

NEW BUSINESS

ITEM #1

RESOLUTION NO. 2022-R-007

RESOLUTION APPROVING THE TERMS OF A CERTAIN AGREEMENT FOR A MONITORED TRIAL PROGRAM FOR RECLAIMED WATER SERVICE AND AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF BLANCO TO ENTER INTO SUCH AGREEMENT

WHEREAS, the City of Blanco (the "City") owns, operates, and maintains facilities for processing and distributing water and wastewater, and wishes to test the possible use and distribution of reclaimed water for non-potable uses, as allowed and permitted by Texas law;

WHEREAS, reclaimed water service is a priority interest of the City, and the City is seeking authorization from the Texas Commission on Environmental Quality ("TCEQ") to provide reclaimed water under Authorization for Reclaimed Water No. R10549-002 ("TCEQ Authorization");

WHEREAS, Evon and Ricky Harbison, individually and by and through a related management trust, are the owners of that certain tract of real property, generally located at 399 Waters Edge, Blanco, TX 78606 ("Harbison Ranch"), which property is used primarily for residential and agricultural purposes;

WHEREAS, the City's existing wastewater facility operates on real property owned by the City which lies adjacent to the Harbison Ranch;

WHEREAS, recognizing the adjacent and convenient location of their respective properties, and the shared, mutual interest in making use of reclaimed water available for non-potable uses, the City and the Harbisons have determined to establish a monitored trial ("Trial Program") under which the City will make available the reclaimed water stored in the City's treated effluent ponds, in accordance with the terms contained herein;

WHEREAS, the Trial Program will be used to determine data-driven wastewater supply requirements for Harbison Ranch, which currently includes an irrigation field of approximately 26 acres; and additionally and equally important, the Trial Program shall monitor and test third-party reclaimed water operations by the City and determine related economic, operational and planning effects and other results;

WHEREAS, Chapter 552 of the Texas Local Government Code and Chapter 210 of Title 30 of the Texas Administrative Code authorize the City and the Harbisons, as its customer, to enter into an agreement for reclaimed water service; and

WHEREAS, the City Council finds that the proposed agreement for reclaimed water service is consistent with and supports the public welfare and safety of the City of Blanco and its residents;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BLANCO that:

1. The terms and conditions of that certain Agreement for a Monitored Trial Program for Reclaimed Water Service (the "Agreement"), which is attached hereto and incorporated herein as if set forth verbatim, at Exhibit "A", are approved;
2. The City Administrator is hereby authorized to execute the Agreement, and to take any and all additional actions and steps necessary to fully implement such Agreement.
3. The City Administrator shall provide regular reports of operations under the Agreement, and develop and implement a program to account for and report upon all direct and indirect costs and expenses borne by the City under the Agreement.

RESOLVED AND ADOPTED this ___ day of _____ 2022.

Rachel Lumpee, Mayor

ATTEST:

Laurie Cassidy, City Secretary

AGREEMENT FOR A MONITORED TRIAL PROGRAM FOR RECLAIMED WATER SERVICE

This AGREEMENT FOR A MONITORED TRIAL PROGRAM FOR RECLAIMED WATER SERVICE (“**Agreement**”) is made as of the 30th day of September, 2022 (the “**Effective Date**”) by and between the CITY OF BLANCO, a municipal corporation located in Blanco County, Texas (the “**City**”) and RICKY DALE HARBISON and EVON HOBART HARBISON, JOINTLY AND SEVERALLY, AND AS CO-TRUSTEES OF THE HARBISON MANAGEMENT TRUST u/a DATED DECEMBER 18, 2020 (the “**Harbisons**” or “**Customer**”). City and Customer may sometimes be referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. The City owns, operates, and maintains facilities for processing and distributing water and wastewater, and wishes to test the possible use and distribution of reclaimed water for non-potable uses, as allowed and permitted by Texas law.

B. The City is seeking authorization from the Texas Commission on Environmental Quality (“**TCEQ**”) to provide reclaimed water under Authorization for Reclaimed Water No. R10549-002 (“**TCEQ Authorization**”).

C. The Harbisons are the owners of that certain tract of real property, generally located at 399 Waters Edge, Blanco, TX 78606, as more particularly described in that certain Warranty Deed recorded as Document No. 2020-205356 in the Real Property Records of Blanco County (“**Harbison Ranch**”), which property is used primarily for residential and agricultural purposes.

D. The City’s existing wastewater facility operates on real property owned by the City which lies adjacent to the Harbison Ranch.

E. Recognizing the adjacent and convenient location of their respective properties, and the shared, mutual interest in making use of reclaimed water available for non-potable uses, and delivering said water to the Harbisons, the Parties have determined to establish a monitored trial (“**Trial Program**”) under which the City will make available the reclaimed water stored in the City’s treated effluent ponds, in accordance with the terms contained herein.

F. The Parties understand that the Trial Program will be used to determine data-driven wastewater supply requirements for Harbison Ranch, which currently includes an irrigation field of approximately 26 acres, with the potential to expand. Additionally, and equally important, the Trial Program is designed to test third-party Reclaimed Water operations by the City and to determine related economic and operational effects and other results.

G. The Parties hold various claims and potential disputes, including but not limited to those concerning the Harbisons' rights to draw all reclaimed water and excess sludge from the City's treated effluent holding ponds, the City's right to be paid for such reclaimed water, the Harbisons' obligation to pay for such water, and the Parties' rights and obligations with respect to a road easement and similar rights of access to cross the Harbison Ranch to access the City's wastewater facility (all such various claims and disputes being hereinafter referred to as the "Existing Claims").

H. The Parties acknowledge that the foregoing enumerated issues remain unresolved in full and final terms, and enter into this Trial Program agreement concerning use of reclaimed water, for a fixed term, and preserve and toll their respective claims, rights and disputes on all issues related to the rights and obligations of the Parties without any prejudice whatsoever on their respective claims, including the Existing Claims, any potential future agreement, or informal or formal dispute resolution.

I. Chapter 552 of the Texas Local Government Code and Chapter 210 of Title 30 of the Texas Administrative Code authorize the City and the Harbisons, as its Customer, to enter into this Agreement.

NOW, THEREFORE, KNOW ALL BY THESE PRESENTS, that, for and in consideration of the mutual covenants, promises and agreements contained herein, the receipt and sufficiency of which is hereby agreed to and acknowledged, the City and the Harbisons do hereby covenant and agree as follows:

1. Definitions. All capitalized terms used within the Recitals above are hereby incorporated in this Agreement and shall have the meanings set forth in the Recitals. Any capitalized terms used but not defined shall have the meanings set forth below:

1.1 "**Administrator**" is the City of Blanco City Administrator or that person's authorized designee.

1.2 "**Annual Amount**" is defined in § 2.4 and is comprised of the Customer's total annual Reclaimed Water use estimate, as adjusted; such amount being recognized as an estimate and shall in no event be deemed to be a requirement or obligation of the Customer to draw or use such amount Reclaimed Water. Likewise, the City is not obligated to provide more reclaimed water than it produces in its normal course of business, as adjusted hereunder. In all events, the Annual Amount, as adjusted, shall be subject to any limitations imposed by this Agreement and Applicable Law.

1.3 "**Applicable Law**" is any statute, law, constitution, charter, ordinance (including the Blanco city code and ordinances, rules and regulations), judgment, order, decree, rule, regulation, or similarly binding authority, which in any case, is enacted, adopted, promulgated, issued or enforced that relates to or affects the City, the Customer, or a party's performance of its obligations

under this Agreement. Applicable Law expressly includes the TCEQ Authorization; Chapter 26 of the Texas Water Code; Chapter 245 of the Texas Local Government Code; and Chapter 210 of the Texas Administrative Code, each as they may be amended from time to time.

1.4 **“Claim” or “Claims”** shall mean, with respect solely to the claims and potential disputes that may arise during the term of this Agreement, any and all actual, intended, or potential claims, actions, causes of action, charges, complaints, rights, demands, disputes, suits, counterclaims, cross-claims, third-party claims, contentions, allegations, assertions of wrongdoing, agreements, obligations, duties, debts, covenants, contracts, controversies, demands (for indemnification, contribution, or otherwise), promises, liabilities, defenses, rights of set-off, and/or any other statutory, regulatory, administrative, restrictions on any assets in which the state of Texas or any of its political subdivisions claim or hold an interest, common law or equitable theory and/or cause of action of any kind by either party hereto against the other party, or their respective representatives, agents, or employees.

1.5 **“Customer”** shall mean RICKY DALE HARBISON AND EVON HOBART HARBISON, JOINTLY AND SEVERALLY, AND AS CO-TRUSTEES OF THE HARBISON MANAGEMENT TRUST u/a DATED DECEMBER 18, 2020, its heirs, successors, and assigns.

1.6 **“Customer Service Area”**, shown in Exhibit D, is that portion of the Harbison Ranch where the Reclaimed Water delivered under this Agreement will be used; it being understood that circular areas in Exhibit D that display circular rotation of irrigation heads in no way proposes nor authorizes irrigation outside the property boundaries of the Harbison Ranch.

