

TCEQ Interoffice Memorandum

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: February 2, 2023

SUBJECT: City of Waco.
ADJ 2317
CN600131940, RN103923363
Application No. 12-2317B to Amend Certificate of Adjudication
No. 12-2317
Texas Water Code § 11.122, Limited Mailed Notice Required
Bosque River, Brazos River Basin
McLennan County

The application was received on November 15, 2022. Application fees were received on December 1, 2022. Additional information was received on January 6, 2023. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on February 2, 2023. Mailed notice to interjacent water right holders of record in the Brazos River Basin for adding a diversion point is required pursuant to 30 TAC § 295.158(c)(3)(D). However, there are no interjacent water right holders of record to be noticed.

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*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 2, 2023

Mr. James Aldredge, Attorney
Lloyd Gosselink Rochelle & Townsend, PC
816 Congress Avenue, Suite 1900
Austin, Texas 78701

VIA E-MAIL

RE: City of Waco.
ADJ 2317
CN600131940, RN103923363
Application No. 12-2317B to Amend Certificate of Adjudication No. 12-2317
Texas Water Code § 11.122, Limited Mailed Notice Required
Bosque River, Brazos River Basin
McLennan County

Dear Mr. Aldredge:

This acknowledges receipt, on November 15, and December 1, 2022, of the referenced application and fees in the amount of \$112.50 (Receipt No. M305338, copy attached). Additional information was received on January 6, 2023.

The application was declared administratively complete and filed with the Office of the Chief Clerk on February 2, 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.

Be aware that the amendment request to add uses to Certificate of Adjudication No. 12-2317 may result in annual Water Use Assessment Fees (WUF). For more detailed information on these fees, see the attached *Water Use Assessment Fee (WUF): Frequently Asked Questions* fact sheet or contact the Water Quality Monitoring & Assessment Section at (512) 239-3838.

If you have any questions concerning the application, please contact me via email at hal.bailey@tceq.texas.gov or at (512) 239-4615.

Sincerely,

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

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

Attachments



Basis2 Receipt Report by Endorsement Number

DEC-02-22 08:24 AM

Acct. #: WUP

Account Name: WATER USE PERMITS

<u>Paid For</u>	<u>Endors. #</u>	<u>Ref #2</u>	<u>Paid In By</u>	<u>PayTyp</u>	<u>Chk #</u>	<u>Card#</u>	<u>Bank Slip</u>	<u>Tran.Date</u>	<u>Receipt Amnt.</u>
	M305338	ADJ122317	LLOYD GOSSELINK	CK	40371		BS00099199	01-DEC-22	\$112.50

Water Use Assessment Fee (WUF) Frequently Asked Questions

What Is This Fee?

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

Why are you billed?

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

Amendments can also make a water right that was not previously billed now billable. If you have not been billed in the past but are now receiving a WUF invoice, this is most likely because your water right has been amended and is now considered billable.

If the water under your water right is being sold to a wastewater treatment plant that pays the Consolidated Water Quality Fee, and you can provide proof of these sales, please contact us using the information at the end of this document.

What are reasons for exemption?

Exemptions are listed in 30 TAC, § 21.3(c). Exemptions from the Water Use Assessment Fee include: municipal or industrial water rights directly associated with a facility that is assessed a Consolidated Water Quality Fee; agriculture (irrigation) water rights; non-priority hydroelectric water rights for a facility with a capacity of less than 2 megawatts; consumptive authorization less than 250 acre-feet; and non-consumptive authorization less than 2,500 acre-feet.

How Is the Fee Assessed?

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

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

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

The maximum water use fee for a single permit is \$127,770, which may be adjusted annually using the latest Consumer Price Index.

How are Diversion Amounts Distributed Among Uses?

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

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

Why do I have Multiple Invoice Numbers?

Multiple invoice numbers are generated when the water right has multiple uses such as municipal (code 1), industrial (code 2), and mining (code 4). The bill is divided by use for accounting purposes.

What If I Have More Than One Account?

You may send all your payments in one envelope, but please enclose a separate check for each coupon. Do not send a check for the total amount. If the number of checks does not equal the number of coupons, the agency will be unable to determine which accounts to credit. Also, TCEQ will not be able to process your transactions by the automated process, and your account may not be credited in time to avoid late fees.

Where Do I Get More Information?

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

<https://www.tceq.texas.gov/agency/financial/fees/water-related-fees>

For billing and account balance information, call the TCEQ's Financial Administration Division, Revenue Section at (512) 239-0369.

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

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

Hal Bailey

From: Brooke McGregor
Sent: Friday, January 6, 2023 4:17 PM
To: Hal Bailey
Cc: Chris Kozlowski
Subject: FW: City of Waco Application to Amend COA 12-2317B
Attachments: Signed-Notarized Pg 7.pdf; Supplement to Waco Application to Amend 12-2317 Revised.PDF; Google Earth Image Revised.pdf

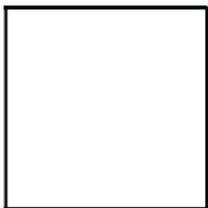
From: James Aldredge [REDACTED]
Sent: Friday, January 6, 2023 2:52 PM
To: Brooke McGregor <brooke.mcgregor@tceq.texas.gov>
Cc: Kathy Alexander <kathy.alexander@tceq.texas.gov>; Chris Kozlowski <chris.kozlowski@tceq.texas.gov>
Subject: RE: City of Waco Application to Amend COA 12-2317B

Good afternoon Brooke. Per my recent conversation with Kathy on this, please accept the three attached documents as an informal supplement to Waco's application to amend COA 12-2317B. In order, the attachments are as follows:

1. Signed/notarized signature page (page 7) of the original application checklist document (we accidentally submitted the wrong PDF copy of this)
2. Revised Narrative Supplement (see WCP/DCP language re: industrial use special condition)
3. Revised diversion point map (showing diversion point on the Bosque River)

Please do not hesitate to contact me if you need any additional information.

Thanks,
James



JAMES ALDREDGE

Principal

512-322-5859 Direct

512-656-5104

Lloyd Gosselink Rochelle & Townsend, P.C.

816 Congress Ave., Suite 1900, Austin, TX 78701

www.lglawfirm.com | 512-322-5800



****ATTENTION TO PUBLIC OFFICIALS AND OFFICIALS WITH OTHER INSTITUTIONS SUBJECT TO THE OPEN MEETINGS ACT ****

A "REPLY TO ALL" OF THIS EMAIL COULD LEAD TO VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT. PLEASE REPLY ONLY TO LEGAL COUNSEL.

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No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-disclaimer/ .

From: James Aldredge

Sent: Tuesday, November 15, 2022 10:48 AM

To: 'Brooke McGregor' <brooke.mcgregor@tceq.texas.gov>

Cc: 'Kathy Alexander - Texas Commission on Environmental Quality (Kathy.Alexander@tceq.texas.gov)' <kathy.alexander@tceq.texas.gov>; 'Chris Kozlowski' <chris.kozlowski@tceq.texas.gov>

Subject: RE: City of Waco Application to Amend COA 12-2317B

Brooke, I inadvertently omitted the cover letter for the application. I am resending all application documents in this email to avoid confusion. Thanks.

From: James Aldredge

Sent: Tuesday, November 15, 2022 10:41 AM

To: Brooke McGregor <brooke.mcgregor@tceq.texas.gov>

Cc: Kathy Alexander - Texas Commission on Environmental Quality (Kathy.Alexander@tceq.texas.gov) <kathy.alexander@tceq.texas.gov>; Chris Kozlowski <chris.kozlowski@tceq.texas.gov>

Subject: City of Waco Application to Amend COA 12-2317B

Good morning Brooke. I hope you are doing well. If you recall, we had a pre-application meeting for a proposed amendment application for the City of Waco earlier this year. After that meeting, the owner of the property needing water from Waco's diversion authorization secured a temporary permit from the Brazos Watermaster's office. That allowed the City some time to put this application together. After some delays, we have finally completed the full application and would like now to formally file it with TCEQ. The attached documents constitute the application in full. I am also mailing a hard copy of the application to you via certified mail.

Please confirm receipt of the application. I look forward to working with you and your staff during administrative review to assure that Waco has submitted all of the information you need.

Thanks,
James

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Bradley Ford

CITY MANAGER

(Typed or printed name)

(Title)

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

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

Signature: [Handwritten Signature]

(Use blue ink)

Date: 9/30/22

KFP

Subscribed and Sworn to before me by the said

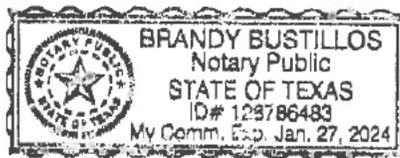
on this 30th day of September, 2022.

My commission expires on the 27th day of January, 2022.

Brandy Bustillos
Notary Public

[SEAL]

McLennan
County, Texas



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

**NARRATIVE SUPPLEMENT TO
APPLICATION TO AMEND
CERTIFICATE OF ADJUDICATION NO. 12-2317 (12-2317B)**

REVISED JANUARY 6, 2023

CITY OF WACO, TEXAS

I. Introduction

The City of Waco (the “City” or “Waco”) respectfully submits this narrative supplement to its application (Form 10201) for an amendment to Certificate of Adjudication No. 12-2317 as amended through Certificate of Adjudication No. 12-2317A (the “Application”).

II. Background

The City of Waco is a home-rule municipal corporation located in McLennan County, Texas. The City has purchased property authorized by the State of Texas to be irrigated with surface water appropriated pursuant to Certificate of Adjudication No. 12-2317 (“Certificate”). The irrigation right is appurtenant to and runs with the land now owned by the City. A copy of the Certificate, as amended by Amendment 12-2317A, is included herewith as **Attachment B**.

When the underlying permit (Permit 358R) to the Certificate was issued, the authorized diversion was used to irrigate farmland situated northwest of the City of Waco. Over the years, Waco grew and expanded toward the northwest and eventually surrounded the farmland. Eventually, the City obtained ownership of the entire tract of land and constructed park facilities on the former farm. Today, the City operates a complex of tennis courts and baseball fields on the associated tract. Through a contractor, the City also maintains a recreational water park on the property. All of the facilities are open to public use for the benefit and enjoyment of the citizenry of Waco and surrounding areas.

In 2014, the City filed an application to amend the Certificate to remove the acreage restriction so that it would be clear from the face of the certificate that the City may apply water for irrigation without restriction to a particular area of land. In addition, the City also filed an application to amend the Certificate to add an additional 108.373 acres to be irrigated immediately adjacent to 153.81 originally authorized for irrigation under the Certificate. TCEQ issued the requested amendment at Amendment 12-2317A.

Through this application for Amendment 12-2317B, Waco seeks three changes to the Certificate:

1. Add a diversion point on the opposite bank of the Bosque River approximately 2,500 feet upstream of furthest upstream of the three existing authorized diversion points—a map illustrating the location of the proposed additional diversion point is included as **Attachment C**;
2. In addition to irrigation use, add municipal, industrial, and agricultural purposes of use; and

3. In lieu of the current irrigation acreage, change the place of use to anywhere in McLennan County, Texas.

III. Expedited Review and No Public Notice Required

During the March 17, 2022 pre-application meeting, the City’s representatives, in consultation with Water Availability Division staff, determined that this Application for Amendment 2317B is not subject to Texas Water Code Section 11.122(b-3) because the requested additional diversion point is not located on “the same contiguous tract of land” as any of the four existing diversion points. This Application is, therefore, subject to review under Texas Water Code § 11.122(b). However, because there are no authorized water rights that are between the existing and requested diversion points, and because the requested additional diversion point is in close proximity to the existing diversion points, Waco respectfully requests an expedited technical review of this Application.

Pursuant to the Texas Supreme Court’s decision in *City of Marshall v. City of Uncertain*,¹ the TCEQ must assess several “limited public interest criteria” in determining whether to issue notice on an application for a water right amendment filed under Texas Water Code § 11.122(b) that does not seek to increase the amount or rate of diversion. These criteria are addressed below. Based upon the full-use assumption and the information provided herein, the City requests the Commission grant the City’s requested amendment without issuing public notice.

