

**HMW SPECIAL UTILITY DISTRICT
OF
HARRIS AND MONTGOMERY
COUNTIES**

RATE TARIFF AND ORDER

FEBRUARY 16, 2011

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RATE TARIFF AND ORDER

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE H-M-W SPECIAL UTILITY DISTRICT OF HARRIS AND MONTGOMERY COUNTIES THAT:

1. This Tariff and Rate Order of the H-M-W Special Utility District of Harris and Montgomery Counties (the "District"), which serves portions of Harris and Montgomery Counties, consisting of this resolution and the attached Sections A. through F., with Exhibits, is hereby adopted and enacted. This Tariff and Rate Order (the "Order") supersedes all water and sewer rates and policies related to the delivery of water and sewer services that were adopted prior to February 16th, 2011.
2. From its inception, the District adopted the operating policies and procedures of H-M-W Water Supply Corporation by resolution adopted on May 26, 1998. From and after June 24, 1998, the District assumed the existing obligations of the corporation, pursuant to an additional resolution adopted on May 26, 1998.
3. The adoption of the provisions of this Order shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or vested right established or accruing before the effective date of this Order.
4. An official copy of this Order shall be available to members of the public during the regular office hours of the District. Requests for copies shall be subject to reproduction charges. The Secretary of the District shall maintain the original hereof as adopted, and clearly identify any amendments thereto.
5. The provisions of this Order shall take effect immediately according to their terms and date of adoption, however, applicable law and the regulations of state and federal agencies with applicable jurisdiction shall override the terms of this Order in the event they are in conflict. If any portion of this Order is declared unconstitutional or invalid for any purpose, the remainder shall continue in full force and effect and shall not be affected thereby.

APPROVED this 16th day of February, 2011.

H-M-W Special Utility District of
Harris and Montgomery Counties

By: _____
Mark Pinter, President

SECTION A. GENERAL PROVISIONS

1. **Organization.** The District is a Texas water district and special utility district under Chapters 49 and 65, Texas Water Code. Its purpose is to provide water and wastewater utility services as permitted by applicable law. Its operating policies, bylaws, rates, tariffs, and regulations are formulated and effected by a Board of Directors elected by the voters of the District.
2. **Non-Discrimination.** The District provides services to all resident customers eligible therefor, under applicable law who comply with the provisions of this order, regardless of race, creed, color, national origin, sex or marital status.
3. **Rules Application.** The rules and regulations specified herein apply to the water and wastewater services furnished by the District. The failure of a consumer of such services to observe the District's rules and regulations, after due notice of such failure, permits the District to deny or to discontinue service as provided herein and by applicable law.
4. **District Bylaws and Policies.** The District has adopted bylaws which, among other matters, provide for the election of the Board of Directors, establish District policies, provide for annual and regular meetings of the Board of Directors and establish other regulations for the governance of the District. Such bylaws are incorporated by reference herein, as amended from time to time, and are on file for inspection in the District's office. In addition, the District has adopted certain policies by resolution, from time to time, on various subjects including its Water Conservation Plan, Election Order, Substance Abuse Policy and other matters. Such policies are incorporated by reference herein, as amended from time to time, and are on file for inspection in the District's office.
5. **District Ordinances.** The District has adopted certain of its rules and policies as ordinances in accordance with Sections 65.205 - 65.208, Texas Water Code, in order to provide for their enforcement as the penal ordinances of a city under applicable law.
6. **Damage Liability.** The District is not liable for damages caused by service interruptions, events beyond its control, normal system failures and otherwise as provided by law.

7. ***Information Disclosure.*** The records of the District are maintained in the District's office in Pinehurst, Texas, and other locations as provided by the Board of Directors. All information collected, assembled and maintained shall be disclosed to the public in accordance with the Texas Open Records Act, Chapter 552, Texas Government Code. An individual customer who seeks the disclosure of such records may request in writing that their name, address, telephone number, or social security number be kept confidential. Such confidentiality does not prohibit the utility from disclosing this information to an official or employee of the state of a political subdivision of the state acting in an official capacity or an employee of a utility acting in connection with the employee's duties. The District shall give its customers notice of rights to confidentiality under this policy and all prevailing associated fees for such request.

8. ***Customer Notice Provisions.*** The District shall give written notice of the consideration by the Board of Directors of proposed rate changes, as required by Chapter 551, Texas Government Code, at least three (3) days prior to the effective date of the proposed rate or rates. Following adoption, notice thereof shall be given by mail or hand delivery. Such notice shall contain the former and newly adopted rates, effective date of the newly adopted rates, and the name and phone number of the District's contact person for inquiries about the rate change.

9. ***Fire Protection - Reserved.***

10. ***Grievance Procedures.*** Any resident of the District shall have an opportunity to voice concerns or grievances to the District by the following means and procedures:
 - a. By presentation of concerns to the General Manager or authorized staff member for discussion and resolution;
 - b. If not previously resolved, by presenting a request to be heard by the Board of Directors;
 - c. If presented to the Board of Directors, a designated officer or committee thereof, and/or legal counsel shall hear the complaint as directed by the Board;
 - d. Action by officers, committees or staff shall be reported to the Board of Directors for review;
 - e. The Board of Directors shall act upon the complaint based on all information available as quickly as possible, and direct the President or representative to respond in writing; and

- f. Any charges or fees contested as a part of the complaint to the District under this policy shall be suspended until a final decision is made by the Board of Directors.

SECTION B. DEFINITIONS

ACCESS: In this order, "access" means (1) legal access satisfactory to the District, and (2) physical access to the meter, lines and equipment on the Utility Customer's property, or to the property itself, as required by District personnel, without the risk of injury or danger occasioned by the acts or omissions of the owner or occupant of the property, including but not limited to the existence of a hazardous condition on the property.

ACTIVE SERVICE: The service status in which the Utility Customer is receiving authorized water service under the provisions of this Order.

AMMONIA: The form of inorganic dissolved nitrogen found in wastewater that results from the degradation of organic nitrogen compounds with the formula NH₃-N, measured in milligrams per liter ("mg/l").

APPLICANT: A person, partnership, cooperative corporation, corporation, federal, state or local government agency, or other public or private organization of any character that (1) applies for water or sewer utility service, or (2) is deemed by the District to be an Applicant as provided in the definition of Utility Customer as set forth below.

BIOCHEMICAL OXYGEN DEMAND: The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees Centigrade (20° C./68° F.) expressed in mg/l(hereinafter called "BOD").

BOARD OF DIRECTORS: The Board of Directors elected by the voters of the District, as provided by Chapters 49 and 65, Subchapter C, Texas Water Code, applicable provisions of the Texas Election Code, its Election Order dated March 18, 1998, and subsequent Election Orders.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY: The authority held by the District under Chapter 13, Subchapter G of the Texas Water Code to provide retail water utility service.

COMMERCIAL: Regarding utility service and Utility Customers as defined in this Order, service to the owner, operators, employees, customers and other invitees of a business or other water or wastewater user that is not residential, as defined in this Order, as specified in the Utility Customer's Service Application and Agreement.

DISCONNECTION OF SERVICE: In accordance with this Order, the locking or removal of a water meter or other action to prevent the use of water by a Utility Customer.

DISTRICT BYLAWS AND POLICIES: The bylaws and policies referred to in Section A, Paragraph 4. of this Order, including any new or amended bylaws and policies as enacted from time to time.

GROUNDWATER CONSERVATION FEE: The fee charged by the District to its Montgomery County customers to recover the fees charged to the District by the Lone Star Groundwater Conservation District of Montgomery County ("LSGCD"), as provided by Subsection C.2. of this Order.

HAZARDOUS CONDITION: A condition that jeopardizes the health or safety of a Utility Customer, other user of water or wastewater service provided by the District, District employee or agent acting in the course of their duties or member of the public, or that prevents or will prevent the safe and lawful delivery of water or wastewater service, as determined by the District or a federal, state or local regulatory authority with jurisdiction.

LONE STAR GROUNDWATER CONSERVATION DISTRICT: The groundwater conservation district for Montgomery County, created by the 77th Texas Legislature, with powers under Chapter 36, Texas Water Code, as provided by House Bill No. 2362.

METERING PERIOD: The time period of approximately thirty (30) days for which water usage is calculated monthly for each Utility Customer by reading the customer's water meter.

NON-STANDARD SERVICE: Service by the District as defined in Section D.2. of this Order.

NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY: The regional water authority for portions of northern Harris County, created by the 76th Texas Legislature, as provided by House Bill No. 2965, as thereafter amended (herein, the "NHCRWA").

NOTICE: For the purpose of disconnection with notice under Paragraph D.13.a. of this Order, and except as otherwise provided in such paragraph, other provisions of this Order, and the District's Water Conservation Plan, notice shall be in writing and further action by the District shall occur no earlier than seventy two (72) hours after notice is delivered. Notice by mail is deemed delivered upon the District's tender of notice to the United States Postal Service, with postage prepaid, to the Utility Customer at the address provided thereby to the District. At the option of the Utility Customer, authorized in writing, notice may be delivered by email.

ORDINANCE: A policy or regulation of the District enacted as a penal ordinance of a Texas municipality under Sections 65.205 through 65.208, Texas Water Code, and enforceable as provided by Chapter 54, Texas Local Government Code.

PERSON: A natural person, partnership, cooperative, corporation, association, federal, state or local agency or other public or private organization of any character.

PH: The measurement of acidity and alkalinity of liquids, expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions, expressed in grams per liter.

PRETREATMENT OF WASTEWATER: The treatment of a Utility Customer's wastewater by the Utility Customer, prior to its introduction into the District's wastewater facilities and equipment, as defined and required by Subparagraphs D.21.c.(1), (3) and (4).

PROHIBITED SUBSTANCES: The substances defined in Paragraph D.20.b. and Exhibit A to this Order.

PUMPAGE FEE: A fee based on the pumpage of water from individual water wells, authorized to be imposed and enacted by the NHCRWA and the LSGCD.

RENTER: A consumer of the District's services who rents property from a Utility Customer that may otherwise be termed a lessee or tenant.

