

DROUGHT CONTINGENCY PLAN
FOR
BAKER ROAD MUNICIPAL UTILITY DISTRICT

Section I
Adoption, Declaration of Policy, Purpose,
and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, be it ordered by the Board of Directors of BAKER ROAD MUNICIPAL UTILITY DISTRICT (the "District") that the following regulations and restrictions on the delivery and consumption of water are hereby adopted effective this 5th day of May, 2009.

This Plan includes provisions for the automatic water interconnect between Green Trails Municipal Utility District ("Green Trails") and Mason Creek Utility District ("MCUD") to serve the Green Trails Water Plant (as hereinafter defined) and shall be effective from and after the date of its adoption. That certain Drought Contingency Plan adopted by the District on June 21, 2005, shall be revoked and no longer in force and effect as of the effective date hereof.

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

Section II
Public Involvement

Opportunity for the public to provide input into the preparation of this Plan was provided by the District by means of holding a public meeting, for which proper notice was given, to accept input on this Plan.

Section III
Public Education

The District will periodically provide or make available to the public information about this Plan, including information about the conditions under which each stage of this Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by various methods, as the Board of Directors deems appropriate from time to time, including but not limited to utility bill inserts.

Section IV
**Coordination with Regional Water Planning Groups
and the Texas Commission on Environmental Quality**

The service area of the District is located within the Houston Region H Regional Water Planning Group and the District will provide a copy of this Plan to such regional water planning group within ten (10) days following its adoption. Further, to the extent required by 30 TAC §288.30, the District shall submit this Plan to, or make available for inspection by, the executive director of the Commission (as hereinafter defined) within ninety (90) days of its adoption, or sooner if required by 30 TAC §288.30. The District shall notify the executive director of the Commission within five (5) days of the implementation of any stage of this Plan, other than Stage 1.

**Section V
Authorization**

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

**Section VI
District's Rate Order**

In furtherance of this Plan, the District's Rate Order contains a rate structure designed to discourage excessive water use and otherwise promote water conservation within the District.

**Section VII
Definitions**

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

The term "Aesthetic Water Use" shall mean water use for ornamental, decorative or recreational purposes such as fountains, amenity lakes, reflecting pools, swimming pools, hot tubs, and water gardens.

The term "Average Run Time for the District's Well(s)" shall mean the average of the well run times at all of the District's operational water wells over a 24-hour period.

The term "Commercial and Institutional Water Use" shall mean water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail

establishments, medical facilities, hotels and motels, restaurants, and office buildings.

The term "Commission" shall mean the Texas Commission on Environmental Quality, or its successor.

The term "Conservation" shall mean those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

The term "Customers" shall mean all Retail Water Customers.

The term "District's Operator" shall mean Hays Utility South Corporation or such other qualified Person engaged from time to time by the District as its operator.

The term "Domestic Water Use" shall mean water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

The term "Drought of Record" shall mean the historic period of record for the watershed in which the District is located, in which the lowest flows were known to have occurred based on naturalized stream flow.

The term "Engineer" shall mean R. G. Miller Engineers, Inc. or such other qualified Person engaged from time to time by the District as its engineer.

The term "Even Numbered Address" shall mean street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

The term "Green Trails" shall mean Green Trails Municipal Utility District operating pursuant to the provisions of Chapter 49 and Chapter 54 of the Texas Water Code, as amended.

The term "Green Trails Operator" shall mean Severn Trent Environmental Services, Inc. or such other qualified Person engaged from time to time by Green Trails as its operator.

The term "Green Trails Water Plant" shall mean the water plant facilities jointly owned by the District and Green Trails pursuant to that certain Permanent Water Supply Contract dated May 22, 1995, as amended, by and between the District and Green Trails.

The term "Household" shall mean the residential premises served by the Retail Water Customer's meter.

The term "Industrial Water Use" shall mean the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

The term "Landscape Irrigation Use" shall mean potable water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

The term "MCUD" shall mean Mason Creek Utility District, a municipal utility district operating pursuant to the provisions of Chapter 49 and Chapter 54 of the Texas Water Code, as amended.