IV. Applicant Information

Name of Applicant:	City of Waco, Texas
Address:	P.O. Box 2570 Waco, Texas 76702-2570
Principal Contact:	Bradley Ford, City Manager
Telephone:	(254) 750-5640
Fax:	(254) 750-5880

V. Full Use Assumption

The City’s proposed amendment to the Certificate will not have any impact on other water rights holders or the on-stream environment in the Brazos River Basin. The Certificate currently authorizes the diversion and use of 248 acre-feet of water from the Bosque River. Unless provided otherwise in a water right, there is no restriction against full consumption of water properly authorized for diversion. Pursuant to the “full use assumption” of Texas Water Code § 11.122(b), the City’s use of the 248 acre-feet of water for agricultural, industrial, and municipal purposes outside of the currently-authorized irrigation acreage will not cause an adverse impact on other water rights holders or the on-stream environment of a greater magnitude than if the City fully exercised its rights as currently authorized in the Certificate. By employing the Water Code’s “full use assumption,” there is no circumstance under which downstream water rights or the environment will be harmed by the City’s proposed additional diversion point, purposes of use, and place of use. The City does not seek to increase the rate at which it diverts water or increase the amount of water the City is currently authorized to divert and fully consume. The City is merely

¹ See *City of Marshall v. City of Uncertain*, 206 S.W.3d 97 (Tex. 2006).

adding a diversion point in the vicinity of the exiting diversion points, adding purposes of use, and expanding the place of use. Assuming the City may currently use the entirety of the 248 acre-feet, the change requested could not result in a greater use of water by the City. And the change certainly could not result in any different impact to other water rights or the environment.

VI. Marshall Criteria

Under the *City of Marshall* case, the Commission evaluates whether a proposed amendment will affect other water rights holders or the on-stream environment “beyond or irrespective” of the full-use assumption.² The Court provides that such an effect may occur with applications seeking to move the point of diversion “upstream above a senior right holder,” or seeking to change the purpose of use from a “nonconsumptive use to a consumptive one.”³ The City’s Application seeks neither of these types of amendments, nor any amendment that creates a potential adverse impact on other water right holders or the environment beyond the legislatively mandated full-use assumption. The Certificate currently includes an authorization to divert, without any limitation or condition on consumption, up to 248 acre-feet of water per annum for irrigation within the Brazos River Basin in McLennan County. The Application seeks only to add a diversion point on the opposite bank of the Bosque River from the current authorization, add purposes of use, and expand the authorized place of use to McLennan County generally. The request does not in any way alter the amount of water the City may ultimately divert or consume under its existing water right.

1. Administrative Requirements and Fees

This Application provides relevant information to address the administrative requirements in 30 TAC § 295, Subchapter A, and the requirements of Texas Water Code Chapter 11. In accordance with 30 TAC § 295.132 and other TCEQ rules relating to fees, the City is submitting payment of \$112.50 with this Application. By filing this Application, the City requests a determination of any additional fees that may be required. Upon receipt of such determination, the City will forward payment for such fees to the TCEQ.

2. Beneficial Use

Texas Water Code § 11.134(b)(3)(A) requires that proposed appropriations of water be intended for a beneficial use. “Beneficial use” is defined in Texas Water Code § 11.002(4) and 30 TAC § 297.1(8) as the use of water “which is economically necessary for a purpose authorized by [Chapter 11 of the Texas Water Code].” All the requested purposes of use, agricultural, municipal, and industrial, are included in Texas Water Code § 11.023 as purposes for which water may be diverted and beneficially used. The City intends to beneficially use the water authorized for diversion under the proposed amendment largely to allow businesses in Waco to use raw water for agricultural, industrial, and municipal purposes to reduce demand on Waco’s potable water system.

3. Public Welfare

The proposed amendment will allow the City to more efficiently manage its water resources in McLennan County. The proposed agricultural, industrial, and municipal purposes of use are all beneficial uses as defined in the Texas Water Code. The proposed use is consistent with

² *City of Marshall v. City of Uncertain*, 206 S.W.3d at 111.

³ *Id.* (emphasis added).

the City's intent to protect the public welfare and will certainly not be detrimental to the public welfare under Texas Water Code § 11.134(b)(3)(C). By reducing demand on the City's municipal water system, the City can ensure the most efficient use of its surface water supplies which will protect the public welfare.

4. Groundwater Effects

The requested amendment to the City's Certificate will have no effect on groundwater resources or groundwater recharge to any greater degree than would the City's existing diversion and use of water authorized under the Certificate. Groundwater resources and groundwater recharge will not be impacted by this Application.

5. State Water Plan

The City's proposed amendment is consistent with demands identified by the Region G Regional Water Plan. The Application seeks only to add the proposed amendment which is not inconsistent with, and will not conflict with any project identified in, the State and Region G Regional Water Plans.

6. Waste Avoidance

The Application is specifically an effort to more efficiently use state water and avoid waste of water through the City's municipal retail water system. A proposed business on the land proposed for the additional diversion point has no alternative source of water for its landscape irrigation needs other than the City's municipal water system. Amending the Certificate to add a diversion point and authorize use of water within McLennan County directly from the Bosque River will reduce demand on the City's municipal water system and will result in increased efficiency in the City's overall beneficial use of state water.

7. Impacts on Water Rights or On-stream Environment

As explained herein, the Application will not create a potential adverse impact on other water right holders or the environment beyond the legislatively mandated full-use assumption. The only changes requested in the Application are to (1) add a diversion point on the opposite bank of the Bosque River from the current authorization, (2) add purposes of use in addition to the existing irrigation authorization, and (3) expand the authorized place of use to McLennan County.

VII. Water Conservation and Drought Contingency Planning

The City maintains a Water Conservation Plan ("WCP") and a Drought Contingency Plan ("DCP") as required under Texas Water Code Chapter 16 and TCEQ rule Chapter 288. The Water Availability Division approved the City's WCP and DCP on [DATE]. TCEQ's letter approving the WCP and DCP is included with this Application as **Attachment D**.

The City does not maintain a water conservation plan for industrial use at this time because the City does not currently divert water for industrial purposes. The City would be willing to accept a special condition in the amendment similar to the following:

- 1) Ninety days prior to the diversion of water for industrial use, Owner shall submit a water conservation plan to the TCEQ that meets the requirements of 30 TAC §288.3.

XIII. Authority to File Application

On July 19, 2022, the City Council of the City of Waco Texas authorized the filing of this Application. A copy of the City's action authorizing the filing and prosecution of the Application is included herewith as **Attachment E**.

IX. Additional Information

The City of Waco encourages TCEQ staff to make any inquiries it believes are necessary regarding the City's proposed amendment to Certificate of Adjudication No. 13-2317 by contacting, at their convenience, the City's outside water counsel James Aldredge (512-322-5859).

WRPERM 12-2317B Diversion Point

Legend
📍 Diversion Point



Diversion Point

CEDAR RIDGE

Lovers Leap



Mr. Aldredge's Direct Line: (512) 322-5859
[REDACTED]

November 15, 2022

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

**VIA ELECTRONIC FILING AND
FIRST-CLASS MAIL**

Re: Application by the City of Waco for Amendment to WRPERM 12-2317A

Dear Ms. McGregor:

Please accept the enclosed application by the City of Waco for an amendment to Certificate of Adjudication No. 12-2317, as it is currently amended through Amendment 12-2317A. As discussed at our March 17, 2022 pre-application meeting, the City desires to amend Certificate 12-2317 in three ways:

1. Add a diversion point on the south bank of the Bosque River immediately opposite an existing diversion point on the north bank;
2. Change the purpose of use from irrigation to the following: agriculture, industrial, irrigation, and municipal use; and
3. Change the place of use from the current combined 262.183 acres of irrigation land to anywhere within McLennan County.

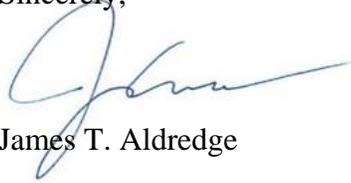
In addition to a completed TCEQ water rights permitting Administrative Information Checklist, Technical Information Report, and required worksheets, the following are also enclosed with this letter:

- Attachment A: Narrative Supplement to Application
- Attachment B: Certificate of Adjudication No. 2317, as amended through 12-2317A
- Attachment C: Map illustrating location of proposed additional diversion point
- Attachment D: City of Waco 2019 Water Conservation and Drought Contingency Plan
- Attachment E: Waco City Council Resolution No. 2022-490 Approving Application

Ms. Brooke McGregor
November 15, 2022
Page 2

Please do not hesitate to contact me if you have any questions or need any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "James T. Aldredge". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James T. Aldredge

copy: Kathy Alexander, Ph.D., Water Availability Division
Chris Kozlowski, Water Availability Division
Kathleen Perdon, Senior Assistant City Attorney
Lisa Tyer, Director of Utility Services
Charles Liest, Deputy Director, Utility Services

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 Waco

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

Y/N		Y/N	
<input checked="" type="checkbox"/>	Administrative Information Report	<input checked="" type="checkbox"/>	Worksheet 3.0
<input type="checkbox"/>	Additional Co-Applicant Information	<input type="checkbox"/>	Additional W.S 3.0 for each Point
<input type="checkbox"/>	Additional Co-Applicant Signature Pages	<input type="checkbox"/>	Recorded Deeds for Diversion Points
<input checked="" type="checkbox"/>	Written Evidence of Signature Authority	<input type="checkbox"/>	Consent For Diversion Access
<input checked="" type="checkbox"/>	Technical Information Report	<input type="checkbox"/>	Worksheet 4.0
<input checked="" type="checkbox"/>	USGS Map (or equivalent)	<input type="checkbox"/>	TPDES Permit(s)
<input checked="" type="checkbox"/>	Map Showing Project Details	<input type="checkbox"/>	WWTP Discharge Data
<input type="checkbox"/>	Original Photographs	<input type="checkbox"/>	Groundwater Well Permit
<input type="checkbox"/>	Water Availability Analysis	<input type="checkbox"/>	Signed Water Supply Contract
<input checked="" type="checkbox"/>	Worksheet 1.0	<input type="checkbox"/>	Worksheet 4.1
<input type="checkbox"/>	Recorded Deeds for Irrigated Land	<input checked="" type="checkbox"/>	Worksheet 5.0
<input type="checkbox"/>	Consent For Irrigation Land	<input type="checkbox"/>	Addendum to Worksheet 5.0
<input type="checkbox"/>	Worksheet 1.1	<input checked="" type="checkbox"/>	Worksheet 6.0
<input type="checkbox"/>	Addendum to Worksheet 1.1	<input checked="" type="checkbox"/>	Water Conservation Plan(s)
<input checked="" type="checkbox"/>	Worksheet 1.2	<input checked="" type="checkbox"/>	Drought Contingency Plan(s)
<input type="checkbox"/>	Additional W.S 2.0 for Each Reservoir	<input checked="" type="checkbox"/>	Documentation of Adoption
<input type="checkbox"/>	Dam Safety Documents	<input type="checkbox"/>	Worksheet 7.0
<input type="checkbox"/>	Notice(s) to Governing Bodies	<input type="checkbox"/>	Accounting Plan
<input type="checkbox"/>	Recorded Deeds for Inundated Land	<input checked="" type="checkbox"/>	Worksheet 8.0
<input type="checkbox"/>	Consent For Inundation Land	<input checked="" type="checkbox"/>	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."

1. Add diversion point on south bank of Bosque River
2. Change purpose of use from irrigation to agricultural, industrial, irrigation, and municipal
3. Change place of use to McLennan County

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?

