

NOTICE OF OPEN MEETING

Notice is given that a **Regular Meeting** of the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District will be held in the District office, 1124 Regal Row, Austin, TX, on **Thursday, April 24, 2014**, commencing at **6:00 p.m.** for the following purposes, which may be taken in any order at the discretion of the Board:

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development) 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. **Call to Order.**
2. **Citizen Communications (Public Comments of a General Nature).**
3. **Routine Business.**
 - a. **Consent Agenda.** *(Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as a separate item of Regular Business on this agenda.)*
 1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.
 2. Approval of minutes of the Board's April 10, 2014, Regular Meeting. **Not for public review at this time**
 3. Approval of minor revisions to the District's mapped boundaries and of submittal of the revised map to the TCEQ. **Pg. 9**
 4. Approval of amendment to current employee District Retirement Plan to add a Participant Loan Program. **Pg. 10**
 - b. **General Manager's Report.** *(Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action unless the topic is specifically listed elsewhere in this agenda.)*
 1. **Standing Topics.**
 - i. Personnel matters and utilization

- ii. Upcoming public events of possible interest
- iii. Aquifer conditions and status of drought indicators

2. Special Topics. *(Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.)*

- i. Update on Team activities and highlights
- ii. Update on regulatory and enforcement activities
- iii. Update on efforts to characterize the saline zone of the Edwards Aquifer
- iv. Update on activities related to area roadway projects

4. Presentations

- a. Award of the Kent S. Butler Memorial Groundwater Stewardship College Scholarship, and the Aquatic Science Adventure Camp scholarships.
- b. Presentation by David Foster of Clean Water Action on District-supported HOA education efforts.
- c. Presentation by Dennis Pittenger, District contractor, of a methodology to calculate estimated irrigation demand.

5. Discussion and Possible Action.

- a. Discussion and possible action related to adopting a methodology for calculating estimated irrigation demand and determining permitted production limits.
- b. Discussion and possible action related to consideration of declaring Stage II Alarm Drought.
- c. Discussion and possible action related to pursuing a TWDB grant to help fund efforts to characterize the saline Edwards Aquifer. **Pg. 71**
- d. Discussion and possible action related to considering suggested edits to the review draft HCP in response to Director comments and comments received from the Management Advisory Committee (MAC) to date, and to setting a schedule for soliciting further comment from the MAC and the public and for Board approvals.
- e. Discussion and possible action related to memorandum prepared by legal counsel regarding habitat conservation plan.

- f. Discussion and possible action related to the decision in the *SOS Alliance v. City of Kyle, Goodman et al., and the Barton Springs/Edwards Aquifer Conservation District* and the process going forward. **Pg. 89**

6. Adjournment.

Came to hand and posted on a Bulletin Board in the Courthouse, Travis County, Texas, on this, the _____ day of April, 2014, at _____ .m.

_____, Deputy Clerk

Travis County, TEXAS

Please note: This agenda and available related documentation have been posted on our website, www.bscacd.org. If you have a special interest in a particular item on this agenda and would like any additional documentation that may be developed for Board consideration, please let staff know at least 24 hours in advance of the Board Meeting so that we can have those copies made for you.

The Barton Springs/Edwards Aquifer Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-282-8441 at least 24 hours in advance if accommodation is needed.

Item 1

Call to Order

Item 2

Citizen Communications

Item 3

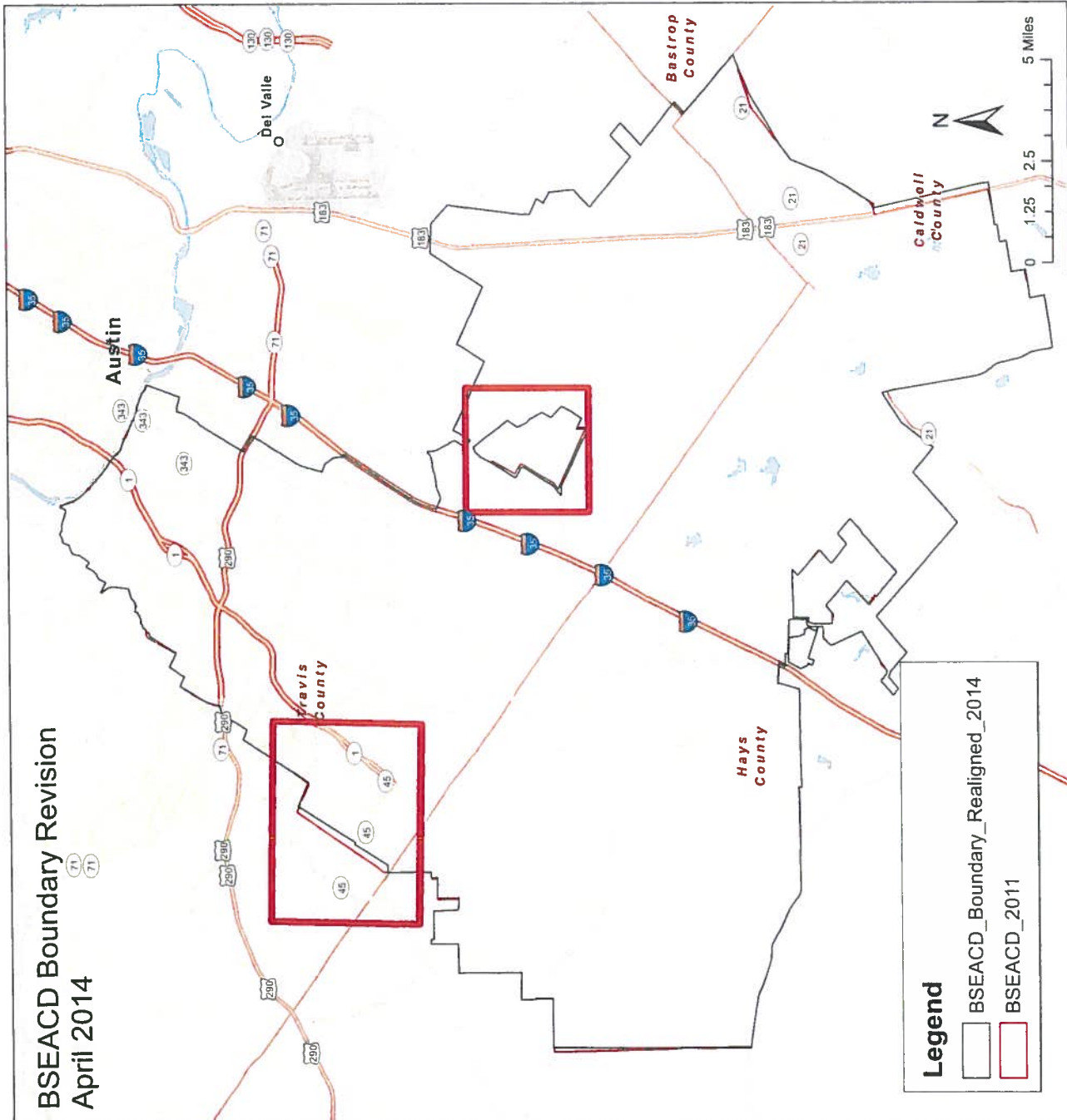
Routine Business

a. Consent Agenda

Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as an item of Regular Business.

