

ARAPAHOE COUNTY WATER AND WASTEWATER AUTHORITY

RULES & REGULATIONS

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Section I. General

1.1 Purpose

The purpose of these Rules and Regulations is to provide for the control, management and operation of the water, sewer, and storm water systems of the Arapahoe County Water and Wastewater Authority, including additions, extensions and connections thereto, and to provide for the administration and enforcement of such Rules and Regulations as well as applicable State and Federal Laws. Service by the Authority will be available in accordance with these Rules and Regulations, subject to availability and capacity of facilities.

1.2 Statutory Authority

These Rules and Regulations are adopted in accordance with the authority conferred under Section 29-1-204.2, C.R.S.; Part 4, Article 35, Title 31, C.R.S.; the Colorado Water Quality Control Act, C.R.S. 25-8-101, et seq.; Regulations of the Colorado Department of Public Health; and under provisions of the laws of the United States including but not limited to the Federal Clean Water Act, et seq.; regulations promulgated thereunder; and the Federal Water Pollution Control Act, 33 U.S.C. § 1321, et seq. and all regulations promulgated thereunder; in Article II of the Amended and Restated Establishing Contract for the Arapahoe County Water and Wastewater Authority, a political subdivision of the State of Colorado and a public corporation with all the powers thereof which are specifically granted to the Authority, or are necessary or incidental to or implied from powers specifically granted by statute, constitution or other law, for carrying out the objectives and purposes of the Authority.

1.3 Policy

It is hereby declared that the Rules and Regulations will serve a public purpose and will promote the health, safety, and general welfare of the inhabitants and visitors of the Arapahoe County Water and Wastewater Authority.

1.4 Scope

These Rules and Regulations shall be considered a comprehensive set of Rules and Regulations governing certain aspects of the control, management and operation of the Arapahoe County Water and Wastewater Authority. It should be noted, however, that not every conceivable aspect of the control, management and operation of the Authority and its systems is covered in these Rules and Regulations, and the Board of Directors of the Authority reserves the right to make rulings and interpretations concerning matters not covered herein as and when appropriate, in the opinion of the Board. In addition, these Rules and Regulations are not intended to supersede or contravene specific terms or conditions of any agreement, contract, or other document previously entered into between the Authority and a party.

1.5 Development According to Adopted Master Plans

All commercial and residential development within the Authority is generally subject to the guidelines presented in the Non-Potable Water System Master Plan, the Potable Water System Master Plan, and the Wastewater Utility Master Plan as updated from time to time.

1.6 Regulations by Other Governmental Entities

Any limitation, restriction or prohibition validly placed upon the Authority by any governmental entity or by any agreement between the Authority and any other governmental entity is hereby incorporated into these Rules and Regulations by this reference and shall constitute a limitation, restriction and/or prohibition on each Customer of the Authority as applicable.

1.7 Effective Date

These Rules and Regulations shall be effective immediately upon adoption by a majority of the Authority's Board of Directors.

1.8 Construction

It is the intent of the Board that these Rules and Regulations shall be liberally construed to implement the general purposes and policies set forth herein. Nothing set forth herein shall be construed as an alteration, waiver or deviation from any grant of power, or any limitation or restriction thereof, conferred or imposed upon the Authority by the statutes, constitutional provisions, or other laws or regulations of Colorado or of the United States as they currently exist and as they may exist in the future.

1.9 Amendments

These Rules and Regulations may be amended from time to time by the Board.

1.10 Saving Provision

The enactment of these Rules and Regulations, any amendment thereof, or the repeal of any prior existing Rules and Regulations or Resolutions shall not deny or limit any right, action, cause of action, penalty charge or fee which arose under such provision.

1.11 Repeal of Conflicting Resolutions

All resolutions or parts of resolutions in conflict herewith are hereby repealed, except as may be as expressly provided herein.

1.12 Inclusion in Contracts

These Rules and Regulations are automatically incorporated into every contract, written or

oral, for service whether expressly referenced or not, to the extent they are not inconsistent with the contract.

1.13 Authority to Inspect

Authorized representatives of the Authority, bearing proper identification, shall be permitted to enter upon all properties served by the Authority for the purpose of inspection, observation, measurement, sampling, testing, and inspection of records of the water or sewer system, in accordance with the provisions of these Rules and Regulations. Failure to permit such inspections, observations, measurements, samplings, testing, and/or inspection of records upon written request from ACWWA may result in a finding that permission is being denied to avoid discovery of a violation. Such finding may result in the disconnection of service to the property occupied by the party failing to permit the desired access, or other remedies as allowed under applicable law or these regulations, subject to the hearing and appeal procedures set forth elsewhere in these Rules and Regulations.

1.14 Severability

The invalidity of any section, clause, sentence, or provision of these Rules and Regulations shall not affect the validity of any other part of these Rules and Regulations which can be given effect without such invalid part or parts, and to this end the provisions of these Rules and Regulations are hereby declared to be severable.

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Section II. Definitions

2.1 Definitions

Unless the context requires otherwise, the meaning of terms used herein shall be as follows:

2.1.1 Applicant

Any person whose property is capable of being served by Authority facilities or who has applied for a Tap Permit or inclusion, and who has not yet received the service which is the object of the permit application, regardless of whether such person is receiving other service from the Authority and regardless of whether the person is a property owner, land developer, sub-divider or potential user.

2.1.2 Authority or ACWWA

The Arapahoe County Water and Wastewater Authority.

2.1.3 Authority Engineer

The person or firm that is appointed by the Board and employed or contracted to do engineering work for the Authority.

2.1.4 Authority Representative

The General Manager or other authorized person conducting Authority business.

2.1.5 Board or Board Of Directors

The duly appointed Board of Directors of the Arapahoe County Water and Wastewater Authority, which acts as the governing body of the Authority.

2.1.6 Building

Any structure used or intended for supporting or sheltering any use or occupancy.

2.1.7 Business Day

Any day other than a Saturday, Sunday or legal holiday.

2.1.8 Change of Use

A change in square footage of a structure or irrigated area, a change in water using equipment, a change in the number or type of plumbing fixtures, a change from a residential use to commercial or industrial use, or a change from a commercial use to an industrial use.

2.1.9 CDPHE.

The Colorado Department of Public Health and Environment and any predecessor or successor entity.

2.1.10 Commercial or Industrial Unit

Any structure, building, or facility that is used to engage in government, business, commerce, manufacturing, marketing, and/or sale of products and services of any kind.

2.1.11 Commercial or Industrial Pretreatment Survey

A survey or questionnaire completed by the Applicant or Customer that contains information regarding facility operations, chemical usage, and is used to evaluate the significance of a facility's wastewater discharge.

2.1.12 Connection

The connection of Water Service, Non-Potable Water Service and/or Sewer Service to the Authority's Water System, Non-Potable Water System and/or Sewer System, as applicable, for either a permanent or temporary purpose.

2.1.13 Contractor

Any Person acting as an independent contractor, authorized by the Authority to perform work or furnish materials within the Authority, and hired by either the Authority or other Person.

2.1.14 Cross Connection

Any unprotected actual or potential connection or structural arrangement between the Authority's water supply system and a source of contamination or pollution, including but not limited to, an auxiliary water supply, service line, a user's potable water system or any other source or system through which it is possible to introduce into any part of the Authority's water supply system any used water, wastewater, industrial fluid, gas or substance. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross connections.

2.1.15 Curb Stop

The isolation valve located on a Service Line between the ACWWA main and the Customer's facility, generally adjacent to the meter.

2.1.16 Customer

The owner of property that is supplied with service by the Authority or anyone that is authorized to use water or connect to the public Water System or Sewer System under a permit issued by the Authority.

2.1.17 Deleterious Wastes

Any wastes contained in sewage that would be harmful to the Authority's sewer mains or to the sewage treatment works, or which, without pretreatment, would violate federal, state or local pretreatment standards.

2.1.18 Developer

Any person who owns land and is subdividing the land for resale and who seeks to have the land served by the Authority.

2.1.19 ACWWPID or PID

The Arapahoe County Water and Wastewater Public Improvement District.

2.1.20 Domestic Wastewater Treatment Work or DWTW

The treatment works as defined in the Colorado Water Quality Control Act § 25-8-101, et seq., C.R.S. or the Publicly Owned Treatment Work (POTW) as defined at 40 CFR Section 404.4(o).

2.1.21 ERT

Electronic Remote Transmitter; includes the touch pad device installed in the meter pit lid and/or the remote-read transmitter installed in the meter pit, and any associated wiring and batteries.

2.1.22 EXTRATERRITORIAL

Areas/properties located outside of the boundary of the Arapahoe County Water and Wastewater Public Improvement ("PID") which may be served by the Authority only through contract with the approval of the Board of Directors.

2.1.23 FOG

Fats, Oils and Grease.

2.1.24 General Manager

As used in these Rules and Regulations, the person retained by the Board of Directors to manage, administer and supervise the affairs of the Authority.

2.1.25 Imprest Account

An account established by the Authority from funds provided by a developer or other applicant that is to be used by the Authority to pay for labor and/or materials furnished by the Authority or for work done on the developer's or applicant's project or petition for inclusion. Such work may include plan reviews, design, engineering, construction, legal, consulting and in-house costs.

2.1.26 Industrial Pretreatment Program

The industrial waste management program adopted by the Board to conform to the requirements of the Authority's Colorado Pollutant Discharge Elimination System (CPDES) permit. The program ensures the proper pretreatment and handling of industrial sewage generated by Commercial or Industrial Units that may have a deleterious effect on the Wastewater System. See Appendix C.

2.1.27 Industrial Wastes

The liquid wastes from industrial processes, trade, or business, as distinct from sanitary wastewater.

2.1.28 May

Permissive.

2.1.29 Monthly Service Fee

The flat monthly fee imposed on all customers to cover ongoing operation and maintenance expenses related to the water and sewer systems.

2.1.30 Monthly Water System Investment Fee

A water charge imposed on all customers to secure renewable resources.

2.1.31 Multiple Family Dwelling or Multi-Family

Any building structurally divided into three (3) or more separate dwelling units.

2.1.32 Non-Potable Water

Water that is not suitable for potable purposes. Sources of Non-Potable Water can include open reservoirs, streams and creeks, untreated groundwater, stormwater, Raw Water and Reclaimed Water.

2.1.33 Non-Potable Water System

All facilities and processes, including those for diverting, transporting, distributing, storing, pumping, and measuring the reclaimed and/or non-potable water of the Authority.

2.1.34 Permit

Written permission of the Board of Directors given pursuant to these Rules and Regulations, subject to the specific terms and conditions contained therein.

2.1.35 Person

Shall refer either to the singular or plural and shall include an individual, firm, partnership, trust, government, corporation or other legal entity.

2.1.36 PHC

Petroleum Hydrocarbon.

2.1.37 Potable Water

Water that meets the minimum Colorado Drinking Water Regulations requirements.

2.1.38 Potable Water System

The system of pipes, conduits, facilities and appurtenances for the collection, treatment and distribution of Potable Water.

2.1.39 Pre-Treatment Facilities

Structures, devices, equipment or processes for the purpose of reducing or removing the Deleterious Wastes or altering the nature of the Deleterious Wastes in commercial/industrial sewage prior to discharging such sewage into the Authority's sewer system.

2.1.40 Private Main

Any sewer interceptor, collection main, or any water distribution main that is connected to the Authority system but not accepted for Authority ownership, operation, maintenance or repair. Generally, such an installation is designated as private because: (a) it does not conform to the specifications as enumerated in these Rules and Regulations and the Authority's construction standards; (b) it is not in the best interest of the Authority to accept the main because of special circumstances; (c) legal title to the main cannot be transferred free and clear to the Authority; (d) the owner of the private main does not wish to convey the main to the Authority; or (e) the main has been constructed recently but not yet conveyed to the Authority.

2.1.41 Publicly Owned Treatment Works or POTW

The treatment works as defined by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 U.S.C. 1251, et seq.). That wastewater treatment system owned by the Authority including any devices or systems used in the collection, storage, treatment, recycling, and reclamation or sewage or industrial

wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

2.1.42 Raw Water

Water produced from any source, including but limited to alluvial and/or non-tributary wells or surface water sources.

2.1.43 Reclaimed Water

Domestic wastewater that has received secondary treatment by a DWTW and such additional treatment as to enable the wastewater to meet the standards for approved uses. A common synonym for Reclaimed Water is “recycled water”. Reclaimed Water is regulated under Colorado State Regulation No. 84: RECLAIMED WATER CONTROL REGULATION (5 CCR 1002-84).

2.1.44 Regulation No. 84

CDPHE Regulation No. 84: Reclaimed Water Control Regulation (5 CCR 1002-84).

2.1.45 Sampling

The periodic collection of water or sewage samples for testing.

2.1.46 Service Line

A Sewer Service Line or Water Service Line.

2.1.47 Sewage

A combination of liquid and water-carried wastes originating from any residential, commercial, or industrial buildings or other establishments, which may include household wastes, human excreta, animal or vegetable matter, organic or inorganic material in suspension or solution, and other solids in suspension or solution.

2.1.48 Sewer Main

Any pipe, system of piping and appurtenances used as a conduit for sewage in the Authority's sewer system and owned by the Authority. Unless otherwise designated by the Board, a main shall be any line eight inches (8") or more in diameter.