City of Waco

(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 : 600131940 (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: Bradley Ford

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 Y

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 Waco

Mailing Address: 300 Austin Ave

City: Waco State: TX ZIP Code: 76701

Indicate an X next to the type of Applicant:

- Individual
- Partnership
- Trust
- Federal Government
- County Government
- Other Government
- Sole Proprietorship-D.B.A.
- Corporation
- Estate
- State Government
- City Government
- 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: James Aldredge

Title: Attorney

Organization Name: Lloyd Gosselink Rochelle & Townsend, PC

Mailing Address: 816 Congress Ave., Ste. 1900

City: Austin State: TX ZIP Code: 78701

Phone Number: 512-322-5859

Fax Number: 512-472-0532

E-mail Address: 

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** N

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** N

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** _____

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

Applicant has submitted all required TWDB surveys of groundwater and surface water?

Yes / No Y

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, **Bradley Ford**

(Typed or printed name)

(Title)

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

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

Signature: _____ Date: _____

(Use blue ink)

Subscribed and Sworn to before me by the said

on this _____ day of _____, 20 ____.

My commission expires on the _____ day of _____, 20 ____.

Notary Public

[SEAL]

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 to schedule a meeting.

Date of pre-application meeting: 03/17/2022

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

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

- a. Applicant requests a new appropriation (diversion or impoundment) of State Water? **Y / N**_____
- 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**_____ (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**_____*

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? **Y / N**_____ (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: 12-2317, 12-2317A

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? Y / N N (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 N

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 N

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 Y
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 Y
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 N

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 *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

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

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

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

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

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”:

See attached Supplement

- b. Did the Applicant perform its own Water Availability Analysis? Y / N N
- 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 Y

WORKSHEET 1.0

Quantity, Purpose and Place of Use

1. 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>

_____ 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**
248	Irrigation	Agricultural, Industrial, Irrigation, Municipal	Combined 262.183 acres in McLennan County	McLennan County

**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 1.2 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. 5 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** 2.45 _____ cfs (cubic feet per second)
or _____ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Y / N** Y
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches* 2.45 _____ cfs or _____ gpm

d. For amendments, is Applicant seeking to increase combined diversion rate? **Y / N** 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
<input checked="" type="checkbox"/>	Directly from stream	
<input type="checkbox"/>	From an on-channel reservoir	
<input type="checkbox"/>	From a stream to an on-channel reservoir	
<input type="checkbox"/>	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** 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): Bosque River
- b. Zip Code: 76708
- c. Location of point: In the John Tucker Original Survey No. _____, Abstract No. 41, McLennan 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 31.598390 °N, Longitude -97.178611 °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): GIS
- 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 _____.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses _____ (% or amount) and explain the method of calculation: _____
- c. Is the source of the discharged water return flows? Y / N _____ 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 _____
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 _____ 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 _____ 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 _____ °N, Longitude _____ °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): _____

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.**

Installation of screens on diversion structure and/or any other measure required to avoid impingement and entrainment of aquatic organisms.

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

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: _____

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 unpastured 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. 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

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 Y

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. X 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 Y

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.

**NARRATIVE SUPPLEMENT TO
APPLICATION TO AMEND
CERTIFICATE OF ADJUDICATION NO. 12-2317 (12-2317B)**

CITY OF WACO, TEXAS

I. Introduction

The City of Waco (the “City” or “Waco”) respectfully submits this narrative supplement to its application (Form 10201) for an amendment to Certificate of Adjudication No. 12-2317 as amended through Certificate of Adjudication No. 12-2317A (the “Application”).

II. Background

The City of Waco is a home-rule municipal corporation located in McLennan County, Texas. The City has purchased property authorized by the State of Texas to be irrigated with surface water appropriated pursuant to Certificate of Adjudication No. 12-2317 (“Certificate”). The irrigation right is appurtenant to and runs with the land now owned by the City. A copy of the Certificate, as amended by Amendment 12-2317A, is included herewith as **Attachment B**.

When the underlying permit (Permit 358R) to the Certificate was issued, the authorized diversion was used to irrigate farmland situated northwest of the City of Waco. Over the years, Waco grew and expanded toward the northwest and eventually surrounded the farmland. Eventually, the City obtained ownership of the entire tract of land and constructed park facilities on the former farm. Today, the City operates a complex of tennis courts and baseball fields on the associated tract. Through a contractor, the City also maintains a recreational water park on the property. All of the facilities are open to public use for the benefit and enjoyment of the citizenry of Waco and surrounding areas.

In 2014, the City filed an application to amend the Certificate to remove the acreage restriction so that it would be clear from the face of the certificate that the City may apply water for irrigation without restriction to a particular area of land. In addition, the City also filed an application to amend the Certificate to add an additional 108.373 acres to be irrigated immediately adjacent to 153.81 originally authorized for irrigation under the Certificate. TCEQ issued the requested amendment at Amendment 12-2317A.

Through this application for Amendment 12-2317B, Waco seeks three changes to the Certificate:

1. Add a diversion point on the opposite bank of the Bosque River approximately 2,500 feet upstream of furthest upstream of the three existing authorized diversion points—a map illustrating the location of the proposed additional diversion point is included as **Attachment C**;
2. In addition to irrigation use, add municipal, industrial, and agricultural purposes of use; and
3. In lieu of the current irrigation acreage, change the place of use to anywhere in McLennan County, Texas.

III. Expedited Review and No Public Notice Required

During the March 17, 2022 pre-application meeting, the City’s representatives, in consultation with Water Availability Division staff, determined that this Application for Amendment 2317B is not subject to Texas Water Code Section 11.122(b-3) because the requested additional diversion point is not located on “the same contiguous tract of land” as any of the four existing diversion points. This Application is, therefore, subject to review under Texas Water Code § 11.122(b). However, because there are no authorized water rights that are between the existing and requested diversion points, and because the requested additional diversion point is in close proximity to the existing diversion points, Waco respectfully requests an expedited technical review of this Application.

Pursuant to the Texas Supreme Court’s decision in *City of Marshall v. City of Uncertain*,¹ the TCEQ must assess several “limited public interest criteria” in determining whether to issue notice on an application for a water right amendment filed under Texas Water Code § 11.122(b) that does not seek to increase the amount or rate of diversion. These criteria are addressed below. Based upon the full-use assumption and the information provided herein, the City requests the Commission grant the City’s requested amendment without issuing public notice.

IV. Applicant Information

Name of Applicant: City of Waco, Texas
Address: P.O. Box 2570
Waco, Texas 76702-2570
Principal Contact: Bradley Ford, City Manager
Telephone: (254) 750-5640
Fax: (254) 750-5880

V. Full Use Assumption

The City’s proposed amendment to the Certificate will not have any impact on other water rights holders or the on-stream environment in the Brazos River Basin. The Certificate currently authorizes the diversion and use of 248 acre-feet of water from the Bosque River. Unless provided otherwise in a water right, there is no restriction against full consumption of water properly authorized for diversion. Pursuant to the “full use assumption” of Texas Water Code § 11.122(b), the City’s use of the 248 acre-feet of water for agricultural, industrial, and municipal purposes outside of the currently-authorized irrigation acreage will not cause an adverse impact on other water rights holders or the on-stream environment of a greater magnitude than if the City fully exercised its rights as currently authorized in the Certificate. By employing the Water Code’s “full use assumption,” there is no circumstance under which downstream water rights or the environment will be harmed by the City’s proposed additional diversion point, purposes of use, and place of use. The City does not seek to increase the rate at which it diverts water or increase the amount of water the City is currently authorized to divert and fully consume. The City is merely adding a diversion point in the vicinity of the exiting diversion points, adding purposes of use, and expanding the place of use. Assuming the City may currently use the entirety of the 248 acre-feet, the change requested could not result in a greater

¹ See *City of Marshall v. City of Uncertain*, 206 S.W.3d 97 (Tex. 2006).

use of water by the City. And the change certainly could not result in any different impact to other water rights or the environment.

VI. Marshall Criteria

Under the *City of Marshall* case, the Commission evaluates whether a proposed amendment will affect other water rights holders or the on-stream environment “beyond or irrespective” of the full-use assumption.² The Court provides that such an effect may occur with applications seeking to move the point of diversion “upstream above a senior right holder,” or seeking to change the purpose of use from a “nonconsumptive use to a consumptive one.”³ The City’s Application seeks neither of these types of amendments, nor any amendment that creates a potential adverse impact on other water right holders or the environment beyond the legislatively mandated full-use assumption. The Certificate currently includes an authorization to divert, without any limitation or condition on consumption, up to 248 acre-feet of water per annum for irrigation within the Brazos River Basin in McLennan County. The Application seeks only to add a diversion point on the opposite bank of the Bosque River from the current authorization, add purposes of use, and expand the authorized place of use to McLennan County generally. The request does not in any way alter the amount of water the City may ultimately divert or consume under its existing water right.

1. Administrative Requirements and Fees

This Application provides relevant information to address the administrative requirements in 30 TAC § 295, Subchapter A, and the requirements of Texas Water Code Chapter 11. In accordance with 30 TAC § 295.132 and other TCEQ rules relating to fees, the City is submitting payment of \$112.50 with this Application. By filing this Application, the City requests a determination of any additional fees that may be required. Upon receipt of such determination, the City will forward payment for such fees to the TCEQ.

2. Beneficial Use

Texas Water Code § 11.134(b)(3)(A) requires that proposed appropriations of water be intended for a beneficial use. “Beneficial use” is defined in Texas Water Code § 11.002(4) and 30 TAC § 297.1(8) as the use of water “which is economically necessary for a purpose authorized by [Chapter 11 of the Texas Water Code].” All the requested purposes of use, agricultural, municipal, and industrial, are included in Texas Water Code § 11.023 as purposes for which water may be diverted and beneficially used. The City intends to beneficially use the water authorized for diversion under the proposed amendment largely to allow businesses in Waco to use raw water for agricultural, industrial, and municipal purposes to reduce demand on Waco’s potable water system.

3. Public Welfare

The proposed amendment will allow the City to more efficiently manage its water resources in McLennan County. The proposed agricultural, industrial, and municipal purposes of use are all beneficial uses as defined in the Texas Water Code. The proposed use is consistent with the City’s intent to protect the public welfare and will certainly not be detrimental to the

² *City of Marshall v. City of Uncertain*, 206 S.W.3d at 111.

³ *Id.* (emphasis added).

public welfare under Texas Water Code § 11.134(b)(3)(C). By reducing demand on the City's municipal water system, the City can ensure the most efficient use of its surface water supplies which will protect the public welfare.

4. Groundwater Effects

The requested amendment to the City's Certificate will have no effect on groundwater resources or groundwater recharge to any greater degree than would the City's existing diversion and use of water authorized under the Certificate. Groundwater resources and groundwater recharge will not be impacted by this Application.

5. State Water Plan

The City's proposed amendment is consistent with demands identified by the Region G Regional Water Plan. The Application seeks only to add the proposed amendment which is not inconsistent with, and will not conflict with any project identified in, the State and Region G Regional Water Plans.

6. Waste Avoidance

The Application is specifically an effort to more efficiently use state water and avoid waste of water through the City's municipal retail water system. A proposed business on the land proposed for the additional diversion point has no alternative source of water for its landscape irrigation needs other than the City's municipal water system. Amending the Certificate to add a diversion point and authorize use of water within McLennan County directly from the Bosque River will reduce demand on the City's municipal water system and will result in increased efficiency in the City's overall beneficial use of state water.

7. Impacts on Water Rights or On-stream Environment

As explained herein, the Application will not create a potential adverse impact on other water right holders or the environment beyond the legislatively mandated full-use assumption. The only changes requested in the Application are to (1) add a diversion point on the opposite bank of the Bosque River from the current authorization, (2) add purposes of use in addition to the existing irrigation authorization, and (3) expand the authorized place of use to McLennan County.

VII. Water Conservation and Drought Contingency Planning

The City maintains a Water Conservation Plan ("WCP") and a Drought Contingency Plan ("DCP") as required under Texas Water Code Chapter 16 and TCEQ rule Chapter 288. The Water Availability Division approved the City's WCP and DCP on [DATE]. TCEQ's letter approving the WCP and DCP is included with this Application as **Attachment D**.

