

**INTERLOCAL AGREEMENT BY AND BETWEEN
THE CITY OF PLANO, TEXAS AND
NORTH TEXAS MUNICIPAL WATER DISTRICT
FOR RECLAIMED WATER USE AGREEMENT**

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter referred to as "Plano", and **NORTH TEXAS MUNICIPAL WATER DISTRICT**, a political subdivision of the State of Texas hereinafter referred to as "NTMWD", as follows:

W I T N E S S E T H:

WHEREAS, Plano is a political subdivision and NTMWD is a political subdivision of the State of Texas within the meaning of Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "Act"); and

WHEREAS, the Act provides authority for entities such as Plano and NTMWD to enter into interlocal agreements with each other to perform governmental functions and services as set forth in the Act; and

WHEREAS, NTMWD has treated effluent produced by its Rowlett Creek Regional Wastewater Treatment Plant (WWTP) available for Reclaimed Water use subject to Texas Administrative Code Title 30, Chapter 210 Authorization by the Texas Commission on Environmental Quality (TCEQ); and;

WHEREAS, NTMWD wishes to act as the Producer of Reclaimed Water from the Rowlett Creek Regional WWTP for Plano; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, NTMWD agrees to act as the Producer and sell Reclaimed Water to Plano, and Plano agrees to act both as the Provider of Facilities for the transport of the Reclaimed Water and as the Plano (User) of the Reclaimed Water on its designated property and to pay for said Reclaimed Water pursuant to the terms and conditions hereinafter set forth.

**I.
DEFINITION OF TERMS**

The following terms and expressions as used in this Agreement shall have the following meanings:

1.1 **FACILITIES** mean all transportation, distribution, and pumping facilities owned by Plano (User) necessary to convey Reclaimed Water from the NTMWD Point(s) of Delivery to the Plano (User).

1.2 **NTMWD POINT(S) OF DELIVERY** means the location at the Rowlett Creek-West WWTP at which the treated effluent produced by NTMWD passes from NTMWD to Plano (User), as shown on Attachment A.

1.3 PRODUCER shall have the meaning identified in TCEQ's rules for Use of Reclaimed Water, Texas Administrative Code Title 30, Chapter 210, as amended. NTMWD is the Producer of Reclaimed Water pursuant to this Agreement.

1.4 PROVIDER shall have the meaning identified in TCEQ's rules for Use of Reclaimed Water, Texas Administrative Code Title 30, Chapter 210, as amended. Plano (User) is also the Provider of Reclaimed Water pursuant to this Agreement.

1.5 RECLAIMED WATER means the treated effluent produced from the treatment of wastewater at the Rowlett Creek Regional WWTP.

1.6 TCEQ is the Texas Commission on Environmental Quality, or its successor agency.

1.7 TPDES is the Texas Pollutant Discharge Elimination System, which provides wastewater plants limits and terms to be met in a discharge permit.

1.8 PLANO (USER) shall have the meaning identified in TCEQ's rules for Use of Reclaimed Water, Texas Administrative Code Title 30, Chapter 210, as amended. The City of Plano is the User of Reclaimed Water pursuant to this Agreement.

II. FACILITIES CONSTRUCTION AND OPERATION

2.1 Facilities to be Constructed. Plano (User) has constructed, the Facilities necessary to transport and deliver Reclaimed Water from the NTMWD Point(s) of Delivery to Plano (User).

2.2 Delivery. Plano (User) shall operate and maintain the Facilities. It is agreed and understood that the NTMWD Point(s) of Delivery shall include a meter for the measurement of the total gallons of Reclaimed Water produced by NTMWD from the WWTP. Any Point(s) of Delivery designated in future supplemental Reclaimed Water Use agreements between NTMWD and a Plano (User) must include the installation of a separate meter for the measurement of the total gallons used by that Plano (User). All valves and other controls to start, stop, and regulate the flow of Reclaimed Water from the NTMWD Point(s) of Delivery to a User shall belong to and be under the sole control of NTMWD, and if the quality or use of Reclaimed Water is noncompliant with the provisions of Texas Administrative Code Title 30, Chapter 210, as amended, NTMWD has the right to immediately discontinue the flow of Reclaimed Water and shall attempt to notify all Users verbally and in writing within twenty-four (24) hours of becoming aware of such deficiency.