2.1.49 Sewer Service Line

Any pipe, system of piping and appurtenances used as a conduit for sewage from a Customer's facility where sewer service is provided, to a Sewer Main.

2.1.50 Sewer System

All structures, facilities equipment and processes used for collecting, pumping,

treating, and disposition of sewage.

2.1.51 Shall

Mandatory.

2.1.52 Single Family Dwelling

A detached principal structure designed and used as a single residential dwelling unit exclusively by one family, or a duplex with each unit individually occupied by two individual families.

2.1.53 State

State of Colorado

2.1.54 Stub Out

In the context of water service lines, water facilities from the main to the Curb Stop; in the context of sewer service lines, the point where the service lateral line is brought from the sewer main to the Customer's property line or to within a maximum of 100 feet of the property line of a property that is not connected to the Sewer System.

2.1.55 Tap

The point of connection of a privately-owned Water Service, Non-Potable Water Service or Sewer Service to the Water System, Non-Potable Water System or Sewer System, respectively, either directly to a Stub Out or at the curb stop valve or main, or indirectly through a Private Main.

2.1.56 Tap Equivalent or TE

The standard unit of measure used to describe Customer demand impact, whether single family, multi-family or commercial/industrial, on the Water System, Non-Potable Water System and/or Sewer System. The Water Tap Fee, Non-Potable Water Tap Fee and Sewer Tap Fee are calculated on a tap equivalent (TE.) basis. The allocation of water per water tap equivalent shall be as specified in Appendix A.

2.1.57 Tap Fee

The payment to the Authority for recovery or payment of capital investments and debt service associated with major components of the Water System, Non-Potable Water System and/or Sewer System. The amount of the Tap Fee assessment is based on the particular use of the facility being connected. See Appendix A for associated rates and charges.

2.1.58 Tap Permit

An ACWWA approved permit application to connect to a water or sewer main.

2.1.59 Tenant Finish

An interior finish, usually non-structural, for a tenant finishing an existing unoccupied space, or an occupied space where the remodeling does not affect the capacity of the existing water and sewer service.

2.1.60 Testing

In the context of water or sewage, the analysis of samples for composition, and other characteristics; in the context of construction or connection of water or sewer system facilities or the inspection and trial operation of the construction.

2.1.61 TSS

Total Suspended Solids.

2.1.62 Unauthorized Use

Use of the water or sewer system without permission from the Authority.

2.1.63 Unit

A building or portion thereof used for a single-family residence, an individual commercial use or which is provided separate service.

2.1.64 Variance

Written authorization from the Authority to act in a manner not in strict compliance with the Authority's Rules and Regulations, specifications, or policies.

2.1.65 Water Volume Charge

The monthly charge imposed on all customers based upon a volume of water used.

2.1.66 Wastewater Treatment Facility

Those devices, facilities, structures or locations to which sewage is conveyed by sewer mains by the Authority for the purpose of treatment.

2.1.67 Water Main

Any pipe, system of piping and appurtenances used as a conduit for water in the Authority's Water System and/or Non-Potable Water System, and owned by the Authority, but not including a water service line.

2.1.68 Water Service Line

Any pipe, line, or conduit used to provide water service or non-potable water service from the Corporation Stop to the facility where the water service is provided to the

Customer. The portion of the water service line from the curb stop to the building is the property and maintenance responsibility of the Customer.

2.1.69 Water System

All facilities and processes for diverting, transporting, distributing, storing, pumping, treating, measuring, etc., the potable water of the Authority.

2.1.70 Wholesale Customer

Any governmental entity that acquires services from ACWWA by contract, wherein ACWWA does not bill individual customers within the territorial boundaries of that entity.

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Section III. Liability and Ownership

3.1 Policy

The Authority is responsible for providing water and/or sewer service(s) in an economical manner within the Authority, and providing for the operation, maintenance, repair and replacement of all mains, hydrants, valves, and facilities owned by the Authority, in accordance with these Rules and Regulations. The right to any use of the Authority's Water System, Non-Potable Water System and/or Sewer System is only by permission of the Authority. The Authority reserves full right to determine all matters related to the control and use of its Water System, Non-Potable Water System and/or Sewer System. The right to use of the Authority's Water System and/or Sewer System shall be subject to suspension or revocation as set forth herein.

3.2 Liability of Authority

The Authority is subject to and avails itself of the provisions contained within the Colorado Governmental Immunity Act, which provisions cannot be waived in whole or in part without the express written approval of the Authority's Board of Directors.

3.2.1 Conditions Not Actionable

No claim for damage shall be made against the Authority, and the Authority and its officials and employees shall not be liable by reason of damage resulting from any of the following: breaking of any service or supply line, pipe, cock, or meter by any employee of the Authority; failure of the water supply; shutting off or turning on water in the Water Mains; the making of connections or extensions; damage caused by water running or escaping from open or defective faucets; burst service pipes or other facilities not owned by the Authority; damage to water heaters, boilers, or other appliances resulting from shutting water off, or for turning it on, or from inadequate, sporadic, and excessive pressures; blockage in the system causing the backup of effluent; damage caused by "smoking" of lines to determine drainage connections to Authority lines; breakage of main lines by Authority personnel; interruption of water and/or sewer service and the conditions resulting therefrom where said interruption of service is brought about by request of claimant, or by circumstances beyond the Authority's control; force majeure; failure of any facilities to be located where the Authority's maps indicate; the shutting off of or damage to a sewer lift station rendering it inoperable or otherwise unable to fully function and possible backflow resulting therefrom; failure to obtain access to an isolation valve; or for doing anything to the Water System, Non-Potable Water System and/or Sewer System of the Authority deemed necessary by the Board of Directors or its agents. In addition, the Authority shall not be liable or responsible for inadequate treatment or interruption of service brought about by any circumstances. The foregoing shall not constitute a waiver by the Authority of the defense of sovereign immunity or the protections and defenses provided under the Colorado Governmental Immunity Act, or any other defenses it may have to an action against the Authority, its officials or employees, nor

a waiver of its insurance coverage.

These Rules and Regulations shall not be construed to hold the Authority in any manner responsible for any damages to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of any permit as herein provided, or resulting from the institution of court action as allowed by law, or the forbearance by the Authority to so proceed.

3.2.2 Officials Not Liable

Any Authority director, official or employee, charged with the enforcement of these Rules and Regulations, acting in good faith and not in a willful and wanton manner on behalf of the Authority in the discharge of his or her official duties, shall not thereby render himself or herself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such director, official or employee, stemming from any act or omission performed by him or her in the enforcement or attempted enforcement of any provision of these Rules and Regulations, shall be defended, indemnified and held harmless by the Authority until final termination of the proceedings. This section shall be construed in such a manner as to be consistent with the Authority's resolution indemnifying such directors, officials and employees.

3.2.3 Not Liable For Work of Others

The Authority does not assume any liability for any work performed by others. No claim shall be made against the Authority or any of its directors, officers or employees on account of acts or failure to act by the Authority's contractors, permittees, or licensees.

3.2.4 Indemnity

The Applicant(s) shall indemnify the Authority from any loss or damage that may directly or indirectly be occasioned by the installation of a Water Service, Non-Potable Water Service and/or Sewer Service, and shall provide any warranty required by Section 4.8.9.

3.3 Water and Sewer System Construction Costs

Notwithstanding any other provision of these Rules and Regulations to the contrary, all cost of new construction, reconstruction or enlargement of any Water System, Non-Potable Water System and/or Sewer System facilities, including all associated planning, engineering, administration and attorney's fees, and applicable master planned improvements, which are necessary to provide new, different or additional water or sewer service within the Authority's service area (including but not limited to service lines, Water Mains and Sewer Mains, or Wastewater Treatment Facility), shall be paid by the owner(s), or customer(s), of the property

or building to be serviced. The provisions of this section apply regardless of whether the Authority or some other person contracts for, or initially pays for, such construction, reconstruction or enlargement, or such service is requested by the Customer, or compelled by the Authority. The Authority Board may act other than as required in this section when it determines, in its sole discretion, that such action is necessary to provide for the health, safety and welfare of the inhabitants and visitors of the Authority.

3.4 Ownership of Facilities and Systems/Water Rights Required

3.4.1 Authority Ownership and Maintenance

Except as otherwise provided in these Rules and Regulations, all existing and future Water System, Non-Potable Water System and/or Sewer System facilities connected with and forming an integral part of the Authority's Water System, Non-Potable Water System and/or Sewer System, but not including any Service Line, shall become and are the property of the Authority. The Authority shall be responsible for maintenance, repair and reconstruction of such property, including Water Mains or Sewer Mains, at its cost, unless the Authority determines that the situation necessitating such repair or reconstruction is the result of a change or enlargement of use, abnormal use or damage to such facilities by the Customer, in which case such repair or reconstruction will be done at the expense of the person responsible for such abnormal use or damage. Authority ownership shall remain valid regardless of whether such property is constructed, financed, or paid for by other persons or otherwise acquired by the Authority. No other Person, except those authorized by the Authority, shall have any right to enter upon, inspect, operate, adjust, change, alter, move or relocate any portion of the Authority's facilities.

3.4.2 Ownership and Maintenance of Water And Sewer Service Lines

That portion of the Water Service from the Water Main to the Curb Stop on the inlet side of the meter pit is the property of the Authority. Water Service Lines and the Sewer Service Lines are the property and maintenance responsibility of the Customer. Leaks, stoppages or breaks in Service Lines shall be repaired by the property owner within a reasonable period of time after discovery or notification of such condition. If satisfactory progress toward repairing the said leak, stoppage or break has not been accomplished within such time period, the Authority shall shut off the Water Service until the leaks, stoppage or breaks have been repaired. The Authority reserves the right to make the repair at the expense of the Customer when, in the opinion of the Authority, such repair is necessary to protect the health, safety and welfare of the inhabitants and visitors of the Authority. Said ownership shall remain valid whether the service lines are constructed, financed, paid for, or otherwise acquired by the Authority or by other persons.

3.4.3 Conditions of Ownership

The Customer's ownership of Water and/or Sewer Service Lines shall not entitle the Customer to make unauthorized uses of the Authority's Water System, Non-Potable

Water System and/or Sewer System, or to make alterations to any Water Service, Non-Potable Water Service and/or Sewer Service, or the Water System, Non-Potable Water System and/or Sewer System once connected to an Authority main. Any use or Change In Use of the Water Service, Non-Potable Water Service and/or Sewer Service, any appurtenances thereto, or changes in use of the property served at any time after the initial connection to the Authority's Water System, Non-Potable Water System and/or Sewer System shall be subject to these Rules and Regulations.

3.4.4 Water Rights Dedication to Authority Required

(a) All existing or future customers that receive water or sewer service from the Authority are required to convey and dedicate all tributary, non-tributary, not non-tributary water rights and groundwater rights underlying their property within the Authority or the consent to withdraw and use such water by the Authority, to the Authority as a condition of receiving such service.

(b) New extraterritorial customers are required to convey sufficient, acceptable, adjudicated water rights to ACWWA for the TEs to be served prior to the commencement of service by ACWWA. Alternatively, should the new extraterritorial customer not be able to convey sufficient, acceptable, adjudicated water rights to ACWWA for the TEs to be served, the customer shall pay to ACWWA the greater of (i) the amount per TE set forth in Appendix A or (ii) ACWWA's projected water acquisition cost per TE. The customer is also responsible for and shall pay for the entire cost for delivery of water to the property to be served.

3.4.5 Authority Ownership and Right to the Use of Water

The Authority retains all property rights associated with any water provided to customers and buildings, including the right to reuse, make successions of uses, or to use such water to the point of its complete or absolute consumption.

3.5 Existence of Rights-of-Way and Easements

(a) The Authority claims an easement for location of and access to all portions of the Water System, Non-Potable Water System and Sewer System, now or hereafter existing, on, over and in the lands on which the facilities are actually located, whether or not the facilities are located within a recorded easement or other right-of-way.

(b) As a condition of service, each Customer and any other person otherwise receiving and accepting service from a Water Service and/or a Sewer Service connected to a main is deemed to have granted to the Authority a perpetual easement for construction, reconstruction, maintenance, ingress and egress over and through the portion of the Customer's property on which any portion of the Water System, Non-Potable Water System and/or the Sewer System is located, regardless of whether such facility is located within a recorded easement or other right-of-way.

- (c) As a condition of service, all Customers or any other person otherwise receiving and accepting water or sewer service is deemed to have irrevocably consented to the location of any Water System, Non-Potable Water System, or Sewer System facilities located on such person's property and shall be deemed to have waived any and all claims against the Authority, including without limitation any claim for trespass, nuisance, or eviction, taking, and any remedies at law or in equity.
- (d) The rights provided hereunder shall include the right of the Authority to reasonably access to such facilities for any Authority purpose, including without limitation for the purpose of inspecting, monitoring, testing, constructing, installing, excavating, renovating, expanding, repairing, re-purposing, or replacing such facilities, and where necessary shall include the right to access any fire lines, back flow preventers and all related or appurtenant equipment thereto located within buildings/structures served by the Authority's systems.
- (e) Any party contesting the Authority's rights hereunder shall not be granted any prospective right to encroach on Authority easements or other property and permission to maintain any ongoing encroachments on such party's property shall be revoked. Any other rights or privileges subject to the Authority's ongoing discretion shall similarly be revoked.
- (f) The provisions contained in this Section 3.5 are supplemental to and shall not be deemed to waive or modify any rights otherwise provided to the Authority.
- (g) "As a condition of service" means, among other things, that if access to an Authority facility is denied by a property Owner, regardless of whether the facility is within or outside of a recorded easement, service to such Owner's property may be suspended or terminated as a result of denial of access.