XIII. Authority to File Application

On July 19, 2022, the City Council of the City of Waco Texas authorized the filing of this Application. A copy of the City's action authorizing the filing and prosecution of the Application is included herewith as **Attachment E**.

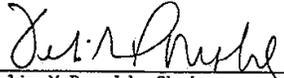
IX. Additional Information

The City of Waco encourages TCEQ staff to make any inquiries it believes are necessary regarding the City's proposed amendment to Certificate of Adjudication No. 13-2317 by contacting, at their convenience, the City's outside water counsel James Aldredge (512-322-5859).

Certificate of Adjudication 12-2317

This water right is appurtenant to and is an undivided part of the above-described land within which irrigation is authorized. A transfer of any portion of the land described includes, unless otherwise specified, a proportionate amount of the water right owned by the owner or seller at the time of the transaction.

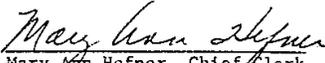
TEXAS WATER COMMISSION


Felix McDonald, Chairman

DATE ISSUED:

MAR 8 1983

ATTEST:


Mary Ann Hefner, Chief Clerk

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AMENDMENT TO A
CERTIFICATE OF ADJUDICATION

Certificate No. 12-2317A

Type: 11.122

Owner:	City of Waco	Address:	PO Box 2570 Waco, TX 76702-2570
Filed:	June 11, 2015	Granted:	August 31, 2015
Purpose:	Agricultural	County:	McLennan
Watercourse:	Bosque River, tributary of the Brazos River	Watershed:	Brazos River Basin

WHEREAS, Certificate Adjudication 12-2317 authorizes the diversion and use of not to exceed 248 acre-feet of water per year from three points on the Bosque River, tributary of the Brazos River, Brazos River Basin, at a maximum combined diversion rate of 2.45 cfs (1,100 gpm) for agricultural purposes to irrigate 126 acres of land out of a 153.81-acre tract in McLennan County, Texas; and

WHEREAS, the time priority of this water right is November 20, 1918; and

WHEREAS, City of Waco, (Owner/Applicant) acquired Certificate of Adjudication No. 12-2317 and seeks to amend the Certificate to remove the limitation on irrigable land within the acreage that is currently authorized to be irrigated in McLennan County Texas; and

WHEREAS, Applicant also seeks to change the place of use to include an adjacent 108.373-acre tract of land in McLennan County, Texas; and

WHEREAS, ownership of the land to be irrigated is evidenced by multiple conveyance documents of the Official Public Records of McLennan County, Texas; and

WHEREAS, the Texas Commission on Environmental Quality finds that jurisdiction over the application is established; and

WHEREAS, this amendment, if granted, is subject to requirements and orders of the Brazos Watermaster; and

WHEREAS, the Executive Director recommends that a special condition be included in this amendment; and

WHEREAS, no requests for a contested case hearing were received for this application; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Commission on Environmental Quality in issuing this amendment; and

NOW, THEREFORE, this amendment to Certificate of Adjudication No. 12-2317, designated Certificate of Adjudication No. 12-2317A, is issued to the City of Waco subject to the following terms and conditions:

1. USE

- A. In lieu of the previous authorization, the Owner is now authorized to irrigate the entire 153.81-acre tract located in the John Tucker Survey, Abstract 41, the Lee R. Davis Survey, Abstract 309, and the C. B. Emmons Survey, Abstract 377, and the adjacent 108.373-acre tract of land located in the John Tucker Survey, Abstract No. 41 in McLennan County, Texas.
- B. Ownership of the land to be irrigated is evidenced by multiple conveyance documents of the Official Public Records of McLennan County, Texas.

2. CONSERVATION

Owner shall implement water conservation plans that provide for the utilization of those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water, so that a water supply is made available for future or alternative uses. Such plans shall include a requirement that in every wholesale water contract entered into on or after the effective date of this amendment, including any contract extension or renewal, that each successive wholesale customer develop and implement conservation measures. If the customer intends to resell the water, then the contract for resale of the water must have water conservation requirements so that each successive wholesale customer in the resale of the water will be required to implement water conservation measures.

3. SPECIAL CONDITION

- A. Owner shall contact the Brazos River Watermaster prior to diversion of water authorized by this amendment.

This amendment is issued subject to all terms, conditions, and provisions contained in Certificate of Adjudication No. 12-2317, except as specifically amended herein.

This amendment is issued subject to all superior and senior water rights in the Brazos River Basin.

Owner agrees to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

All other matters requested in the application which are not specifically granted by this amendment are denied.

This amendment is issued subject to the Rules of the Texas Commission on Environmental Quality and to the right of continuing supervision of State water resources exercised by the Commission.



For the Commission

Date Issued: August 31, 2015

WRPERM 12-2317B Diversion Point

Write a description for your map.

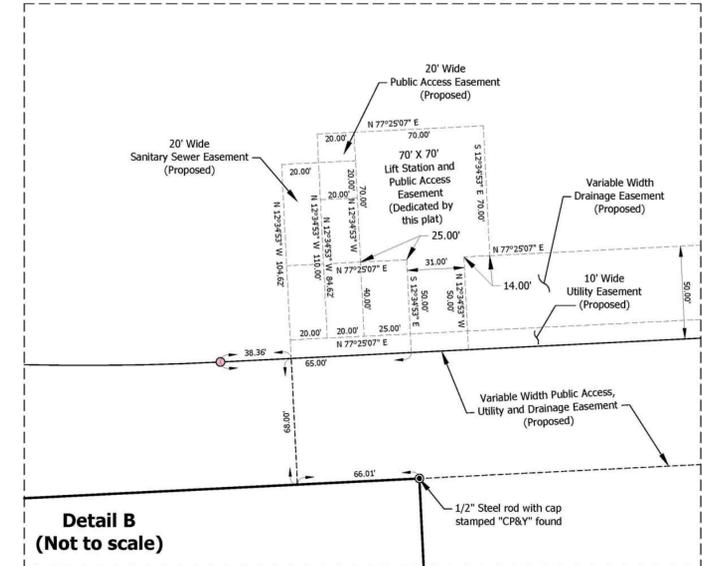
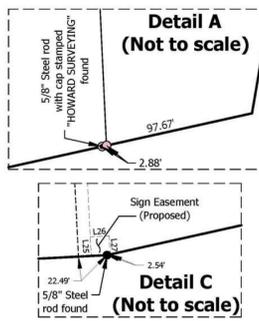
Legend
📍 31 35' 53"N, 97 10' 43"W



William L. Swain Survey
Abstract 40

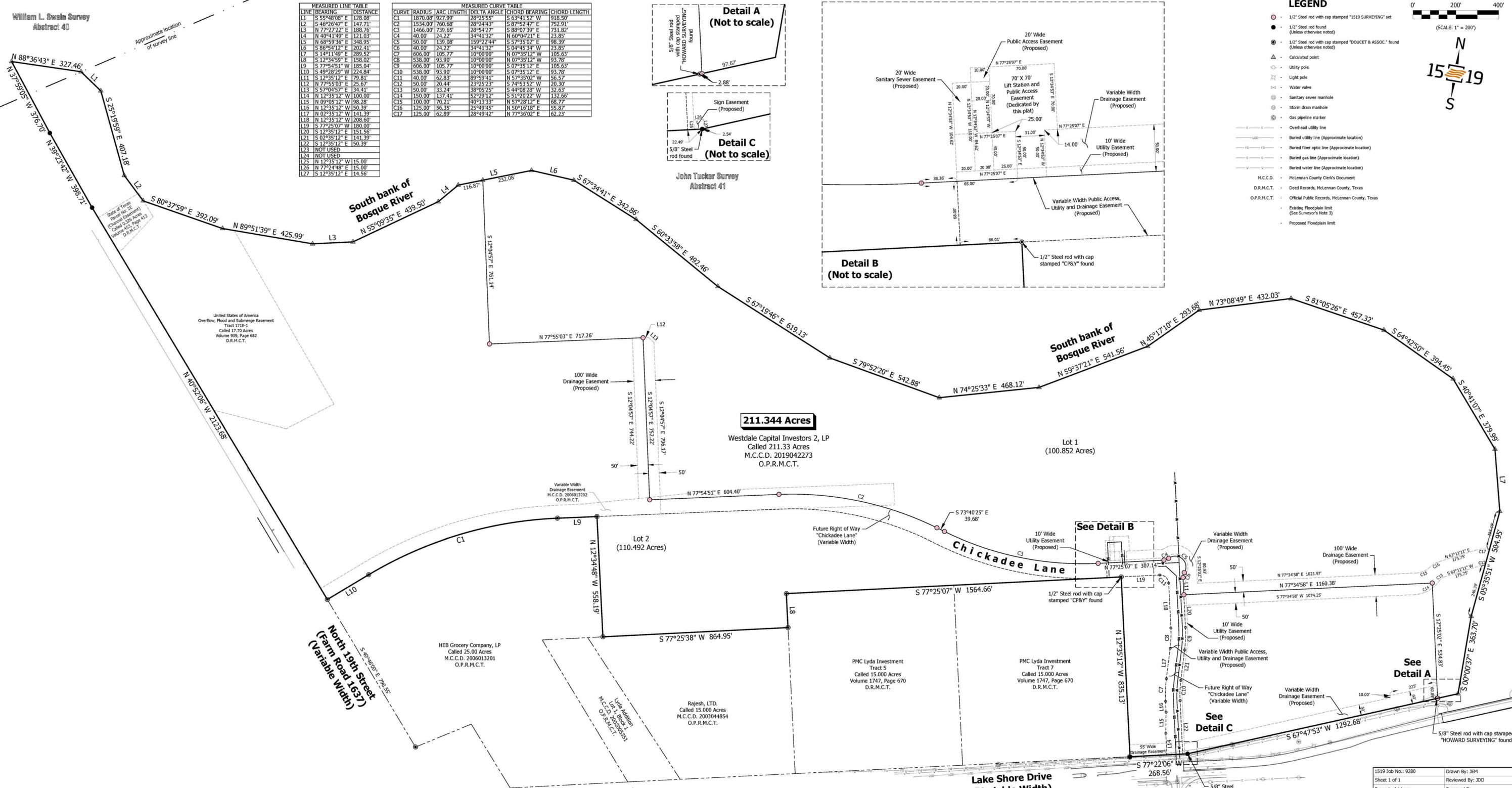
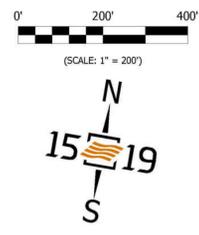
LINE BEARING	DISTANCE
L1	S 55°48'08" E 128.08'
L2	S 46°26'47" E 147.71'
L3	N 77°22'22" E 188.76'
L4	N 40°41'49" E 121.03'
L5	N 68°59'36" E 348.95'
L6	S 86°54'12" E 202.41'
L7	S 144°11'49" E 289.52'
L8	S 12°34'59" E 158.02'
L9	S 77°54'51" W 185.04'
L10	S 49°28'29" W 224.84'
L11	S 12°35'12" E 179.81'
L12	N 77°55'03" E 25.67'
L13	S 57°04'57" E 34.41'
L14	N 12°35'12" W 100.00'
L15	N 09°05'12" E 198.28'
L16	N 12°35'12" W 50.39'
L17	N 02°35'12" W 141.39'
L18	N 12°35'12" W 208.60'
L19	S 77°25'07" W 180.00'
L20	S 12°35'12" E 151.56'
L21	S 02°35'12" E 141.39'
L22	S 12°35'12" E 150.39'
L23	NOT USED
L24	NOT USED
L25	N 12°35'12" W 15.00'
L26	N 77°24'48" E 15.00'
L27	S 12°35'12" E 14.56'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	1870.08'	927.99'	28°25'55"	S 63°41'52" W	918.50'
C2	1534.00'	760.68'	28°24'43"	S 87°52'47" E	752.91'
C3	1466.00'	739.65'	28°54'27"	S 88°07'39" E	731.82'
C4	40.00'	24.22'	34°41'32"	N 60°04'21" E	23.85'
C5	50.00'	139.08'	159°22'44"	S 77°35'02" E	98.39'
C6	40.00'	24.22'	34°41'32"	S 04°45'34" W	23.85'
C7	606.00'	105.77'	10°00'00"	N 07°35'12" W	105.63'
C8	538.00'	93.90'	10°00'00"	N 07°35'12" W	93.78'
C9	606.00'	105.77'	10°00'00"	S 07°35'12" E	105.63'
C10	538.00'	93.90'	10°00'00"	S 07°35'12" E	93.78'
C11	40.00'	62.83'	89°09'41"	N 57°35'02" W	56.57'
C12	50.00'	20.44'	23°25'23"	S 74°53'52" W	20.30'
C13	50.00'	33.24'	38°05'25"	S 44°08'28" W	32.63'
C14	150.00'	137.41'	52°29'12"	S 51°30'22" W	132.66'
C15	100.00'	70.21'	40°13'33"	N 57°28'12" E	68.77'
C16	125.00'	56.35'	25°49'45"	N 50°16'18" E	55.87'
C17	125.00'	62.89'	28°49'42"	N 77°36'02" E	62.23'