RESIDENTIAL: Regarding utility service and Utility Customers as defined in this Order, service to the permanent occupants of the home, apartment unit, trailer home or other residential structure, and their temporary invitees and guests who obtain service within such structure, as specified in the Utility Customer's Service Application and Agreement.

RIGHT-OF-WAY EASEMENT: As used in this Order, a private dedicated right-of-way for the installation, maintenance and use of water and wastewater facilities which allows access to property for the operation, maintenance, replacement, installation or inspection of such facilities.

SANITARY CONTROL EASEMENT: As used in this Order, a restrictive easement described by specific distances from a water well, as prescribed by 30 Texas Administrative Code, Section 290.41, for the purpose of protecting the public water supply from contamination.

SERVICE APPLICATION AND AGREEMENT: A written agreement, also referred to as the Service Agreement, between the Utility Customer and the District outlining the responsibilities of each party regarding the provision of water and wastewater service by the District to the Utility Customer.

SERVICE UNIT: The base unit of service used in facilities design. Unless otherwise provided by this Order, a service unit is the 5/8" X 3/4" water meter.

STANDARD SERVICE: Service by the District as defined in Section D.2. of this Order.

SURFACE WATER FEE: The fee charged by the District to its Harris County customers to recover the fees charged to the District by the North Harris County Regional Water Authority ("NHCRWA"), as provided by Section C.2. of this Order.

TERMINATION OF SERVICE: The termination of a person's status as a Utility Customer of the District at the instance of the Utility Customer or the District as further provided by this Order.

TOTAL SUSPENDED SOLIDS: The solids found in water, wastewater and other liquids, measured in mg/l, that are removable by laboratory filtering (hereinafter called "TSS").

UTILITY CUSTOMER: A person or entity and their lawful successors who are lawfully receiving or have lawfully received water and/or wastewater utility service from the District, and for whom the District maintains a customer account for the purpose of billing and collection of rates, fees and other charges for utility service, provided, that the lawful successor to a named Utility Customer, and/or the actual recipient of water or wastewater service, if other than the named Utility Customer, as determined by the District, may be deemed by the District to be an Applicant for the purposes of this Order. Utility Customers may be either residential or commercial, as further defined in this Order.

WASTEWATER: The non-potable water and other substances introduced into the District's wastewater lines, collection and treatment facilities by any Applicant, Utility Customer or other person or entity.

WASTEWATER CHARGE FACTOR: The numeric fraction or decimal created by application of the formula set forth in Section C., District Sewer Rates, Paragraph 2. of this Order, to be applied to the base and volume sewer rates payable by certain wastewater utility customers.

SECTION C. RATES AND SERVICE FEES

Unless otherwise specified in this Order, all fees, rates and charges as herein stated shall be non-refundable.

The following water and sewer utility rates are enacted for use from and after the reading of meters at the conclusion of the metering periods in mid-September, 2009:

DISTRICT WATER RATES:

1. Base Rates:

The following monthly base water rates shall apply:

<u>Meter Size</u>	<u>Usage in Gallons</u>	<u>Rate</u>
5/8" X 3/4"	Zero	\$ 43.70
1"	Zero	\$ 56.35

1 ½"	Zero	\$112.70
2"	Zero	\$193.20

2. Additional Rates:

The following additional monthly water rates shall apply for meters of every size:

<u>Usage in Gallons</u>	<u>Rate</u>
Zero to 5,000	\$2.00/1,000 gallons
5,000 to 10,000	\$2.50/1,000 gallons
10,000 to 20,000	\$3.00/1,000 gallons
20,000 to 30,000	\$3.50/1,000 gallons
30,000 to 40,000	\$5.25/1,000 gallons
40,000 to 60,000	\$7.50/1,000 gallons
Over 60,000	\$10.00/1,000 gallons

NHCRWA Well Pumpage Fee:

For all Utility Customers within Harris County, an additional fee shall apply to provide reimbursement to the District for the pumpage fees , i.e. fees based on the water pumped from the District's wells, payable by the District to the NHCRWA under applicable law. Beginning with the District's billing to its Utility Customers from and after the conclusion of the metering periods in mid-January, 2010, and continuing thereafter, this additional fee, which includes an allowance for normal water losses that occur after pumpage from wells, shall be \$ 1.93 per 1,000 gallons of water used by and billed to the customer, or any fraction thereof. This additional fee shall be set forth on the District's monthly billings to its Harris County customers as the NHCRWA Surface Water Fee.

LSGCD GROUNDWATER CONSERVATION FEE:

For all Utility Customers within Montgomery County, an additional fee shall apply to provide reimbursement to the District for the pumpage fees payable by the District to the LSGCD under applicable law. Beginning with the District's billing to its Utility Customers from and after the conclusion of the metering periods in mid-December, 2006, and continuing thereafter, this additional fee, which includes an allowance for normal water losses that occur after pumpage from wells, shall be \$.08 per 1,000 gallons of water used by and billed to the customer, or any fraction thereof. This additional fee shall be set forth on the District's monthly billings to its Montgomery County customers as the LSGCD Groundwater Conservation Fee.

MONTGOMERY COUNTY GROUNDWATER REDUCTION FEE:

For all Utility Customers within Montgomery County; an additional fee shall apply to provide reimbursement to the District for the pumpage fees payable by the District to the San Jacinto River Authority ("SJRA"), to be assessed by SJRA for the funding of the construction required by SJRA's Groundwater Reduction Plan for Montgomery County, which the District joined by contract pursuant to the regulatory mandate of LSGCD. Beginning with the District's billings to its Montgomery County customers from and after August 1, 2010, and continuing thereafter, this additional fee, which includes an allowance for normal water losses that occur after pumpage from wells, shall be \$.55/1,000 gallons of water used by and billed to the customer, or any fraction thereof. This additional fee shall be set forth on the District's monthly billings to its Montgomery County customers as the GRP Fee.

GENERATOR POWER ASSESSMENT:

For all utility customers, an additional amount is assessed to provide reimbursement to the district for its costs to finance the purchase and installation of emergency power generators at its Harris and Montgomery county water systems, as provided by Sections 13.1395 and 13.1396, Texas Water Code, for five years beginning in May, 2010. Beginning with the District's billing to its utility customers that follows the metering period that ends in mid-May, 2010, through and including the metering period that ends in mid-April, 2015, such assessment shall be \$3.50 per month for each utility customer. This assessment shall be set forth on the District's monthly billings as the generator power assessment.

DISTRICT SEWER RATES:

1. Base and Volume Rates:

5/8" X 3/4" water meter	\$ 33.00 + \$7.00/1000 gallons of water used
1" water meter	\$ 55.00 + \$7.00/1000 gallons of water used
1 1/2" water meter	\$ 110.00 + \$7.00/1000 gallons of water used
2" water meter	\$ 176.00 + \$7.00/1000 gallons of water used
2 1/2" water meter	\$ 264.00 + \$7.00/1000 gallons of water used
3" water meter	\$ 330.00 + \$7.00/1000 gallons of water used
4" water meter	\$ 550.00 + \$7.00/1000 gallons of water used

For sewer rate purposes, residential water usage is based on the average water consumption for December through February, and is reset annually. Users without usage experience for those months shall be billed \$63.00 per month, based on a 5/8" meter. Non-residential customers are billed on each month's metered water consumption.

2. Rate Based on Wastewater Content:

The following formula establishes a Charge Factor to be applied by multiplication of the combined base and volume rates charged to a wastewater utility customer, for the purpose of calculating a higher rate for wastewater applicable to certain utility customers, upon the District's determination of one or more of the factors set forth in Subsection D. 22. of this Order. The formula is as follows:

$$(((\text{BOD} \div 200) - 1) + ((\text{TSS} \div 200) - 1) + ((\text{Ammonia} \div 25) - 1)) + 1$$

in which BOD means Biochemical Oxygen Demand, and TSS means Total Suspended Solids, as defined in Section B. of this Order. No quotient in the formula shall ever be less than zero.

ADDITIONAL FEES:

The following additional fees shall apply to water and sewer utility service provided by the District:

1. **Service Investigation Fee.** The District shall investigate the required level of service for each service application by a prospective Utility Customer. An initial determination shall be made, without charge, as to whether the service request is for Standard or Non-Standard Service. Following such initial determination, the following shall apply:
 - a. For Standard Service applications, all applicable costs for providing service shall be quoted in writing to the Applicant within ten (10) working days of receipt of the application;
 - b. For all Non-Standard Service applications, the District shall charge an investigation fee, to be determined by the District on a project basis as a part of its initial service. Such fee shall be sufficient to pay all administrative, legal and engineering fees and costs required by the District's determination of its ability to deliver the requested service and the necessity for additional facilities, if any, that may be required, review plans and specifications proposed by the service applicant, advertise and accept bids for the project, negotiate a service contract with the Applicant and provide any other services required by the District for such investigation; and
 - c. For the purposes of this Section 1., Standard Service is defined as set forth in Paragraph D.2. a. of this Order. Service of a character other than Standard Service, as defined above, is Non-Standard Service.

2. Deposits. The District requires the payment of deposits by Utility Customers to secure the District from nonpayment of Utility Customer billings and the possibility of damage to its meters and other equipment. Therefore, at the time the initial or any subsequent application for service is approved, the following deposits shall be paid to the District before service shall be provided, restored to or reserved for the Applicant:

- a. For residential Utility Customers, the deposit for water service is \$100.00 for each service unit;
- b. For residential Utility Customers, the deposit for water and wastewater service is \$200.00 for each wastewater service customer; and
- c. For commercial Utility Customers, the minimum deposits referred to in Paragraphs a. and b. above are \$200.00 for each service unit or wastewater service customer, as applicable. For meters larger than the standard Service Unit, the deposits are as follows:

2" or less	\$ 300.00
3"	\$ 600.00
4"	\$1,000.00
6"	\$2,000.00
8"	\$3,500.00
10"	\$5,000.00

- d. If service to a Utility Customer has resulted in (1) a billing balance of 125.0% of the Utility Customer's deposit that exists for thirty (30) days or more, or (2) a disconnection of service under Subsections D.8. and D.13. of this Order, the District's General Manager may, in his discretion, require the Utility Customer, upon such determination by the District, or as a condition to reconnection, to pay or increase the deposit of up to three times the amounts provided by Paragraphs a., b. and c. of this subsection. In so acting, the General Manager may consider the Utility Customer's prior payment history with the District, prior unpaid balances payable to the District, prior actual and future projected water usage and prior compliance with other customer responsibilities as set forth in this Order.

