

# **Bexar County Water Control and Improvement District #10**

## **Water Conservation and Critical Period Management Plan**

**SECTION 1. PLAN AND PUBLIC NOTICE.** The Bexar County Water Control and Improvement District #10 (the “District”) Water Conservation and Critical Period Management Plan (the “Plan”) was approved by the Board of Directors on December, 15, 2012, and compliance monitoring will begin thirty (30) days thereafter. Notice of the Plan and its availability for review has been sent to all current customers and will be provided to all new customers upon establishing their account. The Plan has also been posted on the District’s website, and copies are available at the District’s office during normal business hours.

**SECTION 2. APPLICABILITY.** This Plan is applicable to all water and wastewater customers of the District, and all customer accounts situated within the boundaries of Certificate of Convenience and Necessity (“CCN”) #10694, granted to the District on November 1, 1979. This Plan shall operate and be implemented independently of any Critical Period Management Plan adopted, or which may be adopted, by the San Antonio Water System (“the SAWS”) and/or the Edwards Aquifer Authority (“the Authority”).

**SECTION 3. AUTHORITY.** The District was created by enabling Order dated November 28, 1955, and issued by the State of Texas, Office of State Board of Water Engineers, pursuant to Section 59, Article 16 of the Texas Constitution, and Chapter 3A, Title 128, Revised Civil Statutes of 1925.

The District is governed by the provisions of its enabling order, the Texas Water Code, the District’s CCN, and the TCEQ Rules pertaining to public water systems. Sections 49.004, 49.211 and 49.212, Texas Water Code, grant to the District rulemaking authority in furtherance of accomplishing the purposes for which the District was created.

**SECTION 4. GENERAL/PERMANENT RESTRICTIONS ON WATER USE.** The following restrictions shall apply year-around, regardless of aquifer levels and irrespective of any determination by the Authority of the applicability of any stage of the Authority’s Critical Period Management Plan. More stringent restrictions will become effective when the various stages of critical period are implemented by the District’s General Manager, as provided herein:

- (a) Landscape watering of private, commercial, and public properties with sprinklers, sprinkler systems, or soaker hoses is prohibited between the hours of 10:00 AM and 8:00 PM daily. Soaker hoses used for purposes of landscape irrigation are subject to the same restrictions as an irrigation or sprinkler system. Soaker hoses used for purposes of stabilizing moisture adjacent to a foundation or for watering a vegetable garden are exempted as stated within restrictions for each stage. Customers should call before performing maintenance that will require running their sprinkler system. First or second failure to do so will not constitute a violation of these rules. If this occurs more than two times, it will constitute a violation of these rules.

- (b).Waste of water is prohibited. Waste is defined as willfully or negligently causing, suffering, or allowing water to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner and failing to repair a controllable leak. Waste shall also include purposeful use of water considered by the District to be excessive for the connection type.
- (c).Notwithstanding the specific prohibitions contained in this Section, it is incumbent for all persons falling under the jurisdiction of the District to utilize water in a fashion that is reasonable and prudent.
- (d).Rain Sensors for Sprinkler Systems. Customers who intend to install an irrigation/sprinkler system shall obtain, free of charge, a permit from the District prior to commencing installation work. All new sprinkler system installations after the date that this Plan is adopted shall be equipped with rain sensors designed to override the normal cycle of the irrigation system by shutting it off when one-half inch or more precipitation has been received.
- (e).Mandatory Topsoil Requirement at New Construction. As a condition of providing water service at all new residential, commercial or institutional developments, the person or entity requesting a connection shall install a minimum of six inches of top soil in all areas of the development that would typically be covered with turf grass or other landscape. Installation of such top soil shall be completed before service connection will be completed, and no service connection will be extended to the development until compliance is verified by the District.
- (f). Violation of the provisions of the GENERAL /YEAR-ROUND RESTRICTIONS ON WATER USE as set-forth in this section will be penalized in accordance with the procedures identified in Section 10 of this Plan ( Compliance and Penalties).
- (g).**(Added 4/18/13, Resolution 2013-03)** The following types of connections will not be permitted:
  - 1. New single-pass cooling systems;
  - 2. New installations of non-recirculating conveyer car washes;
  - 3. Non-recirculating systems installed at commercial laundry facilities, and;
  - 4. Non-recycling decorative water fountains.