1.7 **“Customer System”** is the Customer’s entire irrigation system on the Customer's side of the point of delivery, it being understood that Customer has no other access to City’s system (as hereinafter defined). The Customer System shall be operated and maintained by Customer in accordance with the terms of this Agreement and Applicable Law.

1.8 **“Draw”** shall mean each wastewater pumping operation by Customer on the day(s) and for the time frame(s) set by Customer after notification to City and shall also include the actual amount of wastewater pumped by Customer for each of the pumping operation(s).

1.9 **“Fiscal Year”** (or **“FY”**) is Blanco’s fiscal year, which is October 1 through September 30. For example, **“FY 2022”** is October 1, 2021, thru September 30, 2022.

1.10 **“Force Majeure”** shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, pandemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of Reclaimed Water supply and/or the Customer System, and inability on the part of City to deliver Reclaimed Water.

1.11 **“Initial Term”** is the term of this Agreement that shall commence on the Effective Date and continue for a term of two full Fiscal Years, beginning on October 1st, including any partial Fiscal Year from the Effective Date to the beginning of the first Fiscal Year.

1.12 **“Peak Usage”** is the Customer’s monthly maximum rate of flow of Reclaimed Water for any one 24-hour period during each Fiscal Year, measured in gallons per minute at the meter.

1.13 **“Permitted Use”** means the use and application of Reclaimed Water on the real property located within the Harbison Ranch as it exists on the Effective Date, for all permissible uses under any TCEQ Authorization, including, without limitation, the irrigation of agricultural lands for the growing of crops and other non-potable agricultural and residential purposes and other approved uses; provided, such Permitted Use shall not include any sale, resale or other transfer of Reclaimed Water of any kind to any third party.

1.14 **“Reclaimed Water”** is Type I or Type II treated effluent from City’s wastewater treatment plant(s), as set forth in Chapter 210 of Title 30 of the Texas Administrative Code and TCEQ Reclaimed Water Authorization No. R10549-002 or as current or subsequent Authorizations and/or Permits may allow." The City does not intend to create infrastructure to treat and produce Type I wastewater during the Trial Period, but in the event the City does begin producing Type I wastewater the Customer will receive an allotment of Type I wastewater in accordance with the terms and conditions of this Agreement and in place of Type II wastewater.

1.15 **“Renewal Term”** is an optional renewal period exercised upon mutual agreement of the Parties and conditioned on both Parties remaining in full compliance with all terms of this Agreement, where, upon notice not less than ninety (90) days prior to the expiration of the Initial Term, the Parties may elect to extend this Agreement for an additional one-year term after the Initial Term has expired.

1.16 **“Service Area”** means the “City of Blanco Reclaimed Water Service Area” identified in Exhibit A - TCEQ Reclaimed Water Authorization No. R10549-002, as amended from time to time Exhibit A describes the Service Area as of the effective date of this Agreement, but an amendment of the TCEQ Authorization that adjusts the Service Area shall become effective upon issuance by TCEQ, without the need to amend this Agreement.

1.17 **“System”** is the entire City Reclaimed Water transmission and distribution system(s), which extends from its connection to City’s wastewater treatment plant(s) to each customer’s point of delivery and includes all equipment and related facilities owned or used by City to pump, transport, measure, control, store, distribute, deliver or otherwise manage Reclaimed Water within the Service Area. The System does not include the Customer’s System.

1.18 **“Trial Program”** means the operation of the City’s Reclaimed Water System under this Agreement for the period of time beginning on the Effective Date of this Agreement and

continuing until: (i) the expiration of the Initial Term; or (ii) the expiration of the Renewal Term; or (iii) the termination of the Trial Program by either or both Parties, pursuant to **Section 2.4.3**, **Section 8.2** or **Section 13** of this Agreement.

1.19 “Users” means any user that the City of Blanco and TCEQ authorizes as a consumer of the Reclaimed Water.

1.20 “TCEQ” is the Texas Commission on Environmental Quality or its successor in function.

2. Reclaimed Water Delivery

2.1 *Blanco Reclaimed Water Delivery.*

2.1.1 City shall use its best good faith and diligent efforts to begin furnishing Reclaimed Water to Customer no later than 30 days from the Effective Date and shall continue to do so until the expiration of the Initial Term and Renewal Term, if elected, in accordance with the terms and conditions of this Agreement, it being understood the foregoing obligations are subject to events and circumstances outside the control of either of the Parties, including but not limited to TCEQ authorizations or approvals and any event(s) of Force Majeure.

2.1.2 City is responsible for treatment and transportation of the Reclaimed Water, in compliance with Applicable Law, up to the Customer’s point of delivery, as designated on the Effective Date, and the Customer shall have no liability related to or arising out of the Reclaimed Water up to the Customer’s point of delivery.

2.2 *Customer Acceptance of Reclaimed Water.*

2.2.1 Customer shall accept the City’s Reclaimed Water, pursuant to the terms and conditions of this Agreement.

2.2.2 Customer is responsible for the transportation and use of the Reclaimed Water, in compliance with Applicable Law, at and after the point of delivery, which shall be the output flow from the meter located wholly within the Customer’s property, as shown on the diagram attached hereto as **Exhibit D (“Point of Delivery”)**, and City shall have no liability or rights related to or arising out of Reclaimed Water that complies with the requirements of **Section 2.1** at the Customer’s point of delivery.

2.2.3 **Point of Delivery.** The Customer’s point of delivery of Reclaimed Water is an existing 6-in intake pipe located at the City’s WWTP property line, located just north of the Customer’s existing pumping facility on Customer’s property (Exhibit D). The Parties agree to use a meter, approved by the City, sufficient to measure Customer’s expected usage accurately, as defined herein. The City shall own the approved meter if the City purchases and installs its own meter, or the Customer will own the approved meter if the City uses the meter currently located on the

property, and in either event, the meter shall be located on the Customer's land. Customer shall have full control and authority to modify and alter the configuration, connections, and arrangement of its own Customer's System, including, without limitation to, the type of irrigation system used, the location of sprinklers, and other distribution methods of the Reclaimed Water on Customer's property, subject only to and in compliance with the Permitted Uses and the TCEQ Authorization.

2.3 Customer has installed, at Customer's sole cost and expense, all equipment, facilities, and infrastructure needed to draw and pump water from the City's intake pipe at the point of delivery. Throughout the term of this Agreement, Customer will be responsible for maintaining such equipment and infrastructure and for ensuring its compliance with Applicable Law, aside from the City's agreement to apply for a written authorization or waiver from TCEQ, on Customer's behalf, in order for Customer to use the preexisting wastewater irrigation system at Harbison Ranch. The intake pipe requires mechanical suction from the Customer's system to draw Reclaimed Water from the WWTP pond(s) and is not pressurized. The City will install a check valve at the end of the intake pipe to maintain water within the intake pipe. The City cannot guarantee priming water for the Customer's pump operation, provided that the availability of priming water is not attributed to a competing third-party draw, nor shall the City be responsible for Customer's operations after delivery of Reclaimed Water.

2.4 *Customer's Estimated Reclaimed Water Use.*

2.4.1 Prior to the Effective Date, Customer will provide to City its best good faith estimate of the Customer's anticipated Reclaimed Water use for each month of the first full fiscal year (along with data for any months of any partial year between the Effective Date and the beginning of first full fiscal year) of the term of this Agreement. (Exhibit B). The Parties acknowledge that this is a Trial Program and is intended to help ascertain the total amount of Reclaimed Water that might be utilized by and on the Harbison Ranch and in no case shall such estimates be deemed to be binding upon the Customer or the City.

On a month-to-month basis and prior to each Draw(s) in the then-current month, Customer will provide 48 hours' notice to City for the upcoming Draw date(s), flow rate(s), volume(s), and time estimates for Customer pumping operations for each Draw. In turn, after receiving a Customer notice of a scheduled Draw, the City shall provide its best reasonable effort to notify the Customer at least 24 hours before the scheduled Draw if there is good reason to cancel, delay or reschedule the Draw. When each Draw begins Customer will notify City prior to turning on the pump, and of any disturbance of flow rate due to moving sprinkler positions or other equipment, and completion of each Draw. Any such notices shall be delivered in writing by hand delivery, regular or express mail, or read receipt email to the City's Administrator, City Engineer, public works director, or their respective designee(s), and the Customer's designated point of contact, as applicable.

Prior to September 15th of any subsequent year, the Customer will provide to the City the Customer's best good faith estimate of the Customer's Reclaimed Water Use and Peak Usage by month for the next Fiscal Year, in writing, in the form of Exhibit B – Customer's Estimate of

Reclaimed Water Use, taking into account the prior history under this Trial Program and known changes to areas irrigated or crops;

On or before October 15th, following the first full Fiscal Year and each subsequent year of the Term, the City will provide to the Customer, in writing, in the form of Exhibit C: Form for Reporting Customer's Prior Year Use of Reclaimed Water:

- a. the Customer's total monthly and annual Reclaimed Water use (for the prior Fiscal Year);
- b. the Customer's Monthly Peak Usage, consisting of the maximum rate of flow of Reclaimed Water measured in gallons per minute at the point of delivery meter for each month of the Fiscal Year.