The term "Non-essential Water Use" shall mean water uses that are not essential nor required for the protection of public, health, safety, and welfare, including but not limited to (a) Landscape Irrigation Use, except as otherwise provided under this Plan, (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle, (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas, (d) use of water to wash down buildings or structures for purposes other than immediate fire protection, (e) flushing gutters or permitting water to run or accumulate in any gutter or street, (f) Aesthetic Water Use, including, without limitation, use of water to fill, refill, or add to any indoor or outdoor swimming pools or hot tubs and use of water in a fountain, lake or pond for aesthetic or scenic purposes except where necessary to support aquatic life, (g) failure to repair a controllable leak(s) within a reasonable period after having actual knowledge of or having been given notice by the District directing the repair of such leak(s), and (h) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

The term "Odd Numbered Address" shall mean street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

The term "Person" shall include individuals, corporations, partnerships, associations, and all other legal entities.

The term "Rate Order" shall mean the District's Rate Order as adopted and amended by the District's Board of Directors from time to time.

The term "Retail Water Customers" shall mean any Person using water supplied by the District except for Wholesale Water Customers.

Section VIII
Triggering Criteria for Initiation
and Termination of Drought Response Stages

Green Trails has entered into an emergency water supply agreement with MCUD and modified its interconnect with MCUD to provide automatic supplemental water to Green Trails during times of peak demand or Green Trails Water Plant equipment failure. Under said agreement, MCUD will provide up to 500 gallons per minute ("gpm") through the automatic interconnect to supplement Green Trails Water Plant water production facilities. During drought conditions when irrigation flows are such that demand exceeds the Green Trails Water Plant well capacity and the ground storage tank level at the Green Trails Water Plant is drawn down to a predetermined level (approximately 60% of capacity), the system pressure is automatically lowered. This will reduce demand. If the ground storage tank level at the Green Trails Water Plant continues to drop, indicating that system demand still exceeds the Green Trails Water Plant well capacity, the interconnect with MCUD will gradually open in order to maintain a preset lower pressure within the system serving the District and Green Trails. Performance of the system serving the District and Green Trails is recorded on 24-hour charts at the Green Trails Water Plant.

The agreement with MCUD provides that in the event of an emergency such that MCUD's production capacity is impaired due to mechanical failure or other cause, Green Trails may be required to close the interconnect, thus losing this peak flow capacity.

Therefore, this Plan contains two sets of triggering conditions, one for normal operations where flows of up to 500 gpm are available from MCUD and a second when emergency conditions are declared by MCUD and no or reduced flow is available from MCUD.

The District's Operator shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of this Plan as set forth below. Public notification of the initiation or termination of drought response stages shall be by means of either publication in a newspaper of general circulation within the District, direct mail to each Customer, signs posted at the entrances of the District and in the place or places within the District designated for posting notices of public meetings of the District or such other method as the District shall determine to be appropriate under the then existing circumstances.

The triggering criteria described below are based on an analysis performed by the District's Operator and Engineer concerning the vulnerability of the District's water source under Drought of Record conditions.

A. INTERCONNECT WITH MASON CREEK UTILITY DISTRICT IS OPERATIONAL

1. STAGE 1 - MODERATE WATER SHORTAGE CONDITIONS.

(a) Requirements for Initiation - The District will recognize that a moderate water shortage condition exists when either (a) the ground storage tank at the Green Trails Water Plant is drawn down to 40% of capacity or (b) the system operates at a reduced pressure level for 12 or more

hours in a 24 hour period, for three (3) consecutive twenty-four (24) hour periods.

(b) Requirements for Termination - Stage 1 of this Plan may be rescinded when the condition listed as the triggering event has ceased to exist for a period of three (3) consecutive twenty-four (24) hour periods. The District will notify its Customers of the termination of Stage 1 in any of the manners as authorized for the notification of initiation of Stage 1 of this Plan. Upon the termination of Stage 1, District operations shall return to normal.

2. STAGE 2 - SEVERE WATER SHORTAGE CONDITIONS.

(a) Requirements for Initiation - The District will recognize that a severe water shortage condition exists when either (a) the ground storage tank at the Green Trails Water Plant is drawn down to 35% of capacity or (b) the system operates at a reduced pressure level for 16 or more hours in a 24 hour period, for three (3) consecutive twenty-four (24) hour periods.