2.3 Authorizations. NTMWD will maintain authorization(s) by TCEQ to provide Reclaimed Water to User(s) pursuant to TCEQ rules and regulations in Texas Administrative Code Title 30, Chapter 210, as amended, a copy of which is attached hereto as Attachment B. Plano (User) agrees to enter into this Reclaimed Water Use

Agreement with NTMWD in compliance with Texas Administrative Code Title 30, Chapter 210, as amended.

2.4 Plano (User) agrees to provide to NTMWD any required drawings, information or exhibits pertaining to their respective Reclaimed Water transmission and delivery system in accordance with Texas Administrative Code Title 30, Chapter 210. If any testing is required pertaining to the User's Facilities, it shall be the responsibility of the Plano (User) to bear the cost of said testing.

2.5 Use of Water. The Reclaimed Water will be used only for the purposes outlined in the above-referenced Texas Administrative Code Title 30, Chapter 210 authorization and as authorized by TCEQ.

III. QUANTITY AND UNIT MEASUREMENT

3.1 Measurements.

- a. Plano (User) has paid for and NTMWD has installed, and shall operate, and maintain the meter, which shall record the Reclaimed Water usage at each of the NTMWD Point(s) of Delivery, which shall be the principal measurement point for water taken by Plano (User). Plano (User) will own this meter.
- b. NTMWD will read the meter at least monthly and keep accurate records of all measurements of Reclaimed Water required under this Agreement and report required readings to TCEQ. The measuring devices and such records shall be open to inspection by Plano (User) during reasonable business hours. Plano (User) shall have access to the metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be done only by employees or agents of NTMWD. Plano's (User's) agents or employees may observe the reading, calibration, and adjustment.
- c. NTMWD shall report to TCEQ on a monthly basis the volume of Reclaimed Water delivered to Plano (User) pursuant to Texas Administrative Code Title 30, Section 210.36, as amended, and shall keep a copy of such report at NTMWD Administrative offices.
- d. Should Plano (User) have reason to believe that a meter is recording Reclaimed Water usage inaccurately, Plano (User) may request in writing that NTMWD investigate the meter operations. If it is mutually agreed by NTMWD and Plano (User) that the meter is malfunctioning, or should NTMWD discover that the meter is recording water usage inaccurately, NTMWD shall immediately notify Plano (User) of same, and NTMWD shall replace the faulty meter or meters with an accurately functioning meter as soon as feasible, at the cost of Plano (User), and within at least twenty (20) working days of notification.

- e. If, for any reason, a meter is out of service or out for repair so that the amount of Reclaimed Water delivered to Plano (User) cannot be ascertained or computed from the reading thereof, the Reclaimed Water delivered, through the period such meter is out of service or out for repair, shall be estimated and agreed upon by the parties thereto upon the basis of the best data available. The amount of Reclaimed Water delivered during such period may be estimated (i) by correcting the error if the percentage of error is ascertainable by calibration tests or mathematical calculation, or (ii) by estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter was registering accurately.

3.2 Unit of Measurement. The unit of measurement for Reclaimed Water produced and delivered hereunder shall be 1,000 gallons of water, U.S. Standard Liquid Measure.

3.3 Quantity. NTMWD agrees to make available to Plano (User) at the NTMWD Point(s) of Delivery, and Plano (User) may take at the NTMWD Point(s) of Delivery, up to 1,200,000 gallons per day of Reclaimed Water produced by the Rowlett Creek WWTP. NTMWD will not contract with any other User for a quantity of water that would jeopardize the delivery of the above amount of water to Plano (User).

IV. QUALITY

4.1 General. The Reclaimed Water to be produced by NTMWD at the NTMWD Point(s) of Delivery shall be treated effluent in compliance with the quality standards for Type II Reclaimed Water uses, as identified in Texas Administrative Code Title 30, Chapter 210, as amended, and pursuant to the effluent limits identified in the TPDES permits associated with the Rowlett Creek WWTP. The Reclaimed Water is not intended for human consumption or domestic purposes and is to be used only for those purposes identified in Texas Administrative Code Title 30, Chapter 210, as amended. Plano (User) has satisfied itself that such Reclaimed Water will be suitable for its use; provided that if at any time the quality of Reclaimed Water delivered is dangerous to human health or otherwise not suitable for its intended use, then NTMWD may immediately terminate or suspend this Agreement and may suspend delivery of the Reclaimed Water, and Plano (User) will not be liable for any period of non-acceptance. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED IN THIS AGREEMENT RELATIVE TO THE QUALITY OF THE RECLAIMED WATER.

