Executive Director.

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

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

Sincerely,

A handwritten signature in cursive script that reads "Hal E. Bailey, Jr.".

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

Attachment



**Basis2 Cost Recovery Report**

NOV-20-23 11:36 AM

Transaction Date (From): 10November2021

Transaction Date (To): 20November2021

<u>Fee</u>	<u>Receipt #</u>	<u>Proj.#</u>	<u>Acct.#</u>	<u>Paid By</u> <u>Paid For</u>	<u>Fac/Per/Ref</u> <u>Proj. Name</u>	<u>Tcode</u>	<u>Tran. Date</u>	<u>Rec. Amt.</u>
PTGU	M403952		PTGU	SLEDGELAW GROUP PLLC	ADJ141509A 111323	N	13-NOV-23	-\$5.88
							<b>Receipt # subtotal:</b>	<b>-\$5.88</b>
	M403953		PTGU	SLEDGELAW GROUP PLLC	ADJ141510A 111323	N	13-NOV-23	-\$5.88
							<b>Receipt # subtotal:</b>	<b>-\$5.88</b>
	M403954		PTGU	SLEDGELAW GROUP PLLC	ADJ141507A 111323	N	13-NOV-23	-\$8.82
							<b>Receipt # subtotal:</b>	<b>-\$8.82</b>
	M404361		PTGU	PFLUGERVILLE, CITY OF	5790 111723	N	17-NOV-23	-\$13.16
							<b>Receipt # subtotal:</b>	<b>-\$13.16</b>
							<b>Fee code subtotal:</b>	<b>-\$33.74</b>
							<b>Report total:</b>	<b>-\$33.74</b>

## Hal Bailey

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**From:** Brandon Pritchett <[REDACTED]>  
**Sent:** Monday, November 13, 2023 7:15 AM  
**To:** Hal Bailey  
**Subject:** RE: City of Pflugerville Application No. 5790A Request for Information  
**Attachments:** City\_of\_Pflugerville\_5790A\_RFI\_Sent\_10.31.2023.pdf

Hal,

In response to the attached RFI, please see below responses in **red**:

1. Confirm the location of the existing diversion point on the Colorado River. Staff has calculated the coordinates to be Latitude 30.261518°N, Longitude 97.662323°W. **We have confirmed this to be the location of the existing diversion point.**
2. Confirm the location of the existing diversion and discharge point from the perimeter of Lake Pflugerville, which is identified by a point on centerline of the dam. Staff has calculated the coordinates to be Latitude 30.438898°N, Longitude 97.568533°W. **We have confirmed this to be the existing diversion and discharge point.**
3. Remit fees in the amount of \$13.16 as described below. **The check for \$13.16 will be mailed out today.**

Let me know if there is anything else you need for this and we'll get it done.

Thanks,

Brandon Pritchett  
City of Pflugerville  
Public Utility Director  
[REDACTED]

Office: (512)-990-6402

Cell: (512)-750-5307

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**From:** Hal Bailey <Hal.Bailey@tceq.texas.gov>  
**Sent:** Tuesday, October 31, 2023 2:28 PM  
**To:** Brandon Pritchett <[REDACTED]>  
**Subject:** RE: City of Pflugerville Application No. 5790A Request for Information

**[EXTERNAL]**

Good afternoon Brandon,

You can email the responses to the RFI questions directly to me. The check for the notice fees should be sent to the TCEQ Cashier's Office per the instructions below.

Please include the name of the applicant and the water right number (WRPERM 5790A) with the check, so Cashier's Office staff know which application to apply the payment to.

*By regular U.S. mail:*

TCEQ Financial Administration Division  
Cashier's Office, MC-214



P.O. Box 13088  
Austin, TX 78711-3088

*By overnight/express mail:*

TCEQ Financial Administration Division  
Cashier's Office, MC-214 12100 Park 35 Circle  
Austin, TX 78753

Thank you,

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

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**From:** Brandon Pritchett [REDACTED]  
**Sent:** Tuesday, October 31, 2023 2:02 PM  
**To:** Hal Bailey <[Hal.Bailey@tceq.texas.gov](mailto:Hal.Bailey@tceq.texas.gov)>  
**Subject:** FW: City of Pflugerville Application No. 5790A Request for Information

Hal,

I just wanted to touch base to see how you prefer we respond to this. Do you want us to submit responses to the RFIs via e-mail to the WRPERM email? And then we would send the check for the remainder of the fees to the same mailing address?

Thanks,

Brandon Pritchett  
City of Pflugerville  
Public Utility Director

[REDACTED]  
Office: (512)-990-6402  
Cell: (512)-750-5307

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**From:** Trellis Gaarder <[REDACTED]>  
**Sent:** Tuesday, October 31, 2023 9:09 AM  
**To:** Brandon Pritchett <[REDACTED]>; Thomas Hunter [REDACTED]  
**Subject:** FW: City of Pflugerville Application No. 5790A Request for Information

Please see the email below.

Respectfully,

Ms. Trellis Gaarder  
Executive Assistant

City Managers' Office  
City of Pflugerville  
(512) 990-6119  
[www.pflugervilletx.gov](http://www.pflugervilletx.gov)  
[@PflugervilleTX](https://www.facebook.com/PflugervilleTX)  
[@PflugervilleTX](https://twitter.com/PflugervilleTX)

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**From:** Hal Bailey <[Hal.Bailey@tceq.texas.gov](mailto:Hal.Bailey@tceq.texas.gov)>  
**Sent:** Tuesday, October 31, 2023 8:52 AM  
**To:** citymanager <[citymanager@pflugervilletx.gov](mailto:citymanager@pflugervilletx.gov)>  
**Cc:** Humberto Galvan <[Humberto.Galvan@tceq.texas.gov](mailto:Humberto.Galvan@tceq.texas.gov)>; Chris Kozlowski <[chris.kozlowski@tceq.texas.gov](mailto:chris.kozlowski@tceq.texas.gov)>  
**Subject:** City of Pflugerville Application No. 5790A Request for Information

**[EXTERNAL]**

Good morning Ms. Breland,

Attached is a Request for Information (RFI) letter for Water Use Permit amendment application no. 5790A.

Please provide the requested additional information and fees by COB on 11/30/2023.

If you have any questions regarding the letter, please let me know.

Sincerely,

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

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Kelly Keel, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 31, 2023

Ms. Sereniah Breland, City Manager  
City of Pflugerville  
P.O. Box 589  
Pflugerville, TX 78691-6400

**VIA E-MAIL**

RE: City of Pflugerville  
WRPERM 5790  
CN600412985, RN104071709  
Application No. 5790A to Amend Water Use Permit No. 5790  
Texas Water Code §§ 11.042, 11.122, Limited Mailed Notice Required  
Unnamed tributary of Wilbarger Creek, Colorado River Basin  
Travis County

Dear Ms. Breland:

This acknowledges receipt, on April 18, 2023, of the referenced application and partial fees in the amount of \$112.50 (Receipt No. M315891, copy attached).

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

1. Confirm the location of the existing diversion point on the Colorado River. Staff has calculated the coordinates to be Latitude 30.261518 ° N, Longitude 97.662323 ° W.
2. Confirm the location of the existing diversion and discharge point from the perimeter of Lake Pflugerville, which is identified by a point on centerline of the dam. Staff has calculated the coordinates to be Latitude 30.438898 ° N, Longitude 97.568533 ° W.
3. Remit fees in the amount of \$13.16 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Amendment)	\$	100.00
Recording Fee	\$	12.50
Notice (\$0.94 x 14 water right holders)	\$	13.16
<u>Total Fees</u>	\$	<u>125.66</u>
Fees Received	\$	112.50
<u>Fees Due</u>	\$	<u>13.16</u>

Please provide the requested information and fees by November 30, 2023, or the application may be returned pursuant to Title 30 Texas Administrative Code § 281.18.

Ms. Sereniah Breland  
Application No. 5790A  
October 31, 2023  
Page 2 of 2

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

Sincerely,

*Hal E. Bailey, Jr.*

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

Attachment



25-APR-23 12:13 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M315891	[REDACTED]		BS00102639	25-APR-23	-\$112.50
	WUP	ADJ145790	042523	N	D3802497		
WATER USE PERMITS		PFLUGERVILL E, CITY OF	VHERNAND	CK			
Total (Fee Code):							-\$112.50

RECEIVED  
 APR 27 2023  
 Water Availability Division

RECEIVED  
 APR 27 2023  
 Water Availability Division

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## TCEQ WATER RIGHTS PERMITTING APPLICATION

### ADMINISTRATIVE INFORMATION CHECKLIST

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

APPLICANT(S): City of Pflugerville

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

<u>Y/N</u>		<u>Y/N</u>	
<u>Yes</u>	<b>Administrative Information Report</b>	<u>No</u>	<b>Worksheet 3.0</b>
<u>No</u>	Additional Co-Applicant Information	<u>No</u>	Additional W.S 3.0 for each Point
<u>No</u>	Additional Co-Applicant Signature Pages	<u>No</u>	Recorded Deeds for Diversion Points
<u>Yes</u>	Written Evidence of Signature Authority	<u>No</u>	Consent For Diversion Access
<u>Yes</u>	<b>Technical Information Report</b>	<u>Yes</u>	<b>Worksheet 4.0</b>
<u>Yes</u>	USGS Map (or equivalent)	<u>No</u>	TPDES Permit(s)
<u>No</u>	Map Showing Project Details	<u>No</u>	WWTP Discharge Data
<u>No</u>	Original Photographs	<u>No</u>	Groundwater Well Permit
<u>No</u>	Water Availability Analysis	<u>Yes</u>	Signed Water Supply Contract
<u>No</u>	<b>Worksheet 1.0</b>	<u>Yes</u>	<b>Worksheet 4.1</b>
<u>No</u>	Recorded Deeds for Irrigated Land	<u>No</u>	<b>Worksheet 5.0</b>
<u>No</u>	Consent For Irrigation Land	<u>No</u>	Addendum to Worksheet 5.0
<u>No</u>	<b>Worksheet 1.1</b>	<u>Yes</u>	<b>Worksheet 6.0</b>
<u>No</u>	Addendum to Worksheet 1.1	<u>Yes</u>	Water Conservation Plan(s)
<u>Yes</u>	<b>Worksheet 1.2</b>	<u>Yes</u>	Drought Contingency Plan(s)
<u>No</u>	Additional W.S 2.0 for Each Reservoir	<u>Yes</u>	Documentation of Adoption
<u>No</u>	Dam Safety Documents	<u>No</u>	<b>Worksheet 7.0</b>
<u>No</u>	Notice(s) to Governing Bodies	<u>No</u>	Accounting Plan
<u>No</u>	Recorded Deeds for Inundated Land	<u>Yes</u>	<b>Worksheet 8.0</b>
<u>No</u>	Consent For Inundation Land	<u>Yes</u>	Fees

# ADMINISTRATIVE INFORMATION REPORT

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

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

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

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

New Appropriation of State Water

Amendment to a Water Right \*

Bed and Banks

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

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

The City of Pflugerville is requesting to increase our current diversion of 12,000 acre-feet per year from the Lower Colorado River to 24,000 acre-feet per year from the City's existing diversion points on the Lower Colorado River. This request would utilize the City's existing diversion point for the Lower Colorado River and divert the flows to the City's existing terminal reservoir at Lake Pflugerville. This reservoir is the City of Pflugerville's primary drinking water supply source and will supply the City of Pflugerville with the majority of it's drinking water. This request would be to amend the City's existing Water Rights Permit (# 5790) to increase the volume and diversion rate to provide water to keep up with the City's population growth.

