



**EDWARDS AQUIFER**  
A U T H O R I T Y

**OPERATIONAL PROCEDURES**

**OF THE**

**IMPLEMENTING COMMITTEE**

**OF THE**

**EDWARDS AQUIFER**

**HABITAT CONSERVATION PLAN PROGRAM**

(adopted and effective on March 15, 2012)

**OPERATIONAL PROCEDURES OF THE IMPLEMENTING COMMITTEE  
OF THE EDWARDS AQUIFER HABITAT CONSERVATION PLAN PROGRAM**

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## **ARTICLE 1. GENERAL PROVISIONS**

### **Section**

- 1.01 Legal Authority
- 1.02 Purpose
- 1.03 Applicability
- 1.04 Construction
- 1.05 Amendments
- 1.06 Severability
- 1.07 Posting on the EAA Website
- 1.08 Effective Date

### **1.01 Legal Authority**

These Operational Procedures are adopted by the Implementing Committee pursuant to Section 4.01 and Subsection 7.7.2 of the FMA.

### **1.02 Purpose**

The purpose of these Operational Procedures is to:

- (a) ensure that the meetings of the Implementing Committee are conducted in an open manner with advance public notice suitable for the opportunity for participation as appropriate by those interested in the activities of the Implementing Committee;
- (b) foster decision making by the Implementing Committee in accordance with the Program Documents; and
- (c) ensure that the terms and conditions of the Program Documents are properly implemented.

### **1.03 Applicability**

These Operational Procedures apply only to the actions of the Implementing Committee.

### **1.04 Construction**

These Operational Procedures are intended to be consistent with the Program Documents and other applicable law. They are to be construed to be in compliance with such documents and law. In the event of an inconsistency, the inconsistent portion of the Operational Procedures is to be disregarded or, to the extent feasible, interpreted in manner to be consistent with the Program Documents and other applicable law.

## **1.05 Amendments**

These Operational Procedures may be amended, supplemented, or superseded by action of the Implementing Committee. Consideration of a proposed change will be noticed on the meeting agenda of the Implementing Committee, and a written statement of the proposed change and the reason for the change will be included in the Committee packet for the meeting at which the amendment or other change will be considered. The approved Operational Procedures will be attached to the minutes of the Implementing Committee meeting at which adoption of any amendment or other change to the Operational Procedures occurred. Any change to these Operational Procedures will be effective upon the date of its approval by the Implementing Committee, unless the Committee specifies another date for the change to take effect.

## **1.06 Severability**

If any provision of these Operational Procedures is rendered invalid in whole or in part by an order of a court of competent jurisdiction or other law, such provision will be severed from these Operational Procedures and deemed inapplicable to the extent and during the time it is rendered invalid. All remaining provisions of these Operational Procedures will continue in effect except to the extent they are rendered unworkable by the severance.

## **1.07 Posting on the EAA Website**

The Program Manager will ensure that a current version of these Operational Procedures is posted at all times on the Program portion of the EAA website at: <http://edwardsaquifer.org>.

## **1.08 Effective Date**

These Operational Procedures are effective upon adoption by the Implementing Committee, and continue in effect thereafter as may be amended.

## ARTICLE II. DEFINITIONS

### Section

#### 2.01 Definitions

##### 2.01 Definitions

(a) Terms that are capitalized in these Operational Procedures will have the meanings assigned in them in the FMA. Any terms used as captions of sections or subsections are for convenience only and have no special meaning unless assigned a meaning in this section. The following words, when used in these Operational Procedures will have the following meanings, unless the context clearly indicates otherwise:

(1) “*Abstention*” means that a Member or Alternate Member affirmatively indicates, in good faith, his or her intention not to vote on a matter.

(2) “*Alternate Member*” means a person appointed to serve as an alternate to a Member of the Implementing Committee.

(3) “*Board of Directors*” means the Board of Directors of the EAA.

(4) “*Chair*” means the member of the Implementing Committee who is elected to serve as chair of the Committee.

(5) “*GBRA*” means the Guadalupe-Blanco River Authority.

(6) “*General Manager*” means the General Manager of the EAA.

(7) “*Member*” means a person who is appointed by a Party or other entity as a member of the Implementing Committee to serve as the representative of the Party on the Committee. When used in these Operational Procedures, the term “Member” includes both Voting Members and Nonvoting Members.

(8) “*Nonvoting Member*” means a person appointed to the Implementing Committee to serve as a Member on the Committee, but without the right to vote.

(9) “*Quorum*” means the minimum number of Voting Members required to affirmatively take action on a matter at a meeting of the Committee. The number of Members needed to constitute a Quorum will vary with the types of decisions to be considered at a meeting of the Committee.

(10) “*Secretary*” means the member of the Implementing Committee who is elected to serve as secretary of the Committee.

(11) “*Vacancy*” means the resignation, abandonment of office, or otherwise, such that the position of Member of the Implementing Committee is no longer filled and no replacement has yet been appointed by the appropriate Party or other entity.