2.4.2 Adjustments to the Customer's Estimates. Upon receipt of the Customer's initial estimates, and then on a monthly basis throughout the Term of this Agreement, the current Administrator and City Engineer may make adjustments to the Customer's Estimates that shall be limited only by the estimated or actual (if available) amount of the City's production and the Customer's data-based demand (if available). The Parties shall work together in order to optimize the flow rate for irrigation during the Trial Period, being that identification of the optimal and appropriate flow rate is one of the primary objectives of the Trial Period. Accordingly, the Parties may make and include reasonable adjustments outside of the defined monthly basis, as mutually and reasonably agreed upon by the Parties. The Annual Amount for a given Fiscal Year will be the Customer's estimates as adjusted under this Section.

2.4.3 Termination for Failure to Take Water. If Customer ceases taking Reclaimed Water from the System for at least twelve (12) consecutive months or notifies City that it no longer intends to take Reclaimed Water under the Trial Program for at least twelve (12) consecutive months, then this Agreement shall terminate; provided, however, this Agreement shall not terminate if Customer's cessation of use (i) is the result of any action or event caused solely by the City or otherwise not within Customer's control; (ii) is the result of any service interruption described under § 2.6 below; or (iii) is the result of the death or incapacitation affecting Customer or its operations of Harbison Ranch and Customer has provided written notice to City and such notice states Customer's intent to resume use of the Reclaimed Water within a reasonable timeframe under the circumstances.

2.5 Maximum Flow. City may limit the maximum flow rate of the meter as it deems appropriate for operations of the System, as determined in the reasonable and professional judgment of the City Engineer or his designees, and upon notice and consultation with the Customer.

2.6 Service Interruptions. Should an event of Force Majeure cause disruptions to City's Reclaimed Water service, City will use all reasonable efforts to restore service as soon as possible and limit the duration of any such disruptions. However, City shall have no liability arising out of or related to interruptions in Customer's Reclaimed Water service caused by Force Majeure.

2.7 System Compliance. If City determines that the Reclaimed Water System is not compliant or is near noncompliance with the TCEQ Authorization, then City may cease the delivery of Reclaimed Water to Customer to allow for such measures as determined reasonably necessary by City to remain compliant with the TCEQ Authorization and Applicable Law. City shall have no liability arising out of or related to interruptions in Customer's Reclaimed Water service caused by events outside of City's control.

3. Meter; Responsibilities

3.1 All Reclaimed Water furnished under this Agreement by City shall be measured by one meter, which may be installed by City on Customer's property and shall be maintained by City at City's sole expense or may make use of the existing meter that Customer has installed, provided that the City is able to confirm the meter's utility for this Trial Period. If City elects to use the Customer's preexisting meter, then City shall maintain the meter at City's own expense.

3.2 If Customer's meter is utilized for this Trial Period, City shall be solely responsible for all costs associated with the upkeep of the meter, and ownership of the meter will remain with Customer. Customer reserves the right to repair the meter in the event of unreasonable delay, after notice to the City and the City's failure to promptly and diligently initiate and diligently pursue repair, and subject to such notice and condition, to be reimbursed by the City for reasonable repair costs. If City chooses to not utilize Customer's meter, City shall be solely responsible for all costs associated with the new equipment, appurtenances, installation, and replacement/upgrade costs, and ownership of the meter will be vested in the City. The City shall make its best and diligent efforts to make all repairs without delay but in any event no later than 21 calendar days from the day that the City becomes aware of the required repair. The City shall promptly notify the Customer if a delay in repair is expected, upon the City's discovery of the expected delay.

3.3 If City determines through historical review or through this Trial Program that the meter(s) is not sufficiently sized for the amount of Reclaimed Water that Customer takes, then City may upgrade such meter, at City's sole cost and expense.

3.4 In the event of an unforeseeable mechanical failure, or an unusually high rate of Reclaimed Water usage, or a Reclaimed Water main break of Customer's system, Customer shall notify City as soon as practically possible but in any event within twenty-four (24) hours of Customer's observation of such occurrence of the emergency condition and follow all procedures required by Applicable Law and as requested by City.

4. Point of Delivery, Meter, Testing

4.1 City shall have the right to test for accuracy, service, and calibration of the meter at each Customer point of delivery as City determines is reasonably necessary. The meter shall be tested, at City's expense, at least once each twelve (12) month period, and, in the event of a dispute, upon Customer's request. City shall provide copies of the results of such test and all related information to Customer in a timely manner.

4.2 Notification of any meter testing shall be provided to the Customer at least twenty-four (24) hours prior to such test being conducted and Customer may observe such test, if so desired.

4.3 Any meter(s) used during the Trial Period shall be calibrated at the commencement of its operation and annually thereafter. Both Parties shall receive a copy of all calibration tests and related repairs, if any. All meters will be properly sealed, and the seals shall not be broken unless representatives of both parties have been notified and given a reasonable opportunity to be present.

4.4 If any meter used to determine the flow of Reclaimed Water to Customer is out of service or out of repair, so that the amount of Reclaimed Water metered cannot be ascertained or computed from the meter reading, then the Reclaimed Water delivered during the period that the meter is out of service or out of repair shall be estimated based on reasonable factors, such as extrapolation of past patterns of flow for the meter under similar conditions.

4.5 Each party has the duty to notify the other immediately upon its own actual knowledge that the Reclaimed Water meter is not functioning properly. City shall promptly repair such meter as promptly as is reasonably practicable after learning of the meter's malfunction.

5. Meter Reading

5.1 City will read the point of delivery meter at not less than monthly intervals. City will keep records of all meter readings. Customer shall have access to those records during reasonable business hours. Monthly meter readings for each point of delivery will be included with Customer's monthly statements of usage for Reclaimed Water service.

6. Statements of Use

6.1 Each month the City will provide Customer a detailed statement of the total amount of Reclaimed Water pumped and used by Customer (the Draws).

6.2 If Customer disputes or questions the accuracy of any statement and is unable to resolve the difference informally, Customer shall notify the Administrator in writing, and the Parties will make good faith efforts to resolve any such disputes or questions.

7. No Charge for Reclaimed Water during the Term

7.1 During the Term of this Trial Program, Customer will not be charged for Customer's use of Reclaimed Water under this Agreement.

8. Effective Date; Term

8.1 **Effective Date.** The Effective Date of this Agreement shall be the date set forth in the preamble. Within one month of the Effective Date, City shall make every good faith and best effort to make Reclaimed Water service to Customer at the Customer's point of delivery ("**Service Date**").

8.2 **Term.** The term for this Agreement is the Initial Term, which may be renewed by mutual agreement of the Parties not less than ninety (90) days prior to the expiration of the Initial Term, for a one-year Renewal Term until the earlier of: (i) the expiration of the Initial Term or Renewal Term; (ii) the time at which either or both Parties have terminated this Agreement pursuant to the terms herein; or (iii) the Parties have negotiated a new Agreement. The Initial Term and the Renewal Term may be referred to herein collectively as the "**Term.**"

9. Easements and Rights-of-Way

9.1 City and Customer agree to coordinate the location of the meter, if necessary, and/or other facilities related to the delivery of effluent to the Customer. Additionally, neither party shall prevent reasonable access to the City's wastewater treatment facilities, the meter and/or other related facilities that involve the City's wastewater operations or delivery of effluent to the Customer. The Parties shall work to prevent related conflicts in so far as practical. In the event that the need for an additional license, easement or right-of-way is determined reasonably necessary by both Parties, the Parties will work in good faith to establish such requirement.

9.2 The City's reasonable access to easements and rights-of-way currently in use shall be limited only to accessing the plant for operational purposes by authorized City staff, and to enable ingress and egress for City's sludge removal contractor, its chemical supplier, its port-a-potty maintenance company, and its hay contractor, and any other third party working in reasonable support of the City's wastewater treatment operations.

9.3 Subject only to Customer's gross negligence or intentional act, City shall have sole liability and shall indemnify the Harbisons for any and all personal and property damage sustained by any person using any easement currently in use on behalf of or in connection with said City operations.

9.4 The City shall remain responsible for the continuing maintenance and upkeep of the easements and rights-of-way currently in use.

10. Reclaimed Water Use Requirements

10.1 The use of Reclaimed Water is regulated by the Texas Commission on Environmental Quality (“TCEQ”) under Chapter 26 of the Texas Water Code and 30 Texas Administrative Code Ch. 210, and by Article VII of Chapter 35 of the Blanco City Code, as it may be amended from time to time. Customer and its officers, agents, employees, contractors, and subcontractors shall abide by and comply with Applicable Law. City may in its sole discretion, immediately terminate the delivery of Reclaimed Water upon its good faith belief that a violation of any Applicable Law(s) has occurred. In any such event, the City will provide prompt notice to Customer.