4.2 Plano (User) shall be responsible for providing any additional facilities or treatment necessary to produce Type I Reclaimed Water, as identified in Texas Administrative Code Title 30, Chapter 210, as amended.

4.3 NTMWD will sample and analyze the Reclaimed Water prior to distribution to Plano (User) to assure that the water quality is in accord with the standards for Type II Reclaimed Water uses and after additional User treatment facilities are constructed by Plano (User), if any, to determine if it is acceptable for Type I use, as identified in Texas Administrative Code Title 30, Chapter 210, as amended.

4.4 NTMWD shall report to TCEQ on a monthly basis the quality of reclaimed water delivered to User pursuant to Texas Administrative Code Title 30, Section 210.36, as amended, and shall make available a copy of such report to User.

V.
PAYMENTS FOR RECLAIMED WATER SERVICE

5.1 Charges for Service. As stated in Section 6.04(b) of the Trinity East Fork Regional Wastewater System Contract, effective October 1, 1975: "...each Member City shall have the first right to use all effluent produced from its Wastewater for reuse solely for its own municipal purposes (i.e. golf course irrigation, recreation, etc.), without any charge except for any additional cost to the District necessary to provide the effluent for such municipal use;" Therefore, there is no monetary compensation.

VI.
FAILURE TO PRODUCE RECLAIMED WATER

6.1 Non-Production. Following the completion of the Facilities and at any time during the term of this Agreement, if NTMWD is unable to produce and deliver Reclaimed Water under the terms of this Agreement due to circumstances beyond the NTMWD's control and without its fault, whether such occurrence or circumstance be an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not part or privy hereto, then NTMWD shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof and the NTMWD shall not be liable for the breach of this Agreement. NTMWD shall use reasonable and good faith efforts to correct any impediment preventing production of Reclaimed Water and shall give Plano (User) advance notice, when possible and to the extent it is reasonable, of any inability to produce the Reclaimed Water needed so that Plano (User) may seek alternative sources.

6.2 Repairs and Maintenance. NTMWD may temporarily suspend production or delivery of Reclaimed Water to Plano (User) for the purpose of performing maintenance and repairs to Rowlett Creek Regional WWTP. NTMWD shall endeavor to provide Plano (User) with verbal notice 24 hours prior to suspension of such service and an estimate of when service shall be reestablished.

6.3 Regulatory Action. NTMWD may temporarily suspend delivery of Reclaimed Water to Plano (User) pursuant to the request, written order, or direction of any regulatory agency having jurisdiction over the use of Reclaimed Water or the treatment of wastewater at the Rowlett Creek Regional WWTP. NTMWD shall endeavor to provide Plano (User) with verbal notice and in writing within twenty-four (24) hours prior to suspension of such service and an estimate of when service shall be reestablished.

VII. GENERAL PROVISIONS

7.1 Operations and Maintenance. Plano (User) will continuously operate and maintain the Facilities in an efficient manner and in accordance with good business and engineering practices. Further, User will comply with the provisions outlined in Texas Administrative Code Title 30, Chapter 210, as amended. Plano (User) and NTMWD will comply with the Operation and Maintenance Plan, attached hereto as Attachment C.

7.2 Conditions. It is expressly understood and agreed that any obligations on the part of NTMWD to produce Reclaimed Water for Plano (User) are (a) conditioned upon NTMWD's ability to maintain all necessary permits, agreements, material, labor, and equipment, (b) conditioned upon the Plano's (User's) ability to maintain all necessary permits, agreements, material, labor, and equipment; (c) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State of Texas, and any government or regulatory body having jurisdiction over NTMWD and any Plano (User), or their activities, and (d) subject to the right of Plano (User) and NTMWD to terminate Reclaimed Water production, provision, or use under this Agreement when the use of such water is noncompliant with the provisions of TCEQ's rules for the Use of Reclaimed Water, located at Texas Administrative Code Title 30, Chapter 210, as amended.