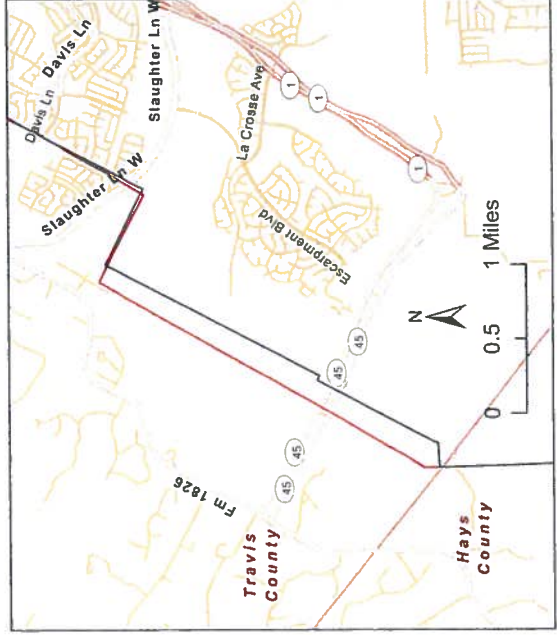
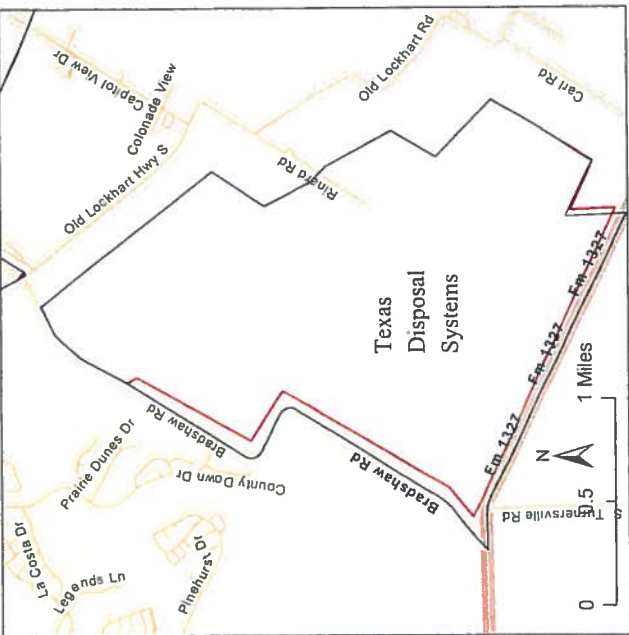
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- 4. Approval of amendment to current employee District Retirement Plan to add a Participant Loan Program.**

BSEACD Boundary Revision April 2014



Legend

- BSEACD_Boundary_Realigned_2014
- BSEACD_2011



Basemap: Revised BSEACD Boundary from Sherry McCall
GIS/Restricting of Bickerstaff Heath Delgado Acosta LLP.
April 2014



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

M E M O R A N D U M

To: BSEACD Board of Directors

Date: April 24, 2014

From: Dana Christine Wilson

Re: Request to Amend District Retirement Plan to Include a **Participant Loan Program**

The District's Retirement Plan does not have a provision for taking loans against the Plan. While most plans allow for this, ours was not set up that way, so this is a request to the Board to consider amending our Plan to allow for that. There is no administrative fee to the District to amend our Plan with the Standard, our third-party plan administrator.

Technically, 401(k)/money purchase pension plan loans are not true loans as they don't involve a lender, or an evaluation of one's credit. They are more accurately described as the ability to access a portion of one's own retirement plan on a tax-free basis. And repayment is designed to restore your funds to approximately their original state as if the transaction had not occurred.

Loan Specifics

Amount borrowed can be up to $\frac{1}{2}$ of the vested balance with a maximum of \$50,000, whichever is less (and a minimum of \$1,000).

There is no flexibility on changing the payment terms. They are equal payments deducted from every paycheck until repaid (a lump sum can be used to pay off the loan).

Loan pay-back term is a maximum of 5 years (up to 10 years if for a primary residence down payment).

Great terms. Low interest rate (prime + 1%), and the interest is paid back to yourself; although pre-tax funds are paid back (deducted from paycheck) with after tax money.

There is a \$125 fee to the applicant per loan.

Following this memo is the 3-page amendment that is being requested to be added to our current Plan. Following the 3-page amendment is the Summary Plan Description that describes the Plan (the Plan is a 33-page complex, legal document) which is not included here.

PARTICIPANT LOAN PROGRAM

The Plan Administrator is authorized to administer the Participant Loan Program. The Plan Administrator may modify this policy from time to time or may terminate the Plan Loan Program. The Plan Administrator has discretion to interpret the provisions of this loan policy. The Plan Administrator's decisions regarding the application or interpretation of this loan policy are final and binding on Participants. All applications for loans shall be made by a Participant to the Plan Administrator on forms which the Plan Administrator will make available for such purpose.

Any request for a loan will be administered as set forth in the following guidelines:

1. **Eligible Participants.** Only Participants who are Employees and who are parties-in-interest with respect to the Plan and Trust as defined in Section 3(14) of ERISA are eligible to make a Participant loan.
2. **Application Procedure.** Any Participant who is a party-in-interest with respect to the Plan and Trust may apply for a loan by:
 - (a) requesting a loan via the Internet, if this service is available.
 - (b) completing and returning to the Plan Administrator a Loan Application.
3. **Basis for Approval.** The Plan Administrator shall review a completed Loan Application in light of the standards set forth in the Plan and this Participant Loan Program. If the applicant meets such criteria, the Loan Application will be approved. If the applicant does not meet such criteria, the Loan Application will be denied and the applicant will be notified in writing of the denial and the reason(s) for the denial.
4. **Interest Rate Determination.** The rate of interest to be paid by the Participant must be commensurate with the rate of interest charged on similar commercial loans by persons or institutions in the business of lending money in the same geographic area as the Employer.
5. **Loan Limitations.** The following limitations will be applied to each Participant Loan Application:
 - (a) Each loan shall be for a minimum amount of \$1,000.
 - (b) A Participant may replace an existing plan loan. A Participant may not initiate more than two loans in one calendar year.
 - (c) The maximum amount of a loan shall be the lesser of 1) 50% of the Participant's Vested Account Balance or 2) \$50,000. Such \$50,000 maximum shall be reduced by the highest outstanding loan balance attributable to the Participant during the 12-month period immediately prior to the new loan application date.
 - (d) If the loan is a replacement loan, it must satisfy an additional condition. On the date of the replacement loan transaction, both the original loan and the replacement loan are treated as outstanding and together they must satisfy the maximum loan limitations of subsection (c) above.

- (e) Each loan shall be repaid in equal installments of principal and interest over a period to be determined by the Plan Administrator, but such period shall not exceed five years unless the purpose of the loan is for the purchase of the principal residence of the Participant in which case the repayment period shall not exceed ten years.
 - (f) All loan installment payments must be made through Employer payroll deduction with equal installments made each pay period.
6. **Security for Loan.** The Participant's vested account balance under the Plan (but not in excess of 50% of such vested account balance) shall be pledged as collateral for the loan.
7. **Payment Acceleration.** The loan may be prepaid in full without penalty at anytime; however, partial payoffs are not permitted. Multiple repayments are applied as principal and interest and only serve to advance the loan on the repayment schedule
8. **Leave of Absence.** If a Participant should take a leave of absence approved by the Employer while the Participant has an outstanding loan balance, the Plan Administrator may, in his sole discretion, suspend the loan payments for a period not to exceed the earlier of 1) 12 months from the date the leave of absence commenced or 2) the date the Participant returns to work. If loan payments are suspended during such period, the interest will be accrued and added to the outstanding loan balance. If the Participant returns to work within 12 months, at the Participant's discretion, the outstanding loan plus accrued interest shall be handled in one of the following methods:
- (a) Increase the amount of the required installments to an amount sufficient to amortize the remaining balance of the loan, plus accrued interest, over the remaining term of the loan;
 - (b) Keep the same installment amount and make a balloon payment at the conclusion of the term of the loan; or
 - (c) Extend the period of the loan repayment to the maximum period allowed by law and reamortize the outstanding balance and accrued interest over that period. The extended period is not to exceed the repayment period specified in Item 5(d) above based on the origination date of the loan.

If a Participant separates from service (or takes a leave of absence) from the Employer because of service in United States military and does not receive a distribution of his account balance, loan repayments shall be suspended until the earlier of the Participant's completion of military service or the Participant's fifth anniversary of commencement of military service. At the request of the Participant, the interest rate on the loan shall not exceed 6% compounded annually, while the Participant is on active duty in the military.

9. **Plan Termination.** If the Plan terminates, an outstanding loan becomes due and payable on the date of Plan termination, unless the Participant rolls the outstanding loan directly to another qualified Plan or upon final distribution of the Plan assets.
10. **Loan Default.** A loan will be in default as of the last day of the calendar quarter following the calendar quarter in which an unpaid installment payment was due. If the missed installment payment(s) plus interest are paid in full to the Plan before the loan is declared in default, then the loan shall not be in default. To the extent permitted by law, the Participant's vested account balance may be offset by the outstanding balance of the loan.