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

### a. Applicant

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

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

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

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?  
You may search for your CN on the TCEQ website at  
<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>

CN : 600412985 (leave blank if you do not yet have a CN).

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

First/Last Name: Sereniah Breland  
Title: City Manager

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

What is the applicant's mailing address as recognized by the US Postal Service (USPS)? You may verify the address on the USPS website at  
<https://tools.usps.com/go/ZipLookupAction!input.action>.

Name: City of Pflugerville, ATTN: City Manager  
Mailing Address: P.O. Box 589  
City: Pflugerville State: TX ZIP Code: 78691

Indicate an X next to the type of Applicant:

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

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: \_\_\_\_\_ SOS Charter (filing) Number: \_\_\_\_\_



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

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

First and Last Name: Sereniah Breland

Title: City Manager

Organization Name: City of Pflugerville

Mailing Address: P.O. Box 589

City: Pflugerville State: TX ZIP Code: 78691

Phone Number: 512-990-6400

Fax Number: \_\_\_\_\_

E-mail Address: [REDACTED]

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

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

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

First and Last Name: \_\_\_\_\_

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

Organization Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

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

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

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

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

Account number: \_\_\_\_\_ Amount past due: \_\_\_\_\_

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

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

Enforcement order number: \_\_\_\_\_ Amount past due: \_\_\_\_\_

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

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

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

[https://www3.twdb.texas.gov/apps/reports/WU/SurveyStatus\\_PriorThreeYears](https://www3.twdb.texas.gov/apps/reports/WU/SurveyStatus_PriorThreeYears)

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

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

Applicant:

I, Sereniah Breland  
(Typed or printed name)

City Manager  
(Title)

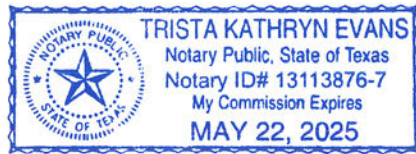
certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the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

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

Signature: [Handwritten Signature] Date: 3/10/23  
(Use blue ink)

Subscribed and Sworn to before me by the said Sereniah Breland  
on this 10 day of March, 2023.  
My commission expires on the 22 day of May, 2025.

[Handwritten Signature]  
Notary Public



[SEAL]

Travis  
County, Texas

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

## TECHNICAL INFORMATION REPORT WATER RIGHTS PERMITTING

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

**Applicants are REQUIRED to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please contact the Water Availability Division at (512) 239-4600 or [WRPT@tceq.texas.gov](mailto:WRPT@tceq.texas.gov) to schedule a meeting.**

Date of pre-application meeting: 2/15/23

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

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

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

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

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? Y / N No (If yes, indicate the Term Certificate or Permit number: \_\_\_\_\_)

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

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

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

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



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

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

Water Right (Certificate or Permit) number you are requesting to amend: \_\_\_\_\_

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? **Y / N<sub>No</sub>** \_\_\_\_\_ (if yes, complete chart below):

List of water rights to sever	Combine into this ONE water right

a. Applicant requests an amendment to an existing water right to increase the amount of the appropriation of State Water (diversion and/or impoundment)? **Y / N<sub>No</sub>** \_\_\_\_\_

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

b. Applicant requests to amend existing Term authorization to extend the term or make the water right permanent (remove conditions restricting water right to a term of years)? **Y / N<sub>No</sub>** \_\_\_\_\_

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

c. Applicant requests an amendment to change the purpose or place of use or to add an additional purpose or place of use to an existing Permit or Certificate? **Y / N<sub>No</sub>** \_\_\_\_\_  
*If yes, submit:*

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

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

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

e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? **Y / N<sub>No</sub>** \_\_\_\_\_

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

- f. Other - Applicant requests to change any provision of an authorization not mentioned above? Y / N No *If yes, call the Water Availability Division at (512) 239-4600 to discuss.*

**Additionally, all amendments require:**

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

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

- a. Pursuant to contract, Applicant requests authorization to convey, stored or conserved water to the place of use or diversion point of purchaser(s) using the bed and banks of a watercourse? TWC § 11.042(a). Y/N No

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

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

- b. Applicant requests to convey water imported into the state from a source located wholly outside the state using the bed and banks of a watercourse? TWC § 11.042(a-1). Y / N No

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

- c. Applicant requests to convey Applicant's own return flows derived from privately owned groundwater using the bed and banks of a watercourse? TWC § 11.042(b). Y / N No

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

- d. Applicant requests to convey Applicant's own return flows derived from surface water using the bed and banks of a watercourse? TWC § 11.042(c). Y / N No

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

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

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

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

*Worksheets and information:*

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

- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

#### **4. General Information, Response Required for all Water Right Applications (Instructions, Page 15)**

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

The majority of the City of Pflugerville is within Region K of the State Water Plan, however, there is a small portion of the City that is within Region G. Both Water Plans for each region show a significant increase in the water needs for the City of Pflugerville, but the majority of the growth is within Region K. According to the 2021 State Water Plan (Page 511, Table 4.10), the City of Pflugerville will be deficient in water availability before 2030. This water rights amendment will allow the City of Pflugerville to construct a pump station expansion and second raw water line to deliver surface water to Lake Pflugerville to supply water to the City of Pflugerville until at least 2040.

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

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

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



# WORKSHEET 1.0

## Quantity, Purpose and Place of Use

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

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

Quantity (acre- feet) <i>(Include losses for Bed and Banks)</i>	State Water Source (River Basin) or Alternate Source <i>*each alternate source (and new appropriation based on return flows of others) also requires completion of Worksheet 4.0</i>	Purpose(s) of Use	Place(s) of Use <i>*requests to move state water out of basin also require completion of Worksheet 1.1 Interbasin Transfer</i>
12,000	Colorado River	Municipal Water Supply	City of Pflugerville

12,000 Total amount of water (in acre-feet) to be used annually (*include losses for Bed and Banks applications*)

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

a. Location Information Regarding the Lands to be Irrigated

- i) Applicant proposes to irrigate a total of \_\_\_\_\_ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of \_\_\_\_\_ acres in \_\_\_\_\_ County, TX.
- ii) Location of land to be irrigated: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_.

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

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

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

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

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

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

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

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

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

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:
- i. Applicant proposes to irrigate a total of \_\_\_\_\_ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of \_\_\_\_\_ acres in \_\_\_\_\_ County, TX.
  - ii. Location of land to be irrigated: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_.

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

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

- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

# WORKSHEET 1.1

## INTERBASIN TRANSFERS, TWC § 11.085

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

Applicant requests to transfer State Water to another river basin within the State? Y / N \_\_\_\_\_

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

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

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

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

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

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

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

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

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

## WORKSHEET 1.2 NOTICE. "THE MARSHALL CRITERIA"

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

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

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

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

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

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

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



## WORKSHEET 2.0

### Impoundment/Dam Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

b. Maximum Rate of Diversion for **this new point** \_\_\_\_\_ cfs (cubic feet per second)  
or \_\_\_\_\_ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? Y / N \_\_\_\_\_  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches \_\_\_\_\_ cfs or \_\_\_\_\_ gpm*

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

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

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

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

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

Applicant has calculated the drainage area. Y / N \_\_\_\_\_

If yes, the drainage area is \_\_\_\_\_ sq. miles.

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

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

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

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

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

- d. Point is at:  
Latitude \_\_\_\_\_°N, Longitude \_\_\_\_\_°W.  
***Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): \_\_\_\_\_
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 15.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

## WORKSHEET 4.0 DISCHARGE INFORMATION

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

- a. The purpose of use for the water being discharged will be Municipal Supply.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses 4.9% (% or amount) and explain the method of calculation: 2.5% in pipeline and calculated 2.4% loss to evaporation at impoundment
- c. Is the source of the discharged water return flows? Y / N No If yes, provide the following information:
  1. The TPDES Permit Number(s) \_\_\_\_\_ (attach a copy of the **current** TPDES permit(s))
  2. Applicant is the owner/holder of each TPDES permit listed above? Y / N \_\_\_\_\_

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

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

## WORKSHEET 4.1 DISCHARGE POINT INFORMATION

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

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

- a. The amount of water that will be discharged at this point is 12,000 acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of 42.8 cfs or \_\_\_\_\_ gpm.
- c. Name of Watercourse as shown on Official USGS maps: \_\_\_\_\_
- d. Zip Code \_\_\_\_\_
- e. Location of point: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, \_\_\_\_\_ County, Texas.
- f. Point is at:  
Latitude 30.44082 °N, Longitude -97.57133 °W.  
***\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- g. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): GIS

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

# WORKSHEET 5.0

## ENVIRONMENTAL INFORMATION

### 1. Impingement and Entrainment

**This section is required for any new diversion point that is not already authorized.** Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on any new diversion structure that is not already authorized in a water right). **Instructions, Page 28.**

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

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: \_\_\_\_\_

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

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

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

c. Waterbody aesthetics

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

- Wilderness: outstanding natural beauty; usually wooded or ungrazed area; water clarity exceptional
- Natural Area: trees and/or native vegetation common; some development evident (from fields, pastures, dwellings); water clarity discolored
- Common Setting: not offensive; developed but uncluttered; water may be colored or turbid
- Offensive: stream does not enhance aesthetics; cluttered; highly developed; dumping areas; water discolored

d. Waterbody Recreational Uses

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

- Primary contact recreation (swimming or direct contact with water)
- Secondary contact recreation (fishing, canoeing, or limited contact with water)
- Non-contact recreation

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

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

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

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

a. For all bed and banks applications:

- i. Submit an assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.

b. For all alternate source applications:

- i. If the alternate source is treated return flows, provide the TPDES permit number \_\_\_\_\_

- ii. If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:  
Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