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Section IV. Authorization to Connect to Water System, Non-Potable Water System and /or Sewer System

4.1 Service Areas

4.1.1 In-PID-Service within Arapahoe County Water and Wastewater Public Improvement District Boundary

Water, non-potable water and/or sewer service will be furnished in accordance with these Rules and Regulations to property included within the Arapahoe County Water and Wastewater Public Improvement District (the PID). Notwithstanding the foregoing, approval of service also is subject to consideration of impacts to existing customers, cost, system operations and any other relevant factor.

4.1.2 Extra-Territorial--Service Outside PID Boundary

Properties located outside of the PID boundary may be served by contract with the approval of the Board of Directors.

4.2 Inclusion

4.2.1 Inclusion Required, Acceptation

Except as otherwise approved by the Board of Directors, no service shall be provided by the Authority to any property located outside the boundary of the PID.

4.2.2 Inclusion into the PID

Whenever possible, any person owning or having an interest in land outside of the boundaries of the PID desiring service from the Authority shall take action to include such property within the PID and include in the petition for inclusion into the PID as provided for herein all of the land in which the applicant is the owner or has a beneficial interest in that is contiguous to the parcel upon which service is desired within the PID, unless the PID and Authority allow otherwise.

The PID's and Authority's policy concerning inclusions into the PID is that any property brought into the PID must provide to the Authority all finances, facilities and service required for such property, and must pay for the use of all existing and future improvements, facilities, water and sewer systems. The property must provide sufficient water rights and water facilities which are, in the judgment of the Authority, adequate to serve the anticipated development of the property, or provide funds adequate to purchase or compensate for such rights. All water and sewer facilities to be constructed by the Authority in order to serve the property must be financed solely by the developer and/or owner of the property, and payment of tap fees and any other necessary charges shall be made for the use of existing Authority facilities and rights.

The PID and Authority will not require its existing residents to subsidize the development of any newly included property.

4.2.3 Inclusion Petition

Two copies of the inclusion petition shall be submitted, at which time an Imprest Account will be established with an initial deposit for such account as specified in Appendix A, which shall be credited towards the costs of inclusion to be paid hereunder. The inclusion petition shall contain the following information:

- a) A legal description of the property to be included, setting forth the total acreage, together with proof of title.
- b) A survey of the property, with plan view of a scale on one inch equaling 200 feet, showing its location with respect to the PID's existing boundaries.
- c) The existing zoning for the property together with any proposed changes, including all documents submitted to the county or applicable municipality pertaining to such re-zoning request.
- d) A description of the proposed uses of the property, including:
 - i) The proposed total population for the property, including a breakdown into types of uses such as single-family residences, condominiums, commercial or industrial development, recreational uses, etc.
 - ii) The proposed maximum population density for each area of the property, including the number of acres to be used for various types of uses, together with an indication of lot sizes, irrigated acreage, and water and sewer requirements, and any limitations proposed on water usage.
 - iii) The number of acres to be dedicated to open space, green belts, and parks and the anticipated location of each such area, a description of the proposed ground cover and the irrigation water requirements for each such area.
 - iv) Detailed engineering plans on how the developer or proposed customer proposes that water and sewer service be provided, including cost estimates of all facilities.
 - v) Any other pertinent facts that will assist the PID in considering the request for inclusion.
- e) The proposed development schedule.

- f) A complete description of all water rights associated with or acquired for the property, including proof of ownership, copies of all court decrees and well permits, etc.
- g) Upon request by the Authority, a full financial statement and balance sheet of the owner, developer or proposed customer.
- h) Upon request by the Authority, an ownership and encumbrance report for the property.
- i) Names and addresses of each owner of property in the inclusion area.
- j) Signatures of land owners.
- k) A request for inclusion.

4.2.4 Petition Evaluation Reimbursement

The petitioner for inclusion shall be responsible to the PID and the Authority for all costs, including engineering and attorney and legal fees and expenses, incurred on behalf of the PID in evaluating the petition, together with 100% of any amounts paid by the Authority to any other governmental entity which is required to review the proposal. The Authority may require additional deposits over and above that required by Section 4.2.3 if the costs, fees, or expenses exceed the original deposit. These costs shall be assessed regardless of whether a petition for inclusion of the property into the PID is finally granted.

4.2.5 Hearing on Petition For Inclusion

The PID's Board of Directors shall conduct a hearing as provided by the Colorado statutes on whether the petition for inclusion should be granted or denied, in whole or in part. The PID Board shall decide, in its sole discretion and judgment with the consent of the Authority Board, whether the granting of the petition is in the best interests of the PID's and Authority's existing residents and property owners. The PID Board shall withhold entry of any final order approving inclusion until the developer or proposed customer has entered into an agreement which details the terms and conditions of inclusion and provides for payment of all fees and costs and sufficient security therefore. The PID Board's action with Authority Board consent, granting or denying the petition for inclusion shall be final and conclusive.

4.3 Charges set by Board

Charges for furnishing service outside the PID shall be set by the Board of Directors. Such charges shall include an extraterritorial service fee as determined by the Board to compensate for the fact that the extraterritorially-served property does not pay property taxes for the retirement of PID general obligation debt which was incurred for acquiring and adjudicating water rights and constructing facilities necessary to

serve Authority customers.

4.4 Applicability of Extraterritorial Fees

Extraterritorial Fees, whether set by these Rules and Regulations or by separate contract, shall be applicable to affected property owners outside the PID receiving service(s) from the Authority.

4.5 Ability to Serve Letter- aka Will Serve Letter

An Ability to Serve Letter for a proposed development or a change in zoning, as may be requested by the Applicant from the Authority for any land use application with other entities, shall be issued only upon proof of inclusion into applicable boundaries; or, as applicable, execution of a contract for service outside of the PID; resolution of all water rights dedication issues to the satisfaction of the Authority; and compliance with any other applicable policies adopted by the Authority.

The finding of compliance with the necessary criteria and ultimate issuance of an Ability to Serve Letter shall be at the sole discretion of the Authority. An Ability to Serve Letter may contain conditions and shall indicate an expiration date. Prior to issuance of an Ability to Serve Letter and full compliance with any other applicable requirements of these Rules and Regulations, no connections for the subject property shall be made to the Authority's Water System, Non-Potable Water System and/or Sewer System.

The Applicant shall furnish the Authority the form of an Ability to Serve Letter that may be required or requested by the jurisdiction in which the property is located.

4.6 Application for Water Service, Non-Potable Water Service and/or Sewer Service

4.6.1 Policy

Service shall be furnished only to persons whose property is included within the PID, and subject to these Rules and Regulations and taxation, unless otherwise agreed to by the Board in its sole discretion. It shall be incumbent upon an applicant for service to furnish satisfactory evidence of inclusion whenever such evidence is requested by the Authority. Any person or entity seeking inclusion or development of property within the Authority shall comply with the terms of this section.

4.6.2 Sufficient Water Rights And Facilities Required

No new property shall be included into the PID, nor additional new service be provided within the Authority, unless the owner and/or developer of said property or subdivision shall comply with the water rights dedication requirements, as specified in Section 3.4.4, and if in the opinion of the Board said water is insufficient to serve the anticipated development, shall also furnish sufficient additional adjudicated water rights and associated facilities to the Authority in an amount and of a quality adequate, in the judgment of the Authority's Board, to serve said property or subdivision; or, at

the discretion of the Board, shall provide monetary compensation adequate, in the judgment of the Board, to purchase or compensate the Authority for sufficient additional water rights and water facilities to provide such service. Generally, sufficiency is determined based upon the number of Tap Equivalents required for the project. The owners of said property shall convey these rights or monies to the Authority free and clear of all liens and encumbrances prior to inclusion of the property into the PID or furnishing of service to the property, whichever the case may be. The matters of sufficiency of water rights to serve the subject property and/or monetary compensation shall be determined by the Authority's Board after taking into consideration the recommendations of the Authority's attorneys and engineering consultants. In no event shall the Authority be obligated to reimburse the applicant for funds expended by the Applicant for any such water rights and water facilities.

4.6.3 Application For Tap Permit

An Applicant seeking service within the Authority shall submit an Application For Tap Permit which includes the following:

- a) Fees for domestic and irrigation water service
- b) Fees for sewer tap – wastewater service

Fees must be submitted on the Authority's standard form, accompanied by the appropriate Tap Fee (see Appendix A) to the Authority.

4.6.4 Limitations Of Tap Permits

Any Tap Permit issued to an Applicant is valid only for the real property and building(s) or portion thereof specified on said permit(s), and all rights under the permit shall be deemed to be automatically conveyed with title to such property. The permit shall not be transferable for use on other property or for use on other buildings on the same property except that transfer of the permit may be approved upon written application by the Authority upon its determination that the transfer will not adversely affect the Authority and that the infrastructure of the Water and/or Sewer System is adequate to accommodate the requested transfer upon payment of a permit transfer fee and a determination that such transfer will not impair the health, safety and welfare of the residents and visitors of the Authority. Each connection or tap permit shall allow only one service line connection.

Tap Fees must be paid within 30 days of the application date. Tap Fees not paid within 30 days of the application date will be subject to possible Tap Fee increases in effect at the time of payment. Once Tap Fees are paid the Applicant will have twelve (12) months from the date of issuance to activate the Tap. If the Tap is not activated within twelve (12) months, the Tap Permit shall expire, and the Applicant will be subject to any applicable Tap Fee increases in effect at that time the application is renewed.

An additional Tap Application will be required to cover the cost of the tap fee increases. The Revised Tap Permit will then be valid for another twelve (12) months.

If for some reason the Applicant chooses not to activate the tap, payments will not be refunded. The payments made will be carried by the Authority as a “credit” to the address listed on the Tap. When a future request is made to activate, the Applicant will then be responsible to pay any additional fees.

A Tap is considered activated at the time water meter installation is complete, and inspection and acceptance of the installation has been made by the Authority.

4.6.5 Tap Permit Does Not Authorize Road Cut

Issuance of a Tap Permit or any other Authority permit does not authorize the Applicant or holder thereof to make any cut in a public road or street or to do anything for which separate permission is required of another governmental entity.

4.6.6 Permits Subject To Rules And Regulations

Any Tap Permit, inclusion agreement or other agreement issued or entered into by the Authority shall be subject to each of the provisions of these Rules and Regulations as amended from time to time and shall be subject to each of the conditions and limitations set forth herein.

4.6.7 Denial Of Application For Service

The Authority's Board may deny an application for a Tap Permit, temporary, irrigation, or otherwise, when there are not sufficient water rights and/or water facilities available or will not be available in the future to serve the development or construction proposed for the property; the Tap Permit, if granted, would negatively impact the Authority's existing water and sewer service treatment, transmission, and storage facilities; the Tap Permit, if granted, would have an adverse economic effect on the Authority, its residents and property owners; or the granting of the application would adversely affect the public health, welfare and safety of the Authority's residents and property owners. There may be factors and aspects of an application which are unique to that application and are not recited above, and the Authority's Board retains the right to consider all reasonable factors related to an application and make a decision based thereon.

4.6.8 Cancellation Of Permits And Refund Of Fees

The Authority reserves the right, in its sole discretion, for cost, capacity, or other reasons, to cancel any permit, including a Tap Permit, at any time prior to connection to the Authority's Water System, Non-Potable Water System and/or Sewer System. Refunds will be made within ninety (90) days of cancellation.

4.7 Non-Potable Water and/or Reclaimed Water--Determination to Use

The Authority shall determine, in its sole discretion, whether a property or Customer will be furnished with Non-Potable Water or Reclaimed Water for on-site irrigation use. The determination shall be made in accordance with the standards of treatment and water quality

requirements set forth in the regulations promulgated by the State of Colorado.

4.7.1 New Construction or Redeveloped Irrigation Taps

If Non-Potable Water or Reclaimed Water is available and the Authority determines that it is feasible to supply Non-Potable Water or Reclaimed Water to the site, the Customer shall connect to the Non-Potable Water or Reclaimed Water. For new construction, if Non-Potable Water or Reclaimed Water is not immediately available for use when the Customer is ready for connection, and if the Authority determines that Non-Potable Water or Reclaimed Water will be supplied in the future, the on-site facilities shall be designated to use Non-Potable Water or Reclaimed Water. The on-site Non-Potable Water or Reclaimed Water system shall be designed and constructed to Authority construction specifications. Provisions shall be made, as directed by the Authority, to allow for connection to the Non-Potable Water or Reclaimed Water system when available. In the interim, potable water will be supplied to the system through a temporary potable water connection.

4.7.2 Existing Irrigation Systems

When Non-Potable Water or Reclaimed Water becomes available to a property, and the Authority determines that it is feasible to supply Non-Potable Water or Reclaimed Water, the Authority shall provide written notice to the Customer of such availability. Upon such notice, Customer shall, at Customer's cost, disconnect irrigation system(s) from the Potable Water System and connect to the Non-Potable Water or Reclaimed Water system within one hundred eighty (180) days of such written notice of approval.