The following are among the events that will cause the loan repayment to be accelerated, and if not fully repaid by the last day of the calendar quarter following the calendar quarter in which the event occurs, the loan will be declared in default:

- (a) The death of the Participant.
- (b) The Participant's compensation is reduced below the amount necessary to fund the required installment payments.
- (c) The Participant attempts to revoke the payroll deduction election required for the loan installment payments.
- (d) Termination of employment.

Prior to the date of default described above, the Participant may bring the loan current by paying the missed payments plus accrued interest. Upon a loan default, the Participant will incur a taxable deemed distribution, but the Plan will not offset (reduce) the Participant's account to discharge the loan unless the Participant also has incurred a distributable event under the Plan. The Plan treats a loan default as a distributable event except where based on the type of account used as collateral for the loan, a separate distribution event such as separation from service would be required to offset the loan at the time of default. The Plan Administrator will report the Participant's deemed distribution to the IRS. The Plan Administrator, upon the Participant's incurring a distributable event, will offset the Participant's vested account balance by the outstanding balance of the loan. The Plan Administrator will treat the note as repaid to the extent of any permissible offset. Pending final disposition of the note, the Participant remains obligated for any unpaid principal and accrued interest. To the extent a loan in default is considered a deemed distribution, interest will continue to accrue on the outstanding balance of the loan. In this situation, the Participant may be prevented from taking an additional loan or if additional loans are permitted, may have the maximum amount of the new loan reduced by the outstanding value of the defaulted loan plus accrued interest thereon.

Any Participant who has a known outstanding loan that has been treated as a deemed distribution (defaulted loan) is not eligible for an additional loan until the existing loan obligation has been repaid or deducted from the Participant's account as an offset distribution.

11. The Employer reserves the right to pass on administrative expenses with regard to the origination and administration of the loan. See the Plan Administrator for further information. If the Plan Administrator, in the exercise of his fiduciary duty, determines that a modification of any fees or fee schedules is appropriate, those modifications will be disclosed prior to the date they take effect.


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PlanNet® (Retirement Plan Administration)

33 pages

[Overview](#) | [Assets](#) | [Performance](#) | [Plan Details](#) | [Manage Plan](#) | [Participants](#)

Information for Barton Springs/Edwards Aquifer Conservation District Retirement Plan and Trust as of 04/09/2014

Summary Plan Description (SPD)

The Summary Plan Description (SPD) is provided to participants to summarize the provisions of the retirement plan. It is based on the Plan Document, which governs the plan and describes provisions in detail. Because it is a complex legal document, language in the Plan Document is necessarily complex. If in the summarization of the SPD there is ambiguity, or if there is a difference between the SPD and the Plan Document, the Plan Document will be the final authority.

[Summary Plan Description \(PDF; 128 KB\)](#)

Required Summary Plan Description (SPD) Distribution

It is the responsibility of the plan sponsor to provide an SPD to all who have benefits/balances in the retirement plan. In general, an SPD should be provided to all such plan participants within 120 days of the plan's effective date. Participants/beneficiaries becoming eligible after the plan effective date must be provided an SPD within 90 days of their eligibility.

The plan administrator must be reasonably sure that all actually receive the SPD. The SPD may be hand-delivered at the workplace or mailed using First-Class Mail. The SPD may also be electronically delivered to participants who have the ability to access the SPD at their worksites as part of their everyday duties. (This means terminated participants and beneficiaries should receive a paper copy unless various special, cumbersome requirements are met.) The plan administrator must use a process reasonably calculated to ensure delivery, such as use of a return-receipt email feature. The SPD should be accompanied by a statement that it contains important information regarding the benefits provided by the retirement plan and note that a paper version is available upon request. Another delivery option is to include the SPD as a special insert in a company periodical or publication if the distribution list is current and comprehensive. If this option is chosen, a prominent notice should be placed on the front page of the periodical advising readers that the document contains important information about their rights under the retirement plan and that it should be read and retained.

Required Summary of Material Modification (SMM) Distribution

It is the responsibility of the plan sponsor to provide a Summary of Material Modification (SMM) to all who have benefits/balances in the retirement plan. In general, an SMM should be provided to all such plan participants within 210 days after the close of the plan year in which the amendment was adopted.

The plan administrator must be reasonably sure that all actually receive the SMM. The SMM may be hand-delivered at the workplace or mailed using First-Class Mail. The SMM may also be electronically delivered to participants who have the ability to access the SMM at their worksites as part of their everyday duties. (This means terminated participants and beneficiaries should receive a paper copy unless various special, cumbersome requirements are met.) The plan administrator must use a process reasonably calculated to ensure delivery, such as use of a return-receipt email feature. The SMM should be accompanied by a statement that it contains important information regarding the benefits provided by the retirement plan and note that a paper version is available upon request. Another delivery option is to include the SMM as a special insert in a company periodical or publication if the distribution list is current and comprehensive. If this option is chosen, a prominent notice should be placed on the front page of the periodical advising readers that the document contains important information about their rights under the retirement plan and that it should be read and retained.

Your account manager will provide an SMM with each plan amendment.

The Standard is the marketing name for StanCorp Financial Group, Inc. and its subsidiaries: StanCorp Equities, Inc., member FINRA, wholesales a group annuity contract issued by Standard Insurance Company and a mutual fund trust platform for retirement plans. Third-party administrative services are provided by Standard Retirement Services, Inc. Investment advisory services are provided by StanCorp Investment Advisers, Inc., a registered investment advisor. StanCorp Equities, Inc., Standard Insurance Company, Standard Retirement Services, Inc. and StanCorp Investment Advisers, Inc. are subsidiaries of StanCorp Financial Group, Inc. and all are Oregon corporations.

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Administration Guide

**BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT
RETIREMENT PLAN
SUMMARY OF PLAN PROVISIONS**

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**BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT
RETIREMENT PLAN**

SUMMARY OF PLAN PROVISIONS

INTRODUCTION TO YOUR PLAN

What kind of Plan is this?

Barton Springs/Edwards Aquifer Conservation District Retirement Plan (the "Plan") has been adopted to provide you with the opportunity to save for retirement. This Plan is a type of qualified retirement plan commonly referred to as a money purchase pension plan.

Types of Contributions. The following types of contributions may be made under this Plan:

- employee mandatory contributions
- employer nonelective contributions

What information does this Summary provide?

This Summary contains information regarding when you may become eligible to participate in the Plan, your Plan benefits, your distribution options, and many other features of the Plan. You should take the time to read this Summary to get a better understanding of your rights and obligations in the Plan.

In this summary, your Employer has addressed the most common questions you may have regarding the Plan. If this Summary does not answer all of your questions, please contact the Administrator or other plan representative. The Administrator is responsible for responding to questions and making determinations related to the administration, interpretation, and application of the Plan. The name and address of the Administrator can be found at the end of this Summary in the Article entitled "General Information About the Plan."

This Summary describes the Plan's benefits and obligations as contained in the legal Plan document, which governs the operation of the Plan. The Plan document is written in much more technical and precise language and is designed to comply with applicable legal requirements. If the non-technical language in this Summary and the technical, legal language of the Plan document conflict, the Plan document always governs. If you wish to receive a copy of the legal Plan document, please contact the Administrator.

The Plan and your rights under the Plan are subject to federal laws, such as the Internal Revenue Code, as well as some state laws. The provisions of the Plan are subject to revision due to a change in laws or due to pronouncements by the Internal Revenue Service (IRS). Your Employer may also amend or terminate this Plan. If the provisions of the Plan that are described in this Summary change, your Employer will notify you.

**ARTICLE I
PARTICIPATION IN THE PLAN**

How do I participate in the Plan?

Provided you are not an Excluded Employee, you may begin participating under the Plan once you have satisfied the eligibility requirements and reached your "Entry Date." The following describes the eligibility requirements and Entry Dates that apply. You should contact the Administrator if you have questions about the timing of your Plan participation.