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

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

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



## WORKSHEET 6.0

### Water Conservation/Drought Contingency Plans

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

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

#### 1. Water Conservation Plans

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

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

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

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

**\*\*If Applicant is a water supplier, Applicant must also submit documentation of adoption of the plan. Documentation may include an ordinance, resolution, or tariff, etc. See 30 TAC §§ 288.2(a)(1)(J)(i) and 288.5(1)(H). Applicant has submitted such documentation with each water conservation plan? Y / N Yes**

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



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

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

## 2. Drought Contingency Plans

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

## WORKSHEET 7.0

### ACCOUNTING PLAN INFORMATION WORKSHEET

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

#### 1. Is Accounting Plan Required

Accounting Plans are generally required:

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

#### 2. Accounting Plan Requirements

- a. A **text file** that includes:
1. an introduction explaining the water rights and what they authorize;
  2. an explanation of the fields in the accounting plan spreadsheet including how they are calculated and the source of the data;
  3. for accounting plans that include multiple priority dates and authorizations, a section that discusses how water is accounted for by priority date and which water is subject to a priority call by whom; and
  4. Should provide a summary of all sources of water.
- b. A **spreadsheet** that includes:
1. Basic daily data such as diversions, deliveries, compliance with any instream flow requirements, return flows discharged and diverted and reservoir content;
  2. Method for accounting for inflows if needed;
  3. Reporting of all water use from all authorizations, both existing and proposed;
  4. An accounting for all sources of water;
  5. An accounting of water by priority date;
  6. For bed and banks applications, the accounting plan must track the discharged water from the point of delivery to the final point of diversion;
  7. Accounting for conveyance losses;
  8. Evaporation losses if the water will be stored in or transported through a reservoir. Include changes in evaporation losses and a method for measuring reservoir content resulting from the discharge of additional water into the reservoir;
  9. An accounting for spills of other water added to the reservoir; and
  10. Calculation of the amount of drawdown resulting from diversion by junior rights or diversions of other water discharged into and then stored in the reservoir.

## WORKSHEET 8.0 CALCULATION OF FEES

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

### 1. NEW APPROPRIATION

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

### 2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
<b>Filing Fee</b>	Amendment: \$100 OR Sever and Combine: \$100 x _____ of water rights to combine	\$100
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		\$

### 3. BED AND BANKS

	Description	Amount (\$)
<b>Filing Fee</b>		\$100.00
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		\$ 112.50





# City of Pflugerville

## Minutes - Final

### City Council

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Tuesday, January 10, 2023

7:00 PM

1611 Pfennig Lane

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#### Regular Meeting

#### 1. Call to Order

Mayor Victor Gonzales called the meeting to order at 7:00pm. Mayor Pro Tem Doug Weiss and Councilmembers Ceasar Ruiz, Kimberly Holiday, Rudy Metayer, Jim McDonald, and David Rogers were in attendance.

City staff in attendance: Sereniah Breland, City Manager; James Hartshorn, Deputy City Manager; Emily Barron, Assistant City Manager; Thomas Hunter, Assistant City Manager; Charles Zech, City Attorney; Trista Evans, City Secretary; Breanna Higgins, Assistant to the City Manager; Terri Toledo, Director of Management Services; Evan Groeschel, Operations Director; Carlo Franco, Special Projects Manager; Brandon Pritchett, Public Utility Director; Erin Sellers, Innovation Strategist; Sara King, Assistant Finance Director; Jason O'Malley, Police Chief; Makeba Lewis, Commander; Roger Heaney, Assistant Communications Director; Melissa Moore, Finance Director; Carlo Franco, Special Projects Manager; Jeff Dunsworth, Assistant City Engineer.

#### 2. Opening

##### A. Pledge of Allegiance to the Flag of the United States of America

Mayor Gonzales led those in attendance in the Pledge of Allegiance to the Flag of the United States of America.

##### B. Pledge of Allegiance to the Texas State Flag

Mayor Gonzales led those in attendance in the Pledge of Allegiance to the Texas State Flag.

##### C. Moment of Silence

Mayor Gonzales led those in attendance in a moment of silence.

#### 4. Public Comment

Peggy Hamzy stated she has lived in Pflugerville since 1983 and stated watching rates go through the roof. Ms. Hamzy stated if there is no fire department taxes will go up and there is a domino effect. Ms. Hamzy stated people are comfortable with what is happening in the city because they have money and people in the city need to speak up.

**7F. 2023-0061**

Discussion regarding provisioning, providing, and funding first response services.

Mayor Gonzales opened the item for discussion. Travis County ESD2 Fire Chief Nick Perkins gave a presentation about the scope of service and stated they want to continue serving the community. Chief Perkins spoke about a petition by a special interest group and discussed what would happen if the revenue is lost by losing the sales tax as the petition states. Chief Perkins shared maps of voter approved half cent sales tax from 2000 and 2014 and discussed tax rate. Chief Perkins discussed costs of service and standing up a fire department and stated he would like to know what the stopgap plan is.

Mayor Pro Tem Weiss asked if there would be an advantage to being a municipal department when it comes to funding. Chief Perkins stated there would be some advantages. Mayor Pro Tem Weiss stated he would like the opportunity to find ways to transition over the next five to twenty years. Chief Perkins stated he would be part of those conversations and wanted to discuss providing those services today. Mr. Metayer stated it is not a council ballot initiative and asked Chief Perkins about what services would not be provided if the measure passes. Chief Perkins stated legal is reviewing the petition. Mayor Pro Tem Weiss asked what the timeline looks like in case City Council needs to provide any service. Chief Perkins stated he is waiting on a timeline and working on what that looks like. Mr. Rogers discussed Travis County ESD2 budget and surplus. Discussion followed regarding sales tax projections and budget.

Mayor Gonzales stated the city is trying to get some idea of what the city may be facing in terms of public safety for the citizens and would like to know what the city has to do to support the community. Mr. Ruiz discussed specific situations and asked what the city would have to start covering. Mr. Perkins stated they are fair questions and discussed finding a way to provide the services currently. Discussion followed about how much time the city would have to step in.

Mack Harrison thanked council for taking time to listen and stated if city council wants to discuss budget to talk to the board members. Mr. Harrison stated there is a lot of experience and institutional knowledge in Travis County ESD2 and asked city council to educate the constituents.

Teri Lucas stated the actions by the group that is proposing to take funds away from ESD2 would result in longer response times and loss of life. Ms. Lucas asked who is profiting from this and stated there is nothing wrong with the Pflugerville Fire Department and the emergency services provided by them.

Melody Ryan stated she is here to request that City Council add a ballot proposition to capture sales tax and discussed the petition. Ms. Ryan stated it is not about defunding the fire department but asking for a right to vote on leaders who make decisions on taxes and services. Ms. Ryan spoke about previous meetings and the ESD budget.

Grace Nicholas stated she is a new climbing business owner in Pflugerville and has had a lot of great experiences with the fire department. Ms. Nicholas stated she worries about risk if they are defunded and stated it is fair to the citizens of Pflugerville to know where the money would go.



Mayor Gonzales provided comment about the election process stating it is up to the voters if a ballot initiative passes to reduce ESD2 sales tax.

Brenda Hernandez stated she has received ambulance services from the fire department and spoke about the service provided. Ms. Hernandez spoke about the efforts needed and stated the fire department should be added to not taking away from it. Ms. Hernandez stated the City is growing.

Mayor Gonzales provided comment about the process and thanked Chief Perkins for the presentation.

**7D.** [2023-0055](#)

Executive Session Item: Consultation with legal counsel pursuant to Section 551.071 of the Texas Government Code regarding wastewater rates for various special districts.

Mayor Gonzales announced that council is retiring to executive session for items 7D. and 7E. and read the items. City Council retired to executive session at 8:09pm.

Discussion on the item occurred in executive session.

**7E.** [2023-0031](#)

1.) Executive Session Item: Consultation with legal counsel regarding potential additional sales tax revenue pursuant to Section 551.071 of the Texas Government Code. 2.) Open Session Item: Discuss and consider action regarding potential additional sales tax revenue.

Mayor Gonzales reconvened the meeting in open session at 8:52pm and stated no action was taken.

Josh Stubblefield stated firefighters are fighting for the safety of citizens and their jobs. Mr. Stubblefield stated he is trying to understand why the petition started, and stated maybe it is about control and stated City Council has an opportunity to start working in a positive direction and denounce the petition. Mr. Stubblefield stated council should start by ensuring the sales tax stays with the ESD.

Trevor Stokes provided information about the history of Travis County ESD2 and the history of funding for first response services. Mr. Stokes stated in 2017 they started providing ALS through an agreement with other agencies and the other agencies were pulled. Mr. Stokes discussed during the 2021 winter storm the fire department helped the community and supported the city.

Kevin Pakenham stated the goal is not to defund anyone but to allow the council to hold the board members of ESD2 accountable. Mr. Pakenham stated elected officials should be the ones handling tax money. Mr. Pakenham stated the petition is from a group of citizens whose goal is to give the elected body the tools to use tax payer money.

Mayor Gonzales provided information about the process that the city has to go through because of other entities in the area. Discussion followed regarding the petition process. Mr. McDonald discussed timing of the ballot if other entities can capture sales tax. Mr. Rogers moved to revoke attorney client privilege. Mayor Gonzales seconded the motion. Mayor Pro Tem Weiss voted no. All others voted in favor. The motion carried. Mr. McDonald asked if the



City places a ballot item on the May election if that precludes other entities from doing the same. Mr. Zech stated it does not and if the item for both entities passes neither would get the tax. Mayor Gonzales discussed speaking with other entities to see if they are interested in the sales tax. Mr. Metayer asked about marking it for EMS. Mr. Zech stated it cannot be placed on the ballot to be only for EMS. Discussion followed regarding ballot and election scenarios. Mayor Pro Tem Weiss stated he is glad to hear commitment from Chief Perkins about working with the City on a transition. Mr. Ruiz stated they want the best solution for citizens and if needed to recapture the money to ensure citizens do not go without services. Mr. Rogers moved to instruct staff to communicate with other agencies that the City prefers they do not attempt to capture sales tax. Mr. Metayer seconded the motion. All voted in favor. The motion carried.

### 3. Items of Community Interest

Mr. McDonald stated he has received 107 notifications for substitute teaching and encouraged everyone to sign up if they are able.

Mr. Metayer discussed the school district stating that it is a different entity from city council and discussed what is happening at the capital impacts public school districts. Mr. Metayer stated the legislative session has started and encouraged people to show up at the capital to express their concerns.

Mayor Gonzales stated Coffee with a Cop is back January 28 at Tru by Hilton at 9am.

### Reading of the Consent Agenda

Ms. Evans read the captions of the ordinances and stated that all items on the consent agenda can be acted upon in a single motion.