4.7.3 Backflow Prevention Device Required

An approved backflow prevention device is required for commercial or industrial facilities, fire mains, and on each irrigation service or system whether from Potable Water, Non-Potable Water, or Reclaimed Water Service. The backflow prevention device shall be located on the Customer's side of the meter and become a part of the on-site facilities owned by the Customer. The Non-Potable Water Service shall comply with the cross-connection requirements as provided in Section 5.8.

4.8 Development Review and System Construction Procedures--General

This section provides information on the Authority's requirements and procedures for the development process. System design shall comply with Appendix B.

4.8.1 Pre-Submittal Meeting

A pre-submittal meeting is required to discuss the development and exchange necessary information. The Authority shall be provided with the following information no less than five (5) Business Days before the meeting:

- Applicant name, address, and a contact name.

- Engineer's name, address, and a contact name.
- A plat (preliminary or final) of the development site.
- An estimated date that water/sanitary service is needed.

The Authority will provide the APPLICANT's design engineer the following:

- General comments related to the nature or location of the development.
- Hydraulic Grade Line (HGL) on water tank and estimated static pressure near the site for the utility report required from the design engineer. This should be confirmed by a field test by the developer.
- Web location to download the Authority's general notes required on the construction plans, easement form, and a design checklist and criteria for the utility study.
- As-Built in the area (if applicable/available)

All correspondence relating to the project must show the Proposed development name, street address and plat name Filing/Block/Lot.

4.8.2 Design Review

The following items shall be submitted to the Authority for the review of construction drawings which shall conform to the design standards set forth in Appendix B:

- **Tenant Finish Only (1 Set)** – The plans must show site, plumbing, and mechanical information. Provide a kitchen equipment list (if applicable), proposed and existing fixture count, completed meter size calculation per AWWA M22 manual, 2004 second edition, and review fees (see Appendix A). Provide a completed Commercial Industrial Pretreatment Survey.
- **Water and Sanitary Plans (4 sets)** – The plans must include an overall utility plan and profile showing the location of water, storm, and sanitary (dry utilities if possible). These must be signed and stamped by a Colorado registered Professional Engineer prior to final approval. The jurisdictional Fire Department must sign the plans and agree with the fire hydrant placements and fire flow before the second submittal.
- **Landscape Plan (2 sets)** – The size and location of all plantings in and within 10' of the edge of any Authority easements and irrigated areas in conjunction with existing and proposed utility lines must be shown on the plan. A landscape plan and water demand calculations are also required for non-potable water service requests.
- **Utility Report (2 copies)** - Water and sanitary sewer service(s) studies need to be performed per Authority requirements. Sizing of lines, both sewer and

water, will be verified through these water and sewer studies. The fire flow approved by the Fire Department must be used in the study.

- **Fixture Unit Count (2 copies)** – The APPLICANT’s design engineer is required to provide a fixture unit count and meter sizing calculations (following the AWWA M22 Manual, 2004 second edition) for each building, and to call out the location and size of the meters on the construction plans. Each building shall be separately metered.
- **Title Policy (2 copies)** – A title policy must be dated within ninety (90) days of the first submittal of construction drawings to the Authority.
- **Imprest Account** – The APPLICANT shall establish an Imprest Account. Depending on the scope and extent of the project or development, the initial deposit shall be the minimum required by Appendix A, to cover the cost of the Authority’s design review and related activities. Any cost incurred above this amount by the Authority will be charged to the Applicant. Any balance remaining will be held in the Imprest Account for construction-related costs or returned to the Applicant upon receipt of written notice from the Applicant that construction will not proceed as previously planned.
- **Final Plat (1 copy)** – A copy of the approved final plat for the property shall be provided.

All of the above items must be deemed acceptable before design and construction plans will be approved by the Authority. Upon approval, Applicant shall submit two (2) sets of 11 x 17 and 24 x 36 bound plan sets and one (1) digital copy of the approved final construction plans.

4.8.3 FINANCIAL GUARANTEE Required Before Construction

After the pre-construction meeting, but prior to Authorization to Construct, Applicant may be required to furnish to the Authority a Financial Guarantee in the form of a letter of credit or a cash deposit equal to the estimated construction cost as approved by the Authority, or such lesser percentage as the Authority may determine is appropriate.

The determination of whether a Financial Guarantee will be required shall be made in the Authority’s sole discretion based on a determination as to the reasonable potential that the Authority will be financially impacted and/or may be at risk to suffer loss or damage that may directly or indirectly occur as a result of the proposed construction, a failure to complete said construction, and/or the installation of any water or wastewater lines, mains or facilities, improvements that are part of or otherwise impacted by the proposed construction.

Potential scenarios that may warrant the requirement of a Financial Guarantee include by way of example, but are not limited to the following:

1. The proposed construction involves the sizing/oversizing of a water or wastewater line in contemplation that future developers can make use of the line's capacity.
2. The proposed construction involves the building of a line that is part of the Authority's capital improvement plan and needed for overall system functioning and/or improvement.
3. The proposed construction involves a water or wastewater line that is to be used as a contingency and/or guarantee as part of a phased development pursuant to an agreement to which the Authority is a party or pursuant to any other obligation of the Authority regarding such phased development.
4. The proposed construction includes a relocation or lowering of any water or wastewater mains currently in service in major roads.
5. The proposed construction includes abandonment of existing water or wastewater mains and replacement to a new location.

If said Financial Guarantee is required and is less than or equal to \$20,000, it shall remain in place until the project receives Final Acceptance from the Authority. If said Financial Guarantee is required and is greater than \$20,000, then upon the end of construction as evidenced by a Probationary Acceptance letter issued by ACWWA the Authority shall allow Applicant to reduce the Financial Guarantee to the greater of:

- (a) 20% of the estimated construction cost as approved by the Authority or
- (b) \$20,000,

which reduced amount shall remain in place until Final Acceptance.

The Applicant must make the request to reduce the Financial Guarantee in writing to the Authority.

The Financial Guarantee, if required, shall hold the Authority harmless for payment to Applicant's contractor, and shall indemnify the Authority for any loss or damage that may directly or indirectly be occasioned by the construction and/or installation of any water, non-potable water, or sewer mains. In addition, Applicant shall indemnify the Authority for any loss or damage that may directly or indirectly be occasioned by the construction and/or installation of any water, non-potable water, or sewer mains over and above the amount of any Financial Guarantee.

The Applicant has the choice of providing the Financial Guarantee, if required, in either of two acceptable forms described below:

- (a) "Letter of Credit" means a letter of credit substantially in the form furnished in Exhibit A. The Letter of Credit shall be issued by a Colorado bank, or other

financial institution doing business in Colorado or elsewhere that is acceptable to the Authority. The Letter of Credit will reside with the Authority and the Authority will issue draws on the Letter of credit as authorized by the Development Agreement. Applicant shall ensure that the Letter of Credit remains unencumbered and free from claims of others so that any requests of the Authority for payment or enforcement may be immediately and unequivocally honored without cost to the Authority.

- (b) “Cash Deposit” means money, cashier’s check, certified check, negotiable check, certificate of deposit payable to the Authority, The Authority will place a Cash Deposit in the custody of an eligible public depository as defined in the Colorado Public Deposit Protection Act as selected by the Authority, to be withdrawn by the Authority and used as authorized by the Development Agreement.

Upon receipt of a Financial Guarantee and executed Development Agreement in the form attached hereto as Exhibit B together with all required submittals, construction may proceed.

The Applicant shall advise the Authority of any address change within ten business days after final acceptance. The Authority will, upon receiving notification that its check to the Applicant was returned as undeliverable or equal, will hold the deposit for one year, thereafter presume the deposit to be abandoned under § 38-13-108.2, C.R.S., and thereafter will dispose of the deposit to the State Treasurer as provided in the Unclaimed Property Act (Part 1 of Article 13 of Title 38, C.R.S.) and send the funds to the state unclaimed property fund (“Great Colorado Payback”).

Upon the issuance of Final Acceptance by the Authority of the project for which a Cash Deposit was made as provided in the Development Agreement, Plans and Specifications, and these Rules and Regulations, the Authority shall return the unused portion of the Cash Deposit, without interest, to the Applicant or as directed by the Applicant.

Upon the issuance of Final Acceptance by the Authority of the project for which a Letter of Credit was made as provided in the Development Agreement, Plans and Specifications, and these Rules and Regulations, the Authority shall return the Letter of Credit and associated revisions, to the issuing institution.

4.8.4 Authorization to Construct

The Authority shall issue to Applicant a written Authorization to Construct when the following items have been completed to the satisfaction of the Authority:

- a) Approval of engineering design and construction plans by the Authority.

- b) Easements conveyed. Applicant shall submit legal descriptions and sketches of all proposed easements for review. The Authority requires all Water Mains, Non-Potable Water Mains and Sewer Mains to be located within easements dedicated to the Authority. The easement legal descriptions and exhibits shall be submitted to the Authority in AutoCAD 14 (or higher) format as well as a hard copy on one or more 8 ½ x 11 sheets of paper. The Authority requires that these legal descriptions and exhibits be tied to the Colorado State Plane, Central Zone (NAD 83) grid coordinates. Easement legal descriptions must be stamped and signed by a Colorado registered Professional Land Surveyor. The easement shall be conveyed in the forms prescribed by the Authority on forms obtained from the Authority office.
- c) Posting of the required Financial Guarantee, if required, as a performance bond to the Authority.
- d) Completion of Subsurface Utility Engineering (SUE) investigations in accordance with State law requirements.

4.8.5 Tap Permit Application and Statement of Fees

- Upon approval of construction plans, the Authority will prepare a Tap Permit Application for the Water, Non-Potable and/or Sewer Tap Fees and other associated costs.
- Surcharges for improvements benefiting the property that have been constructed by others.

Additionally, upon approval of construction plans, the Authority will review the funds remaining in the Imprest account, and if it is deemed they are insufficient to cover the remaining costs, including inspections, the construction will not be permitted to begin until the Imprest account is funded with the amounts deemed sufficient by the Authority.

All fees shall be paid in full prior to requesting a Pre-Construction meeting. No construction shall be permitted until the Pre-Construction meeting is held.

4.8.6 Pre-Construction Meeting

After Authorization to Construct is issued by the Authority, all fees have been paid to the Authority, and Applicant has obtained all related permits, the Applicant shall request a Pre-Construction meeting. The Applicant, Applicant's design engineer and utility contractor, and the Authority Construction Observer must attend the meeting. A failure by Applicant to request or attend the Pre-Construction meeting shall provide a basis for the Authority to revoke its Authorization to Construct. If Authorization to Construct is not revoked in such instance, Applicant shall be bound by and deemed to have knowledge of any and all terms and conditions that would have been revealed at the Pre-Construction meeting.

At this meeting, the Applicant shall: Submit evidence that all applicable federal, state, and local permits, including stormwater discharge permits, have been obtained.

4.8.7 Construction Inspection

To ensure a timely inspection, Applicant shall contact the Authority Inspector at least two (2) Business Days prior to construction or any needed inspection. Utility installation cannot be backfilled until it has been inspected by the Authority Inspector or a designated Authority Representative.

The General Manager, Authority Inspector, or Representative shall have the right to inspect any and all work during construction to ensure installation in accordance with the Authority-approved construction plans and Authority standards. After completion of construction of any water, non-potable, or sewer lines, the Authority Inspector or Representative shall make a Probationary Inspection of construction as provided in 4.8.8.

4.8.8 Probationary Acceptance

Prior to Probationary Acceptance, construction must be completed to a point that the Authority can continuously use the line or facility for its intended use. The items listed below must also be completed prior to Authority issuance of Probationary Acceptance. Water will be made available for testing purposes but will be shut off and locked immediately after testing by the Authority and will not be turned on until issuance of Probationary Acceptance.

If the Authority finds that any lock is removed or damaged, or there has been Unauthorized Use of water, a charge for Unauthorized Use will be charged to the Applicant pursuant to Appendix A. If Applicant finds that a lock has been removed or damaged by someone other than the Authority or its contractor, the Applicant shall immediately contact the Authority and may thereby avoid assessment of the charge depending on the circumstances or fault of the Applicant.

- a) **Facilities tested** - All manholes must be vacuum tested, and all gravity sewer lines must be air-tested, cleaned, mandrelled and videoed. All video must be submitted to the Authority in Digital Video Disk (DVD) or USB Flash Drive format for review and comment. All Water Mains shall be flushed and shall meet applicable hydraulic pressure test, bacteriological test, and chlorine test requirements. All Sewer Force Mains shall be flushed and shall meet applicable hydraulic pressure tests.
- b) **Daily Reports** – The Authority may require the Contractor to submit its daily progress report to the Authority Inspector each day. This report shall include, but is not limited to: date, weather conditions, manpower, on-site equipment, equipment used, and work done for said reporting date. The Authority Inspector must receive and approve all daily reports for Probationary Acceptance.