Excluded Employees. If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled to participate in the Plan. The Excluded Employees are:

- **Part-time/Temporary/Intern Employees.** A part-time, temporary or Intern Employee is an Employee whose regularly scheduled Service is less than 1000 Hours of Service in the relevant eligibility computation period

Eligibility Conditions. You will be eligible to participate when you have completed 12 months of service and have attained age 21. However, you will actually enter the Plan once you reach the Entry Date as described below.

Entry Date. Your Entry Date will be the first day of the month coinciding with or next following the date you satisfy the eligibility requirements.

How is my service determined for purposes of Plan eligibility?

Months of Service. You will have completed the required number of months if you are employed by the Employer at any time after the specified number of months have elapsed from your initial employment commencement date.

What service is counted for purposes of Plan eligibility?

Service with the Employer. In determining whether you satisfy the minimum service requirements to participate under the Plan, all service you perform for the Employer will generally be counted. However there are some exceptions to this general rule.

Break in Service rules. If you terminate employment and are rehired, you may lose credit for prior service under the Plan's Break in Service rules.

For eligibility purposes, you will have a Break in Service if you are not employed with the Employer for a period of at least twelve consecutive months. However, if you are absent from work for certain leaves of absence such as a maternity or paternity leave, the twelve consecutive month period beginning on the first anniversary of your first day of such absence will not constitute a Break in Service.

Five-year eligibility Break in Service rule. The five-year Break in Service rule applies only to Participants who had no vested interest in the Plan when employment had terminated. If you were not vested in any amounts when you terminated employment and you have five 1-Year Breaks in Service (as defined above), all the service you earned before the 5-year period no longer counts for eligibility purposes. Thus, if you were to return to employment, you would have to re-satisfy any minimum service requirements under the Plan.

Military Service. If you are a veteran and are reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, your qualified military service may be considered service with the Employer. Ask the Administrator for further details.

What happens if I'm a Participant, terminate employment and then I'm rehired?

If you are no longer a Participant because you terminated employment, and you are rehired, then you will be able to participate in the Plan on your date of rehire provided your prior service had not been disregarded under the Break in Service rules and you are otherwise eligible to participate in the Plan.

**ARTICLE II
EMPLOYEE CONTRIBUTIONS**

What are employee mandatory contributions?

Mandatory contributions. In order to become a participant in the Plan, you must agree to contribute 7.5% of your compensation to the Plan.

You will always be 100% vested (your ownership rights) in any required amounts you elect to contribute to the Plan.

Withdrawal of mandatory contributions. You may not withdraw required contributions prior to your termination of employment.

Employer contribution "pick up". Your mandatory contributions are considered to be "picked up" by the Employer are pre-tax contributions.

**ARTICLE III
EMPLOYER CONTRIBUTIONS**

This Plan is a type of qualified retirement plan commonly referred to as a Money Purchase Pension Plan. To be a participant under the Plan, you must elect to reduce your compensation by a specific percentage and have that amount contributed to the Plan. Because your contributions are picked up by the Employer, they are not taxed to you when contributed to the Plan and will become taxable to you when you withdraw those amounts from the Plan. In addition, we will make additional contributions to the Plan on your behalf. You are not taxed on the amounts we contribute to the Plan on your behalf generally until you withdraw those amounts from the Plan. This Article describes the types of contributions that may be made to the Plan and how these monies will be allocated to your account to provide for your retirement benefit.

What is the Employer pension contribution and how is it allocated?

Employer contribution. Each year that you are eligible to share in contributions, your Employer will contribute an amount equal to 7.5% of your compensation.

Allocation conditions. You will always share in the pension contribution regardless of the amount of service you complete during the Plan Year.

What are forfeitures and how are they allocated?

Definition of forfeitures. In order to reward employees who remain employed with the Employer for a long period of time, the law permits a "vesting schedule" to be applied to certain contributions that your Employer makes to the Plan. This means that you will not

be entitled ("vested") in all of the contributions until you have been employed with the Employer for a specified period of time (see the Article entitled "Vesting"). If a Participant terminates employment before being fully vested, then the non-vested portion of the terminated Participant's account balance remains in the Plan and is called a forfeiture. Forfeitures may be used by the Plan for several purposes.

Allocation of forfeitures. Forfeitures will be allocated as follows:

- Forfeitures may first be used to pay any administrative expenses.
- Any remaining forfeitures will be used to reduce any Employer contribution.

ARTICLE IV COMPENSATION AND ACCOUNT BALANCE

What compensation is used to determine my Plan benefits?

Definition of compensation. For the purposes of the Plan, compensation has a special meaning. Compensation is generally defined as your total compensation that is subject to income tax and paid to you by your Employer during the Plan Year. Amounts paid to you after you terminate employment are generally not treated as compensation (except as may be provided below, and then only if paid by the earlier of 2 1/2 months following termination, or if later, the end of the plan year of termination). If you are a self-employed individual, your compensation will be equal to your earned income. The following describes the adjustments to compensation that may apply for the different types of contributions provided under the Plan.

Adjustments to compensation. The following adjustments to compensation will be made for purposes of pension contributions:

- salary deferrals to any other plan or arrangement (such as a cafeteria plan) will be included
- compensation paid prior to your becoming a Participant in the Plan will be excluded

Is there a limit on the amount of compensation which can be considered?

The Plan, by law, cannot recognize annual compensation in excess of a certain dollar limit. The limit for the Plan Year beginning in 2010 is \$245,000. After 2010, the dollar limit may increase for cost-of-living adjustments.

Is there a limit on how much can be contributed to my account each year?

Generally, the law imposes a maximum limit on the amount of contributions that may be made to your account and any other amounts allocated to any of your accounts during the Plan Year, excluding earnings. Beginning in 2010, this total cannot exceed the lesser of \$49,000 or 100% of your annual compensation. After 2010, the dollar limit may increase for cost-of-living adjustments.

How is the money in the Plan invested?

The Trustee of the Plan has been designated to hold the assets of the Plan for the benefit of Plan Participants and their beneficiaries in accordance with the terms of this Plan. The trust fund established by the Plan's Trustee will be the funding medium used for the accumulation of assets from which Plan benefits will be distributed.

Participant directed investments. You will be able to direct the investment of your entire interest in the Plan. The Administrator will provide you with information on the investment choices available to you, the procedures for making investment elections, the frequency with which you can change your investment choices and other important information. You need to follow the procedures for making investment elections and you should carefully review the information provided to you before you give investment directions. If you do not direct the investment of your applicable Plan accounts, then your accounts will be invested in accordance with the default investment alternatives established under the Plan.

Earnings or losses. When you direct investments, your accounts are segregated for purposes of determining the earnings or losses on these investments. Your account does not share in the investment performance of other Participants who have directed their own investments. You should remember that the amount of your benefits under the Plan will depend in part upon your choice of investments. Gains as well as losses can occur and your Employer, the Administrator, and the Trustee will not provide investment advice or guarantee the performance of any investment you choose.

Will Plan expenses be deducted from my account balance?

The Plan permits the payment of Plan expenses to be made from the Plan's assets. If the Employer does not pay these expenses, then the expenses paid out of the Plan's assets will generally be allocated among the accounts of all participants in the Plan. These expenses will be allocated proportionately based on the value of the account balances.

There are certain expenses that may be paid just from your account. These are expenses that are specifically incurred by, or attributable to, you. For example, if you are married and get divorced, the Plan may incur additional expenses if a court mandates that a portion of your account be paid to your ex-spouse. These additional expenses may be paid directly from your account (and not the accounts of other participants) because they are directly attributable to you under the Plan.

The following expenses will be charged directly to your account:

- the per Participant quarterly fee, or
- any administrative expenses attributable to a single sum benefit payment for a distribution other than at death, total and permanent disability or retirement, or
- a qualified domestic relations order administration fee, or
- other charges identified in advance by the Plan Administrator for special services.

The Employer may, from time to time, change the manner in which expenses are allocated.

**ARTICLE V
VESTING**

What is my vested interest in my account?

In order to reward employees who remain employed with the Employer for a long period of time, the law permits a "vesting schedule" to be applied to certain contributions that your Employer makes to the Plan. This means that you will not be entitled ("vested") in all of the contributions until you have been employed with the Employer for a specified period of time.