7.3 Title. Title to and liability for all Reclaimed Water supplied hereunder shall be in NTMWD up to the NTMWD Point(s) of Delivery and, upon passing through the NTMWD Point(s) of Delivery, title to and liability for the Reclaimed Water shall pass to Plano (User).

7.4 Obligations of Plano (User)

- a. User agrees to comply with all requirements and responsibilities under Texas Administrative Code Title 30, Chapter 210, currently in effect and any subsequent changes thereto.
- b. Plano (User), as also Provider, shall be responsible to operate and maintain the Facilities, its lines, and any pumping or other facilities necessary for the transportation of the Reclaimed Water from the NTMWD Point(s) of Delivery to Plano's (User's) place of use at its sole risk and expense, including the obtaining of any necessary permits or easement therefore. Nothing in this Agreement shall be construed to authorize Plano (User) to install any equipment or improvements on property owned by NTMWD without the express written consent of NTMWD and subject to such conditions as NTMWD may impose.

7.5 Liability for Damages and Responsibility for Treatment and Disposal of Wastewater. Liability for damages arising from the reception, transportation, delivery, and disposal of all reclaimed water shall remain with NTMWD, and upon passing through meters installed at NTMWD Point of Delivery, liability for such damages shall pass to Plano (User). As between the District and Plano (User), each party agrees to indemnify and to save and hold the other party harmless from any and all claims, demands, causes of action, damages, losses, costs, fines, and expenses, including reasonable attorney's fees,

which may arise or be asserted by anyone at any time on account of the treatment, reception, transportation, delivery, and disposal while Wastewater is in the control of such responsible party, or on account of a prohibitive discharge by Plano (User). District has the responsibility as between the parties for the proper treatment, reception, transportation, treatment, and disposal of all Wastewater, but not for prohibitive discharges after Reclaimed Water is received by Plano (User) at NTMWD Point of Delivery.

VIII.

TERMS OF AGREEMENT: RENEWAL: NOTICES: STATE OR FEDERAL LAWS, RULES, ORDER, OR REGULATIONS

8.1 Term of Agreement. This Agreement shall be in force and effect from the date of execution hereon until 31 March 2032.

8.2 Renewal Option. The parties hereby agree that Plano (User) shall have the option to renew and extend this Agreement, which option shall be exercised in advance of the expiration date of this Agreement by Plano (User) giving NTMWD written notice at least one hundred eighty (180) days prior to the expiration date or within thirty (30) days of receipt of written notice from NTMWD notifying Plano (User) of its option rights whichever comes later. The terms of the renewal and extension shall be for one (1) additional ten (10) year term from said date of expiration of this Agreement and shall be on the same terms as this Agreement, unless otherwise agreed to by NTMWD and Plano (User).

8.3 Address and Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience called "Notice") herein provided or permitted to be given, made, or accepted by any party must be in writing and may be given or served in any reasonable manner necessary to reach each of the other parties. Notice sent by certified or registered mail, postage prepaid, return receipt requested, shall be deemed to have been received on the second mail delivery day following the day on which it was posted. Notice by any other method shall be effective when received. For the purpose of Notice, the addresses of the parties shall be, until changed as hereafter provided, as follows:

North Texas Municipal Water District
501 East Brown Street
P.O. Box 2408
Wylie, TX 75098

City of Plano
1520 K Avenue
P.O. Box 860358
Plano, TX 75086-0358

Any party may change the address for notice by giving notice of such change in accordance with the provisions of this section.

8.4 State and Federal Laws, Rules, Order, or Regulations. This Agreement is subject to all applicable Federal and State Laws and applicable permits, ordinances, rules, orders, and regulations of any local, State, or Federal Governmental Authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction

IX.
ASSIGNMENT

9.1 General. This Agreement shall not be assignable by Plano (User) in whole or in part without the written consent of NTMWD, which consent shall not be unreasonably withheld. Assignment will result in terms for monetary compensation for Reclaimed Water for the new User. NTMWD and Plano (User) each binds itself and its successors and assigns to the other parties with respect to all covenants of this Agreement.

X.
GOVERNING LAW

10.1 General. The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties hereunder, shall be governed by the Laws of the State of Texas.

