

**Executive Summary – Enforcement Matter – Case No. 61026**

**City of Austin**

**RN102077328**

**Docket No. 2021-0900-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Dessau WWTP, 1601 Fish Lane, Austin, Travis County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 9, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,250

**Amount Deferred for Expedited Settlement:** \$1,650

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$6,600

Name of SEP: Austin Parks Foundation (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 1, 2021

**Date(s) of NOE(s):** June 25, 2021

**Executive Summary – Enforcement Matter – Case No. 61026**

**City of Austin**

**RN102077328**

**Docket No. 2021-0900-MWD-E**

***Violation Information***

Failed to comply with permitted effluent limitations for ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0012971001, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012971001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 1, MC R-04, (817) 588-5865; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**SEP Third-Party Administrator:** Austin Parks Foundation, P.O. Box 6160, Austin, Texas 78762

**Respondent:** The Honorable Steve Adler, Mayor, City of Austin, 625 East 10th Street, Suite 800, Austin, Texas 78701

Shay Ralls Roalson, Austin Water Director, City of Austin, 625 East 10th Street, Suite 800, Austin, Texas 78701

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	6-Jul-2021	<b>Screening</b>	9-Jul-2021	<b>EPA Due</b>	
	<b>PCW</b>	21-Jul-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Austin
<b>Reg. Ent. Ref. No.</b>	RN102077328
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61026	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0900-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	10.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$750
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Notes: Enhancement for one month of self-reported effluent violations, and one NOV for same/similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$2,541  
 Estimated Cost of Compliance: \$25,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$8,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,250
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,650
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,600
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**Screening Date** 9-Jul-2021

**Docket No.** 2021-0900-MWD-E

**PCW**

**Respondent** City of Austin

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61026

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN102077328

**Media** Water Quality

**Enf. Coordinator** Cheryl Thompson

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 10%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one month of self-reported effluent violations, and one NOV for same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 10%

<b>Screening Date</b>	9-Jul-2021	<b>Docket No.</b>	2021-0900-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of Austin			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	61026			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN102077328			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Cheryl Thompson			

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012971001, Effluent Limitations and Monitoring Requirements No. 1

**Violation Description** Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<b>Percent</b> <input type="text" value="15.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>

**Matrix Notes** A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two quarterly events are recommended for the quarters containing the months of August, September, November, and December 2020.

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

**Notes** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Austin  
**Case ID No.** 61026  
**Reg. Ent. Reference No.** RN102077328  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25,000	31-Aug-2020	12-Sep-2022	2.03	\$2,541	n/a	\$2,541

**Notes for DELAYED costs**

Estimated Delayed Other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$25,000

**TOTAL**

\$2,541

City of Austin  
 TPDES Permit No. WQ0012971001  
 Docket No. 2021-0900-MWD-E  
 Case No. 61026

Ammonia Nitrogen

Monitoring Period	Daily Average Concentration Limit = 3 mg/L	Daily Average Loading Limit = 13 lbs/day
August 2020	6.4	16.9
September 2020	4.5	13.4
November 2020	3.1	c
December 2020	4.1	c

mg/L = milligrams per liter      c = compliant  
 lbs/day = pounds per day

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# Compliance History Report

Compliance History Report for CN600135198, RN102077328, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN600135198, City of Austin      **Classification:** SATISFACTORY      **Rating:** 3.79

**Regulated Entity:** RN102077328, DESSAU WWTP      **Classification:** SATISFACTORY      **Rating:** 1.60

**Complexity Points:** 4      **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** 1601 Fish Lane, Austin, Travis County, Texas

**TCEQ Region:** REGION 11 - AUSTIN

**ID Number(s):**  
**WASTEWATER PERMIT** WQ0012971001      **WASTEWATER EPA ID** TX0097870  
**WASTEWATER LICENSING LICENSE** WQ0012971001

**Compliance History Period:** September 01, 2016 to August 31, 2021      **Rating Year:** 2021      **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** January 19, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 19, 2017 to January 19, 2022