- c) **Punch list** – Once pavement is installed, a walk-through will be conducted within ten (10) Business Days after the Contractor's request. The Contractor will then have thirty (30) days after the punch list is issued to complete the punch list items.
- d) **Record Drawings** - Record Drawings are to be submitted within thirty (30) days after the punch list is issued. Prior to receiving project approval by the Authority, all manholes, valves, blow-offs and any other surface features shall be surveyed and the coordinates for these items shown on the Record Drawings submitted to the Authority. In addition, the Record Drawings shall include location coordinates (horizontal and vertical) for all Water and/or Sewer Main fittings and pipe crown locations at 100-foot intervals. The coordinates for these items must be tied into the Colorado State Plane, Central Zone (NAD 83) grid coordinates. The cover sheet of the Record Drawings must be a reproducible Mylar of the approved construction plan cover sheet with signatures of the appropriate agencies shown. All original design information must be shown on the Record Drawings and, when applicable, crossed out if inaccurate and corrected. A statement, appropriately stamped by a Professional Land Surveyor licensed to practice in Colorado, shall appear on the cover sheet of the Record Drawings attesting to as-constructed information with a signature of the preparer and date. The contractor shall submit to the Authority a digital point file in AutoCAD Version 14 (or higher format) of all information shown on the Record Drawings and a digital copy of the Record Drawing plan set.
- e) **Test Results** - Compaction tests results, concrete tickets, or other test results must be submitted within thirty 30 days after the punch list is issued.
- f) **Site Restoration** – The Contractor must complete the final site grading and install all required erosion control measures. Where applicable, the Contractor is responsible for maintaining all requirements of the Grading, Erosion, and Sediment Control Plan or at a minimum, the current Standard Erosion and Sedimentation Control Best Management Practices (BMPs). If the facilities are constructed in a paved street, road, or right of way, provide proof from the appropriate jurisdiction owning or responsible that the street, road, or right of way has been repaved and/or restored to the satisfaction of the jurisdiction or owner thereof.
- g) **Imprest Account Balance** – Any cost incurred by the Authority over the balance of the Imprest Account will be charged to the Applicant. Ninety (90) days after the Probationary Acceptance, any remaining balance of the Imprest Account will be refunded to the Applicant. If an Imprest Account balance falls below \$0, work will be stopped on the project until the account is replenished to the minimum required.
- h) **Bill of Sale or other means of conveyance, Release of Lien, Schedule of Values** - Applicant shall submit to the Authority a Bill of Sale or other means of

conveyance, Release of Lien, and Schedule of Values.

- i) **Warranty Letter** - Prior to Probationary Acceptance by the Authority, any Applicant constructing Water System, Non-Potable Water System and/or Sewer System facilities to be conveyed to the Authority, or within the public right-of-way, or any easement granted to the Authority for such purpose, shall provide a Warranty Letter to the Authority for the construction against faulty workmanship and materials associated with such construction for a minimum period of one (1) year after Probationary acceptance by the Authority.

Facilities are considered the property of the Authority upon the execution of a Conveyance and Acceptance by the Applicant. As set forth in the terms of the required Conveyance and Acceptance, the Applicant, as Grantor, must maintain and keep in good condition and repair all Facilities during the one-year warranty period set forth therein.

Issuance of Probationary Acceptance by the Authority begins a one (1) year warranty period.

4.8.9 Final Acceptance

Approximately 11 months following the date of Probationary Acceptance, a walk-through will be conducted, and a punch list submitted to the Applicant. All such punch list items shall be completed and/or corrected within 30 days. If not completed within 30 days, the Authority has the right to contract the work and deduct that cost of work from the letter of credit or cash deposit. Any costs incurred by the Authority over the balance of the letter of credit or cash deposit shall be charged to the Applicant.

The Authority will issue Final Acceptance upon completion of all punch list items and/or payment of the improvements if the Authority completed the work.

4.8.10 Indemnity

Authority inspection, plan review, permits, approval and the like do not relieve the owner, developer, engineer or contractor ("Indemnifying Party") from any liability such party may have for construction of any Water Main and/or Sewer Main and/or other facility as applicable, including the liability to conform to all federal, state and/or local laws and rules, design requirements and warranty obligations. Any inspection, plan review, permits, approval and the like that the Authority may conduct are intended for internal purposes only. The Authority disclaims any liability arising out of its inspection, plan review, permits or approval of construction of any Water Main and/or Sewer Main or other facility. The Indemnifying Party agrees to indemnify the Authority with respect to any claims arising from its construction of any Water Main and/or Sewer Main and/or other facility as applicable, as well as the Authority's inspections, design reviews, permits and approvals of any such lines or other facility.

4.9 Construction and Connection of a Water Service and/or Sewer Service

4.9.1 Tap Permit Required

No Water Service Line, and/or Sewer Service Line shall be constructed within the Authority service area nor connected to the Authority's Water System, Non-Potable Water System and/or Sewer System until a Tap Permit has been issued by the Authority.

4.9.2 Separate Service Lines Required

Separate and independent water services and/or sewer services shall be provided for each building, except out buildings (as authorized by the Authority), and except as otherwise provided herein, shall be installed at the expense of the Applicant.

a) Commercial or Industrial Unit

Each Commercial or Industrial Unit hereafter constructed shall have an individual service line and connection for each Commercial or Industrial Unit in the Commercial structure or, if not divided into units, it shall have a separate service line and connection for each building.

b) Interior Lots

A single service line may be allowed by Board approval where a single building stands at the rear of another building on an interior lot and no separate service line is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. The service line from the front building may be extended to the rear building and the whole considered as one service line, but the Authority does not assume any obligation or responsibility for damage caused by or resulting from any such single connection. The owner of the interior lot is responsible for obtaining the necessary permission or easement in order to connect to the service line located on the exterior lot.

4.9.3 Meter Setting

The Authority shall provide the appropriate water meter at the Applicant's expense. Installation of appropriately sized water meter(s) shall be under the direct supervision of the Authority.

4.9.4 Existing Utility Stub Abandonment and/or Downsizing

a) Potable Water

All existing potable water stubs that will not be used for final lot development shall be removed from the Water Main back to the water main at the time of development. If at the time of development there are restrictions such that the

existing stub cannot be removed, the Authority shall estimate the probable cost to remove the existing stub. Applicant shall then deposit the lesser of the probable removal cost or \$10,000 (except as otherwise provided below) by check, cash, or letter of credit at the time of Tap Permit issuance. If the deposit is made by a letter of credit, the letter of credit must be renewed until released by the Authority. There will be a \$100 administration fee to cover the cost of administering and tracking the letter of credit. The deposit will be refunded (or released if a letter of credit) when, after the restrictions are lifted, the lot owner removes the stub at the main and provides to the Authority a letter describing the work completed. An Authority inspector must be present at the time the stub is removed. The deposit amount of \$10,000 is based upon removing a stub under a local class road. The deposit amount for an existing stub under a higher road classification will be estimated by the Authority as necessary and the deposit adjusted accordingly. Any interest earned from the deposit will be nonrefundable and will be used to offset Authority administrative costs associated with this item.

The Customer may request installation of a meter smaller than the existing stub. If the installed water stub is larger than needed, the Authority may monitor water usage from such lot to detect unusual fluctuations in water usage. Upsizing the meter without authorization is Unauthorized Use and shall subject the Customer to charges for Unauthorized Use.

b) Non-Potable Water

Any existing Non-Potable water stub that will not be used for final lot development shall be removed back to the main. If at the time of development there are restrictions such that the existing stub cannot be removed, the Authority shall estimate the probable cost to remove the existing stub. Applicant shall then deposit the lesser of the probable removal cost or \$10,000 (except as otherwise provided below) by check, cash, or letter of credit at the time of Tap Permit issuance. If the deposit is made by a letter of credit, the letter of credit must be renewed until released by the Authority. There will be a \$100 administration fee to cover the cost of administering and tracking the letter of credit. The deposit will be refunded (or released if a letter of credit) when, after the restrictions are lifted, the lot owner removes the stub at the main and provides to the Authority a letter describing the work completed. An Authority inspector must be present at the time the stub is removed. The deposit amount of \$10,000 is based upon removing a stub under a local class road. The deposit amount for an existing stub under a higher road classification will be estimated by the Authority as necessary and the deposit adjusted accordingly. Any interest earned from the deposit will be nonrefundable and will be used to offset Authority administrative costs associated with this item.

The lot owner may install a meter smaller than the existing stub. If the pre-

installed water stub is larger than needed, the Authority may monitor water usage from such lot to detect unusual fluctuations in water usage. Upsizing the meter without authorization is Unauthorized Use and shall subject the Customer to charges for Unauthorized Use.

c) Sewer

Any existing Sewer Service stub that will not be used for final lot development shall be removed back to the main. If at the time of development there are restrictions such that the existing stub cannot be removed, the Authority shall estimate the probable cost to remove the existing stub. Applicant shall then deposit the lesser of the probable removal cost or \$10,000 (except as otherwise provided below) by check, cash, or letter of credit at the time of Tap Permit issuance. If the deposit is made by a letter of credit, the letter of credit must be renewed until released by the Authority. There will be a \$100 administration fee to cover the cost of administering and tracking the letter of credit. The deposit will be refunded (or released if a letter of credit) when, after the restrictions are lifted, the lot owner removes the stub at the main and provides to the Authority a letter describing the work completed. An Authority inspector must be present at the time the stub is removed. The deposit amount of \$10,000 is based upon removing a stub under a local class road. The deposit amount for an existing stub under a higher road classification will be estimated by the Authority as necessary and the deposit adjusted accordingly. Any interest earned from the deposit will be nonrefundable and will be used to offset Authority administrative costs associate with this item.

4.9.5 Inspection

Applicant for any Water Service, Non-Potable Water Service and/or Sewer Service Tap Permit shall notify the Authority when the service(s) are ready for inspection and connection to the respective Water System, Non-Potable Water System and/or Sewer System. The connection and testing shall be made under the supervision of the Authority. The entire length of the trench containing the service line, from the building to the public system, or the Main Extension shall not be backfilled until inspection has been made by the Authority; however, the Applicant will continue to be responsible for any costs, expenses or damages resulting from improper connection or construction.

4.9.6 Design And Construction Specifications

Water Service(s), Non-Potable Water Service(s) and/or Sewer Service(s) shall be installed in accordance with the specifications set forth in Appendix B. All contractors, licensed plumbers and others doing work within the Authority shall comply with these requirements.

4.9.7 Contractor Qualifications

All contractors and subcontractors shall be licensed and bonded in the State of Colorado, and shall be approved by the Authority Representative prior to commencing work on any water or sewer facilities, mains, or service lines within the Authority. Connection shall be made by bonded, licensed plumbers or pipe layers, but plumbing contracted by a licensed master plumber may be performed through journeymen plumbers or apprentices under his or her direction.

4.10 Main Extensions

4.10.1 Design And Construction Specifications

The minimum size Sewer Main shall be 8 inches in diameter. The minimum Water Main size shall be 8 inches in diameter unless a written variance is provided by the General Manager. The size of main required to serve any area shall be determined by the Authority.

All line extensions, including special structures required to insure proper operation of the line extension, shall be designed and constructed according to the Authority specifications in accordance with Appendix B, and under the Authority supervision.

4.10.2 Location Of Line Extensions And Additions

When possible, Water Main and/or Sewer Main extensions shall be installed in public rights-of-way which the County, State Highway Department or other public agency has accepted as public right-of-way, or in easements granted to the Authority or utilities. Where Water Main and/or Sewer Main extension cannot be installed in a public right-of-way, and such extensions must be installed in easements between adjacent pieces of property, the Mains will terminate at the points determined by the Authority.

4.10.3 Wellhead Protection

No newly-constructed Sewer Main, storm sewers, petroleum lines or septic tanks shall be constructed within one hundred (100) feet, the horizontal “buffer zone”, of any Authority well. This separation requirement is in accordance with the State of Colorado Department Rules and Regulations for Water Well Construction, Section 10.2.2. Water Mains located within 100 feet of a well must include bedding cut-off walls at the point of entry into the buffer zone to prevent transport of contaminants through pipe bedding.

4.10.4 Conveyance Of Title And Easements

Applicants who have completed construction of Main Extensions shall, before acceptance by the Authority, deed such mains, associated easements and all appurtenances to the Authority free and clear of all liens and encumbrances. Release of Liens, Bill of Sale, and Schedule of Values documents shall be provided as deemed

necessary by ACWWA. Newly-constructed Main Extensions conveyed to the Authority also shall be warranted for materials and workmanship for a minimum of one year from the time of initial conveyance to the time of final acceptance by the Authority. Prior to construction of any Main Extension by the Authority, the Applicant shall plat and grant to the Authority appropriate easements and rights-of-way necessary to cross land not being subdivided by or under the Applicant's control in which to construct the same. All easements shall be recorded in the County Clerk and Recorder's Office at the Applicant's expense prior to construction.

4.10.5 Main Extension Construction By The Authority On Behalf of the Applicant

Upon approval of the Authority Board, all main extensions which are to be constructed by the Authority on behalf of the Applicant shall be contracted for by the Authority with the contractor installing such main extensions being responsible to the Authority. All associated construction costs shall be paid by the Authority out of the deposit made by the Applicant with the Authority in the amount of such installation. In the event the original deposit is insufficient, the Applicant shall, upon notification, immediately deposit the balance due with the Authority to begin and complete the work or no construction shall be undertaken. Upon completion of the work, the final cost shall be certified by the Authority's Engineer and any surplus refunded or deficiency made up by the developer or Applicant. All daily inspection fees and/or review fees for the project that are required by any governmental authority shall be paid by the Applicant.

