

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: June 3, 2022

SUBJECT: River Haven 2, LLC
ADJ 4329
CN605954171, RN106211899
Application No. 12-4329A to Amend Certificate of Adjudication
No. 12-4329
Texas Water Code § 11.122, Requiring Limited Mailed Notice
Brazos River, Brazos River Basin
McLennan County

The application and fees were received on April 4, 2022. Additional fees were received on May 27, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on June 3, 2022. Interjacent notice to water right holders of record in the Brazos River Basin is required pursuant to Title 30 Texas Administrative Code (TAC) § 295.158(c)(3)(D) and notice to co-owners of Certificate of Adjudication No. 12-4329 is required pursuant to Title 30 TAC § 295.158(c)(2)(B).

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

Hal E. Bailey, Jr.

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

OCC Mailed Notice Required YES NO

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 3, 2022

Mr. Richard George
Enviro-Ag Engineering, Inc.
9855 FM 847
Dublin, Texas 76446

VIA E-MAIL

RE: River Haven 2, LLC
ADJ 4329
CN605954171, RN106211899
Application No. 12-4329A to Amend Certificate of Adjudication No.
12-4329 Texas Water Code § 11.122, Requiring Limited Mailed Notice
Brazos River, Brazos River Basin
McLennan County

Dear Mr. George:

This acknowledges receipt, on May 27, 2022, of additional fees in the amount of \$32.34 (Receipt No. M217600, copy attached).

The application was declared administratively complete and filed with the Office of the Chief Clerk on June 3, 2022. Staff will continue processing the application for consideration by the Executive Director.

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

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

Sincerely,

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

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

Attachment



Basis2 - Receipt History Report

31-MAY-22 09:04 AM

<u>Bank Slip#</u>	<u>Slip Status</u>					<u>USAS Proj #</u>	<u>Paid For</u>	<u>Orig Tran Amnt</u>
<u>Document#</u>	<u>Site Code</u>	<u>Tran.Date</u>	<u>Tran.Code</u>	<u>Created By</u>	<u>Endorse #</u>	<u>Permit/Proj #</u>	<u>Vendor #</u>	<u>Corrected?</u>
<u>Fee Code</u>	<u>Account Name</u>		<u>Account #</u>	<u>Paid In By</u>	<u>Endorse.Date</u>	<u>Check Number</u>	<u>Pay Type</u>	<u>Corrected Tran Amnt</u>
BS00095085	Closed							-\$32.34
D2802769	RS	27-MAY-22	N		M217600	ADJ124329A		
WUP	WATER USE PERMITS		WUP	PATTERSON, BARDEN TODD/AMY E	052722	1997	CK	-\$32.34
Grand Total:								-\$32.34

Hal Bailey

From: Richard George <[REDACTED]>
Sent: Monday, May 23, 2022 2:48 PM
To: Hal Bailey
Cc: Chris Kozlowski
Subject: RE: River Haven 2, LLC Application No. 12-4329A RFI

Thank you Hal, I forwarded it to Mr. Patterson for payment submittal.

Richard

From: Hal Bailey <Hal.Bailey@tceq.texas.gov>
Sent: Monday, May 23, 2022 2:34 PM
To: Richard George <[REDACTED]>
Cc: Chris Kozlowski <chris.kozlowski@tceq.texas.gov>
Subject: River Haven 2, LLC Application No. 12-4329A RFI

CAUTION: This email originated from outside of Enviro-Ag Engineering. Do not click links or open attachments unless you have verified the sender and know the content is safe.

Good afternoon Mr. George,

Attached is a Request for Information (RFI) letter for application no. 12-4329A.

Please provide the requested additional fees by COB on 06/22/2022.

Should you have any questions, please let me know.

Thank you,

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

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 18, 2022

Mr. Richard George
Enviro-Ag Engineering, Inc.
9855 FM 847
Dublin, Texas 76446

VIA E-MAIL

RE: River Haven 2, LLC
ADJ 4329
CN605954171, RN106211899
Application No. 12-4329A to Amend Certificate of Adjudication No. 12-4329
Texas Water Code § 11.122, Limited Mailed Notice Required
Brazos River, Brazos River Basin
McLennan County

Dear Mr. George:

This acknowledges receipt, on April 4, 2022, of the referenced application and fees in the amount of \$112.50 (Receipt No. M215561, copy attached).

Before the application can be declared administratively complete, please remit additional fees in the amount of \$32.34 as described below. Please make checks payable to the TCEQ or Texas Commission on Environmental Quality.

Filing Fee (Amendment)	\$	100.00
Recording Fee	\$	12.50
Notice (\$2.94 x 11 water right holders)	\$	32.34
<u>Total Fees</u>	<u>\$</u>	<u>144.84</u>
Fees Received	\$	112.50
<u>Fees Due</u>	<u>\$</u>	<u>32.34</u>

Please provide the requested fees by June 17, 2022, or the application may be returned pursuant to Title 30 TAC § 281.18.

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

Sincerely,

Hal E. Bailey, Jr.

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

Attachment



06-APR-22 04:05 PM

TCEQ - A/R RECEIPT REPORT BY ACCOUNT NUMBER

<u>Fee Description</u>	<u>Fee Code</u> <u>Account#</u> <u>Account Name</u>	<u>Ref#1</u> <u>Ref#2</u> <u>Paid In By</u>	<u>Check Number</u> <u>Card Auth.</u> <u>User Data</u>	<u>CC Type</u> <u>Tran Code</u> <u>Rec Code</u>	<u>Slip Key</u> <u>Document#</u>	<u>Tran Date</u>	<u>Tran Amount</u>
WTR USE PERMITS	WUP	M215561	2401		BS00093898	06-APR-22	-\$112.50
	WUP		040622	N	D2802420		
	WATER USE PERMITS	CAMERON, JAN P	VHERNAND	CK			
						Total (Fee Code):	-\$112.50



Corporate Office:
3404 Airway Blvd.
Amarillo TX 79118

Central Texas:
9855 FM 847
Dublin TX 76446

New Mexico:
203 East Main Street
Artesia NM 88210

3/11/2022

TCEQ
Water Availability Division (MC-160)
P.O. Box 13087
Austin, TX 78711-3087

RECEIVED
APR 04 2022
Water Availability Division

Re: River Haven 2, LLC (CN 605954171)
App. to Amend COA 12-4329

To Whom It May Concern,

Enclosed please find the Amendment Application for the above referenced permit. A check for \$112.50 is enclosed for the required filing & recording fees. Please call me if you have any questions 254-233-9948. Please submit all correspondence regarding this application to me at the Central Texas Office addressed at the top of the page.

Sincerely,

Richard George

Richard George
Environmental Consultant
Enviro-Ag. Engineering, Inc.

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): River Haven 2, LLC

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

Y/N

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

Y/N

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

RECEIVED

APR 04 2022

Water Availability Division

For Commission Use Only:

Proposed/Current Water Right Number: _____

Basin: _____ Watermaster area Y/N: _____

ADMINISTRATIVE INFORMATION REPORT

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

***** Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Staff to discuss Applicant's needs prior to submitting an application. Call the Water Rights Permitting Team to schedule a meeting at (512) 239-4691.**

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."

River Haven 2, LLC owns 75 acre-feet of water in COA 12-4329 and is proposing adding

a new place of use (124.506 irrigable acres) and a new diversion reach downstream from

where it is currently authorized for this 75 acre-feet. The 75 acre-feet of water shall only be

appurtenant to the 25.756 acres of land titled, "Exhibit A," in the special warranty deed included

with the application.

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?

River Haven 2, LLC

(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 : 605954171 (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: Barden Todd Patterson

Title: Mr.

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

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

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

Name: River Haven 2, LLC

Mailing Address: 701 S. 11th Street

City: Richmond

State: Texas

ZIP Code: 77469

Indicate an X next to the type of Applicant:

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

For Corporations or Limited Partnerships, provide:

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

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

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

First and Last Name: Richard George

Title: Environmental Consultant

Organization Name: Enviro-Ag. Engineering, Inc.

Mailing Address: 9855 FM 847

City: Dublin

State: Texas

ZIP Code: 76446

Phone No.: 254-233-9948

Extension:

Fax No.:

E-mail Address: [REDACTED]

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

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

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

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

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) 239-4691, prior to submitting your application.

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

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

Account number: N/A

Amount past due: N/A

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

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

Enforcement order number: N/A

Amount past due: N/A

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

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

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

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

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, Barden Todd Patterson for River Haven 2, LLC (President)
(Typed or printed name) (Title)

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

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

Signature: Barden Todd Patterson for River Haven 2, LLC Date: 2/2/2022
(Use blue ink)

Subscribed and Sworn to before me by the said

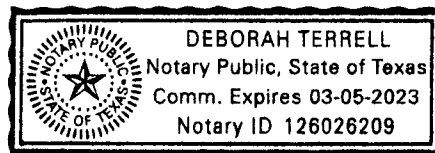
on this 2nd day of February, 2022.

My commission expires on the 5th day of March, 2022.

Notary Public Deborah Terrell

[SEAL]

Harris
County, Texas



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

3

COMPANY AGREEMENT

OF

RIVER HAVEN 2, LLC

A Texas Limited Liability Company

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**COMPANY AGREEMENT
OF
RIVER HAVEN 2, LLC
A Texas Limited Liability Company**

This Company Agreement of RIVER HAVEN 2, LLC (the "Agreement"), dated as of the 7th day of January, 2020, are (a) adopted by the Managers (as defined below) and (b) executed and agreed to, for good and valuable consideration, by the Members (as defined below).

**ARTICLE 1
DEFINITIONS**

1.1 Definitions. As used in the Agreement, the following terms have the following meanings:

"Act" means the Texas Business Organizations Code and any successor statute, as amended from time to time.

"Adjusted Capital Account Deficit" means with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant taxable year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Member (i) is obligated to restore to the Company upon liquidation of his, her or its interest in the Company (or which is so treated pursuant to Treasury Regulations Section 1.704-1(b)(2)(ii)(c)) pursuant to the terms of this Agreement or under state law or (ii) is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) and (iii) the Member's share (as determined under Code Section 752) of any recourse indebtedness of the Company to the extent that such indebtedness could not be repaid out of the Company's assets if all of the Company's assets were sold at their respective Book Values as of the end of the Fiscal Year or other period and the proceeds from the sales were used to pay the Company's liabilities; and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Treasury Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations and shall be interpreted consistently therewith. For purposes of clause (a)(iii) above, the amounts computed pursuant to clause (a)(i) above for each Member shall be considered to be proceeds from the sale of the assets of the Company to the extent such amounts would be available to satisfy (directly or indirectly) the indebtedness specified in clause (a)(iii).

"Affiliate" means with respect to any Person, a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Person in question. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or interests, by contract, or otherwise.

"Articles" has the meaning given that term in Section 2.1.

"Available Cash" means all cash funds from operations of the Company on hand or on deposit from time to time after (i) payment of all operating expenses payable as of the date in question, (ii) provision for payment of all outstanding and unpaid Company obligations due and payable as of the date in question or within sixty (60) days thereafter, and (iii) the establishment of such reasonable reserves as the Managers deem appropriate for the operating and working capital needs of the Company.

"Bankrupt Member" means any Member (a) that (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceedings; (iv) files a petition or answer seeking for the Member a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in a proceeding of the type described in subclauses (i) through (iv) of this clause (a); or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the Member's or of all or any substantial part of the Member's properties; or (b) against which, a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law has been commenced and one hundred-twenty (120) days have expired without dismissal thereof or with respect to which, without the Member's consent or acquiescence, a trustee, receiver, or liquidator of the Member or of all or any substantial part of the Member's properties has been appointed and ninety (90) days have expired without the appointment's having been vacated or stayed, or ninety (90) days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

"Base Rate" means, as of any date, a variable rate per annum equal to the rate of interest most recently published by The Wall Street Journal as the "prime rate" at large U.S. money center banks plus two percent (2%) per annum; provided, however, if The Wall Street Journal is not being published as of the date of determination, then as reported by any U.S. money center bank reasonably selected by the General Partner.

"Book Value" means with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Book Value of any asset contributed (or deemed contributed under Treasury Regulations Section 1.708-1(b)(1)(iv)) by a Member to the Company shall be the asset's gross fair market value at the time of the contribution;

(b) The Book Value of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Managers in their reasonable judgment:

(i) If the Managers reasonably determine an adjustment is necessary or appropriate to reflect the relative economic interests of the Members in the Company as of (a) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis capital contribution, or (b) the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for an interest in the Company; and

(ii) As of the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g);

(c) The Book Value of any Company asset distributed to any Member will be the gross fair market value of the asset on the date of distribution; and

(d) The Book Values of Company assets will be increased or decreased to reflect any adjustment to the adjusted basis of the assets under Code Section 734(b) or 743(b), but only to the extent that the adjustment is taken into account in determining Capital Accounts under Treasury Regulations Section 1.704-1(b)(2)(iv)(m), provided that Book Values will not be adjusted hereunder to the extent that the Managers determine that an adjustment under clause (b) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment under this clause (d).

After the Book Value of any asset has been adjusted under clause (a), clause (b) or clause (d) above, Book Value will be adjusted by the Depreciation taken into account with respect to the asset for purposes of computing Net Profit and Net Loss.

"Business Day" means any day other than a Saturday, Sunday or holiday on which national banking associations in the State of Texas are closed.

"Capital Account" means the capital account of a Member established and maintained in accordance with Section 4.3.

"Capital Contribution" means with respect to any Member the amount of money actually contributed (or deemed contributed pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(c)) to the Company and the initial Book Value of any property (other than money) contributed to the Company with respect to the interest in the Company held by that Member (net of any liabilities secured by such property that the Company is considered to assume or to take subject to under Code Section 752). Any reference in this Agreement to the Capital Contribution of a Member will include a Capital Contribution made by any prior Member with respect to the Units of the Member.

"Certificate" has the meaning given that term in Section 2.1.

"Code" means the Internal Revenue Code of 1986 and any successor statute, as amended from time to time.

"Company" means River Haven 2, LLC, a Texas limited liability company.

"Company Agreement" has the meaning given that term in the introductory paragraph.

"Cumulative Net Loss" means the amount, if any, by which the aggregate amount of Net Losses and other items of loss or deduction allocated to a Member (or predecessor in interest) in the current and all prior Fiscal Years exceeds the aggregate amount of Net Profits and other items of income or gain allocated to such Member (or predecessor in interest) in such period.

"Cumulative Net Profits" means the amount, if any, by which the aggregate amount of Net Profits and other items of income or gain allocated to a Member (or predecessor in interest) in the current and all prior Fiscal Years exceeds the aggregate amount of Net Losses and other items of loss or deduction allocated to such Member (or predecessor in interest) in such period.

"Date of Dissolution" means subject to the provisions of Section 11.1(b), the date on which the Company is dissolved pursuant to Section 11.1.

"Depreciation" means for each taxable year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for the year or other period, except that if the Book Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of the year or other period, Depreciation will be an amount which bears the same ratio to the beginning Book Value as the federal income tax depreciation, amortization or other cost recovery deduction for the year or other period bears to the beginning adjusted tax basis, provided

that if the federal income tax depreciation, amortization, or other cost recovery deduction for the year or other period is zero, Depreciation will be determined with reference to the beginning Book Value using any reasonable method selected by the Managers.

"Disability" means a mental or physical impairment that substantially restricts or limits the Member's ability to participate in the operations and management of the Company.

"Dispose," "Disposing," or "Disposition" means a sale, assignment, transfer, pledge, mortgage, exchange or other disposition.

"Fiscal Year" means the period commencing on January 1 of each year and ending on December 31 of such year.

"Gross Income" means for each Fiscal Year or other period, an amount equal to the Company's gross income as determined for federal income tax purposes for such Fiscal Year or period but computed with the adjustments specified in clauses (a) and (c) of the definition of Net Profit and Net Loss.

"Initial Capital Contribution" means the Capital Contributions of the Members made pursuant to Section 4.1(a).

"Managers" means the Persons named in the Articles as the initial Managers of the Company and any Person hereafter elected as Managers of the Company as provided in this Agreement but does not include any Person who has ceased to be a Manager of the Company.

"Member" means any Person executing this Agreement as of the date of this Agreement as a member or hereafter admitted to the Company as a member as provided in this Agreement but does not include any Person who has ceased to be a member in the Company.

"Net Profit" and "Net Loss" means for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such Fiscal Year or other period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss) with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profit or Net Loss shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures under

Treasury Regulations Section 1.704-1(b)(2)(iv)(i) and not otherwise taken into account in computing Net Profit or Net Loss shall be subtracted from such taxable income or loss;

(c) Gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of such property notwithstanding that the Book Value of such asset differs from its adjusted tax basis;

(d) Gain or loss resulting from any adjustment pursuant to clause (b) of the definition of Book Value shall be taken into account as gain or loss from disposition of the asset for purposes of computing Net Profit or Net Loss hereunder;

(e) Gain or loss resulting from any adjustment attributable to an in-kind distribution of assets to any Member pursuant to Section 4.4 shall be taken into account as gain or loss from disposition of the asset for purposes of computing Net Profit or Net Loss hereunder;

(f) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other period as determined under Treasury Regulation section 1.704-1(b)(2)(iv)(g)(3);

(g) The amount of any Gross Income specially allocated to the Members pursuant to Sections 5.4 through 5.6 and 5.9 shall not be included as income or revenue; and

(h) Any amount allocated pursuant to Sections 5.6 through 5.9 shall not be included as a gain, loss or deduction.

"Permitted Transfer" means: (a) Any sale or assignment to anyone related by marriage, blood within the second degree of consanguinity or affinity (including, without limitation, adopted children); (b) any sale or assignment to any entity, at least 50 percent of the equity of which or voting control of which is owned, directly or indirectly, by such Member and/or anyone related to such Member by marriage, blood within the second degree of consanguinity or affinity (including, without limitation, adopted children) or a trust for same; (c) any sale or assignment to any trust, the beneficiaries of which are such Member and/or anyone related to such Member by marriage, blood within the second degree of consanguinity or affinity (including, without limitation, adopted children); or (d) any entity that is a charitable organization under Code Section 501(c)(3).

"Permitted Transferee" is any Person who receives an interest in the Company pursuant to a Permitted Transfer.