10.2 Title 30, Texas Administrative Code Ch. 210 states: “The producer of reclaimed water will not be liable for misapplication of reclaimed water by users, except as provided in this section,” and lists certain requirements for providers and users. Customer acknowledges that its actions under this Agreement fall within the definition of a user. Customer agrees that Applicable Laws include its obligation to comply with the requirements of Title 30, Texas Administrative Code Ch. 210 Section 210.6 for providers and users, based on the capacity in which the Customer is acting.

11. Resale of Reclaimed Water; Storage

11.1 Customer agrees to use the Reclaimed Water exclusively for agricultural use on its property, and that it will not share or resell the Customer system or any other facilities for Reclaimed Water use with any other private or public entity. The Customer shall not store the Reclaimed Water.

11.2 Customer agrees that it shall not resell or transfer Reclaimed Water provided by City. Customer represents and warrants that all Reclaimed Water furnished to Customer is for its sole and exclusive use solely for agricultural purposes on land described in the exhibits hereto which is currently owned by Customer.

12. Adequate Supply

12.1 City will use its best efforts to provide an adequate supply of Reclaimed Water for Customer in accordance with the terms of this Agreement; provided, however, City is not obligated to supply more wastewater than it produces, nor shall the City guarantee a minimum supply to Customer.

13. Termination

13.1 This Agreement may be terminated without cause by the mutual consent of Customer and City. Such termination shall be effective ninety (90) days from the date of such mutual consent, which shall be in writing, signed by both Parties.

13.2 Except as otherwise allowable herein, this Agreement may also be terminated by either Party for breach and/or failure to perform any of the duties or the obligations as described hereunder or to faithfully keep and perform any of the terms, conditions, and provisions of this Agreement by either Party hereinafter “breach”). Upon such breach, the non-breaching Party may deliver to the breaching Party, written notice of its intention to terminate this Agreement if the breaching Party fails to cure such breach no later than forty-five (45) days from the date of the notice. Such notice shall also include a reasonable description of the breach. The non-breaching Party shall notify the breaching Party in writing upon acceptance of the cure of any breach. If by the forty-fifth (45th) day the breaching Party fails or refuses to cure such breach pursuant to the terms and conditions of this Agreement, then and in such event, the non-breaching Party shall have the right to terminate this Agreement by issuing notice of termination and all rights, powers, and privileges of the breaching Party shall cease and terminate.

13.3 Upon a second breach of a similar nature by a Party and irrespective of any cure of such breach, the non-breaching Party may, after thirty (30) days written notice provided to the breaching Party terminate this Agreement.

13.4 The following is a non-exclusive list of acts or omissions which shall be considered a breach of this Agreement:

- a. Making any connection to the System at any point except as provided in **Section 2.2.3** hereof;
- b. Failure to perform obligations under this Agreement.
- c. Failure to comply with all Applicable Laws.
- d. Failure to allow the City reasonable access to metering or wastewater facilities.

13.5 Any failure by a Party to terminate this Agreement after such breach shall not be determined to be a waiver by City, Customer, or a non-breaching Party of any rights to terminate this Agreement pursuant to the terms herein. No waiver by either Party hereto of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

14. Ownership of the System; No Partnership

14.1 No provision of this Agreement shall be construed to create any Customer ownership in the System, and no provision of this Agreement shall be construed to create any City ownership in Customer’s System.

14.2 This Agreement shall not be construed in any form or manner to establish a partnership, joint venture, or agency, express or implied, nor any employer-employee, borrowed servant or joint enterprise relationship by and among the Parties. Each Party shall be an independent contractor and shall be always responsible for directing its employees or representatives in the course of their duties.

15. Third Party Beneficiaries; No Assignment

15.1 This Agreement shall inure only to the benefit of the Parties hereto and any person or entity not a Party to this Agreement shall not, in any form or manner, be considered a third-party beneficiary of this Agreement. Each Party to this Agreement is solely responsible to fulfill its own contract obligations or commitments; and neither Party may assign its rights, duties, or obligations hereunder without the mutual consent of the Parties in writing.

16. Liability

16.1 Each Party shall be solely responsible for any and all Claims, damages, deaths, losses, injury, fines, penalties, suits and liability of every kind, including environmental liability (the "Liabilities"), arising from the Party's use, distribution or discharge of the Reclaimed Water on its respective side of the point of delivery, regardless whether such use is intended or accidental, or authorized by this Agreement or Applicable Laws. Each Party shall be solely responsible for all Claims, damages, deaths, losses, injury, fines, penalties, suits, and liability of every kind arising from or relating to the design, installation, construction, connection, maintenance, operation, and modification of its own system.

17. Force Majeure

17.1 If by any reason of force majeure either Party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Agreement, then if such Parties shall give notice and full particulars of such force majeure in writing to the other Party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such Party shall endeavor to remove or overcome such inability with all reasonable dispatch.

18. Notices; Emergency Contacts

18.1 Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either Party to the other Party must be in writing to:

City of Blanco: City Administrator
 City of Blanco
 P.O. Box 750
 300 Pecan St.
 Blanco, TX 78606

Customer: THE HARBISON MANAGEMENT TRUST u/a DATED DECEMBER
18, 2020 & RICKY AND EVON HARBISON
PO Box 989
Blanco, TX 78606

The Parties hereto shall indicate in writing any change that may occur in such respective addresses from time to time.

18.2 The City and Customer shall designate primary and alternate contacts, by individual names with related contact information, as their respective emergency contacts, solely for operational emergencies arising under this Agreement. Such designations shall be made by separate writing at the time of execution of this Agreement. City and Customer shall promptly notify each other in the event of change of these emergency contacts.

19. Inspection and Audit

19.1 Upon reasonable prior notice by City, any duly authorized employee, agent or representative of City bearing proper credentials and identification shall have access to any premises located within Customer's service area or served by Customer, as may be necessary for the purpose of inspections and observation, measurements, sampling and testing and/or auditing relating to the delivery of the effluent to the Customer but only in accordance with the provisions of this Agreement, and as may be required by Applicable Law.

19.2 Complete records and accounts of usage shall be maintained by each Party for a period of five (5) years after their creation. Each Party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule, or regulation, make said records and accounts available to federal and/or state auditors.

20. Licenses, Permits and Fees

20.1 Except as otherwise described in this Agreement, Customer agrees to obtain and pay for all licenses, permits, certificates, inspections, and all governmental approvals as required by Applicable Law or the TCEQ Authorization for Customer's System and City agrees to obtain and pay for all licenses, permits, certificates, inspections, and all governmental approvals as required by Applicable Law or the TCEQ Authorization for City's System, including those necessary for the use of Reclaimed Water.

21. Tolling Agreement and Reservation of Rights and Claims by the Parties

21.1 **Treatment of Potential Claims and Actions.** The Parties agree not to file any petition, suit, or other action related to any claim or cause of action that either Party may have against the

other that exists as of the Effective Date (collectively, the “Actions”) throughout the Term of this Agreement and all Time-Based Defenses (as hereinafter defined) related to the Actions shall be reserved, extended, and tolled as provided by this Article 21. Except for the obligation undertaken by this Agreement, the Parties otherwise reserve all their rights, privileges, defenses, and contentions against one another related to such Actions, and they enter into this Agreement without prejudice to or waiver of those rights, privileges, defenses, and contentions.

21.2. Time-Based Defenses. Any and all statutes of limitations, statutes of repose, notice or other time-related defenses or limitations, whether statutory, contractual, or otherwise, and whether at law, in equity, or otherwise (including the doctrines of waiver, laches, acquiescence or estoppel), in any jurisdiction, which are or may be applicable to any Action (collectively, the “Time-Based Defenses”) and that may fix or limit the period within which an Action may be brought, are hereby tolled for the period (herein referred to as the “Tolling Period”) beginning as of the Effective Date of this Agreement and continuing until thirty (30) days after written notice by either Party to the other, provided by either Party any time after the date of expiration or earlier termination of the Term. The Parties each agree that as to the Actions, the passage of time during the Tolling Period will not count against any period of time measured by or embodied in the Time-Based Defenses, and the Parties waive any Time-Based Defenses that raise in any fashion any Time-Based Defenses to any claim, which Time-Based Defenses rely in whole or in part on time that passed during the Tolling Period. The running of any Time-Based Defenses which are or may be applicable to any claims related to any Actions shall re-commence thirty (30) days after written notice by either Party to the other, provided by either Party any time after the expiration or earlier termination of the Term.

21.3 No Admission. Nothing in this Agreement shall constitute an admission by either of the Parties as to the applicability, running, expiration, or non-expiration of any statute of limitation, statute of repose, or similar rule of law or equity prior to the Effective Date of this Agreement. Moreover, nothing in the Agreement shall constitute an admission of any fact, liability or conclusion of law or affect any claim or defense to such claim other than the Time-Based Defenses. No affirmative rights, including but not limited to any vested or similar rights under Applicable Law, are created or extended by this Agreement except to the extent expressly provided herein. The terms and existence of this Agreement, and any performance hereunder, shall in no way prejudice the rights or obligations of the parties with respect to the Existing Claims, and shall not be admissible in evidence for such purpose.