100% vested contributions. You are always 100% vested (which means that you are entitled to all of the amounts) in your employee mandatory contribution account.

Vesting schedules. Your "vested percentage" for certain Employer contributions is based on vesting Periods of Service. This means at the time you stop working for a reason other than your death, disability, or retirement, your account balance attributable to contributions subject to a vesting schedule is multiplied by your vested percentage. The result, when added to the amounts that are always 100% vested as shown above, is your vested interest in the Plan, which is what you will actually receive from the Plan. You will always, however, be 100% vested if you are employed on or after your Normal Retirement Age, or if you die or become disabled while employed by your Employer.

Your "vested percentage" in your account attributable to pension contributions is determined under the following schedule.

Periods of Service	Vesting Schedule Percentage
1	50%
2	100%

How is my service determined for vesting purposes?

Period of Service. You will be credited with a Period of Service for each twelve-month period from your date of employment until the date you terminate employment. The Administrator will track your service and will credit you with a Period of Service in accordance with the terms of the Plan. If you have any questions regarding your vesting service, you should contact the Administrator.

What service is counted for vesting purposes?

Service with the Employer. In calculating your vested percentage, all service you perform for the Employer will generally be counted. However, there are some exceptions to this general rule.

Break in Service rules. If you terminate employment and are rehired, you may lose credit for prior service under the Plan's Break in Service rules.

For vesting purposes, you will have a Break in Service if you are not employed with the Employer for a period of at least twelve consecutive months. However, if you are absent from work for certain leaves of absence such as a maternity or paternity leave, the twelve consecutive month period beginning on the first anniversary of your first day of such absence will not constitute a Break in Service.

Five-year Break in Service rule. The five-year Break in Service rule applies only to Participants who had no vested interest in the Plan when employment had terminated. If you were not vested in any amounts when you terminated employment and you have five 1-Year Breaks in Service (as defined above), all the service you earned before the 5-year period no longer counts for vesting purposes. Thus, if you return to employment after incurring five 1-Year Breaks in Service, you will be treated as a new employee (with no service) for purposes of determining your vested percentage under the Plan.

Military Service. If you are a veteran and are reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, your qualified military service may be considered service with the Employer. There may also be benefits for employees who die or become disabled while on active duty. Employees who receive wage continuation payments while in the military may benefit from law changes effective in 2009. If you think you may be affected by these rules, ask the Plan Administrator for further details.

What happens to my non-vested account balance if I'm rehired?

If you have no vested interest in the Plan when you leave, your account balance will be forfeited. However, if you are rehired before incurring five 1-Year Breaks in Service, your account balance as of your termination date will be restored, unadjusted for any gains or losses.

If you are partially vested in your account balance when you leave, the non-vested portion of your account balance will be forfeited on the earlier of the date:

- (a) of the distribution of your vested account balance, or
- (b) when you incur five consecutive 1-year Breaks in Service.

If you received a distribution of your vested account balance and are rehired, you may have the right to repay this distribution. If you repay the entire amount of the distribution, your Employer will restore your account balance with your forfeited amount. You must repay this distribution within five years from your date of reemployment, or, if earlier, before you incur five 1-Year Breaks in Service. If you were 100% vested when you left, you do not have the opportunity to repay your distribution.

**ARTICLE VI
BENEFITS AND DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT**

When can I get money out of the Plan?

This Plan is designed to provide you with retirement benefits. However, distributions are permitted if you die or become disabled. In addition, certain payments are permitted when you terminate employment for any other reason. The rules under which you can receive a distribution are described in this Article. The rules regarding the payment of death benefits to your beneficiary are described in the Article entitled "Benefits and Distributions Upon Death."

You may receive a distribution of the vested portion of some or all of your accounts in the Plan for the following reasons:

- termination of employment for reasons other than death, disability or retirement
- normal retirement
- disability

What happens if I terminate employment before death, disability or retirement?

If your employment terminates for reasons other than death, disability or normal retirement, you will be entitled to receive only the "vested percentage" of your account balance.

You may elect to have your vested account balance distributed to you as soon as administratively feasible following your termination of employment. (See the question entitled "How will my benefits be paid to me?" for additional information.)

What happens if I terminate employment at Normal Retirement Date?

Normal Retirement Date. You will attain your Normal Retirement Age when you reach your 65th birthday. Your Normal Retirement Date is the first day of the month coinciding with or next following your Normal Retirement Age.

Payment of benefits. You will become 100% vested in all of your accounts under the Plan if you retire on or after your Normal Retirement Age. However, the actual payment of benefits generally will not begin until you have terminated employment and reached your Normal Retirement Date. In such event, a distribution will be made, at your election, as soon as administratively feasible. If you remain employed past your Normal Retirement Date, you may generally defer the receipt of benefits until you actually terminate employment. In such event, benefit payments will begin as soon as feasible at your request, but not later than age 70 1/2. (See the question entitled "How will my benefits be paid to me?" for an explanation of how these benefits will be paid.)

What happens if I terminate employment due to disability?

Definition of disability. Under the Plan, disability is defined as a physical or mental condition resulting from bodily injury, disease, or mental disorder which renders you incapable of continuing usual and customary employment with your Employer. Your disability must be determined by a licensed physician.

Payment of benefits. If you become disabled while a Participant, you will become 100% vested in all of your accounts under the Plan. Payment of your disability benefits will be made to you as if you had retired. However, if the value of your account balance does not exceed \$1,000, then a distribution of your account balance will be made to you, regardless of whether you consent to receive it. (See the question entitled "How will my benefits be paid to me?" for an explanation of how these benefits will be paid.)

How will my benefits be paid to me?

Annuity Distribution. If you are married on the date your benefits are to begin, you will automatically receive a joint and 50% survivor annuity, unless you elect an alternative form of payment. This means that you will receive payments for your life, and after your death,

your surviving spouse will receive a monthly benefit for the remainder of his or her life equal to 50% of the benefit you were receiving at the time of your death. You may elect a joint and 75%, or 100% survivor annuity instead of the standard joint and 50% survivor annuity. You should consult an advisor before making such election.

If you are not married on the date your benefits are to begin, you will automatically receive a life annuity, unless you elect an alternative form of payment. This means you will receive payments for as long as you live. However, if your vested account balance does not exceed \$5,000, then your vested account balance may only be distributed to you in a single lump-sum payment.

Consent requirements. If your vested account balance exceeds \$1,000, you must consent to any distribution before it may be made. In addition, if your vested account balance exceeds \$5,000 and you want the distribution to be in a form other than an annuity, you (and your spouse, if you are married) must first waive the annuity form of payment.

Medium of payment. Benefits under the Plan will generally be paid to you in cash.

May I elect another form of benefit?

Waiver of annuity. If your vested benefit in the Plan exceeds \$5,000, then when you are about to receive any distribution, the Administrator will explain the joint and survivor annuity or the life annuity to you in greater detail. You will be given the option of waiving the joint and survivor annuity or the life annuity form of payment during the 180-day period before the annuity is to begin. **IF YOU ARE MARRIED, YOUR SPOUSE MUST IRREVOCABLY CONSENT IN WRITING TO THE WAIVER IN THE PRESENCE OF A NOTARY OR A PLAN REPRESENTATIVE.** You may revoke any waiver. The Administrator will provide you with forms to make these elections. Since your spouse participates in these elections, you must immediately inform the Administrator of any change in your marital status.

Other form of distribution. If your vested account balance exceeds \$5,000 and you and your spouse elect not to take a joint and survivor annuity, or if you are not married when your benefits are scheduled to begin and have elected not to take a life annuity, you may elect to receive a distribution of your vested account balance in an alternative form of payment. This payment may be made in one of the following methods:

- a single lump-sum payment
- installments over a period of not more than your assumed life expectancy (or the assumed life expectancies of you and your beneficiary)
- the purchase of a different form of annuity

Delaying distributions. You may delay the distribution of your vested account balance unless a distribution is required to be made, as explained earlier, because your vested account balance does not exceed \$1,000. However, if you elect to delay the distribution of your vested account balance, there are rules that require that certain minimum distributions be made from the Plan. If you are a 5% owner, distributions are required to begin not later than the April 1st following the end of the year in which you reach age 70 1/2. If you are not a 5% owner, distributions are required to begin not later than the April 1st following the later of the end of the year in which you reach age 70 1/2 or retire. You should see the Administrator if you think you may be affected by these rules.