4.10.6 Main Extension Construction By Applicant

All main extensions which are to be constructed by the Applicant shall be contracted for by the Applicant with the contractor installing the main extensions being responsible to the Applicant. All costs associated with the Main Extension shall be paid directly by the Applicant. Nothing in this section shall be construed to relieve the Applicant of any requirement regarding deposit of cash or letter of credit with the Authority. Construction shall be subject to the Authority inspection as herein provided.

4.10.7 Inspection

During the construction of any main extension, the Authority shall be notified, prior to back filling, when the main is ready for inspection and approval. Inspection of construction of main line extensions shall be governed by the provisions of Section 4.8.7.

4.10.8 Board Discretion Concerning Extensions

Notwithstanding any provision of this Section, the Authority may, in its discretion, extend lines or approve extensions under such conditions as the Board deems appropriate.

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Section V. Use of Water System, Non-Potable Water System and/or Sewer System

5.1 Use Of Authority Water And Sewer Systems Required

Except as otherwise provided herein, no Water System or Sewer System may be constructed within the Authority, unless such system is connected with the Authority's Water System, Non-Potable Water System and/or Sewer System, as applicable, unless otherwise specifically authorized by the Board. The owner(s) of any parcel of land within the boundaries of the Authority which is subdivided subsequent to the effective date hereof, shall make application to the Authority for extension of its water and sewer facilities to serve said subdivision. The Authority shall require said owner(s) to construct or pay for the construction of the extension or enlargement of all facilities necessary to serve said subdivision. If the Authority elects to extend such service, the Authority and the property owner(s) shall enter into a service agreement therefore.

5.2 Authority's Power to Compel Connection

Unless otherwise agreed to by the Board, the owner(s) of all buildings, businesses or other premises situated within the Authority where a water supply shall be used or domestic or industrial wastes or sewage are generated, stored, or treated shall be required at the owner(s) expense to install suitable water and sewer facilities therein and to make application for and to connect such facilities directly with the Authority's public water and sewer system for the protection of the health, safety and welfare of the inhabitants and visitors of the Authority in accordance with the provisions of these Rules and Regulations, within 20 Business Days after written notice is sent by registered mail to do so, provided that the public water or sewer main is within 400 feet of the owner's property line.

If such connection is not commenced within such period and completed with reasonable diligence by the owner, the Authority may thereupon make such connection, and the owner shall be liable for all expenses incurred by the Authority for the completion of the connection, including any unpaid tap fees. The Authority shall also have a first and prior lien on the premises for such costs and fees, and such lien shall be enforceable in accordance with the applicable provisions of Colorado Revised Statutes.

If an owner's service line must cross another person's property in order to connect to the Authority's water or sewer system at the point designated by the Authority, and the owner is unable to obtain the easement(s) required for such service line, and the Authority determines that a valid public purpose exists, the Authority may in its discretion initiate proceedings to acquire such easement(s). All costs incurred by the Authority in the prosecution of such proceedings, including without limitation, the amount determined to be payable as just compensation, attorney and legal fees, engineering and survey fees, appraisal fees and expert witness fees, shall be paid by the owner of the premises to be connected. The amount required to be deposited with the court in order for the Authority to obtain possession of the property included within the easement(s) shall be paid at that time by the owner of the premises to be connected. The Authority shall have a first and prior lien on the premises to be connected and the land on which they are located for all such costs, and such lien shall be enforceable in

accordance with the applicable provisions of the Colorado Revised Statutes.

5.3 Use of Systems—General Authority Responsibilities

Except as otherwise provided by these Rules and Regulations, the Authority is responsible for the operation and maintenance of the Water System, Non-Potable Water System and Sewer System in accordance with these Rules and Regulations.

5.4 Use of Systems—General Customer Responsibilities

Taps and service connections are approved for specific uses as stated on the Water Tap Application and the Sewer Tap Application.

5.4.1 No Unauthorized Use

No person shall uncover, alter, disturb, make any connection to, make an opening into, or backfill prior to inspection the Water System, Non-Potable Water System and/or Sewer System without written authorization from the Authority. Unauthorized uses of or tampering with the Authority's systems include, but are not limited to, change in Customer's equipment, service or use of property per Article 5.4.2 ; an unauthorized turn-on or turn-off of Water Service or a Water Main; burying valve boxes and/or manholes; preventing access to the meters by, for example, parking a vehicle over or otherwise blocking or preventing access to meters or valves; unmetered water use; modifying any Water Meter; or discharging prohibited wastewater even though the same may be performed through a privately-owned and maintained service line or into a Private Main.

5.4.2 Expansion or Change in Use—Duty to Notify

The Customer shall notify the Authority prior to any expansion or addition to the service or any change in the use of the property served by the Authority, upon any change of ownership of said property, or upon any significant change in water use and/or wastewater characteristics.

5.4.3 Suspension and/or Abandonment of Service

When a structure is moved or destroyed, and/or the water and sewer services are suspended, the original Tap Permit shall remain, provided that a written request is made to, and approved by the General Manager prior to cessation of payment of monthly service charges.

When a service is abandoned permanently, the Customer shall valve off the Water Service at the curb stop valve and plug the Sewer Service connection at the property line. Any and all associated credits for previously paid Tap Fees also shall be considered abandoned. If the Customer is not responsive within a reasonable time period as determined by the General Manager, the Authority will valve off the Water Service and plug the Sewer Service. Any related costs incurred by the

Authority shall be charged to the Customer and, if not paid within twenty (20) Business Days of notice, a lien filed on the property.

5.4.4 Voluntary Service Disconnect--Temporary

A Customer may request a temporary disconnect from the Authority's Water System and/or Non-Potable Water System by requesting, completing and submitting a Voluntary Disconnect Form as provided by the Authority. Prior to any such voluntary disconnect, the Customer shall bring the account current and pay the Disconnect Fee (Turn-Off Fee) as specified in Appendix A. The account will be noted as a voluntary disconnect, and no Connection Fee will be charged to resume the service. Usually, the requested disconnection will be completed by Authority staff between the hours of 7 a.m. and 8 a.m. on the first business day following receipt of the Voluntary Disconnect Form in the Authority's offices. The Customer will continue to be responsible for the Monthly Service Fees and Monthly Water Resource Charges.

5.5 Use of Systems—Customer Penalties

5.5.1 Unauthorized Use—Recovery of Fees and Charges

Any unauthorized use of the Water System, Non-Potable Water System and/or Sewer System shall be paid for at the same rate as if that use had been authorized together with any costs incurred by the Authority in discovering and collecting for the unauthorized use. Such payments shall not in any way affect the right of the Authority to disconnect, suspend or revoke water and/or sewer services to any Customer for unauthorized use, to charge additional penalties or pursue such other remedies as may be authorized by law or approved by the Board of Directors of the Authority; nor shall it affect any criminal liability which may have attached by reason of such authorized use.

5.5.2 Unauthorized Use--Locks and Detection Devices

The Authority may require that lock(s) be attached to any water using system in or about a Customer's premises in order to prevent any unauthorized use of water from that system. If necessary, the Authority may also require that mechanical devices be attached to any water using system in or upon a Customer's premises in order to detect any unauthorized use of water from such system. Such mechanical devices may be inspected by the Authority in accordance with Section 1.13.

5.5.3 Revocation of Service

Service shall be revocable by the Authority upon non-payment of any rates, fees or charges owed to the Authority. In the event of non-payment, the Customer shall be given no less than five (5) Business Days from the date of the notice of the revocation to bring the account current, and thereafter, the Authority will shut off service. The notice shall set forth:

- a) The reason for the revocation;
- b) That the Customer has the right to contact the Authority, and the manner in which the Authority may be contacted for the purpose of resolving the obligations; and
- c) That there exists an opportunity for a hearing in accordance with Section 7.2 of these Rules and Regulations.

When the account is brought current, service will be restored.

5.5.4 Redetermination of Tap Fees

Following an Authority inspection, whether requested by the Customer or initiated by the Authority, the Authority shall make a determination as to any change in the Customer's equipment, service or use of the property. Any such Change In Use that, in the opinion of the Authority, will increase the burden placed on the Authority's Water System, Non-Potable Water System and/or Sewer System by the Customer shall require a revised Tap Permit and a redetermination of the associated Tap Fee and monthly service charge, and payment of such re-determined fees and charges by the Customer.

When an expansion or Change In Use occurs that results in additional fees due, a credit for the existing use shall be given. Tap Fees based on the current adopted schedule for the specific use as stated in the original permit shall be credited against the re-determined Tap Fee so that only the unpaid portion of any re-determined Tap Fee shall be due. Any such Tap Fee due shall be paid within thirty (30) days of the issuance of a revised Tap Permit. However, if the redetermination results in a conclusion that the Tap Fee, if assessed currently, would be in an amount less than the original Tap Fee paid, the re-determined fee shall not result in a refund to the Customer.

If the Authority's decision is deemed unsatisfactory by the Customer, the Customer may present a complaint in accordance with Section 7.2 of these Rules and Regulations.

5.6 Tampering with Systems

5.6.1 Damage to System

No person shall break, damage, destroy, cover, uncover, deface, or tamper with any portion of the Authority's Water System, Non-Potable Water System and/or Sewer System.

5.6.2 Violations

Any person in violation of the provisions of Section 5.6.1 shall be assessed

additional fees and charges and penalties as approved by the Board of Directors and may be prosecuted to the full extent of Federal and Colorado law. Nothing herein shall limit prosecution under any applicable municipal or county ordinance.

5.7 Use of Water System and Non-Potable Water System--General

5.7.1 Water Service--Customer Responsibility

Each Customer shall be responsible for all costs associated with the maintenance, repair and/or replacement of the Water Service or Non-Potable Water Service from the building, structure or irrigation system control valve to the curb stop on the inlet side of the meter pit. The Customer is responsible for the correct installation of the meter pit and contents and for the service line from the meter pit to the building or structure as described in Appendix B, Engineering and Construction Standards. Customer is responsible to ensure the Authority has access to the curb stop and meter pit at all times. Customer is responsible for maintaining an easement in and around the meter pit and meter service area. ACWWA reserves the right to impose fees to recover costs associated with the removal of obstructions from the meter service area. This includes but is not limited to landscaping, plowed and/or shoveled snow, etc.

5.7.2 All Water Use Metered

All water use shall be metered. Unless prior written approval is granted by the Authority, any unmetered use is considered to be unauthorized use and is subject to fines and penalties as provided in these Rules and Regulations.

5.7.3 Water Meter--General

All connections to the Authority's Water System and/or Non-Potable Water System shall include a water meter, and each water meter shall have a separate and independent service from the water main. Meter size, type and manufacturer for all applications shall be determined by the Authority. All water meters shall have applicable electronic read transmitting (ERT) devices for remote reading. The location of the meter shall be subject to the approval of the Authority and accessible for maintenance (see Appendix B). The Authority shall have the right to test, remove, repair, or replace any and all water meters. Any meter not installed in accordance with Authority specifications shall be immediately replaced upon notification by the Authority, and the Customer shall be subject to additional fees for tampering with the Water System and/or Non-Potable Water System.

5.7.4 Large Water Meters—By-Pass Line Required

All water meter installations greater than 1-1/2-inch serving: (a) 6 or more Residential Units; (b) mixed commercial/residential developments; or (c) a commercial Customer, shall include a properly installed by-pass line with a valve lockable by the Authority.

All domestic use connections greater than 1 ½ inch must also have a by-pass for the backflow assembly and must also have backflow protection.

Upon inspection of the service line and installation of the water meter by the Authority, the Authority will install a lock on the by-pass valve. Only Authority staff may activate the by-pass valve. Activation of the by-pass valve by any other person shall be considered Unauthorized Use and the Customer or Applicant may be subject to fees and charges as contained in Appendix A.

5.7.5 Inaccurate or Broken Water Meter--Replacement

The Customer shall notify the Authority if the Customer's water meter appears to be operating inaccurately. The Authority also may examine metered usage data and conduct tests to determine possible meter inaccuracy. If any meter inaccuracy is suspected to be due to a broken meter or a defect in the meter, the Authority shall pursue repair or replacement of said meter at Authority expense. If the need to repair or replace the meter is the result of negligence or tampering by the Customer, the cost for meter repair or replacement shall be the responsibility of the Customer and will be added to the Customer's service charge bill.

If the meter is located within a building, structure or other secured area, the following procedure shall apply:

- a) The Authority will attempt to contact the Customer by all reasonable means during normal business hours to gain entry to the facility to inspect and replace the meter.
- b) If the Authority is unable to gain entry, the Customer shall be given notice that the Authority suspects that the water meter is inaccurate. The Customer shall be given ten (10) Business Days in which to respond. The response shall include scheduling an appointment for a meter inspection and replacement with the Authority. If the Customer fails to respond, the water service will be subject to disconnection or suspension.
- c) . Service will be restored only upon payment of all fees and repair or replacement of the water meter. (See Appendix A.)