"Person" has the meaning given that term in Article 1.2(A)(4) of the Act.

"Proceeding" has the meaning given that term in Section 8.1.

"Required Interest" means one or more Members having among them seventy percent (70%) or more of the Sharing Ratios.

"Securities Act" means the Securities Act of 1933, as amended.

"Sharing Ratio" means the entire ownership of a Member in the Company at any particular time, and it is a fraction expressed as a percentage, the numerator of which is the number of Units owned by a Member and the denominator of which is the sum of all issued and outstanding Units held by all Members in the Company (*i.e.*, 100%). The initial Sharing Ratio of each Member is set forth on Exhibit "A" attached hereto and incorporated herein.

"Substitute Member" means any Person admitted to the Company as a member pursuant to Section 3.4 hereof.

"TBOC" means the Texas Business Organizations Code and any successor statute, as amended from time to time.

"Treasury Regulations" means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Units" means the entire ownership of a Member in the Company, including, without limitation, rights to distributions (liquidating or otherwise), allocations, information, and to consent or approve, including, without limitation, the right of such Member to any and all benefits, all allocations and distributions to which a Member may be entitled as provided in this Agreement and under the Act, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement and the Act. Each Unit represents an equal equity ownership interest in the Company.

Other terms defined herein have the meanings so given them.

1.2 Construction. Whenever the context requires as to the construction of words used herein, the singular shall include the plural, and vice versa, and the masculine gender shall include the feminine and neuter genders, and vice versa. Unless the context clearly indicates otherwise, all references to Articles and Sections refer to articles and sections of this Agreement,

and all references to Exhibits are to exhibits attached hereto, each of which is made a part hereof for all purposes.

ARTICLE 2 ORGANIZATION

2.1 Formation. The Company was organized as a Texas member limited liability company by the filing of Certificate of Formation on January 7, 2020, under and pursuant to the Act and the issuance of a certificate of organization for the Company by the Secretary of State of Texas, as such may be amended from time to time.

2.2 Name. The name of the Company is "River Haven 2, LLC" and all Company business must be conducted in that name or such other names that comply with applicable law as the Managers may select from time to time.

2.3 Registered Office; Registered Agent; Principal Office in the United States; Other Offices. The registered office of the Company required by the Act to be maintained in the State of Texas shall be the office of the initial registered agent named in the Certificate or such other office (which need not be a place of business of the Company) as the Managers may designate from time to time in the manner provided by law. The registered agent of the Company in the State of Texas shall be the initial registered agent named in the Certificate or such other Person or Persons as the Managers may designate from time to time in the manner provided by law. The principal office of the Company in the United States shall be at such place as the Managers may designate from time to time, which need not be in the State of Texas, and the Company shall maintain records there as required by Section 3.151, 3.152 and 101.501 of the Act and shall keep the street address of such principal office at the registered office of the Company in the State of Texas. The Company may have such other offices as the Managers may designate from time to time.

2.4 Character of Business. The character of the business of the Company is to acquire, own, operate, lease, manage, finance and sell and otherwise deal with the assets of the Company and to transact any and all other business for which a limited liability company may be organized under the Act, and in general to own, manage, sell, finance, refinance and otherwise deal with the tangible and intangible assets and goodwill owned or used by the Company in the conduct of its business, and to conduct any lawful business relating thereto as determined by the Managers in accordance with this Agreement.

2.5 Foreign Qualification. Prior to the Company's conducting business in any jurisdiction other than Texas, the Managers shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Managers, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Managers, each Member shall execute, acknowledge, swear to and deliver all certificates and other instruments conforming with this Agreement that

are necessary or appropriate to qualify, continue and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

2.6 Mergers and Exchanges. The Company may be a party to (a) a merger or (b) an exchange or acquisition of the type described in Chapter Ten of the Act, subject to the requirements of Section 6.1(b) of this Agreement.

2.7 No State-Law Partnership. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be a partner or joint venturer for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

ARTICLE 3 MEMBERSHIP; DISPOSITIONS OF UNITS

3.1 Members. The Members of the Company are the Persons executing this Agreement as Members, including those persons executing any amendment to this Agreement upon the admission of additional Members.

3.2 Representations and Warranties. Each Member hereby represents and warrants to the Company and each other Member that (a) if that Member is a corporation, it is duly organized, validly existing and in good standing under the law of the state of its incorporation and is duly qualified and in good standing as a foreign corporation in the jurisdiction of its principal place of business (if not incorporated therein); (b) if that Member is a limited liability company, it is duly organized, validly existing and (if applicable) in good standing under the law of the state of its organization and is duly qualified and (if applicable) in good standing as a foreign limited liability company in the jurisdiction of its principal place of business (if not organized therein); (c) if that Member is a partnership, trust or other entity, it is duly formed, validly existing and (if applicable) in good standing under the law of the state of its formation, and if required by law is duly qualified to do business and (if applicable) in good standing in the jurisdiction of its principal place of business (if not formed therein), and the representations and warranties in clause (a), (b) or (c), as applicable, are true and correct with respect to each partner (other than limited partners), trustee or other member thereof; (d) if that Member is a corporation, limited liability company, partnership, trust or other entity, that Member has full corporate, limited liability company, partnership, trust or other applicable power and authority to execute and agree to this Agreement and to perform its obligations hereunder and all necessary actions by the board of directors, shareholders, Managers, members, partners, trustees, beneficiaries or other Persons necessary for the due authorization, execution, delivery, and performance of this Agreement by that Member have been duly taken; (e) such Member has duly executed and delivered this Agreement; and (f) that Member's authorization, execution, delivery, and performance of this Agreement do not conflict with any other agreement or arrangement to which that Member is a party or by which such Member is bound.

3.3 Restrictions on Transfer.

(a) Except as provided herein, no Member shall have the right to withdraw as such, nor may he, she or it make any Disposition of all or any part of his, her or its Units in the Company without the prior written consent of the Managers, the giving or withholding of which is exclusively within the discretion of the Managers.

(b) Each Member shall be permitted to assign to a Permitted Transferee all or any portion of his, her or its Units.

3.4 Substitute Members; Other Transferees; Transferor.

(a) Substitution. No Person may become a Substitute Member, nor may such right of substitution be granted by a Member to any assignee by operation of law or otherwise, without the prior written consent of the Managers, the granting of which shall be in their sole and uncontrolled discretion, and otherwise complying with the applicable terms and conditions of this Article III, and such Person shall become a Substitute Member when the Managers have accepted such Person as a Member of the Company, without further consent or approval by or of any Member. Notwithstanding anything contained herein to the contrary, a Permitted Transferee shall become a Substitute Member without the consent of Managers.

(b) Death, Incompetency or Bankruptcy of a Member. Subject to the provisions of Article 10 below, if a Member dies, the executor, administrator or trustee, or, if a Member is adjudicated incompetent or insane, his, her or its guardian or conservator, or, if a Bankruptcy occurs as to a Member, the trustee or receiver of the estate, shall have all the rights of such Member for the purpose of settling or managing the estate's or incompetent's affairs, and the power to assign all or any part of the Units to the extent permitted by this Agreement above, and to join with the assignee thereof in satisfying conditions precedent to such assignee becoming a Substitute Member. The death, adjudication of incompetence or Bankruptcy of a Member in and of itself shall not dissolve the Company.

(c) Limits for Assignee. An assignee of a Member who does not become a Substitute Member shall have no right to vote or otherwise act as a Member under any of the provisions of this Agreement, including, but not limited to, the right to require any information or account of the Company's transactions or to inspect the Company's books. Except as required by operation of law, any such assignee who does not become a Substitute Member (including, but not limited to, an intestate successor, a receiver, trustee, legal representative, guardian or other successor in interest), and who desires to make a further transfer of all or any part of his, her, or its Units in the Company shall be subject to all of the provisions of this Article III to the same extent and in the same manner as the Member desiring to make an assignment of all or part of his, her or its Units in the Company.

(d) Assignor Member. If a Member transfers all of his, her or its Units in the Company, he, she or it shall cease to be a Member of the Company, and shall no longer have any rights or privileges of a Member except that, unless and until the assignee of such Member is admitted as a Substitute Member in accordance with this Section 3.4, said transferring Member shall retain the statutory rights and obligations of an assignor Member under the Act.

3.5 Disposition of Units upon Termination of Member's Marital Relationship. If the marital relationship of a Member is terminated by divorce or by death of a Member's spouse and such Member does not succeed to his or her spouse's community interest in the Member's Units, the Member shall have the option to purchase all of the spouse's interest, and the spouse or his or her executor or administrator shall be obligated to sell such Units. Such option must be exercised within 45 days after the date of such termination of a marital relationship unless extended by agreement among both the Company and the spouse or the spouse's executor or administrator. Should such Member fail to exercise such option within such 45-day period, (a) such Member shall immediately notify all the Members, and the spouse or the spouse's executor or administration (the "Marital Termination Notice") that (i) the marital relationship has terminated; (ii) the Member did not succeed to the spouse's community property interest in the Units and (iii) the Member will not purchase all of his or her spouse's interest in the Units, and (b) such failure shall constitute the granting first to the Company and then the other Members of an option to purchase the Units of such spouse. The Company must exercise its option within 45 days from the date of delivery of the Marital Termination Notice. If the Company does not purchase all of the Units held by such spouse, the other Members will then have 45 days from the date of delivery of the notice from the Company of its failure to exercise its option to exercise their option to purchase the remainder of the Units. The purchase price of the Units shall be the greater of (i) the Capital Account applicable to such Units or (ii) the appraised value of the Units as determined in the same manner as set forth in Section 10.1(b); except the independent appraisers shall be appointed by the Members' spouse or his, her or its representative and the Managers (the "Appraised Value").

3.6 Buy-Sell Provisions.

(a) Buy-Sell Procedures.

(i) In the event that a Required Interest cannot agree on a decision that requires the consent of a Required Interest, then any one or more of the Members (collectively, the "Offering Members") can make an offer to the other Members (individually, an "Offeree Member" and collectively, the "Offeree Members") either to purchase all of the Offeree Members' aggregate Units in the Company or to sell to one or more of the Offeree Members all of the Offering Members' aggregate Units in the Company. The Offering Members shall notify the Offeree Members in writing of their desire to do so, designating in such notice the price (the "Aggregate Purchase Price") determined by the Offering Member as being

the aggregate gross fair market value of the Company, and designating the date (the "Offer Date") of such notice.

(ii) Within thirty (30) days of the Offer Date, the each Offeree Member shall give written notice to the Company and to the Offering Members of his, her or its agreement to either:

(A) purchase the aggregate Units of the Offering Members at a price equal to the amount that would be distributed to the Offering Members if the Company assets were sold for the Aggregate Purchase Price, all indebtedness of the Company was paid in full, the Company was liquidated, and the proceeds of its liquidation were distributed to the Members pursuant to Article 11 of this Agreement; or

(B) sell to the Offering Members the Offeree Members' aggregate Units at a price equal to the amount that would be distributed to the Offeree Member if the Company assets were sold for the Aggregate Purchase Price, all indebtedness of the Company was paid in full, the Company was liquidated, and the proceeds of its liquidation were distributed to the Members pursuant to Article 11 of this Agreement.

(C) If one or more of the Offeree Members elect to purchase the aggregate Units of the Offering Members, and one or more of the Offeree Members elect to sell their Units to the Offering Members, then the Offeree Members who have elected to purchase the Units of the Offering Members will also be required to purchase the aggregate Units of the Offeree Members who wish to sell their Units based on the same Aggregate Purchase Price as set forth herein.

(iii) If one or more of the Offeree Members elect to purchase the Offering Members' aggregate Units in accordance with this Section 3.6(a), such Offeree Members shall (A) within ten (10) days of such election deposit an amount equal to five percent of the Aggregate Purchase Price of the Units to be purchased pursuant to this Section 3.6(a) with a title company, and (B) purchase all the Units of the Offering Members and all of the Units of the Offeree Members who wish to sell their Units at the price determined pursuant to this Section 3.6(a).

(iv) In the event that an Offeree Member shall fail to elect to purchase the Offering Members' aggregate Units pursuant to this Section 3.6(a), such Offeree Member shall be deemed to have elected to sell all of his, her or its aggregate Units to the Offering Member (or one or more Offeree Members who have elected to purchase the Units of the Offering Members) at the price determined pursuant to this Section 3.6(a). In such case or in case an Offeree Member elects to sell its aggregate Units to the Offering Members, the Offering

Members (or one or more Offeree Members who have elected to purchase the Units of the Offering Members) shall within ten (10) days of such failure or notice by an Offeree Member, (A) deposit an amount equal to five percent of the Aggregate Purchase Price of the Units to be purchased pursuant to this Section 3.6(a) with a title company, and (B) purchase all the Units of the Offeree Members who wish to sell their Units at the price determined pursuant to this Section 3.6(a) (and the Units of the Offering Members, if one or more Offeree Members have elected to purchase the Units of the Offering Members).

(v) If there is more than one Member purchasing the Units of the other Members pursuant to this Section 3.6(a), then such Members shall purchase the Units of the selling Members pro rata in accordance with their respective Sharing Ratios, or in such manner as agreed to among the purchasing Members.

(vi) A closing for the sale of a Unit pursuant to this Section 3.6 shall be held at the office of the Company on a date designated by the purchasing party no later than ninety (90) days after the expiration of the thirty (30) day period described in Section 3.6(a)(ii) above. The Aggregate Purchase Price of the Units purchased in accordance with this Section 3.6(a) shall be payable entirely in cash at such closing.

(vii) The respective obligations of the Offering Members and the Offeree Members to purchase or sell, as the case may be, Units in the Company, and to cause the selling Member and any Affiliates thereof to be released from personal liability with respect to any loan to the Company or the Partnership secured by assets of the Company, shall be specifically enforceable. Further, in the event of a default by the purchasing Member the earnest money deposit shall be forfeited by the Member depositing such and delivered to the selling Member as liquidated damages and not utilized as a part of the proceeds of the Aggregate Purchase Price.

(b) Right of First Refusal.

(i) If a Member (the "Selling Member") desires to sell or transfer all or a portion of his, her or its Units (the "Offered Units") pursuant to a bona fide offer for the purchase of such Offered Units from a third party (who is not a Permitted Transferee), he, she or it shall (A) first give written notice (the "Offer Notice") to all the other Members (the "Nonselling Members") (x) stating his, her or its bona fide intention to sell such Offered Units, (y) stating the Units that are to be sold, and (z) including a true and correct copy of the bona fide offer which sets forth the purchase price therefor and the other terms and conditions upon which such Offered Units are to be sold or transferred, and the name and address of the proposed purchaser or purchasers, and then (B) offer for sale to the

Nonselling Members (the "Option") the Offered Units upon such terms and conditions set forth in the Offer Notice.

(ii) The Nonselling Members (or any of them) shall have a period of 20 days (the "Time Limit") to offer to exercise its option to purchase the Offered Units pursuant to the terms set forth in the Offer Notice by delivering written notice thereof to the Selling Member (the "Acceptance Notice"). Once the Time Limit has expired without delivery of an Acceptance Notice, the Nonselling Members will have no further right or claim with respect to the Offered Units pursuant to this Section 3.6(b) (except as provided below). If there is more than one Nonselling Member who elected to accept the offer, then such Nonselling Members shall purchase the Offered Units of the Selling Member pro rata in accordance with their respective Sharing Ratios, or in such manner as agreed to among the Nonselling Members.

(iii) If any Nonselling Member(s) accept the offer but do not close on or before forty-five (45) days after the date of the Offer Notice (the "45 Day Period"), such Selling Member may for a period of sixty (60) days after the end of the forty-five (45) Day Period sell the Offered Units to the person designated in the Offer Notice pursuant to the price, terms and substantially the same conditions set forth in the Offer Notice, without having to re-offer such transaction pursuant to this Section 3.6(b).

(iv) As to any of the Offered Units for which the Option was not exercised, the Selling Member shall have sixty (60) days after the expiration of the Option to sell or transfer the Offered Units to such third party purchaser(s).

(v) Subject to Section 3.6(b)(iii) above, the right of first refusal in this Section 3.6(b) is a continuing right of first refusal.

(c) Tag Along Rights. In addition to the Option provided above, in the event any Selling Member or group of Selling Members holding an aggregate of fifty percent (50%) or more of the outstanding Membership Units of the Company receives an offer for the purchase of their Units only (the "Unit Purchase Offer"), each Nonselling Member shall also have the option to require the purchaser of the Offered Units to purchase the Nonselling Member's Membership Units (the "Tag Along Units") upon the same terms and conditions as contained in the Unit Purchase Offer. Such option shall be exercised by giving notice to the Selling Member or group of Selling Members within the Time Limit above. The obligation to purchase the Tag Along Units shall be imposed upon the purchaser making the Unit Purchase Offer and shall be a condition to the consummation of such sale.

(d) Guaranties. In the event that the seller of its Units pursuant to this Section 3.6 or an Affiliate of such seller is personally liable under a personal guaranty of any

obligation of the Company, then as a condition of the seller to sell his, her or its Units at the closing, the purchaser shall take such actions or pay to the holder of the obligation such amounts such that such holder shall, concurrently with the closing of such purchase or sale, release the seller or its Affiliate from his, her or its personal guaranty of such obligation.

3.7 Additional Members.

No additional persons may be admitted as Members without the written consent of the then current Member(s). If additional Members are admitted, each Member shall have the right to make additional capital contributions to maintain such Member's Units in the Company.

3.8 Information

(a) In addition to the other rights specifically set forth in this Agreement, each Member is entitled to all information to which that Member is entitled to have access pursuant to Section 101.502 of the Act under the circumstances and subject to the conditions therein stated. The Members agree, however, that the Managers from time to time may determine, due to contractual obligations, business concerns or other considerations, that certain information regarding the business, affairs, properties and financial condition of the Company should be kept confidential and not provided to the Members and that it is not just or reasonable for such Members or assignees or representatives thereof to examine or copy that information.