(12) “*Vice Chair*” means the member of the Implementing Committee who is elected to serve as Vice Chair of the Committee.

(13) “*Voting Member*” means a person appointed to the Implementing Committee to serve as a Member on the Committee, and has the right to vote.

## **ARTICLE III. THE IMPLEMENTING COMMITTEE**

### **Section**

- 3.01 Purpose
- 3.02 Duties
- 3.03 Composition
- 3.04 Voting Members
- 3.05 Nonvoting Members
- 3.06 Alternate Members
- 3.07 Term of Office of Members
- 3.08 Election of Officers
- 3.09 Duties of Officers
- 3.10 Vacancies, Resignations and Removals in Member Positions

### **3.01 Purpose**

The purpose of the Implementing Committee is to supervise the implementation of the Program in accordance with the provisions of the FMA. (FMA § 7.7)

### **3.02 Duties**

The Implementing Committee is comprised, operates, and has the duties, rights, and obligations as provided in the FMA. (FMA §§ 7.7, 7.7.3)

### **3.03 Composition**

The Implementing Committee is composed of representatives appointed by the EAA, New Braunfels, San Marcos, San Antonio, the University, and GBRA (FMA §§ 1.2.29, 7.7, 7.7.1.a.) Additional Nonvoting Members may be appointed in accordance with Section 3.05.

### **3.04 Voting Members**

The Implementing Committee will have five Voting Members, each appointed by and representing a Party. (FMA §§ 1.1.29, 1.1.30, 7.7.1.a.) Each Party will take such actions as it finds appropriate to duly appoint the Member, to authorize the appointed Member to represent the interests of the appointing Party in deliberations, and to authorize the appointed Member to cast votes on Implementing Committee actions by which the Party agrees to be bound. (FMA § 7.7.1.a.) Within 60 days of the effective date of the Permit, and from time to time thereafter as necessary, each Party will advise the Program Manager in writing of the name and contact information of the person it has appointed to represent that Party on the Implementing Committee. (FMA § 7.7.1.a.)



### **3.05 Nonvoting Members**

(a) The Implementing Committee will also include as Nonvoting Members a representative appointed by each person or group of persons, other than the Voting Members, who directly contributes to the HCP Program Account, under a written agreement with the EAA, an amount not less than \$400,000 for each year of the Permit Term, as such amount may be adjusted under the terms of the written agreement. (FMA § 7.7.1.b.)

(b) Within 60 days of the effective date of an agreement with the EAA, and from time to time thereafter as necessary, each person or group of persons entitled to nonvoting representation on the Implementing Committee will advise the Program Manager in writing of the name and contact information of the person appointed to represent that person or group as a Nonvoting Member of the Implementing Committee. (FMA § 7.7.1.b.)

### **3.06 Alternate Members**

Each Voting Member and Nonvoting Member of the Implementing Committee will appoint, by advising the Program Manager in writing, one or more Alternate Members to act as the Member's representative in the absence of the Member. (FMA § 7.7.1.c.) The Program Manager will request each Member to appoint in writing one or more Alternate Members. An Alternate Member may act at any time, in a meeting or otherwise, on behalf of the Member, and may not act on any matter at the same time as the Member the Alternate Member is designated to temporarily replace.

### **3.07 Term of Office of Members**

A Member's term will begin on the date that the Program Manager receives written confirmation of the appointment of the Member and continues until written confirmation of the appointment of a successor has been received by the Program Manager.

### **3.08 Election of Officers**

The Implementing Committee will elect the following officers from among its Voting Members: Chair, Vice Chair, and Secretary. (FMA § 7.7.2) Officers serve one-year terms commencing on the date of the Implementing Committee meeting at which the election occurred and continuing until their successors have been elected. The Implementing Committee will consider electing the Chair from among the Voting Members on a rotating basis each year. Officers may participate in discussions and decisions of the Implementing Committee and may vote on any such decisions as any other Voting Member. An Alternate Member will not perform the officer duties of a Voting Member for whom the Alternate Member serves as an alternate.

### **3.09 Duties of Officers**

(a) The Chair will have the following duties:

(1) coordinate with the Program Manager the scheduling of Implementing

Committee meetings;

(2) coordinate with the Program Manager and Members the development of an agenda for each Committee meeting;

(3) preside over Implementing Committee meetings in a manner that encourages full participation, full and open discussion to allow expression of all points of view, and consideration of alternative proposals for resolving controversial issues;

(4) provide leadership of the Implementing Committee;

(5) perform in a representative capacity for the Implementing Committee as requested by the Committee;

(6) meet with elected and appointed officials and other persons on matters related to the Program;

(7) assist in the communication of information relevant to the Program, as may be appropriate, to interested persons and the public; and

(8) other duties as requested by the Implementing Committee.