22. [Intentionally Deleted]

23. Miscellaneous

23.1 If any one or more of the provisions in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

23.2 Whenever possible, each provision of this Agreement shall be interpreted to be effective and valid under applicable law, but if any provision of this Agreement, or its application to any person or entity under any circumstance, is invalid or unenforceable to any extent under Applicable Law, and the extent of the invalidity or unenforceability does not cause substantial deviation from the underlying intent of the Agreement, then such provision shall be deemed severed from this Agreement with respect to such person, entity or circumstance, without invalidating the remainder of this Agreement.

23.3 The Parties acknowledge that each Party and, if it so chooses, its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments or exhibits to it. As used in this Agreement, the term "including" means "including without limitation," the words "shall" and "will" are mandatory and the word "may" is permissive, and the term "days" means calendar days, not business days. Wherever required by the context, the singular shall include the plural, and the plural shall include the singular. Each defined term may be used in its singular or plural form whether or not so defined.

23.4 In addition to any other remedy provided by law, this Agreement shall be specifically enforceable by the Parties hereto.

23.5 SHOULD ANY ACTION, WHETHER REAL OR ASSERTED, AT LAW OR IN EQUITY, ARISE OUT OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, VENUE FOR SAID ACTION SHALL BE IN BLANCO COUNTY, TEXAS.

23.6 Modifications or amendments to this Agreement must be in writing and approved by the governing body of the City of Blanco and Customer. Both Parties agree to implement and abide by any changes in this Agreement made necessary by Applicable Law, including any new, amended, or revised state or federal regulation

23.7 Incorporation of Exhibits by Reference. All exhibits attached to this Agreement are incorporated into this Agreement by reference for the purposes set forth herein, as follows:

- Exhibit A TCEQ Reclaimed Water Authorization No. R10549-002 and "Service Area"
- Exhibit B Form for submitting Customer's estimate of Reclaimed Water use under § 2.4
- Exhibit C Form for reporting Customer's Prior Year Use of Reclaimed Water under § 2.4
- Exhibit D Customer's "Service Area" and Point of Delivery

IN TESTIMONY WHEREOF, after proper action by the respective governing bodies of the parties hereto, we have caused these presents to be executed in quadruplicate copies, each of which is considered to be an original and the seals of the respective parties to be hereto affixed on the date above written.

APPROVED FOR EXECUTION BY CITY COUNCIL ON _____, 2022, but made effective September 30, 2022.

By: _____
City Administrator
City of Blanco

DATE: _____

ATTEST: CITY OF BLANCO

By: _____
City Secretary, City of Blanco

APPROVED AS TO FORM AND LEGALITY:

By: _____
City Attorney, City of Blanco

RICKY DALE HARBISON and EVON HOBART HARBISON, JOINTLY AND SEVERALLY,
AND AS CO-TRUSTEES OF THE HARBISON MANAGEMENT TRUST u/a DATED
DECEMBER 18, 2020

By: _____ [SIGNATURE]

Ricky Dale Harbison, Individually and as Trustee

DATE: _____

By: _____ [SIGNATURE]

Evon Hobart Harbison, Individually and as Trustee

DATE: _____

Exhibit "A"

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

February 15, 2022

Mr. Thomas Turk, P.E.
Freeland Turk Engineering Group, LLC
172 Creekside Park Road., Suite 115
Spring Branch, Texas 78070

Re: City of Blanco

Reuse Authorization No. R10549-002, Blanco County
(CN600663728; RN101721504)


Dear Mr. Turk:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the application for the above-referenced authorization. The authorization allows the reuse of Type I and Type II wastewater effluent from the City of Blanco Wastewater Treatment Facility.

Notify this office and the appropriate regional office at least 30 days before reclaimed water is distributed. If the plans and specifications for the project have been approved, the authorization will be activated, and the facility will be issued monthly effluent report (MER) forms for reporting quality and quantity of reclaimed water used. See Requirement V(c) on page 8 of the attached authorization.

Thank you for your cooperation during this review process. If you have any questions, please contact Baltazar Lucero-Ramirez of my staff at baltazar.lucero-ramirez@tceq.texas.gov or (512) 239-4924.

Sincerely,


Matthew Udenenwu, Manager
Wastewater Permitting Section (MC-148)
Water Quality Division

MU/BLR/sh

bcc: Mr. Baltazar Lucero-Ramirez, Wastewater Permitting Section
Water Section Manager, Region 11
Ms. Rosie Garza, Compliance Monitoring (MC-224)

AUTHORIZATION FOR RECLAIMED WATER



Authorization No. R10549-002
*This authorization supersedes and replaces
Authorization No. R10549-002 approved September 17, 2018*

Producer: City of Blanco
P.O. Box 750
Blanco, Texas 78606

Provider: City of Blanco
P.O. Box 750
Blanco, Texas 78606

User: Any user within the service area authorized by the provider

Location: The wastewater treatment facility is located approximately 0.8 mile northeast of the intersection of U.S. Highway 281 and Farm-to-Market Road 1623, at 289 Waters Edge Road in Blanco County, Texas 78606.

Authorization: Type I and Type II reclaimed water from the City of Blanco Wastewater Treatment Facility (TPDES Permit No. WQ0010549002) to be used for residential irrigation, urban irrigation, food crop irrigation, pasture irrigation, fire protection, cooling tower makeup water, toilet/urinal flushing, washdown water, and soil compaction or dust control in construction areas. The service area is as shown in Section XI, Service Area Map.

This authorization contains the conditions that apply for the use of reclaimed water. The approval of reclaimed water use under Chapter 210 does not affect any existing water rights. If applicable, a reclaimed water use authorization in no way affects the need of a producer, provider, or user to obtain a separate water right authorization from the commission. This authorization does not allow irrigation of any area authorized for irrigation under a Texas Land Application Permit.

Issue Date: February 14, 2022

A handwritten signature in black ink, appearing to read "Toby Baker".

Toby Baker, Executive Director

I. General Requirements

- A. No producer or provider may transfer reclaimed water to a user without first notifying the commission.
- B. Reuse of untreated wastewater is prohibited.
- C. Food crops that may be consumed raw by humans must not be spray irrigated. Food crops including orchard crops that will be substantially processed prior to human consumption may be spray irrigated. Other types of irrigation that avoid contact of reclaimed water with edible portions of food crops are acceptable.
- D. There must be no nuisance conditions resulting from the distribution, the use, or storage of reclaimed water.
- E. Reclaimed water must not be used in a way that degrades groundwater quality to a degree adversely affecting its actual or potential uses.
- F. Reclaimed water stored in ponds must be prevented from discharging into waters in the state, except for discharges directly resulting from rainfall events or in accordance with a permit issued by the commission. All other discharges are unauthorized.
- G. If an overflow of a holding pond occurs causing discharge into or adjacent to water in the state, the user or provider, as appropriate, shall report the noncompliance. A written submission of pertinent information must be provided to the TCEQ Region 11 office in Austin and to the TCEQ Enforcement Division (MC-149) in Austin, within five (5) working days after becoming aware of the overflow. The submission must contain:
 1. a description of the noncompliance and its cause;
 2. the potential danger to human health or safety, or the environment;
 3. the period of noncompliance, including exact dates and times;
 4. if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 5. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- H. Unless otherwise provided in this authorization, there must be no off-site discharge, either airborne or surface runoff of reclaimed water from the user's property except to a wastewater treatment collection system or wastewater treatment facility unless the reclaimed water user applies for and obtains a permit from the commission that authorizes discharge of the water.
- I. All reclaimed water piping must be separated from potable water piping when trenched by a distance of at least nine feet for Type II effluent and four feet for Type I. All buried pipe must be manufactured in purple, painted purple, taped with purple metallic tape or bagged in purple. All exposed piping, hose bibs and faucets must be painted purple, designed to prevent connection to a standard water hose, and stenciled with a warning reading "NON-POTABLE WATER."