5.7.6 Turn-On/Turn-Off of Water Service

All routine non-emergency turn-on and turn-off of Water or Non-Potable Water Service at a curb stop valve shall be performed only by Authority personnel. During bona fide emergencies, a Customer may turn off the Water Service or non-potable water service at the curb stop valve. The Authority shall be notified of the turn-off and the related circumstances within 24 hours. Only Authority personnel shall turn-on the Water or Non-Potable Water Service.

5.7.7 Stop-and-Waste Valves

Stop-and-waste valves are not permitted on potable Water Services, except for irrigation use.

5.7.8 Water Service Repair Effect

The repair of leaks, breaks, and general maintenance of the Water Service shall be the responsibility of the Customer. If the Authority becomes aware that there is compromised water quality that is posing a threat to public safety or any related problem, the Customer shall be given notice, by first-class mail that the water service is in need of repair. The Customer shall institute repair or maintenance immediately. If satisfactory progress toward repairing the water service has not been made in a timely manner, or the Authority determines that environmental or property damage is being caused, or the health and welfare of the public is being compromised, the Authority shall shut off the water service until repaired. To avoid water damage in the case where a leak is active and the customer is not readily available, the Authority shall have the right to shut off the water and to delay reconnection until the customer is present or verbal consent to reconnect is given by the customer. In addition, if necessary, the Authority shall have the right to perform the repair and the costs of the repair will be the responsibility of the Customer. If the Customer fails to make payment for the repairs within 30 days of the invoice, a lien shall be placed on the property as provided for by Colorado law.

5.7.9 Safety Devices

Any Customer having boilers and/or other appliances which depend on pressure or water in pipes, or on a continual supply of water, shall provide, at Customer's expense, suitable safety device(s) to protect the Customer and its property against a stoppage of water supply or loss of pressure. The Authority expressly disclaims any liability or responsibility for any damage resulting from a Customer's failure to provide such appropriate protection. Such devices also may be subject to the Authority's backflow and/or cross-connection regulations in accordance to Section 5.8.

5.7.10 Fire Hydrants

It is unlawful for any person to operate Authority valves or fire hydrants without prior written authorization from the Authority. Law enforcement officers, personnel of the Authority, or personnel of a fire department are authorized to confiscate any hydrant wrench or valve shut-off key found to be used without written Authority authorization. Any violation shall be considered Unauthorized Use and will be subject to all applicable fines, charges and penalties.

5.7.11 Clearances Around and Over Fire Hydrants

No landscaping, vegetation, retaining walls or structures, or other objects may obstruct the access to fire hydrants. Minimum clearances must be maintained around fire

hydrants to facilitate their use. Customers are responsible to maintain a minimum seven-foot (7') clearance on each side (where 2½-inch connectors are located), a minimum four-foot (4') clearance behind (including landscaping, retaining walls), clear in front (i.e., where the steamer connection is located) to the edge of the road asphalt, and minimum twenty-five-foot (25') clearance above all fire hydrants. The breakaway collar must be six inches (6") above the finished grade.

5.7.12 Construction Water--Hydrant Meter Required

Construction water for use on private property or for Authority-authorized construction in a public right-of-way or dedicated easement shall be taken only through an authorized hydrant meter. Such hydrant meters shall be obtained only from the Authority and operated according to the rental agreement.

The Applicant and/or Contractor is responsible for providing adequate protection when freezing may occur. The Applicant and/or Contractor is responsible for any damages incurred to both public and private property. This includes but is not limited to water mains, fire hydrants and/or hydrant meters. Applicant and/or Contractors will be subject to any applicable penalties, fees and charges if they attempt to alter a hydrant meter. See Appendix A for associated deposit fees, rates and charges.

5.8 Protection of Water Quality

No contamination or pollution of the public water supply shall enter the water system through a connection from another water system or by means of backflow from a Customer's system.

5.8.1 Commingling Prohibited

Interconnection of another source of water with ACWWA's distribution system or water facilities is prohibited, except as specifically authorized by written agreement.

(a) Dual Supply Premises. Premises supplied with water from a non-ACWWA source will not be issued a permit to connect to the ACWWA system unless the owner of such premises enters into an agreement, binding upon the owner and any successors, not to make or allow any cross-connection between any non-ACWWA water source and the service connection and water system supplied from ACWWA's potable water distribution system.

5.8.2 Backflow Prohibited.

Backflow from any connection to ACWWA's potable water system or the facilities of a Customer is prohibited.

5.8.3 Backflow Prevention Device Required

No water service connection to serve a Customer's premises will be connected

unless ACWWA's potable water supply is protected from backflow as required by ACWWA's engineering standards. An approved backflow prevention device shall be installed on each service line within a Customer's water system. The device must be tested annually and maintained on a regular basis. All Reduced Pressure Zone backflow assemblies must have a minimum 12" of unobstructed (no possibility for water pooling) discharge area below the assembly. Insulation wraps on irrigation backflow assemblies are prohibited while in use. Insulation must be removed prior to activating for the season. During construction, a temporary backflow prevention device shall be required.

ACWWA prohibits the use of irrigation backflow assemblies installed in below-grade zones.

5.8.4 Enforcement

(a) Inspection. The Customer's system will be subject to inspection by ACWWA at all reasonable times to determine whether cross-connections or other structural or sanitary hazards exist. When the inspection involves a residential customer, if ACWWA staff or representatives have reason to believe that a required backflow device has not been installed, tested, or maintained as required by these Rules and Regulations, then ACWWA staff or representatives shall inspect said system. ACWWA staff or representatives will attempt to give advance notice to the residential customer of the date and time of the inspection, provided, however, that failure to accomplish such advance notice shall not prevent such inspection.

(b) Revocation, Discontinuance or Shutoff of Service. Water service to any premises may be revoked, disconnected or turned off (hereinafter "Suspension" or "Suspended") as provided in Section 7.1.1 hereof if: a required backflow prevention device is not installed, tested or maintained; if the Customer refuses to allow inspection of a backflow device; or, if the backflow prevention device has been removed or bypassed. An unprotected cross-connection on a Customer's premise may also result in suspension of service. Service will not be restored until such conditions or defects are corrected and all required fees and costs paid to ACWWA.

5.8.5 Procedures for Suspension of Service Relating to Backflow

(a) When one of the conditions described above becomes known to ACWWA management, ACWWA will follow the procedures outlined in Section 7.1.4. The absence of an approved backflow prevention device, or the existence of an unprotected cross-connection shall constitute an immediate threat of harm to the public health, safety or welfare.

(b) Notice. ACWWA will make a reasonable effort to contact the Customer of the premises verbally prior to suspension of water service provided. However, failure to provide such notice shall not affect ACWWA's ability to suspend water service. Notice of the Suspension shall be posted in a conspicuous location on the premises. As soon as possible after Suspension, ACWWA will provide notice in writing to the Customer. The notice shall provide the following information:

1. The reasons for Suspension that must be resolved for water service to be resumed.
2. A contact phone number for questions concerning the Suspension.
3. Notice that the Customer may request a post-Suspension appeal hearing before the General Manager of ACWWA.

5.8.6 Reinstatement of Water Service after Suspension

Water service will remain Suspended during the pendency of any appeal. Water service will be resumed if the appeal process results in a determination that reasonable grounds did not exist for the Suspension of service. If the appeal process determines that the Suspension was justified, the water service will not be resumed until the following conditions have been satisfied.

- a. The corrective action described in the notice of Suspension has been taken as verified by an inspection by ACWWA.
- b. The service connection is in compliance with the ACWWA's engineering standards.
- c. Fees and Charges. The cost of Suspension and charges for the Suspension and resumption of service, to be determined by ACWWA, shall be added to the next regular billing for the premises.

5.8.7 Annual Backflow Testing

The customer is responsible for all maintenance and testing of their backflow prevention assemblies. All regulated backflow prevention assemblies must be tested annually by the deadlines established by ACWWA. ACWWA reserves the right to revise the testing deadlines as necessary to maintain compliance with Colorado Department of Public Health and Environment requirements.

Testing must be performed by individuals that meet the certification requirements of the Colorado Department of Public Health and Environment. Passing backflow prevention assembly test certifications must be received by ACWWA by the established deadline.

All regulated backflow prevention assemblies that fail a test must be repaired by the customer as soon as possible. Once repaired, the backflow prevention assembly must be re-tested, and the passing certification delivered to ACWWA no later than 20 business days following the original failed test.

ACWWA reserves the right to test or re-test any backflow prevention assembly connected to its water distribution system. Any testing performed by ACWWA due to non-compliance with ACWWA's backflow testing requirements will be charged to the customer at the rate specified in Appendix A of these Rules and Regulations.

Failure to comply with ACWWA's backflow testing requirements may result in fines, legal action, and disconnection of service. All costs associated with enforcing ACWWA's backflow testing requirements will be added to the customer's regular

bill.

5.9 Water Use Regulations

All Customers of the Authority shall adhere to these Water Use Regulations. Other water users within the Authority's service area using privately-held water rights are encouraged to follow these regulations in order to make best use of limited water resources and assure an adequate water supply to protect public health, safety and welfare.

5.9.1 No Waste

Water shall be used only for beneficial purposes and shall not be wasted. Any instance of runoff or waste will be considered a violation of these Rules and Regulations and subject to the penalties provided for in Appendix A. The Authority retains and does not waive the right to enforce these Rules and Regulations and to recover the referenced penalties regardless of any previous instances of non-enforcement or penalty imposition.

5.9.2 Use Of Water Conservation Devices Encouraged

The Authority encourages the use of water conservation devices for all properties served by the Authority's water system.

5.9.3 Irrigation and Outdoor Use Regulations—General

Water for irrigation of lawns, landscaping, and other outdoor uses (e.g., car washing, outdoor wash downs, etc.) shall be used pursuant to these Rules and Regulations. Nothing herein shall prevent the imposition of a total ban on outdoor water use in the event of an emergency, or drought, nor prevent an exception to meet specific Water System, Non-Potable Water System or water supply conditions.

5.9.4 Irrigation Using Reclaimed Water—Additional Regulation

- a) In the event of a revision to Regulation No. 84, or a conflict between Regulation No. 84 and these Rules and Regulations, the Rules and Regulations shall be deemed to be amended to conform to the most current requirements of Regulation No. 84.
- b) In accordance with Regulation No. 84, the Authority will review the use of Reclaimed Water by Authority Customers. The Authority will conduct monitoring programs, maintain records as deemed necessary and provide reports as required by regulatory agencies of the Authority.
- c) In carrying out its monitoring and review functions, the Authority shall have the right to enter the Customer's premises pursuant to Section 1.13 of these Rules and Regulations for the purpose of inspecting on-site Non-Potable Water facilities and areas of Non-Potable Water use. The inspection will

review compliance with the regulations set forth for the use of Non-Potable Water including the provision that cross connections between the potable and Non-Potable Water systems are prohibited.

5.9.5 Irrigation Using Reclaimed Water—Customer Responsibilities

- a) It is the customers responsibility to ensure they follow the latest Regulation 84 standards whether stated herein or not.
- b) Operation of the irrigation system using Reclaimed Water is the responsibility of the Customer. The Customer also is responsible for operating the system in accordance with all current/existing requirements of Regulation No. 84. The Authority will provide to the Customer the requirements that are the Customer's responsibility. These include, but are not limited to:
 - i. Customer shall submit a certification statement signed by the Customer or legal representative of the Customer, that the Customer has been provided with a copy of the Regulation No. 84 and Customer agrees to comply with the applicable requirements of the regulations, in particular the conditions for application of Reclaimed Water meeting unrestricted use standards, and to allow Authority access to the site to perform monitoring and analysis as required by the Colorado Department of Public Health and Environment (CDPHE).
 - ii. Customer shall designate an on-site supervisor who will be responsible for maintaining compliance with all regulations regarding the use of Reclaimed Water.
 - iii. Customer shall prepare and keep current record drawings showing all on-site Reclaimed Water facilities. This shall include but not be limited to the location of all piping, valves, backflow prevention devices and system controllers. Also, a record of the operation schedules for each system controller shall be maintained. A copy of the appropriate operation schedule and area of coverage shall be included in each controller box in a waterproof container.
 - iv. The Authority will assign, and the Customer will adhere to a specific watering schedule.
 - v. Customer must adjust and maintain the adjustment of all irrigation spray heads to eliminate over-spray onto areas not under control of the Customer. This includes sidewalks, streets, or public areas. If drinking water fountains exist, the fountains must be protected. Food preparation and picnic areas must also be protected from over spray or windblown spray.

- vi. Customer shall apply and enforce the Reclaimed Water at a rate that does not exceed the infiltration rate of the soil. Controllers shall be adjusted so as to be compatible with the lowest soil infiltration rate present. If pooling, ponding or excessive runoff is evidenced, the system operation must be adjusted to minimize the condition.
 - vii. Customer shall monitor and maintain the on-site Reclaimed Water system to mitigate uncontrolled releases of water. Leaking pipes, broken sprinkler heads and unreliable valves shall be repaired immediately.
 - viii. Customer shall educate all maintenance personnel of the presence of Reclaimed Water and of the safety practices that must be followed when working with a Reclaimed Water supply.
 - ix. Customer shall obtain prior written approval for proposed changes or modifications to any on-site facilities that may impact Authority facilities. Changes to facilities must be in compliance with Regulation No. 84 and made available to the Authority for review.
 - x. Customer shall install signs or labels in the areas irrigated with Reclaimed Water indicating that Reclaimed Water is being used. The signs shall contain black lettering on a purple field with the words "CAUTION: NONPOTABLE WATER--DO NOT DRINK". Such signage will be provided by the Authority upon payment of the fee set forth in Appendix A.
- c) The Customer using the Reclaimed Water system shall ensure that all on-site Reclaimed Water facilities remain in compliance with regulations promulgated by the State of Colorado and these Rules and Regulations. Failure to comply with any of the State requirements or the Authority's Rules and Regulations may result in penalties including the suspension or termination of service until the appropriate corrective steps have been taken.