(b) The Members acknowledge that, from time to time, they may receive information from or regarding the Company in the nature of trade secrets or that otherwise is confidential, the release of which may be damaging to the Company or Persons with which it does business. Each Member shall hold in strict confidence any information he, she or it receives regarding the Company and may not disclose it to any Person other than another Member or a Managers, except for disclosures (i) compelled by law (but the Member must notify the Managers promptly of any request for that information, before disclosing it if practicable), (ii) to advisers or representatives of the Member or Persons to which that Member's Units may be Disposed as permitted by this Agreement, but only if the recipients have agreed to be bound by the provisions of this Section 3.8(b), or (iii) of information that Member also has received from a source independent of the Company that the Member reasonably believes obtained that information without breach of any obligation of confidentiality. The Members acknowledge that breach of the provisions of this Section 3.8(b) may cause irreparable injury to the Company for which monetary damages are inadequate, difficult to compute, or both. Accordingly, the Members agree that the provisions of this Section 3.8(b) may be enforced by specific performance.

3.9 Liability to Third Parties. No Member shall be liable for the debts, obligations or liabilities of the Company, including under a judgment decree or order of a court in excess of his Capital Contribution to the Company.

3.10 Withdrawal. A Member does not have the right or power to withdraw from the Company as a Member.

3.11 Lack of Authority. No Member (other than a Manager or an officer) has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company, or to incur any expenditure on behalf of the Company.

ARTICLE 4 CAPITAL CONTRIBUTIONS

4.1 Capital Contribution of Members.

(a) Initial Capital Contributions. Each Member shall make the Initial Capital Contribution specified on Exhibit A hereto. Upon such contribution or payment and the execution of this Agreement each such Person shall become a Member.

(b) Additional Capital Contributions.

(i) In the event that (x) the Company's gross receipts or capitalization are not sufficient to either pay all operating expenses, capital expenditures, debt service and other expenses or expenditures permitted under this Agreement (other than with respect to a claim for indemnification by the Managers), (y) such deficit is not satisfied from the proceeds of any loan to the Company, and (z) a Required Interest of the Members approve such additional Capital Contribution, the Managers may notify the Members in writing (the "Deficit Notice") of the total amount of such cash deficit and the additional aggregate Capital Contribution to the Company- which, in the reasonable opinion of the Managers, is needed to satisfy such deficit. On or before ten (10) business days after the Deficit Notice is received, each of the Members may (but shall not be obligated to) contribute cash to the Company as an additional Capital Contribution in an amount equal to his, her or its respective pro rata share (based on their respective Sharing Ratios-of such requested additional contribution. In the event a Member fails to make such additional Capital Contribution equal to his, her or its pro rata share of such requested additional contribution in response to a Deficit Notice (such Member will be referred to herein as a "Non-Contributing Member"), a Member who is not a Non-Contributing Member (a "Contributing Member") shall have the right, but not the obligation, to make such additional Capital Contribution that the Non-Contributing Member failed to make (the "Contribution"). If there is more than one Contributing Member, then such Contributing Members shall make such Contribution pro rata in accordance with their respective Sharing Ratios in the

Company, or in such manner as agreed among such Contributing Members. The Company shall issue additional Units to all Members who make contributions pursuant to this Section 4.1(b).

(ii) Upon the Contribution being made by the Contributing Member(s), the Non-Contributing Member's Sharing Ratio will be diluted. Such dilution shall be based on taking the aggregate amount of Capital Contributions (including the Book Value of the initial Capital Contribution and any other additional Capital Contributions) made by such Non-Contributing Member (including any made by such Member's predecessors) over the aggregate Capital Contributions made by all of the Members in the Company (including such Members' predecessors), and then the Company issuing to the Contributing Member(s) Units so that ratio of the number of Units owned by such Contributing Member to all of the Units issued by the Company is equal to such Contributing Member(s) Sharing Ratio. The following is an illustration of the foregoing: Assume a Non-Contributing Member has 200,000 Units and a Sharing Ratio of 20% and has made Capital Contributions in the aggregate amount of \$200,000 (therefore, total contributions made by all Members would be \$1,000,000). A Required Interest has approved an additional Capital Contribution of \$500,000. The Non-Contributing Member has decided to not make its pro rata share of such additional Capital Contribution (or \$100,000), and another Member, who has 100,000 Units and a Sharing Ratio of 10% has agreed to make such Contribution in lieu of the Non-Contributing Member. The other Member, who owns 700,000 Units and has a Sharing Ratio of 70%, only agrees to make a contribution equal to its pro rata share of the additional Capital Contribution, but will not be making a contribution in lieu of the Non-Contributing Member. After the Capital Contributions have been made, the Sharing Ratio of the Non-Contributing Member would be 13.3333% ($\$200,000/\$1,500,000$) (such Member would still have 200,000 Units), the Sharing Ratio of the Contributing Member would be 16.6667% ($\$250,000$ -which is equal to original \$100,000 contributed, plus \$50,000 for pro rata share of additional Capital Contributions, plus \$100,000 for the Contribution in lieu of the Non-Contributing Member- $/\$1,500,000$) and the Sharing Ratio of other Member will remain at 70% ($\$1,050,000$ - $\$700,000$ for its initial Capital Contribution plus \$350,000 for its pro rata share of the additional Capital Contribution- $/\$1,500,000$). Since the number of Units held by the Non-Contributing Member will remain the same, the Company would then issue such number of Units such that the total number of Units held by such Contributing Member would be equal to 16.6667% of all Units issued by the Company, and the other Member will own 70% of all of the Units issued by the Company. To make it simple, all Units have been issued for a \$1.00 per Unit, so the Contributing Member will be issued 150,000 Units and the other Member (who just made a pro rata Capital Contribution) would be issued 350,000 Units.

4.2 Advances by Members. Subject to the limitations herein and to other agreements of the Company, the Company is authorized to borrow from the Members on such terms as the Managers deems appropriate.

4.3 Capital Accounts. A separate Capital Account shall be established and maintained for each Member. The Capital Account of each Member will be determined and adjusted as follows:

(a) Each Member's Capital Account shall be increased by (i) the amount of money contributed by that Member to the Company (or deemed contributed pursuant to Section 1.704-1(b)(2)(iv)(c) of the Treasury Regulations), (ii) the Book Value of property contributed by that Member to the Company (net of liabilities secured by the contributed property that the Company is considered to assume or take subject to under Section 752 of the Code), (iii) allocations to that Member of Net Profit (and all items in the nature of income or gain that are specially allocated to the Member under Article 5 hereof) of the Company and (iv) the amount of any Company liabilities that are assumed by the Member or secured by any Company property distributed to the Member.

(b) Each Member's Capital Account shall be decreased by (i) the amount of money distributed to that Member by the Company (or deemed distributed pursuant to Section 1.704-1(b)(2)(iv)(c) of the Treasury Regulations), (ii) the Book Value of property distributed to that Member by the Company (net of liabilities secured by the distributed property that the Member is considered to assume or take subject to under Section 752 of the Code), (iii) allocations to that Member of Net Loss (and all items in the nature of deduction or loss that are specially allocated to the Member under Article 5 hereof) and (iv) the amount of any liabilities of the Member assumed by the Company or which are secured by any property contributed by the Member to the Company.

4.4 Capital Account Adjustment for In-Kind Distributions. If the Company at any time distributes any of its assets in-kind to any Member, the Capital Account of each Member shall be adjusted to account for that Member's allocable share (as determined under Article 5 below) of the Net Profit or Net Loss that would have been realized by the Company had it sold the assets distributed for their respective fair market values immediately prior to their distribution.

4.5 Capital Account Adjustment for Property Revaluation. The Capital Accounts shall be adjusted to reflect a revaluation of Company property to its fair market value on the date of adjustment upon the occurrence of any of the following events:

(a) An increase in any new or existing Member's Sharing Ratio resulting from the contribution of money or property by such Member to the Company (including a conversion of debt),

(b) Any reduction in a Member's Sharing Ratio resulting from a distribution to such Member in consideration of all or part of his, her or its Units, unless such distribution is pro rata to all Members in accordance with their respective Sharing Ratios, and

(c) Whenever else allowed under Treasury Regulations Section 1.704-1(b)(2)(iv)(f).

The adjustments to Capital Accounts shall reflect the manner in which the unrealized Net Profit or Net Loss inherent in the property would be allocated if there were a disposition of the Company's property at its fair market value on the date of adjustment.

4.6 Transfer of Company Interest. If any Units in the Company are transferred in accordance with the terms of this Agreement, the transferee will succeed to the Capital Account of the transferor to the extent it relates to the transferred Units.

4.7 Interpretation with Regard to Capital Accounts. It is the intention of the Members that the Capital Accounts be maintained strictly in accordance with the capital account maintenance requirements of the Treasury Regulations under Code Section 704(b). The foregoing provisions and the other provisions of this Agreement relating to the maintenance of the Capital Accounts are intended to comply with such Treasury Regulations and shall be interpreted and applied in a manner consistent with such Treasury Regulations and any amendment or successor provision thereto. The Members also shall make any appropriate modifications if unanticipated events might otherwise cause this Agreement not to comply with the Treasury Regulations, so long as such changes would not cause a material change in the relative economic benefits of the Members under this Agreement.

4.8 Obligation to Repay or Restore. A Member who has received distributions of Available Cash may be obligated under the Act to repay or restore to the Company all or a portion of the amount received if such distributions cause the fair market value of the Company's assets to be less than the Company's liabilities. Subject to the foregoing requirement, no Member shall be required to pay to the Company or to any other Member any deficit or negative balance which may exist from time to time in his, her or its Capital Account; provided, however, in the event a Member erroneously receives distributions in excess of his, her or its interest in such distributions as specified in Section 5.1 hereof ("Excess Distributions"), then, as between the Members but not for the benefit of other Persons, such Member shall be indebted to the Company for such Excess Distributions, and such indebtedness shall be payable on terms or on demand as may be prescribed by the Managers.

4.9 Return of Contributions. Except as provided herein, a Member is not entitled to the return of any part of his, her or its Capital Contributions or to be paid in respect of either his capital account or his, her or its Capital Contributions. A Capital Contribution which is not repaid is not a liability of the Company or of any Member. No Member shall be required to

contribute or to lend any cash or property to the Company to enable the Company to return any Member's Capital Contributions.

ARTICLE 5 DISTRIBUTIONS AND ALLOCATIONS

5.1 Distribution of Available Cash. Subject to the limitations and conditions of any credit agreements in effect and Section 4.1(b) hereof, at such times as may be determined by the Managers, in her sole discretion, the Available Cash of the Company may be distributed

(a) to the Members, pro rata in accordance with their respective Sharing Ratios; and

(b) at a minimum, provided that funds are available therefore, the Company intends to distribute annually an amount sufficient to pay the federal and state income tax liability of the Members attributable to the income allocated to the Members pursuant to this Agreement based on the highest marginal federal and state individual tax rates in effect at the time of such allocation.

5.2 Payments. The amount of any distribution or payment to a Member or a former Member or his, her or its legal representative whether pursuant to Article 5 or Article 11 may be made in cash or in kind or partially in cash and partially in kind in the reasonable discretion of the Managers or liquidator under Article 11 less reasonable reserves established in the reasonable discretion of the Managers or liquidator under Article 11 for known or unknown liabilities of the Company. All distributions of assets in kind shall be made at Book Value as determined by the Managers pursuant to Section 4.4 and shall be distributed to the Members in the same manner as a distribution of Available Cash of the Company would have been made if such assets had been sold. The Net Profit or Net Loss resulting from such distribution will be allocated in accordance with Section 5.3(a) or Section 5.3(b), as the case may be.

5.3 Allocations of Net Profits and Net Losses.

Annually. Net Profits and Net Losses of the Company for each Fiscal Year shall be allocated as follows:

(a) Net Profits shall be allocated as follows:

(i) First, pro rata to any Member(s) with a Cumulative Net Loss, in accordance with and to the extent of such Capital Accounts, until no Member has a Cumulative Net Loss;

(ii) Net Profits shall thereafter be allocated to the Members so that the relative amount of each respective Member's Capital Accounts is in proportion to the relative amount of each respective Member's Sharing Ratios.

(b) Net Losses shall be allocated as follows:

(i) First to the Members in accordance to their Sharing Ratios until any Member has an Adjusted Capital Account Deficit.

(ii) Then to the Members who have positive balances in their Capital Accounts in accordance with their relative Sharing Ratios.

(iii) Then, after no Member has a positive balance in his Capital Account, to the Members in accordance with their Sharing Ratios.

5.4 Qualified Income Offset. Notwithstanding any other provision of this Agreement to the contrary, if in any Fiscal Year or other period a Member unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), such Member will be specially allocated items of Gross Income in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible.

5.5 Code Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset under Code Section 734(b) or 743(b) is required to be taken into account in determining Capital Accounts under Treasury Regulations Section 1.704-1(b)(2)(iv)(m), the amount of the adjustment to the Capital Accounts will be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis), and the gain or loss will be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted under Treasury Regulations Section 1.704-1(b)(2)(iv)(m).

5.6 Reversal of Mandatory Allocations. In the event that any Gross Income or Net Loss is allocated pursuant to Section 5.4, subsequent Gross Income, Net Profit or Net Loss (or items thereof) will first be allocated (subject to Section 5.4) to the Members in a manner which will result in each Member having a Capital Account balance equal to that which would have resulted had the original allocation of Gross Income or Net Loss (or items thereof) pursuant to Section 5.4 had not occurred.

5.7 Compliance with Code. The foregoing provisions of this Agreement relating to the allocation of Net Profit and Net Loss are intended to comply with Treasury Regulations under Section 704(b) of the Code and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

5.8 Tax Allocations -- Code Section 704(c). In accordance with Code Section 704(c) and the related Treasury Regulations, income, gain, loss and deduction with respect to any property contributed to the capital of the Company, solely for tax purposes, will be allocated among the Members so as to take account of any variation between the adjusted basis to the

Company of the property for federal income tax purposes and the initial Book Value of the property. If the Book Value of any Company asset is adjusted under the definition of Book Value in Article 1, subsequent allocations of income, gain, loss and deduction with respect to that asset will take account of any variation between the adjusted basis of the asset for federal income tax purposes and its Book Value in the same manner as under Code Section 704(c) and the related Treasury Regulations. Any elections or other decisions relating to allocations under this Section 5.9 will be made in any manner that the Managers determine reasonably reflects the purpose and intention of this Agreement. Allocations under this Section 5.9 are solely for purposes of federal, state and local taxes and will not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profit, Net Loss or other items or distributions under any provision of this Agreement.

5.9 Allocation on Transfer. If any Units in the Company are transferred, or a Member's Sharing Ratio is increased or decreased by reason of the admission of a new Member or otherwise, during any Fiscal Year, the Company shall make an interim closing of its books as of such date of transfer or admission and shall allocate Net Income or Net Loss or items thereof based on such interim closing. All transfers of interests or admissions or exclusions of Members occurring at any time during a month shall be deemed effective as of the opening of business on the first day of the subsequent month.

ARTICLE 6 MANAGERS

6.1 Management by Managers.

(a) Except for situations in which the approval of the Members is required by this Agreement or by nonwaivable provisions of applicable law, and subject to the provisions of Section 6.1(b), (x) the powers of the Company shall be solely exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of the Managers; and (y) upon the approval or consent of a majority of Managers (i.e., so long as there are only two Managers, then all decisions shall be made by both Managers), the Managers may make all decisions and take all actions for the Company not otherwise provided for in this Agreement.

No Person or governmental body dealing with the Company shall be required to inquire into, or to obtain any other documentation as to, the authority of the Managers to take any such action permitted under this Section.

(b) Notwithstanding the provisions of Section 6.1(a), the Managers may not cause the Company to do any of the following without the written approval of a Required Interest of Members:

(i) sell, transfer, lease (other than in accordance with parameters previously approved by a Required Interest of Members), assign, convey, or exchange all or any part of the Property of the Company;

(ii) mortgage, pledge, or otherwise encumber all or any part of the Property;

(iii) confess a judgment against the Company in excess of \$5,000.00, accept the settlement, compromise, or payment of any claim in excess of \$5,000.00 asserted against the Company or any of its property and assets, including, without being limited to, claims covered by the policies of insurance maintained by the Company or relating to a condemnation or proposed condemnation of all or any of the Property, or asserted by the Company in respect of the foregoing;

(iv) make any distributions to the Members other than in the manner provided for in this Agreement;

(v) acquire real property (other than the Property) for the Company, or acquire any leases of real property;

(vi) change the nature of the business of the Company or have or permit the Company to enter into any business other than or in addition to that contemplated by this Agreement;

(vii) make investments other than in the ordinary course of business of the Company;

(viii) perform any act in contravention of the material provisions of this Agreement;

(ix) commence a voluntary case or other proceeding seeking liquidation, reorganization, or other relief with respect to the Company or their respective debts under any bankruptcy law now or hereafter in effect, or seek the appointment of a trustee, receiver, liquidator, custodian or other similar official for the Company or any substantial part of their respective property, consent to any such relief or to the appointment of or taking possession by any such official in any involuntary or other proceeding commenced against the Company, or make a general assignment for the benefit of creditors, or take any action authorizing any of the foregoing;

(x) except as provided in Section 3.3 hereof regarding admission of a Substitute Member, admit any new Member to the Company; or

(xi) engage in, any business activity other than activities which are consistent with the purpose of the Company.

6.2 Covenants of the Managers. The Managers shall devote such time, effort, and attention as may be reasonably necessary, advisable, or appropriate to manage and direct the operations, business and affairs of the Company; provided, however, that nothing contained herein shall preclude a Managers from acting, consistent with the foregoing, as a director, officer, or employee of any corporation, a trustee of any trust, a partner of any other partnership, or an administrative official of any business entity, from receiving compensation for services with respect to, or participating in profits derived from, the activities and properties of any such corporation, trust, partnership, or business entity, or from investing in any securities for his own account, even if competitive with the Company.

6.3 Other Activities of the Managers. Except as set forth in this Section 6.3, this Agreement shall not preclude or limit, in any respect, the right of the Managers to engage or invest, directly or indirectly, in any business, venture, or other activity of any nature or description, even if competitive with the Company, and the Managers shall have no obligation to offer any such business, venture or other activity to the Company, even if competitive with the business of the Company, whether or not the interest is in a Member of the Company.