City of Blanco

Reclaimed Authorization No. R10549-002

- J. The design of any new distribution system that will convey reclaimed water to a user requires the approval of the executive director. Materials must be submitted to the executive director in accordance with the Texas Engineering Practice Act (Article 3271a, Vernon's Annotated Texas Statutes). The plans and specifications for any new distribution system constructed pursuant to this authorization must be approved by the executive director. Failure to secure approval before commencing construction or making a transfer of reclaimed water is a violation of this authorization. Each day of a transfer is a separate violation until approval has been secured.
- K. Nothing in this authorization modifies any requirements in 30 TAC Chapter 290, Public Drinking Water.
- L. A major change from a prior notification for use of reclaimed water must be approved by the executive director before it can be implemented. A major change includes:
1. a change in the boundary of the approved service area, not including the conversion of individual lots within a subdivision to reclaimed water use;
 2. the addition of a new provider;
 3. a major change in the intended use, such as conversion from irrigation of a golf course to residential irrigation; or
 4. a change from either Type I or Type II use to the other.
- M. The reclaimed water producer, provider, and user shall maintain current operation and maintenance plans on the sites over which they have operational control. The operation and maintenance plan must contain the following, as a minimum:
1. a copy of the signed contract between the user and provider and a copy of the signed contract between the provider and the producer, as applicable;
 2. a labeling and separation plan for the prevention of cross connections between reclaimed water distribution lines and potable water lines;
 3. the measures that will be implemented to prevent unauthorized access to reclaimed water facilities (e.g., secured valves);
 4. procedures for monitoring reclaimed water;
 5. a plan for how reclaimed water use will be scheduled to minimize the risk of inadvertent human exposure;
 6. schedules for routine maintenance;
 7. a plan for worker training and safety; and
 8. contingency plan for system failure or upsets.
- N. One of the following requirements must be met by the user or provider, for any area where reclaimed water is stored or where there are hose bibs or faucets:

City of Blanco
Reclaimed Authorization No. R10549-002

1. Signs having a minimum size of eight inches by eight inches must be posted at all storage areas and on all hose bibs and faucets reading, in both English and Spanish, "Reclaimed Water, Do Not Drink" or similar warning.
 2. The area must be secured to prevent access by the public.
- O. Where a reclaimed water line parallels a sewer line, the reclaimed water line must be constructed in accordance with subsection (p) or (q) of this section. The horizontal separation distance must be three feet (outside to outside) with the reclaimed water line at the level of or above the sewer line. Reclaimed water lines that parallel sewer lines may be placed in the same benched trench. Where a reclaimed water line crosses a sewer line, the requirement of 30 TAC §290.44(e)(4)(B), Water Line Installation—crossing lines, must be followed with the reclaimed water line substituted for the water line.
- P. Reclaimed water pipes must meet the following requirements:
1. Lines that transport reclaimed water under pressure must be sized according to acceptable engineering practices for the needs of the reclaimed water users.
 2. Reclaimed water force mains must have an expected life of at least as long as that of the associated lift station and must be suitable for the reclaimed water being pumped and operating pressure to which it will be subjected.
 3. Pipes must be identified in the technical specifications with appropriate American Society for Testing and Materials, American National Standard Institute, or American Water Works Association standard numbers for both quality control (dimensions, tolerance, and installation such as bedding or backfill).
 4. Pipes and fittings must have a minimum working pressure rating of 150 pounds per square inch.
 5. Final plans and specifications must describe required pressure testing for all installed reclaimed water force mains.
 6. Minimum test pressure must be 1.5 times the maximum design pressure. Allowable leakage rates must be determined as described in 30 TAC §217.97, Pressure Sewer Systems.
 7. Gravity flow reclaimed water lines must meet the requirements of 30 TAC Chapter 217, Subchapter C, Conventional Collection Systems. The provider shall prevent high velocity scouring and maintain adequate fluid velocity to prevent the deposition of solids in the lines.
- Q. All exposed piping and piping within a building must be either purple pipe or painted purple. All exposed piping should be stenciled in white with a warning reading "NON-POTABLE WATER. All exposed or buried reclaimed water piping constructed at a wastewater treatment facility is exempt from the color-coding requirement of this section.

- R. When applicable, in accordance with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems, the design of the distribution systems that will convey reclaimed water to a user must be submitted to the executive director and must receive an approval before the distribution system may be constructed. The design of the distribution systems must meet the criteria of 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems. When a municipality is the plan review authority for certain sewer systems that transport primarily domestic waste, in lieu of the commission, design submittal will not be subject to submittal to the commission and instead must be approved by the municipality.
- S. All ground level and elevated storage tanks must be designed, installed, and constructed in accordance with current AWWA standards with reference to materials to be used and construction practices to be followed, except for health-based standards strictly related to potable water storage and contact practices, where appropriately less restrictive standards may be applied.

II. Storage Requirements for Reclaimed Water

- A. Storage facilities for retaining reclaimed water prior to use must not be located within a floodway.
- B. Storage ponds must be hydraulically separated from waters in the state.
- C. Any holding pond designed to contain Type I effluent or Type II effluent that is located within a DRASTIC Pollution Potential Index Zone of less than 110, shall conform to the following requirements:
 - 1. Ponds with an earthen liner must meet the following requirements
 - a. A permeability of less than 1×10^{-4} cm/sec;
 - b. The ponds must be designed and constructed to prevent groundwater contamination;
 - c. Soils used for pond lining must be free from foreign material such as paper, brush, trees, and large rocks; and
 - d. All soil liners must be of compacted material, at least 24 inches thick, compacted in lifts no greater than 6 inches thick and compacted to 95% of Standard Proctor Density;
 - e. Soil liners must meet the following particle size gradation and Atterberg limits:
 - i. 30% or more passing a number 200 mesh sieve; and
 - ii. a liquid limit of 30% or greater; and
 - iii. a plasticity index of 15 or greater;
 - f. In situ liners at least 24 inches thick meeting a permeability less than or equal to 1×10^{-4} cm/sec are acceptable alternatives; In-situ clay soils meeting the soils liner requirements must be excavated and re-compacted a minimum of 6 inches below planned grade to assure a uniformly compacted finished surface.

All earthen liners located in areas overlying the recharge zones of major or minor aquifers, as defined by the Texas Water Development Board, shall be at least 36 inches thick meeting permeability less than or equal to 1×10^{-7} cm/sec.

- D. Synthetic membrane linings must have a minimum thickness of 40 mils and have a leak detection system;
- E. Certification by a Texas licensed professional engineer must be furnished stating that the pond liner meets the appropriate criteria prior to use of the facilities;
- F. Soil embankment walls must have a top width of at least five feet. The interior and exterior slopes of soil embankment walls must be no steeper than one foot vertical to three feet horizontal unless alternate methods of slope stabilization are used. All soil embankment walls must be protected by a vegetative cover or other stabilizing material to prevent erosion. Erosion stops and water seals must be installed on all pipe penetrating the embankments; and
- G. An alternative method of pond lining that provides equivalent or better water quality protection than provided under this section may be utilized with the prior approval of the executive director; and
- H. Reclaimed water may be stored in leak-proof, fabricated tanks;
- I. Subsequent holding ponds utilized for the receipt and storage of reclaimed water of a quality that could cause or causes a violation of a surface water quality standard or impairment of groundwater for its actual or intended use will be also subject to the storage requirements of this section.

III. Specific Uses and Quality Standards for Reclaimed Water

- A. Numerical parameter limits pertaining to specific reclaimed water use categories are contained in this section. These limits apply to reclaimed water before discharge to initial holding ponds or a reclaimed water distribution system.
- B. The reclaimed water producer shall establish that the reclaimed water meets the quality limits at the sample point for the intended use in accordance with the monitoring requirements identified in Section IV, Sampling and Analysis.
- C. Types and quality standards for reclaimed water.
 - 1. **Type I Reclaimed Water Use.** The use of Type I reclaimed water is for situations where the public may come in contact with the reclaimed water. The uses allowed by this authorization are:

City of Blanco
 Reclaimed Authorization No. R10549-002

- a. Irrigation: residential, public parks, school yards, athletic fields, golf courses with unrestricted public access, pastures land for milking animals, and food crops where the applied reclaimed water may have direct contact with the edible part of the crop.
 - b. Fire protection.
 - c. Toilet or urinal flush water.
2. The following conditions apply to Type I use of reclaimed water. At a minimum, the reclaimed water producer shall transfer only reclaimed water of the following quality as described for Type I reclaimed water use. Type I reclaimed water on a 30-day average must have a quality of no more than:

Table 1. Type I Quality Requirements

Parameter	Limit	Limit Type
Turbidity	3 NTUs	30-day average
CBOD ₅	5 mg/l	30-day average
<i>E. coli</i>	20/100 ml	30-day geometric mean (MPN or CFU)
<i>E. coli</i>	75/100 ml	maximum single grab sample (MPN or CFU)

3. Type II Reclaimed Water Use. The use of Type II reclaimed water is for situations where the public will not be exposed to the reclaimed water. The uses allowed by this authorization are:
- a. Irrigation of animal feed crops other than pasture for milking animals; food crops where the reclaimed water is not likely to have direct contact with the edible part of the crop, or if the food crop undergoes pasteurization prior to distribution for consumption.
 - b. Soil compaction or dust control in construction areas where application procedures minimize aerosol drift to public areas.
 - c. Cooling tower makeup water. Use for cooling towers that produce significant aerosols adjacent to public access areas may have special requirements.
4. The following conditions apply to Type II use of reclaimed water. At a minimum, the reclaimed water producer shall transfer only reclaimed water of the following quality. Type II reclaimed water on a 30-day average must have a quality of no more than:

Table 2. Type II Quality Requirements

Parameter	Limit	Limit Type
CBOD ₅	15 mg/l	30-day average
<i>E. coli</i>	200/100 ml	30-day geometric mean (MPN or CFU)
<i>E. coli</i>	800/100 ml	maximum single grab sample (MPN or CFU)

D. Test Procedures

1. Test procedures for the analysis of pollutants must comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests, and calculations must accurately represent the reclaimed water.
2. All laboratory tests submitted to demonstrate compliance with this authorization must meet the requirements of 30 TAC Chapter 25, *Environmental Testing Laboratory Accreditation and Certification*.