(b) The Vice Chair will perform the duties of the Chair if the Chair becomes incapacitated or is otherwise unable to performed the duties of office, or is absent or unavailable for any reason. The Vice Chair will perform such other powers and duties as may from time to time be authorized by action of the Implementing Committee, or as the Chair may from time to time delegate.

(c) The Secretary will attest all documents approved by the Implementing Committee, take and keep the minutes of the meetings of the Implementing Committee, and assist in the coordination of the management of records of the Program, as may be appropriate. The Secretary will perform such other powers and duties as may from time to time be authorized by action of the Implementing Committee, or as the Chair may from time to time delegate. The Secretary may delegate duties to the Assistant to the Secretary.

### **3.10 Vacancies, Resignations and Removals in Member Positions**

(a) The filling of vacancies in Member positions is within the jurisdiction of the Party, person or persons making the appointment. If a Member's position becomes vacant, the Party, person or persons that appointed the Member will in writing appoint a replacement as early as practicable after the vacancy arises.

(b) If a Member wishes to resign, he or she must file a written notice with the Program Manager and the Party, person or persons whom the Member represents. If a Member is removed from his or her position by the Party, person or persons that appointed the Member, or a Member becomes permanently unavailable for any reason, the Party, person or persons that

appointed the Member will give written notice to the Program Manager as soon as practicable after the removal or unavailability occurs. The Program Manager will notify the Party, person or persons that appointed a Member of each Implementing Committee meeting at which neither the Member or the Member's Alternate Member is present. The absence of both a Member and the Member's Alternate at three consecutive meetings will be deemed a resignation of the Member from the Member's position. (FMA § 7.8.5)

(c) Upon resignation or removal of a Member, the Program Manager will request the Party, person or persons that appointed the Member to designate in writing a new Member to replace the former Member. If the Alternate Member is named to replace the Member, the Program Manager will request the Member to designate in writing a new Alternate Member.

## **ARTICLE IV. MEETINGS OF THE IMPLEMENTING COMMITTEE**

### **Section**

- 4.01 Regular Meetings
- 4.02 Special Meetings
- 4.03 Emergency Meetings
- 4.04 Meeting Location
- 4.05 Open Meetings
- 4.06 Notice of Meetings
- 4.07 Meeting Agendas
- 4.08 Consideration of Items
- 4.09 Quorum
- 4.10 Voting; Effect of Abstentions
- 4.11 Action by the Implementing Committee
- 4.12 Conduct of Meetings
- 4.13 Minutes
- 4.14 Video Conferencing
- 4.15 Telephone Conferencing

### **4.01 Regular Meetings**

Regular meetings of the Implementing Committee will be once each calendar quarter. (FMA § 7.7.4) The Implementing Committee may establish a more frequent schedule of regular meetings.

### **4.02 Special Meetings**

Special meetings of the Implementing Committee may be called at any other time upon: (1) the request of the Program Manager; or (2) by the request of two Voting Members. (FMA § 7.7.4) Notice of the calling of special meetings by two Voting Members must: (1) be in writing; (2) be filed with the Program Manager; (3) state the name of the Voting Members calling the meeting; (4) be signed by each Voting Member requesting the special meeting; and (5) state the agenda items and a brief description of the items to be considered at the special meeting.

### **4.03 Emergency Meetings**

The Chair, the Program Manager, or at least two Voting Members, may call an emergency meeting of the Implementing Committee at any reasonable time and place, or by supplemental notice, may add an item to the agenda of a meeting for which notice has already been posted. An emergency exists only if immediate action is required by the Implementing Committee because of an imminent threat to public health or safety or a reasonably unforeseeable situation.

#### **4.04 Meeting Location**

Meetings of the Implementing Committee will be conducted at the official offices of the EAA at 1615 N. St. Mary's St., San Antonio, Texas 78215, or at any other location agreed upon by the Implementing Committee. (FMA § 7.7.4)

#### **4.05 Open Meetings**

(a) Meetings of the Implementing Committee are not subject to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. (FMA § 7.7.4) However, the Implementing Committee and Program Manager will make reasonable efforts to provide notice of its meetings and conduct them open to the public as though they were subject to the Texas Open Meetings Act. (FMA § 7.7.4)

(b) Although meetings of the Implementing Committee will be generally open to the public, with good cause, they may be closed to the public at the request of the Program Manager or any two Voting Members. (FMA § 7.7.4)

(c) This section does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.06 Notice of Meetings**

(a) Except as provided in subsection (b), the Program Manager will provide reasonable advance notice of the meetings to the Members and Stakeholder Committee. The notice of all regular and special meetings of the Implementing Committee will state the place, day and time of the meeting, and the agenda. The Program Manager will make reasonable efforts to ensure that notices are transmitted to each Member by email or facsimile, and are posted on the EAA website (FMA § 7.7.4), and at the other locations that the EAA posts its committee meetings, no less than 72 hours prior to the meeting. The Program Manager will make reasonable efforts to transmit and post notices of emergency meeting or supplemental notices no less than two hours before the meeting is convened.