XI.
REMEDIES UPON DEFAULT

11.1 Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from another party. Upon the passage of thirty (30) working days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement.

11.2 No Additional Waiver Implied. The failure of either party to insist in any one or more instances upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as waiver or relinquishment of the future performance of any term, covenant, or condition by the other party and the obligation of such other party with respect to such future performance shall continue in full force and effect.

11.3 Remedies. The parties recognize that certain of their respective obligations, if not performed, may be adequately compensated by money damages while others could not be. Accordingly, the parties agree that in the event of any failure to perform any covenants, conditions, or obligations of this Agreement on the part of any party, the aggrieved party shall:

a) to the extent, if any, permitted by law, have the remedy of specific performance of this Agreement, in addition to any other remedies otherwise available at law or in equity or under this Agreement; and

b) NTMWD or Plano (User) may terminate this Agreement by providing written notice, after such party has given notice of a material default to the other party upon the expiration of the thirty (30) days permitted for curing such default and such default not having been cured.

XII.
VENUE

12.1 General. It is specifically agreed by the parties to this Agreement, that Collin County, Texas is the place of performance of this Agreement; and in the event that any legal proceeding is brought to enforce this Agreement or any provisions hereof, the same shall be brought in Collin County, Texas.

XIII.
SEVERABILITY

13.1 General. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

XIV.
TITLES

14.1 General. Titles and subtitled Articles contained herein are for convenience only and have no legal or other effect on the terms of this Agreement.

XV.
**FUTURE AGREEMENTS WITH OTHER
USERS**

15.1 General. NTMWD reserves the right to contract with other Users for the sale of Reclaimed Water up to the amount that would not jeopardize the delivery of Reclaimed Water up to the amount contracted with Plano (User) in Section 3.3.

XVI.
PRIOR AGREEMENTS SUPERSEDED

16.1 General. This Agreement constitutes the sole and only Agreement of the Parties with respect to the delivery of Reclaimed Water and cancels and supersedes any prior understandings or oral or written Agreements between the Parties respecting the subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing below.

Date: _____

By: _____
Phil Dyer
Board President, North Texas Municipal Water District

Witness:

Richard Peasley
Board Secretary, North Texas Municipal Water District

Date: _____

By: _____
Mark D. Israelson
CITY MANAGER

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

ATTACHMENT A



ATTACHMENT B

Authorization No. R10363001

AUTHORIZATION FOR RECLAIMED WATER

Producer: North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098-2408

Provider: North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098-2408

Users: City of Plano
1520 K Avenue
P.O. Box 860358
Plano, Texas 75086-0358

Location: The North Texas Municipal Water District Rowlett Creek Wastewater Treatment Plant (TPDES Permit No. WQ0010363001) is located 200 feet east of Los Rios Boulevard, approximately 700 feet north of Farm-to-Market Road 544 crossing of Rowlett Creek and approximately 3.5 miles east of the City of Plano in Collin County, Texas

Authorization: Type I and Type II reclaimed water from the North Texas Municipal Water District Rowlett Creek Wastewater Treatment Plant (TPDES Permit No. WQ0010363001) to be used as authorized by 30 TAC §210.32. The service area is shown on Attachment A.

This authorization contains the conditions that apply for the uses of the reclaimed water. The approval of a reclaimed water use project 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, and/or user to obtain a separate water right authorization from the commission.

Issued Date: March 5, 2008

A handwritten signature in black ink, appearing to read "Glenn Shankle", written over a horizontal line.

Glenn Shankle, Executive Director

ATTACHMENT C **Operations and Maintenance**

The authorization is subject to the following requirements:

I. General Requirements

- (a) No produce or provider may begin transferring 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, and/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, in accordance with a permit issued by the commission, or as authorized under North Texas Municipal Water District Rowlett Creek Wastewater Treatment Plant (TPDES Permit No. WQ0010363001). All other discharges are unauthorized. If any unauthorized overflow of a holding pond occurs causing discharge into or adjacent to waters in the state, the user or provider, as appropriate, shall report any noncompliance. A written submission of such information must be provided to the TCEQ Region 4 office and to the TCEQ Enforcement Division (MC-149), within five (5) working days after becoming aware of the overflow. The written submission must contain a description of the noncompliance and its cause; the potential danger to human health, safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and, steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- (g) 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 system or wastewater treatment collection system unless the reclaimed water user applies for and obtains a permit from the commission that authorizes discharge of the water.