3. **Easement and Access Cost.** Notwithstanding the level of service required by any application, as defined by Subsection C.1. of this Order, if the District determines that private right-of-way easements and/or access to one or more facility sites are necessary to provide service to the Applicant, the Applicant shall secure and/or provide right-of-way easements to such facility sites, or provide access to such sites in a manner satisfactory to the District, or pay all costs incurred by the District to validate, obtain, clear, and retain such right-of-way, easements or access to such sites.

In addition, and regardless of the required level of service, the Applicant shall secure and/or provide any necessary sanitary control easements to the District with regard to facility sites required to provide service to the Applicant.

4. **Service Installation and Tap Fees.** The District charges the following installation and tap fees:

Service Connection: The following fees shall apply to the connection of water and wastewater service:

Residential:

\$25.00 for water service
\$50.00 for wastewater service

Commercial:

\$ 50.00 for water service
\$100.00 for wastewater service

TAPS:

- a. For Standard Service, the charge shall be \$750.00 per tap for 3/4" X 5/8" meters to provide individual metered water or wastewater service. For meters of other specifications, the charge per tap shall be the greater of \$750.00 or three times the actual cost for labor and materials of the tap and meter used. Such charges shall be computed immediately prior to the request for service.
- b. For Non-Standard Service, the District shall charge the appropriate tap fees and the construction labor and materials, inspection, administrative, legal and engineering fees, and all other costs required to obtain or build the facilities required to provide such service, as determined by the District following its review of the application for Non-Standard Service as provided by Paragraph C.1.b. above, Section E. and other applicable provisions of this Order.

5. **Reserved Service Charges.** The District may collect a monthly charge for each active account at a specific location for which a meter has not been installed but for which the District and the Applicant have entered into an agreement for reserved service. Such charge shall be based on the District's monthly operating costs to service the facilities dedicated to such Applicant on a per service unit basis. Such charge reserves service to the Applicant's service area and shall be determined on a case by case basis, provided, that such fee shall never exceed the minimum monthly charge for metered service on a per service unit basis.
6. **Assessment Required by Statute.** As required by Section 5.701(n)(1)(C), Texas Water Code, the District shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service. Such charge shall be collected in addition to any other charges for utility service, and shall be calculated on all monthly charges set forth in this Order.
7. **Late Payment Fee.** At the conclusion of each billing period, a penalty of \$5.00 or 5.0%, whichever is greater, shall be applied to any unpaid amount on the billing for the previous billing period. Such penalty shall not be applied to any balance to which the penalty was applied in any previous billing.
8. **Returned Check Fee.** In the event a check, draft or other payment instrument is given by a person, firm, corporation, or partnership to the District for payment of services provided for in this Order, and the instrument is returned by the bank or other institution as insufficient or non-negotiable for any reason, the account for which the instrument was issued shall be assessed a return check charge of \$25.00.
9. **Reconnection Fee.** In addition to any costs that are otherwise chargeable under this Order, the District shall charge the following fees for reconnecting service after the District has previously disconnected service as set forth in this Order. Such fees shall be \$75.00 for residential customers, and \$100.00 for all other customers. At the discretion of the General Manager of the District, the reconnection fee may be increased by 50.0% of the referenced amounts for each reconnection that occurs within one year of a previous reconnection, for a single utility customer.

- 10. Service Trip Fee.** The District shall charge a trip fee for any service call or trip to the customer's tap as a result of a request by the customer or resident (unless such service call is in response to damage of the District's or another customer's facilities), or for the purpose of disconnecting or reconnecting service as set forth in this Order, or for the purpose of testing, inspecting, installing, repairing or replacing District equipment in connection with activities set forth in this Order which, if performed, are chargeable to a customer or other service user. This fee shall not apply in cases in which the meter test fee is not imposed, as provided by Paragraph D.19.a. If imposed, such fee shall be calculated by the General Manager of the District, based on the District's actual cost for labor, material and equipment used to perform the service call.
- 11. Equipment Damage and Service Restoration Fees.** In addition to any other remedies authorized by this order, if the District's facilities or equipment have been damaged by the act or omission of any Applicant or Utility Customer in violation of any federal, state or local statute or ordinance, District Ordinance, or this Order, or if unauthorized service has been established by tampering, bypassing, unauthorized taps, reconnection without authority, other service diversion or the introduction of prohibited substances into the District's lines or equipment, as defined in Paragraph D.20. b. below, a fee shall be charged equal to the actual costs for all labor, material, and equipment necessary for repair, replacement, reinstallation of a removed line tap and other actions required by the District to re-establish authorized service. Such fee shall be charged and paid before service is re-established. All components of this fee will be itemized, and a statement shall be provided to the Utility Customer. If the District's facilities or equipment are damaged due to negligence or unauthorized use of the District's equipment or right-of-way, or to other acts for which the District incurs losses or damages, the Utility Customer shall be liable for all labor and material charges incurred as a result thereof, together with the District's costs to recover the amount payable to repair or otherwise correct such loss or damage.
- 12. Customer History Report Fee.** A fee of \$5.00 shall be charged to provide a copy of the customer's record of past water purchases in response to a customer's request for such a record.
- 13. Meter Test Fee.** The District shall test a customer's meter upon written request of the customer. A charge of \$15.00 per test shall be imposed on the affected account, subject to the further provisions of Paragraph D.19. a. of this Order.
- 14. Transfer Fee.** An Applicant for service who is a transferee from an existing Utility Customer shall pay a fee of \$25.00.

15. **Non-Disclosure Fee.** A fee of \$5.00 shall be assessed any customer requesting in writing that personal information under the terms of this Order not be disclosed to the public.
16. **Information Disclosure Fee.** All public information except that which has been individually identified as confidential shall be available to the public for a fee to be determined by the District based on the level of service and costs to provide such information, provided, that such fee shall not to be inconsistent with the terms of the Texas Open Records Act, Chapter 552, Texas Government Code.
17. **Customer Service Inspection Fee.** A fee of \$75.00 shall be charged for Customer Service Inspections, which are inspections of new homes, prior to the connection of service by the District, to insure customer compliance with applicable law and regulations pertaining to prohibited cross-connections, lead pipe and other requirements applicable to piping, sink connections, taps and other residential customer equipment, including but not limited to those referred to in the District's Customer Service Agreement and Subsection D.21. of this Order.
18. **Fees for Wastewater Disconnection Agreements.** Under its agreements to disconnect wastewater service for third party providers under Paragraph 13.250(b)(2), Texas Water Code, the District shall charge to any such third party provider a service fee of \$100.00 and (a) \$50.00/hour if a certified peace officer is engaged by the District to accompany its service personnel, (b) \$40.00/hour for each District service employee directed to perform the service, and (c) any other actual costs as provided by Subsection D.19. of this Order.
19. **Other Fees.** All other services that the District provides (1) at the request of a customer, or (2) in furtherance of the District's purposes as provided by this Order, shall be charged to the recipient based on the cost of providing such service.

SECTION D. SERVICE RULES AND REGULATIONS

1. **Service Entitlement.** An Applicant is qualified and entitled to water and wastewater utility service when proper application has been made, terms and conditions of service have been met and continue to be met, including the Applicant's compliance with applicable law, the District's policies and this Order, and all fees have been paid, as prescribed by this Order and the applicable policies of the District.
2. **Service Classifications.** For the purpose of action by the District on service requests, service requested by an Applicant and provided by the District is divided into the following classes:

- a. **Standard Service** is service from an existing water pipeline where additional pipelines or service facility extensions are not required and special design and/or engineering considerations are not necessary, based on 5/8" X 3/4" taps for water meter service set on existing pipelines, or residential wastewater taps made on collection lines no more than five feet in depth.
- b. **Non-Standard Service** is any service applied for that is not Standard Service. In addition to the other requirements of this Order, Section E. of this Order applies to applications for Non-Standard Service.

Both Standard Service and Non-Standard Service may apply to either residential or commercial Utility Customers.

3. Standard Service. The following provisions apply to applications for Standard Service.

- a. **Application Requirements.** The following requirements apply to applications for Standard Service:
 - (1) The Customer shall provide proof of identification with full name, photograph and date of birth, by current Texas driver's license or identification certificate, current United States passport, foreign passport with current entry visa, current United States military identification, United States Citizenship Certificate or Certificate of Naturalization, or other form of identification satisfactory to the District.
 - (2) The District's Service Application and Agreement shall be completed in full and signed by the Applicant. Its form shall be as specified by the District from time to time.
 - (3) A right-of-way easement or other forms of legal access to the Applicant's property satisfactory to the District, physical access thereto as defined by this Order and any required sanitary control easements must be completed by the Applicant for the purpose of allowing future extensions or facility additions to improve or provide service to future Applicants.
 - (4) The Applicant shall provide proof of ownership or title to property for which service has been requested in a form acceptable to the District.