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Cheryl Thompson      **Phone:** (817) 588-5865

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	February 15, 2017	(1405435)			
Item 2	April 19, 2017	(1419015)			
Item 3	May 13, 2017	(1426660)	Item 13	April 13, 2018	(1495060)
Item 4	July 07, 2017	(1441223)	Item 14	May 11, 2018	(1501981)
Item 5	August 18, 2017	(1444896)	Item 15	June 22, 2018	(1509096)
Item 6	September 17, 2017	(1451484)	Item 16	July 18, 2018	(1515407)
Item 7	October 16, 2017	(1457360)	Item 17	August 12, 2018	(1521458)
Item 8	November 09, 2017	(1462804)	Item 18	September 15, 2018	(1528643)
Item 9	December 18, 2017	(1469221)	Item 19	October 18, 2018	(1534971)
Item 10	January 14, 2018	(1475917)	Item 20	November 19, 2018	(1542825)
Item 11	February 18, 2018	(1488103)	Item 21	December 17, 2018	(1546566)
Item 12	March 17, 2018	(1491772)	Item 22	January 14, 2019	(1563812)

Item 23	February 14, 2019	(1563810)	Item 38	May 19, 2020	(1661441)
Item 24	March 18, 2019	(1563811)	Item 39	June 18, 2020	(1667968)
Item 25	April 16, 2019	(1573199)	Item 40	July 16, 2020	(1674917)
Item 26	May 15, 2019	(1586005)	Item 41	August 17, 2020	(1681687)
Item 27	June 17, 2019	(1586006)	Item 42	November 17, 2020	(1716467)
Item 28	July 18, 2019	(1594546)	Item 43	February 16, 2021	(1729549)
Item 29	September 19, 2019	(1607764)	Item 44	March 19, 2021	(1729550)
Item 30	September 30, 2019	(1600847)	Item 45	April 19, 2021	(1729551)
Item 31	October 13, 2019	(1614626)	Item 46	May 17, 2021	(1742072)
Item 32	November 18, 2019	(1620415)	Item 47	June 16, 2021	(1742073)
Item 33	December 20, 2019	(1627767)	Item 48	August 14, 2021	(1758439)
Item 34	January 19, 2020	(1635395)	Item 49	September 16, 2021	(1767723)
Item 35	February 17, 2020	(1642010)	Item 50	October 15, 2021	(1778290)
Item 36	March 19, 2020	(1648526)	Item 51	November 17, 2021	(1784960)
Item 37	April 17, 2020	(1654877)			

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 06/30/2021 (1753033)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 2 Date: 01/11/2022 (1774316)  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.1(a)  
Int. Eff. Lim. & Mon. Req. No. 4, Pg. 2 PERMIT  
Operational Requirements No. 1, Page 13 PERMIT  
Description: Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, including, but not limited to, the regular, periodic examination of wastewater solids within the treatment plant in order to maintain an appropriate quantity and quality of solids inventory and failed to prevent the discharge of floating solids.  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements No. 1, Page 13 PERMIT  
Permit Cond. No. 2.g, Pgs. 9 & 10 PERMIT  
TWC Chapter 26 26.039  
Description: Failed to prevent the unauthorized discharge wastewater.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.6  
Description: Failed to conduct adequate Quality Assurance/Quality Control (QA/QC) for the pH meter.  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirements No. 1, Page 13 PERMIT  
Permit Conditions No. 2.g, Pgs. 9 & 10 PERMIT  
TWC Chapter 26 26.039  
Description: Failed to prevent the unauthorized discharge wastewater.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.11(a)  
30 TAC Chapter 319, SubChapter A 319.11(b)  
Mon. & Rept. Req. No. 2.a, Pg. 5 PERMIT  
Description: Failed to ensure that preservation methods meet the requirements specified in 40 Code of Federal Regulations Part 136 and Standard Methods for the Examination of Water and Wastewater.

Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 307 307.4(b)(6) 30 TAC Chapter 317 317.1(a) Int. Eff. Lim. & Mon. Req. No. 4, Pg. 2 PERMIT Operational Requirements No. 1, Page 13 PERMIT		
Description:	Failed to prevent the discharge of visible foam in other than trace amounts and failed to prevent foaming or frothing of a persistent nature.		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) Int. Eff. Lim. & Mon. Req. No. 1, Pg. 2 PERMIT		
Description:	Failed to comply with the permitted 2-hour peak flow limit.		

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF AUSTIN  
RN102077328

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY  
§

## AGREED ORDER DOCKET NO. 2021-0900-MWD-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Austin (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 1601 Fish Lane in Austin, Travis County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$8,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$1,650 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$6,600 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

## II. ALLEGATIONS

During a record review conducted on April 1, 2021, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012971001, Effluent Limitations and Monitoring Requirements No. 1, as shown in the effluent violation table below:

Effluent Violation Table		
Ammonia Nitrogen		
Monitoring Period	Daily Average Concentration Limit = 3 mg/L	Daily Average Loading Limit = 13 lbs/day
August 2020	6.4	16.9
September 2020	4.5	13.4
November 2020	3.1	c
December 2020	4.1	c

mg/L = milligrams per liter      c = compliant  
lbs/day = pounds per day

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Austin, Docket No. 2021-0900-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete an SEP as set forth in Section I, Paragraph No. 4. The amount of \$6,600 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012971001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, or other records to

demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, R-04  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

with a copy to:

Water Section Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the address listed above.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's

jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-----  
For the Commission

-----  
Date



7/5/2023

-----  
For the Executive Director

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Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
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Signature

5/9/2023  
-----  
Date

Shay Ralls Roalson  
-----  
Name (Printed or typed)  
Authorized Representative of  
City of Austin

Director, Austin Water  
-----  
Title

If mailing address has changed, please check this box and provide the new address below:

**Attachment A**  
**Docket Number: 2021-0900-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Austin</b>
<b>Payable Penalty Amount:</b>	<b>\$6,600</b>
<b>SEP Offset Amount:</b>	<b>\$6,600</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>Austin Parks Foundation</b>
<b>Project Name:</b>	<b><i>Barton Creek Greenbelt Restoration</i></b>
<b>Total Project Budget:</b>	<b>\$79,208</b>
<b>Location of SEP:</b>	<b>Travis County</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Austin Parks Foundation** for the *Barton Creek Greenbelt Restoration* project (the “Project”). The Project is to remove invasive woody plants from at least 35 acres of the Barton Creek Greenbelt (“Greenbelt”), a City of Austin-owned parkland preserve. Invasive species removal will allow the opportunity for restoring native hill country/canyon land flora and habitat to the Greenbelt. Removal of sun-blocking invasive species will allow native understory and grass restoration, reducing soil erosion and water pollution of the sensitive karst system. Invasive species to be removed include Ligustrum, Chinaberry, Nandina, Photinia, Chinese Tallow, and Chinese Pistache. The Third-Party Administrator shall create a relational database, interactive website, and interactive GIS map to assist with invasive species removal. The Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

**B. Environmental Benefit**

The Barton Creek Greenbelt contains a Hill Country ecosystem in an urban area. The park offers recreational opportunities and is an ecological resource for protecting the underlying karst aquifer system, which provides spring flow to support the endangered Barton Springs salamander. Encroachment of dense stands of exotic shrubs and small trees has the potential to overcome the native riparian and canyon forest canopy supporting endangered songbirds. The health of this natural system has become threatened by the dense coverage of invasive *Ligustrum* and other non-native species. Invasives cause erosion by shading out native plants and ground cover that hold the soil in place. Ground cover also serves as food sources and habitat for native fauna. This Project will combat the ecological degradation caused by invasive species.

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP Offset Amount to Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to Third-Party Administrator. The Respondent shall make the check payable to **Austin Parks Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Austin Parks Foundation  
Attention: Jayna Burgdorf, CFO  
P.O. Box 6160  
Austin, Texas 78762

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to “Texas Commission on Environmental Quality,” and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.