6.4 Number. The number of Managers of the Company shall be two (2): As stated in the Certificate, the initial Managers are Todd Patterson and Amy Patterson. Upon the execution hereof, the Members hereby re-elect Todd Patterson and Amy Patterson as Managers.

6.5 Meetings.

(a) Unless otherwise required by law or provided in the Certificate or this Agreement (including without limitation Section 6.1(b)), a majority of the total number of Managers of the Company shall constitute a quorum for the transaction of business of the Managers, and the act of a majority of the Managers present at a meeting at which a quorum is present shall be the act of the Managers (if there are only two (2) Managers, then both Managers are required for a quorum and any action of the Managers shall require the consent of both Managers). A Manager who is present at a meeting of the Managers at which action on any Company matter is taken shall be presumed to have assented to the action unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the Person acting as secretary of the meeting before the adjournment thereof or shall deliver such dissent to the Company immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Manager who voted in favor of such action.

(b) Meetings of the Managers may be held at such place or places as shall be determined from time to time by resolution of the Managers. At all meetings of the Managers, business shall be transacted in such order as shall from time to time be determined by resolution of the Managers. Attendance of the Managers at a meeting

shall constitute a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) Special meetings of the Managers may be called by any Manager on at least twenty-four hours (24) notice to each Manager. Such notice need not state the purpose or purposes of, nor the business to be transacted at, such meeting, except as may otherwise be required by law or provided for by the Certificate or this Agreement.

6.6 Action by Written Consent or Telephone Conference. Any action permitted or required by the Act, the Certificate or this Agreement to be taken at a meeting of the Managers may be taken without a meeting if consent in writing, setting forth the action to be taken, is signed by a majority of all the Managers. Such consent shall have the same force and effect as a vote at a meeting at which the minimum number of Managers that would be necessary to take the action that is the subject of the consent approve such action and may be stated as such in any document or instrument filed with the Secretary of State of Texas, and the execution of such consent shall constitute attendance or presence in person at a meeting of the Managers. Subject to the requirements of the Act, the Certificate or this Agreement for notice of meetings, unless otherwise restricted by the Articles or this Agreement, Managers may participate in and hold a meeting by means of a conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

6.7 Compensation. The Company shall pay no salary to the Managers unless a Required Interest agrees in writing to pay compensation to the Managers. Notwithstanding the previous sentence, the Managers shall be entitled to be reimbursed for reasonable out-of-pocket costs and expenses incurred in the course of her service hereunder.

6.8 Vacancies; Resignation. Any vacancy occurring among the Managers may be filled (a) by election at an annual or special meeting of the Members called for that purpose, or (b) by the affirmative vote of a majority of the remaining Managers, though less than a quorum of the Managers. A Manager elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office. Upon the written approval of a Required Interest, the Members may remove a Manager or Managers from the Company with or without cause.

6.9 Officers.

(a) The Managers may, from time to time, designate one or more Persons to be officers of the Company and may enter into employment agreements with such persons on behalf of the Company. No officer need be a resident of the State of Texas or a Manager. Any officers so designated shall have such authority and perform such duties as the Managers may, from time to time, delegate to them, subject to and in compliance

with any employment contracts validly existing between Company and any officer. The Managers may assign titles to particular officers. Unless the Managers decide otherwise, if the title is one commonly used for officers of a business corporation formed under the TBOC, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such officer by the Managers pursuant to the third sentence of this Section 6.9(a). Each officer shall hold office until his or her successor shall be duly designated and shall qualify or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same Person. The salaries or other compensation, if any, of the officers and agents of the Company shall be fixed from time to time by the Managers.

(b) Any officer may resign as such at any time subject to the terms and conditions of any employment agreement that such officer may have entered into with the Company. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Managers. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any officer may be removed as such, either with or without cause, by the Managers whenever in their judgment the best interests of the Company will be served thereby; provided, however, that such removal shall be without prejudice to the contract rights, if any, of the Person so removed. Designation of an officer shall not of itself create contract rights. Any vacancy occurring in any office of the Company may be filled by the Managers.

(c) The officers of the Company and their respective titles are as follows:

Todd Patterson	President
Amy Patterson	Secretary

ARTICLE 7
MEMBERS

7.1 Meetings.

(a) A quorum shall be present at a meeting of Members if the holders of a Required Interest are represented at the meeting in person or by proxy. With respect to any matter, other than a matter for which the affirmative vote of the holders of a specified portion of the Sharing Ratios of all Members entitled to vote is required by this Agreement or the Act, the affirmative vote of a Required Interest at a meeting of Members at which a quorum is present shall be the act of the Members. In this connection, the number of Managers shall be two (2). The Members shall elect the Managers. This provision may only be amended by unanimous vote of the Members.

(b) All meetings of the Members shall be held at the principal place of business of the Company or at such other place within or without the State of Texas as shall be specified or fixed in the notices or waivers of notice thereof; provided that any or all Members may participate in any such meeting by means of conference telephone or similar communications equipment pursuant to Section 7.5.

(c) Notwithstanding the other provisions of the Certificate or this Agreement, the chairman of the meeting or the holders of a Required Interest shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If such meeting is adjourned by the Members, such time and place shall be determined by a vote of the holders of a Required Interest. Upon the resumption of such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally called.

(d) An annual meeting of the Members, for the transaction of such business as may properly come before the meeting, shall be held at such place, within or without the State of Texas, on such date and at such time as the Managers shall fix and set forth in the notice of the meeting, which date shall be within thirteen (13) months subsequent to the date of organization of the Company or the last annual meeting of Members, whichever most recently occurred.

(e) Special meetings of the Members may be called at any time by the Managers or the holders of at least ten percent of all outstanding Sharing Ratios. If not otherwise stated in or fixed in accordance with the remaining provisions hereof, the record date for determining Members entitled to call a special meeting is the date any Member first signs the notice of that meeting. Only business within the purpose or purposes described in the notice (or waiver thereof) required by this Agreement may be conducted at a special meeting of the Members.

(f) Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the Managers or Person calling the meeting, to each Member entitled to vote at such meeting. If mailed, any such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Members at their address provided for in Section 12.2, with postage thereon prepaid.

(g) The date on which notice of a meeting of Members is mailed or the date on which the resolution of the Managers declaring a distribution is adopted, as the case may be, shall be the record date for the determination of the Members entitled to notice

of or to vote at such meeting, including any adjournment thereof, or the Members entitled to receive such distribution.

(h) The right of Members to cumulative voting in the election of Managers is expressly prohibited.

7.2 Voting List. The Managers shall make, at least ten (10) days before each meeting of Members, a complete list of the Members entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the Units and Sharing Ratios held by each, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the registered office or principal place of business of the Company and shall be subject to inspection by any Member at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Member during the whole time of the meeting. The original membership records shall be prima-facie evidence as to who are the Members entitled to examine such list or transfer records or to vote at any meeting of Members. Failure to comply with the requirements of this Section shall not affect the validity of any action taken at the meeting.

7.3 Proxies. A Member may vote either in person or by proxy executed in writing by the Member. A telegram, telex, cablegram or similar transmission by the Member, or a photographic, photostatic, facsimile or similar reproduction of a writing executed by the Member shall be treated as an execution in writing for purposes of this Section. Proxies for use at any meeting of Members or in connection with the taking of any action by written consent shall be filed with the Managers, before or at the time of the meeting or execution of the written consent, as the case may be. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the Managers, who shall decide all questions touching upon the qualification of voters, the validity of the proxies, and the acceptance or rejection of votes, unless an inspector or inspectors shall have been appointed by the chairman of the meeting, in which event such inspector or inspectors shall decide all such questions. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. A proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an interest. Should a proxy designate two (2) or more Persons to act as proxies, unless that instrument shall provide to the contrary, a majority of such Persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, the Company shall not be required to recognize such proxy with respect to such issue if such proxy does not specify how the Units that are the subject of such proxy are to be voted with respect to such issue.

7.4 Conduct of Meetings. All meetings of the Members shall be presided over by the chairman of the meeting, who shall be a co-chairman, if available. The chairman of any meeting of Members shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him in order.

7.5 Action by Written Consent or Telephone Conference.

(a) Any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holder or holders of not less than the minimum Sharing Ratios that would be necessary to take such action at a meeting at which the holders of all Units entitled to vote on the action were present and voted. Every written consent shall bear the date of signature of each Member who signs the consent. No written consent shall be effective to take the action that is the subject to the consent unless, within sixty (60) days after the date of the earliest dated consent delivered to the Company in the manner required by this Section, a consent or consents signed by the holder or holders of not less than the minimum Sharing Ratios that would be necessary to take the action that is the subject of the consent are delivered to the Company by delivery to its registered office, its principal place of business, or the Managers. Delivery shall be by hand or certified or registered mail, return receipt requested. Delivery to the Company's principal place of business shall be addressed to the Managers. A telegram, telex, cablegram or similar transmission by a Member, or a photographic, photostatic, facsimile or similar reproduction of a writing signed by a Member, shall be regarded as signed by the Member for purposes of this Section. Prompt notice of the taking of any action by Members without a meeting by less than unanimous written consent shall be given to those Members who did not consent in writing to the action.

(b) The record date for determining Members entitled to consent to action in writing without a meeting shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company by delivery to its registered office, its principal place of business, or the Managers. Delivery shall be by hand or by certified or registered mail, return receipt requested. Delivery to the Company's principal place of business shall be addressed to the Managers.

(c) If any action by Members is taken by written consent, any articles or documents filed with the Secretary of State of Texas as a result of the taking of the action shall state, in lieu of any statement required by the Act or the TBOC concerning any vote of Members, that written consent has been given in accordance with the provisions of the Act and the TBOC and that any written notice required by the Act and the TBOC has been given.

(d) Members may participate in and hold a meeting by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

7.6 Other Activities of the Members. Except as set forth in Section 7.6 hereof, neither the Company nor any Member shall have any right, by virtue of this Agreement or the Company relationship created hereby, in or to any other business, ventures or activities in which any Member, directly or indirectly through its Affiliates or otherwise, is involved or to the income or proceeds derived therefrom, and the pursuit of other ventures and activities by each Member and its respective Affiliates, even if competitive with the business of the Company, is hereby consented to by such other Members and shall not be deemed wrongful or improper. Except as set forth in Section 7.6 hereof, no Member or any Affiliate of a Member shall be obligated to present any particular investment opportunity to the Company even if such opportunity is of a character which, if presented to the Company would be taken by the Company and such Member and each Affiliate of a Member shall have the right to take for its own account, or to recommend to others, any such particular opportunity.

ARTICLE 8 INDEMNIFICATION BY THE COMPANY

8.1 Right to Indemnification. Subject to the limitations and conditions as provided in this Article 8, each Person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative (hereinafter a "Proceeding"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he or she, or a Person of whom he or she is the legal representative, is or was a Manager of the Company or while a Manager of the Company is serving as an officer of the Company or is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise shall be indemnified by the Company to the fullest extent permitted by the Act and the TBOC, as the same exist or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such Person in connection with such Proceeding, without regard to the cause or causes thereof or the negligence of any party and indemnification under this Article 8 shall continue as to a Person who has ceased to serve in the capacity which initially entitled such Person to indemnity hereunder. The rights granted pursuant to this Article 8 shall be deemed contract rights, and no amendment, modification or repeal of this Article 8 shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any such amendment, modification or repeal. It is expressly acknowledged that the indemnification provided in this Article 8 could involve indemnification for negligence or under theories of strict liability.

8.2 Advance Payment. The right to indemnification conferred in this Article 8 shall include the right to be paid or reimbursed by the Company the reasonable expenses incurred by a Person of the type entitled to be indemnified under Section 8.1 who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such Person in advance of the final disposition of a Proceeding, shall be made only upon delivery to the Company of a written affirmation by such Person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article 8 and a written undertaking, by or on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified Person is not entitled to be indemnified under this Article 8 or otherwise.

8.3 Indemnification of Officers, Employees and Agents. The Company, by adoption of a resolution of the Managers, may indemnify and advance expenses to an officer, or full-time employee of the Company to the same extent and subject to the same conditions under which it may indemnify and advance expenses to the Managers under this Article 8; and, the Company may indemnify and advance expenses to Persons who are not or were not Managers, officers, employees or agents of the Company but who are or were serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any liability asserted against him and incurred by him in such a capacity or arising out of his or her status as such a Person to the same extent that it may indemnify and advance expenses to a Manager under this Article 8.

8.4 Appearance as a Witness. Notwithstanding any other provision of this Article 8, the Company may pay or reimburse expenses incurred by a Manager in connection with his or her appearance as a witness or other participation in a Proceeding at a time when he or she is not a named defendant or respondent in the Proceeding.

8.5 Nonexclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article 8 shall not be exclusive of any other right which a Manager or other Person indemnified pursuant to Section 8.3 may have or hereafter acquire under any law (common or statutory), provision of the Certificate or this Agreement, vote of Members or disinterested Managers or otherwise.

8.6 Insurance. The Company may purchase and maintain insurance, at its expense, to protect itself and any Person who is or was serving as a Manager, officer, employee or agent of the Company or is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any expense, liability or loss, whether or

not the Company would have the power to indemnify such Person against such expense, liability or loss under this Article 8.

8.7 Member Notification. To the extent required by law, any indemnification of or advance of expenses to a Manager in accordance with this Article 8 shall be reported in writing to the Members with or before the notice or waiver of notice of the next Members' meeting or with or before the next submission to Members of a consent to action without a meeting and, in any case, within the twelve-month period immediately following the date of the indemnification or advance.

8.8 Indemnification of Members. If any Member becomes personally liable for any obligation of the Company, then the other Members agree to indemnify such Member. The amount of the payment to be made by an indemnifying Member shall be equal to such Member's pro rata share of the obligation paid by the Member.

8.9 Savings Clause. If this Article 8 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Manager or any other Person indemnified pursuant to this Article 8 as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article 8 that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE 9 FINANCIAL ACCOUNTING AND REPORTS

9.1 Tax Returns. The Managers shall cause to be prepared and filed all necessary federal and state income tax returns for the Company, including making the elections described in Section 9.2 and shall cause a Schedule K-1 or any successor form to be prepared and delivered in a timely manner to the Members. Each Member shall furnish to the Managers all pertinent information in his, her or its possession relating to Company operations that is necessary to enable the Company's tax returns to be prepared and filed.

9.2 Tax Elections. The Company shall make the following elections on the appropriate tax returns:

- (a) to adopt the calendar year as the Company's Fiscal Year;
- (b) to adopt an appropriate federal income tax method of accounting and to keep the Company's books and records on such income tax method;
- (c) if a distribution of Company property as described in Code Section 734 occurs or if a transfer of a Unit as described in Code Section 743 occurs, on written

request of any Member, to elect, pursuant to Code Section 754, to adjust the basis of Company properties;

(d) to elect to amortize the organization expenses of the Company and the startup expenditures of the Company under Code Section 195 ratably over a period of sixty (60) months as permitted by Code Section 709(b); and

(e) any other election the Managers may deem appropriate and in the best interests of the Company.

If the Company elects pursuant to Code Section 754 to adjust the basis of Company properties on written request of a Member, such Member shall bear the cost of such election to the Company. Neither the Company nor any Member may make an election for the Company to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state law, and no provision of this Agreement shall be construed to sanction or approve such an election.

9.3 Tax Matters Partner. Todd Patterson shall be the "tax matters partner" of the Company pursuant to Code Section 6231(a)(7) unless (i) a replacement is designated and approved by the Members, or (ii) he is no longer a Member. If Todd Patterson is no longer a Member of the Company and a replacement is not designated and approved by the Members as provided above, a Tax Partner shall be designated as provided by section 6231(a)(7) of the Code. The Tax Partner shall take such action as may be necessary to cause each other Member to become a "notice partner" within the meaning of section 6223 of the Code. The Tax Partner shall inform each other Member of all significant matters that may come to his attention in his capacity as "tax matters partner" by giving notice thereof on or before the fifth business day after becoming aware thereof and, within that time, shall forward to each other Member copies of all significant written communications it may receive in that capacity. The Tax Partner may not take any action contemplated by sections 6222 through 6232 of the Code without the consent of the Members, but this sentence does not authorize the Tax Partner (or any other Member) to take any action left to the determination of an individual Member under sections 6222 through 6232 of the Code.

9.4 Valuation. The valuation of the assets of the Company for the purpose of valuing distributions in kind made pursuant to Section 4.4 or Section 11.2 of this Agreement and for any other purpose shall be the fair market value as determined by the Managers in good faith, and such determination will be binding on the Members.

9.5 Supervision; Inspection of Books. Proper and complete books of account of the business of the Company shall be kept under the supervision of the Managers at the principal place of business of the Company. Such books shall be open to inspection by the Members, or their accredited representatives, at any reasonable time during normal business hours.

9.6 Quarterly Reports. The Managers shall transmit to the Members within forty-five (45) days after the close of each Fiscal Quarter, or as soon as practicable thereafter, summary financial information of the Company prepared in accordance with the accounting method used for reporting for federal income tax purposes consistently applied from its books without audit and subject to year-end adjustments.

9.7 Annual Report; Financial Statements. The Managers shall transmit to the Members within one hundred twenty (120) days after the close of each Fiscal Year, or as soon as practicable thereafter, unaudited annual financial statements of the Company prepared in accordance with the accounting method used for reporting for federal income tax purposes consistently applied, including an income statement for the year then ended, a balance sheet as of the end of such year, and a statement of changes in the Members' Capital Accounts.

9.8 Withholding. Notwithstanding any provision in this Agreement to the contrary, the Managers may withhold from any distribution or amount due to a Member any amounts required to be withheld pursuant to any applicable federal, state, or local tax requirements, with such withheld amount treated as if it was distributed to such Members. The determination of the Managers as to the necessity of such withholding shall be binding upon the Members.