(b) Requirements for Termination - Stage 2 of this Plan may be rescinded when the condition listed as the triggering event has ceased to exist for a period of three (3) consecutive twenty-four (24) hour periods. The District will notify its Customers of the termination of Stage 2 in any of the same manners as authorized for the notification of initiation of Stage 2 of this Plan. Upon the termination of Stage 2, Stage 1 becomes operative, if the

condition listed as the triggering event exists for Stage 1; otherwise, District operations shall return to normal.

3. STAGE 3 - EMERGENCY WATER SHORTAGE CONDITIONS

(a) Requirements for Initiation - The District will recognize that an emergency water shortage condition exists when either (a) the ground storage tank at the Green Trails Water Plant is drawn down to 30% of capacity or (b) the system operates at a reduced pressure level for 20 or more hours in a 24 hour period, for three (3) consecutive twenty-four (24) hour periods. The District may also recognize, at its discretion, that an emergency water shortage condition exists upon the occurrence of a major water line break, pump failure, well failure, and power failure for an extended period or other water plant or water system failure which causes (i) pressure to drop below 25 pounds per square inch or, (ii) the level in the ground storage tank(s) at the Green Trails Water Plant to drop below thirty percent (30%) of its capacity.

(b) Requirements for Termination - Stage 3 of this Plan may be rescinded when all of the conditions listed as the triggering events have ceased to exist for a period of three (3) consecutive twenty-four (24) hour periods; provided however if the triggering event was attributable to a major water line break, pump failure, well failure, power failure or other water plant or water system failure which caused (i) pressure to drop below 25 pounds per square inch or, (ii) the level in the ground storage tank(s) at the Green Trails Water Plant to drop below

thirty percent (30%) of its capacity, Stage 3 of this Plan shall be rescinded upon the completion of the required facility repairs and/or restoration of power. The District will notify its Customers of the termination of Stage 3 in any of the same manners as authorized for the notification of the initiation of Stage 3. Upon termination of Stage 3, Stage 2 or Stage 1, as applicable, becomes operative if the condition listed as the triggering event exists for either of said stages; otherwise, District operations shall return to normal.

B. INTERCONNECT WITH MASON CREEK UTILITY DISTRICT IS CLOSED

1. STAGE 1 - MODERATE WATER SHORTAGE CONDITIONS.

(a). Requirements for Initiation - The District will recognize that a moderate water shortage condition exists when the Average Run Time for the well(s) at the Green Trails Water Plant is at or above 19 hours for three (3) consecutive twenty-four (24) hour periods.

(b) Requirements for Termination - Stage 1 of this Plan may be rescinded when the condition listed as the triggering event has ceased to exist for a period of three (3) consecutive twenty-four (24) hour periods. The District will notify its Customers of the termination of Stage 1 in any of the manners as authorized for the notification of initiation of Stage 1 of this Plan. Upon the termination of Stage 1, District operations shall return to normal.

2. STAGE 2 - SEVERE WATER SHORTAGE CONDITIONS.

(a) Requirements for Initiation - The District will recognize that a severe water shortage condition exists when the Average Run Time for the well(s) at the Green Trails Water Plant is at or above 20.5 hours for three (3) consecutive twenty-four (24) hour periods.

(b) Requirements for Termination - Stage 2 of this Plan may be rescinded when the condition listed as the triggering event has ceased to exist for a period of three (3) consecutive twenty-four (24) hour periods. The District will notify its Customers of the termination of Stage 2 in any of the same manners as authorized for the notification of initiation of Stage 2 of this Plan. Upon the termination of Stage 2, Stage 1 becomes operative, if the condition listed as the triggering event exists for such stage.

3. STAGE 3 - EMERGENCY WATER SHORTAGE CONDITIONS

(a) Requirements for Initiation - The District will recognize that an emergency water shortage condition exists when the Average Run Time for the well(s) at the Green Trails Water Plant is at or above 22 hours for three (3) consecutive twenty-four (24) hour periods. The District may also recognize, at its discretion, that an emergency water shortage condition exists upon the occurrence of a major water line break, pump failure, well failure, and power failure for an extended period or other water plant or water system failure which causes (i) pressure to drop below 25 pounds per square inch or, (ii) the level in the ground storage tank(s) at the Green

Trails Water Plant to drop below thirty percent (30%) of its capacity.

