

**SECOND AMENDED DROUGHT CONTINGENCY PLAN**  
**FOR**  
**MAYDE CREEK MUNICIPAL UTILITY DISTRICT**

**Section I: Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard 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, the Mayde Creek Municipal Utility District of Harris County, Texas (the "District") hereby adopts the following regulations and restrictions on the delivery and consumption of water.

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 X of this Plan.

**Section II: Public Involvement**

Opportunity for the public to provide input into the preparation of the Plan was provided by the District by means of scheduling a public meeting of the District's Board of Directors for receiving input on the Plan and duly posting notice of the meeting agenda at the District's customary posting locations.

**Section III: Public Education**

The District will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of utility bill inserts.

**Section IV: Coordination with Regional Water Planning Groups**

The service area of the District is located within Region H and the District has provided a copy of this Plan to the San Jacinto River Authority.

## **Section V: Authorization**

The District's President of its Board of Directors, the District's operator and/or their designee(s), 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 President, the District's operator, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

## **Section VI: Application**

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

## **Section VII: Definitions**

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

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

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

Conservation: those 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.

Customer: any person, company, or organization using water supplied by the District.

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

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

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

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

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

- (a) irrigation of landscaped areas, including parks, athletic fields, and golf courses, 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) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

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

### **Section VIII: Criteria for Initiation and Termination of Drought Response Stages**

The President of the Board of Directors, the District's operator, and/or his/her designee, shall monitor water supply and/or demand conditions bi-weekly during the months of June, July, August and September and monthly the other months of the year and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified "triggers" are reached.

The triggering criteria described below are based on percentage of total water production capability.

## **Stage 1 - Moderate Water Shortage Conditions**

### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section VII of this Plan when average daily water use reaches 75% of the water system's productive capacity for three (3) consecutive days.

### Requirements for termination

Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

## **Stage 2 - Severe Water Shortage Conditions**

### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 2 of this Plan when average daily water use reaches 90% of the water system's productive capacity for three (3) consecutive days.

### Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

## **Stage 3 - Critical Water Shortage Conditions**

### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when average daily water use reaches 100% of the water system's productive capacity for three (3) consecutive days.

### Requirements for termination

Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

## **Stage 4 - Emergency Water Shortage Conditions**

### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions for Stage 4 of this Plan when the President of the Board of Directors, the operator and/or his/her designee, determines that a water supply emergency exists based on:

1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
2. Natural or man-made contamination of the water supply source(s).

#### Requirements for termination

Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist upon the determination of the District's operator.

### **Section IX: Drought Response Stages**

The President of the Board of Directors, the operator and/or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a moderate, severe, critical, emergency or water shortage condition exists and shall implement the following actions upon giving notice via posting of signs, distribution of notices and/or publication.

#### **Stage 1 - Moderate Water Shortage Conditions**

Goal: Achieve a voluntary 10 percent reduction in total daily water demand.

Water Use Restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1,3,5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8 :00 p.m. and 12:00 midnight on designated watering days. 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 on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. 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 rises. 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 exempted from these regulations 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.

- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.
- (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) The following uses of water are defined as non-essential and are prohibited:
  - 1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
  - 2. abuse of water to wash down buildings or structures for purposes other than immediate fire protection;
  - 3. use of water for dust control;
  - 4. flushing gutters or permitting water to run or accumulate in any gutter or street; and
  - 5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

## **Stage 2 -Severe Water Shortage Conditions**

Goal: Achieve a 15 percent reduction in total daily water demand.

Water Use Restrictions. All requirements of Stage 1 shall remain in effect during Stage 2 except that conformity to these Stage 1 and the following Stage 2 requirements shall be mandatory under threat of penalty for violation:

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
- (b) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

### **Stage 3 -Critical Water Shortage Conditions**

Goal: Achieve a 10 percent reduction in total daily water demand.