### 5. Other Actions

#### 5A. ORD-0692

Approving an ordinance on first reading with the caption reading: An ordinance of the City of Pflugerville, Texas, annexing, for full purposes, a tract of land totaling approximately .735 acres of land situated in the P. Conrad Survey, Abstract No. 107, in Travis County, Texas, being a portion of Meister Lane, a variable right-of-way width, of the real property records of Travis County, generally south of State Highway 45, North of New Meister Lane, and East of Schultz Lane; extending the boundaries of the city to include the land; and to be zoned Agriculture/Development Reserve (A); To be known as the Meister Lane Annexation; binding the land to all of the acts, ordinances, resolutions and regulations of the city; providing for severability; and providing an effective date.

The ordinance was approved on first reading on the consent agenda.

#### 5B. ORD-0693

Approving an ordinance on first and final reading with the caption reading: An ordinance of the City of Pflugerville, Texas, adopting the first amendment to the FY23 Budget for the City of Pflugerville; and providing

an effective date.

**The ordinance was approved on first and final reading on the consent agenda.**

**5C. [ORD-0682](#)**

Approving an ordinance on first and final reading with the caption reading: An ordinance of the City of Pflugerville, Texas, adopting the fourth amendment to the FY22 Budget for the City of Pflugerville; and providing an effective date.

**The ordinance was approved on first and final reading on the consent agenda.**

**5D. [ORD-0684](#)**

Approving an ordinance on second reading with the caption reading: An ordinance of the City of Pflugerville, Texas, amending the City of Pflugerville Code of Ordinances Title III Administration, Chapter 31 Departments, Boards, and Commissions, Section 31.60 Equity Commission, to amend Section 31.64 to amend officers and Section 31.67 to amend date of annual report; providing that this ordinance shall be cumulative and repealing all ordinances in conflict; providing for severability; and declaring an effective date.

**The ordinance was approved on second reading on the consent agenda.**

**5E. [ORD-0685](#)**

Approving an ordinance on second reading with the caption reading: An ordinance of the City of Pflugerville, Texas amending the City of Pflugerville Code of Ordinances Title III Administration, Chapter 31 Departments, Boards and Commissions, Sections 31.03 through 31.07 making amendments to the Library Board; providing that this ordinance shall be cumulative and repealing all ordinances in conflict; providing for severability; and declaring an effective date.

**The ordinance was approved on second reading on the consent agenda.**

**5F. [ORD-0686](#)**

Approving an ordinance on second reading with the caption reading: An ordinance of the City of Pflugerville, Texas amending the City of Pflugerville Code of Ordinances Title IX General Regulations, Chapter 95 Parks and Recreation, Sections 95.23 through 95.27 making amendments to the Parks and Recreation Commission; providing that this ordinance shall be cumulative and repealing all ordinances in conflict; providing for severability; and declaring an effective date.

**The ordinance was approved on second reading on the consent agenda.**

**5G. [ORD-0689](#)**

Approving an ordinance on second reading with the caption reading: An ordinance of the City of Pflugerville, Texas, Approving Amended Impact Fees and amending chapter 152, implementation of impact fee, of the code of ordinances for the City of Pflugerville, Texas to update the impact fees pursuant to Texas Local Government Code Chapter 395, Subchapter C; and providing an effective date.

**The ordinance was approved on second reading on the consent agenda.**

- 5H. [2023-0001](#) Approving the minutes of the December 13, 2022 Worksession, December 13, 2022 Regular Meeting, December 15, 2022 Notice of Quorum, and December 19, 2022 Worksession.  
**The minutes were approved on the consent agenda.**
- 5I. [2022-1195](#) Approving a Professional Services Agreement with H2O Partners, Inc. in the amount of \$98,240 for roadway condition analysis, and authorizing the City Manager to execute the same.  
**The item was approved on the consent agenda.**
- 5J. [2023-0003](#) Approving a contract with Patin Construction, LLC. in the amount of \$312,733 for construction associated with the Heatherwilde/Cheyenne Drainage improvements project, and authorizing the City Manager to execute the same.  
**The item was approved on the consent agenda.**
- 5K. [2023-0009](#) Approving a Work Authorization with CBRE, Inc. in the amount of \$126,500 for appraisal services associated with the Kelly Lane Phase 3 Roadway Improvements Project, and authorizing the City Manager to execute the same.  
**The item was approved on the consent agenda.**
- 5L. [2023-0010](#) Approving a Professional Services Agreement with Freese and Nichols, Inc. in the amount of \$69,105 for the preparation of the Water and Wastewater Master Plan Update, and authorizing the City Manager to execute the same.  
**The item was approved on the consent agenda.**
- 5M. [2023-0012](#) Approving a contract with T. Morales Company Electric & Controls Ltd. in the amount of \$7,106,645 for the pre-purchase of electrical equipment for the Wilbarger Creek Regional Wastewater Treatment Facility (WCRWWTF) Project, and authorizing the City Manager to execute the same.  
**The item was approved on the consent agenda.**
- 5N. [2023-0014](#) Approving the procurement of an air compressor system in the amount of \$72,712 and authorizing the City Manager to execute the same.  
**The item was approved on the consent agenda.**
- 5O. [2023-0024](#) Approving a Professional Services Agreement with Hayat Brown in the amount of \$297,782 for Financial and Transactional Advisor Services associated with the Downtown East Project, and authorizing the City Manager to execute the same.



The item was approved on the consent agenda.

- 5P. [2023-0037](#) Approving a Professional Services Agreement with CP&Y, Inc. in the amount of \$123,555 for Funding Support Services, and authorizing the City Manager to execute the same.

The item was approved on the consent agenda.

- 5Q. [2023-0043](#) Approving a Professional Services Agreement with Lakeside MUD # 5 for professional operations and maintenance services associated with the water and wastewater operations for the district, and authorizing the City Manager to execute the same.

The item was approved on the consent agenda.

- 5R. [RES-1067](#) Approving a Resolution with a caption reading: A Resolution of the City of Pflugerville, Texas authorizing the vacation, abandonment and release of two existing public wastewater pipeline easements located generally north of Pecan and east of Weiss Ln, originally granted to the City by easements recorded in Travis County Real Property Records Document Nos. 2020101338 and 2020101339 and associated with the Lakeside Meadows development.

The resolution was approved on the consent agenda.

- 5S. [RES-1068](#) Approving a resolution on declaration of official intent to reimburse for financed equipment.

The resolution was approved on the consent agenda.

- 5T. [RES-1069](#) Approving a resolution authorizing the City Manager to file a water rights application with the Texas Commission on Environmental Quality and authorizing the City Manager to act on behalf of the City of Pflugerville in all matters related to the application.

The resolution was approved on the consent agenda.

### Action on the Consent Agenda

Mayor Pro Tem Weiss moved to approve the consent agenda. Mr. Metayer seconded the motion. Mr. Rogers was not in attendance for the vote. All others voted in favor. The motion carried.

Items pulled from the consent agenda will be addressed under Item 8.

- 7A. [2023-0013](#) Conduct introductions and take action to make an appointment to the Pflugerville Community Development Corporation (PCDC) Board of Directors for one unexpired term ending December 31, 2023.

Mayor Gonzales opened the item stating applications have been received for

one vacancy from Karen Milley, Devin Donovan, and Samantha Pisik. Karen Milley introduced herself and discussed her background. Ms. Milley discussed growth in Pflugerville and answered questions from council. Devin Donovan introduced himself and discussed Pflugerville growth and building a community. Mr. Donovan answered questions from council about his interest in the PCDC Board. Mr. McDonald stated Samantha Pisik was not able to stay and provided comment about her background. Mr. Rogers moved to appoint Karen Milley to the PCDC Board. The motion failed for lack of second.

Mr. McDonald moved to appoint Samantha Pisik to the PCDC Board. Mr. Ruiz seconded the motion. All voted in favor. The motion carried.

**7B.** [2023-0004](#)

Conduct introductions and take action to make appointments to the Equity Commission for up to three regular members for two year terms and one alternate members for a one year term beginning January 1, 2023.

Mayor Gonzales opened the item and stated that applications have been received for three open positions from David Hill, Catrina Whitman, and Cynthia Williams. David Hill introduced himself and discussed his history with Pflugerville. Mr. Hill stated he wants to help show more fairness and equity to help everyone and answered questions from council. Catrina Whitman introduced herself and discussed special education needs and resources. Ms. Whitman answered questions from council about bringing resources to Pflugerville.

Mr. McDonald moved to appoint David Hill, Catrina Whitman, and Cynthia Williams to the Equity Commission. Mr. Metayer seconded the motion. The vote was as follows: Mr. Metayer - yes, Mayor Pro Tem Weiss - yes, Mr. Ruiz - yes, Mr. McDonald - yes, Mr. Rogers - yes, Ms. Holiday - no, Mayor Gonzales - yes. The motion carried.

**6. Public Hearings and Ordinances**

**6A.** [ORD-0688](#)

Conduct a public hearing and consider approving an ordinance on first reading with the caption reading: An ordinance of the City of Pflugerville, Texas, amending and updating Chapter 53, Water and Sewers, Drought Contingency Plan and providing that violations of this ordinance are class C misdemeanors subject to fines not to exceed \$2,000.00; providing cumulative, repealer and severability clauses; providing for open meeting and establishing an effective date.

Mayor Gonzales read the item and opened the public hearing. Mr. Pritchett provided information about Pflugerville water supply and the Highland Lakes Firm Water Customer Coalition. Mr. Pritchett reviewed the current and proposed drought contingency plan, stating the proposed plan would be closer to what LCRA has in their plan. There was no one present wishing to speak under the public hearing. Mayor Pro Tem Weiss moved to close the public hearing. Mr. McDonald seconded the motion. All voted in favor. The motion carried. Mr. Rogers asked about the fine amount. Mr. Pritchett stated the amount did not change from the previous ordinance. Mr. Zech provided information about fees.



Mr. McDonald moved to approve the ordinance on first reading. Mr. Metayer seconded the motion. All voted in favor. The motion carried.

## 7. Regular Agenda

- 7C. [2023-0023](#) Discuss and consider selection of Griffin Swinnerton/Catellus as the master developer for Downtown East.

Mayor Gonzales opened the item for discussion. Ms. Barron reviewed the project steps and stated three proposals were received for the master developer for Downtown East. Ms. Barron reviewed the project goals and discussed the public private partnership process. Jay Brown with Hayat Brown provided comment about Griffin Swinerton/Catellus stating the developer shows an ability to lead while also collaborating. Mr. Brown answered questions from council. Korin Crawford with Griffin Swinerton and Greg Weaver with Catellus introduced themselves and answered questions from council about their backgrounds. Mr. Crawford discussed his twenty-two years of experience in large scale public private transactions. Mr. Weaver discussed Downtown East as the City's project and the developer is to execute the goals that the council voted on. Discussion followed regarding other projects the developers have been involved with. Mr. Rogers asked about the division of work between the two companies. Mr. Weaver provided information stating Griffin Swinerton looks at the public building side and Catellus looks at vertical mixed use, but a lot of things will be coordinated together. Discussion followed regarding execution and styling to fit in with what the city and the community wants. Ms. Breland provided comment stating Griffin Swinerton/Catellus brought what the community wanted with calculated optimism and they bring unique offerings. Ms. Barron reviewed the project schedule.