(b) This section does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.07 Meeting Agendas**

(a) Except as provided in subsection (d), notices of Implementing Committee meetings will contain an agenda stating the matters to be considered or acted upon at such meetings, and matters not stated in the agenda or properly added to the agenda will not be discussed or acted upon, except to schedule the matters for discussion at a future meeting.

(b) The agenda will be set by the Chair in consultation with the Program Manager,

and other Members, as appropriate. An item will be added to the agenda upon the written request of at least two Voting Members if the request is received by the Secretary or the Assistant to the Secretary at least three days prior to posting of the meeting notice.

(c) Items determined by the Chair in consultation with the Program Manager that require action by the Implementing Committee, but which do not normally require briefing by the Program Manager or public discussion, may be placed on a “consent agenda.”

(1) Any Member will have the right to remove an item from the consent agenda prior to or during consideration of the consent agenda.

(2) All items removed from the consent agenda will be considered individually in the order in which they were removed, immediately following consideration of the consent agenda.

(3) The consent agenda will be introduced by a motion to approve the consent agenda.

(4) Approval of a motion to approve the consent agenda will be equivalent to approving each item as if it had been acted on individually.

(d) This section does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.08 Consideration of Items**

(a) Except as provided in Subsection (b), the Chair will introduce each item for consideration at the meeting in the order of the agenda unless the Implementing Committee, by majority vote, approves a different order or approves postponing consideration of an item to a subsequent meeting. If, at a meeting, a Member inquires about an item not on the agenda, any discussion about such an item must be limited to a proposal to place the subject on a future agenda, a statement of factual information, or a recitation of existing policy.

(b) This section does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.09 Quorum**

(a) Except as provided in Subsection (d), a meeting of the Implementing Committee may convene if a quorum of the Voting Members is present. Nonvoting Members will not be considered for determining the presence of a quorum. (FMA § 7.7.5) Except as provided in Subsection (d), if the agenda for a meeting of the Committee contains only items that require the unanimous approval of all five Voting Members, all five Voting Members must be present in order for the meeting to be convened. If the agenda for a meeting of the Committee contains an

item that can be approved by fewer than the five Voting Members, the number of Voting Members needed to approve that item will be used to determine the presence of a quorum.

(b) In determining the presence of a quorum at a meeting, any Alternate Member temporarily replacing a Voting Member will be included in all calculations. Any position that has been vacated as described in Section 3.10 will be included in calculating the number required for achieving a quorum or for approving an action. Similarly, any Voting Member position that is temporarily vacant because both the Member and any Alternate Member have resigned or been removed, but for which the conditions for filling the vacancy have not yet been met, will be included in calculating the number required for achieving a quorum or for approving an action. Except as provided in (d), and Sections 4.14 and 4.15, a Voting Member must be physically present to be counted in determining the presence of a quorum.

(c) If a quorum of the Implementing Committee is not present at a meeting, the Members present may postpone or recess the meeting for a reasonable time until a quorum is present. At the reconvened meeting when a quorum is present, any business may be transacted which may have been transacted had a quorum been present at the initial convening of the meeting.

(d) This section does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.10 Voting; Effect of Abstentions**

(a) Except as provided in subsections (b) and (c) for resolution of specific issues, a decision of the Implementing Committee will be made only by unanimous vote of the five Voting Members. (FMA §§ 7.7.5, 7.12.4.b., 7.14.4.a.) Any vote less than unanimous will result in disapproval of the proposed decision. (FMA § 7.7.5)

(b) Routine AMP decisions under Subsection 7.11.3 of the FMA wherein the affected Party and the Program Manager cannot reach agreement, but do not otherwise require Implementing Committee approval, will be made by a majority vote of the Voting Members. (FMA § 7.11.3)

(c) As part of the Nonroutine AMP decision making under Subsection 7.11.4 of the FMA, a Phase I Conservation Measure may be discontinued during the Permit Term by an affirmative vote of at least three Voting Members if the measure is not needed to achieve any Biological Goal or Biological Objective. (FMA § 7.12.4.f.)

(d) Nonvoting Members will not be considered as members of the Implementing Committee for decisions involving voting. (FMA § 7.7.5) Thus, a Nonvoting Member may not vote on any matter before the Implementing Committee. However, Nonvoting Members may participate in and comment on any matter before the Implementing Committee in the same manner as a Voting Member.

(e) For any action that requires a vote, the Implementing Committee will vote by show of hands of the Voting Members. Except as provided in Sections 4.14 and 4.15, a Voting Member must be physically present to vote. The number of ayes and nays for each vote at a meeting will be noted in the minutes for the meeting. Upon request by any Member, a roll call of votes will be taken and the results of the roll call will be noted in the minutes for the meeting. This subsection does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

(f) There will be no voting by proxy. A vote by an Alternate Voting Member on behalf of a Voting Member will not be considered a vote by proxy.