IV. Sampling and Analysis

- A. The reclaimed water producer shall sample the reclaimed water prior to distribution to the entity that first received the reclaimed water after it leaves the wastewater treatment facility (provider or user) to assure that the water quality meets the standard for the contracted use.
- B. Analytical methods must be in compliance with 30 TAC Chapter 319, *Monitoring and Reporting*.
- C. The minimum sampling and analysis frequency for Type I reclaimed water is twice per week when reclaimed water is being produced and shall be reported as outfall 800.
- D. The minimum sampling and analysis frequency for Type II reclaimed water is once per week when reclaimed water is being produced and shall be reported as outfall 900.
- E. The monitoring must be done after the final treatment unit.
- F. The records of the monitoring must be kept on a monthly basis and be available at the facility site for inspection by representatives of the Commission for at least five years.

V. Record Keeping and Reporting

- A. The reclaimed water provider and user shall maintain records on site for a period of at least five years.
- B. The producer shall maintain the following records:
 1. copies of notifications made to the commission concerning reclaimed water projects;
 2. as applicable, copies of contracts with each reclaimed water user (this requirement does not include reclaimed water users at residences that have separate distribution lines for potable water);
 3. records of the volume of water delivered to each reclaimed water user per delivery (this requirement does not apply to reclaimed water users at residences that have separate distribution lines for potable water); and
 4. reclaimed water quality analyses.

- C. The reclaimed water provider or producer shall report to the commission on a monthly basis the following information on forms furnished by the executive director. The reports are due by the 20th day of the month following the reporting period.
 - 1. volume of reclaimed water delivered to each user; and
 - 2. quality of reclaimed water delivered to a user or provider reported as a monthly average for each quality criteria, except those listed as "not to exceed" that must be reported as individual analyses.

VI. Transfer of Reclaimed Water

- A. Reclaimed water must be transferred from a provider to a user on a demand only basis. A reclaimed water user may refuse delivery of reclaimed water at any time.
- B. All reclaimed water transferred to a user must be of at least the quality specified in Section IV, *Sampling and Analysis*.
- C. Transfer must be by pipes or tank trucks.
- D. The transfer of reclaimed water must be terminated immediately if a provider becomes aware of the misuse of the reclaimed water by the user, regardless of contract provisions.

VII. Restrictions

- A. This authorization does not convey any property right and does not grant any exclusive privilege.
- B. This authorization does not allow the use of reclaimed water on land that is authorized as a disposal site under either a Texas Pollutant Discharge Elimination System (TPDES) permit or a Texas Land Application Permit (TLAP).

VIII. Responsibilities and Contracts

- A. The producer of reclaimed water is not liable for misapplication of reclaimed water by users, except as provided in this section. Both the reclaimed water provider and user have at least but are not limited to the following responsibilities:
 - 1. The reclaimed water producer shall: transfer reclaimed water of at least the minimum quality required by this authorization at the point of delivery to the user;
 - a. sample and analyze the reclaimed water and report the analyses in accordance with Section IV, *Sampling and Analysis*, and Section V, *Recordkeeping and Reporting*; and
 - b. notify the executive director in writing within five (5) days after obtaining knowledge of reclaimed water use not authorized by the executive director.
 - 2. The reclaimed water provider shall:

City of Blanco

Reclaimed Authorization No. R10549-002

- a. ensure construction of reclaimed water distribution systems in accordance with 30 TAC Chapter 217, Design of Domestic Wastewater Systems, and in accordance with approved plans and specifications;
 - b. transfer reclaimed water of at least the minimum quality required by this authorization at the point of delivery to the user;
 - c. notify the executive director in writing within five (5) days after obtaining knowledge of reclaimed water use not authorized by the executive director; and
 - d. not be found in violation of this authorization for the misuse of the reclaimed water by the user if transfer of such water is shut off promptly upon knowledge of misuse regardless of contract provisions.
3. The reclaimed water user shall:
- a. use the reclaimed water in accordance with this authorization; and
 - b. maintain and provide records as required by Section V, Record Keeping and Reporting.

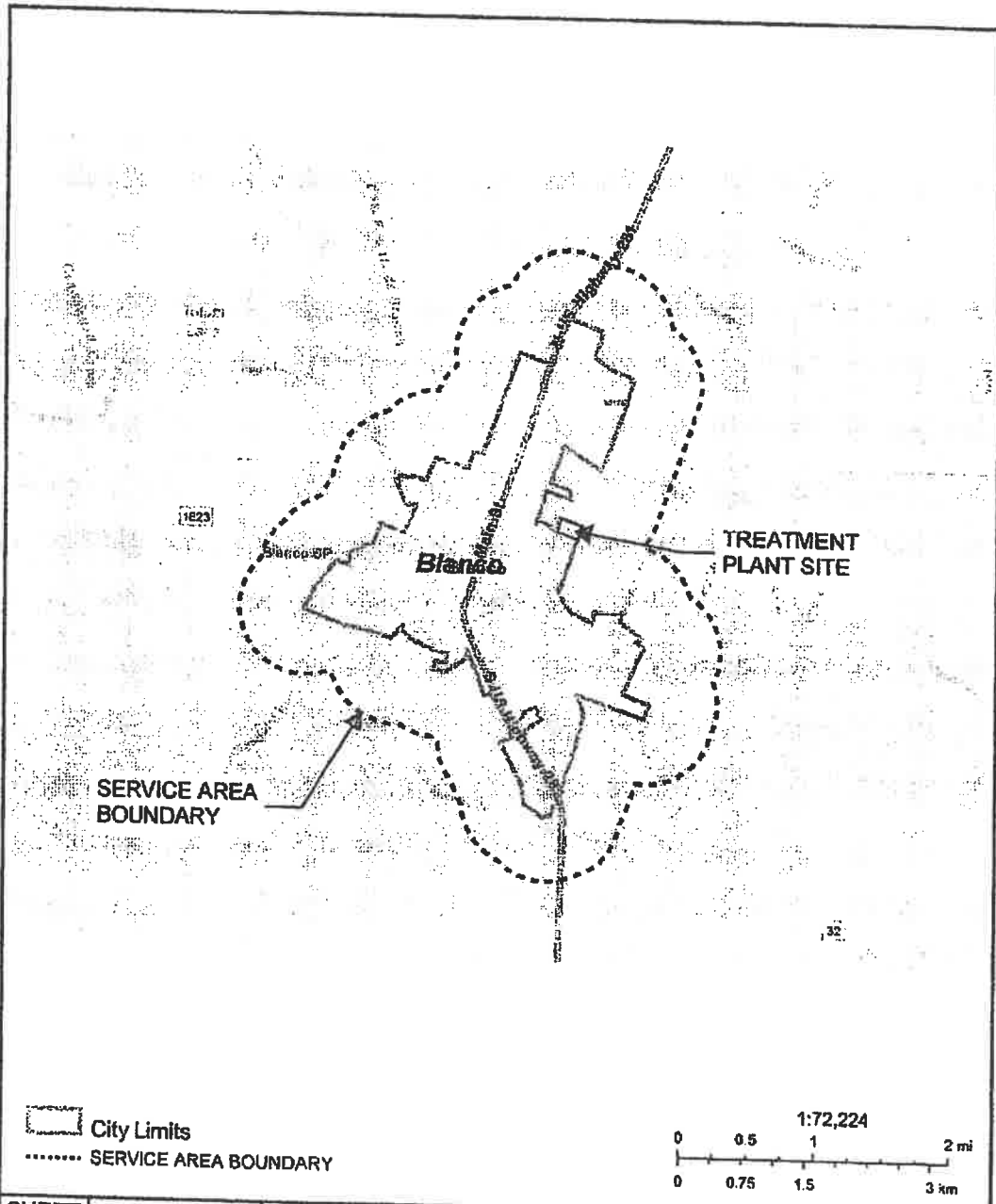
IX. Enforcement

If the producer, provider, or user fail to comply with the terms of this authorization, the executive director may take enforcement action provided by the Texas Water Code §26.019 and §26.136.

X. Standard Provisions

- A. This authorization is granted in accordance with the rules and orders of the commission and the laws of the state of Texas.
- B. Acceptance of this authorization constitutes an acknowledgment and agreement that the producer, provider and user will comply with all the terms, provisions, conditions, limitations and restrictions embodied in this authorization and with the rules and other orders of the commission and the laws of the state of Texas. Agreement is a condition precedent to the granting of this authorization.