**SECTION 5. CRITICAL PERIOD.** A Critical Period begins upon the issuance of a written Order signed by the General Manager of the District upon a determination that good cause exists. In determining that good cause exists for issuance of an Order declaring a Critical Period to be in effect, the General Manager shall consider, among other factors, the Authority's declaration of specific critical period stages under the Authority's rules. Trigger levels and the mandatory reductions associated with each stage are shown in **Table 1**, which is included herein for informational purposes only.

**CRITICAL PERIOD STAGES, TRIGGER LEVELS\*,  
and REDUCTION FACTORS**

<b>STAGE</b>	<b>If Well J-17 is</b>	<b>Or Comal Springs is</b>	<b>Or San Marcos Springs is</b>	<b>Reduction Factor is</b>
I	< 660 Feet MSL**	<225 CFS ***	<96 CFS	-20%
II	< 650 Feet MSL	<200 CFS	<80 CFS	-30%
III	< 640 Feet MSL	<150 CFS	N/A	-35%
IV	< 630 Feet MSL	<100 CFS		-40%

\* **Trigger Levels Are A Ten Day Rolling Average**

\*\* MSL - Mean Sea Level

\*\*\* CFS - Cubic Feet Per Second

*Table 1. Critical Period Stages, Triggers, and Reduction Factors*

The General Manager’s written Order declaring the applicability of a Critical Period Stage is effective immediately and will be publicized by posting on signs at City of Windcrest entrances, posting to the District’s web site, City of Windcrest marquees and by mailing of individual notices.

- (a) The following conditions will apply to all District customers once any critical period stage is implemented by the District’s General Manager.
  - (1) Bexar County WCID #10’s Critical Period Management/Critical Period Water Rates will be imposed with the implementation of Stage I and will remain in effect until all stages are cancelled by written Order of the General Manager of the District.
  - (2) In the event that one of Bexar County WCID #10’s prime wells (Well 3,4, or 6) is taken out of service because of mechanical failure, operational issue, or loss of suction, the next, more restrictive stage may be implemented until the well is placed back in service as a precaution necessary to reduce stress on remaining resources/pumps.
  - (3) All residential, commercial, municipal and public customer landscape watering is limited to a single day each week, determined by the last digit of the property address, according to the following schedule (*Table 2*):

### **Watering Schedule**

If the Last Digit Of Street Address Is:	Then the Watering Day Is:
0 or 1	Monday
2 or 3	Tuesday
4 or 5	Wednesday
6 or 7	Thursday
8 or 9	Friday

The City of Windcrest (Public Works) may schedule watering for all of its locations for the same day of the week to simplify scheduling. This exception shall be coordinated with the District.

***Table 2. Watering Schedule***

- (4) Laying of new turf grass is strongly discouraged during any critical period stage because new turf typically requires frequent and heavy watering to establish it. Case-by-case waivers to irrigate newly laid turf more than once a week will only be considered for turf laid *before* declaration of Stage I. The determination to grant a waiver is in the sole discretion of the District's General Manger, and will be based on current weather conditions, forecasts, and trends.
  - (5) Draining and Filling of Swimming Pools. Second only to landscape watering, maintenance of swimming pools consume a large part of a residential water budget. While routine replenishment of water lost due to evaporation is a given, refilling a pool after repairs must be a decision made only after weighing all the facts, benefits, and risks. No special limitations will be placed on pools in Stages I. However, commencing with Stage II, special rules will address the consumption of water associated with swimming pools.
  - (6) The District will mail each customer a notice as soon as practical after the General Manager issues the written order to impose restrictions. Street signs at the main entrances to the City will be changed to reflect the current stage immediately. Enforcement action will commence on the fifth business days after notices are delivered to the United States Postal Service. Notices will not be mailed for cancellation of any critical period stage; signage at city entrances will be changed promptly to reflect the changes.
- (b) After consultation/confirmation with the District's President, or upon any determination of good cause, the General Manager may implement successive stages of this Plan.

**SECTION 6. STAGE I.** The District’s General Manager shall issue a written order for all District customers to implement STAGE I upon a determination that good cause exists, which may be made following confirmation by the District that the Authority has formally issued a notice of commencement for critical period Stage I applicable to holders of permits issued by the Authority. The District’s order will be effective immediately and will be publicized by posting on signs at city entrances, posting to the District’s web site, City marquees and by mailing of individual notices to customers. Stage I is mandatory and, upon issuance by the District of a written Order implementing Stage I, all businesses and residents are required to adhere to the following water use restrictions. Overall water consumption must be reduced by 20% from pre-Stage I levels.