ARTICLE 10 DEATH, DISABILITY, BANKRUPTCY, OR INCOMPETENCY OF A MEMBER

10.1 Death, Disability, Bankruptcy or Incompetency of a Member

(a) Triggering Events. Upon the occurrence of the death, Disability, adjudication of incompetency or insanity, Bankruptcy or winding up of a Member (the "Selling Member"), first the Company and then the other Members will have the option to purchase the Units of the Selling Member. The Selling Member and his or her spouse, executor, administrator, or representative (as the case may be) shall be obligated to sell and convey good and indefeasible title to all of such Selling Member's Units. The Company must exercise its option within ninety (90) days from the date of delivery of notice to the Company of the death, Disability, adjudication of incompetency or insanity, Bankruptcy or winding up of the Selling Member, or if no notice is sent, ninety (90) days from the date that the Managers or officers of the Company first obtained actual knowledge of the death, Disability, adjudication of incompetency or insanity, Bankruptcy or winding up of the Selling Member. If the Company does not purchase all of the Units held by the Selling Member, the other Members will then have ninety (90) days from the date of delivery of the notice from the Company of the failure of the Company to exercise its option to exercise their option to purchase the remainder of the Units. The purchase price of the Units shall be the greater of (i) the Capital Account applicable to such Units or (ii) the Appraised Value of the Units (determined in the same manner as provided in Section 10.1(b)).

(b) The Appraised Value of a Unit. Within thirty (30) days following the date the option is given pursuant to Section 10.1(a) (the "Notice"), each of the spouse, executor, administrator or representative of the Selling Member and the Company shall have the right to select an independent appraiser. If a party has not selected an independent appraiser within thirty (30) days following his, her or its receipt of written notice of the other party's selection, then the appraiser so appointed by that other party shall determine the fair market value of the Units. If each party appoints an independent appraiser within such thirty (30) day period, the two appraisers so selected shall together select a third appraiser. If each party appoints an independent appraiser within the time period provided for, but such appraisers are unable to agree upon the selection of the third appraiser, either a Required Interest and/or the spouse, executor, administrator or of the Selling Member shall have the right to ask the Regional Vice President of the American Arbitration Association located in its Houston office to appoint such third appraiser, and said arbitrator shall be fully authorized and empowered to appoint such third appraiser. The appraiser or appraisers so appointed shall then determine the fair market value of the Units and shall provide written notice thereof to the Company and the spouse, executor, administrator or representative of the Selling Member within sixty (60) days of the appointment of the last appraiser. The appraisers shall use their best efforts to reach unanimous agreement on such valuation. The fair market value of the Units shall be that amount which is agreed upon by the appraisers, or, in the event they cannot agree, shall be the average of the two closest valuations, or if there are not two closest valuations, the average of the three. The appraisers shall employ such persons and incur such expenses as are necessary to reach such determination. The spouse, executor, administrator or representative of the Selling Member and the Company shall each bear one-half of all the fees and expenses incurred in reaching such determination. Any appraiser appointed hereunder shall have experience in appraising the business of the Company and the Partnership.

ARTICLE 11

WINDING UP, LIQUIDATION AND TERMINATION

11.1 Winding Up. The Company shall dissolve, and its affairs shall be wound up on the first to occur of the following:

- (a) the written consent of the holder(s) of a Required Interest;
- (b) any Member shall die, be declared legally insane, retire, resign, be expelled, dissolve, liquidate, become a Bankrupt Member or there shall occur any other event that terminates the continued membership in the Company of any Member; provided, however, that if the event described in this Section 11.1(b) shall occur and there shall be at least one other Member remaining, the Company shall not be dissolved, and the business of the Company shall be continued, if a Required Interest of the remaining Members so agree in writing within ninety (90) calendar days of the event described in this Section 11.1(b); and

(c) entry of a decree of judicial winding up of the Company under Section 11.305 of the Act.

Except as provided in Section 11.1(b), the death, insanity, retirement, resignation, expulsion, bankruptcy or winding up of a Member, or the occurrence of any other event that terminates the continued membership of a Member in the Company, shall not cause a winding up of the Company.

11.2 Liquidation and Termination. On winding up of the Company, the Managers shall act as liquidator. If there are no Managers at such time, the Members shall by vote of the holder(s) of a Required Interest appoint a liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company properties with all of the power and authority of the Managers. The steps to be accomplished by the liquidator are as follows:

(a) as promptly as possible after winding up and again after final liquidation, the liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last day of the calendar month in which the winding up occurs or the final liquidation is completed, as applicable;

(b) the liquidator shall cause the notice described in Section 11.052(2)(2) of the Act to be mailed to each known creditor of and claimant against the Company in the manner described in such Section 11.052(2)(2);

(c) the liquidator shall apply the assets of the Company remaining after payment of the costs and expenses of winding up in the following priority:

(i) to the creditors of the Company, other than Members, all amounts due them from the Company in the order of priority established by law;

(ii) to the Members, all amounts due them in repayment of any loans to the Company pursuant to Section 4.2;

(iii) finally, any remaining assets and proceeds shall be distributed to the Members pro rata in accordance with their positive Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods.

11.3 Certificate of Termination. On completion of the distribution of Company assets as provided herein, the Company is terminated, and the Managers (or such other Person or Persons as the Act may require or permit) shall file Certificate of Termination with the Secretary

of State of Texas, cancel any other filings made pursuant to Section 2.5, and take such other actions as may be necessary to terminate the Company.

11.4 Compliance with Timing Requirements of Treasury Regulations. Notwithstanding anything in this Article 11 to the contrary, in the event the Company is "liquidated" within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), distributions will be made to the Members who have positive Capital Account balances pursuant to Section 11.2 in a manner that complies with Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(2). However, a liquidation occurring as a result of a partnership termination, as defined in Section 708(b)(1)(B) of the Code, will not require an actual distribution of Company assets, but will instead be treated as a constructive liquidation and reformation in the manner described in Treasury Regulations Section 1.708-1(b)(1)(iv).

ARTICLE 12 GENERAL PROVISIONS

12.1 Offset. Whenever the Company is to pay any sum to any Member, any amounts that Member owes the Company may be deducted from that sum before payment.

12.2 Notices. Except as expressly set forth to the contrary in this Agreement, all notices, requests or consents provided for or permitted to be given under this Agreement must be in writing and must be given either by depositing that writing in the United States mail, addressed to the recipient, postage paid, and registered or certified with return receipt requested or by delivering that writing to the recipient in person, by courier or by facsimile transmission; and a notice, request or consent given under this Agreement is effective on receipt by the Person to receive it. All notices, requests and consents to be sent to a Member must be sent to or made at the addresses given for that Member on Exhibit A or such other address as that Member may specify by notice to the other Members. Any notice, request, or consent to the Company must be given to the Members. Whenever any notice is required to be given by law, the Certificate or this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

12.3 Entire Agreement; Supersedure. This Agreement constitutes the entire agreement of the Members relating to the Company and supersedes all prior contracts or agreements with respect to the Company, whether oral or written.

12.4 Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

12.5 Amendment or Modification.

(a) Except for such amendments as result from the operation of the various provisions of this Agreement, this Agreement may be amended only upon approval of the Managers and the written consent of all Members.

(b) No amendment of this Agreement may modify the method of allocation of Net Profit or Net Loss, modify any management rights, responsibilities or liabilities of the Managers, modify the method of determining the Capital Accounts of any Member, reduce the requisite ownership interest of Members required to take action as specified in this Agreement, change the name of the Company to include the name of any of the Members, or change the restrictions contained in Section 13.5(a) or this Section 13.5(b), unless the Managers and each Member affected thereby have expressly consented in writing to such amendment.

(c) The Managers, acting alone, may make ministerial changes in the Agreement for the purpose of correcting errors and inconsistencies and to comply with federal, state and local rules, regulations and laws, provided that the liability of the Members for Company debts shall not be increased by such amendment nor shall the right of the Members to Company allocations or distributions be adversely affected thereby.

12.6 Binding Effect. Subject to the restrictions on Dispositions set forth in this Agreement, this Agreement is binding on and inure to the benefit of the Members and their respective heirs, legal representatives, successors, and permitted assigns.

12.7 Governing Law; Severability. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. In the event of a direct conflict between the provisions of this Agreement and (a) any provision of the Certificate, or (b) any mandatory provision of the Act or (to the extent such statutes are incorporated into the Act) the TBOC, the applicable provision of the Certificate, the Act, the TBOC shall control. If any provision of this Agreement or the application thereof to any Person or circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other Persons or circumstances is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

12.8 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

12.9 Waiver of Certain Rights. Each Member irrevocably waives any right it may have to maintain any action for dissolution of the Company or for partition of the property of the Company.

12.10 INDEMNIFICATION BY MEMBERS. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH MEMBER SHALL INDEMNIFY THE COMPANY, EACH MANAGER AND EACH OTHER MEMBER AND HOLD THEM HARMLESS FROM AND AGAINST ALL LOSSES, COSTS, LIABILITIES, DAMAGES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COSTS OF SUIT AND ATTORNEYS FEES) THEY MAY INCUR ON ACCOUNT OF ANY BREACH BY THAT MEMBER OF THIS AGREEMENT.

12.11 Notice to Members of Provisions of This Agreement. By executing this Agreement, each Member acknowledges that it has actual notice of (a) all of the provisions of this Agreement, including, without limitation, the restrictions on the transfer of Units set forth in Article 3 and (b) all of the provisions of the Certificate. Each Member hereby agrees that this Agreement constitutes adequate notice of all such provisions, including, without limitation, any notice requirement under the TBOC and Chapter 8 of the Texas Uniform Commercial Code, and each Member hereby waives any requirement that any further notice thereunder be given.

12.12 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

12.13 Operating Expenses and Reimbursements. The Company shall bear (or reimburse the Managers for their payment of) all costs and expenses of every kind and description incurred in connection with the organization, operation, liquidation and dissolution of the Company, including, but not limited to, reasonable travel expenses, fees of consultants, accountants, and reasonable attorneys' fees and expenses of the preparation of quarterly unaudited financial statements, the annual audit, if any, and tax returns of the Company, interest on indebtedness of the Company, and fees and expenses incurred in any litigation by or against the Company.

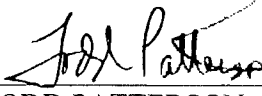
12.14 Transaction Cost Reimbursement. All Transaction Costs incurred by the Managers shall be borne by the Company or if previously paid by a Manager, such party will be reimbursed by the Company. "Transaction Costs" means all costs or expenses incurred by a Managers on behalf of the Company in connection with the organization and capitalization of the Company and any acquisition transactions of the Company, including, but not limited to, any expenses for financing commitments, legal, accounting, consulting, travel and related expenses of the professional advisors.

12.15 Spouses Bound. The spouse of each Member (who is not also a Member) has executed this Agreement in order to evidence his or her consent hereto and intention to be bound by the terms hereof including, without limitation, Section 3.3


12.16 Legal Counsel. Each party hereby agrees and acknowledges that they have each asked Moerer & King, LLP (such firm and any successor being hereafter referred to as "MK") to represent them in connection with the formation and activities of this company. Further, each party acknowledges that MK has previously represented, currently represents and/or may hereafter represent one or more the Members (and/or their Affiliates) in matters unrelated to this company. Each Member consents to such representations and waives any claim against MK and/or any of its attorneys of conflict of interest in connection with such representations.

IN WITNESS WHEREOF, the Managers and the Members have executed and adopted this Agreement as of the date first set forth above.

MANAGERS:



TODD PATTERSON




AMY PATTERSON

MEMBERS:



TODD PATTERSON

SPOUSE:



AMY PATTERSON

EXHIBIT A

<u>Members</u>	<u>Capital Contribution</u>	<u>Units</u>	<u>Sharing Ratios</u>
Todd Patterson 24 Greenway Plaza, Suite 1600 Houston, TX 77046	\$500.00	500	50%
Amy Patterson 24 Greenway Plaza, Suite 1600 Houston, TX 77046	\$500.00	500	50%

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**UNANIMOUS WRITTEN CONSENT OF THE
MANAGERS
OF
RIVER HAVEN 2, LLC
IN LIEU OF ORGANIZATIONAL MEETING**

Pursuant to the provisions of Section 101.359 of the Texas Business Organizations Code, the undersigned, being all the Managers of River Haven 2, LLC, a Texas limited liability company (the "Company"), as named in the Certificate of Formation of the Company, hereby consent to the adoption of and do hereby adopt the following resolutions with the same force and effect as if said resolutions were duly adopted by a unanimous vote of the Managers of the Company at the organizational meeting thereof duly called for the following purposes:

**Resolutions Approving the
Certificate of Formation and
Directing That a Copy be Filed in the Minute Book**

RESOLVED, that the Certificate of Formation for the Company, in the form submitted to and accepted by the Secretary of State of the State of Texas for filing, be and hereby are approved and adopted; and further

RESOLVED, that the Managers of the Company shall file in the minute book of the Company a certified copy of the Certificate of Formation of the State of Texas on the 7th day of January, 2020.

**Resolution Adopting the Company Agreement and
Directing That a Copy Thereof be
Filed in the Minute Book**

RESOLVED, that the form of the Company Agreement which has heretofore been inspected and approved by the members of the Company, be and is hereby adopted as the Company Agreement of the Company; that the Managers of the Company shall insert a copy of such form of the Company Agreement, signed on the last page thereof by the members, in the minute book of the Company immediately following the Certificate of Formation; and that such insertion shall conclusively evidence that the Company Agreement so signed and inserted are the Company Agreement adopted hereby.

**Resolution Designating a
Depository for the Funds of the Company**

RESOLVED, that the Company shall open a bank account in a bank determined by the Managers of the Company for the depository of the funds of the Company; that funds of the Company be deposited in and withdrawn from said bank in one or more accounts for any and all Company purposes upon the designated signature of a Manager or officer of the Company; and that appropriate Manager or officer of the Company be and hereby is authorized and directed to open such accounts at said bank as he, in his discretion, may deem necessary or appropriate.

**Resolution Providing for
Election of Officers**

RESOLVED, that the persons whose names are hereinbelow listed be and hereby are elected to and declared qualified to occupy the offices set forth opposite their names; and that such persons shall occupy such offices until the first annual meeting of the Managers of the Company or until their successors shall be duly elected and qualified, unless they shall sooner die, resign or be removed in accordance with the Agreement of the Company:

President	Todd Patterson
Secretary	Amy Patterson

**Resolution Designating a
Tax Matters Partner**

RESOLVED, that Todd Patterson shall be designated to be the "tax matters partner" of the Company pursuant to § 6231(a)(7) of the Internal Revenue Code of 1986, as amended (the "Code"). The tax matters partner shall take such action as may be necessary to cause each member to become a "notice partner" within the meaning of Code § 6223. The tax matters partner shall inform each Member of all significant matters that may come to her attention in her capacity as tax matters partner by giving notice thereof on or before the 5th business day after becoming aware thereof and, within that time, shall forward to each member copies of all significant written communications she may receive in such capacity. The tax matters partner may not take any action contemplated by Code §§ 6222 through 6232 without the consent of a Required Interest (as defined in the Regulations), but this sentence does not authorize such Manager (or any other Manager) to take any action left to the determination of an individual member under Code §§ 6222 through 6232.

**Resolution Adopting
Notice Procedures**

RESOLVED, that except as expressly set forth to the contrary in the Company Agreement, all notices, requests or consents provided for or permitted to be given under the Company Agreement must be in writing and must be given either by depositing that writing in the United States mail, addressed to the recipient, postage paid and registered or certified with return receipt requested, or by delivering that writing to the recipient in person, by courier or by facsimile transmission; and a notice, request or consent given under the Company Agreement is effective on receipt by the person to receive it. All notices, requests and consents to be sent to a member must be sent to or made at the address given for that member in the Company Agreement. Any notice, request or consent to the Company or the Manager must be given to the Managers at the registered office of the Company. Whenever any notice is required to be given by law, the Certificate of Formation or the Company Agreement, a written waiver thereof, signed by the person entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**Resolutions Providing for the
Issuance of Membership Interests
In Exchange for Property, Cash or Services**

WHEREAS, that the following persons have offered to purchase membership interests in the Company, such membership interests to be issued in consideration of the following contributions:

<u>Name</u>	<u>Interest</u>	<u>Contributions</u>
Todd Patterson	50%	\$500.00
Amy Patterson	50%	\$500.00

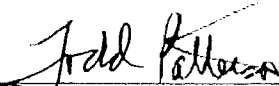
IT IS HEREBY,

RESOLVED, that in consideration of the foregoing, the parties set forth above shall become members of the Company and shall succeed to all the rights, privileges and obligations of a member of a limited liability Company formed pursuant to the Texas Business Organizations Code; and further

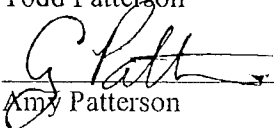
RESOLVED, that the President and Secretary of the Company be and hereby are authorized, empowered and directed to issues and deliver a membership certificate representing such membership interests to the parties set forth above upon receipt of the cash consideration to be paid, and that such certificate when so issued and delivered shall be fully paid and non-assessable.

EFFECTIVE: 7th day of January, 2020.

MANAGERS:



Todd Patterson



Amy Patterson

5

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 strongly encouraged to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please call Water Availability Division at (512) 239-4691 to schedule a meeting. Applicant attended a pre-application meeting with TCEQ Staff for this Application? Y / N (If yes, date : 10/13/2020).

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

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

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

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? N/A 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: N/A)

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

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

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

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

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

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. ***If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. See instructions page. 6.***

Water Right (Certificate or Permit) number you are requesting to amend: 12-4329

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
N/A	N/A

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

- 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 N** ***If yes, call the Water Availability Division at (512) 239-4691 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 N/A

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 N/A

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 N/A

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 N/A

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 N/A

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

Worksheets and information:

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)
- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

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

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

The state and regional water plans generally do not address every possible change

in individual water rights. The application is consistent with the 2021 Region G Water

Plan and the 2017 State Water Plan because there is nothing in the plans that conflict

with the application.

- 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**

Attachment A

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>
N/A	N/A	N/A	N/A

_____ 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:

1. 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**
75	Agricultural Crop Irrigation	Agricultural Crop Irrigation & Livestock Water.	Exact location unknown.	124.506 Acres in McLennan County, Texas

*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 124.506 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 124.506 acres in McLennan County, TX.

ii) Location of land to be irrigated: In the Jacob Walker Original Survey No. _____, Abstract No. 885.

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.