LEGEND

- 1/2" Steel rod with cap stamped "1519 SURVEYING" set
- 1/2" Steel rod found (Unless otherwise noted)
- 1/2" Steel rod with cap stamped "DOUCET & ASSOC." found (Unless otherwise noted)
- Calculated point
- Utility pole
- Light pole
- Water valve
- Sanitary sewer manhole
- Storm drain manhole
- Gas pipeline marker
- Overhead utility line
- Buried utility line (Approximate location)
- Buried fiber optic line (Approximate location)
- Buried gas line (Approximate location)
- Buried water line (Approximate location)
- M.C.C.D. - McLennan County Clerk's Document
- D.R.M.C.T. - Deed Records, McLennan County, Texas
- O.P.R.M.C.T. - Official Public Records, McLennan County, Texas
- Existing Floodplain limit (See Surveyor's Note 3)
- Proposed Floodplain limit



Approval of this Preliminary Plat by the City Plan Commission and Waco City Council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the final engineering of streets, water, sewer, and other required improvements and utilities and to the preparation of the final plat. Approval of this preliminary plat shall not constitute automatic approval of the final plat, nor be considered authorization to begin construction or sell lots. Approval of the preliminary plat shall not constitute a guarantee or warranty, either implied or otherwise that all other applicable codes and ordinances of the City of Waco have been complied with. It shall be the responsibility of the developer to ensure that all applicable requirements of the City of Waco relate to the subdividing and development of property have been met.

I hereby certify that the attached and foregoing plat and field notes of the "Preliminary Plat of the Northgate Addition, Lots 1 & 2, Block 1", to the City of Waco, McLennan County, Texas, was approved on this the ____ day of _____, 2020.

Emeralda Hudson
City Secretary

Owner: Northgate Waco, LLC

Zachary J. Bossenbrook, Authorized Agent
38 Commerce Avenue SW, Suite 200
Grand Rapids, Michigan 49503
Date: _____

PLAT NOTES:

- Electricity provided by Oncor.
- Water service provided by City of Waco, CCN# 10039.
- Sewer service provided by City of Waco.
- Upon submittal of final plat, sidewalk construction along the frontage of Lakeshore Drive and North 19th Street will be required provided there will be no conflict with City of Waco Public Works.
- All development within the 100-year floodplain shall comply with all applicable orders and regulations, including but not limited to McLennan County's "Flood Damage Prevention Order". A floodplain development permit shall be obtained from the County Engineer's Office prior to the construction/placement of any structure(s) within the floodplain.

NOTES:

- Bearings, distances, and acreage are grid, NAD83 State Plane Coordinate System, Texas Central Zone 4203.
- This survey was prepared without the benefit of a current title report/commitment. There may be easements, restrictions, and/or covenants affecting this property, not shown hereon.
- The subject property appears to lie within F.E.M.A. Special Flood Hazard Area Zone AE (with BFE) and Other Areas of Flood Hazard Zone X (0.2% Annual Chance Flood Hazard) according to the F.E.M.A. Flood Insurance Rate Maps 48309C0385D and 48309C0360D having a revised date of December 30, 2019. This surveyor does not guarantee the accuracy of said F.E.M.A. Flood Insurance Rate Maps.
- Elevations shown hereon are referenced to the North American Vertical Datum of 1988 (NAVD88) and were calculated by applying vertical shifts derived from GCGM Model 0012A to ellipsoid heights calculated from GPS/GNSS observations referenced to the North American Datum of 1983, CORS Adjustment (NAD83 (NA2011)).

**PRELIMINARY PLAT
NORTHGATE ADDITION
LOTS 1 AND 2, BLOCK 1
TO THE CITY OF WACO,
MCLENNAN COUNTY, TEXAS**

211.344 ACRES OUT OF THE JOHN TUCKER SURVEY, ABSTRACT 41, AND THE WILLIAM L. SWAIN SURVEY, ABSTRACT 40, WACO, MCLENNAN COUNTY, TEXAS

BEING ALL OF THAT CALLED 211.33 ACRE TRACT OF LAND DESCRIBED IN A DEED TO WESTDALE CAPITAL INVESTORS 2, LP AS RECORDED UNDER MCLENNAN COUNTY CLERK'S DOCUMENT 2019042273 OF THE OFFICIAL PUBLIC RECORDS OF MCLENNAN COUNTY, TEXAS.

1519 Job No.: 9280	Drawn By: JEM
Sheet 1 of 1	Reviewed By: JOD
Property Address: E. Lake Shore Dr. and 19th St. Waco, Texas 76708	Prepared For: Northgate Waco, LLC Zachary J. Bossenbrook

Surveyor:
Preliminary, this document shall not be recorded for any purpose and shall not be used or relied upon as a final survey document.
James David Dossey, R.P.L.S. 6112
Date: November ____, 2020.
Purpose: Review by the City of Waco.Date of Release: July 12, 2021.

1519
SURVEYING & ENGINEERING
1519LLC.COM
TBLP5P 10192968 TBLP5P 17299 TBLP5P 10194351 TBLP5P 10194283

ORDINANCE NO. 2020-034

AN ORDINANCE ADOPTING THE 2019 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN FOR THE CITY OF WACO, TEXAS, AND AMENDING SECTION 26-93 IN ARTICLE IV "WATER" OF CHAPTER 26 "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF WACO, TEXAS, TO ADOPT SAID PLAN; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) requires all wholesale and retail public water suppliers serving 3,300 connections or more to update both their Water Conservation Plans (30 TAC §288.30 (1)) and Drought Contingency Plans (30 TAC §288.30 (5)) every five years; and

WHEREAS, City staff has updated the Plan to show water data and wastewater tables for the past five years,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WACO, TEXAS:

Section 1. Waco City Council adopts the 2019 Water Conservation and Drought Contingency Plan for the City of Waco, Texas, as attached as Exhibit "A."

Section 2. That Article IV (Water), Division 2 (Water Conservation and Drought/Emergency Contingency Plan), of Chapter 26-Utilities of the Code of Ordinances of the City of Waco, Texas, shall be amended as follows (~~deletions~~/ additions):

Sec. 26-93. - Plan adoption and application.

- (a) By this division, the city approves and adopts the ~~2019~~²⁰¹⁴ Water Conservation and Drought Contingency Plan for the City of Waco, Texas. A copy of the Plan adopted by this section is attached to Ord. No. ~~2019-~~²⁰¹⁴ ~~434~~ as Exhibit "A" and shall be on file with the director of utilities and city secretary and available for inspection.
- (b) It shall be the responsibility of the city manager or his/her designee to review the plan and the provisions within this division at least every five years and make recommendations for any needed changes.
- (c) The provisions of the plan and this division shall apply to persons, customers, and property served by the city wherever situated, including customers such as water supply corporations, municipal corporations, and any others that receive water from the city on a contract basis.

- (d) Nothing in the plan or this division shall be interpreted to limit the authority of the mayor, the city council, or the city manager to seek emergency relief under the provisions of any state or federal disaster relief regulations.

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 5. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

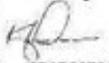
Section 6. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Waco, Texas, which shall be a fine of not less than \$1.00 and no more than \$2,000.00, and each day a violation exists shall be a separate offense.

Section 7. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED:

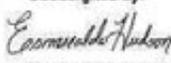
First Reading: this 17th day of December, 2019.

Second Reading: this 7th day of January, 2020.

DocuSigned by:

 5D8EC9F6473F4D7...

Kyle Deaver, Mayor
 City of Waco, Texas

ATTEST:

DocuSigned by:

 37E1F459E032456...

Esmeralda Hudson, City Secretary



APPROVED AS TO FORM & LEGALITY:

DocuSigned by:
 AKA, Inc.
7D3A67A79D614C3...

Jennifer Richie, City Attorney

City of Waco
2019 Water Conservation &
Drought Contingency Plan



A – 2019 Water Conservation Plan

B – 2019 Drought Contingency Plan

A

City of Waco Water Conservation Plan

2019

The City of Waco Water Conservation Plan is intended to enable the city to meet or exceed its own water conservation goals, including: quantified 5 and 10 year GPCD targets and in general, reduce consumption, loss, waste and peak demand while improving water use efficiency and extending the life of the water supply and system.

**Water Conservation
Plan: Updated for
2019**

CITY OF WACO WATER CONSERVATION PLAN

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Appendix A – City of Waco Ordinance No. 2014 – XXX

Appendix B – Copy of Transmittal Letter to Brazos G Regional Planning Group

1. INTRODUCTION AND OBJECTIVES

Water supply has always been a key issue in the development of Texas. In recent years, the increasing population and economic development in Region G have led to growing demands for water. Additional supplies to meet higher demands will be expensive and difficult to develop. Therefore, it is important that we make efficient use of existing supplies and make them last as long as possible. This will delay the need for new supplies, minimize the environmental impacts associated with developing new supplies, and delay the high cost of additional water supply development.

Recognizing the need for efficient use of existing water supplies, the Texas Commission on Environmental Quality (TCEQ) has developed guidelines and requirements governing the development of water conservation and drought contingency plans for public water suppliers.

The City of Waco has adopted this water conservation and drought contingency plan pursuant to TAC Title 30, Part 1, Chapter 288. The objectives of the water conservation plan are:

- To reduce water consumption
- To reduce the loss and waste of water
- To reduce summertime peak demand
- To improve efficiency in the use of water
- To extend the life of current water supplies

2. UTILITY PROFILE

Current Service Area: 99 square miles

Current Population of Service Area: 137,801

Served by Water and Wastewater: 137,801

Historical Population

Year	Historical Population Served by Retail Water Service	Historical Population Served by Wholesale Water Service	Historical Population Served by Wastewater Service
2014	132,384	53,909	132,384
2015	133,722	54,449	133,722
2016	135,072	54,994	135,072
2017	136,436	55,544	136,436
2018	137,801	56,100	137,801

Projected Populations

Year	Projected Population Served by Retail Water Service	Projected Population Served by Wholesale Water Service	Projected Population Served by Wastewater Service
2020	140,557	57,222	140,557
2030	154,613	62,944	154,613
2040	170,075	69,238	170,075
2050	187,083	76,162	187,083
2060	205,791	83,778	205,791

Population and projected populations calculated using U.S. Census data and assuming 1% growth annually, which has been approximate growth for the previous 30 years.

Historical System Input

Year	Self-Supplied Water in Gallons	Purchased/Imported Water in Gallons	Exported Water in Gallons	Total System Input	Total GCPD
2014	11,953,475,325	0	1,086,517,700	10,866,957,625	237
2015	11,521,589,656	0	1,035,560,340	10,486,029,316	207
2016	12,690,845,926	0	782,424,600	11,908,421,326	215
2017	11,909,094,190	0	854,049,700	11,055,044,490	207
2018	11,372,793,939	0	1,148,884,184	10223909755	203
Historic 5 Yr. Average	11,889,559,807	0	981,487,305	10,908,072,502	214

Historical water use data reflects treated water, determined from master meter at the point where treated water leaves the treatment plant and enters the distribution system.