Mr. Rogers moved to approve the item. Ms. Holiday seconded the motion. All voted in favor. The motion carried.

- 7G. [2022-0247](#) Conduct a presentation regarding the Communications Department.

Discussion on the item occurred during the previously posted worksession.

- 7H. [2022-1162](#) Discussion regarding fiber infrastructure.

Discussion on the item occurred in the previously posted worksession.

## 8. Discuss and Consider Items Pulled from Consent Agenda

## 9. Adjourn

Mayor Gonzales adjourned the meeting at 11:12pm.

**Respectfully submitted,**

**Trista Evans, City Secretary**

**Approved as submitted on January 24, 2023.**



**FIRM WATER CONTRACT**

**By and Between**

**LOWER COLORADO RIVER AUTHORITY**

**And**

**CITY OF PFLUGERVILLE, TEXAS**

## **2.2 Maximum Annual Quantity**

The MAQ is 24,000 acre-feet per year from the Effective Date. Of this amount, no more than 23,366 acre-feet per year may be diverted by or on behalf of PURCHASER at the Point of Availability. PURCHASER shall obtain an amendment to TCEQ Permit 5790 to authorize the diversion and use of up to 24,000 acre-feet per year. Prior to the issuance of such amendment, PURCHASER's use is limited based on the terms of the existing permit.

## **2.3 Loss Factor**

The Loss Factor for this Contract shall be 2.71% of the amount made available at the Point of Availability. PURCHASER acknowledges that this Loss Factor represents estimated conveyance, delivery, and system losses from Lake Travis to the Point of Availability.

## **2.4 Points of Availability.**

The Point of Availability is the Colorado River in Travis County, Texas as described and depicted in Exhibit B.

## **2.5 Maximum Diversion Rate.**

The maximum diversion rate authorized under this contract is 42.8 cubic feet per second. PURCHASER shall obtain an amendment to TCEQ Permit 5790 to authorize the diversion and a diversion rate from the Colorado River of 42.8 cfs. Prior to the issuance of such amendment, PURCHASER's diversion rate is limited based on the terms of the existing permit. In the event the amended permit is issued for less than 42.8 cfs, the diversion rate shall be limited to the rate provided in the amended permit.

## **2.6 Type of Use.**

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

## **2.7 Service Area.**

Water supplied under this contract shall only be used within that certain area in Travis County as described in Exhibit C and depicted in Exhibit D, together hereinafter called the "Service Area." The Service Area does not include any portions of PURCHASER's service area that may extend into Williamson County in the Brazos River basin.

## **2.8 Demand, Effluent, Reuse, and Return Flow Schedule.**

PURCHASER agrees that in conjunction with updates to the Demand Schedule required by Section I.K. of Exhibit A, PURCHASER shall provide PURCHASER's best estimate of actual and projected effluent, direct reuse, and return flows at each of PURCHASER's wastewater treatment plants or proposed plants with projections at time intervals no greater than five (5) years and extending for the term of the contract. PURCHASER agrees to provide the initial estimated schedule with the inclusion of effluent, direct reuse, and return flows by Dec. 31, 2022.

**2.12 Previous Contract.**

Upon the Effective Date of this Contract, that certain Water Contract between LCRA and PURCHASER, dated September 25, 2002 (LCRA Contract No. 00046757) shall be null, void, and of no further legal force and effect, provided that PURCHASER shall continue to be responsible and liable for all fees incurred under Contract No. 00046757, including, but not limited to, fees for Monthly Diversions and the Reserved Water or Reservation Charge, and fees due under the Inverted Block Rate, as such fees may be calculated and/or prorated through the Effective Date.

**2.13 Notice.**

All notices and invoices to PURCHASER shall be addressed to:

City of Pflugerville  
100 East Main Street  
Pflugerville, TX 78660

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

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

and

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

DIVISION II  
**DROUGHT CONTINGENCY PLAN AND CONSERVATION STAGES**

**§ 53.211. WATER CONSERVATION GUIDELINES.**

- (A) The director shall recommend, and the city manager shall adopt water conservation guidelines that include:
  - (1) Policies for compliance by city or other governmental departments; and
  - (2) The criteria for determining when a conservation stage takes effect or terminates.
- (B) The city manager shall update the guidelines if the city manager determines that changed conditions of the city's water supply system, regulatory obligations, or other environmental or situational factors warrant or necessitate guideline adjustment.
- (C) The city manager may order that the water use restrictions of drought response stage one regulations, drought response stage two regulations, drought response stage three regulations, or water rationing take effect after determining that the order is necessary to protect the public health, safety, or welfare. The city manager may base a conservation, drought, or emergency stage declaration or termination on any condition, occurrence, factor, or an assessment of all relevant circumstances that in the judgment of the city manager support such action for any lawful purpose. The order is effective immediately following official public notice.
- (D) Water use regulations of section 53.216 (drought response stages) remain in effect until such time as the city manager orders termination of the stage in accordance with subsection (C) (water conservation guidelines). Unless a drought or emergency stage is expressly declared by order of the city manager, water use regulations of the section 53.216 (drought response stage) automatically resume by default immediately upon any ordered termination of any drought or emergency stage.
- (E) Any outdoor water use subject to the provisions of this article shall occur only on a day designated for the applicable water use activity, property/facility type, and street number address classification indicated in the following tables. A person may not conduct, authorize, or permit outdoor water use except in accordance with the designation schedule set out in the following tables. In the following tables, "even" or "odd" correspond to the street number of the physical property address where the outdoor water use occurs. The tables below shall be referred to as "the outdoor water use schedule."

<b>Watering Schedule for Conservation Stage</b>	
<b>Property type</b>	<b>Watering day</b>
Residential property - even	Thursday and Sunday
Residential property - odd	Wednesday and Saturday

<b>Watering Schedule for Conservation Stage</b>	
<b>Property type</b>	<b>Watering day</b>
Commercial/multifamily facilities	Tuesday and Friday
Public/private schools	Monday and Friday

<b>Watering Schedule for Drought Response Stage 1 and Stage 2</b>	
<b>Property type</b>	<b>Watering day</b>
Residential property - addresses ending in 0 or 1	Monday
Residential property - addresses ending in 2 or 3	Tuesday
Residential property - addresses ending in 4 or 5	Wednesday
Residential property - addresses ending in 6 or 7	Thursday
Residential property - addresses ending in 8 or 9	Friday
Commercial/multifamily facilities	Saturday
Public/private schools	Sunday

- (F) The director may order temporary modification or adjustment to the outdoor water use schedule in the event of an unusual water system operational event, catastrophic occurrence, severe weather event, or other emergency, disaster situation, or occurrence necessitating the adjustment. A temporary modification or adjustment to the outdoor water use schedule shall be effective immediately upon official public notice and shall continue in effect for a period not to exceed fifteen (15) consecutive days. The director shall provide official public notice of the date upon which any temporary modification or adjustment to the outdoor water use schedule expires and the standard outdoor water use schedule resumes.
- (G) The director shall monitor the daily supply and demand for water and make recommendations to the city manager about whether or when to implement or terminate water use restrictions in accordance with the drought contingency plan in effect and kept on file with the city's water utilities or when relevant to any other circumstances affecting continuity of service or public health, safety, or welfare.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.212. EXEMPTIONS.**

- (A) Exemptions under this subsection apply to section 53.216 drought response stages and are:
  - (1) The use of water necessary to protect the health, safety, or welfare of the public;
  - (2) The use of reclaimed or auxiliary water that is not supplemented by or mixed with potable water supplied by the city's water utility;
  - (3) Necessary use of water for lawful repair of a water distribution facility, flushing of utility lines or residential or commercial plumbing lines;

- (4) Necessary use of water, other than for landscape irrigation, for a governmental entity performing a governmental function, including a capital improvement construction project;
  - (5) Use of water, other than for landscape irrigation, necessary to meet express requirements of federal, state, or local permits related to land development that include but are not limited to roadway base preparation, dust control, maintenance of trees subject to preservation restrictions or requirements, concrete or asphalt work, or modification or construction of improvements;
  - (6) Necessary washing or sanitizing to prevent public health or disease transmission risk associated with liquid, solid, or particulate residue in or on vehicles, containers, or equipment lawfully used to maintain, process, or transport food, perishables, garbage, liquid or solid waste, organic materials, or recyclables; or
  - (7) Water use immediately necessary for or related to firefighting, fire prevention, or fire suppression activity or operations conducted because of actual risk to public or environmental health, safety, or welfare, life, or property associated with the presence of an uncontrolled fire on or approaching any person or property.
- (B) The following activities shall be exempt from the application of section 53.216 water conservation stage, drought response stage one regulations, and drought response stage two regulations.
- (1) Outdoor irrigation.
    - (a) Using drip irrigation;
    - (b) Vegetable gardens using a soaker hose;
    - (c) Athletic fields used for organized sports practice, competition, or exhibition events when the irrigation is necessary to protect the health and safety of the players, staff, or officials present for the athletic event;
    - (d) Immediately following a commercial lawn treatment application by an applicator who possesses required licensure as applicable for use of such substances including fertilizer, pesticides, and herbicides, provided receipts documenting such application and the applicator's credentials are provided upon request to a designee of the director; or
    - (e) Plant material at a commercial nursery.
  - (2) Water use.
    - (a) Necessary for repair or installation of a permanently or temporarily installed landscape irrigation system when the person performing the irrigation work is present in the area of irrigation; or
    - (b) Necessary for the repair, testing, or installation of an ornamental fountain

when the person performing the testing, repair or installation is present.

- (C) The following activities shall be exempt from the application of section 53.216 water conservation stage and drought response stage one regulations requirements:
- (1) Water use necessary to comply with federal, state, or local land development permits requiring the establishment of new landscaping between the hours of 7:00 p.m. to 10:00 a.m.; and
  - (2) Irrigation of areas documented on a city-approved and released site plan as golf course fairways, greens, or tees.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

### **§ 53.213. WASTE OF WATER PROHIBITED.**

This section prohibits the waste of water year-round.