- (5) The District may consider master meters and/or multiple units if the total number of units to be served are:
 - (a) Owned by the same person or legal entity;
 - (b) Inaccessible to the public right-of-way, and
 - (c) A commercial enterprise.
- (6) All approved Service Applications and Agreements and cost of service fees quoted by the District shall be presented to the Applicant in writing and shall be effective at the quoted costs for not less than thirty (30) days. After thirty (30) days, an Applicant shall reapply for service under these terms.

b. **Activation of Standard Service.**

- (1) **New Service.** The District shall charge non-refundable service connection and tap fees as set forth in Subsection C.4. of this Order. The quoted service connection tap and all other fees shall be paid in advance of installation or in advance of reservation of service capacity including, as applicable, the deposit, any easement fees, and any capital contributions as provided in Section E. of this Order.
- (2) **Reestablishment of Service.** On property where service previously existed, the District shall charge and receive the deposit and the labor, material and system modification costs necessary to restore service.
- (3) **Performance of Work.** After all fees are paid and approval is granted by authorities with jurisdiction, all tap and equipment installations specified by the District shall be completed by the District's staff or designated representative within ten (10) working days after receipt of payment.
- (4) **Inspection of Customer Service Facilities.** The District staff or its designated representative shall inspect all customer service facilities before and periodically after the tap is made to insure compliance with all requirements of the Texas Commission for Environmental Quality ("TCEQ") or any successor agency, applicable plumbing codes and utility construction standards.

4. ***Non-Standard Service.*** Applications for and the activation of Non-Standard Service shall occur as prescribed by the applicable terms of this Order, including but not limited to Section E.

5. ***Changes in Service Classification.*** If at any time the District determines that the customer service needs of a Utility Customer change from those originally applied for to a different service classification, and that additional or different facilities are necessary to provide adequate service, the District shall require the customer to reapply for service under the terms and conditions of this Order. Customers that do not comply with this provision shall be subject to the Disconnection With Notice provisions of this Order in Paragraph 13.a. below.
6. ***Utility Customers.*** The following provisions further define the eligibility and entitlement of any person, as defined in this Order, to be a Utility Customer of the District:
- a. **Eligibility of Persons Within District.** Any person located within the service area of the District may be a residential or commercial Utility Customer of the District by compliance with the other terms of this Order.
 - b. **Entitlement to Service.** Eligibility based on a residential or commercial location within the District does not guarantee service to an Applicant therefor, which includes any proposed transferee of an existing Utility Customer. Qualification for service under applicable law and this Order is a prerequisite to entitlement to service for new Applicants and continued service to existing Utility Customers and transferees.
 - c. **Cancellation or Denial of Service.** Utility service may be denied or canceled to any Applicant or existing Utility Customer for non-payment of the water and sewer rates and fees required to be paid monthly to the District, including any minimum fee payable regardless of whether water is used, nonpayment of other applicable fees, costs and deposits, and on the additional bases set forth in Subsection 8. below. A Utility Customer may be relieved of the obligation for payment only by the termination of its utility service pursuant to applicable law, this Order and the discontinuing of active service.
 - d. **Termination of Status.** A person ceases to be a Utility Customer of the District at the conclusion of the actions set forth in Paragraphs 7. b. through 7. d. below. Thereafter, such person may again become a Utility Customer by compliance with the requirements therefor that are set forth in this Order.

7. **Termination of Service.** The following provisions govern the termination of service with regard to a Utility Customer.

a. **Bases.** Termination of Service may occur as provided in this Subsection 7.:

- (1) At the request of the Utility Customer; or
- (2) By the District in the event of a Disconnection of Service under this Order.

b. **Termination Date.** The date of the Utility Customer's Termination of Service shall be (1) as soon as practicable in the event of the Utility Customer's request for disconnection, and (2) on or after thirty (30) days following the District's Disconnection of Service, unless the Utility Customer obtains reconnection of service as provided by Subsection D.14, or as otherwise provided by this Order.

c. **Procedure.** When Termination of Service occurs, the District shall calculate the amount of any unpaid amounts payable to the District for fees or utility service, including any delinquent charges and penalties. If the amount payable exceeds the deposit amount held by the District for the account of the Utility Customer, the deposit shall be liquidated and the unpaid balance shall be billed to the Utility Customer in the District's next billing to its Customers. If the amount payable is less than the deposit amount held by the District for the account of the Utility Customer, the District shall refund the excess amount to the Utility Customer as provided by Paragraph 7. d. below.

d. **Refunds.** A Utility Customer may elect at the time of voluntary termination of service to receive any payable refund (1) in person at the District's office, following subsequent verbal notification by the District to the Utility Customer, either in person or by telephone, or (2) by United States Regular Mail, provided, that such refund is in the amount of \$5.00 or more. If no election is made, the District shall mail any refund to the Utility Customer by United States Regular Mail to the Utility Customer's service address, provided, that no refund in an amount less than \$5.00 shall be delivered by mail. Refunds of \$5.00 or less shall be delivered in person. All refunds delivered in person shall be made at the District's offices to (1) the Utility Customer, upon sufficient identification, or (2) the Utility Customer's representative authorized in writing, upon sufficient identification.

- e. **Collection of Unpaid Balances.** In the event that an unpaid balance exists following the liquidation of the Utility Customer's deposit, the District may collect the unpaid account balance through all lawful means. At the discretion of the District's board of directors, unpaid and uncollectable account balances may be removed from the District's records at the recommendation of the District's General Manager.

8. *Disconnection or Denial of Utility Service.* As further provided by Subsection D.13., the District may disconnect existing service to a Utility Customer or deny service to an Applicant for the following reasons, in addition to those specified in Paragraph 6.c. above:

- a. The failure of an Applicant or Utility Customer to complete the Service Application for Standard or Non-Standard Service, as applicable, the applicable Standard Service Agreement or the required Non-Standard Service Agreements required under Section E. of this Order, and pay all required fees and charges;
- b. The failure of an Applicant or Utility Customer to comply with the Service Agreement, any provision of this Order and the District's policies, as applicable, including but not limited to the District's Water Conservation Plan;
- c. The existence of a hazardous condition at the Applicant's property;
- d. The failure of an Applicant or Utility Customer to provide to the District access to the property for which water or sewer service is provided or has been requested. For the purpose of this paragraph, Paragraph 21.a. and Subparagraphs 3.a.(2), 13.a (5), 13.b.(1), 21.c.(2) and 21.c.(5) in Section D. of this Order, "access" means (1) legal access satisfactory to the District, and (2) physical access to the meter or other areas of the property, as required by District personnel, without the risk of injury or danger occasioned by the acts or omissions of the owner or occupant of the property, including but not limited to the existence of a hazardous condition on the property;
- e. The failure of an Applicant or Utility Customer to provide a sanitary control easement with regard to property for which such an easement is required under 30 Texas Administrative Code, Section 290.41;

- f. The failure by any Applicant, Utility Customer, property developer, commercial builder or other entity to comply with applicable statutes and the regulations of federal, state and local authorities, including this Order, the District's Ordinances, or any contract conditions or other requirements that govern the Standard or Non-Standard Service requested by any Applicant or provided by the District to any Utility Customer;
- g. The failure of an Applicant or Utility Customer to timely pay any lawful fines or civil penalties imposed by the District pursuant to a District Ordinance;
- h. The failure of an Applicant or Utility Customer to provide proof of ownership of the applicable property;
- i. The inadequacy of the Applicant's existing service facilities to the extent that satisfactory service cannot be provided;
- j. The commission of a prohibited activity as defined in Subsection D.20; or
- k. Pursuant to a contract to disconnect water service in lieu of the disconnection of wastewater service under Section 13.250(b)(2), Texas Water Code.

9. *Recourse by Applicant or Utility Customer.* If the District denies or refuses service to an Applicant under this Order, the District shall notify the Applicant, in writing, of the basis of its refusal, and the Applicant may file an appeal in writing with the District's Board of Directors.

10. *Impermissible Bases for Refusal of Service.* The following bases for refusal to connect or reconnect service that does not currently exist are not permitted:

- a. Delinquency in payment for service by a previous occupant, other than the Applicant, of the premises to be served;
- b. Failure to pay a bill to correct previous underbilling due to misapplication of rates more than six (6) months prior to the date of application;
- c. Operation by the Applicant or Utility Customer of non-standard equipment or unauthorized attachments that interfere with the provision of service to other Utility Customers, unless the Applicant or Utility Customer has been notified and afforded a reasonable opportunity to remove such equipment or attachments or otherwise comply with the District's requirements; and

- d. Failure to pay the billing of an unrelated or unaffiliated customer at the same address.

This Paragraph 10. does not apply to disconnections of existing water or sewer service.

11. *Billing, Payment and Deferred Payment Agreements.* Water and sewer utility usage billings shall be calculated and billed to Utility Customers as follows:

- a. The Reserved Service Charge or any minimum monthly charge shall be applied each month to the appropriate billing period for meters in the area. Charges shall be prorated for meter installations and service terminations falling during the calendar month. Billings for these amounts shall be delivered by U.S. first class mail, or at the Utility Customer's option, by email, with the water usage billings that follow each monthly meter reading.
- b. Water and sewer usage shall be billed at the rates specified in Section C. With the exception of the estimated billings otherwise authorized by this Order, which shall be based on estimated average usage for the applicable metering period, water usage charges shall be based on monthly meter readings and calculated from reading date to reading date. Readings used in all billing calculations shall be taken by the District's employees or its designated representative.
- c. The District will accept payment from a Utility Customer in person, by mail or by electronic means to the District's depository bank on terms established by the District in its Service Agreement or by further agreement with the Utility Customer. At the Utility Customer's election, provided to the District in writing, the District will deliver customer billings and all related billing notices by email to the email address designated by the Utility Customer, provided, that such email address shall be deemed to be Utility Customer's address of record for notice purposes for any Utility Customer that so elects until the Utility Customer changes or withdraws such election in writing.
- d. All payments shall be posted against previous balances prior to posting against current billings.
- e. The District may offer a deferred payment plan to a Utility Customer who reasonably demonstrates the inability to pay an outstanding balance in full and to pay the balance in reasonable installments as determined by the District, including any late payment or penalty fees or interest on the monthly balance to be determined by agreement. This provision does not apply to the payment of fines and civil penalties imposed under the District's ordinances.