(g) The abstention of any Member does not constitute a vote, and is neither an affirmative nor a negative vote. However, because an abstention does not constitute a vote at all, it cannot be considered an affirmative vote for purposes of a decision that requires a unanimous vote of the five Voting Members. For votes not requiring a unanimous vote, the number of affirmative votes needed for approval of an item will be determined based on the entire membership of the Implementing Committee, including any abstaining Member.

#### **4.11 Action by the Implementing Committee**

(a) Except as provided in Subsection (b), the Implementing Committee may act by motion or by resolution adopted by the Committee.

(b) This section does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.12 Conduct of Meetings**

(a) Meetings of the Implementing Committee will be presided over by the Chair.

(b) Business may be considered in accordance with the Parliamentary Rules of Conduct of the Implementing Committee. To the extent not inconsistent with these Parliamentary Rules, the Implementing Committee may consult the current version of Robert's Rules of Order, from time to time, for the conduct of its meetings. The rules of order may be temporarily suspended at any time by vote of a majority of the Implementing Committee upon determining that suspension will facilitate discussion, deliberation, and consensus by the Members. Failure to follow the rules of order will not constitute grounds to invalidate an action of the Implementing Committee. The Chair may request the Program Manager, or his delegee, to provide guidance on the interpretation of any rule of order.

(c) The Program Manager, or his delegee, will be the Parliamentarian and will decide issues of parliamentary procedure, but may be overruled by majority vote of the Implementing Committee.

(d) This section does not apply to votes on a Routine AMP Decision that are



authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.13 Minutes**

(a) Actions taken in meetings of the Implementing Committee will be incorporated in written minutes taken by the Secretary or Assistant to the Secretary and signed by the Secretary or the Chair. A copy of the minutes will be sent with the agenda and submitted for approval to the Members at the next regular or special meeting of the Implementing Committee. The Secretary, or Assistant to the Secretary, is responsible for the preparation and keeping of meeting minutes.

(b) This section does not apply to votes on a Routine AMP Decision that are authorized to be made by email or other electronic communication under Subsection 7.11.6 of the FMA.

#### **4.14 Video Conferencing**

Member attendance at an Implementing Committee meeting via video conferencing is allowed. A Member must inform the Program Manager of his or her intent to participate via videoconference at least two days before the Committee meeting and must provide the Program Manager with the location from which he or she wishes to participate. Any location used by a Member to participate via videoconference must be open to the public.

#### **4.15 Telephone Conferencing**

Telephone conferencing is allowed only if an emergency or public necessity exists as defined in Section 4.03 and convening at one location is difficult or impossible. Each part of the telephone conference call meeting that is part of the open meeting will be audible to the public at the location specified in the meeting notice and will be tape-recorded as part of the meeting. The location designated in the meeting notice will provide two-way communication during the entire telephone conference call meeting and the identification of each party will be clearly stated prior to speaking.

## **ARTICLE V. PROGRAM MANAGEMENT**

### **Section**

- 5.01 Official Program Offices
- 5.02 Program Manager
- 5.03 Assistant to the Secretary
- 5.04 Consultants
- 5.05 No Bond Required
- 5.06 No Attendance at EAA Staff Meetings
- 5.07 No Fees of Office
- 5.08 No Reimbursement of Expenses
- 5.09 No Contracting and Procurement
- 5.10 No Interference in EAA Personnel Matters
- 5.11 Compliance with the Texas Public Information Act
- 5.12 AMP Decisions

### **5.01 Official Program Offices**

The location of the official offices of the Program are the official offices of the EAA at 1615 N. St. Mary's St., San Antonio, Texas 78215 (210) 222-2204, and will be listed on the Program website at: <http://edwardsaquifer.org>.

### **5.02 Program Manager**

(a) The EAA will employ a Program Manager whose job responsibility will be to direct, under the supervision of the General Manager of the EAA, the management of the Program consistent with the Program Documents. (FMA § 2.3) The Program Manager will be employed, and the Program Manager's job performance will be reviewed, as provided in Subsections 2.3.1 of the FMA. Generally, the EAA will cooperate with, coordinate, and generally provide necessary staff support the activities and decision making processes of the Implementing Committee. (FMA § 2.3.2.b., 7.2.1.a.) Additionally, the Program Manager will have the specific duties and responsibilities as provided in Subsection 2.3.2 of the FMA, including the EAA's job description for the position. (FMA § 2.3.2)

(b) The Program Manager will perform any procurement by the EAA related to the Program in compliance with the applicable EAA budgeting, procurement, and disbursement policies and procedures. (FMA § 7.2.2)

(c) The General Manager may from time to time designate a qualified member of the EAA staff to serve as the Acting Program Manager for temporary periods which may occur either pending the hiring of the initial or any successor Program Manager, or in the event of the Program Manager's unavailability or incapacity. Any duties or acts assigned to the Program Manager will be undertaken during the temporary period by the acting person thus appointed. (FMA § 2.3.3)

### **5.03 Assistant to the Secretary**

The Assistant to the Secretary of the Implementing Committee will be an employee of the EAA appointed to this position by the General Manager. The Assistant to the Secretary will perform functions delegated by the Secretary of the Implementing Committee as provided in Section 3.09(c).