- (a) Landscape watering of private, commercial, and public properties with a sprinkler, sprinkler system, or “soaker” hose is limited to one day a week on the designated days (as stated in *Table 2*) between the hours of midnight and 10:00 AM and 8:00 PM and midnight. Hand watering with a hand-held hose one inch or less in diameter or hand-held bucket is permitted anytime. Drip irrigation, including use of soaker hoses for purposes of stabilizing moisture levels under and immediately adjacent to a building foundation or to water a vegetable garden may be done at any time.
- (b) Non-commercial washing of automobiles, trucks, trailers, boats, and other private equipment can only be done with a hand-held hose equipped with a positive shut-off nozzle or with a hand-held bucket, on the designated watering day (as stated in Table 2). Water must not be permitted to run into the street.
- (c) Commercial washing of automobiles, trucks, trailers, boats, and other equipment will be limited to the immediate premises of a commercial washing facility with a water recycling unit that recycles at least 85% of its water. Fund raising car washes can only be held at commercial car washes and the organization performing the fund raiser is solely responsible for managing this event.
- (d) Restaurants are prohibited from serving water to customers except when specifically requested by the customer.
- (e) Ornamental fountains or similar structures shall not be operated unless the system recycles/reuses water. Adding potable make-up water is prohibited.
- (f) Power washing of structures, driveways, sidewalks, etc., is permitted so long as water does not run off into the street, alley, or onto another property.

**SECTION 7. STAGE II.** The District’s General Manager shall issue a written Order for all District customers to implement STAGE II upon a determination that good cause exists, which may be made following confirmation by the District that the Authority has formally issued a notice of commencement for critical period Stage II applicable to holders of permits issued by the Authority. The District’s order will be effective immediately and will be publicized by posting on signs at city entrances, posting to the District’s web site, City marquees and by mailing of individual notices to customers. Stage II is mandatory and, upon issuance by the District of a written Order implementing Stage II, all businesses and residents are required to

adhere to the following water use restrictions. Overall water consumption must be reduced by 30% from pre-Stage I levels.

- (a) Landscape watering of private, commercial, and public property with a sprinkler or sprinkler system is permitted only between the hours of 3:00 AM and 8:00 AM and 8:00 PM and 10:00 PM only on designated days identified in Table 2. Hand watering with a hand-held hose one inch or less in diameter or hand-held bucket of five gallons or less is permitted any day, but is limited to the hours of 3:00 AM and 10:00 AM and 8:00 PM and 10:00 PM. Drip irrigation for purposes of stabilizing moisture under a building foundation or to water a vegetable garden or shrubbery may be done at any time.
- (b) The addition of make-up water (to replace water lost to evaporation) for existing private and public swimming pools, hot tubs, and other similar facilities is permitted. The refilling of an *empty* existing pool and filling of new private and public swimming pools, hot tubs, and other similar facilities and activation of new sprinkler systems is prohibited unless a written waiver is obtained from the District. The grant or denial of a waiver is within the sole discretion of the District's General Manager.
- (c) Non-commercial washing of automobiles, trucks, trailers, boats, and other private equipment can only be done with a hand-held hose equipped with a positive shut-off nozzle or with a hand-held bucket, on the designated watering day (as stated in **Table 2**). Water must not be permitted to run into the street.
- (d) Commercial washing of automobiles, trucks, trailers, boats, and other equipment will be limited to the immediate premises of a commercial washing facility with a water recycling unit that recycles at least 85% of its water. Fund raising car washes can only be held at commercial car washes and the organization performing the fund raiser is solely responsible for managing this event.
- (e) Restaurants are prohibited from serving water to customers except when specifically requested by the customer.
- (f) Ornamental fountains or similar structures may not be operated unless they recycle/reuse the water. Adding potable make-up water is not allowed.
- (g) Power washing of structures, driveways, sidewalks, etc., is permitted so long as water does not run off into the street, alley, or onto another property.