12. Due Dates, Delinquent Bills, and Service Disconnection Date. The District shall send monthly billings to its customers based on meter readings by the District for metering periods of approximately thirty (30) days. Following each metering period, customer billings shall be delivered by U.S. first class mail or, at the Utility Customer's option, by email, on or about the 30th of the month. All bills shall be due upon receipt and are past due beyond the past due date indicated on the bill, after which a penalty shall be applied as described in Subsection C.7. of this Order. A bill is delinquent if not paid before midnight on the past due date. Payments made by mail are late if they are received by the District after the past due date. Final notices shall be mailed allowing ten (10) additional days for receipt of payment by the District prior to disconnection for nonpayment. The ten (10) additional days shall begin on the day the final notice is delivered by email or deposited with the U.S. Postal Service with sufficient postage. If the past due date for the regular or final billings is on a weekend or holiday, the past due date for payment purposes shall be the next day the District office is open for business after said weekend or holiday. For all disputed payment deadlines, the email delivery date or date postmarked on each bill will determine the beginning of each billing cycle or the final notice billing period.

If access to the Utility Customer's premises is denied, thereby preventing the reading of the meter, an estimated bill shall be rendered to the Utility Customer for the current month and a notice shall be sent that entrance could not be gained. If access to the meter continues to be denied after proper notification to the Utility Customer, service may be discontinued and the meter removed as set forth in Paragraph D.13.a.

Upon written request, any residential customer sixty (60) years of age or older who occupies the entire premises of a dwelling receiving water utility service from the District shall receive an extension of the past due date, without penalty. The extension shall not exceed ten (10) days beyond the usual fifteen (15) day payment period for a total of no more than twenty-five (25) days from the date the bill is issued. The request may specify extension of the late payment periods for current and subsequent billings.

13. Rules for Cancellation or Disconnection of Existing Service. The following paragraphs further describe the rules and conditions for cancellation and disconnection of existing water and wastewater service. For the purposes of disconnecting wastewater service under these policies, water service will be terminated in lieu of disconnecting wastewater taps. In instances of nonpayment of wastewater service or other violations by a Utility Customer who is not a water customer, the District has the option to disconnect the wastewater tap or take other appropriate actions.

- a. **Disconnection with Notice.** Water or wastewater utility service may be disconnected for the following reasons after notice is delivered to the Utility Customer.
- (1) In the event a check, draft, or any other similar instrument is given by a person, firm, corporation, or partnership to the District for payment of services provided for in this Order, and the instrument is returned by the bank or other similar institution as insufficient or non-negotiable for any reason. In such event the District shall mail, via the U.S. Postal Service, or by email if the Utility Customer has elected to receive billings by email, a notice requiring redemption of the returned instrument within ten (10) days of the date of the notice to be made in the District office. Redemption of the returned instrument shall be made by cash, money order, or cashier's check. Failure to meet these terms shall initiate disconnection of service;
 - (2) Failure to pay a delinquent account for utility service or failure to comply with the terms of a deferred payment agreement;
 - (3) Violation of the District's service rules, any provision of this Order and the District's policies, material interference with the performance of the District's lines and equipment or its ability to provide water and sewer service to its other customers, or the operation of non-standard equipment or equipment disapproved by the District, if the Utility Customer is provided with notice and a reasonable opportunity, after notice, to replace or correct such equipment;
 - (4) Failure of the Utility Customer to comply with the terms of (a) the District's Standard or Non-Standard Service Agreement with the Utility Customer, or any other agreement that applies to the service provided to such Utility Customer, (b) any provision of this Order or the bylaws and policies of the District, including but not limited to the District's Water Conservation Plan, or (c) any federal, state or local statute or regulation that applies to the District's delivery of water or sewer utility services to the Utility Customer, including the District's Ordinances, provided, that except as provided by Paragraph 13.b. below, the District has given the notice required thereby of said failure to comply, and the Utility Customer has failed to comply within the specified amount of time after notification;

- (5) Failure to provide legal and physical access, as defined by this Order, (a) to the meter, as well as the equipment and water or wastewater lines on the Utility Customer's property on the customer side of the meter under the terms of this Order, or (b) to the property at which water or wastewater service is received, when the Utility Customer or occupant of the service address is notified that a violation of this Order or the District's policies may exist at such address, for which access is necessary to verify;
- (6) A material misrepresentation by any Applicant or Utility Customer of any fact on any form, document, or other agreement required by the District; or
- (7) Failure of a Utility Customer to re-apply for service upon notification by the District that the Utility Customer no longer meets the terms of the service classification determined under the original service application.

b. **Disconnection Without Notice.** Water or wastewater utility service may be disconnected without notice for any of the following reasons:

- (1) If the District determines the existence of a hazardous condition as defined by this Order, including but not limited to (a) noncompliance with the terms of Subparagraphs D.21.c.(1) through (5) of this Order, or (b) any other condition for which service may remain disconnected for as long as the condition exists under applicable law, or if the Utility Customer refuses to provide legal and physical access to the service address for the purpose of confirming the existence of such condition and/or correcting it;
- (2) The introduction of a prohibited substance into the District's water or wastewater facilities, lines and equipment;
- (3) The unauthorized connection of service by a person who is not a Utility Customer, has not made application for service or reconnected service without authority following disconnection of service; or
- (4) If the District determines the existence of tampering with the District's meter or equipment, bypassing the meter or equipment or other diversions of service.

Whenever possible, the nature of the reason for disconnection, a written statement of disconnection and the reason therefor shall be posted at the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected. If the Utility Customer has elected to receive electronic billings, such statement shall also be provided by email.

- c. **Disconnection Prohibited.** Utility service may not be disconnected for any of the following reasons:
- (1) Failure of the Utility Customer to pay for merchandise or charges for non-utility service provided by the District, unless an agreement exists between the Applicant and the District whereby the Utility Customer guarantees payment of non-utility service as a condition of service;
 - (2) Failure of the Utility Customer to pay for a different type or class of utility service unless a fee for such service is included in the District's monthly billing;
 - (3) Failure of the Utility Customer to pay charges arising from an underbilling that occurred as the result of any misapplication of rates more than six (6) months prior to the current billing;
 - (4) Failure of the Utility Customer to pay the account of another Utility Customer as guarantor thereof, unless the District has in writing the guarantee as a condition precedent to service to the guarantor;
 - (5) Failure of the Utility Customer to pay charges arising from an underbilling due to any faulty metering, unless and until such charges are properly rebilled as provided by Subsection D.16, provided, that this paragraph shall not apply to underbilled charges on a meter that has been tampered with as described in Subsection D.20. below; or
 - (6) Failure of the Utility Customer to pay an estimated bill other than a bill rendered pursuant to an approved meter reading plan, unless the District is unable to read the meter as a result of denial of access to the meter.
- d. **Disconnection on Holidays and Weekends.** Unless a hazardous or other condition exists under Paragraph D.13.b. or the Utility Customer requests disconnection, service shall not be disconnected on a day, or on a day preceding a day, when personnel of the District are not available to the public for the purpose of making collections and reconnecting service.

- e. **Disconnection Due to Utility Abandonment.** The District may not abandon a Utility Customer or service area defined by a Certificate of Convenience and Necessity except as provided by applicable law.

- f. **Disconnection for Ill and Disabled.** The District may not discontinue service to a delinquent residential Utility Customer who is permanently residing in an individually metered dwelling unit if the Utility Customer establishes that discontinuance of service will contribute materially to or seriously aggravate a serious illness of a person who resides at the metered residence. To avoid disconnection of service under this subsection, the Utility Customer must respond immediately to the District's delivery of notice of impending disconnection of service, and thereafter have the attending physician of the person with the illness call or contact the District within seven (7) days of the delivery of notice. A written statement must be received by the District from the physician within three (3) additional days of the physician's call or ten (10) days from the delivery of the District's notice. If permitted, the prohibition against service disconnection shall continue for the lesser of sixty-three (63) days from the issuance of the District's notice of impending disconnection of service or such lesser period as may be agreed to by the District, based on the information provided by the Utility Customer's physician. In all such cases, the Utility Customer shall enter into an appropriate Deferred Payment Agreement. This provision does not apply to disconnections without notice under Paragraph D.13.b., however, the District will apply this provision, if otherwise appropriate, to a lawful reconnection if the bases for disconnection without notice are eliminated.

- g. **Disconnection of Master-Metered Services.** If a bill for water utility services is delinquent for a master-metered service complex, the following shall apply:
 - (1) The District shall send a notice to the Utility Customer as required. Such notice shall also inform the Utility Customer that notice of possible disconnection will be provided to the tenants of the service complex in six (6) days if payment is not rendered before that time.

 - (2) At least six (6) days after providing notice to the Utility Customer and at least four (4) days prior to disconnection, the District shall post at least five (5) notices in public areas of the service complex notifying the residents of the scheduled date for disconnection of service.

 - (3) The tenants may pay the District for any delinquent bill on behalf of the owner to avert disconnection or to reconnect service to the complex.

- h. **Relocation of Meters and Related Equipment.** If disconnection occurs because of a denial of physical access by the Utility Customer to the District, as defined by this Order, the District may require the relocation of the meter and related equipment to which access has been denied. In that event, such relocation shall be to a location on the Utility Customer's property that is satisfactory to the District and provides the required physical access as defined by this Order. Any such relocation shall be performed by District personnel and at the expense of the Utility Customer.

14. *Reconnection of Service.* Except as otherwise provided in this Order, a Utility Customer may obtain reconnection of service after service has been disconnected upon compliance with the following requirements:

- a. Payment of all costs and fees under Subsections C.9. and C.11. of this Order, together with any unpaid billings for service, including estimated charges for service diverted by the means described in Paragraph D.20.a., and any unpaid fees and deposits that are properly chargeable to a new Applicant for service or as provided by Paragraph 2.d., Additional Fees, in Section C. of this Order;
- b. Payment of any unpaid fines and penalties imposed under the District's ordinances;
- c. Correction of any condition on the Utility Customer's property that either violates this Order or is the reason for the disconnection of service; and
- d. Compliance with applicable federal, state and local law and regulations, the District's policies and Service Agreement, and the other terms of this Order.

As further provided by Paragraph 2.d., Additional Fees, in Section C. of this Order, increased deposits may be required in the discretion of the General Manager as a condition of reconnection of service under this Subsection D.14. As further provided by Paragraph D.13.h. of this Order, the District may require the relocation of the Utility Customer's meter and related equipment to an accessible location, at the Utility Customer's expense, as a condition of reconnection under this Subsection D.14. if the reason for disconnection of service is the Utility Customer's denial of physical access to the meter or other areas of the property to which access is required by District personnel.