### **5.04 Consultants**

The Implementing Committee may not engage consultants. However, if the Annual Program Budget provides funding for consultant services, the Implementing Committee may recommend that the EAA engage a consultant, including recommendations as to the proposed terms of the engagement. The procurement of a consultant by the EAA under this section will be in compliance with the applicable EAA budgeting, procurement, and disbursement policies and procedures. (FMA § 7.2.2)

### **5.05 No Bond Required**

Members of the Implementing Committee will not be required to furnish faithful performance of service bonds, or any other kind of bond.

### **5.06 No Attendance at EAA Staff Meetings**

Members may not attend EAA staff meetings unless the EAA staff invites one or more Members to a specific staff meeting. For the purpose of this section, the term “staff meetings” includes meetings between and among EAA staff and meetings between EAA staff and outside consultants.

### **5.07 No Fees of Office**

A Member of the Implementing Committee will not be entitled to receive fees of office.

### **5.08 No Reimbursement of Expenses**

A Member will not be entitled to receive reimbursement from the EAA of expenses incurred while engaging in activities on behalf of the Implementing Committee or the Program. A Member may receive reimbursement of such expenses from the entity, person or persons the Member represents.

### **5.09 No Contracting and Procurement**

The Implementing Committee is not authorized to enter into contracts, purchase goods, services, or own real or personal property, or otherwise expend or commit to the expenditure of EAA funds. The Implementing Committee may make a recommendation to a Party(s) that such Party(s) enter into a contract or make a procurement as recommended.

## **5.10 No Interference in EAA Personnel Matters**

Except as provided by Subsection 2.3.1 of the FMA, neither the Implementing Committee, nor any Member, will interfere with the General Manager's authority over personnel matters of the EAA, and in particular will not instruct the General Manager to appoint to or remove from employment any person. Neither the Implementing Committee, nor any Member, may give instructions to any employee or contractor of the EAA, either publicly or privately, inconsistent with these Operational Procedures and other applicable policies and procedures of the EAA.

## **5.11 Compliance with the Texas Public Information Act**

A Member who receives a request for information under the Texas Public Information Act, Chapter 552, Texas Government Code, relative to the activities of the Implementing Committee will refer the request to the Program Manager for a response. Except for those Program records maintained in the possession of a Member other than the EAA, the Program Manager will maintain Program records at the offices of the EAA. The records and information will be available to the public for inspection pursuant to the Texas Public Information Act.

## **5.12 AMP Decisions**

The Implementing Committee will process and take action on any AMP decisions pursuant to the procedures in Sections 7.11-7.14 of the FMA.

## **ARTICLE VI. FISCAL MANAGEMENT**

### **Section**

- 6.01 Comprehensive Phase I Work Plan
- 6.02 Comprehensive Phase II Work Plan
- 6.03 Amendments to the Comprehensive Work Plans
- 6.04 Annual Party Work Plans and Cost Estimates
- 6.05 Amendments to the Annual Party Work Plans and Cost Estimates
- 6.06 Annual Program Budget
- 6.07 Amendments to the Annual Program Budget
- 6.08 Routine AMP Decisions Affecting the Annual Program Budget
- 6.09 Nonroutine AMP Decisions Affecting the Annual Program Budget
- 6.10 Monthly Financial Statements
- 6.11 Amendments to the Budgeting Schedule
- 6.12 Amendments to the Fund Balance Cap

### **6.01 Comprehensive Phase I Work Plan**

Not later than March 1, 2012, the Implementing Committee will develop (with assistance from the Program Manager) and approve a Comprehensive Phase I Work Plan for the Program. This Work Plan will include descriptions, schedules, and cost estimates for the Phase I Conservation Measures and all Program activities to be conducted or managed by the Voting Members and Program Manager that are to be funded from the HCP Program Account for the period through December 31, 2019. (FMA § 4.2)

### **6.02 Comprehensive Phase II Work Plan**

Not later than March 1, 2019, the Implementing Committee will develop (with assistance from the Program Manager) and approve a Comprehensive Phase II Work Plan for the Program. (FMA § 4.3) This Work Plan will include descriptions, schedules, and cost estimates for ongoing Phase I Conservation Measures, for the Phase II Conservation Measures, for and all other Program activities to be conducted or managed by the Parties and Program Manager that are to be funded from the HCP Program Account for the Phase II period from January 1, 2020 until the expiration of the permit. (FMA § 4.3)

### **6.03 Amendments to the Comprehensive Work Plans**

The Comprehensive Phase I and Phase II Work Plans may be amended from time to time to accommodate new information and modifications in Conservation Measures as may be approved and authorized in compliance with the AMP. (FMA §§ 4.2, 4.3)