Water Supply System

Designed Daily Capacity of System: 90 MGD
 Elevated Storage: 20.5 million gallons
 Ground Storage: 10.6 million gallons

Water Supply Sources

Water Supply Source	Source Type [†]	Total Gallons
Lake Waco	Surface	25,700,000,000
Trinity Aquifer	Ground	289,168,943
Brazos River	Surface	1,800,000,000

Projected Demands

Year	Population	Water Demand (gallons)
2020	194,199	11,733,844,471
2021	196,141	11,780,779,849
2022	198,102	11,827,902,968
2023	200,083	11,875,214,580
2024	202,083	11,922,715,438
2025	204,103	11,970,406,299
2026	206,144	12,018,287,924
2027	208,205	12,066,361,075
2028	210,287	12,114,626,519
2029	212,389	12,163,085,025

Projected populations calculated using U.S. Census data and assuming 1% growth annually, which has been approximate growth for the previous 30 years. Projected water demands calculated using 0.4% increase annually which is slightly higher than historical trends to account for anticipated economic growth in the downtown/river area.

High Volume Retail Customers

Retail Customer	Water Use Category	Annual Water Use	Treated or Raw
Cargill Meat Solutions	Industrial	258,177,200	Treated
Coca Cola North America	Industrial	256,075,000	Treated
Pilgrim's Pride Corporation	Industrial	224,895,000	Treated
Mars Chocolate North America	Industrial	131,130,000	Treated
Huck Fasteners	Industrial	73,916,000	Treated

Wholesale Customers

Wholesale Customer	Contracted Amount (Acre Ft)	Previous year Amount of Water Delivered (Acre Ft)
Hewitt		306.63
Lacy Lakeview	1120.14	794.14
Robinson	561	545.32
West	1120.14	151.11
Woodway	1120.14	1,565.22
Central Bosque	96.68	92.87
Bold Springs	560.07	0.00

Wholesale Customer Service Area Specific, Quantified 5 & 10 Year Targets for Water Savings

	5-year goal	10-year goal
TOTAL GCPD	196	176
Water Loss Percentage	8%	7%

Retail Connections

Water Use Category	Active Retail Connections			% of Total Connections
	Metered	Unmetered	Total Connections	
Residential - Single Family	37599		37599	87%
Residential - Multi Family	849		849	2%
Industrial	64		64	0%
Commercial	4600		4600	11%
Institutional	0		0	0%
Agricultural	0		0	0%
TOTAL	43112		43112	

New Retail Connections Historically

Water Use Category	Net number of New Retail Connections				
	2014	2015	2016	2017	2108
Residential - Single Family	0	536	564	362	515
Residential - Multi Family	132	558	51	25	9
Industrial	0	36	0	0	2
Commercial	0	0	0	0	677
Institutional	0	0	0	0	0
Agricultural	0	0	0	0	0
TOTAL	132	1130	615	387	1203

Historic Water Use

Water Use Category	Total Gallons of Retail Water				
	2014	2015	2016	2017	2108
Residential - Single Family	3,932,373,520	3,266,095,230	3,257,036,500	3,264,384,860	4,261,772,800
Residential - Multi Family	819,112,800	827,255,600	841,296,400	843,148,600	52,177,900
Industrial	963,615,100	1,120,681,600	1,053,618,600	1,094,750,700	1,067,748,000
Commercial	3,477,654,400	2,500,786,424	3,781,496,000	3,234,052,700	3,861,849,000
Institutional	0	0	0	0	0
Agricultural	0	0	0	0	0
TOTAL	9,192,755,820	7,714,818,854	8,933,447,500	8,436,336,860	9,243,547,700

Residential GPCD

Water Use Category	Residential GPCD				
	2014	2015	2016	2017	2108
Residential - Single Family	99	86	85	82	86
Residential - Multi-Family					

Seasonal Water Use

Month	Total Gallons of Treated Retail Water				
	2014	2015	2016	2017	2108
January	602,153,900	539,444,800	569,741,600	578,023,000	605,623,500
February	594,958,300	517,196,200	564,911,200	574,244,500	553,944,200
March	566,343,800	494,039,200	585,119,800	579,560,900	559,327,600
April	632,541,200	565,732,500	670,263,400	642,959,100	588,297,100
May	775,654,300	585,940,600	557,512,400	683,643,300	790,576,300
June	811,978,100	609,908,100	644,380,200	853,553,800	982,069,000
July	801,305,000	827,465,900	952,940,600	902,281,300	1,110,627,700
August	974,082,100	1,183,320,800	1,065,732,100	925,534,200	1,205,749,400
September	1,025,761,800	1,152,005,500	956,842,800	1,008,325,000	1,713,016,300
October	848,059,800	1,132,403,200	934,469,300	868,428,100	1,023,174,100
November	781,767,100	780,983,400	808,262,700	710,849,400	619,169,700
December	573,519,200	558,690,200	641,019,100	651,652,200	508,447,000
TOTAL	8,988,124,600	8,947,130,400	8,951,195,200	8,979,054,800	10,260,021,900

Seasonal Raw Water Use

Month	Total Gallons of Raw Retail Water				
	2014	2015	2016	2017	2108
January	59,391,000	65,439,000	55,676,000	45,716,000	37,206,000
February	52,251,000	61,252,000	49,443,000	38,309,000	11,986,000
March	51,214,000	58,978,000	52,064,000	42,688,000	30,908,000
April	51,739,000	64,529,000	65,346,000	49,215,000	40,752,000
May	53,983,000	70,733,000	40,317,700	43,718,000	41,810,000
June	60,130,000	63,996,000	42,183,700	53,947,000	55,124,000
July	57,037,000	65,169,000	80,904,600	50,315,000	36,727,000
August	64,905,000	61,984,000	42,487,000	46,151,000	45,511,000
September	48,635,000	57,370,000	40,163,000	41,156,000	50,587,000
October	62,896,000	64,247,000	38,588,000	33,663,000	45,312,000
November	51,827,000	54,181,000	51,066,000	40,498,000	53,520,000
December	51,840,000	55,130,000	54,456,000	35,410,000	50,889,000
TOTAL	665,848,000	743,008,000	612,695,000	520,786,000	500,332,000

Seasonal vs. Annual Water Use

Water Use	Seasonal and Annual Water Use					Average in Gallons
	2014	2015	2016	2017	2018	
Summer Retail (Treated + Raw)	2,769,437,200	2,811,843,800	2,828,628,200	2,831,782,300	3,435,808,100	2,935,499,920 5yr Average
TOTAL Retail (Treated + Raw)	9,653,972,600	9,690,138,400	9,563,890,200	9,499,840,800	10,760,353,900	9,833,639,180 5yr Average

Water Loss

Year	Total Water Loss in Gallons	Water Loss in GPCD	Water Loss %
2014	1,110,090,955	23	10%
2015	186,507,166	35	17%
2016	1,098,663,683	21	10%
2017	1,549,303,812	29	14%
2018	742,427,292	13	7%
5 year average	937,398,582	24.2	12%

Peak Water Use

Year	Average Daily use (gal)	Peak Day Use (gal)	Ratio (peak/avg)
2014	27,642,000	46,115,000	1.67
2015	28,402,000	49,702,000	1.75
2016	28,180,000	54,076,000	1.92
2017	25,986,000	41,504,000	1.60
2018	30,053,000	49,269,000	1.64

Wastewater System

Design Capacity of Wastewater Treatment Plants: 46.5 MGD
 Percentage of Water Serviced by Wastewater System: 99%

Description of Wastewater Systems of Wholesale Customer Areas

With the exception of Bold Springs and Central Bosque, all wastewater systems of wholesale customer areas, while separate collections systems, all feed into the Waco Metropolitan Regional Sewerage System for transportation to and treatment at one of two wastewater treatment plants. Bold Springs and Central Bosque remain completely reliant on individual septic systems.

Wastewater Connections

Water Use Category	Active Wastewater Connections			% of Total Connections
	Metered	Unmetered	Total Connections	
Municipal		39,995	39,995	90%
Industrial		65	65	0%
Commercial		3328	3328	10%
Institutional		0	0	0%
Agricultural		0	0	0%
TOTAL	0	43,388	43,388	

Historic Gallons of Wastewater Treated

Month	Total Gallons of Treated Wastewater				
	2014	2015	2016	2017	2108
January	569,616,800	591,897,200	747,961,700	523,728,000	479,494,800
February	492,243,000	525,333,100	598,532,100	514,985,000	455,198,400
March	545,208,100	726,138,300	899,243,800	586,325,000	566,635,400
April	508,880,300	712,596,800	786,029,300	583,570,800	511,948,700
May	630,545,100	1,052,360,000	858,790,800	517,203,300	498,596,800
June	657,041,900	938,250,000	815,867,100	514,461,300	456,120,500
July	538,838,100	605,774,000	518,075,400	495,948,600	479,384,500
August	537,437,000	529,168,600	562,188,500	533,587,200	492,191,000
September	522,017,400	507,938,000	481,863,300	447,645,200	524,518,100
October	542,980,500	689,635,500	483,693,100	449,199,200	885,032,000
November	540,048,500	992,028,300	512,721,500	437,797,800	767,159,300
December	512,830,500	968,745,900	508,600,500	475,432,500	798,168,300
TOTAL	6,597,687,200	8,839,865,700	7,773,567,100	6,079,883,900	6,914,447,800

Reuse Information

Type of Reuse	Total Annual Volume (in gallons)
Industrial	3,551,899,000

3. SPECIFIC, QUANTIFIED 5 & 10-YEAR TARGETS

The projected reductions are shown at 5 and 10 year increments as required by HB 2660. These targets and goals will be updated every five years, or whenever the Water Conservation Plan is revised.

	Historic 5-yr Average	Baseline	5-yr Goal for 2024	10-yr Goal for 2029
TOTAL GPCD	214	226	196	176
Residential GPCD	88	74	64	64
Water Loss (GPCD)	26	16	15	13
Water Loss Percentage	12%	7%	8%	7%

4. IMPLEMENTATION

- Metering and measuring the amount of raw water diverted from Lake Waco will continue as an essential part of city's treatment process control and reporting requirements.
- The meter replacement program will be maintained, replacing all meters within 8 years or 1.5 million gallons. Accuracy of meters and fail rates will be continually monitored and appropriate adjustments made to the replacement program.
- Annual water audits to determine water loss will continue to be conducted. The city will continue maintaining accurate records of leaks, repairs, flushing, construction and firefighting exercises. The city will continue monitoring daily diversion amounts with daily water treatment production to determine water loss prior to distribution. Production amounts will also be compared to metered consumption to determine distribution loss.
- Leaking water lines will continue to be repaired or replaced as quickly as is possible. On-call, after-hours crews will continue responding to leaks at all hours. In situations where repair is not immediately possible, water loss will be mitigated by reduction of pressure.
- The city will continue efforts to inform and educate the public on water conservation issues. In addition to year-round efforts, each year, as the high-use season of summer approaches, these efforts will be increased and expanded. Just prior to and during the summer months, press releases will be issued regarding the city's conservation and drought contingency plans, multiple notices will be inserted in all customer bills, items promoting conservation will also be offered as "give-away" items at the customer service center and any public events or speaking engagements.
- The current non-promotional, inclining block rate will continue to be the rate structure for the City of Waco. The rate structure will be evaluated on an ongoing basis and adjustments will be made as appropriate.