15. *Billing Cycle Changes.* The District may change its metering period and billing cycle from time to time at the discretion of the board of directors. Following any such change, customer billings shall be delivered by U.S. first class mail or, at the Utility Customer's option, by email, after the conclusion of the new metering period unless the District determines otherwise.

- 16. *Re-billing for Errors.*** The District may re-bill a Utility Customer for up to forty-eight months for meter error, misapplied meter multiplier, incorrect meter readings or other error in computing a Utility Customer's bill. The failure to pay the most recent six (6) months re-billing will result in the disconnection of service after notice, and the requirement to reestablish credit. Re-billing for errors shall not extend prior to the current Utility Customer except in cases involving the transfer of service conditioned upon payment of delinquent obligations by the transferee.
- 17. *Disputed Bills.*** In the event of a dispute between the Utility Customer and the District regarding any bill, the District shall forthwith conduct such investigation as shall be required by the particular case, and report the results in writing thereof to the Utility Customer. All such disputes must be submitted to the District in writing, prior to the due date posted on said bill except in cases involving the transfer of utility service conditioned on payment of delinquent obligations by the transferee.
- 18. *Inoperative Meters.*** Inoperative water meters, meaning water meters that fail to register measurable water flow for any time period, shall be repaired or replaced within a reasonable time of their discovery. If an inoperable meter is found, the District shall make a charge for utility service used, but not metered, for a period not to exceed three (3) months, based on amounts used under similar conditions during the period preceding or subsequent thereto, or during corresponding periods in previous years.
- 19. *Billing Adjustments.*** Adjustments by the District to customer billings may occur on the bases set forth in Paragraphs a. and b. below.
- a. **Meter Error.** The District shall test any Utility Customer's meter upon written request of the Utility Customer. In the event the meter tests within the accuracy standards of The American Water Works Association or other recognized authority, the test fee prescribed in Subsection C.13. of this Order shall be imposed. The test fee shall be waived if the meter does not test within the accuracy of such standards. In the event the test results indicate that the meter is faulty or inaccurate, a billing adjustment may be made for the billing periods up to six (6) months prior to the test date, but not extending prior to the current Utility Customer except in cases involving the transfer of service is conditioned on payment of delinquent obligations by the transferee. The District's General Manager shall effect any such adjustment, at his discretion, subject to the standard that for any adjusted billing periods the adjusted amount shall be calculated on the basis of the Utility Customer's water usage in the corresponding months of prior years, or such other month or months as the General Manager shall determine if the Utility Customer has no corresponding account history with the District.

b. **Other Bases for Adjustment Presented by Utility Customers.** The following additional bases for adjustment shall be considered by the District as set forth below:

- (1) **Metering Period Adjustments.** At the request of a Utility Customer, a Utility Customer billing based on a current metering period in excess of thirty five (35) days shall be adjusted to provide for the current metering period on such billing to be recalculated on the basis of a thirty (30) day period, assuming the average of the Utility Customer's daily usage during the current metering period as shown on the billing. The amount not billed to the Utility Customer by reason of the adjustment shall be billed to the Utility Customer in the billing for the succeeding metering period, and shall not be considered in any subsequent request for a metering period adjustment under this paragraph.
- (2) **General Manager Adjustment Discretion.** Subject to additional policies adopted by the District from time to time, The General Manager is authorized at his discretion to approve billing adjustments for metering periods in which the District confirms that the Utility Customer's billing was increased as a result of an error in reading the meter of a Utility Customer, leaks or malfunctions in the District's lines, equipment and connections, or operations for which the District is exclusively responsible. Generally, any such adjustment shall be limited to the amount in excess of (a) the Utility Customer's ordinary water usage during the same metering periods in prior years, if the Utility Customer has comparable prior account history with the District, and (b) if no such history exists for the Utility Customer, such comparable metering or calendar period as the General Manager shall determine.
- (3) **Action by the Board of Directors.** In addition to any review it may undertake of actions by the General Manager under this Subsection 19., the board of directors will consider, in its discretion, timely filed Utility Customer requests for billing adjustments on the grounds stated in this paragraph. Those grounds include adjustments requested for water loss asserted by the Utility Customer by reason of underground leaks, home plumbing leaks, customer equipment malfunctions, weather damage, acts of God or other events pertaining to water loss on the Utility Customer side of the District's meter. Any such request shall be in writing and set forth the reasons for the proposed adjustment. The request shall be filed with the District within thirty days of the billing date of the first District billing that reflects the Utility Customer's water loss. In addition, any such request shall set forth the completion of repairs by the Utility

Customer of the malfunction, damage, lines or equipment of the Utility Customer that pertain to the request for adjustment. Only one such request may be filed by a Utility Customer within a consecutive twenty four (24) month period or within twenty four (24) metering periods, whichever is greater. Generally, any billing adjustment approved by the board under this paragraph shall be limited to the amount in excess of (a) the Utility Customer's ordinary water usage during the same metering periods in prior years, if the Utility Customer has comparable prior account history with the District, and (b) if no such history exists for the Utility Customer, such comparable metering or calendar period as the board of directors shall determine.

20. Prohibited Activities. The following activities by any individual or entity, including but not limited to any Applicant, Utility Customer or user of water or wastewater service through any meter or facilities owned by the District, or provided by the District for a Utility Customer, are strictly prohibited:

- a. **Meter Tampering and Diversion.** Meter tampering, bypassing and water diversion, including tampering with the District's meter or equipment, bypassing such equipment, removing a locking or shut-off device used by the District to discontinue service, removing or tampering with a water flow restricter installed by the District, physically disorienting the meter, attaching objects into the meter and other electrical and mechanical means of tampering with, bypassing or otherwise diverting service, including but not limited to the use of any device that materially impedes the District's maintenance of water supply or water pressure to other customers of the District, is prohibited. Proof of meter tampering, bypassing or diversion may be made by photographic or other reliable evidence, and may be accompanied by an affidavit by the District's staff when legal action regarding meter tampering is initiated. A court finding of meter tampering may be used instead of photographic or other evidence, if applicable. In all instances, unauthorized users of services of the District may be prosecuted to the extent allowed by law under the Texas Penal Code. Upon a determination by the District's General Manager that a violation of this Paragraph D.20.a. has occurred, the General Manager may at his discretion authorize the District's removal of the line tap, in addition to the meter, to prevent further theft or diversions of service.
- b. **Prohibited Substances.** The introduction into the District's facilities, lines or equipment of any pollutant, prohibited substance defined by this Order, or wastewater containing any pollutant or prohibited substance, or the introduction of any substance into such facilities, lines or equipment that creates a public health hazard, interferes with the District's water delivery, water quality or wastewater treatment processes, or interferes with the

operation or performance of the District's water or wastewater facilities, lines or equipment, whether directly or indirectly, by any means, by any Applicant, Utility Customer, developer, builder or other person or entity, is prohibited.

Such prohibited substances include but are not limited to the following:

- (1) Inflows or infiltration from sources including but not limited to stormwater, groundwater, roof runoff, sub-surface drainage, noncontact cooling water, downspouts, yard drains yard fountains or ponds or lawn sprinklers.
- (2) Liquids, solids or gases which, by reason of their nature or quantity, whether alone or by interaction with other substances, may cause fire or explosion, or be injurious in any other way to the District's water or wastewater facilities, lines or equipment, or their operation.
- (3) Solid or viscous substances which may cause obstruction to the flow I in the District's water or wastewater facilities, lines or equipment, or other interference with their operation, including, but not limited to garbage containing particles greater than one-half inch (1/2") in any dimension, animal or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, oils, gasoline, other fuels, tar, asphalt residues, paint solvents, residues from refining or processing of fuel or lubricating oil, mud, glass grindings or polishing wastes.
- (4) Wastewater having a PH less than 5.0 or higher than 10.0, or wastewater having any other corrosive property capable of causing damage or hazard to the District's water or wastewater facilities, lines or equipment.
- (5) Wastewater containing toxic pollutants in sufficient quantity, whether singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, or which constitutes a health or safety hazard to humans or animals, creates a toxic effect in the plant effluent or receiving waters of the District's water or wastewater facilities, or exceed any limitation provided by federal, state or local law.

- (6) Radioactive materials or isotopes of such half-life or concentrations that permit a transient concentration higher than the standards established by federal, state and local law.
- (7) Any trucked or hauled pollutants of any type or nature.
- (8) Any noxious or malodorous liquids, gases or solids which, whether singly or by interaction with other wastes, may prevent the entry or approach by District personnel into its facilities, lines or equipment.
- (9) Any substance that may interfere with laboratory analyses performed by the District of water, wastewater or effluent.
- (10) Any substance that might cause the wastewater effluent or other products of the District's wastewater treatment processes, such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal.
- (11) Any substance that causes the noncompliance of the District's water or wastewater facilities, lines and equipment with federal, state or local sludge use or disposal criteria, guidelines or regulations, or that causes them to violate its National Pollutant Discharge Elimination System and/or Texas Commission on Environmental Quality permits or related to water quality standards.
- (12) The substances identified on Exhibit A to this Order.

- c. **Multiple Connections to a Single Tap or Line.** Unless authorized by the District, submetering, multiple connections to a single meter tap, multiple connections to the water supply line to a Utility Customer on the customer side of the District's meter, and any other form of diversion of water from the direct use of a residential or commercial Utility Customer, are prohibited. Every connection for any dwelling, structure, household, business, and/or water-consuming establishment currently receiving or planning to receive water service, either directly or indirectly from the District's water system, shall be subject to individual applications for service under the rules of this Order. Unauthorized submetering, prohibited multiple connections or other diversions of service are subject to disconnection of service, including the disconnection of service to the affected Utility Customer, under Subsections D.8. and D.13. of this Order.