ARTICLE VII BENEFITS AND DISTRIBUTIONS UPON DEATH

What happens if I die while working for the Employer?

If you die while still employed by the Employer, then 100% of your account balance will be used to provide your beneficiary with a death benefit.

Who is the beneficiary of my death benefit?

Married Participant. If you are married at the time of your death, your spouse will be the beneficiary of the entire death benefit unless an election is made to change the beneficiary. **IF YOU WISH TO DESIGNATE A BENEFICIARY OTHER THAN YOUR SPOUSE, YOUR SPOUSE MUST IRREVOCABLY CONSENT TO WAIVE ANY RIGHT TO THE DEATH BENEFIT. YOUR SPOUSE'S CONSENT MUST BE IN WRITING, BE WITNESSED BY A NOTARY OR A PLAN REPRESENTATIVE AND ACKNOWLEDGE THE SPECIFIC NONSPOUSE BENEFICIARY.**

If you are married and you change your designation, then your spouse must again consent to the change. In addition, you may elect a beneficiary other than your spouse without your spouse's consent if your spouse cannot be located.

Unmarried Participant. If you are not married, you may designate a beneficiary on a form to be supplied to you by the Administrator.

No beneficiary designation. At the time of your death, if you have not designated a beneficiary or your beneficiary is also not alive, the death benefit will be paid in the following order of priority to:

- (a) your surviving spouse
- (b) your children, including adopted children in equal shares (and if a child is not living, that child's share will be distributed to that child's heirs)

- (c) your surviving parents, in equal shares
- (d) your estate

How will the death benefit be paid to my beneficiary?

Annuity distribution. If the death benefit payable to your spouse does not exceed \$5,000, then the benefit may only be paid as a lump sum. If the death benefit exceeds \$5,000, the death benefit will be paid in the form of an annuity, that is, periodic payments over the life of your spouse. Your spouse may direct that payments begin within a reasonable period of time after your death. The size of the monthly payments will depend on the value of your vested account at the time of your death.

Waiver of annuity. You may waive the annuity form of distribution. Generally, the period during which you and your spouse may waive the annuity begins as of the first day of the Plan Year in which you reach age 35 and ends when you die. The Administrator must provide you with a detailed explanation of the annuity. This explanation must generally be given to you during the period of time beginning on the first day of the Plan Year in which you will reach age 32 and ending on the first day of the Plan Year in which you reach age 35. It is important that you inform the Administrator when you reach age 32 so that you may receive this information.

Under a special rule, you and your spouse may waive the survivor annuity form of payment any time before you turn age 35. However, any waiver will become invalid at the beginning of the Plan Year in which you turn age 35, and you and your spouse will be required to make another waiver.

If you waive the annuity form of distribution or you are not married, then your beneficiary may elect an alternative form of payment. This payment may be made in:

- a single lump-sum payment
- installments over a period of not more than the assumed life expectancy of your beneficiary
- the purchase of a different form of annuity

When must the last payment be made to my beneficiary?

The law generally restricts the ability of a retirement plan to be used as a method of retaining money for purposes of your death estate. Thus, there are rules that are designed to ensure that death benefits are distributable to beneficiaries within certain time periods.

Regardless of the method of distribution selected, if your designated beneficiary is a person (rather than your estate or some trusts) then minimum distributions of your death benefit will begin by the end of the year following the year of your death ("1-year rule") and must be paid over a period not extending beyond your beneficiary's life expectancy. If your spouse is the beneficiary, then under the "1-year rule," the start of payments will be delayed until the year in which you would have attained age 70 1/2 unless your spouse elects to begin distributions over his or her life expectancy before then. However, instead of the "1-year rule" your beneficiary may elect to have the entire death benefit paid by the end of the fifth year following the year of your death (the "5-year rule"). Generally, if your beneficiary is not a person, your entire death benefit must be paid under the "5-year rule."

Since your spouse has certain rights to the death benefit, you should immediately report any change in your marital status to the Administrator.

What happens if I'm a Participant, terminate employment and die before receiving all my benefits?

If you terminate employment with the Employer and subsequently die, your beneficiary will be entitled to your remaining interest in the Plan at the time of your death. The provision in the Plan providing for full vesting of your benefit upon death does not apply if you die after terminating employment.

**ARTICLE VIII
TAX TREATMENT OF DISTRIBUTIONS**

What are my tax consequences when I receive a distribution from the Plan?

Generally, you must include any Plan distribution in your taxable income in the year in which you receive the distribution. The tax treatment may also depend on your age when you receive the distribution. Certain distributions made to you when you are under age 59 1/2 could be subject to an additional 10% tax.

Can I elect a rollover to reduce or defer tax on my distribution?

Rollover or Direct Transfer. You may reduce, or defer entirely, the tax due on your distribution through use of one of the following methods:

- (a) **60-day rollover.** The rollover of all or a portion of the distribution to an Individual Retirement Account or Annuity (IRA) or another employer retirement plan willing to accept the rollover. This will result in no tax being due until you begin withdrawing funds from the IRA or other qualified employer plan. The rollover of the distribution, however, **MUST** be made within strict time

frames (normally, within 60 days after you receive your distribution). Under certain circumstances all or a portion of a distribution may not qualify for this rollover treatment. In addition, most distributions will be subject to mandatory federal income tax withholding at a rate of 20%. This will reduce the amount you actually receive. For this reason, if you wish to roll over all or a portion of your distribution amount, the direct transfer option described in paragraph (b) below would be the better choice.

(b) **Direct rollover.** For most distributions, you may request that a direct transfer (sometimes referred to as a direct rollover) of all or a portion of a distribution be made to either an Individual Retirement Account or Annuity (IRA) or another employer retirement plan willing to accept the transfer. A direct transfer will result in no tax being due until you withdraw funds from the IRA or other employer plan. Like the rollover, under certain circumstances all or a portion of the amount to be distributed may not qualify for this direct transfer. If you elect to actually receive the distribution rather than request a direct transfer, then in most cases 20% of the distribution amount will be withheld for federal income tax purposes. If you decide to directly transfer all or a portion of a distribution, you (and your spouse, if you are married) must first waive the annuity form of payment. (See the question entitled "How will my benefits be paid to me?" for a further explanation of this waiver requirement.)

Tax Notice. WHENEVER YOU RECEIVE A DISTRIBUTION, THE ADMINISTRATOR WILL DELIVER TO YOU A MORE DETAILED EXPLANATION OF THESE OPTIONS. HOWEVER, THE RULES WHICH DETERMINE WHETHER YOU QUALIFY FOR FAVORABLE TAX TREATMENT ARE VERY COMPLEX. YOU SHOULD CONSULT WITH QUALIFIED TAX COUNSEL BEFORE MAKING A CHOICE.

ARTICLE IX PROTECTED BENEFITS

Are my benefits protected?

As a general rule, your interest in your account, including your "vested interest," may not be alienated. This means that your interest may not be sold, used as collateral for a loan, given away or otherwise transferred. In addition, your creditors may not attach, garnish or otherwise interfere with your account.

Are there any exceptions to the general rule?

There are two exceptions to this general rule. The Administrator must honor a "qualified domestic relations order." A "qualified domestic relations order" is defined as a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your assets in the Plan to your spouse, former spouse, child or other dependent. If a qualified domestic relations order is received by the Administrator, all or a portion of your benefits may be used to satisfy that obligation. The Administrator will determine the validity of any domestic relations order received. You and your beneficiaries can obtain, without charge, a copy of the QUALIFIED DOMESTIC RELATIONS ORDER PROCEDURE from the Administrator.

The second exception applies if you are involved with the Plan's operation. If you are found liable for any action that adversely affects the Plan, the Administrator can offset your benefits by the amount that you are ordered or required by a court to pay the Plan. All or a portion of your benefits may be used to satisfy any such obligation to the Plan.

Can the Plan be amended?