5. METHOD FOR TRACKING IMPLEMENTATION AND EFFECTIVENESS

Overall progress toward conservation goals of reducing consumption, loss, waste and peak demand and improving efficiency of usage will be evaluated annually when the water conservation annual report is completed. The following methods will be used to evaluate individual portions of the plan:

- Records regarding meter replacement will be maintained and examined annually. Failure rates, along with “re-read” work orders (orders to re-read a meter are automatically generated whenever there is a high or low discrepancy outside normal variance), leaks and meter model/make will be compared in order to evaluate the replacement cycle.
- Water loss accounting will be evaluated by periodically examining multi-year loss trends, with the specific goal of identifying any discrepancies or variances and determining the cause.
- Leak detection and repair will be evaluated annually by examining comprehensive records showing number of leaks, locations, time before repair, estimated loss of water through leak, estimated loss of water through flushing. This information will be compared to water loss information for the same time period.
- Public information and education efforts will be evaluated by documenting actions, such as: number of press releases issued, number of stories written or produced, number of interviews given, number of bill inserts sent, number of presentations given and number and location of advertisements placed. This information will then be evaluated with consumption during the same time period and compared against data from previous years.
- The city’s water rate structure will continue to be evaluated by examining consumption trends. Records will be kept on consumption for each rate class. This information will be compared, along with cost of service considerations, with historic trends and adjustments will be made to the rate structure as appropriate.

6. METHOD FOR MEASURING WATER DIVERTED FROM SOURCE

Raw water diversions from Lake Waco are metered, calculated, and tracked at least daily as part of the treatment process control and reporting agreement with the U.S. Army Corps of Engineers. A spreadsheet of water use (treated water) is updated on a daily basis.

7. UNIVERSAL METERING

The City maintains meters to ensure that accurate readings (meters registering at an accuracy of no less than ninety-five percent (95%) or no higher than one hundred five percent (105%) expressed as a percentage of the full scale of the meter and performing to American Water Works Association water metering standards) are being recorded. This ensures fair and equitable billing and reduces unaccounted for water. The most common size meter in the City is 5/8", which are replaced at 1.5 million gallons of usage.

The City of Waco requires meters for all connections and bills by volume of use. The City collects and tabulates metered water usage data on Commercial, Industrial, Residential (Single-Family, Multi-Family, and Duplex), Municipal and Wholesale accounts. Further, the City collects data on dedicated irrigation meters for all the above-mentioned classes.

8. MEASURING AND CONTROLLING WATER LOSS

The City of Waco performs periodic visual inspections along distribution lines as well as maintaining accurate water leak and repair records. The City also measures and collects data on firefighting, construction, and main flushing. Annual internal audits of water usage are conducted to determine water loss.

9. LEAK DETECTION AND REPAIR

Measures to control unaccounted water are part of the routine operations of the City of Waco. Meter readers and operations crews watch for and report signs of illegal connections so they can be addressed quickly. Crews and personnel look for and report evidence of leaks in the water distribution system. Repair crews respond quickly to repair leaks reported by the public and city personnel. The city has 70 full-time distribution line employees and two on-call crews after hours responding to all leaks as quickly as possible. Areas of the water distribution system in which numerous leaks and line breaks occur are targeted for replacement as funds are available.

10. CONTINUING PUBLIC EDUCATION AND INFORMATION

The City of Waco's water utility will produce written materials in the form of

- Brochures
- Newsletter articles
- Media releases
- Public service announcements.

These are distributed to the customers, the local media, and to nonprofit local organizations such as neighborhood associations and civic improvement organizations so they may educate their members as well.

The water utility ensures that multimedia materials are also available through the utility's web site, <http://www.wacowater.com/> The information is also broadcast over the city public access channel, and in cooperation with local media outlets for the release of information for both television and radio audiences.

Specific efforts include:

- Interactive screens on the city's web site
- Interviews with city experts in irrigation and plant water demand on the local access channel
- Interviews with city water utility management on the local access channel and with local television stations
- Press conferences to promote key educational programs
- Press events, such as giveaways or educational events focused on reducing water use
- Booths at public events sponsored by neighborhood associations, civic organizations, not-for-profit education groups, and other city departments.

The water utility creates and distributes promotional items encouraging water conservation on a regular basis.

11. NON-PROMOTIONAL WATER RATE STRUCTURE

Waco's conservation water rate is an increasing block rate, which increases as the quantity used increases. Prices per thousand gallons increase at specific "tiers" in consumption. Each tier of the rate structure is designed to send a price signal to consumers as their discretionary consumption of water increases.

Residential Water Rates (Inside City)		Residential Water Rates (Outside City)	
<i>Rate is based on meter size + usage tier</i>		<i>Rate is based on meter size + usage tier</i>	
5/8 inch meter	\$20.24	5/8 inch meter	\$23.28
1 inch meter	\$32.69	1 inch meter	\$37.59
1.5 inch meter	\$47.08	1.5 inch meter	\$54.14
2 inch meter	\$64.88	2 inch meter	\$74.61
3 inch meter	\$102.43	3 inch meter	\$117.79
0-15,000 Gallons	\$3.32 <i>per 1,000</i>	0-15,000 Gallons	\$3.82 <i>per 1,000</i>
15,001-25,000 Gallons	\$4.16 <i>per 1,000</i>	15,001-25,000 Gallons	\$4.78 <i>per 1,000</i>
Over 25,000 Gallons	\$5.77 <i>per 1,000</i>	Over 25,000 Gallons	\$6.64 <i>per 1,000</i>

12. RESERVOIR SYSTEMS OPERATIONS PLAN

A reservoir systems operations plan is not applicable to the City of Waco. The operation of the reservoir systems is conducted by the Army Corps of Engineers.

13. WHOLESALE WATER CONTRACT PROVISIONS

For every water supply contract or wholesale water supply contract entered into or renewed or extended after official adoption of the water conservation plan, each successive wholesale customer is contractually obliged to develop and implement a water conservation plan or water conservation measures in accordance with 30 TAC Chapter 288. If the customer intends to resell the water, then the customer is contractually obligated to ensure that the contract for the resale of the water has 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 provisions of 30 TAC Chapter 288. Customers with older contracts not requiring water conservation provisions are asked to voluntarily implement a water conservation plan or water conservation measures similar to those implemented by the City of Waco.

14. AGRICULTURAL WATER USE

Agricultural use is for golf course and sports field irrigation, not for irrigation in the production of crops, so no production process is applicable to the City of Waco's Plan. Therefore the City does not intend to use state-of-the-art equipment or process modifications to improve water use efficiency. The amount of usage will remain constant. The City does not anticipate any water savings because the intent is to use all acre feet (per year) allowed for irrigation; therefore the City does not have specific, quantified five-year and ten-year targets for water savings. The City uses meters that are within an accuracy of plus or minus 5.0% to measure and account for the amount of water diverted from the source of the supply. City staff monitors the meters on a monthly basis in order to detect, repair and account for water loss in the water distribution system. 30 TAC §§ 288.4(a)(2) and (a)(3) are not applicable to the City of Waco.

15. IMPLEMENTATION AND ENFORCEMENT

This plan is part of an ordinance approved by the City of Waco City Council. A copy of the ordinance is provided in Appendix A.

16. COORDINATION WITH REGIONAL WATER PLANNING GROUP

The service area of the City of Waco is located within the Brazos G Regional Planning area and the City of Waco has provided a copy of this Water Conservation and Drought

Contingency Plan to the Region Planning Group (RPG). A copy of the transmittal letter to the planning group is provided in Appendix B.

This Plan is consistent with Waco's role as a leader in water supply planning in the RPG, and meets the standards for water conservation planning in TAC Chapter 288.

17. CCN MAP

(following page)

APPENDIX A

Copy of Transmittal Letter to Brazos G Regional Planning Group



Water Utility Services

P.O. Box 2570
Waco, Texas 76702-2570
254 / 750-8040
Fax: 254 / 750-8032

May 1, 2019

Wayne Wilson, Chair – Brazos G RWPG
CIO
Trey Buzbee
Brazos River Authority
P.O. Box 7555
Waco, TX 76714

Re: Amended City of Waco Water Conservation Plan Information for the Region G Planning Group

Dear Wayne,

Recently, the City of Waco amended its Water Conservation Plan for the 5 year update. The Drought Contingency Plan was not changed for this update. This plan is consistent with Waco's role as a leader in water supply planning in Region G and meets the standards for water conservation planning in TAC Chapter 28.

Enclosed you will find copies of the amended Water Conservation and Drought Contingency Plan. If any additional information is needed for the Planning Group, please contact the City of Waco Water Utilities Department at 254-750-8040.

Sincerely,



Lisa Tyer
Director, Water Utilities Services

B

City of Waco

Drought Contingency Plan

2019

The City of Waco Drought Contingency Plan is intended to conserve the available water supply and protect the integrity of water supply facilities, with particular regard to domestic water use, to sanitation and fire protection, and to protect and preserve public health, welfare and safety to minimize the adverse impacts of water supply shortage or other water supply emergency conditions.

**Drought Contingency
Plan: Updated for 2019**

CITY OF WACO DROUGHT CONTINGENCY PLAN

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Appendix A – City of Waco Ordinance No. 2014 – XXX

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard to domestic water use, to sanitation and fire protection, and to protect and preserve public health, welfare, and safety to minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Waco hereby adopts the following regulations and restrictions on the delivery and consumption of water through Ordinance No. 2014 – 206. A copy is attached as appendix A.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section IX of this plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Waco by means of a public meeting and by publishing the Plan on the Water Utility Services website (www.wacowater.com). A public notice was provided regarding a public meeting, which was held to accept input on the Plan. Additionally, citizens were invited to send comments electronically after viewing the Plan online.

Section III: Public Education and Notification

The City of Waco will provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of press releases, bill inserts, presentations to community organizations, website updates and other outreach methods as appropriate. Upon implementation and/or termination of any stage of the plan, the public will be notified through local media and website updates.

Section IV: Wholesale Contract Provisions

All wholesale water contracts entered into, renewed or extended after adoption of this plan, shall include a provision that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code, §11.039.

Section V: Coordination with Regional Water Planning Groups

The service area of the City of Waco is located within the Brazos G Regional Water Planning Group. The City of Waco has provided a copy of this Plan to the Brazos G Regional Water Planning Group.

Section VI: Authorization

The City Manager or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VII: Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City of Waco. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

Section VIII: Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use: water use, which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those [triggering conditions] practices, techniques, and technologies greater than the baseline conservation practices, that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses. Baseline conservation practices are those actions expected from customers as good citizens; including, but not limited to:

- Turning off or re-programming automatic sprinkler systems during precipitation events or in soil-saturated conditions;
- Implementing landscape irrigation to maximize impact, e.g., not irrigating in the afternoon or highest evaporative loss hours;

Customer: any person, company, or organization using water supplied by the City of Waco.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Mean Sea Level (msl): the level of the ocean's surface, especially the level halfway between high and low tide, used as a standard in reckoning land elevation or sea depths.

Non-essential water use: water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Water shortage emergency: a condition in which the ordinary water demands and requirements of the City's wholesale and retail customers cannot be met such that there would be insufficient water for human consumption, public health (sanitation), and fire protection. A water shortage emergency may be limited in either areal or temporal extent.

Section IX: Criteria for Initiation and Termination of Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified triggers are reached.

Criteria triggering the implementation of various stages of the Drought Contingency Plan, include, but are not limited to, the following:

1. General, geographical, or weather related condition or emergency, including but not limited to drought conditions resulting in a decrease in the Lake Waco reservoir level
2. Water system failures/emergencies (i.e., pressure zone deficiencies, chemical spills, broken water mains, power outages, electrical failures, failures of storage tanks or other equipment, treatment plant breakdown, and water contamination)
3. An inability to recover approximately ninety (90) percent of water stored in all Storage facilities within a defined period
4. A catastrophic decrease in the Lake Waco reservoir level and/or delivery capabilities resulting in an inability, presently or in the immediate future, to recover resources sufficient to provide services necessary for the public health and welfare

The level of the Lake Waco reservoir shall be determined based on the official reading by the U.S. Army Corps of Engineers and stated as an elevation above mean sea level (msl).

Triggering Stages, Responses and Goals

Generally. Should a water shortage emergency occur, the City Manager may exercise his or her discretion to: 1) request special voluntary water restrictions, 2) initiate Stages 1 - 4 mandatory restrictions, and/or 3) prohibit wastage and restrict certain uses of water deemed nonessential during the emergency. Initiation of a specific Stage is dependent on climatic and water system conditions, and does NOT necessarily require a progression from Stage One through Stage Three to reach Stage Four.