**SECTION 8. STAGE III.** The District's General Manager shall issue a written Order for all District customers to implement STAGE III upon a determination that good cause exists, which may be made following confirmation by the District that the Authority has formally issued a notice of commencement for critical period Stage III applicable to holders of permits issued by the Authority. The District's order will be effective immediately and will be publicized by posting on signs at city entrances, posting to the District's web site, City marquees and by mailing of individual notices to customers. Stage III is mandatory and, upon issuance of a written Order by the District implementing Stage III, all businesses and residents are required

to adhere to the following water use restrictions. Overall water consumption must be reduced by 35% from pre-Stage I levels.

- (a) Landscape watering of private, commercial, and public properties with a sprinkler, sprinkler system or soaker hose is permitted between 3:00 AM and 7:00 AM and 8:00 PM to 10:00 PM only on designated days as set-forth in **Table 2**.
- (b) Irrigation with a hand-held hose equipped with a positive control nozzle can be done any day between 3:00 AM and 10:00 AM and 8:00 PM to 10:00 PM. Drip irrigation for purposes of stabilizing moisture under a building foundation or to water a vegetable garden or shrubbery may be done at any time.
- (c) The addition of make-up water (to replace water lost to evaporation) for existing private and public swimming pools, hot tubs, and other similar facilities is permitted. Filling of existing empty pools, new swimming pools, hot tubs, and other similar facilities, as well as activating a new sprinkler system is prohibited unless a written waiver is obtained from the District. The grant or denial of a waiver is within the sole discretion of the District's General Manager.
- (d) Vehicle washing, including organized fund-raising car washes, is prohibited except at commercial washing facilities with a water recycling unit that recycles at least 85% of the water.
- (e) Vegetation at commercial nurseries and similar non-residential establishments can be irrigated only between the hours of 5:00 AM and 10:00 AM and 8:00 PM to midnight with a hand-held hose, hand held bucket, or by drip irrigation.
- (f) Power washing of structures, driveways, sidewalks, etc., is prohibited.

When the Edwards Aquifer level drops below 635 feet at well J-17, the Board may meet in a special session to evaluate conditions and may, in its sole discretion, implement once every two week landscape watering restrictions (see §9, Stage IV). Additional measures, as deemed necessary, may be implemented to ensure pumping limits are not exceeded.

**SECTION 9. STAGE IV.** The *Board of Directors of the District*, will, for the health, safety, and welfare of the general public implement STAGE IV, of the District's Critical Period upon a determination of good cause, which may be made following confirmation by the District that the Authority has formally issued a notice of commencement for critical period Stage IV applicable to holders of permits issued by the Authority. Level IV poses a potential hazardous situation for the Edwards Aquifer, and the federally-protected species that inhabit it. Accordingly, water used for purposes not necessary to the maintenance of public health, safety, and welfare are significantly restricted. The steps taken to achieve the mandatory reductions associated with Stage IV are, therefore, much more severe, and efforts to ensure compliance will be enhanced. Water consumption must be reduced by 40% from pre-Stage I levels.

- (a) Landscape watering of private, commercial, and public properties with a sprinkler, sprinkler system or soaker hose is permitted only once every other week on

designated days (*See Table 2*) between 3:00 AM to 7:00 AM and 8:00 PM to 10:00 PM. Landscape irrigation will be permitted during the week of the first Monday after declaration of Stage IV and will be prohibited beginning the following week.. This alternating weekly schedule will continue until Stage IV is cancelled by order of the District.

- (b) Irrigation with a hand-held hose one inch in diameter or less and equipped with a positive control nozzle can be done only on the authorized day watering day (*See Table 2*, and Section 9(a)) between 3:00 AM and 10:00 AM and 8:00 PM to 10:00 PM. Drip irrigation for the purposes of stabilizing moisture under a building foundation or to water a vegetable garden or shrubbery may be done at any time.
- (c) The addition of make-up water (to replace water lost to evaporation) for existing private and public swimming pools, hot tubs, and other similar facilities is permitted. Filling of new swimming pools, refilling of empty pools, hot tubs, and other similar facilities, as well as activating a new sprinkler system, is prohibited.
- (d) Ornamental fountains or similar structures may not be operated unless they recycle/reuse the water. Adding potable “make-up” water is strictly prohibited.
- (e) Washing of automobiles, trucks, trailers, boats, airplanes, busses, and other transportation equipment is allowed only at those commercial washing facilities with an installed wastewater recovery system that is 85% effective.
- (f) Parks, athletic complexes, and other landscapes may be irrigated only with treated wastewater or reused water.
- (g) A graduated surcharge rate structure may be implemented by Bexar County WCID #10 when deemed necessary to meet mandates of the Edwards Aquifer Authority or other regulatory agencies. These surcharges will be in addition to drought management rates already in effect.