Special Warranty Deed (Attachment B)

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. Attachment C

e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required. Water Conservation Plan (Attachment D)

WORKSHEET 1.1

INTERBASIN TRANSFERS, TWC § 11.085

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

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

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

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

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

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

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

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

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

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

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

WORKSHEET 1.2 NOTICE. “THE MARSHALL CRITERIA”

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

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

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

1. The “Marshall Criteria” (Instructions, Page. 21)

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

Attachment C

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

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

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) N/A

- 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)
 1. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4691? Y / N
 2. 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) 239-4691).

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

WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

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

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

1. Diversion Information (Instructions, Page. 24)

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

1. _____ Diversion Point No.
2. _____ Upstream Limit of Diversion Reach No. A-A'
3. _____ Downstream Limit of Diversion Reach No.

b. Maximum Rate of Diversion for **this new point**^{6.33} _____ cfs (cubic feet per second) or ^{2,850} _____ gpm (gallons per minute)

c. Does this point share a diversion rate with other points? **Y / NY**
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches*^{6.33} _____ cfs or ^{2,850} _____ gpm

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

*** 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	Proposed
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. **Y / NN**

If yes, the drainage area is _____ sq. miles.

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Brazos River
- b. Zip Code: 76705
- c. Location of point: In the J. Walker Original Survey No. _____, Abstract No. 885, 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 31.608289°N, Longitude -97.129395°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. 38. Attachment A
- 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 3.0

DIVERSION POINT (OR DIVERSION REACH) INFORMATION

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

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

1. Diversion Information (Instructions, Page. 24)

- a. This Worksheet is to add new (select 1 of 3 below):
1. _____ Diversion Point No.
 2. _____ Upstream Limit of Diversion Reach No.
 3. _____ Downstream Limit of Diversion Reach No. A-A'
- b. Maximum Rate of Diversion for **this new point**^{6.33} _____ cfs (cubic feet per second) or ^{2,850} _____ gpm (gallons per minute)
- c. Does this point share a diversion rate with other points? **Y / NY**
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches*^{6.33} _____ cfs or ^{2,850} _____ gpm
- d. For amendments, is Applicant seeking to increase combined diversion rate? **Y / NN**

*** 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	Proposed
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
	Other method (explain fully, use additional sheets if necessary)	

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

Applicant has calculated the drainage area. **Y / NN**

If yes, the drainage area is _____ sq. miles.

(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)

2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Brazos River
- b. Zip Code: 76705
- c. Location of point: In the J. Walker Original Survey No. _____, Abstract No. 885, 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 31.600062°N, Longitude -97.136239°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. 38. Attachment A
- 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 N/A

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 _____% and explain the method of calculation: _____

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, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.

3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
 4. The percentage of return flows from groundwater _____, surface water _____?
 5. If any percentage is surface water, provide the base water right number(s) _____.
- c. 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. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/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.

ci. Is the source of the water being discharged a surface water supply contract? **Y / N**
If yes, provide the signed contract(s).

cii. Identify any other source of the water _____

WORKSHEET 4.1
DISCHARGE POINT INFORMATION N/A

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: _____
- f. Location of point: In the _____ Original Survey No. _____, Abstract No. _____, _____ County, Texas.
- g. Point is at:
Latitude _____°N, Longitude _____°W.
**Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): _____

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

WORKSHEET 5.0 ENVIRONMENTAL INFORMATION

This worksheet is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins. The worksheet is also required in all basins for requests to change a diversion point, applications using an alternate source of water, and bed and banks applications. **Instructions, Page 28.**

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

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

a. Identify the appropriate description of the water body.

Stream

Reservoir

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

Other, specify: _____

b. Flow characteristics

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

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

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

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: _____

c. Waterbody aesthetics

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

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

d. Waterbody Recreational Uses

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

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

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

1. Photographs of the stream at the diversion point or dam location. Photographs should be in color and show the proposed point or reservoir and upstream and downstream views of the stream, including riparian vegetation along the banks. Include a description of each photograph and reference the photograph to the map submitted with the application indicating the location of the photograph and the direction of the shot. Attachment E
2. Measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure). 1/4" mesh screens will be utilized on all diversion pipes to avoid impingement and entrainment of aquatic organisms.
3. If the application includes a proposed reservoir, also include: N/A
 - 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.

2. Alternate Sources of Water and/or Bed and Banks Applications

For all bed and banks applications: N/A

- a. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure).

- b. 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.

If the alternate source is treated return flows, provide the TPDES permit number _____

If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:

- a. 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.

- b. 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 512-239-4691, 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 WCP-Attachment D

- 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 N/A

- 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 N/A

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

WORKSHEET 7.0

ACCOUNTING PLAN INFORMATION WORKSHEET

The following information provides guidance on when an Accounting Plan may be required for certain applications and if so, what information should be provided. An accounting plan can either be very simple such as keeping records of gage flows, discharges, and diversions; or, more complex depending on the requests in the application. Contact the Surface Water Availability Team at 512-239-4691 for information about accounting plan requirements, if any, for your application. **Instructions, Page 34.**

1. Is Accounting Plan Required N/A

Accounting Plans are generally required:

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

2. Accounting Plan Requirements

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

WORKSHEET 8.0 CALCULATION OF FEES

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

1. NEW APPROPRIATION

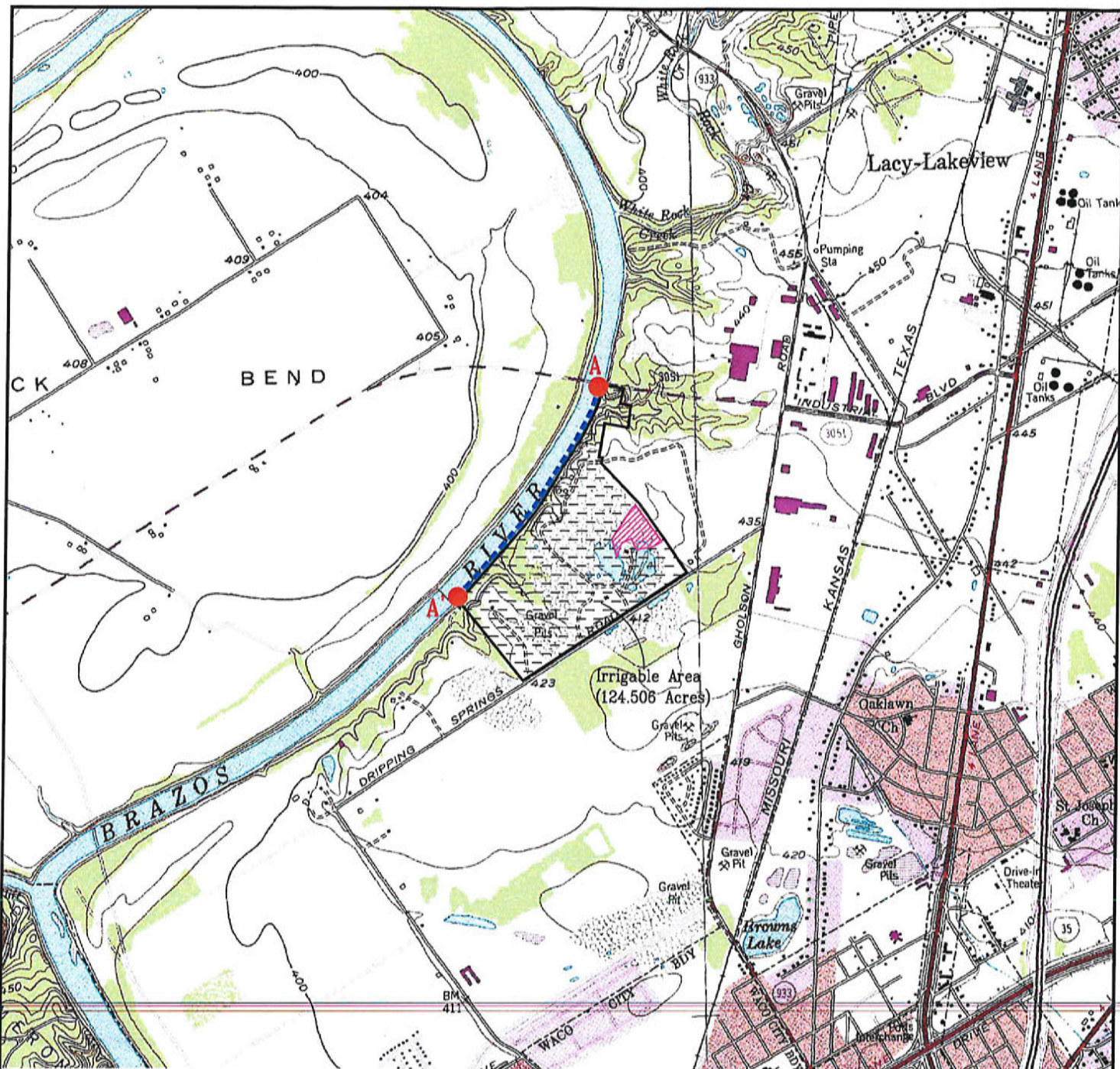
	Description	Amount (\$)
Filing Fee	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under Amount (\$) . <u>In Acre-Feet</u>	
	a. Less than 100	\$100.00
	b. 100 - 5,000	\$250.00
	c. 5,001 - 10,000	\$500.00
	d. 10,001 - 250,000	\$1,000.00
	e. More than 250,000	\$2,000.00
Recording Fee		\$25.00
Agriculture Use Fee	<i>Only for those with an Irrigation Use.</i> Multiply 50¢ x _____ Number of acres that will be irrigated with State Water. **	
Use Fee	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x _____ Maximum annual diversion of State Water in acre-feet. **	
Recreational Storage Fee	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	
Storage Fee	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x _____ acre-feet of State Water to be stored at normal max operating level.	
Mailed Notice	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4691.	
TOTAL		\$

2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
Filing Fee	Amendment: \$100	100.00
	OR Sever and Combine: \$100 x ___ of water rights to combine	
Recording Fee		\$12.50
Mailed Notice	Additional notice fee to be determined once application is submitted.	
TOTAL INCLUDED		\$ 112.50

3. BED AND BANKS

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



LEGEND:

- Denotes Property Boundary
- Denotes Diversion Segment A-A'
- Denotes Non Applicant Owned Property
- Denotes Irrigable Acreage
- Denotes Diversion Reach Upper & Lower Boundaries.

Map Generated 8/11/2021



1000' 0 1000' 2000'



SCALED AS SHOWN

Source: USDA-NRCS. Geospatial Data Gateway. Available at: <http://datagateway.nrcs.usda.gov/>. Digital Raster Graphic County Mosaic by NRCS - Accessed April, 2015.

River Haven 2, LLC
McLennan County
Waco, TX

Site Map
Attachment A



Enviro-Ag Engineering, Inc.
ENGINEERING CONSULTANTS
3404 Airway Blvd.
AMARILLO, TEXAS 79118
TEL (806) 353-6123 FAX (806) 353-4132

6



SPECIAL WARRANTY DEED

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

STATE OF TEXAS §
 §
COUNTY OF McLENNAN §

BARDEN TODD PATTERSON aka TODD PATTERSON, an individual, hereinafter referred to as "Grantor," for and in consideration of the sum of ~~TEN AND NO/100 DOLLARS~~ (\$10.00) and other good and valuable consideration, to Grantor paid by **RIVER HAVEN 2, LLC**, a Texas limited liability company, hereinafter referred to as "Grantee," of Harris County, Texas, the receipt and sufficiency of which are hereby acknowledged, has **GRANTED, SOLD and CONVEYED**, and by these presents does **GRANT, SELL and CONVEY** unto the said **RIVER HAVEN 2, LLC**, whose mailing address is 24 Greenway Plaza, Suite 1600, Houston, Harris County, Texas 77046, the following described real property McLennan County, Texas (herein called the "Property"):

See Exhibits "A, B and C" attached hereto and incorporated herein for all purposes.

Reservations from Conveyance: None.

Exceptions to Conveyance and Warranty:

This conveyance is made and accepted **SUBJECT TO** any and all conditions, covenants, reservations, mineral and royalty reservations, easements, restrictions, encumbrances, regulations of governmental authority, and all other matters, if any, relating to the hereinabove described property, to the extent, and only to the extent, that the same may still be in force and effect, shown of record in the office of the County Clerk of McLennan County, Texas. This Property is sold "as-is" without warranty of condition.

TO HAVE AND TO HOLD the above described Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, his successors and assigns, forever; and I do hereby bind myself, my heirs and personal representatives to **Warrant and Forever Defend** all and singular the said Property unto the said Grantee, his successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under me, but not otherwise.

This Deed shall also be effective to convey to Grantee (i) all right, title and interest of Grantor in and to any adjacent street, road, avenue, or alley, opened or proposed, in front of or

adjoining said Property, to the centerline thereof, and (ii) Grantor's right, title and interest in any strips or gores relating to the Property.

Ad valorem taxes for 2020 are hereby assumed by Grantee.

EXECUTED this the 1st day of June, 2020, to be effective as of December 31, 2019.

GRANTOR:

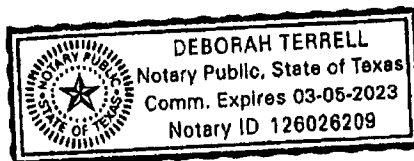

Barden Todd Patterson

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on June 1st, 2020, by Barden Todd Patterson.

SEAL


NOTARY PUBLIC, State of Texas



After recording, please return to:
Carl H. Moerer, Jr.
Moerer & King, LLC
701 South 11th Street
Richmond, Texas 77469

EXHIBIT "A"
LEGAL DESCRIPTION

File No.: 20150422

BEING all that tract of land in McLennan County, Texas, out of the Jacob Walker Survey, and being all of that called 7.14 acres of land and all of that called 18.45 acres of land described in a deed to Kevin Meek and Kenda Feind, recorded under County Clerk's File Number 2004035562 of the Official Public Records of McLennan County, Texas, and being further described as follows:

BEGINNING at a cotton spindle found at the Southeast corner of said 7.14 acres, the South corner of that called 75.221 acres of land described in a deed to John H. Restivo, recorded under County Clerk's File Number 2014033461 of the Official Public Records of McLennan County, Texas, and the center of J J Flewellen Road;

THENCE South 56 degrees 10 minutes 29 seconds West, 334.49 feet to a point at the Southwest corner of said 7.14 acres, the Southeast corner of said 18.45 acres and the center of J J Flewellen Road;

THENCE South 56 degrees 23 minutes 47 seconds West, 310.12 feet to a point at the South corner of said 18.45 acres, the East corner of that called 30.1 acres of land described in a deed to Grones Management, LLC, recorded under County Clerk's File Number 2013036074 of the Official Public Records of McLennan County, Texas, a 1/2 inch steel rod found bears North 40 degrees 42 minutes 01 seconds West, 15.88 feet for reference;

THENCE North 40 degrees 42 minutes 01 seconds West, 1465.35 feet to a 1/2 inch steel rod found at the West corner of said 18.45 acres, the North corner of said 30.1 acres and the South bank of the Brazos River;

THENCE North 40 degrees 40 minutes 48 seconds East, 813.06 feet along the South bank of the Brazos River to a 1/2 inch steel rod found at the North corner of said 18.45 acres and the West corner of said 75.221 acres;

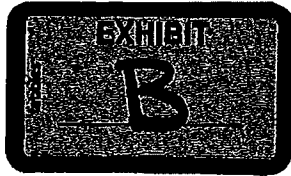
THENCE South 34 degrees 27 minutes 53 seconds East, 729.37 feet to a 1/2 inch steel rod found at the Northeast corner of said 18.45 acres, the North corner of said 7.14 acres and the Southwest line of 75.221 acres;

THENCE South 35 degrees 32 minutes 48 seconds East, 944.32 feet to the Point of

- Appendix 7

Beginning, containing 25.756 acres of land.

Bearings based on Grid North, State Plane Coordinate System, NAD88, Texas Central Zone.