Pro rata curtailment of water delivery to wholesale water customers, as provided in Texas Water Code, §11.039, may be triggered by criteria within or without the plan and may be implemented during in any stage of the plan.

The City of Waco has no alternative source of water from which to draw or make use of as a water supply management measure during a water shortage.

Stage 1 Triggers – MILD Water Shortage

1. Criteria for implementation of Stage 1. The city manager shall implement stage 1 restrictions when:
 - (a) The Lake Waco reservoir level decreases to 455 msl (at which the reservoir is at about 72% of its capacity).

- (b) Weather forecasts and stream flow conditions, in the opinion of the city manager, warrant restrictions on the use of water.
2. Criteria for termination - Stage 1 shall be terminated at the discretion of the City Manager.

Stage 1 Responses

Mandatory restrictions – Upon implementation by the city, the following restrictions shall apply unless specifically exempted:

1. The city shall limit use of water for municipal purposes to those activities necessary to maintain the public health, safety and welfare and any computer-controlled irrigation systems that incorporate evapotranspiration data in setting irrigation run times.
2. The city shall monitor “excessive watering” and issue notifications to customers. “Excessive watering” occurs where run-off extends for a distance greater than ten (10) feet from the customer’s property or where there is washing or hosing down of buildings, sidewalks, driveways, patios, porches, parking surfaces or other paved surfaces. Criminal penalties do not apply during Stage 1 restrictions.

Stage 1 Goal

Reduction of previous three-year average daily use by 1%

Stage 2 Triggers – MODERATE Water Shortage

1. Criteria for implementation of Stage 2. The city manager shall implement stage 2 restrictions when:
 - (a) The Lake Waco reservoir level decreases to 452 msl (at which the reservoir is at about 60% of its capacity)
 - (b) There is an inability to recover approximately ninety (90) percent of water stored in all storage facilities within a twenty-four (24) hour period. Upon recommendation of the City Manager, Stage 2 response procedures shall become effective.
 - (c) Weather forecasts and stream flow conditions, in the opinion of the city manager, warrant restrictions on the use of water.
2. Criteria for termination - Stage 2 shall be terminated at the discretion of the City Manager.

Stage 2 Responses

Mandatory restrictions – Upon implementation by the city, the following restrictions shall apply unless specifically exempted:

1. All landscape and other outdoor water usage at each service address shall be limited to two days a week based on the last digit in the meter service address or the type of connection; however, landscape and outdoor water usage is prohibited from 6:00 A.M. to 7:00 P.M.

Last Digit Address Residential:	Allowed Landscape Water Days
---------------------------------	------------------------------

Odd	Tuesday and Saturday
Even	Wednesday and Sunday
All Non-Residential accounts	Monday and Friday

Thursday – No Watering, Storage Recovery day

2. Apartments, office building complexes, or other properties containing multiple addresses, will be identified by the lowest physical street address number. Where there are no numbers, a number will be assigned by the Building Official. Criminal penalties do apply during Stage 2 restrictions.
3. Watering of newly installed landscaping is exempt from Stage 2 restrictions for no more than one month from the date of planting. After the first month, the landscape water day's schedule and hourly restrictions must be followed.

Stage 2 Goal

Reduction of previous three-year average daily use by 5%

Stage 3 Triggers – SEVERE Water Shortage

1. Criteria for implementation of Stage 3. The city manager shall implement stage 3 restrictions when:
 - (a) The Lake Waco reservoir level to 449 msl (at which the reservoir is at about 50% of its capacity) or inability to recover approximately ninety (90) percent of water stored in all storage facilities within a thirty (30) hour period.
 - (b) Weather forecasts and stream flow conditions, in the opinion of the city manager, warrant restrictions on the use of water.
 - (c) The total amount of water available, as determined by the water utilities director, to the city from its developed water sources is less than a 24-month supply.

2. Criteria for Termination – Stage 3 shall be terminated at the discretion of the City Manager.

Stage 3 Responses

Mandatory restrictions – Upon implementation by the city, the following restrictions shall apply unless specifically exempted:

1. All landscape and outdoor water usage at each service address shall continue according to the landscape water days schedule identified below; however, landscape and outdoor water usage is prohibited from 6:00 A.M. to 7:00 P.M.

Last Digit Address:	Allowed Landscape Water Day
0, 1	Monday
2, 3	Tuesday
4, 5	Wednesday
6, 7	Thursday
8, 9	Friday

Saturday and Sunday – No Watering, Storage Recovery days

2. Apartments, office building complexes, or other property containing multiple addresses will be identified by the lowest physical address number. Where there are no numbers, a number will be assigned by the Building Official.
3. Existing swimming pools, hot tubs, spas, ornamental ponds and fountains may be replenished with a hand-held hose to maintain operational purposes only.
4. Permitting of new swimming pools, hot tubs, spas, ornamental ponds or fountain construction is **prohibited**, except that those previously permitted or under construction at the time Stage 3 restrictions are initiated may complete construction and may be filled one time only. Filling occurs when an amount of water equal to at least seventy-five (75) percent of the water capacity is placed in the structure or facility.
5. Excessive water run-off from any landscaped area onto streets, alleys, or parking lots is prohibited. Run-off is excessive when it extends for a distance greater than ten (10) feet from the customer’s property.
6. Washing or hosing down of buildings, sidewalks, driveways, patios, porches, parking areas, or other paved surfaces is prohibited.

Exceptions:

- (a) Commercial landscape nurseries are exempt from Stage 3

restrictions (except for restrictions on hours when watering may occur), but all such nurseries shall cease using water to clean pavement and sidewalk areas except for health and safety reasons.

- (b) Commercial full-service or self-service car wash facilities, including those at service stations and automobile dealership facilities, shall cease using water to clean pavement and sidewalk areas except for health and safety reasons and are exempt from Stage 3 restrictions if they meet one or more of the following conditions:
 - (i) Commercial car wash facilities using conveyORIZED, touchless, and / or rollover in-bay technology if they reuse a minimum of fifty percent of water from previous vehicle rinses in subsequent washes.
 - (ii) Commercial car wash facilities using reverse osmosis to produce water rinse with a lower mineral content if they incorporate the unused concentrate in subsequent vehicle washes.
 - (iii) Self-service spray wands used that emit no more than three gallons of water per minute.
- (c) Golf course landscape watering is exempt from Stage 3 restrictions so long as golf course irrigation systems are operated with a computer controlled irrigation system that incorporates evapotranspiration data in setting irrigation run times.

Stage 3 Goal

Reduction of previous three-year average daily use by 7%

Stage 4 Triggers – EMERGENCY Water Shortage

1. Requirements for implementation of Stage 4. The city manager shall implement stage 4 restrictions when:
 - (a) The Lake Waco reservoir level to 445 msl (at which the reservoir is at about 40% of its capacity)
 - (b) There is a determination by the City Manager that catastrophically decreasing lake reservoir levels and/or delivery capabilities with an inability to recover to provide services necessary for public health, safety, and welfare exist.
 - (c) Weather forecasts and stream flow conditions, in the opinion of the city manager, warrant restrictions on the use of water.
 - (d) The total amount of water available, as determined by the water

utilities director, to the city from its developed water sources is less than a 12-month supply.

2. Criteria for termination – Stage 4 shall be terminated at the discretion of the City Manager.

Stage 4 Responses

Mandatory restrictions – Upon implementation by the city, the following restrictions shall apply unless specifically exempted:

1. Any and all outdoor/landscaping water usage is prohibited until the emergency is alleviated. This applies to all metered water users using the city's public water supply and includes all residential (single or multi-family), commercial (car wash, nurseries, business), recreational (public/private golf courses, parks, athletic fields), religious, health care, school and municipal entities.
2. Use of water for municipal purposes shall be limited to only those activities necessary to maintain the public health, safety and welfare, as determined by the city.
3. Use of water from fire hydrants is prohibited except for fire fighting and health and safety related activities.

Stage 4 Goal

Reduction of previous three-year average daily use by 10%

Section X: Enforcement

1. No person shall intentionally, knowingly, recklessly or with criminal negligence allow the use of water from the city for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Division or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the city, in accordance with provisions of this Division.
2. Any person, including a person classified as a water customer of the city, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of

their minor children, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this plan and that the parent could not have reasonably known of the violation. Proof that the notices required under Section 26-94 have been given shall constitute a rebuttal presumption that the person has knowledge of and/or is aware of the declaration of a drought or emergency contingency stage, but such presumption may be rebutted by evidence that the person was out of city at the time of the declaration and could not reasonably have become aware of the declaration since returning to the city.

3. Any person who violates this Division is guilty of a misdemeanor and upon conviction shall be punished by a fine as provided in Section 1-14, General Penalty. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense.
4. If a person is observed violating a Stage 2 or greater restriction, including but not limited to vehicle washing, landscape watering, or construction water use, for a second time, the city shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur.
5. If a person is convicted of three (3) or more distinct violations of this Division, the city shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur.
6. Services discontinued under such circumstances shall be restored only upon payment of reconnection charge established by city policy and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same action shall not be repeated while the plan is in effect.
7. The City is entitled to pursue all other criminal and civil remedies to which it is entitled under statutes or other ordinances. Compliance with this Division may also be sought through injunctive relief in the district court.

Section XI: Variances

1. A customer may file an application for a variance from this plan for the property receiving water service with the City Manager. The City Manager may determine the proper information and require that the applicant provide such information to evaluate the variance request.
2. The City Manager may grant a variance from the Plan upon his/her determination that special circumstances exist that upon strict enforcement

of the plan will adversely affect the health, sanitation, or fire protection for the public or the applicant.

3. Variances granted under this section will expire upon escalation of the plan to the next higher phase or termination of the plan.

Section XII: State Mandated Water Restrictions

1. If a State agency with jurisdiction over water rights and use lawfully orders that drought response restrictions on water usage be imposed, the water restrictions shall be implemented, regardless of whether any of the criteria for implementation stated in Sec. 26-97 or Sec. 26-98 have been met.
2. The city manager shall notify the public of the implementation of the state mandated restrictions as provided in Sec. 26-94. Said notice shall set out the specific restrictions to be implemented.
3. No person shall intentionally, knowingly, recklessly, or with criminal negligence allow the use of water from the city for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner:
 - (a) Contrary to the notice issued under subsection 2 above; or
 - (b) Contrary to the state mandated restriction; or
 - (c) In excess of state mandated usage limits.
4. If a violation of the mandated restriction occurs, notice of the violation may be given as provided in Sec. 26-95 and the violation may be punished as provided in Sec. 26-96.

RESOLUTION NO. 2022-490

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WACO, TEXAS:

That an application for an amendment to Certificate of Adjudication No. 12-2317 with the Texas Commission of Environmental Quality is approved and authorized to: (1) add a diversion point on the opposite bank of the Bosque River approximately 2,500 feet upstream of furthest upstream of the three existing authorized diversion points; (2) in addition to irrigation use, add municipal, industrial, and agricultural purposes of use; and (3) change the place of use to anywhere in McLennan County, Texas.

That the City Manager is hereby authorized to execute any documents in connection therewith, including to engage the assistance of consultants as necessary to support the filing and prosecution of the application, and to thereafter prosecute, settle, compromise, and secure the approval of the application, as filed.

That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this 19th day of July 2022.

DocuSigned by:

Mayor Dillon Meek

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Dillon Meek, Mayor
City of Waco, Texas

ATTEST:

DocuSigned by:

Michelle Hicks

425883EB80CC400...

Michelle Hicks, City Secretary

DS



APPROVED AS TO FORM & LEGALITY:

DocuSigned by:

Jennifer Richie ACA FOR

7D3A67A75D614C3...

Jennifer Richie, City Attorney

2317B Diversion Point

our map.

Legend
31



31 35' 53"N, 97 10' 43"W

CEDAR RIDGE

Lovers Leap