## **SECTION 10. COMPLIANCE AND PENALTIES.**

- (a) **COMPLIANCE.** Compliance with this Plan will be enforced by employees of the District and/or by any person or entity with whom the District contracts in writing for the purpose of enforcing this Plan. Any Director, the General Manager and any employee of the District or other person designated in writing by the Board will be authorized to cite any customer, whether public or private, for any violation of this Plan.
  - 1. Enforcement action will occur solely on the basis of actual observation of a violation by persons identified in this Section to issue citations. Where practicable, Date/Time stamped photographic evidence of violations will be collected, but the absence of such evidence shall not be dispositive in the determination of whether a violation has occurred.



2. For each alleged violation observed, a written “door hanger” notice notifying the resident of the alleged infraction will be prepared and hand delivered to the resident if present, or left hanging in a visible location at the front door of the residence. Said notice shall indicate the date and time of the observed violation, and a general description thereof. The incident report and any evidence of the violation will be turned over to the General Manager for consideration, processing, and determination as to whether the incident, as documented, constitutes a violation of this Plan. In making such determination, the General Manager shall: (a) consult the violation data base and file corresponding to the customer account; (b) consider the incident report and any evidence of the violation including photographs and witness statements; and (c) consider all rebuttal evidence that is timely-delivered in accordance with this Plan.
3. In the event that the General Manager, in his sole discretion, determines that a violation of this Plan has occurred, he or she shall prepare a letter notifying the alleged violator of the circumstances of the violation and the amount, if any, of proposed civil penalties proposed to be imposed against the customer account (see Penalties below). Said notice letter, together with supporting documentation (if any) shall be sent to the alleged violator by certified mail, return receipt requested.
4. Unless timely appealed in accordance with the appeal provisions contained in Section 10(a)(7) and 10(a)(8), the General Manager’s determination concerning the occurrence of a violation of this Plan and/or the appropriate civil penalty to be imposed against a customer account in connection with a violation shall be final ten (10) calendar days after delivery of the certified notice letter required by Section 10(a)(3) to the address at which the violation is alleged to have occurred.
5. At any time prior to the date that the General Manager’s determination that a violation has occurred becomes final (i.e. ten (10) days after the certified notice letter required by Section 10(a)(3) is received at the address at which the violation is alleged to have occurred), the primary person(s) on the account at the address where a violation is observed may submit evidence rebutting the allegations of violation contained in the notice letter. All rebuttal evidence, including statements or affidavits of witnesses and photographs, shall be in writing, and shall be delivered to the District’s office in person, by agent, or by certified mail, return receipt requested.
6. If the primary person(s) on the account at the address where a violation is alleged to have been observed does not timely submit evidence rebutting the allegations contained in the notice letter, the General Manager shall: (a) take the appropriate action consistent with the notice letter sent in accordance with Section 10(a)(3); and (b) notify the customer in writing of the action not later than the 15th day after the date that the General Manager’s determination becomes final.

7. Customers submitting timely rebuttal evidence as provided in Section 10(a)(5) are entitled to appeal the determination of the General Manager concerning the occurrence of a violation of this Plan and/or the appropriate civil penalty to be imposed against a customer account to the District's Board of Directors as follows:
  - (a) The primary person(s) on the account must notify the Board of Directors in writing not less than (10) days after the date of receipt of the General Manager's written notification of determination, as provided by Section 10(a)(6)(b);
  - (b) The Board of Directors shall review, *de novo*, the totality of the evidence considered by the General Manager, including all rebuttal evidence, together with such other evidence as is received and admitted during the appeal hearing.
  - (c) Argument, oral testimony and/or examination of witnesses may be received by the Board during any appeal hearing;
  - (d) Following appellate consideration of the General Manager's determination concerning the occurrence of a violation of this Plan and/or the appropriate civil penalty to be imposed, the Board shall:
    - (i) take the appropriate action to impose or not impose a civil penalty against a customer account; and
    - (ii) notify the customer in writing of that action not later than the 15th day after the date on which the appellate review is concluded;
  - (e) The Board's determination concerning the occurrence of a violation of this Plan and/or the appropriate civil penalty to be imposed is final, subject only to judicial review as may otherwise be provided by law.
8. No person or customer who fails to timely submit written rebuttal evidence to the General Manager in accordance with Section 10(a)(5) shall be entitled to an appeal, or Board review of the General Manager's determination concerning the occurrence of a violation of this Plan and/or the appropriate civil penalty to be imposed.
9. The District will establish and maintain a data base to track violations and establish a designated file for each account with which a violation is associated, for the purpose of maintaining violation information, photographic evidence and/or related correspondence. Enforcement action imposed on any customer will be documented in the "Notes" section of the customer's record of account maintained by the District. All documentation collected pursuant to the Plan will have an indefinite retention, and shall be subject to public disclosure to the extent required by law.