XI. Service Area Map



SHEET 1	FILE: Drawing2.dwg
	DRAWN BY: BAM
	DESIGNED BY: BAM
	REVIEWED BY: GFT/T
PROJECT NO: 105-100	

**CITY OF BLANCO
 WWTP SERVICE
 AREA MAP**

THIS DOCUMENT IS
 RELEASED FOR THE
 PURPOSES OF REVIEW ONLY
 BY GARY W. FREELAND, P.E.
 LICENSE No. 181307
 January 27, 2022
 THIS DOCUMENT IS NOT TO
 BE USED FOR
 CONSTRUCTION BIDDING,
 OR PERMITTING PURPOSES

**Freeland & Associates
 ENGINEERING GROUP**
 172 CREEKSIDE PARK RD, STE 115 TOWER FROM F-21347
 SPRING BRANCH, TX 76070 (530) 498-0329

*Data: Jan 27, 2022, 9:57am User: gft_brown
 File: C:\Program Files\Autodesk\AutoCAD 2022\Drawings2.dwg*

****DRAFT****

Exhibit B

Form for Submitting Customers Estimate of Reclaimed Water Use

User: Harbison

Customers Total Annual Reclaimed Water Use Estimate (Annual Amount - Acre Feet): 95AF

Peak Usage (gallons per minute / day): Pond 2 surface elevation not to be drawn past minimum of 1354'. Peak usage is 100,000 gallons per day at peak pumping conditions of no more than 800 gallons per minute.

Estimated Monthly Usage Volumes			
Month	Acre-Feet / Month	MG/Month	1000Gallons/Month
January	5.50 AF	1.83 MG	1,830
February	9.22 AF	3 MG	3,000
March	5.50 AF	1.83 MG	1,830
April	9.22 AF	3 MG	3,000
May	9.22 AF	3 MG	3,000
June	8.44 AF	2.75 MG	2,750
July	9.22 AF	3 MG	3,000
August	9.22 AF	3 MG	3,000
September	5.50 AF	1.83 MG	1,830
October	9.22 AF	3 MG	3,000
November	9.22 AF	3 MG	3,000
December	5.50 AF	1.83 MG	1,830

Approximate Irrigation Area (Acres): 25.6 Acres

Crop Type: Hay

10/25/2021

Exhibit C
Form for Submitting Customers Estimate of Reclaimed Water Use

User: Harbison

Customers Total Annual Reclaimed Water Use Estimate (Annual Amount - Acre Feet):

Peak Usage (gallons per minute / day):

Exhibit C - Harbison Actual Monthly Usage Volumes			
Month	Acre-Feet / Month	MG/Month	1000Gallons/Month
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			

Approximate Irrigation Area (Acres):



Exhibit C-1 - Harbison Irrigation Meter



Month: _____

Year: _____

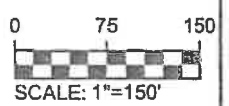
Date	Totalizer	Flow Rate (gpm)	Time ON / OFF
1			/
2			/
3			/
4			/
5			/
6			/
7			/
8			/
9			/
10			/
11			/
12			/
13			/
14			/
15			/
16			/
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22			/
23			/
24			/
25			/
26			/
27			/
28			/
29			/



CITY OF BLANCO

EXHIBIT D

+ Displayed irrigation rotational range is not authorization for irrigation outside property boundary



CITY OF BLANCO
EXHIBIT D-1

NEW BUSINESS

ITEM #2

RESOLUTION NO. 2022-R-008

RESOLUTION APPROVING THE TERMS OF A CERTAIN CONSENT AGREEMENT RELATING TO AN APPEAL OF A VESTED RIGHTS DETERMINATION UNDER CHAPTER 245 OF THE TEXAS LOCAL GOVERNMENT CODE AND AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF BLANCO TO EXECUTE A FINAL AGREEMENT CONSISTENT WITH SUCH TERMS

WHEREAS, the City of Blanco (the "City") and Vapor Genius, LLC, doing business as Texas Hill Country Vape & Smoke ("VG") are parties to a contested and disputed appeal of vested rights claimed by VG arising under Chapter 245 of the Texas Local Government Code;

WHEREAS, notwithstanding their existing contest and dispute, and without any admission of any liability or other rights or obligations, the City and VG have determined to enter into a consent agreement pursuant the City's Uniform Development Code Section 4.13(3), in accordance with the terms and conditions stated in the attached Exhibit "A"; and

WHEREAS, the City Council of the City finds that the proposed consent agreement terms are consistent with and support the public welfare and safety of the City of Blanco and its residents;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Blanco, as follows:

1. The terms and conditions of a proposed consent agreement (the "Terms"), which are attached hereto and incorporated herein as if set forth verbatim, at Exhibit "A", are approved;
2. The City Administrator is hereby authorized to execute a final consent agreement consistent with the Terms, and to take any and all additional actions and steps necessary to fully implement and execute such Agreement.

RESOLVED AND ADOPTED this ___ day of _____ 2022.

Rachel Lumpee, Mayor

ATTEST:

Laurie Cassidy, City Secretary

EXHIBIT "A"

Proposed Consent Agreement Terms Under City of Blanco Uniform Development Code Section 4.13(3)

1. Vapor Genius, LLC doing business as Texas Hill Country Vape & Smoke ("VG") will file with the City of Blanco ("COB"), and COB will accept, an application for a consent agreement, pursuant to COB UDC Section 4.13(3).
2. The consent agreement will contain and be approved by the COB (by the City Admin) and VG subject to the following included terms:
 - a. The pending appeal of determination of vested rights by VG shall be suspended and tabled without prejudice to VG and COB, so long as the consent agreement remains in force and is not revoked. The consent agreement shall be stated as a compromise of disputed claims with no admission by either party. All claims and defenses of VG and the COB, and related deadlines, relating to the appeal shall be suspended and tolled so long as the agreement is in force and has not been revoked.
 - b. The agreement will cover use and operation of a business on the property located at Suite B, 48 Main Street, Blanco, Texas (the "Location").
 - c. The agreement will remain in place so long as the Location or any part thereof is used in operation of a VG retail store. The agreement may be revoked by either Party for substantial non-compliance with its terms, in accordance with other provisions of the agreement.
 - d. The Location or any part thereof may be used in operation of a vape & smoke retail store; provided,
 - i. In accordance with COB Ordinance 2022-O-003, and the consent agreement, the Location will not be used primarily and substantially for the sale of nicotine-based cigarettes, nicotine-based e-cigarettes or tobacco products ("Nicotine Products"), as defined upon the following terms:
 1. VG will deemphasize the marketing of Nicotine Products during the life of the VG retail store at the Location;
 2. VG will implement a marketing and advertising plan (including but not limited to limited floor space placement, limited exterior signage and other limited

- visible exterior advertising), and such that a reasonable person would not view the Location as primarily a Nicotine Products retail store or operation;
3. VG shall not permit lounging, loitering or similar activity at the exterior of the Location for the purpose of consuming Nicotine Products on the premises;
 4. VG shall submit for approval by the City (by the City Admin) an exterior signage and exterior plan, prior to the commencement of the VG retail store operation. The City Admin may approve or disapprove such plan, with any appeal of a denial to be submitted for consideration and approval by the entire City Council within 30 days of any such denial; and
 - ii. No sales financial data or other financial data shall be requested or exchanged between VG and the City for the purpose of determining whether VG is operating in accordance with the provisions of COB Ordinance 2022-O-003.
- e. The COB shall provide water utility service to the property and other general City services generally provided to all citizens or businesses resident in the COB.
 - f. No property shall be dedicated for public purpose under the agreement.
 - g. Upon approval of the agreement by the City (by the City Admin), the COB shall issue a certificate of occupancy to the Location, provided all other applicable legal and regulatory requirements are met.
 - h. The foregoing limitations and conditions on use of the Location shall in no way limit the application and requirement of compliance with other applicable legal or regulatory requirements for operation of the property.
 - i. The operation of a VG retail store at the Location may commence at any time after approval of the agreement and the issuance of a certificate of occupancy.
 - j. COB staff and City attorney shall review the status of and compliance with the agreement at least once, but no more than twice, every

twelve (12) months to determine if there has been good faith compliance with the terms of the consent agreement.

- k. If the City Council finds based on substantial competent evidence that VG or its operator has failed to comply with the terms of this consent agreement, the consent agreement may be revoked or modified by the City Council after public hearing which has been noticed at least fifteen (15) days in advance by publication and online, and for which written notice has been expressly provided to VG and any of its designated representatives.
- l. If this agreement is revoked by action of the COB, VG may reinstitute its appeal of the determination of vested rights, and the City may act thereupon. In such case, VG may reinstitute its appeal by written submission and notice to the COB at any time but not later than thirty (30) days after the relevant revocation; and thereafter, the City Council shall approve or deny such appeal within thirty (30) days of its submission.
- m. The City Administrator shall execute a final agreement that includes and is consistent with the foregoing terms and conditions.