- d. **Use of Water for Dilution of Prohibited Substances.** The use of water to dilute or attempt to dilute or diminish the effect of a prohibited substance introduced into the District's facilities, lines and equipment is prohibited, except as authorized by District personnel and regulatory authorities acting under applicable law.
- e. **Statutory, Code and Plumbing Standards.** Violations by the Utility Customer of statutory duties, code responsibilities and plumbing standards, as described in Subsection D.21. below, are prohibited.
- f. **Cross-Connection to Privately-Owned Water Wells.** The Utility Customer's cross-connection or tying in of the District's facilities, lines and equipment, or of any water lines and equipment on the customer side of the District's meter, to any privately-owned water well, or any facilities, lines or equipment connected thereto, is prohibited unless authorized in writing by the District, following inspection.

21. *Utility Customer Responsibilities.* In general, the Utility Customer's responsibilities are to comply with applicable federal, state and local law and regulations, this Order, District policies, the Service Agreement and the District's ordinances and to timely pay for all water used and the other fees, charges and costs that apply under this Order. The following specific duties also apply:

- a. **District Access to Property of Utility Customer.** The Utility Customer shall provide legal and physical access, as defined in this Order, to the meter, grease trap, sample well and all other water and wastewater equipment and lines on the customer side of the meter, and to the property at which water or wastewater service is received, at all reasonable times for the purpose of reading, installing, checking, repairing or replacing the meter, and for all other lawful purposes of the District. For the purpose of providing such access, the Utility Customer shall provide a key or other access to locked gates and other barriers to entry.
- b. **Prevention of Prohibited Activities.** Utility Customers shall not permit and shall terminate and/or report to the District any prohibited activity under Subsection D.20. that occurs on the premises of the Utility Customer, and shall take all reasonable actions to assure that water and wastewater usage under the account of the Utility Customer is in compliance with federal, state and local statutes and ordinances, this Order and other policies of the District.

- c. **Utility Customers Receiving Wastewater Service** . Utility Customers that receive wastewater service have the following duties and responsibilities, unless waived in writing by the District:
- (1) The prevention of the introduction of any prohibited substance, as defined by Paragraph 20.b. of this Order, into the District's wastewater facilities, lines and equipment.
 - (2) For all commercial wastewater Utility Customers, the installation and maintenance of a trap ahead of the entrance to the District's wastewater collection piping, with a double clean out at the property line to provide for the collection of dirt, grit, sand, grease, oil and similar substances. The trap shall be positioned and configured to permit access and inspection by District personnel.
 - (3) The pretreatment of wastewater by the reduction of the amount or volume, elimination, or alteration of the nature of any prohibited substances in the Utility Customer's wastewater, to the extent required to eliminate prohibited substances from such wastewater.
 - (4) Compliance with any standard for the pretreatment of wastewater prescribed by federal, state and local law and regulations that exceeds or adds to the pretreatment of wastewater defined and required by this Order.
 - (5) For all commercial wastewater customers, the installation of a sample well ahead of the entrance to the District's wastewater piping, to provide for the District's inspection and sampling of the wastewater introduced by the Utility Customer into the District's facilities, lines and equipment. The sample well shall be positioned and configured to prevent ground and surface water infiltration, and to permit access thereto by the District to safely and expeditiously permit such inspection and sampling.
- d. **Compliance With Requirements for Non-Standard Service**. All Applicants for Non-Standard Service for which such service is provided by the District shall comply with all continuing requirements on which such service is conditioned, including but not limited to those provided by this Order, including but not limited to Section E. hereof, the Non-Standard Service Agreement or other applicable law.

- e. **Additional Duties of All Utility Customers.** The Utility Customer has the following additional responsibilities:
- (1) Compliance with all federal, state and local codes and regulations concerning on-site service and plumbing facilities.
 - (2) The design and operation of all customer connections and equipment to ensure against back-flow into or siphonage from the District's water supply.
 - (3) The assurance that pipe and pipe fittings that contain more than 8.0% lead or solder and flux that contain more than 0.2% lead is prohibited for any customer authorized plumbing installation or repair of a residential or non-residential facility that provides water for human consumption and is connected to the District's facilities.
 - (4) The assurance that all pipe and fittings used by the customer to convey sewage from its source to the sewer line are of D-3034, SDR-35 or equivalent, 4" inch diameter pipe, that all joints are water tight and all pipe is installed to recommended grade.
 - (5) The assurance that the fittings of all wastewater and potable water service pipeline installations shall be a minimum of nine feet apart and comply with all applicable plumbing standards.
 - (6) The assurance that no prohibited cross-connections or tie-ins to privately-owned water wells, or lines and facilities connected thereto, as further provided in Paragraph 20.f., are occurring on the premises of the Utility Customer or in conjunction with the District's Service to the Utility Customer.

Service shall be discontinued without notice under Subsections D.8 and D.13. if the installation of new facilities, or repair of existing facilities or any inspection by the District discloses violations of Paragraphs 21.e.(1) through (6), and shall not be restored until such violations are corrected. Service may be disconnected with or without notice, as otherwise provided by Subsections D.8. and D.13., for other violations of this Subsection D.21.

22. Testing of Wastewater and Additional Remedies, Including Rates Assessable on the Basis of Wastewater Content.

- a. **Wastewater Testing.** At all reasonable times, authorized representatives of the District may enter the lands or premises of any wastewater Utility Customer for the purpose of conducting wastewater testing and inspections to determine compliance by the Utility Customer with the provisions of this Order that apply to the content of wastewater, prohibited substances and pretreatment of wastewater. The District's testing shall be conducted at the Utility Customer's sample well described in Subparagraph D.21.c.(5), or elsewhere as the District shall require to obtain effective testing. All such testing shall be conducted in accordance with generally accepted methods for wastewater testing that determine compliance with the requirements of this Order.

- b. **Additional Remedies, Including Rates Assessable Based on Wastewater Content.** Upon an inspection and/or testing by the District under Paragraph D.22.a. above, if the District determines that the wastewater discharge into the District's wastewater facilities, lines and equipment (i) contains a prohibited substance, (ii) requires pretreatment as defined by this Order, (iii) violates any compliance standard provided by the District's requirements to obtain Non-Standard Service, as further set forth in Paragraph 21. d. of this Order, (iv) violates any other applicable provision of this Order, or (v) otherwise adversely affects the District's wastewater facilities, lines and equipment, or its receiving waters, creates a hazard to life or health, or creates a public nuisance, the District may take one or more of the following actions:
 - (i) Terminate wastewater service to the wastewater Utility Customer, as otherwise provided by this Order;
 - (ii) Require additional pretreatment of wastewater to achieve the wastewater effluent standards required by this Order;
 - (iii) Assess an additional rate for wastewater on the Utility Customer that applies the Wastewater Charge Factor to the Utility Customer's combined base and volume wastewater usage rates, from and after the date determined by the District to be the beginning date of the wastewater discharge that violates Paragraph D.22.b. above, through and including the date that such violation or condition is corrected, as determined by the District; and
 - (iv) Invoke the applicable provisions of the District's Ordinances.

- c. **Inspection and Testing Fees.** The District may assess inspection and testing charges to the Utility Customer for the testing and inspections provided by Paragraphs 22. a. and 22. b. above, based on the District's costs therefor, as further provided by Subsections C. 10. and C. 18. of this Order.

23. Meter Relocation. Relocation of meters and taps shall be allowed by the District if:

- a. No transfer of utility service is involved;
- b. An easement for the proposed location has been granted to the District;
- c. The property of the new location requested is owned by the current customer of the meter to be moved;
- d. The existing tap location is on property contiguous to the proposed tap location;
- e. The Utility Customer pays the actual cost of relocation, plus administrative fees; and
- f. Service capacity is available at the proposed location.

24. Multiple Accounts. A Utility Customer that receives service at more than one location shall be subject to the provisions of this Order with regard to each and all of the accounts that are owned. The District's remedies for the failure to maintain current payment status on all accounts shall be enforceable separately with regard to each Service Application and Agreement executed by the Utility Customer.

25. Responsibility for Equipment. The District's ownership and maintenance responsibility of water supply and metering equipment ends at the Utility Customer's meter. Therefore, all water usage registering on the metering equipment owned and maintained by the District, together with the cost to correct any damage thereto, shall be subject to the determination of its cause and the imposition of charges to the Utility Customer as determined by the District in accordance with this Order.

26. Customer Cut-Off Valves. The District may require each Utility Customer to provide a cut-off valve on the customer side of the meter for purposes of isolating the Utility Customer's service pipeline and plumbing facilities pursuant to this Order or other District policies, including but not limited to its Water Conservation Plan. The Utility Customer's use of the District's curb stop or similar valve, for any purpose, is prohibited.

27. **Inspections.** In addition to the inspections provided by Subparagraph 3.b.(4), Subsection 18. and Paragraphs 19.a., 22.c. and 22.f., the District at all reasonable times may inspect (a) its facilities, lines and equipment located on the property of any Utility Customer, and (b) all facilities, lines and equipment on the customer side of the District's meter, or otherwise owned or operated by an Utility Customer, that are connected to the District's facilities, lines or equipment, for any lawful purpose of the District as provided by this Order, any applicable Non-Standard Service Agreement or applicable federal, state or local law.

SECTION E. SUPPLEMENTAL REQUIREMENTS FOR NON-STANDARD SERVICE

1. **Purpose and Application.** This section applies to all instances of proposed Non-Standard Service as defined in Subsection D.2., including agreements and service procedures for entire subdivisions, additions to subdivisions, developments where service to more than one tract is necessary and instances in which additional piping, service or other facilities are required to accommodate individual, multiple, commercial or industrial Applicants. Its requirements may be altered or suspended when applied to planned facility expansions for which the District extends its indebtedness. The Board of Directors of the District, for good cause, may modify the following requirements on an individual basis, however, an Applicant's request for Non-Standard Service is otherwise subject to all of the conditions of this section, as well as the other provisions of this Order that apply generally to both Standard Service and Non-Standard Service.