**(b) PENALTIES.** Upon an initial determination that a violation has occurred, the customer's record of account will be reviewed to determine if there have been previous violations.

1. For the first offense no civil penalty shall be imposed; rather, the violator will be sent, by certified mail, return receipt requested, a written warning notifying the customer of the observed breach and the consequences of second and subsequent violations of this Plan.
2. On the second offense, the violator will be sent, by certified mail, return receipt requested, a letter citing the previous offense and notifying them that this is the second offense. In addition, the Violator will be assessed a penalty of \$100.00, which will be applied to the customer's account. The notification letter will also notify the customer of the appeal process set out in this Plan, and the consequences of subsequent violations of this Plan.
3. On the third offense, the violator will be sent, by certified mail, return receipt requested, a letter citing the previous offenses and notifying them that this is the third offense. In addition, the violator will be assessed a penalty of \$200.00, which will be applied to the customer's account. The notification letter will also notify the customer of the appeal process set out in this Plan, and the consequences of subsequent violations of this Plan.
4. **Habitual Violations.** Any customer of the District who has been assessed three (3) or more penalties under this Plan will be assessed a penalty of \$500.00 for the fourth and each subsequent violation. On the fourth and each subsequent offense, the violator will be sent, by certified mail, return receipt requested, a letter citing the previous offenses and notifying them of the number of occasions upon which they have been determined to be in violation of this Plan. The letter will also notify the customer of the appeal process set out in this Plan, and the consequences of subsequent violations of this Plan. .

## **SECTION 11. PAYMENT OF PENALTIES.**

- (a) **PENALTIES CIVIL IN NATURE.** All penalties assessed in accordance with this Plan are civil in nature, are charges for water service provided by the District and/or penalties for the breach of District rules, and are imposed in the District's usual course of business, as authorized by Section 49.004 of the Texas Water Code.
- (b) Payment in full for all penalties assessed hereunder shall be remitted to the District within thirty (30) days after delivery of written notice of final District action upon an alleged violation to the address at which the violation is alleged to have occurred.
- (c) Failure to timely remit payment in full of any penalty assessed in accordance with this Plan shall result in the discontinuance of water service until payment in full of all penalties and disconnection/connection fees assessed hereunder is made.

- (d) In addition to any penalties assessed for violations of this Plan, a \$25.00 fee for disconnection/connection will be added if the penalty is not paid timely, and service is disconnected. No re-connection of water service shall occur until such time as all penalties and the \$25.00 disconnection/connection fee are paid.
- (e) In addition to the schedule of penalties described in Section 10(b) of this Plan the District's Board of Directors reserves the right to establish special conditions, including the posting of a cash bond, for the restoration of service to any customer whose service is terminated pursuant to Section 11(c) of this Plan.
- (f) It is not a defense to the assessment of any penalty or remedy hereunder that the customer subject to such adverse action: (a) is a public, municipal or governmental entity; (b) maintains more than one (1) customer account with the District; or (c) receives water service from the District at more than one location.
- (g) Any penalty imposed under this Plan may be enforced by the District, in its sole discretion, by a complaint filed in any court, including but not limited to the Justice Court, of appropriate jurisdiction in Bexar County, Texas. If the District is the prevailing party in any legal action filed for the purpose of enforcing the provisions of this Plan, or for the collection of any penalty or fee assessed hereunder, then the non-prevailing party in such action shall be liable to the District for reasonable attorneys' fees, expert witness costs and other costs incurred by the District before the court.