- (h) All new reclaimed water piping must be separated from potable water piping when trenched by a distance of at least nine feet. All new exposed piping, hose bibs and faucets must be painted purple and designed to prevent connection to a standard water hose. All piping must be stenciled with a warning reading "NON-POTABLE WATER."
- (i) The design of any new distribution systems which will convey reclaimed water to a user must require the approval of the executive director. Materials must be submitted to the executive director for approval in accordance with the Texas Engineering Practice Act (Article 3271a, Vernon's Annotated Texas Statutes). The plans and specifications for any new distribution systems constructed pursuant to this authorization must be approved pursuant to state law, and failure to secure approval before commencing construction of such works or making a transfer of reclaimed water is a violation of this authorization, and each day of a transfer is an additional violation until approval has been secured.
- (j) Nothing in this authorization modifies any requirements of the Texas Department of Health found in 30 TAC Chapter 290.
- (k) 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 producer;
 - (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.
- (l) The reclaimed water producer, provider, and user shall maintain on the sites over which they have operational control a current operation and maintenance plan. 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/or a copy of the signed contract between the provider and the producer;
 - (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.
- (m) 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:
- (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.
- (n) 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)(5)(B), Location of Water Lines, must be followed with the reclaimed water line substituted for the water line.
- (o) Reclaimed water lines that transport reclaimed water under pressure must be sized according to acceptable engineering practices for the needs of the reclaimed water users. The provider shall prevent high velocity scouring and

maintain adequate fluid velocity to prevent the deposition of solids in the lines. Pipe specified for 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. All pipe 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). All pipes and fittings must have a minimum working pressure rating of 150 pounds per square inch. Final plans and specifications must describe required pressure testing for all installed reclaimed water force mains. Minimum test pressure must be 1.5 times the maximum design pressure. Allowable leakage rates must be determined as described in 30 TAC Chapter 317, Pressure Sewer Systems.

- (p) Gravity flow reclaimed water lines must meet the requirements of 30 TAC Chapter 317, The Design of Sewerage 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 317, Design Criteria for Sewerage 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 317, Design Criteria for Sewerage 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 Outside the Edwards Aquifer Recharge Zone

- (a) Any holding pond designed to contain Type I or Type II effluent must have a lining with a permeability of no more than 1×10^4 cm/sec and conform to the following requirements:
 - (1) The ponds must be designed and constructed to prevent groundwater contamination;
 - (2) Soils used for pond lining must be free from foreign material such as paper, brush, trees, and large rocks; and
 - (3) 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. 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.
 - (4) Soil liners must meet the following particle size gradation and Atterburg limits:
 - (A) 30% or more passing a number 200 mesh sieve; and
 - (B) a liquid limit of 30% or greater; and a plasticity index of 15 or greater and have a permeability less than or equal to 1×10^4 cm/sec;
 - (5) Synthetic membrane linings must have a minimum thickness of 40 mils with a leak detection system. In situ liners at least 24 inches thick meeting a permeability less than or equal to 1×10^4 cm/sec are acceptable alternatives;
 - (6) Certification by a Texas license professional engineer must be furnished that the pond lining meets the appropriate criteria prior to utilization of the facilities;
 - (7) 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 utilized. 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 piping penetrating the embankments;

- (8) An alternative method of pond lining which provides equivalent or better water quality protection than provided under this section may be utilized with the prior approval of the executive director; and
- (b) Reclaimed water may be stored in leak-proof, fabricated tanks.
- (c) 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

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. It is the responsibility of the reclaimed water producer to 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.

