

Item 6 – Order to Create the District Well Assistance Fund Account

The Board needs to take action to create the District Well Assistance Fund (DWAF) Account from which monies will be used for any expenses associated with the UW Brazos Valley Farm, LLC pumping project. Grant money and export fees associated with the water production from the permitted wells will be placed in the DWAF. The account will be separate from the District Operating Account and a strict accounting of deposits and expenditures will be done monthly to directors.

Attached is a draft order detailing who will be authorized to co-sign checks, the number of signatories at any given time, how the signatories are determined and assigned by county.

It is the recommendation by the General Manager the Board adopt Order 2022-2 creating a District Well Assistance Fund Account as presented.



**AN ORDER OF THE
BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT
TO CREATE A WELL ASSISTANCE FUND THAT IS SOLELY DEDICATED TO THE
ADMINISTRATION OF THE DISTRICT'S WELL ASSISTANCE PROGRAM
No. 2022-02**

WHEREAS, the Brazos Valley Groundwater Conservation District (“District”) is charged by the Texas Legislature with providing for the conservation, preservation, protection, and prevention of waste of groundwater, and of groundwater resources in Brazos and Robertson counties, Texas, under §36.0015, Tex. Water Code;

WHEREAS, groundwater conservation districts are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater through rules developed, adopted, and promulgated by the District under §36.0015 (b), Tex. Water Code;

WHEREAS, the District is authorized to make and enforce fair and impartial rules to manage groundwater resources as scientifically necessary to conserve and protect groundwater resources in the area under §36.101, Tex. Water Code;

WHEREAS, permits, and permit amendments may be issued subject to the rules promulgated by the District and subject to terms and provisions with reference to the drilling, equipping, completion, alteration, or operation of, or production of groundwater from, wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence under §§36.113, 35.116 Tex. Water Code;

WHEREAS, the District may use funds obtained from administrative, production, or export fees collected for any purpose consistent with the District's approved management plan, including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies; §36.207, Tex. Water Code;

WHEREAS, the District adopted Order No. 2022-01 creating the Well Assistance Program which administers the Water Well Assistance Agreement that was adopted in Permittee UW Brazos Valley Farm, LLC Permit Nos. BVDO-0292, BVDO-0293, BVDO-0294, BVDO-0295, BVDO-0296, BVDO-0297, BVDO-0298, BVDO-0299, BVDO-0300, BVDO-0301, BVDO-0302, BVDO-0303, and BVDO-0304. UW Brazos Valley Farm, LLC intends to complete a project to produce Simsboro Aquifer groundwater under non-Historic Use, District-issued,

drilling and operating permits not to exceed 49,999 acre-feet/ year and deliver water from Robertson County to customers to meet significant water supply demands;

WHEREAS, UW Brazos Valley Farm, LLC's groundwater production in the Simsboro Aquifer is modeled to have significant effects on groundwater levels in the Simsboro Aquifer in the District, which may have a direct effect on the water levels in water wells;

WHEREAS, the District will use funds from the Well Assistance Program and export fees paid to the District to fund the Well Assistance Program for wells significantly affected by UW Brazos Valley Farm, LLC's groundwater production project, which shall be called the Well Assistance Fund;

WHEREAS, the predominant purpose of the use of funds under the Well Assistance Fund for the Well Assistance Program is to accomplish the statutory public purpose of lessening interference between wells, protecting property rights, balancing the conservation and development of groundwater to meet the needs of this state, and using the best available science under §§36.0015, 36.101, 36.113, and 35.116, Tex. Water Code;

WHEREAS, water wells that screen the Simsboro Aquifer in the District that are in existence prior to October 21, 2022, will be eligible for use of the Well Assistance Program, and may be deemed by the District to qualify for some level of well mitigation and to be funded from Well Assistance Fund;

WHEREAS, the District shall maintain control over all expenditures from the Well Assistance Fund and is solely responsible for administering the Well Assistance Program and making AP Well determinations and selecting appropriate action under the mitigation procedures,

WHEREAS, the District receives a return benefit for the expenditures under the Well Assistance Fund and the Well Assistance Program to accomplish its statutory purpose and gain information to develop and use the best available science for future groundwater management;

WHEREAS, the District is required to name one or more banks to serve as depository for the District's funds, under §36.155, Tex. Water Code; and

WHEREAS, the District may invest its funds in accordance with the provisions of the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, under §36.156, Tex. Water Code; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT THAT

the District creates a Well Assistance Fund to administer its Well Assistance Program;

the District delegates the authority to the District's General Manager to select a bank that has a physical presence in the District to deposit funds into the District Well Assistance Fund;

funds deposited into the Well Assistance Fund shall be collected primarily from export fees paid to the District and funds and grants paid to the District by UW Brazos Valley Farm, LLC under the Well Assistance Agreement;

the General Manager is authorized to deposit into the District Well Assistance Fund any unused funds dedicated for well assistance and deposited in the District Operating Account prior to the creation of the District Well Assistance Fund;

all current or future BVGCD board members are authorized to co-sign checks written on the District Well Assistance Fund;

the Board President has the discretion to and shall designate two (2) board members from Brazos County and two (2) board members for Robertson to co-sign checks written on the District Well Assistance Fund;

Disbursements from the Well Assistance Fund shall be signed by at least two directors of the Brazos Valley Groundwater Conservation District's Board or by the General Manager of the District and one director of the District; and

Before entering into a depository agreement with Prosperity Bank, the Bank shall ensure in writing that all District funds held on deposit at the Bank shall be properly collateralized as may be required by State law, including the Public Funds Investment Act, Chapter 2256 of the Texas Government Code and the Public Funds Collateral Act, Chapter 2257 of the Texas Government Code.

PASSED AND APPROVED this the 10th day of November, 2022

BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

Stephen Cast, President

Jayson Barfknecht, Secretary