(b) Requirements for Termination - Stage 3 of this Plan may be rescinded when all of the conditions listed as the triggering events have ceased to exist for a period of three (3) consecutive twenty-four (24) hour periods; provided however if the triggering event was attributable to a major water line break, pump failure, well failure, power failure or other water plant or water system failure which caused (i) pressure to drop below 25 pounds per square inch or, (ii) the level in the ground storage tank(s) at the Green Trails Water Plant to drop below thirty percent (30%) of its capacity, Stage 3 of this Plan shall be rescinded upon the completion of the required facility repairs and/or restoration of power. The District will notify its Customers of the termination of Stage 3 in any of the same manners as authorized for the notification of the initiation of Stage 3. Upon termination of Stage 3, Stage 2 or Stage 1, as applicable, becomes operative if the condition listed as the triggering event exists for either of said stages; otherwise, District operations shall return to normal.

C. ADDITIONAL TRIGGERING EVENTS.

Further, to the extent that at least Stage 1 under either VIII(A)(1) or VIII(B)(1) of this Plan is not otherwise triggered, then the appropriate stage, as determined by the District's Operator, shall be triggered upon the District having received notice from the county in which the District is located, in accordance with Texas Water Code Section 16.055(g)(2)(B), as amended, that a state of disaster in such county has been declared.

Section IX
Drought Response Stages

The District's Operator and/or Green Trails Operator, as applicable, shall, in accordance with the triggering criteria set forth in Section VIII of this Plan above, implement the following actions upon the giving of notice as set forth in Section VIII. The following actions shall apply regardless of whether the applicable stage is triggered under VIII(A), VIII(B) or VIII(C) above

A. STAGE 1 - MODERATE WATER SHORTAGE CONDITIONS.

1. Target. Achieve a voluntary 5% reduction in well run time.

2. Supply Management Measures: The District's Operator and/or Green Trails Operator, as applicable, shall undertake any actions which he deems necessary, including reducing system pressure and/or reducing interconnection with another water system.

3. Voluntary Water Use Restrictions Applicable to Retail Water Customers: Retail Water Customers with an Even Numbered Address are requested to voluntarily limit the irrigation of landscaped and other areas to Sundays and Thursdays, and Retail Water Customers with an Odd Numbered Address are requested to voluntarily limit the irrigation of landscaped and other areas to Saturdays and Wednesdays, and to irrigate said areas only between the hours of 8:00 p.m. on the designated watering day(s) and 4:00 a.m. on the following day(s). Those responsible for watering common areas, such as esplanades and sports fields are requested to voluntarily limit the irrigation of one-half (1/2) of such areas to Sundays and Thursdays and the remaining one-half (1/2) of such areas to Saturdays and

Wednesdays, and to irrigate said areas only between the hours of 8:00 p.m. on the designated watering day(s) and 4:00 a.m. on the following day(s). Retail Water Customers are requested to practice water conservation and to minimize or discontinue Non-essential Water Uses.

B. STAGE 2 - SEVERE WATER SHORTAGE CONDITIONS.

1. Target. Achieve a 6.25% reduction in well run time.

2. Supply Management Measures: The District's Operator and/or Green Trails Operator, as applicable, shall undertake any actions that it deems necessary, including reducing system pressure, interconnection with another water system and/or a pro-rata curtailment of water supply to Customers.

3. Water Use Restrictions Applicable to Retail Water Customers: The following water use restrictions shall apply to all Retail Water Customers and violators shall be subject to the penalties set forth in Section XI of this Plan:
 - (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Mondays and Fridays for Retail Water Customers with an Even Numbered Address, and to Tuesdays and Fridays for Retail Water Customers with an Odd Numbered Address, and to Wednesdays and Sundays for Retail Water Customers responsible for watering common areas such as esplanades and sports fields, and irrigation of all such areas is further limited to between the hours of 8:00 p.m. on the designated watering day(s) and 4:00 a.m. on the following day(s). However, irrigation of landscaped areas is

permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except between the hours of 10:00 a.m. and 4:00 p.m. on the designated watering day(s). Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be granted a variance from this restriction in accordance with Section XII of this Plan if the health, safety, or welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- (c) Use of water to fill, refill, or add to any Aesthetic Water Use is prohibited except between the hours of 10:00 a.m. and 4:00 p.m. on the designated watering day(s).
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- (e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for

construction purposes may be allowed under special permit from the District.

(f) All restaurants are prohibited from serving water to their patrons except when requested.