2. **Non-Standard Service Applications.** In addition to the requirements for all service applications, Applicants for Non-Standard Service shall provide the following, unless such requirement is waived or modified by the District:
 - a. The Applicant's proposed service requirements, including the proposed plans, specifications, locations, usage volumes and all related data that describes the proposed Non-Standard Service;

 - b. A final plat, showing the Applicant's requested service area, approved by all regulatory authorities having jurisdiction over lot sizes, sewage control, drainage, right-of-way and other service facilities and requirements. Supplemental plans, specifications and special requirements of such regulatory authorities shall be submitted with the plat; and

- c. The Non-Standard Service investigation fee described in Paragraph C.1.b., which reimburses the District for the administrative, legal, and engineering fees to be paid by the District as a result of its investigation of the proposed service, and the other costs set forth in Paragraph C.1.b.

3. **Action and Application.** Following its receipt of the Non-Standard Service Application, the District shall initially determine whether the service proposed by the Applicant, if provided, is to be located within the District's boundaries and, in addition, within the area prescribed by its Certificate of Public Convenience and Necessity. If the proposed service will occur within such area, the District will proceed with its service investigation as provided by Paragraph C.1.b. of this Order. If the proposed service is to be located outside such areas, the District shall initially determine whether the proposed service is appropriate for the District and the application of any additional legal requirements. Based on such determination, the District will elect to proceed upon or terminate the service investigation, with notice thereof to the Applicant.

If the District terminates the service investigation, it shall refund the unused balance, if any, of the Non-Standard Service Investigation Fee.

If the service investigation proceeds as set forth above, the District shall complete it as soon as reasonably possible and thereafter notify the Applicant whether it can provide service requested by the Applicant, of the terms on which it will provide the proposed or any alternative utility service, including the applicable terms of this Order, any alternative options, the additional facilities, if any, required to provide such service, the property acquisitions, if any, required to provide such service, the modifications to the Applicant's proposal, if any, and any regulatory restrictions, required by either the District or regulatory authorities, other requirements, if any, and an estimate of the costs payable by the Applicant to build and install facilities and otherwise effect service on the terms approved by the District.

4. **Proposed Service for Areas Not Subject to the District's Certificate.** If the District determines that the Applicant's service request is for property outside the District's boundaries or the service areas described in the District's Certificate of Public Convenience and Necessity, service may be extended as provided by Sections 13.242, 13.243, 13.2502 and 49.215, Texas Water Code, and other applicable law.
5. **Design of Facilities.** The District shall ascertain the design requirements of the facilities required by the level of service proposed by the Applicant and approved by the District as a result of the service investigation. Such requirements shall be a part of the notification to the Applicant when the investigation is completed. The following procedures and requirements shall also apply:

- a. The District's consulting engineer shall review the proposed design, or shall design, all service facilities for the Applicant's requested service within the District's specifications;
- b. The consulting engineer shall then forward to or prepare for the District, as required, a set of detailed plans, specifications and cost estimates for the project, including any additional requirements or design criteria imposed by federal, state or local authorities; and
- c. The District may elect to upgrade the design of the proposed service facilities to meet future demands, provided, that the District shall pay the expense of any such upgrade to which the Applicant does not agree.

6. *Non-Standard Service Contract.* Applicants for Non-Standard Service shall enter into a written contract that defines the terms of such service. The Contract shall be executed by the Applicant and the District prior to beginning of construction of required service facilities and may include but is not limited to the following:

- a. Definition of all costs associated with required administration, design, construction, and inspection of facilities for the service approved for the Applicant, and the terms of their payment;
- b. Procedures by which the Applicant shall accept or deny a contractor's bid, and if denied, whether the Applicant shall continue or discontinue the project;
- c. Identification of any front-end capital contributions required by the District or Applicant;
- d. Any monthly Reserved Service Charges applicable to the service request;
- e. The terms by which service, including reserved service, shall be provided to the Applicant, including the application of all applicable terms of this Order to the Applicant, property developers, commercial builders and other entities, their respective successors and purchasers of property or services therefrom, including Applicants for water or wastewater service from the District, and all Utility Customers that receive such service, the duration of any reserved service and its impact on the District's capability to meet its other service requirements;

- f. The terms by which the District shall administer the construction project, including but not limited to the following:
 - (1) Design of the Applicant's service facilities;
 - (2) Securing and qualifying bids;
 - (3) Execution of the service agreement;
 - (4) Selection of a qualified bidder for construction;
 - (5) Dispensing advanced funds for construction of facilities required for the Applicant's service;
 - (6) Inspecting the construction of facilities; and
 - (7) Testing the facilities and concluding the project.
- g. The Applicant's indemnification of the District from third party claims and damages;
- h. The terms by which the Applicant shall convey all District construction facilities to the District and by which the District shall assume operation and maintenance responsibility, including the transfer and enforcement of warranties;
- i. The terms by which the Applicant shall grant title, easements or otherwise provide for sanitary control of and for rights-of-way to facilities built and facility sites; and
- j. The terms by which the Board of Directors shall review and approve the service contract under current federal, state and local law and regulations and the District's bylaws.

7. *Property and Right-of-Way Acquisition.* The District shall require the acquisition of private right-of-way easements or the conveyance of title to property for access purposes on the following conditions:

- a. If the District determines that right-of-way easements or facility sites outside the Applicant's property are required, the Applicant shall secure the conveyances of easements or fee title, as appropriate, to facility sites on behalf of the District or to itself for its own conveyance to the District. All such right-of-way easements and property conveyances shall be satisfactory in form and substance to the District and researched, prepared and filed at the expense of the Applicant;
- b. All facilities required to be installed in public right-of-ways as the result of the inability to secure additional private property or access easements shall be subject to the Applicant's payment of the actual cost of facility installation in the public right-of-way, plus the estimated cost of future relocation to a site accessible through private rights-of-way or, alternatively, to the total cost of acquisition for obtaining a suitable private site, with access thereto, under eminent domain proceedings; and
- c. The District shall require an exclusive dedicated right-of-way on the Applicant's property, in a size and configuration determined by the District, and of legal title to property required for other on-site facilities.

8. Sanitary Control Easements. The District shall require the acquisition of sanitary control easements as provided by 30 Texas Administrative Code, Section 290.41. The Applicant shall secure the conveyance to the District of such easements or sufficient fee title as may be required to effect compliance with such regulation for all facility sites that become a part of the agreement for new utility service.

9. Bids for Approved Construction. As required by applicable law, or otherwise at the District's discretion, the District shall advertise or cause the Applicant to advertise the approved construction for the Applicant's proposed facilities and other system improvements for competitive bidding as required by applicable law in accordance with procedures developed for each project. In such event, the right to reject any and all bids or contractors, as provided by law, shall be reserved. Without limitation, any advertised bidding procedures shall contain and require the following:

- a. The Applicant's execution of the Non-Standard Service Contract described in Subsection E.6.;
- b. The Applicant's payment, prior to construction, of all required advance payments for construction and other project costs;
- c. The posting by the Contractor of a bid bond on terms and in an amount acceptable to the District;

- d. The posting by the Contractor of a performance and payment bond for the project on terms acceptable and in an amount acceptable to the District;
- e. Favorable review of references provided by the Contractor;
- f. The Contractor's qualifications with the District as competent to complete the work; and
- g. Provision by the Contractor of adequate certificates of insurance satisfactory to the District.

10. Additional Construction Matters.

- a. Unless otherwise provided in the Non-Standard Service Agreement and the construction contract, all road work pursuant to applicable county and municipal standards shall be completed prior to the construction of other required facilities;
- b. At the Applicant's expense, the District shall monitor and inspect facilities under construction, and at the conclusion of construction, to ensure that the District's design and construction standards are achieved; and
- c. Construction plans and specifications shall be strictly adhered to, however, the District may effect changes and issue change orders on any project specifications, as the result of circumstances not foreseen during the design phase, to facilitate the operation of the proposed by the Applicant. All such change orders shall be charged to the account of the Applicant.

SECTION F. ORDINANCE AUTHORITY

- 1. **Establishment of Ordinances.** Pursuant to applicable statutes, the District has enacted and is authorized to enact, at future times, ordinances. The District's ordinance authority is exercised for the purpose of securing compliance with this Order, additional rules and policies of the District, as well as certain statutes and regulations of the United States, the State of Texas, their agencies and local authorities that apply to the District's operations.
- 2. **Authority.** The District's ordinance making authority is established by Sections 65.205 through 65.208, Texas Water Code.
- 3. **Effective Dates.** The District's ordinances are effective from and after their adoption by the District's board of directors and their publication as provided by Section 65.208, Texas Water Code.

4. ***Exercise of Ordinance Authority.*** On the date hereof, the District has enacted ordinances with regard to the following:
- a. Water conservation;
 - b. Tampering with and the misuse or destruction of District property, including but not limited to meter tampering, bypassing and other tampering with the District's facilities, lines and equipment, disability or damaging District equipment or the introduction of prohibited substances into the District's facilities, lines and equipment;
 - c. Water quality;
 - d. Diversion of water by unauthorized tapping, prohibited multiple connections or other means;
 - e. Hazardous conditions on customer property;
 - f. Blocking or impeding access to the District's property or facilities;
 - g. Prohibited uses of private water wells;
 - h. Introduction of prohibited substances into the District's facilities, lines and equipment; and
 - i. Certain activities that constitute Class C misdemeanors under state or local law, if committed on the District's property.
5. ***Enforcement.*** The District's ordinance authority shall be enforceable as provided by Chapter 54, Texas Local Government Code, other applicable law and as set forth in the ordinances enacted.
6. ***Penalties and Other Relief.*** The District's ordinances shall provide for penalties for their violations and additional remedies, as appropriate. Each ordinance shall provide for the applicable penalties, which may include fines, civil penalties, injunctive relief and other remedies as provided by Chapter 54, Texas Local Government Code.
7. ***Ordinance Book.*** The District's ordinances shall be maintained in an Ordinance Book that sets forth the ordinances enacted, applicable penalties and the enactment and publication dates for each ordinance.

8. ***Relation to Other Law.*** The District's ordinance authority and all ordinances enacted by the District are in addition to its rights, authority and remedies under other applicable law.