Water Use Restrictions. All requirements of Stage 1 and 2 shall remain in effect during Stage 3 except:

- (a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight 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.
- (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 and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10 p.m.
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
- (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) No application 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 approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.
- (f) Special Water Rates. The following rates shall apply during a Stage 3 or Stage 4 condition if such stage occurs at any time within the billing cycle without regard to the total duration or length of such stage: All water usage above 10,000 gallons shall be billed at one and one half times the District's customary rates for water shown in its Rate Order.

### **Stage 4 -Emergency Water Shortage Conditions**

Goal: Achieve a 15 percent reduction in total daily water demand.

Water Use Restrictions. All requirements of Stage 1, 2, and 3 shall remain in effect during Stage 4 except:

- (a) Irrigation of landscaped areas is absolutely prohibited.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is absolutely prohibited.

## **Section X: Enforcement**

- (a) No person shall knowingly or intentionally allow the use of water from the District for residential, commercial, industrial, agricultural, governmental, or any other 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 the Operator in accordance with provisions of this Plan. Any person, including a person classified as a 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 did not commit the violation. 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 proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.
- (b) First Violation. Any person or entity who violates this Plan shall receive written notification of such violation, which notice shall set forth (i) the date of the violation, (ii) the nature of the violation, (iii) the Drought Stage measures then in effect, and (iv) the penalties applicable for any further violations of this Plan; provided, however, that if such person or entity has ever previously violated this Plan, the penalties set forth below may, in the discretion of the Board, be imposed. The letter attached as Exhibit 4 may be used for the written notification of a first violation of the provisions of this Plan.
- (c) Subsequent Violations.
  - 1. Disconnection for Noncompliance. If any person or entity violates any provision of this Plan more than one time (which violation shall

constitute an unauthorized use and an abuse of District services and/or facilities), then in addition to any other remedies, penalties, sanctions, and enforcement procedures provided for herein, the District or its designee (with the assistance of a peace officer if necessary) shall have the right to terminate water service to such person or entity after notice of any other procedural requirements in the District's Rate Order are satisfied.

2. Monetary Penalties for Noncompliance. If any person or entity violates any provision of this Plan more than one time (which violation shall constitute an unauthorized use and abuse of District services and/or facilities), then, in addition to disconnection as provided in this Section, the Board of the District or its designee, after providing required notice, may impose a penalty of up to **\$5,000** for each violation of this Plan. Each day that a breach of any provision of this Plan continues shall be considered a separate violation. This penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law.

(d) Remedies Cumulative. All rights, remedies, sanctions, penalties, and enforcement procedures provided for in this Plan are cumulative. In addition, the District shall have and may exercise and enforce any and all rights and remedies provided by law or in equity.

## **Section XI: Mandatory Notification and Plan Updating**

The District shall notify the TCEQ's Executive Director within five (5) business days of the implementation of any mandatory provision of the Drought Contingency Plan. The District shall review and update, as appropriate, the Drought Contingency Plan at least once every five (5) years, based upon new or updated information, such as the adoption or revision of the regional water plan.

## **Section XII: Variances**

The President of the Board of Directors, the operator and/or his or her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

(a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Resolution shall file a petition for variance with the District at either the offices of its utility operator, Environmental Development Partners, LLC, P.O. Box 690928, Houston, Texas 77269, or its attorney, Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027, within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the Board of Directors, or its designee, and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Resolution.
- (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 intent of this Plan and the compliance date.
- (h) Other pertinent information.

Variances granted by the District shall be subject to the following conditions, unless waived or modified by the Board of Directors or its designee.

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

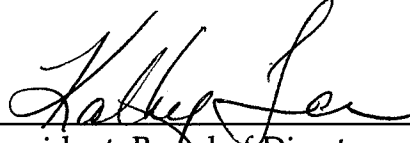
No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

### **Section XIII: Severability**

It is hereby declared to be the intention of the Board of Directors that the sections, paragraphs, sentences, clauses, and phrases of this Resolution are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Board of Directors without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.

PASSED AND APPROVED this the 23rd day of May, 2011.

MAYDE CREEK MUNICIPAL UTILITY  
DISTRICT



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President, Board of Directors

ATTEST:



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Secretary, Board of Directors

(SEAL)