Your Employer has the right to amend the Plan at any time. In no event, however, will any amendment authorize or permit any part of the Plan assets to be used for purposes other than the exclusive benefit of Participants or their beneficiaries. Additionally, no amendment will cause any reduction in the amount credited to your account.

What happens if the Plan is discontinued or terminated?

Although your Employer intends to maintain the Plan indefinitely, your Employer reserves the right to terminate the Plan at any time. Upon termination, no further contributions will be made to the Plan and all amounts credited to your accounts will become 100% vested. Your Employer will direct the distribution of your accounts in a manner permitted by the Plan as soon as practicable. (See the question entitled "How will my benefits be paid to me?" for a further explanation.) You will be notified if the Plan is terminated.

ARTICLE X GENERAL INFORMATION ABOUT THE PLAN

There is certain general information which you may need to know about the Plan. This information has been summarized for you in this Article.

Plan Name

The full name of the Plan is Barton Springs/Edwards Aquifer Conservation District Retirement Plan.

Plan Number

Your Employer has assigned Plan Number 001 to your Plan.

Plan Effective Dates

This Plan was originally effective on September 1, 1991. The amended and restated provisions of the Plan become effective on March 1, 2010. However, this restatement was made to conform the Plan to new tax laws and some provisions may be retroactively effective.

Other Plan Information

Valuations of the Plan assets are generally made annually on the last day of the Plan Year and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of the Participants' Accounts during the Plan Year. We anticipate that accounts will generally be valued daily. Certain distributions are based on the Anniversary Date of the Plan. This date is the last day of the Plan Year.

The Plan's records are maintained on a twelve-month period of time. This is known as the Plan Year. The Plan Year begins on September 1st and ends on August 31st.

The Plan and Trust will be governed by the laws of Texas to the extent not governed by federal law.

Employer Information

Your Employer's name, address and identification number are:

Barton Springs/Edwards Aquifer Conservation District
1124 Regal Row
Austin, Texas 78748
74-2488641

Plan Administrator Information

The Plan's Administrator is responsible for the day-to-day administration and operation of the Plan. For example, the Administrator maintains the Plan records, including your account information, provides you with the forms you need to complete for Plan participation, and directs the payment of your account at the appropriate time. The Administrator will also allow you to review the formal Plan document and certain other materials related to the Plan. If you have any questions about the Plan or your participation, you should contact the Administrator. The Administrator may designate other parties to perform some duties of the Administrator.

The Administrator has the complete power, in its sole discretion, to determine all questions arising in connection with the administration, interpretation, and application of the Plan (and any related documents and underlying policies). Any such determination by the Administrator is conclusive and binding upon all persons.

The name, address and business telephone number of the Plan's Administrator are:

Barton Springs/Edwards Aquifer Conservation District
1124 Regal Row
Austin, Texas 78748
512-282-8441

Plan Trustee Information and Plan Funding Medium

All money that is contributed to the Plan is held in a trust fund. The Trustee is responsible for the safekeeping of the trust fund and must hold and invest Plan assets in a prudent manner and in the best interest of you and your beneficiaries. The trust fund established by the Plan's Trustee(s) will be the funding medium used for the accumulation of assets from which benefits will be distributed. While all the Plan assets are held in a trust fund, the Administrator separately accounts for each Participant's interest in the Plan.

The name and address of the Plan's Trustee is:

Dana Wilson
1124 Regal Row
Austin, Texas 78748

Item 3

Routine Business

b. General Manager's Report. Note: Topics discussed in the General Manager's Report are intended for administrative and operational information-transfer purposes. The Directors will not deliberate any issues arising from such discussions and no decisions on them will be taken in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. Standing Topics.

- i. Personnel matters and utilization**
- ii. Upcoming public events of possible interest**
- iii. Aquifer conditions and status of drought indicators**

2. Special Topics. (Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.)

- i. Update on Team activities and highlights**
- ii. Update on regulatory and enforcement activities**
- iii. Update on efforts to characterize the saline zone of the Edwards Aquifer**
- iv. Update on activities related to area roadway projects**

**Item 4
Presentations**

- a. Award of the Kent S. Butler Memorial Groundwater Stewardship College Scholarship, and the Aquatic Science Adventure Camp scholarships.**
- b. Presentation by David Foster of Clean Water Action on District-supported HOA education efforts.**
- c. Presentation by Dennis Pittenger, District contractor, of a methodology to calculate estimated irrigation demand.**

Item 5

Board discussions and possible actions

- a. Discussion and possible action related to adopting a methodology for calculating estimated irrigation demand and determining permitted production limits.**

Item 5

Board discussions and possible actions

b. Discussion and possible action related to consideration of declaring Stage II Alarm Drought.

Item 5

Board discussions and possible actions

- c. Discussion and possible action related to pursuing a TWDB grant to help fund efforts to characterize the saline Edwards Aquifer.**

Texas Water Development Board

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Request for Applications for Demonstration Projects for Near-Term Water Supplies

The Texas Water Development Board (TWDB) solicits Request for Applications from interested parties for the construction of water reuse, aquifer storage and recovery, or any other demonstration projects that will create new water supplies or otherwise increase the availability of water through use of innovative storage approaches that improve operational efficiencies. Such projects should be targeted to provide cost-effective water supplies within the next five years and provide regional benefits estimated to increase by at least 10 percent the overall amount of reliable water supply that can be made available within a region to help meet the various competing demands for water, including those of agricultural, industrial, municipal, and others. The total amount of the grants to be awarded under this request for applications by the TWDB shall not exceed \$3,000,000.

Grant Amount

The total grant amount for all projects shall not exceed \$3,000,000. Applicants will be required to provide a dollar-for-dollar matching contribution to the amount requested from TWDB. Funds that are committed and encumbered in appropriation year 2014 will need to be spent by August 31, 2016. Similarly, funds that are committed and encumbered in appropriation year 2015 will need to be spent by August 31, 2017. Funds will be awarded through a competitive statewide grants process.

Application Review

All applications received will be grouped into one of three categories: water reuse, aquifer storage and recovery, and other strategies that can create new water supplies or increase the availability of existing water. Applications will be assessed, scored, and ranked in each category by a review panel.

Application Guidelines

Applications will be evaluated in accordance with 31 Texas Administrative Code [§355.5](#) and may include the following factors:

- Overall approach and organization
- Methodology
- Qualifications and resources
- Organization and management
- Reports and deliverables
- Assessment of proposer's ability to perform and complete the project

In addition to the general information required as part of a TWDB Request for Applications, proposals must include evidence of financial commitment from the applicant for a dollar-for-dollar cost sharing in the project and a sufficiently detailed description of the process to determine that a 10 percent increase in the overall amount of reliable water supply in the region will result from the project within the next five years.

The applicable scope of work, schedule, and contract amount will be negotiated after the TWDB selects the most qualified applicants or the desired projects for funding. Failure to arrive at mutually agreeable terms of a contract with the most qualified applicant shall constitute a rejection of the Board's offer and may result in subsequent negotiations with the next most qualified applicant. The TWDB reserves the right to reject any or all applications if staff determines that an application does not adequately meet the required criteria or if the funding available is less than that requested.

Deadline for Submission of Applications

Six double-sided, double-spaced copies on recycled paper and one digital copy (CD) of a completed application must be filed with the TWDB on or before 12:00 p.m. on April 30, 2014. Applications can be directed either in person to David Carter, Texas Water Development Board, Stephen F. Austin Building, Room 610D, 1700 North Congress Avenue, Austin, Texas, 78701; or by mail to David Carter, Texas Water Development Board, P.O. Box 13231-Capitol Station, Austin, Texas 78711-3231.

Les Trobman, General Counsel
Texas Water Development Board

- **Texas Water Development Board, 1700 North Congress Avenue, Austin, TX 78701**
- TEL: 512-463-7847

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- [WIID System](#)
- [Save Texas Water](#)
- [TWICC](#)
- [Water Exploration](#)
- [Texas Water Smart](#)
- [Water Data for Texas](#)

Item 5

Board discussions and possible actions

d. Discussion and possible action related to considering suggested edits to the review draft HCP in response to Director comments and comments received from the Management Advisory Committee (MAC) to date, and to setting a schedule for soliciting further comment from the MAC and the public and for Board approvals.