### **6.04 Annual Party Work Plans and Cost Estimates**

- (a) Not later than April 15, 2012, and thereafter by April 15<sup>th</sup> of each year during the

Permit Term, each Party will submit to the Program Manager and Implementing Committee for the Implementing Committee's review and approval the Party's Annual Party Work Plan and Cost Estimate for the next subsequent budget year. (FMA §§ 4.4, 4.6) Each Annual Party Work Plan and Cost Estimate will include descriptions and schedules of the tasks that are reasonable and necessary in order to perform each Party's respective Conservation Measures and other Program-related activities for the succeeding budget year. (FMA §§ 4.4, 4.6) The Annual Party Work Plan and Cost Estimate of each Party will be consistent with the HCP and modifications to the HCP approved and authorized in compliance with the AMP, and with the applicable Comprehensive Phase I or Phase II Work Plan, as amended.

(b) The EAA's Annual Party Work Plan and Cost Estimate will also include all activities related to the Program to be conducted or managed by the Program Manager during the next subsequent budget year. (FMA §§ 4.4, 4.6)

(c) The Program Manager and Implementing Committee will review and recommend changes, if necessary, to each Annual Party Work Plan and Cost Estimate. (FMA §§ 4.4, 4.5, 4.6) Not later than June 30, 2012, and thereafter by June 30<sup>th</sup> of each year during the Permit Term, the Implementing Committee will complete its review and approval of each Annual Party Work Plan and Cost Estimate. (FMA §§ 4.4, 4.5, 4.6)

#### **6.05 Amendments to the Annual Party Work Plans and Cost Estimates**

An approved Annual Party Work Plan and Cost Estimate may be amended from time to time by the Implementing Committee to conform to a modification to the HCP approved and authorized in compliance with the AMP, or to an amendment to the applicable Comprehensive Phase I or Phase II Work Plan or to the Annual Program Budget.

#### **6.06 Annual Program Budget**

(a) As soon as practicable after the beginning of a year, the Program Manager will obtain from the EAA an estimate of the funds that the EAA expects to have available for the next subsequent budget year, including any available Fund Balance as provided in Subsection 5.5.4 of the FMA, and provide the estimate to the Implementing Committee.

(b) After approval of each Annual Party Work Plan and Cost Estimate, the Implementing Committee, with assistance from the Program Manager, will consolidate them into a Proposed Annual Program Budget for the next subsequent budget year. (FMA § 4.5) Not later than June 30, 2012, and thereafter by June 30<sup>th</sup> of each year during the Permit Term, the Implementing Committee will take action to approve a proposed Annual Program Budget. (FMA §§ 4.5, 4.6, 5.2.1) The Implementing Committee will not submit to the EAA a proposed Annual Program Budget, or any amendment thereto, that provides for expenditures greater than the funds that the EAA expects to have available for that budget year, including any available Fund Balance as provided in Subsection 5.5.4 of the FMA. (FMA § 4.7) Upon approval of the proposed Annual Program Budget by the Implementing Committee, the Program Manager will forward the proposed budget to the General Manager for review and action by the Board of Directors. (FMA § 4.5)

(c) After receipt of the proposed Annual Program Budget from the Implementing Committee, the General Manager will promptly notify the Program Manager and Implementing Committee if the Board of Directors is unable to approve the proposed Annual Program Budget because funds available for the Program are or are likely to be insufficient to fund the proposed budget. The notification will include the expected amount of the insufficiency. In that event, the Implementing Committee will collaborate in a timely manner to amend the proposed Annual Program Budget for that year to incorporate less costly measures, activities, or schedules that will still ensure compliance with the Program Documents. (FMA § 4.7, 5.2.2)

(d) The General Manager will present the proposed Annual Program Budget to the Board of Directors for action in accordance with the normal budgeting cycle of the EAA. (FMA § 4.5) Upon approval by the Board of Directors, the proposed budget, as it may have been adjusted, will be the Annual Program Budget for the applicable budget year and be included as part of the EAA's budget for the EAA's corresponding fiscal year. (FMA § 4.5, 5.2.1)

(e) After approval of the Annual Program Budget by the Board of Directors, the Parties will have full authority, without further authorization of the Implementing Committee or the Board of Directors, to expend Program Funding in conformity with the budget, the FMA, and applicable procurement criteria and Program payment requirements, in amounts up to, but not exceeding, the amounts specifically allocated for their respective activities in the Annual Program Budget, as such budget may be amended pursuant to Section 6.07.

## **6.07 Amendments to the Annual Program Budget**

(a) Upon recommendation by the Implementing Committee, the approved Annual Program Budget may be amended from time to time by the Board of Directors to conform to an amendment to the Comprehensive Phase I or Phase II Work Plan, or to changes in Conservation Measures approved in accordance with the AMP, or to account for differences between budgeted costs and actual costs for Conservation Measures.