During the period starting from the date of issuance and lasting through the completion of the construction of the pump station, the authorization is subjected to the following requirements:

- (a) Type II Reclaimed Water Use. The type of use is that where the public would not come in contact with the reclaimed water. The use allowed by this authorization is to be used for maintenance of impoundments or natural water bodies; irrigation of sod farms, silviculture, limited access highway rights of way where human access is restricted or unlikely to occur; soil compaction or dust control in construction areas; cooling tower makeup water; and irrigation or other non-potable uses of reclaimed water at a wastewater treatment facility.
- (b) The following conditions apply to this type of use of reclaimed water. At a minimum, the reclaimed water producer shall transfer only reclaimed water of the following quality as described for Type II reclaimed water use. Type II reclaimed water on a 30-day average shall have a quality of:

CBODs	15 mg/l
Fecal Coliform	200 CFU/100 ml (geometric mean)
Fecal Coliform (not to exceed)	800 CFU/100 ml (single grab sample)

- (c) Type I Reclaimed Water Use. The type of use is that where the public would come in contact with the reclaimed water. The use allowed by this authorization is to be used for residential irrigation, including landscape irrigation at individual homes; urban uses, including irrigation of public parks, golf courses with unrestricted public access, schoolyards, or athletic fields; fire protection, either in internal sprinkler systems or external fire hydrants; and toilet or urinal flush water.
- (d) The following conditions apply to this type of 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 shall have a quality of:

CBODs	5 mg/l
Turbidity	3 NTU
Fecal Coliform	20 CFU/100 ml (geometric mean)
Fecal Coliform (not to exceed)	75 CFU/100 ml (single grab sample)

IV. Sampling and Analysis

The reclaimed water producer shall sample the reclaimed water prior to distribution to user to assure that the water quality is in accord with the intended contracted use. Analytical methods must be in accord with those specified in 30 TAC Chapter 319, Monitoring and Reporting. The minimum sampling and analysis frequency for Type I reclaimed water is twice per week.

The monitoring must be done after the final treatment unit. The records of the monitoring must be done 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.
 - (1) Records to be maintained by the provider include:
 - (A) copies of notifications made to the commission concerning reclaimed water projects;
 - (B) as applicable, copies of contracts made with each reclaimed water user (this requirement does not include reclaimed water users at residences that have separate distribution lines for potable water);

- (C) records of 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
 - (D) reclaimed water quality analyses.
- (2) 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. Such reports are due to the commission by the 20th day of the month following the reporting period.
 - (A) volume of reclaimed water delivered to provider; and
 - (B) 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.
- (b) The provider shall provide written notice to the Water Quality Application Team (MC 148) and the Region 4 Office of the commission at least thirty (30) days prior to transfer of reclaimed water. **Monitoring requirements contained in this authorization are suspended from the effective date of the authorization until the provider notifies the TCEQ that it is ready to transfer reclaimed water.**

VI. Transfer of Reclaimed Water

Reclaimed water transferred from a provider to a user must be done on a demand only basis. A reclaimed water user may refuse delivery of such water at any time. All reclaimed water transferred to a user must be of at least the treatment quality specified in Section IV, Sampling and Analysis. Transfer must be accomplished via pipes or tank trucks.

VII. General Prohibitions

Storage facilities for retaining reclaimed water prior to use must not be located within a floodway and must be protected from a 100-year flood.

VIII. Restrictions

This authorization does not convey any property right and does not grant any exclusive privilege.

IX. Responsibilities and Contracts

- (a) The producer of reclaimed water will not be liable for misapplication of reclaimed water by users, except as provided in this section. Both the reclaimed water provider and user have, but are not limited to, the following responsibilities:
 - (1) The reclaimed water producer shall:
 - (A) transfer reclaimed water of at least the minimum quality required by this chapter at the point of delivery to the user for the specified use;
 - (B) sample and analyze the reclaimed water and report such analyses in accordance with Section IV, Sampling and Analysis, and Section V, Record keeping and Reporting; and
 - (C) notify the executive director in writing within five (5) days after obtaining knowledge of reclaimed water use not authorized by the executive director's reclaimed water use approval.
 - (2) The reclaimed water provider shall:
 - (A) assure construction of reclaimed water distribution lines/systems in accordance with 30 TAC Chapter 317, Design of Sewerage Systems, and in accordance with approved plans and specifications;
 - (B) transfer reclaimed water of at least the minimum quality required by this chapter at the point of delivery to the user for the specified use;
 - (C) notify the executive director in writing within five (5) days after obtaining knowledge of reclaimed water use not authorized by the executive director's reclaimed water use approval; and
 - (D) not be found in violation of this chapter 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 III, Record Keeping and Reporting.

X. Enforcement

If the producer, provider and/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.

XI. 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 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.