Item 5

Board discussions and possible actions

e. Discussion and possible action related to a memorandum prepared by legal counsel regarding habitat conservation plan.

Item 5

Board discussions and possible actions

f. Discussion and possible action related to the decision in the *SOS Alliance v. City of Kyle, Goodman et al., and the Barton Springs/Edwards Aquifer Conservation District* and the process going forward.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-13-00271-CV

Save Our Springs Alliance, Inc., Appellant

v.

**City of Kyle; Jack Goodman; Craig Smith; Mary Stone; Gary Franklin; and Bob Larson,
each in their Official Capacity as Directors of the Barton Springs-Edwards Aquifer
Conservation District and the Barton Springs-Edwards Aquifer Conservation District,
Appellees**

**FROM THE DISTRICT COURT OF HAYS COUNTY, 22ND JUDICIAL DISTRICT
NO. 10-1267, HONORABLE R. BRUCE BOYER, JUDGE PRESIDING**

MEMORANDUM OPINION

Save Our Springs Alliance, Inc. (the Alliance) appeals following a final judgment after the district court had granted the City of Kyle's motion to strike the Alliance's plea in intervention. In a single issue, the Alliance contends that the court abused its discretion by striking its plea in intervention and therefore its judgment should be reversed and the cause remanded to the district court. We will affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The underlying proceeding is a suit for judicial review filed by the City challenging an order of the Barton Springs-Edwards Aquifer Conservation District partially approving the City's application for an amendment to its production permit allowing it to pump additional water from the

Barton Springs-Edwards Aquifer. This is the second appeal in this suit.¹ As it did in the first appeal, the Alliance contends in one issue that the district court abused its discretion by striking its plea in intervention. We did not address the merits of the Alliance's contention in the first appeal because we concluded that the district court lacked jurisdiction to render the particular judgment it had rendered. *See Save Our Springs Alliance, Inc. v. City of Kyle*, 382 S.W.3d 540, 544-45 (Tex. App.—Austin 2012, no pet.). We vacated that judgment and remanded the cause for further proceedings consistent with our opinion. *Id.* at 545. On remand, the district court granted the City's motion for summary judgment in which it asserted that the Aquifer District erroneously employed an *ad hoc* permitting standard when it issued the City a permit to pump water from the Barton Springs Edwards Aquifer in an amount less than the City had requested. The court remanded the cause to the Aquifer District for further proceedings. The Alliance perfected this appeal.

We now consider whether the district court abused its discretion in striking the Alliance's plea in intervention. Both the City and the Alliance agree that the proper standard of review is the three-part test enunciated by the Texas Supreme Court in *Guaranty Federal Savings Bank v. Horseshoe Operating Company*, 793 S.W.2d 652 (Tex. 1990). In *Guaranty Federal*, the supreme court held that it is an abuse of discretion for a trial court to strike a plea in intervention if all of the following factors are met: (1) the intervenor could have brought the same action, or any part thereof, in its own name, or, if the action had been brought against it, it would be able to defeat recovery, or some part thereof; (2) the intervention will not complicate the case by an excessive

¹ Our previous opinion includes a detailed description of the events leading up to the first appeal. *See Save Our Springs Alliance, Inc. v. City of Kyle*, 382 S.W.3d 540, 541-43 (Tex. App.—Austin 2012, no pet.).

multiplication of the issues; and (3) the intervention is almost essential to effectively protect the intervenor's interest.² *See id.* at 657. The Alliance contends that it has met each of the three prongs of this test and, therefore, the district court abused its discretion in striking its plea in intervention. We first consider whether the Alliance has met the third prong of the test, i.e., whether its intervention was almost essential to effectively protect its interests.

The Alliance did not file a motion for rehearing in the agency proceeding and therefore could not itself have challenged, in the underlying suit for judicial review, any aspect of the Aquifer District's decision on the City's application for an amendment to its groundwater pumping permit. *See* Tex. Water Code § 36.413 (party to contested-case hearing may not file suit against district under section 36.251 unless it timely files motion for rehearing). In its plea in intervention, the Alliance alleged the same general denial already asserted by the Aquifer District. Moreover, the Alliance concedes in its brief that "[t]he core legal issues and rules that apply to the City's permit application and administrative appeal would be the same with [the Alliance's] participation." Thus, the only role the Alliance could have played in this litigation would have been to support the Aquifer District's efforts to defend its own order. Notably, the Alliance does not

² The *Guaranty Federal* test was established in the context of an intervention in a suit initially filed in district court as opposed to intervention in a suit for judicial review, a proceeding instituted to challenge the decision of an administrative agency using the substantial-evidence standard set forth in section 2001.174 of the Administrative Procedure Act. *See* Tex. Gov't Code § 2001.174 (review under substantial-evidence rule). Although it does not appear that the *Guaranty Federal* test was designed with a suit for judicial review in mind, this Court has previously used the *Guaranty Federal* factors when reviewing a district court's decision to strike a plea in intervention in a suit for judicial review, *see, e.g., Northeast Neighbors Coal. v. Texas Comm'n on Env'tl. Quality*, No. 03-11-00277-CV, 2013 WL 1315078, at *5-6 (Tex. App.—Austin Mar. 28, 2013, pet. denied) (mem. op.), and both the City and the Alliance agree that this standard should be employed in this appeal. Accordingly, we will apply that standard.

suggest in its brief that there was any indication that the Aquifer District did not adequately defend its decision. In fact, the Aquifer District and the City filed competing motions for summary judgment, joining issue on whether the Aquifer District had properly interpreted and applied its rules requiring a permit applicant to demonstrate that it had an adequate alternative water supply available. The Alliance does not now identify any additional arguments it would have made or additional evidence it would have submitted to counter the City's motion for summary judgment, nor does it point to any manner in which the Aquifer District failed to adequately protect the Alliance's interest, which the Alliance describes as "preserving the [Aquifer District's] final agency decision on [the City's] permit application." Thus, the Alliance has failed to conclusively demonstrate that its intervention to assist the Aquifer District in protecting its identical interest in defending the administrative order was "almost essential." See *City of Austin v. Quick*, 930 S.W.2d 678, 683-84 (Tex. App.—Austin 1996), *aff'd*, 7 S.W.3d 109 (Tex. 1999) (despite past differences, district court was not required to presume that City of Austin would not effectively represent intervening party's interest when defending its ordinance). The Alliance has therefore not established that the trial court abused its discretion in granting the City's motion to strike the Alliance's plea in intervention.

The Alliance also asserts that it should have been permitted to intervene because the City included in its petition a request for declaratory relief. The Alliance relies on Civil Practice and Remedies Code section 37.006(a), which provides: "When declaratory relief is sought, all persons who have or claim any interest that would be affected by the declaration must be made parties." Tex. Civ. Prac. & Rem. Code § 37.006(a). According to the Alliance, although the City's request for declaratory relief was "redundant" of its suit for judicial review, "the necessary party provision []

reinforces [the Alliance's] right to intervene." As an initial matter, the Alliance did not argue in the district court that it was entitled to intervene as a necessary party pursuant to section 37.006 and, consequently, did not preserve that complaint. Moreover, even if the district court erred in not allowing the Alliance to intervene for the purpose of opposing the request for declaratory relief, any such error was harmless because the district court could not properly have granted, and did not grant, any declaratory relief. *See Texas Mun. Power Agency v. Public Util. Comm'n*, 100 S.W.3d 510, 517 (Tex. App.—Austin 2003, pet. denied) ("As a general rule, a declaratory judgment action will not lie if there is a pending action between the parties which might resolve the exact issues raised in the declaratory judgment." (Citing *Texas Liquor Control Bd. v. Canyon Creek Land Corp.*, 456 S.W.2d 891, 895 (Tex. 1970).). We may not reverse a judgment unless the error complained of probably caused the rendition of an improper judgment. *See* Tex. R. App. P. 44.1. We overrule the Alliance's sole appellate issue.

CONCLUSION

Having overruled the Alliance's appellate issue, we affirm the district court's judgment.

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Pemberton and Field

Affirmed

Filed: April 10, 2014

Item 6
Adjournment