- (A) A person may not:
- (1) Fail to repair a controllable leak, including a broken sprinkler head, a broken pipe or a leaking valve.
  - (2) Operate any type of irrigation system with:
    - (a) A broken head;
    - (b) A head that is out of adjustment and the arc of the spray head is over a street, parking area, or other impervious surface; or
    - (c) A head that is misting because of high water pressure.
  - (3) Allow water flow during irrigation that:
    - (a) Runs, flows, or streams in a way that extends into a street, parking area, or other impervious surface for a distance of 50 feet or greater; or
    - (b) Allows water to pond to a depth greater than 0.25 inch in a street, parking area, or on other impervious surface.
- (B) It is an affirmative defense to a charge of a violation of subsection (A) that the act or omission charged in the complaint occurred during necessary repair, testing, or calibration of a new or existing irrigation or plumbing system, that the person performing the system testing, repair, or calibration was present at the site at the time of the act or omission charged in the complaint, and that the irrigation or plumbing system and its testing, repair, or calibration work at issue complied at the time with all applicable regulations, permit and development approval requirements.
- (C) It is an affirmative defense to a charge of a violation of subsection (A)(1) that the property where the leak occurred has been officially accepted into a government-assisted housing repair program, the condition is within the scope of repairs the



government has agreed to fund or repair, and the person charged with the violation or the property where the violation occurs is not in default of any obligation of the government-assistance housing repair program at the time of the violation charged.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.214. APPLICABILITY OF REGULATIONS; AFFIRMATIVE DEFENSES.**

- (A) This article applies to a person who uses, directs, manages, or allows the use of potable water supplied by the city. This article does not apply to a person when the person only uses, directs, manages, or allows the use of auxiliary water or reclaimed water.
- (B) It is an affirmative defense to a violation of this article that the use of water that gave rise to the violation was consistent with the agreed upon terms and conditions of a water service contract with a wholesale water customer and that the use did not constitute a waste of water.
- (C) It is an affirmative defense to a violation of this article that the use of water that gave rise to the violation properly utilized solely auxiliary water, and did not endanger public health, safety, or property.
- (D) It is an affirmative defense to a violation of this article that the use of water that gave rise to the violation properly utilized solely reclaimed water, did not endanger public health, safety, or property, and did not constitute a waste of water in accordance with section 53.213 (waste of water prohibited).
- (E) It is an affirmative defense to a violation of this article that the act or omission that gave rise to the violation occurred solely because a documented emergency that prevented strict compliance, and that the act or omission did not disrupt the availability of adequate water for other public emergency response or firefighting or fire suppression purposes.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.215. TRIGGERING CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES.**

The triggering criteria described below are based on the statistical analysis of the vulnerability of the city's water source under drought of record conditions.

- (A) Water conservation stage - year-round.
  - (1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in section 53.216(A) year-round.
- (B) Stage 1 - moderate water shortage conditions.
  - (1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in section 53.216(B) of this plan, when the average daily water consumption reaches 80% of production distribution capacity for

a period of three consecutive days, or the combined storage of the Highland Lakes falls to 1,200,000 acre-feet or Lake Pflugerville is down to its 633 elevation from March 1st through October 31st.

- (2) Requirements for termination. Stage 1 of this plan may be rescinded by the city manager when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days or by the city council if any of the conditions listed as triggering events, other than requirements imposed by the city's wholesale water contract with the Lower Colorado River Authority, have ceased to exist and the city council finds that termination of the drought response stage 2 will not adversely affect the public health, safety or welfare. Upon termination of stage 1, water conservation stage becomes operative.

(C) Stage 2 - severe water shortage conditions.

- (1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in section 53.216(C) of this plan when the average daily water consumption reaches 90% of production/distribution capacity for a period of 3 consecutive days; or the combined storage of the Highland Lakes falls to 700,000 acre-feet or Lake Pflugerville is down to its 630 elevation or the city manager determines that stage 2 implementation is necessary to protect the city's water supply for essential usages. No variances will be granted during stage 2 severe water shortage conditions.
- (2) Requirements for termination. Stage 2 of this plan may be rescinded by the city manager when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days or by the city council if any of the conditions listed as triggering events, other than requirements imposed by the city's wholesale water contract with the Lower Colorado River Authority, have ceased to exist and the city council finds that termination of the drought response stage 3 will not adversely affect the public health, safety or welfare. Upon termination of stage 2, the city will determine what stage will become operative, based on current lake levels.

(D) Stage 3 - emergency water shortage conditions.

- (1) Requirements for initiation. Customers shall comply with the requirements and restrictions defined in section 53.216(D) of this plan when the city manager determines that a water supply emergency exists based on:
- (a) The combined storage of the Highland Lakes reaches 600,000 acre-feet or Lake Pflugerville is down to its 625 elevation;
  - (b) Major water line breaks, or pump or system failures occur, and cause unexpected loss of capability to provide water service;
  - (c) System demand exceeds available high service pump capacity;
  - (d) There is detection of accidental or intentional contamination of the water

system;

- (e) There is detection of water systems failure from acts of God (e.g., tornados, hurricanes, etc.) or man;
- (f) A mechanical failure of pumping equipment occurs during a moderate drought and will require more than 12 hours to repair; or
- (g) Implementation is necessary under the city's wholesale water contract with the Lower Colorado River Authority.

- (2) Requirements for termination. Stage 3 of this plan may be rescinded by the city manager when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days or the emergency condition no longer exists or by the city council if any of the conditions listed as triggering events, other than requirements imposed by the city's wholesale water contract with the Lower Colorado River Authority, have ceased to exist and the city council finds that termination of the drought response stage 3 will not adversely affect the public health, safety or welfare.

(E) Water rationing.

- (1) Requirements for initiation. Customers must comply with the water allocation plan prescribed in section 53.217 of this plan and comply with the requirements and restrictions for stage 3 of this plan when the city manager determines that water rationing is necessary.
- (2) Requirements for termination. Water rationing may be rescinded when all of the conditions listed warranting water rationing have ceased to exist for a period of 3 consecutive days.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.216. DROUGHT RESPONSE STAGES.**

The public works department will monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in section 53.215 of this plan, will recommend to the city manager the extent of the conservation required through the implementation or termination of particular conservation stages in order for the city to prudently plan for and supply water to its customers. The city manager may order the appropriate stage of water conservation implemented or terminated in accordance with the applicable provisions of this article by public notification. The conservation stage will take effect immediately upon public notification:

(A) Conservation stage.

- (1) Goal. Achieve reduction in water usage year-round.
- (2) Supply management measures. The city shall comply with the conservation guidelines year-round.

- (3) Required water use restrictions.
- (a) This section prescribes water conservation regulations and applies during the periods prescribed by section 53.211 (water conservation guidelines).
  - (b) A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day for the location.
  - (c) Outdoor irrigation is permitted if it is by means of a handheld hose equipped with a positive shutoff nozzle, a faucet-filled bucket or watering can of five gallons or less.
  - (d) A person may not irrigate outdoors at a residential facility or a commercial facility between the hours of 10:00 a.m. and 7:00 p.m., even if the irrigation occurs on a designated outdoor water use day for the location.
  - (e) A person may not operate a patio mister at a commercial facility except between the hours of 4:00 p.m. and midnight.
  - (f) A person may not use or allow the use of water to wash or rinse an automobile, truck, trailer, boat, airplane, motorcycle, or other mobile equipment or vehicle, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each vehicle or piece of equipment washed in violation of this subsection. It is an affirmative defense to a violation of this subsection that the water use occurred at a vehicle wash facility for the water use charged in the complaint.
  - (g) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.
- (4) Prohibited waste of water. Waste of water (section 53.213) is prohibited year-round regardless of stage restrictions.
- (5) Notwithstanding the prohibitions in this section, irrigation of new landscape installation is permitted. In that event, irrigation may only occur during the hours permitted under subsection (A)(3) and in accordance with the following 30-day irrigation schedule:
- (a) For the first ten days after installation, once a day;
  - (b) For day 11 through 20 after installation, once every other day; and
  - (c) For day 21 through 30 after installation, once every third day.

(B) Stage 1 - moderate water shortage conditions.

- (1) Goal. Achieve a 10 percent reduction in average daily water use (e.g., total water use, daily water demand, etc.).
- (2) Supply management measures. The city will reduce or discontinue flushing of water mains; reduce or discontinue irrigation of public landscaped areas; use an alternative water supply source, where possible; and use reclaimed water for nonpotable purposes, where possible. The city will comply with the water use restrictions for stage 1 when stage 1 is implemented.
- (3) Water use restrictions.
  - (a) A person may not irrigate outdoors at a residential facility or a commercial facility except on a designated outdoor water use day for the location.
  - (b) Outdoor irrigation is permitted by a permanently installed automatic irrigation system before 8:00 a.m. and after 7:00 p.m. on an outdoor water use day as designated by the city.
  - (c) Outdoor irrigation is permitted if it is by means of a handheld hose equipped with a positive shutoff nozzle, a faucet-filled bucket or watering can of five gallons or less on a designated outdoor water use day before 10:00 a.m. or after 7:00 p.m.
  - (d) Outdoor irrigation is permitted by a hose end sprinkler, or a soaker hose, before 8:00 a.m. and after 7:00 p.m. on an outdoor water use day as designated by the city.
  - (e) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days before 10:00 a.m. and after 7:00 p.m. Such washing, when allowed, must be done with a handheld bucket or a handheld hose equipped with a positive shutoff nozzle. This restriction does not apply to a commercial carwash or a commercial service station or if washing is necessary to protect the health, safety, and welfare of the public. Charity carwashes are prohibited without a permit approved by the city.
  - (f) Watering the ground around a foundation to prevent foundation cracking is permitted.
  - (g) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is permitted.
  - (h) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited, except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
  - (i) A person may not operate a patio mister at a commercial facility except between the hours of 4:00 p.m. and midnight.

- (j) Use of water from hydrants will be limited to firefighting and related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under a permit for construction water from the city.
  - (k) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days before 8:00 a.m. and after 7:00 p.m. However, if the golf course utilizes an irrigation water source other than potable water obtained from the utility provider's water distribution system, the facility will not be subject to these regulations.
  - (l) All restaurants are prohibited from serving water to their customers except upon the customer's request.
  - (m) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water on the person's designated watering day. A person commits a separate offense for each outdoor surface washed in violation of this subsection.
- (4) Prohibited waste of water. Waste of water (section 53.213) is prohibited year-round regardless of stage restrictions.
- (5) Notwithstanding the prohibitions in this section, irrigation of new landscape installation is permitted. In that event, irrigation may only occur during the hours permitted under subsection (B)(3) and in accordance with the following 30-day irrigation schedule:
- (a) For the first ten days after installation, once a day;
  - (b) For day 11 through 20 after installation, once every other day; and
  - (c) For day 21 through 30 after installation, once every third day.
- (C) Stage 2 - severe water shortage conditions.
- (1) Goal. Achieve a 25 percent reduction in average daily water usage (e.g., total water use, daily water demand, etc.).
  - (2) Supply management measures. The city will reduce or discontinue flushing of water mains; reduce or discontinue irrigation of public landscaped areas; use an alternative water supply source, where possible; and use reclaimed water for nonpotable purposes, where possible. The city must comply with the water use restrictions for stage 2 when stage 2 is implemented.
  - (3) Water use restrictions.
    - (a) A person may not irrigate outdoors at a residential facility or a



commercial facility except on a designated outdoor water use day for the location.