(g) To the extent not otherwise provided or otherwise in conflict with any of the above, all other Non-essential Water Uses are prohibited.

C. STAGE 3 - EMERGENCY WATER SHORTAGE CONDITIONS.

1. Target. Achieve a 6.25% reduction in well run time.

2. Supply Management Measures: The District's Operator and/or Green Trails Operator, as applicable, shall undertake any actions which he deems necessary, including reducing system pressure, interconnection with another water system and/or implementation of the emergency water allocation provisions of Section X.

3. Water Use Restrictions Applicable to Retail Water Customers: The District Operator shall initiate the emergency water allocation provisions of Section X for each Retail Water Customer. All water use restrictions for Stage 2 shall remain in effect during Stage 3 except as further restricted below. Violators shall be subject to the penalties set forth in Section XI of this Plan:

(a) Irrigation of landscaped areas shall be limited to designated watering days (as set forth in Section IX (B) (3) (a) above) between the hours of 8:00 p.m. on the

designated watering day(s) and 4:00 a.m. on the following day(s) and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.

In furtherance of this restriction, the District reserves the right to lock out all valves at the meter to all common areas such as esplanades and sports fields during the pendency of Stage 3 of this Plan.

- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash or commercial service station is prohibited. Further, such washing may be granted a variance from this restriction in accordance with Section XII of this Plan if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables. Such vehicle washing at commercial car washes and commercial service stations shall be allowed only between the hours of 9:00 a.m. and 2:00 p.m.
- (c) The filling, refilling, or adding of water to any Aesthetic Water Use is prohibited.
- (d) No applications for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

**Section X:
Emergency Water Allocation and Surcharges**

In the event that the triggering criteria specified in Section VIII (A), (B) or (C) of this Plan for Stage 3 have been met, the District's Operator is hereby authorized to allocate water to the District's Retail Water Customers according to the following water allocation plan. A Retail Water Customer may appeal an allocation established hereunder to the District's Board of Directors in the same manner as for an appeal of District charges as set forth in the Rate Order. Unless a different time is designated by the District's Board of Directors, the surcharges described herein shall commence on the first day and shall terminate on the last day of the billing cycle during the calendar month that Stage 3 has been initiated or terminated, as applicable.

1. Single-Family Residential Customers. The allocation to residential water Customers residing in a single-family dwelling shall be 35,000 gallons per month.

Single Family Residential Retail Water Customers shall pay a monthly surcharge of two (2) times the applicable water charge per 1,000 gallons for single-family residences as set forth in the Rate Order for water usage over the above-referenced allocation.

2. Master-Metered Multi-Family Residential Retail Water Customers. The allocation to a Retail Water Customer billed from a master meter which measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) shall be one hundred ten percent (110%) of the monthly average billing for such master meter for the prior twelve (12) months divided by the average number of units occupied during such

twelve (12) month period, all as established by the District's Operator or its designee. If the billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used. Retail Water Customers billed from a master meter under this provision shall pay a monthly surcharge of two (2) times the applicable water charge per 1,000 gallons for master metered residential customers as set forth in the Rate Order for water usage over the above-referenced allocation for each dwelling unit.

3. Nonresidential and Commercial Retail Water Customers. A monthly water usage allocation shall be established by the District's Operator or its designee, for each nonresidential and commercial Retail Water Customers. The non-residential and commercial Retail Water Customer's allocation shall be approximately one hundred ten percent (110%) of the monthly average of such nonresidential or commercial Retail Water Customer's usage for the prior twelve (12) months. If the nonresidential or commercial Retail Water Customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used. Nonresidential and commercial Retail Water Customers shall pay a monthly surcharge of two (2) times the applicable water charge per 1,000 gallons for nonresidential, commercial, parks, common areas and recreational Retail Water Customers as set forth in the Rate Order for water usage over the above-referenced allocation.

Section XI Enforcement and Penalties

1. No Retail Water Customer shall knowingly or intentionally allow the use of water supplied by the District through the Retail Water

Customer's meter for any purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by District's Operator, in accordance with provisions of this Plan.