Property (including any improvements): BEING ALL THAT TRACT OF LAND IN MCLENNAN COUNTY, TEXAS, OUT OF THE JACOB WALKER SURVEY, ABSTRACT NO. 885, BEING ALL OF THOSE TRACTS CALLED TRACT C OF FIRST TRACT, TRACT D AND TRACT E, AND A PART OF TRACT A AND TRACT C OF SECOND TRACT, DESCRIBED IN A DEED TO DAVID LEON MOSLEY, SUCCESSOR TRUSTEE, RECORDED IN VOLUME 1746, PAGE 887 OF THE DEED RECORDS OF MCLENNAN COUNTY, TEXAS, AND BEING PART OF THAT CALLED 86.415 ACRES DESCRIBED IN DEED TO DAVID LEON MOSLEY, RECORDED AS COUNTY CLERK'S FILE NUMBER 2007000436 AND NUMBER 2007000437 OF THE OFFICIAL PUBLIC RECORDS OF MCLENNAN COUNTY, TEXAS, AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A COTTON SPINDLE SET FOR THE SOUTH CORNER OF SAID 86.415 ACRE TRACT, ON THE APPROXIMATE CENTER LINE OF JJ. FLEWELLEN ROAD, FROM WHICH A FENCE CORNER POST BEARS NORTH 35 DEGREES 32 MINUTES 56 SECONDS WEST, 17.2 FEET FOR REFERENCE;

THENCE NORTH 35 DEGREES 32 MINUTES 56 SECONDS WEST, 944.28 FEET TO A 1/2 STEEL ROD SET FOR A CORNER ON THE SOUTHWEST LINE OF SAID 86.415 ACRE TRACT, AND THE NORTH CORNER OF THAT CALLED 7.14 ACRE TRACT DESCRIBED AS TRACT ONE IN A DEED TO KEVIN MEEK, ETAL, RECORDED AS COUNTY CLERK'S NUMBER 2004035562 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE NORTH 34 DEGREES 29 MINUTES 25 SECONDS WEST, 751.65 FEET TO A POINT ON THE SOUTHEAST LINE OF THE BRAZOS RIVER, FOR THE WEST CORNER OF SAID TRACT E, FROM WHICH A 1/2 INCH STEEL ROD SET BEARS SOUTH 34 DEGREES 28 MINUTES 43 SECONDS EAST, 21.74 FEET FOR REFERENCE;

THENCE ALONG THE SOUTHEAST LINE OF SAID BRAZOS RIVER AND SAID TRACTS E, C OF FIRST TRACT, A AND D THE FOLLOWING COURSES AND DISTANCES:

NORTH 35 DEGREES 36 MINUTES 24 SECONDS EAST, 7.08 FEET; SOUTH 76 DEGREES 49 MINUTES 15 SECONDS EAST, 20.49 FEET; NORTH 49 DEGREES 08 MINUTES 00 SECONDS EAST, 17.45 FEET; NORTH 13 DEGREES 29 MINUTES 24 SECONDS EAST, 39.71 FEET; NORTH 29 DEGREES 57 MINUTES 04 SECONDS EAST, 29.64 FEET; NORTH 44 DEGREES

36 MINUTES 20 SECONDS EAST, 209.23 FEET; NORTH 42 DEGREES 08 MINUTES 45 SECONDS EAST, 184.44 FEET, AND

NORTH 36 DEGREES 24 MINUTES 29 SECONDS EAST, 100.46 FEET TO A POINT FOR THE NORTH CORNER OF SAID TRACT D, FOR THE WEST CORNER OF THAT CALLED FROM WHICH A 1/2 INCH STEEL ROD FOUND FOR REFERENCE BEARS SOUTH 57 DEGREES 51 MINUTES 29 SECONDS EAST, 16.79 FEET;

THENCE SOUTH 57 DEGREES 51 MINUTES 29 SECONDS EAST, 325.09 FEET TO A 3/8 INCH STEEL ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 86.415 ACRE TRACT, AND THE MOST SOUTHERLY CORNER OF SAID 36.57 ACRE TRACT;

THENCE NORTH 32 DEGREES 02 MINUTES 35 SECONDS EAST, 1224.03 FEET TO A COTTON SPINDLE SET FOR THE MOST WESTERLY CORNER OF THAT CALLED 2.468 ACRE TRACT DESCRIBED IN A DEED TO AMAR FIRST FAMILY LIMITED PARTNERSHIP, RECORDED IN CLERK'S FILE NUMBER 2006036644 OF SAID OFFICIAL PUBLIC RECORDS, ON A NORTHWEST LINE OF SAID 86.415 ACRE TRACT AND A SOUTHEAST LINE OF SAID 36.57 ACRE TRACT;

THENCE ALONG THE WESTERLY LINE OF SAID 2.468 ACRE TRACT, THE FOLLOWING FIVE COURSES AND DISTANCES:

SOUTH 86 DEGREES 31 MINUTES 47 SECONDS EAST, 136.02 FEET TO A 1/2 INCH STEEL ROD SET; SOUTH 37 DEGREES 45 MINUTES 47 SECONDS EAST, 89.57 FEET TO A 1/2 INCH STEEL ROD FOUND; SOUTH 42 DEGREES 53 MINUTES 15 SECONDS EAST, 365.85 FEET TO A 1/2 INCH STEEL ROD FOUND; SOUTH 45 DEGREES 33 MINUTES 02 SECONDS EAST, 301.89 FEET TO A 1/2 INCH STEEL ROD FOUND, AND, SOUTH 43 DEGREES 12 MINUTES 30 SECONDS EAST, 31.17 FEET TO A 1/2 INCH STEEL ROD FOUND FOR THE NORTH CORNER OF THAT CALLED 4.757 ACRE TRACT OF LAND DESCRIBED IN A DEED TO LESLIE KIT PICK, RECORDED IN CLERK'S FILE NUMBER 2011025575 OF SAID OFFICIAL PUBLIC RECORDS;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID 4.757 ACRE TRACT, THE FOLLOWING EIGHT COURSES AND DISTANCES:

SOUTH 49 DEGREES 56 MINUTES 50 SECONDS WEST, 78.89 FEET TO A 1/2 INCH STEEL ROD FOUND; SOUTH 27 DEGREES 23 MINUTES 59 SECONDS WEST, 480.43 FEET TO A 1/2 INCH STEEL ROD SET; SOUTH 03 DEGREES 47 MINUTES 05 SECONDS EAST, 220.03 FEET TO A POINT IN A LAKE;

NORTH 31 DEGREES 35 MINUTES 29 SECONDS EAST, 200.81 FEET TO A 1/2 INCH STEEL ROD FOUND; NORTH 89 DEGREES 42 MINUTES 01 SECONDS EAST, 94.82 FEET TO A 1/2 INCH STEEL ROD FOUND; SOUTH 33 DEGREES 47 MINUTES 47 SECONDS EAST, 129.90 FEET TO A POINT IN A LAKE;

NORTH 87 DEGREES 26 MINUTES 22 SECONDS EAST, 280.74 FEET TO A 1/2 INCH STEEL ROD FOUND AND,

NORTH 53 DEGREES 35 MINUTES 58 SECONDS EAST, 146.93 FEET TO A 1/2 INCH STEEL ROD FOUND IN THE WESTERLY LINE OF SAID 2.468 ACRE TRACT OF LAND;

THENCE SOUTH 34 DEGREES 21 MINUTES 30 SECONDS EAST, 543.77 FEET ALONG THE WESTERLY LINE OF SAID 2.468 ACRE TRACT TO A PK NAIL SET FOR ITS SOUTH CORNER, ON THE SOUTHEAST LINE OF SAID 86.415 ACRE TRACT AND ON THE APPROXIMATE CENTER LINE OF SAID JJ. FLEWELLEN ROAD, FROM WHICH A 1/2 STEEL ROD FOUND FOR REFERENCE BEARS NORTH 34 DEGREES 21 MINUTES 30 SECONDS EAST, 28.69 FEET;

THENCE SOUTH 56 DEGREES 51 MINUTES 24 SECONDS WEST, 258.73 FEET TO A POINT FOR THE EAST CORNER OF THAT CALLED 4.000 ACRE TRACT OF LAND DESCRIBED IN A DEED TO AMAR FAMILY FIRST LIMITED PARTNERSHIP, RECORDED AS CLERK'S FILE NUMBER 2011022057, ON THE SOUTHEAST LINE OF SAID 86.415 ACRE TRACT AND THE CENTER LINE OF SAID JJ. FLEWELLEN ROAD, FROM WHICH A 1/2 INCH STEEL ROD SET FOR REFERENCE BEARS NORTH 33 DEGREES 08 MINUTES 36 SECONDS WEST, 30.00 FEET;

THENCE NORTH 33 DEGREES 08 MINUTES 36 SECONDS WEST, 292.88 FEET TO A 1/2 INCH STEEL ROD SET FOR THE NORTH CORNER OF SAID 4.000 ACRE TRACT;

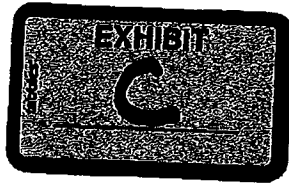
THENCE SOUTH 56 DEGREES 51 MINUTES 24 SECONDS WEST, 599.66 FEET TO A 1/2 INCH STEEL ROD FOUND FOR THE WEST CORNER OF SAID 4.00 ACRE TRACT;

THENCE ALONG THE SOUTHWEST LINE OF SAID 4.000 ACRE TRACT THE FOLLOWING THREE COURSES AND DISTANCES:

SOUTH 39 DEGREES 46 MINUTES 31 SECONDS EAST, 123.12 FEET TO A 1/2 INCH STEEL ROD SET; SOUTH 32 DEGREES 09 MINUTES 07 SECONDS EAST, 40.18 FEET TO A 1/2 INCH STEEL ROD SET; SOUTH 21 DEGREES 11 MINUTES 17 SECONDS EAST, 133.31 FEET TO THE SOUTH CORNER OF SAID 4.000 ACRE TRACT, ON THE SOUTHEAST LINE OF SAID 86.415 ACRE TRACT, AND ON THE CENTER LINE OF SAID JJ. FLEWELLEN ROAD, FROM WHICH A 1/2 INCH STEEL ROD SET FOR REFERENCE, BEARS NORTH 21 DEGREES 11 MINUTES 17 SECONDS WEST, 30.00 FEET;

THENCE SOUTH 56 DEGREES 51 MINUTES 24 SECONDS WEST, 697.94 FEET TO A COTTON SPINDLE SET FOR A CORNER ON THE SOUTHEAST LINE OF SAID 86.415 ACRE AND ON THE APPROXIMATE CENTER LINE OF SAID JJ. FLEWELLEN ROAD;

THENCE SOUTH 56 DEGREES 33 MINUTES 32 SECONDS WEST, 496.33 FEET ALONG THE SOUTHEAST LINE OF SAID 86.415 ACRE TRACT AND THE APPROXIMATE CENTER LINE OF SAID JJ. FLEWELLEN ROAD TO THE POINT OF BEGINNING, CONTAINING 75.221 ACRES OF LAND.



TRACT ONE

BEING A 2.463 ACRE TRACT OF LAND LOCATED IN THE JACOB WALKER SURVEY, ABSTRACT NO. 885, MCLENNAN COUNTY, TEXAS, SAID 2.463 ACRE TRACT BEING ALL OF THAT CALLED 2.468 ACRE TRACT OF LAND RECORDED IN DOCUMENT NO. 200636644, OFFICIAL PUBLIC RECORDS, MCLENNAN COUNTY, TEXAS; SAID 2.463 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a magnail found in asphalt in the center of JJ Flewellen Road, said point being the southeast corner of said 2.468 acre tract, the southwest corner of a called 36.25 acre tract of land recorded in Volume 105, Page 190, Official Public Records, McLennan County, Texas, and being the southeast corner of the herein described tract of land;

1. Thence, following the center line of JJ Flewellen road, the south line of said 2.468 acre tract, S 57° 00' 35" W, a distance of 50.00' (Record: S 58° 03' 28" W), magnail found in asphalt for the southwest corner of the herein described tract of land;
2. Thence, with a southwest line of said 2.468 acre tract, a northeast line of said 75.221 acre tract, N 34° 21' 24" W, a distance of 543.40' (Record: N 34° 21' 30" W, 543.77'), to a 1/2" iron rod located at an exterior corner of said 75.221 acre tract, the southeast corner of a called 4.757 acre tract of land recorded in Document No. 2011025575,

Official Public Records, McLennan County, Texas, and being an angle point of the herein described tract of land;

Thence, with the southwest lines of said 2.468 acre tract, the northeast lines of said 4.757 acre tract, the following two (2) courses and distances:

3. N 34° 21' 23" W, a distance of 456.93' (Record: N 32° 50' 44" W, 457.13'), to a 1/2" iron rod located for an angle point;
4. N 43° 04' 29" W, a distance of 213.98' (Record: N 41° 31' 26" W, 213.88'), to a 1/2" iron rod located at the northeast corner of said 4.757 acre tract, said point being an exterior corner of said 75.221 acre tract, and being an angle point of the herein described tract of land;

Thence, with the southwest lines of said 2.468 acre tract, the northeast lines of said 75.221 acre tract, the following five (5) courses and distances:

5. N 43° 19' 44" W, a distance 31.30' (Record: N 43° 12' 30" W, 31.17'), to a 1/2" iron rod located for an angle point of the herein described tract;
6. N 45° 31' 31" W, a distance 301.90' (Record: N 44° 02' 10" W, 301.84'), to a 1/2" iron rod located for an angle point of the herein described tract;
7. N 42° 53' 37" W, a distance 365.78' (Record: N 41° 20' 25" W, 365.95'), to a 1/2" iron rod located for an angle point of the herein described tract;
8. N 37° 46' 09" W, a distance 89.57' (Record: N 36° 19' 40" W, 89.53'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap located for an angle point of the herein described tract;
9. N 86° 32' 09" W, a distance 136.02' (Record: N 84° 58' 13" W, 136.02'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set for an exterior corner of said 2.468 acre tract, an exterior corner of said 75.221 acre tract, said point located in a southeast line of the remainder of a called 36.57 acre tract of land recorded in Document No. 2001007295, Official Public Records, McLennan County, Texas, and being an exterior corner of the herein described tract of land;

Thence, with a northwest and northeast line of said 2.468 acre tract, a southwest and southeast line of the remainder of said 36.57 acre tract, the following two (2) courses and distances:

10. N 31° 56' 55" E, a distance of 56.89' (Record: N 33° 38' 00" E, 56.95'), to a 3/8" iron rod located for an exterior corner of the herein described tract;
11. S 86° 33' 08" E, a distance of 131.31' (Record: S 84° 58' 13" E, 131.40'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set at an angle point of said 2.468 acre tract, an exterior corner of the remainder of said 36.57 acre tract, said point

being an angle point in the west line of said 36.25 acre tract, and being an angle point of the herein described tract;

Thence, with the northeast lines of said 2.468 acre tract, the southwest lines of said 36.25 acre tract, the following five (5) courses and distances:

12. S 37° 53' 06" E, a distance of 110.00' (Record: S 36° 19' 40" E, 109.94'), to a 1/2" iron rod located for an angle point of the herein described tract;
13. S 42° 51' 03" E, a distance of 362.59' (Record: S 41° 20' 25" E, 362.57'), to a 3/8" iron rod located for an angle point of the herein described tract;
14. S 45° 29' 30" E, a distance of 301.56' (Record: S 44° 02' 10" E, 301.76'), to a 1/2" iron rod located for an angle point of the herein described tract;
15. S 43° 10' 39" E, a distance of 250.21' (Record: S 41° 31' 26" E, 250.12'), to a 3/8" iron rod located for an angle point of the herein described tract;
16. S 34° 21' 39" E, a distance of 1005.51' (Record: S 32° 50' 44" E, 1005.44'), to the POINT OF BEGINNING containing 2.463 acres of land.

TRACT TWO

BEING A 3.999 ACRE TRACT OF LAND LOCATED IN THE JACOB WALKER SURVEY, ABSTRACT NO. 885, MCLENNAN COUNTY, TEXAS, SAID 3.999 ACRE TRACT BEING ALL OF THAT CALLED 4.000 ACRE TRACT OF LAND RECORDED IN DOCUMENT NO. 2011022057, OFFICIAL PUBLIC RECORDS, MCLENNAN COUNTY, TEXAS; SAID 3.999 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a cotton spindle set in the centerline of JJ Flewellen Road, said point being the southeast corner of said 4.000 acre tract, a southwest corner of a called 75.221 acre tract of land recorded in Document no. 2018001734, Official Public Records, McLennan County, Texas, and being the southeast corner of the herein described tract of land which bears S 56° 49' 01" W, 258.88' from a magnail found in asphalt in the centerline of JJ Flewellen Road for the southwest corner of a called 2.468 acre tract of land recorded in Document No. 200636644, Official Public Records, McLennan County, Texas, and the southeast corner of a said 75.221 acre tract;

1. Thence, following the center line of JJ Flewellen road, the south line of said 4.000 acre tract, S 56° 50' 36" W, a distance of 613.66' (Record: S 58° 22' 47" W, 613.75'), to a cotton spindle set at the southwest corner of said 4.000 acre tract, a southeast corner of said 75.221 acre tract, and being the southwest corner of the herein described tract of land;

Thence, with common boundary lines of said 4.000 acre tract and said 75.221 acre tract, the following five (5) courses and distances:

2. N 21° 11' 14" W, at a distance of 30.47' passing a 1/2" iron rod located for reference and continuing a total distance of 133.31' (Record: N 19° 39' 54" W, 133.31'), to a 1/2" iron rod located for an angle point;

3. N 32° 11' 36" W, a distance of 40.27' (Record: N 30° 37' 44" W, 40.18'), to a 1/2" iron rod located for an angle point;

4. N 39° 46' 52" W, a distance of 122.98' (Record: N 38° 15' 07" W, 123.12'), to a 1/2" iron rod located for the northwest corner of the herein described tract of land;

5. N 56° 50' 18" E, a distance 599.59' (Record: N 58° 22' 47" E, 599.56'), to a 1/2" iron rod located for the northeast corner of the herein described tract;

6. S 33° 08' 35" E, at a distance of 263.15' passing a 1/2" iron rod located for reference and continuing a total distance of 292.88' (Record: S 31° 37' 13" E, 292.88'), to the POINT OF BEGINNING containing 3.999 acres of land.