- (b) Outdoor irrigation is permitted by a permanently installed automatic irrigation system before 8:00 a.m. and after 7:00 p.m. on an outdoor water use day as designated by the city.
- (c) Outdoor irrigation is permitted if it is by means of a handheld hose equipped with a positive shutoff nozzle, a faucet-filled bucket or watering can of five gallons or less on a designated outdoor water use day before 10:00 a.m. or after 7:00 p.m.
- (d) Outdoor irrigation is permitted by a hose end sprinkler, or a soaker hose, before 8:00 a.m. and after 7:00 p.m. on an outdoor water use day as designated by the city.
- (e) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited. This restriction does not apply to a commercial carwash or a commercial service station or if washing is necessary to protect the health, safety, and welfare of the public.
- (f) Charity carwashes are prohibited without a permit approved by the city.
- (g) Watering the ground around a foundation to prevent foundation cracking is only permitted on a residents designated outdoor water use day before 10:00 a.m. or after 7:00 p.m.
- (h) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is permitted.
- (i) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited, except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (j) A person may not operate a patio mister at a commercial facility is prohibited.
- (k) Use of water from hydrants will be limited to firefighting and related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under a permit for construction water from the city.
- (l) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days before 8:00 a.m. and after 7:00 p.m. However, if the golf course utilizes an irrigation water source other than potable water obtained from the utility provider's water distribution system, the facility will not be subject to these regulations.
- (m) All restaurants are prohibited from serving water to their customers except upon the customer's request.



- (n) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface, unless using a hose with a positive shutoff valve or a single, refillable vessel with water. A person commits a separate offense for each outdoor surface washed in violation of this subsection.
- (4) Prohibited waste of water. Waste of water (section 53.213) is prohibited year-round regardless of stage restrictions.
- (5) Notwithstanding the prohibitions in this section, irrigation of new landscape installation is permitted. In that event, irrigation may only occur during the hours permitted under subsection (D)(3) and in accordance with the following 30-day irrigation schedule:
  - (a) For the first ten days after installation, once every other day;
  - (b) For day 11 through 20 after installation, once every third day; and
  - (c) For day 21 through 30 after installation, once every third day.
- (D) Stage 3 - emergency water shortage conditions.
  - (1) Goal. Achieve a 30 percent reduction in average daily water use (e.g., total water use, daily water demand, etc.) from a rolling 12-month period.
  - (2) Supply management measures. The city must reduce or discontinue flushing of water mains; reduce or discontinue irrigation of public landscaped areas; use an alternative water supply source, where possible; and use reclaimed water for nonpotable purposes, where possible. The city must comply with the water use restrictions for stage 3 when the restrictions are implemented.
  - (3) Water use restrictions.
    - (a) All outdoor irrigation is prohibited.
    - (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited. This restriction does not apply to a commercial carwash or a commercial service station or if washing is necessary to protect the health, safety, and welfare of the public.
    - (c) Charity carwashes are prohibited.
    - (d) Watering the ground around a foundation to prevent foundation cracking is prohibited.
    - (e) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.
    - (f) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited, except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

- (g) A person may not operate a patio mister at a commercial facility.
- (h) Use of water from hydrants will be limited to firefighting and related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under a permit for construction water from the city.
- (i) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited. However, if the golf course utilizes an irrigation water source other than potable water obtained from the utility provider's water distribution system, the facility will not be subject to these regulations.
- (j) All restaurants are prohibited from serving water to their customers except upon the customer's request.
- (k) A person may not use or allow the use of water to wash, rinse, or treat any outdoor surface, including but not limited to a sidewalk, driveway, parking area, street, tennis court, patio, or other paved area or outdoor building surface. A person commits a separate offense for each outdoor surface washed in violation of this subsection.
- (l) No applications for building permits for new pools or irrigation facilities other than drip irrigation systems will be allowed or approved.
- (4) Prohibited waste of water.Waste of water (section 53.213) is prohibited year-round regardless of stage restrictions.
- (5) Irrigation of new landscape installations are prohibited.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.217. WATER RATIONING.**

If water shortage conditions threaten public health, safety, and welfare, the city manager may ration water according to the following water allocation plan:

(A) Single-family residential customers.

- (1) The allocation to residential water customers residing in a single-family dwelling will be as follows:

Persons per Household	Gallons per Month
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000

Persons per Household	Gallons per Month
11 or more	12,000

- (2) It will be assumed that a particular customer's household is comprised of two persons unless the customer notifies the city of a greater number of persons per household on a form prescribed by the city manager. The city manager will use best efforts to see that the forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it will be the customer's responsibility to go to the city utility billing offices to complete and sign the form claiming more than two persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the city manager. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the city on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer must notify the city in writing within two days.
- (3) Any person who falsely reports the number of persons in a household or fails to timely notify the city of a reduction in the number of person in a household commits a class C misdemeanor offense and may be fined not less than \$50.00 and more than \$500.00. No culpable mental state is required to prove this offense. However, if it is shown on the trial of the offense that the offense was committed intentionally, knowingly, recklessly, or with criminal negligence then the person may be fined not more than \$2,000.00.
- (4) Residential water customers who exceed their monthly allocation of water will pay the following surcharges:
  - (a) For every 100 gallons used over the monthly water allocation, customers will pay 150% of the normal volume charge for 25,001 gallons and up.
- (5) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.

(B) Master-metered multifamily residential customers.

- (1) A customer billed from a master meter that jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) will be allocated 6,000 gallons per month for each dwelling unit. All master meter customers shall notify the city of the number of dwelling units served from the master meter on a form prescribed by the city manager. The city will use best efforts to see that the forms are mailed, otherwise provided, or made available to every customer. If, however, a customer does not receive a form, it will be the customer's responsibility to go to the city utility billing offices to complete and sign the form claiming the number of dwelling units. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for water service on the

form prescribed by the city manager. If the number of dwelling units served by a master meter is reduced, the customer must notify the city in writing within two days. In prescribing the method for claiming more than two dwelling units, the city manager will adopt methods to ensure the accuracy of the claim.

- (2) Any person who falsely reports the number of dwelling units served by a master meter or fails to timely notify the city of a reduction in the number of persons in a household commits a class C misdemeanor offense and may be fined not less than \$500.00. No culpable mental state is required to prove this offense. However, if it is shown on the trial of the offense that the offense was committed intentionally, knowingly, recklessly, or with criminal negligence then the person may be fined not more than \$2,000.00.
  - (3) Customers billed from a master meter under this provision who exceed their monthly allocations must pay the following monthly surcharges:
    - (a) For every 100 gallons used over the monthly water allocation, customers will pay 150% of the normal volume charge for 25,001 gallons and up for each dwelling unit.
  - (4) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.
- (C) Commercial customers.

- (1) A monthly water usage allocation will be established by the city for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The nonresidential customer's allocation will be 75% of the customer's usage for corresponding month's billing period for the immediately preceding 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record will be used for any monthly period for which no history exists. Provided, however, a customer, 75% of whose monthly usage is less than 6,000 gallons, will be allocated 6,000 gallons. The city will use best efforts to see that notice of each nonresidential customer's allocation is mailed to each customer. If, however, a customer does not receive the notice, it will be the customer's responsibility to contact the city utility billing offices to determine the allocation. Upon request of the customer or at the initiative of the city, the allocation may be reduced or increased if: (a) the designated period does not accurately reflect the customer's normal water usage; (b) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer in a binding agreement satisfactory to the city; or (c) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal the request for allocation decision to the city manager.
- (2) Nonresidential commercial customers who exceed monthly allocation must pay the following surcharges:

- (a) Customers whose allocation is 0 gallons through 10,000 gallons per month: For every 100 gallons used over the monthly water allocation, customers will pay 150% of the normal volume charge for 25,001 gallons and up.
  - (b) Customers whose allocation is 10,001 gallons per month or more: For every 100 gallons used over the monthly water allocation, customers will pay 200% of the normal volume charge for 25,001 gallons and up.
- (3) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.

(D) Industrial customers.

- (1) A monthly water usage allocation will be established by the city for each industrial customer. The industrial customer's allocation will be approximately 90% of the customer's water usage baseline as defined below. Ninety days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation will be further reduced to 80% of the customer's water usage baseline. The industrial customer's water usage baseline will be computed on the average water usage for the immediately preceding 12-month period. If the industrial water customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record will be used for any monthly period for which no billing history exists. The city will use best efforts to see that notice of each industrial customer's allocation is mailed to each customer. If, however, a customer does not receive the notice, it will be the customer's responsibility to contact the city utility billing offices to determine the allocation, and the allocation will be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the city, the allocation may be reduced or increased if: (a) the designated period does not accurately reflect the customer's normal water usage because the customer had shutdown a major processing unit for repair or overhaul during the period; (b) the customer has added or is in the process of adding significant additional processing capacity; (c) the customer has shutdown or significantly reduced the production of a major processing unit; (d) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce usage is limited; (e) the customer agrees to transfer part of its allocation to another industrial customer in a binding document satisfactory to the city; or (f) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the city manager.
- (2) Industrial customers who exceed monthly allocation must pay the following surcharges:
  - (a) Customers whose allocation is 0 gallons through 20,000 gallons per month: For every 100 gallons used over the monthly water allocation, customers will pay 200% of the normal volume charge for 25,001 gallons



and up.

(b) Customers whose allocation is 20,001 gallons per month or more: For every 100 gallons used over the monthly water allocation, customers will pay 250% of the normal volume charge for 25,001 gallons and up.

(3) Surcharges shall be cumulative, added to the monthly utility bill, and subject to late payment penalties including suspension of services.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.218. OFFENSE.**

(A) A person commits an offense if the person:

- (1) Directs, performs, authorizes, requests, allows, assists, facilitates, or permits an act prohibited by this article;
- (2) Fails to perform an act required by this article; or
- (3) Uses water in a manner contrary to any provision of this article.

(B) Each day or part of the day during which the violation is committed or continued is a separate offense.