2. Any Person who violates this Plan during a Stage 3 response period shall be subject to the surcharges set forth in Section X hereof for excessive water use. Further, each day that one or more of the provisions in this Plan is violated shall constitute a separate violation. If three or more violations of the Plan occur at premises to which the District supplies water, the District's Operator shall, upon due notice to the Retail Water Customer at said premises as set forth for termination of service in the Rate Order, be authorized to discontinue water service to the premises where such violations occurred. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, as established by the District's Rate Order, plus all outstanding water and sewer service charges pursuant to the Rate Order and surcharges pursuant to this Plan, and any other costs incurred by the District in discontinuing service. In addition, suitable assurance must be given to the District's Operator that no further violations of this Plan will occur at said premises while any stage of this Plan is in effect. Compliance with this Plan may also be sought through injunctive relief or any other legal or equitable remedies.

3. For the purposes of imposing the surcharges set forth in Section X above, any Person, including a person classified as a Retail Water Customer of the District, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the Person's property shall constitute a rebuttable presumption that the

Person in apparent control of the property committed the violation, but any such Person shall have the right to show that he/she/it did not commit the violation by the presentation of objective evidence to the satisfaction of the Board of Directors of the District. For the purposes of imposing the surcharges set forth in Section X above, parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she/it proves to the satisfaction of the Board of Directors of the District, that he/she/it had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of or prevented the violation.

4. Any appeal of the surcharges and/or termination of service imposed pursuant to this Plan shall be implemented in accordance with the procedure for appeals of District charges as set forth in the Rate Order.

**Section XII
Variances**

The Operator may, in writing, grant a temporary variance for a period not to exceed ten (10) days for a specific existing water use otherwise prohibited under this Plan if it is determined by objective evidence, to the satisfaction of the Operator, that failure to grant such variance would cause an emergency condition adversely affecting the health, safety, sanitation, fire protection or welfare of the public or the Customer requesting such variance and if one or both of the following conditions are met:

- (a) Compliance with this Plan cannot, in the Board of Directors determination, reasonably be accomplished during the duration of the applicable stage for which this Plan is in effect or would violate applicable laws or regulations related to the health, safety or welfare of the public.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Customers requesting a variance from this Plan, including Customers to which a temporary variance has been granted as set forth above, shall file a petition for the variance with the District's Board of Directors at the District's administrative offices within five (5) days after this Plan or a particular drought response stage (as applicable to the variance requested) has been invoked. All petitions for variances shall be reviewed by the District's Board of Directors as set forth below, and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of this Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to why this Plan cannot be technically accomplished or how the specific provision of this Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan, including, if applicable, the specific law or regulation which may be violated by compliance with this Plan.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.

- (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the requirements of this Plan and the compliance date.
- (h) Other pertinent information and other information specifically requested by the District's Board of Directors.

The District's Board of Directors shall consider the petition at the first meeting held following receipt of the petition and shall provide the petitioner with notice of the date, time and place of the meeting and an opportunity to address the Board of Directors at said meeting. The District's Board of Directors may elect, in its sole and absolute discretion, not to impose any penalties for violations of this Plan which occur following the date the petition is filed and before the date a final determination is made by the District's Board of Directors with respect to the granting or denial of the variance.

Variances granted by the District's Board of Directors shall be subject to the following conditions, unless waived or modified by the District:

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances granted shall expire at the earlier of their specified termination date or when this Plan is no longer in effect unless the District's Board of Directors determines, in its sole discretion, to continue a variance under a new or amended Plan; provided, however, if the petitioner has failed to meet requirements specified in the variance, the variance may be immediately revoked by the Board of Directors of the District.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the

variance, unless specifically agreed to by the District's Board of Directors, in its sole discretion.

Section XIII
Severability, Amendment

It is hereby declared to be the intention of the District that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared invalid, unenforceable or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity, unenforceability, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, which shall be enforceable as if the same had been enacted by the District without the incorporation into this Plan of any such invalid, unenforceable or unconstitutional phrase, clause, sentence, paragraph, or section.

The District has and specifically reserves the right to change, alter or amend any provision of this Plan at any time. The District shall renew and update, as appropriate, this Plan as required by Chapter 288, Texas Administrative code, or any successor provision, on an established (5) year schedule, with the first such review to occur on or before May 1, 2014.

Passed and adopted as of the date first set forth herein.

ATTEST:

By: _____

Secretary
Board of Directors



BAKER ROAD MUNICIPAL UTILITY
DISTRICT

By: _____

Vice President,
Board of Directors