TRACT THREE

BEING A 17.067 ACRE TRACT OF LAND LOCATED IN THE JACOB WALKER SURVEY, ABSTRACT NO. 885, MCLENNAN COUNTY, TEXAS, SAID 17.067 ACRE TRACT BEING THE REMAINING PORTION OF THAT CALLED 36.57 ACRE TRACT OF LAND RECORDED IN DOCUMENT NO. 2001007298, OFFICIAL PUBLIC RECORDS, MCLENNAN COUNTY, TEXAS; SAID 17.067 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point located in the south right-of-way line of Farm to Market 3051, said point being a calculated point in the gradient line on the east bank of the Brazos River, also being in the west line of the remainder of said 36.57 acre tract, and being the northwest corner of the herein described tract of land which bears N 81° 24' 37" W, 55.20' from a Texas Department of Transportation Type 1 concrete monument;

1. Thence, with the south right-of-way line of Farm to Market 3051, S 81° 24' 37" E, passing a Texas Department of Transportation Type 1 concrete monument at a distance of 55.20' and continuing a total distance of 284.65', to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set in the south right-of-way line of Farm to Market 3051, said point located in the west line of Lot 2, Block 1, Brazos Village Apartments Addition, Lot 2, Block 1 recorded in Document No. 2002014963, Plat Records, McLennan County, Texas, and being an exterior corner of the herein described tract of land;

2. Thence, with a northwest line of said Lot 2, Block 1, S 08° 46' 27" W, a distance of 151.65' (Record: S 09° 03' 40" W, 151.49'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set for an exterior corner of said Lot 2, Block 1, said point being an interior corner of the herein described tract of land;

3. Thence, with a southwest line of said Lot 2, Block 1, S 81° 13' 33" E, a distance of 150.00' (Record: S 80° 56' 20" E, 150.00'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set for an interior corner of said Lot 2, Block 1, said point being an exterior of the herein described tract of land;
4. Thence, with a northwest line of said Lot 2, Block 1, S 08° 46' 27" W, a distance of 308.55' (Record: S 09° 03' 40" W, 308.55'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set for an interior corner of said Lot 2, Block 1, said point being an exterior corner of the herein described tract of land;
5. Thence, continuing across said 36.57 acre tract, with a northwest line of said Lot 2, Block 1, N 81° 13' 33" W, a distance 333.64' (Record: N 80° 56' 20" W, 333.64'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set for an exterior corner of said Lot 2, Block 1, said point being an interior corner of the herein described tract of land;
6. Thence, with a northwest line of said Lot 2, Block 1, S 08° 46' 27" W, a distance of 492.19' (Record: S 09° 03' 40" W, 492.19'), to a 1/2" iron rod located for the southwest corner of said Lot 2, Block 1, said point being an interior corner of the herein described tract of land;
7. Thence, with the south line of said Lot 2, Block 1, S 81° 18' 31" E, a distance 29.71' (Record: S 80° 59' 21" E, 29.93'), to a 5/8" iron rod located at an interior corner of the remainder of said 36.57 acre tract, the northwest corner of a called 36.25 acre tract of land recorded in Volume 105, Page 190, Official Public Records, McLennan County, Texas, said point being an angle point of said Lot 2, Block, 1, and being an exterior corner of the herein described tract of land;
8. Thence, with a southeast line of the remainder of said 36.57 acre tract, the northwest line of said 36.25 acre tract, S 07° 26' 45" W, a distance 58.97' (Record: S 09° 29' 29" W, 59.03'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set for an exterior corner of the remainder of said 36.57 acre tract, said point being an angle point of a called 2.468 acre tract recorded in Document No. 2006036644, Official Public Records, McLennan County, Texas, and being an exterior corner of the herein described tract of land;
9. Thence, with a southwest line of the remainder of said 36.57 acre tract, a northeast line of said, N 86° 33' 08" W, a distance 131.31' (Record: N 84° 58' 13" W, 131.40'), to a 3/8" iron rod located for an interior angle of the remainder of said 36.57 acre tract, an exterior corner of said 2.468 acre tract, said point being an interior angle of the herein described tract of land;
10. Thence, with a southeast line of said 36.57 acre tract, a northwest line of said 2.468 acre tract, S 31° 56' 55" W, a distance 56.89' (Record: S 33° 38' 00" W, 56.95'), to a 1/2" iron rod with a blue "Quick Inc. RPLS 6447" plastic cap set for an angle point in the east line of said 36.57 acre tract, said point being an exterior angle of said 2.468 acre tract,

also being an exterior angle of a called 75.221 acre tract of land recorded in Document No. 2018001734, Official Public Records, McLennan County, Texas, and being an angle point in the southeast line of the herein described tract of land;

11. Thence, with the southeast line of the remainder of said 36.57 acre tract, a northwest line of said 75.221 acre tract, S 32° 02' 37" W, a distance 1223.97' (Record: S 33° 59' 46" W), to a 3/8" iron rod located for the southeast corner of said 36.57 acre tract, an interior corner of said 75.221 acre tract, and being the southeast corner of the herein described tract of land;

12. Thence, with a southwest line of said 36.57 acre tract, a northeast line of said 75.221 acre tract, N 57° 51' 38" W, passing a 1/2" iron rod at a distance of 231.91' and continuing a total distance of 313.24' (Record: N 55° 56' 33" W, 330.88'), to a calculated point in the gradient line on the East Bank of the Brazos River, said point being the southwest corner of the remainder of said 36.57 acre tract, a northwest corner of said 75.221 acre tract, and being the southwest corner of the herein described tract of land;

Thence, with the gradient line on the east bank of the Brazos River;

13. N 57° 51' 38" E, a distance of 500.88', to a calculated point on the gradient line on the east bank of the Brazos River;

14. N 31° 39' 48" E, a distance of 313.78', to a calculated point on the gradient line on the east bank of the Brazos River;

15. N 32° 10' 07" E, a distance of 255.32', to a calculated point on the gradient line on the east bank of the Brazos River;

16. N 31° 18' 16" E, a distance of 191.82', to a calculated point in the gradient line on the east bank of the Brazos River;

17. N 35° 34' 31" E, a distance of 162.53', to a calculated point in the gradient line on the east bank of the Brazos River;

18. N 30° 12' 37" E, a distance of 237.55', to a calculated point in the gradient line on the east bank of the Brazos River;

19. N 25° 14' 41" E, a distance of 270.13', to a calculated point in the gradient line on the east bank of the Brazos River;

20. N 18° 35' 12" E, a distance of 297.85', to the POINT OF BEGINNING containing 17.067 acres of land.

7

Attachment C

Marshall Criteria

a. This application meets the administrative code requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 TAC Ch. 281, 295, and 297.

b. The specific proposed use of water in this amendment application is for agricultural crop irrigation. Beneficial use is defined in TWC §11.002 #4 as, "...use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose and shall include conserved water (TWC§11.002 #4)."

For agricultural crop irrigation, the submitted application meets the following criteria outlined in TWC Section 11 as beneficial use: TWC §11.023 #2 clearly identifies agricultural use as a purpose for which water may be, "appropriated, stored or diverted," if the water has not been set aside, or needed to meet freshwater and downstream instream flow needs (TWC §11.023 #2). Agricultural use is defined in TWC §11.002 #12 (A) as, "cultivating the soil to produce crops for human food, animal feed..." which is the applicant's proposed purposes (TWC §11.002 #12 A).

c. No detrimental effects are anticipated to public welfare, including the well-being of humans and the environment, as a result of the proposed amendment.

d. No effects are anticipated as a result of the proposed amendment on groundwater or groundwater recharge.

e. River Haven 2, LLC is located within the Region G Planning Group (Brazos). The proposed amendment addresses a water supply need that is consistent with state and regional water plan management strategies pertaining to irrigation.

Conservation practices will be implemented to reduce evaporation and eliminate runoff during times when the irrigation systems are run. The irrigation systems will be operated in the early morning or late evening hours when the temperature is lower to reduce evaporation. Irrigation will be closely monitored on site and the systems will be shut down when or before the soil reaches its water holding capacity. This conservation practice prevents over-watering of the field and eliminates wasteful runoff.

Brush/weed control is also practiced aiding in water conservation. Weeds and invasive species are killed or removed to reduce unwanted water consumption, thus leaving more irrigation water in the soil to be utilized by the production crop as intended.

Land leveling is also utilized on cultivated land to increase water infiltration into the soil and eliminate water runoff when irrigating.

*Conservation/management strategies (BMPs) can be located in the 2021 Brazos G Regional Water Plan Volume II-Irrigation Water Conservation Section-pgs. 2-24 & 12-25.

f. A Water Conservation is attached (Attachment D). A Drought Contingency Plan is not required with this application.

g. The proposed amendment adds new diversion reaches, increases the irrigable acreage for the total water allotted in the permit. No additional allocations of state water or diversion rate are being requested. As a result of the proposed amendment, no impact on water right holders or the environment is anticipated.



Texas Commission on Environmental Quality

Water Availability Division

MC-160, P.O. Box 13087 Austin, Texas 78711-3087

Telephone (512) 239-4691, FAX (512) 239-2214

System Inventory and Water Conservation Plan for Individually-Operated Irrigation Systems

This form is provided to assist entities in developing a water conservation plan for individually-operated irrigation systems. If you need assistance in completing this form or in developing your plan, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4691.

Additional resources such as best management practices (BMPs) are available on the Texas Water Development Board's website <http://www.twdb.texas.gov/conservation/BMPs/index.asp>. The practices are broken out into sectors such as Agriculture, Commercial and Institutional, Industrial, Municipal and Wholesale. BMPs are voluntary measures that water users use to develop the required components of Title 30, Texas Administrative Code, Chapter 288. BMPs can also be implemented in addition to the rule requirements to achieve water conservation goals.

Contact Information

Name: River Haven 2, LLC

Address: 701 S. 11th Street, Richmond, TX 77469

Telephone Number: (713) 577-4801 Fax: ()

Form Completed By: Richard George

Title: Environmental Consultant

Signature: *Barbara Jill Patterson* Date: 2/2/2022
for River Haven 2, LLC

A water conservation plan for agriculture use (individual irrigation user) must include the following requirements (as detailed in 30 TAC Section 288.4). If the plan does not provide information for each requirement, you must include in the plan an explanation of why the requirement is not applicable.

I. BACKGROUND DATA

A. Water Use

- Annual diversion appropriated or requested (in acre-feet): 75
- In the table below, list the amount of water (in acre-feet) that is or will be diverted monthly for irrigation during the year.

Actual totals may vary monthly depending on weather conditions (i.e. heat, precipitation, wind, etc... not to exceed 75 acre-feet annually.

January	February	March	April
<u>5</u>	<u>5</u>	<u>6</u>	<u>6</u>
May	June	July	August
<u>8</u>	<u>8</u>	<u>8</u>	<u>8</u>
September	October	November	December
<u>6</u>	<u>5</u>	<u>5</u>	<u>5</u>
Total All Months			<u>75</u>

- In the table below, list the type of crop(s), growing season, and acres irrigated per year.

<u>Type of crop</u>	<u>Growing Season (Months)</u>	<u>Acres irrigated/year</u>
<u>Common Coastal</u>	<u>April-September</u>	<u>75</u>
<u>Rye</u>	<u>March-August</u>	<u>75 (same acres as above)</u>
<u>Native</u>	<u>September-March</u>	<u>39.506</u>
Total acres irrigated		<u>124.506</u>

- Are crops rotated seasonally or annually? Yes No

If yes, please describe: Improved pastures are planted in seasonal grasses with coastal as the summer grass and rye as the winter grass.

- Describe soil type (including permeability characteristics, if applicable).

Dominant soils are gravelly loams and sandy loams.

B. Irrigation system information

- Describe the existing irrigation method or system and associated equipment including pumps, flow rates, plans, and/or sketches of system the layout. Include the rate (in gallons per minute or cubic feet per second) that water is diverted from the source of supply. If this WCP is submitted as part of a water right application, verify that the diversion volumes and rates are consistent with those in the application.

A reel gun is planned for use on the acreage outlined in this plan. Water will be conveyed from the river to the reel gun with a portable pump via a sealed pipeline.

2. Describe the device(s) and/or method(s) used to measure and account for the amount of water diverted from the supply source, and verify the accuracy is within plus or minus 5%.

A flowmeter will be installed on any diversion pipes with +/- accuracy ratings of 3-5%.

3. Provide specific, quantified 5-year and 10-year targets for water savings including, where appropriate, quantitative goals for irrigation water use efficiency and a pollution abatement and prevention plan below in 3(a) and 3(b). Water savings may be represented in acre-feet or in water use efficiency. If you are not planning to change your irrigation system in the next five or ten years, then you may use your existing efficiencies or savings as your 5-year and /or 10-year goals. Please provide an explanation in the space provided below if you plan to use your existing efficiencies or savings.

The proposed reel gun irrigation system is estimated to have an efficiency rating of 70%.

Quantified 5-year and 10-year targets for water savings:

- a. 5-year goal:
Savings in acre-feet or system efficiency as a percentage 70 %
- b. 10-year goal:
Savings in acre-feet or system efficiency as a percentage 70 %

(Examples of Typical Efficiencies for Various Types of Irrigation Systems - Surface: 50-80%; Sprinkler: 70-85%; LEPA: 80-90%; Micro-irrigation: 85-95%)

4. If there is an existing irrigation system, have any system evaluations been performed on the efficiency of the system?

Yes No

If yes, please provide the date of the evaluation, evaluator's name and the results of the evaluation:

C. Conservation practices

1. Describe any water conserving irrigation equipment, application system or method in the irrigation system (e.g., surge irrigation, low pressure sprinkler, drip irrigation, nonleaking pipe).

Water will be conveyed from the portable pump to the reel gun via a sealed pipeline ensuring no water will be lost in transport from the source to the irrigation equipment.

2. Describe any methods that will be used for water loss control and leak detection and repair.

Irrigation equipment will be routinely maintained and repaired as needed to maintain maximum operating efficiency. The systems will be closely monitored during operation and any leaks found during inspections will be promptly repaired to avoid water losses and increase conservation.

3. Describe any water-saving scheduling or practices to be used in the application of water (e.g., irrigation only in early morning, late evening or night hours and/or during lower temperatures and winds) and methods to measure the amount of water applied (e.g. soil-moisture monitoring).

The irrigation system will be run during optimal weather conditions such as low wind, early morning, or late evening to avoid high losses due to wind and evaporation.

4. Describe any water-saving land improvements or plans to be incorporated into the irrigation practices for retaining or reducing runoff and increasing infiltration of rain and irrigation water (e.g., land leveling, conservation tillage, furrow diking, weed control, terracing, etc.).

Weed control practices are implemented throughout the year to rid out weeds and unwanted/invasive plants. Land leveling & terracing are also practiced where applicable to eliminate runoff from steep slopes and increase the infiltration rate of the water into the soil.

5. Describe any methods for recovery and reuse of tail water runoff.

The irrigation system will be closely monitored during operation and fields will not be watered over their water holding capacity. Irrigation equipment will be shut off before any tail water runoff occurs.

6. Describe any other water conservation practices, methods, or techniques for preventing waste and achieving conservation.

All irrigation equipment will be maintained to operate at the highest level of efficiency and will be monitored during operation to prevent any water waste and achieve maximum water conservation.

II. WATER CONSERVATION PLANS SUBMITTED WITH A WATER RIGHT APPLICATION FOR NEW OR ADDITIONAL STATE WATER

Water Conservation Plans submitted with a water right application for New or Additional State Water must include data and information which:

1. support the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan;
2. evaluates conservation as an alternative to the proposed appropriation; and
3. evaluates any other feasible alternative to new water development including, but not limited to, waste prevention, recycling and reuse, water transfer and marketing, regionalization, and optimum water management practices and procedures.

Additionally, it shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

Attachment E

Note: All photos in Attachment E were taken on the bank directly adjacent to the upstream and downstream diversion limit locations (1 photo facing upstream and 1 photo facing downstream.) All photos correspond with the upstream and downstream limits as noted in the Site Map (Attachment A – limits marked as Red dots.)

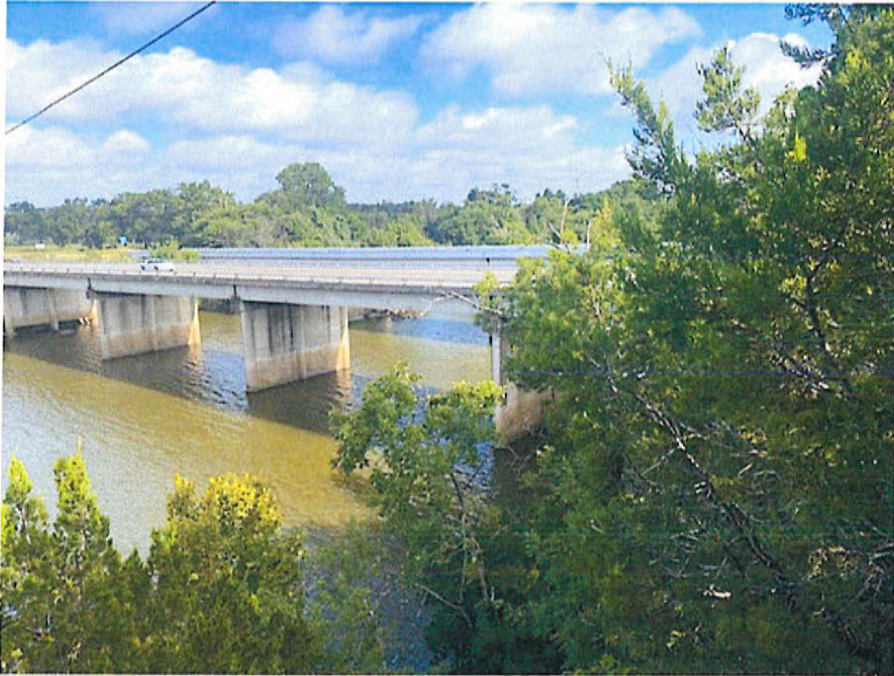


Photo 1: Upstream Limit A Looking Upstream



Photo 2: Upstream Limit A Looking Downstream

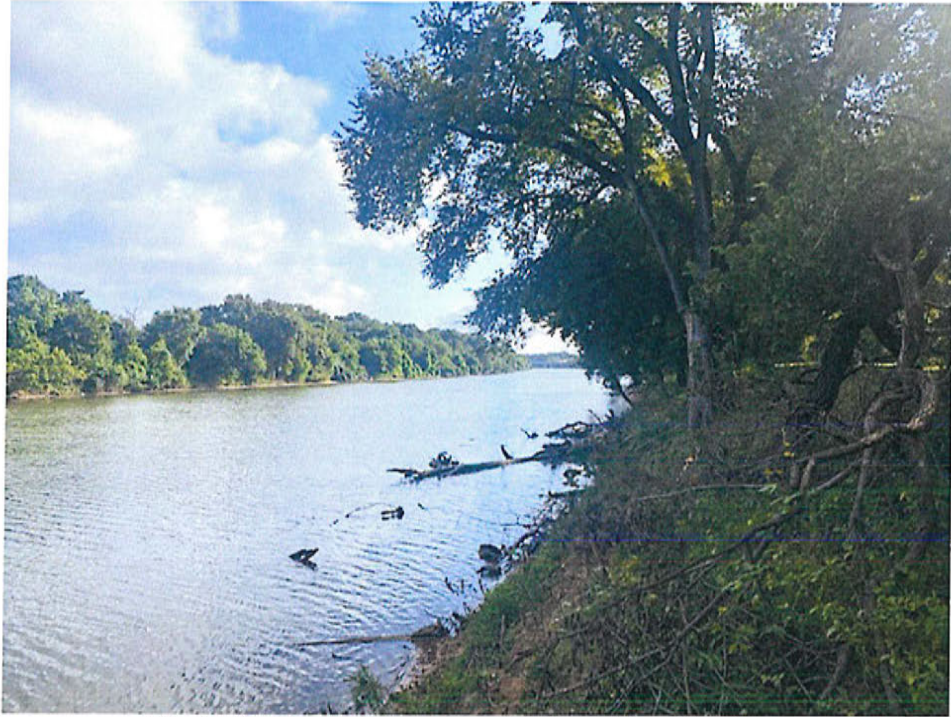


Photo 3: Downstream Limit A' Looking Upstream



Photo 4: Downstream Limit A' Looking Downstream