(b) In the event actual expenditures for an action item are less than the line-item amount for that action in the Annual Program Budget, the funds committed to that action item may be used for other authorized purposes approved in accordance with the Annual Program Budget. (FMA § 6.2.3) The Program Manager will provide a recommendation to the Implementing Committee on whether a transfer of funds between budgeted accounts in the Annual Program Budget is appropriate. After review, the Implementing Committee may at any meeting consider recommending to the EAA a line-item amendment to the Annual Program Budget to transfer funds between budgeted accounts in the Annual Program Budget.

(c) In the event actual expenditures for an action item in the Annual Program Budget exceed the line-item amount in the Annual Program Budget, the Party responsible for that action item will provide written notice to the Program Manager of the cost overrun with substantiation for the additional expenses. (FMA § 6.2.3) The Program Manager will review the notice and provide a recommendation to the Implementing Committee. (FMA § 6.2.3) The Implementing Committee will consider recommending to the EAA a line-item amendment to the Annual

Program Budget. (FMA § 6.2.3) The Implementing Committee may recommend an amendment to the Annual Program Budget only if adequate funds are available in the Program Account and only with the approval of the Implementing Committee and the EAA. (FMA § 6.2.3)

#### **6.08 Routine AMP Decisions Affecting the Annual Program Budget**

(a) Routine AMP Decisions that do not involve an adjustment to the Annual Program Budget in excess of \$50,000, and that do not primarily affect an individual Party, will be made by the Program Manager. (FMA § 7.11.1) Any actions of the Program Manager taken under this subsection will be made in compliance with the EAA's budgeting, procurement, and disbursement policies and procedures in Articles VIII and X of the EAA's Bylaws, and Section 6.07. (FMA §§ 7.2.2, 7.11.1, 7.1.4)

(b) If a Routine AMP Decision involves an adjustment to the Annual Program Budget in excess of \$50,000, the decision will be subject to approval by the Implementing Committee. (FMA § 7.11.2) Upon approval, the Implementing Committee will direct the Program Manager to take appropriate actions consistent with the approval of the Committee. Any actions of the Program Manager taken under this subsection will be made in compliance with the EAA's budgeting, procurement, and disbursement policies and procedures in Articles VIII and X of the EAA's Bylaws, and Section 6.07. (FMA §§ 7.2.2, 7.11.1, 7.1.4)

(c) Routine AMP Decisions involving an increase in the Annual Program Budget will require approval by the Implementing Committee and the Board of Directors. (FMA § 7.11.4) Routine AMP Decisions that require amendments, transfers, or adjustments to the Annual Program Budget will be subject to applicable EAA budgeting, procurement, and disbursement policies and procedures. (FMA § 7.11.4)

#### **6.09 Nonroutine AMP Decisions Affecting the Annual Program Budget**

Nonroutine AMP Decisions involving an increase in the Annual Program Budget will require approval by the Implementing Committee (after input from the Science Committee and Stakeholder Committee) and the Board of Directors. (FMA § 7.12.4.d.) A Nonroutine AMP Decision that requires amendment, transfer, or adjustment to the Annual Program Budget will be subject to applicable EAA budgeting, procurement, and disbursement policies and procedures. (FMA § 7.12.4)

#### **6.10 Monthly Financial Statements**

The Program Manager will submit monthly financial statements to the Implementing Committee showing the status of revenues and expenditures relative to the Annual Program Budget.

#### **6.11 Amendments to the Budgeting Schedule**

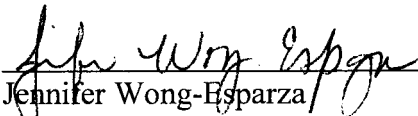
The schedule for the development, submittal and approval of the Annual Party Work Plans and Cost Estimates, and the Annual Program Budget may be amended by the

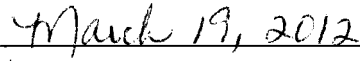


Implementing Committee, with the approval of the Board of Directors. (FMA § 4.6)

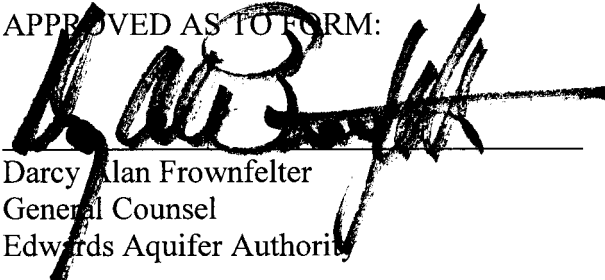
**6.12 Amendments to the Fund Balance Cap**

The Fund Balance Cap may be amended by of the Implementing Committee. (FMA § 5.5.4) The Program Manager will provide a recommendation to the Implementing Committee on whether to amend the Fund Balance Cap.

  
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Jennifer Wong-Esparza  
Assistant to the Implementing Committee Secretary

  
\_\_\_\_\_  
Date

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Darcy Alan Frownfelter  
General Counsel  
Edwards Aquifer Authority

  
\_\_\_\_\_  
Date