(C) An offense under this article is punishable by a fine not to exceed \$2,000.00.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.219. ENFORCEMENT.**

(A) For purposes of this article, the person or customer in whose name the utility billing office last billed or who is receiving the economic benefit of the water supply is presumed to have knowingly made, caused, used or permitted the use of water received from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article and proof that the violation occurred on the person's or customer's property shall constitute a rebuttal presumption that the person or customer committed the violation.

(B) Each act of city water use in violation of this article shall constitute and be punishable as a separate offense. Each day that any violation continues shall constitute and be punishable as a separate offense. Unless another penalty is specifically provided by this code or by state law, the penalty for violation of any provision of this article shall be as follows:

- (1) For violations of section 53.216(A) conservation stage, the city's water utility may issue a fine up to \$500.00.
- (2) For violations of section 53.216(B) stage 1 restrictions, the city's water utility may issue a fine of \$500.00 to \$1,000.00.



- (3) For violations of section 53.216(C) stage 2 restrictions, the city's water utility may issue a fine of \$1,000.00 to \$1,500.00.
- (4) For violations of section 53.216(D) stage 3 restrictions, the city's water utility may issue a fine of \$1,500.00 to \$2,000.00.
- (C) If a person is convicted for three or more violations of this article within a 12-month period, water service may be disconnected or restricted.
- (D) If the violation constitutes a waste of water and the waste of water is not and will not become a hazard to public safety, a city worker shall leave a notice of the violation at the customers residence and attempt to contact the customer by phone, e-mail, or at their residence. If the waste of water continues for more than 24 hours after the waste of water violation notice has been delivered, a city worker may enter the customers property to turn off the customers' water. A notice that the water has been turned off shall be left at the customers residence.
- (E) If the violation constitutes a waste of water, a city worker shall attempt to contact the customers by phone, e-mail, or at their residence. If the waste of water is or soon will be a hazard to public safety a city employee may enter the customers property to turn off the customers' water. A notice that the water has been turned off shall be left at the customers residence.
- (F) Proof of a culpable mental state is not required for a conviction of an offense under this article.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

### **§ 53.220. VARIANCES.**

- (A) A review board consisting of the city staff members appointed by the city manager will be established on May 1st of each year. The review board will review hardship and special cases that cannot strictly comply with this article to determine whether the cases warrant a variance, permit, or compliance agreement (collectively, "variance").
- (B) All applications for a variance must be submitted to the review board on an "application for variance/permit/compliance agreement" form and must include a nonrefundable fee of \$200.00 and the following:
  - (1) Name and address of the petitioner(s);
  - (2) Purpose of water use;
  - (3) Specific provision(s) of this plan from which the petitioner is requesting relief;
  - (4) Detailed statement as to how the specific provision of this plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this article;
  - (5) Description of the relief requested;

- (6) Period of time for which the variance is sought;
  - (7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date; and
  - (8) Other pertinent information.
- (C) The review board will make a determination no later than the 5th working day after receipt of a properly completed "application for variance/permit/compliance agreement" form and the nonrefundable administrative fee of \$200.00 is received by the review board.
- (D) Until the review board has acted on an application, the applicant must comply with all provisions of this article. The review board may not approve a variance if the terms and conditions do not meet or exceed the purpose and intent of this article.
- (E) A variance may be granted only for reasons of economic hardship or health conditions substantiated by a licensed physician. In this section, "economic hardship" means an imminent threat to a person's or entities primary source of income. If the review board determines there is an economic hardship, it may authorize the implementation of alternative water use restrictions that further the purposes of this plan. The alternative water use restrictions must be set forth on the face of the variance and the customer must keep a copy of the variance in a location that is accessible by and visible to the public. Inconvenience or the potential for damage to landscaping does not constitute an economic hardship under this section. No variances may be granted while the city is in stage 2 of this plan or higher.
- (F) The review board may, in writing, grant a temporary variance for existing water uses otherwise prohibited under this plan if it determines that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if either of the following conditions are met:
- (1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which this plan is in effect; or
  - (2) Alternative methods can be implemented that will achieve the same level of reduction in water use.
- (G) Variances granted by the city are subject to the following conditions, unless waived or modified by the review board:
- (1) Variances must include a timetable for compliance; and
  - (2) Variances expire when this plan is no longer in effect, unless the petitioner has failed to meet specified requirements.
- (H) A variance may not be retroactive or otherwise justify any violation of this plan occurring before the variance is issued.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.221. WHOLESALE CUSTOMERS IMPLEMENTATION OF PLAN.**

Each wholesale customer of the city must develop and implement a water conservation plan or water conservation measures using the applicable elements in this plan. If the wholesale customer intends to resell the water, then the contract between the city and the wholesale customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with applicable provision of this plan.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

**§ 53.222. PRO RATA WATER ALLOCATION (WHOLESALE CUSTOMERS).**

(A) In the event that the triggering criteria specified in section 53.215 of this article have been met, the city manager is hereby authorized initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code, section 11.039 and according to the following water allocation policies and procedures:

- (1) A wholesale customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by resolution of the city council based on the city manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the city council as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale customer shall be limited to the allocation established for each month.
- (2) A monthly water usage allocation shall be established by the city manager, or his/her designee, for each wholesale customer. The wholesale customer's water usage baseline will be computed on the average water usage by month for the 36-month period immediately prior to the implementation of the computation. If the wholesale water customer's billing history is less than 36 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.
- (3) The city shall provide notice, by certified mail, to each wholesale customer informing them of their monthly water usage allocations and shall notify the news media and the executive director of the Texas Commission on Environmental Quality upon initiation of pro rata water allocation.
- (4) Upon request of the customer or at the initiative of the city, the allocation may be reduced or increased if: (a) the designated period does not accurately reflect the wholesale customer's normal water usage; (b) the customer agrees to transfer part of its allocation to another wholesale customer; or (c) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established

hereunder to the city council.

(B) The requirements of this section must be included in any contract that is entered into, renewed or amended after the effective date of this section.

(Ordinance 1579-23-01-24 adopted 1/24/2023)

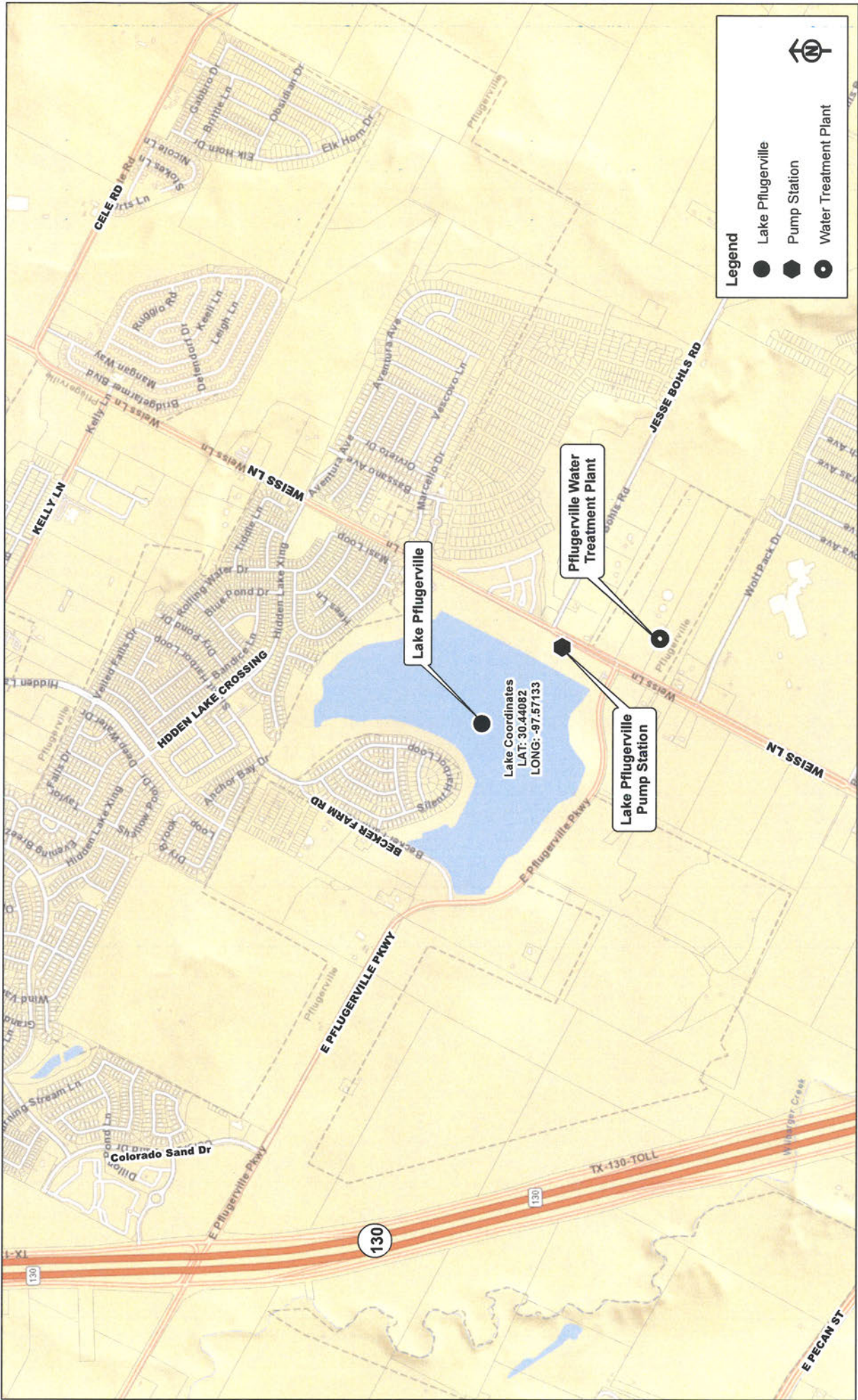
**§ 53.223. SEVERABILITY.**

If any provision of this plan is illegal, invalid, or unenforceable under present or future laws, the remainder of this plan will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this plan.

(Ordinance 1579-23-01-24 adopted 1/24/2023)



# Lake Pflugerville with Water Facilities





# Pflugerville Raw Water River Intake Pump Station





## Bed and Banks – Environmental Flows

The City of Pflugerville has contracted with the Lower Colorado River Authority (LCRA) for another 12,000 acre-feet annually of surface water. The LCRA owns and operates a series of dams and reservoirs on the Colorado River and sells water from its authorized water rights within the Highland Lake system. The water supply storage in the Highland Lakes system is over 2,000,000 acre-feet. Per the updated contract with LCRA, the City of Pflugerville will now be contracted to a firm water amount of 24,000 acre-feet annually.

As this updated water right application would be diverting water from an existing stream on the Lower Colorado River the amount of water diverted will not exceed the amount of water discharged, less losses, therefore there should be no changes to downstream instream flows or freshwater inflows.