5.9.6 Use Restrictions—Emergencies

a) Conservation Orders

Upon a determination by the Board or the General Manager that the Authority is facing an immediate shortage in its supply of water which threatens the health, welfare, and safety of the inhabitants of the PID or Customers of the Authority and which requires immediate action, the Board or the General Manager is empowered to institute reasonable orders regulating or curtailing uses of water by those served by the Authority's Water System and/or Non-Potable Water System. If necessary, the Board or the General Manager may order immediate complete curtailment of non-domestic use, and limit in-house use, of water from the Authority's facilities (via a written "Conservation

Order”). Any Conservation Order shall be uniformly applied to all similarly situated water customers within the Authority's service area. Nothing herein shall be construed to prevent the Authority from regulating different categories of water users differently. A Conservation Order may be modified as the conditions causing the water shortage change.

b) Effective Date Of Conservation Orders

Any Conservation Order(s) shall be effective immediately upon being signed or as otherwise provided. Copies of the orders adopted pursuant to this section shall be delivered, mailed or posted on the Authority's website (www.acwwa.com) to all affected residences, businesses, and other premises served by the Authority's water delivery system. Failure to receive any such notice shall not relieve the customer from compliance.

c) Potential for Special Meeting To Consider Conservation Orders

At the request of the General Manager, the Board may conduct a special meeting on the water Conservation Order. Notice of this public meeting shall be posted at the Authority's office at least 24 hours in advance of the meeting. At the public meeting, the Board shall receive public comments and staff recommendations with respect to the Conservation Order, and shall determine what modifications, if any, need to be made to the order. If any material modifications are made to such order, the revised orders shall be mailed or delivered to all of the Authority's water users or posted on the Authority's website (www.arapahoewater.org). All such orders or revised orders shall remain in effect until such time as the water shortage problem is determined by the Board or the General Manager to have ended and notice thereof is given.

d) Violation of Any Conservation Order

The person or entity billed for water service to any given premises, whether owner or occupant, and any person using water supplied or delivered by the Authority's system, shall be responsible for compliance with the above-mentioned conservation orders, and proscription against waste. Violations, as determined by the Authority, will subject such persons to actions and penalties as authorized in Appendix A.

5.9.7 Swimming Pools—Annual Filling

Swimming pools will be limited to one filling per year unless draining for repairs is necessary. Property owner shall notify the Authority by telephone two (2) Business Days prior to filling of swimming pool. Pool filling may be limited due to water restrictions.

5.10 Use of Sewer System

5.10.1 Deposit Of Waste In Unsanitary Manner Prohibited

No Person may place, deposit or permit to be deposited on a property of the Authority, any human excrement, garbage, or other waste.

5.10.2 Sewage Must Be Treated

It is prohibited to discharge to any natural outlet or surface or subsurface system within the Authority Service Area, any sewage or other polluted waters, except when suitable treatment has been provided for in accordance with these Rules and Regulations.

5.10.3 Sewer Service--Customer Responsibility

Each Customer shall be responsible for all costs associated with the maintenance, repair and/or replacement of the Sewer Service from the structure to the Sewer Main.

5.10.4 Sewer Service Repair

Leaks, breaks and general maintenance of the sewer service shall be the responsibility of the Customer. If the Authority becomes aware of any sewer service related problem, the Customer may be given notice, by first-class mail, that the sewer service is in need of repair. The Customer shall institute repair or maintenance immediately. If satisfactory progress toward repairing the service has not been made in a timely manner, or the Authority determines that environmental or property damage is being caused, the Authority shall shut off the Water Service until the Sewer Service is repaired. In addition, if necessary, the Authority shall have the right to perform the repair, and the costs therefore shall constitute a lien on the property as provided for by Colorado law.

5.11 Sewer Regulations

See Appendix C – Pretreatment Regulations.

Section VI. Permits, Fees and Charges

6.1 General

6.1.1 Policy

The rates, charges and other information shown herein shall apply only to customers inside the PID and shall not control the rates, charges, and other requirements applied to service which the Authority may choose to provide outside the PID in the future. Said rates and charges as herein established shall remain in effect until modified by the Board under the provisions of these Rules and Regulations and under the applicable statutes and court decisions of the State of Colorado. Nothing contained herein shall limit the Board from partially modifying rates and charges or from modifying any classification.

6.1.2 Metering of Service

Water service shall be metered by the Authority. Sewer service shall not be metered except as approved by the Authority for industrial or commercial service of unusual characteristics, which may be metered. The cost of all such metering equipment shall be paid by the applicant for the service or, after the initial installation, the Customer.

6.1.3 Classification Of Customers

For the purpose of levying fair, reasonable, and equitable charges, Customers are classified as (1) Single Family Dwelling, and (2) Commercial/Industrial/Multi Family. Rates for each shall be set forth in Appendix A.

6.2 Permits

6.2.1 Water Tap Permit, Non-Potable Water Tap Permit and/or Sewer Tap Permit

Any person requesting Water Service and/or Sewer Service shall file a Tap Permit application and pay the applicable Tap Fee(s). For all structures other than single family residences, building plans shall be submitted which must include the requirements for potable water, fire protection and sewer, including, but not limited to anticipated water requirements and fixture counts. Upon approval by the Authority, a Tap Permit will then be issued to the owner. In every case, no service shall be allowed until a tap fee has been paid.

a) Tap Fee

A water or sewer Tap Fee shall be charged to all Applicants for service and shall be paid before a Tap Permit is issued. Tap Fees shall be calculated to recover all expenses and costs associated with providing water or sewer service and shall be assessed as provided for in the Schedule of Fees and Charges in Appendix A. Tap Fees shall be non-

refundable.

b) Payment Of Tap Fees

Subject to the terms of individual agreements with the Authority, all Tap Fees due to the Authority shall be paid prior to the commencement of construction for the service to be connected to the Authority's system.

c) Amended Tap Permits

If after a Tap Permit has been issued, and subsequent thereto the meter size is changed, or there is a Change of Use of the property or service needed under said permit is changed or recalculated by the Authority so as to increase the level of service necessary, the quantity of water or sewage service to be provided, the owner shall apply for an amended Tap Permit and pay such additional Tap Fee(s) as applicable.

6.2.2 Irrigation Only Water

a) Irrigation Tap Permit and Tap Fee

A separate irrigation Tap Permit is available for parkway and boulevard median landscaping, greenbelts, parks, and common areas. Such irrigation service may be from potable sources or non-potable sources depending on availability as determined by the Authority. Prior to installing a separate irrigation service for an irrigated area, the Applicant shall apply for an irrigation Tap Permit and pay the required irrigation Tap Fee. The Authority shall then determine whether to grant such irrigation Tap Permit based upon the anticipated water demand, including total volume requirements and peak flows.

An irrigation Tap Fee shall be paid for such separate irrigation service, and the associated number of TEs shall be calculated using the procedure for estimating Commercial, Non-Residential or Multi-family consumer demand. If the area calculations indicate that the annual irrigation water consumption will exceed the water supply associated with the tap size, the Authority shall determine the reasonable irrigation Tap Fee based on demand.

b) Temporary Irrigation Tap Permit and Tap Fee

An Applicant may request a temporary irrigation Tap in order to establish the root system for native plants. Depending upon availability of water and delivery requirements, the Authority may rent to the Applicant capacity in the Water System and/or Non-Potable Water System, as applicable, for a period not to exceed 36 months and will require a date certain for disconnection and abandonment of the irrigation system.

The temporary irrigation Tap Fee will be determined by the Authority on a case-by-case basis and will consider the cost and the return on the Authority's investment. Any such temporary irrigation Tap Fee shall be authorized by the Authority.

The full amount of the temporary irrigation Tap Fee shall be paid before the temporary irrigation Tap is installed. If the Applicant disconnects from the Water System or Non-Potable Water System before the specified date certain, there will be no refund or pro-rating of the temporary irrigation Tap Fee.

The temporary irrigation Tap and meter must meet Authority standards for permanent irrigation taps and meters.

The Applicant also shall pay the full cost to install the temporary irrigation Tap and meter. No exterior hoses, hose bibs or connections are allowed at the building. The Applicant shall install landscaping and native plants that require no irrigation whatsoever no later than 36 months after installation of the temporary irrigation Tap.

If the temporary irrigation Tap is not disconnected on the date certain, the Applicant shall pay 100 percent of the then current irrigation tap Fee and any other costs needed to bring the temporary irrigation Tap to the Authority's standard for a permanent irrigation Tap installation.

Any and all cost relating to the disconnection and abandonment of the temporary irrigation Tap and system shall be paid by the Applicant.

If the Authority determines that a Potable Water Service meter is used for irrigation after the temporary irrigation Tap and meter are removed, the current fee for Unauthorized Use shall be imposed on and paid by the Customer. Further, the Customer will be required to install a permanent irrigation Tap and meter, bear all costs to reconnect to the Water System or Non-Potable Water System, and pay the then current irrigation Tap Fee.

6.2.3 Inspection Schedule and Fees

Commercial and Industrial Customers shall be inspected on a regular basis and shall pay inspection charges and fees as set forth in Appendix A.

6.3 Other Fees

6.3.1 Service/Inspection Calls

The cost of all Authority construction inspection is paid from the Imprest Account as outlined in Section 4.8.6.

a) Missed Appointment and Reschedule

If any appointment with an Authority representative is missed and inspection or work requested is not completed, there will be a missed appointment charge assessed plus a minimum two-hour charge at the representative's shop rate due before scheduling for the next appointment. Appointments canceled at least one (1) business day in advance will not be charged. The missed appointment charge is found in the Schedule of Fees and Charges attached hereto as Appendix A.

b) Meter Re-Inspection Charge

If an Authority representative cannot set and/or inspect a meter because of deficiencies or failure by the requester, a meter re-inspection charge will be assessed plus a minimum two-hour charge at the representative's shop rate due before the representative will return to the site and re-inspect or re-set the meter. The meter re-inspection charge is found in the Schedule of Fees and Charges in Appendix A.

6.3.2 Other Associated Authority Construction Costs and Fees

All costs and fees of new construction, reconstruction or enlargement of any Water System, Non-Potable Water System and/or Sewer System facilities, including all associated planning, engineering, plan review, administration and attorney's fees, which are necessary to provide new, different or additional water or sewer service (including but not limited to service lines, mains and water or sewage treatment works), shall be paid by the Applicant.

6.3.3 Unauthorized Connection Penalty

An unauthorized connection penalty shall be payable by persons connecting to an Authority line without prior payment of Tap Fees or Inspection Fees, or inspection of lines. Should the Authority determine that disconnection or termination of service is necessary because of the unauthorized connection, prior to reconnection or turning on service, all unauthorized connection fees and any other outstanding fees or charges, a reconnection fee and all costs associated with such disconnection and reconnection must be paid prior to any reconnection.

6.4 Monthly Service Charges

Upon the payment of the Tap Fee, connection of the Water Service and/or Sewer Service, and meter installation, Monthly Service Charges shall commence.

6.4.1 Calculation Of Monthly Service Charges

Monthly service charges shall be paid by all customers as provided in the Schedule of Fees and Charges attached hereto as Appendix A. Monthly billing for either water or sewer services is comprised of a Monthly Service Fee, a Monthly Volume Charge and a Monthly Water System Investment Fee. Such Fees and Charges will not be prorated for a partial month. The Service Charge is billed separately for water service and for sewer service regardless of related metered usage.

a) Water Service.

i. A Monthly Water Service Fee is charged to all water customers to cover ongoing operations and maintenance expenses of the Water System. The fee is a flat monthly fee for Single Family Residential Customers. The fee for multi-family, commercial or industrial customers is based on meter size. All fees are set out in Appendix A are based on the size of the meter associated with the Customer account.

ii. The Water Volume Charge is billed to each customer based on usage. For water service, the Authority employs a rate structure whereby the Water Volume Charge per thousand gallons of metered usage increases as more water is used. Water Volume Charges are set forth in Appendix A.

For accounts with separate meters for in-building use and irrigation use, the Water Volume Charge is based separately on the monthly metered water use received through the in-building water meter and the irrigation meter.

iii. A Monthly Water System Investment Fee is imposed on every customer for the purpose of securing renewable water resources. The Monthly Water System Investment Fee is set forth in Appendix A.

b) Sewer Service—Single Family Dwelling. The Monthly Sewer Service Fee and the Sewer Volume Charge is applied to all accounts with sewer service. This Monthly Sewer Service Fee is the same regardless of the size of the meter associated with the Customer account.

For accounts receiving all water service through a single in-building water meter, the Sewer Volume Charge is based on actual metered water use during the winter months (December through March billing periods). The monthly Sewer Volume Charge for the remaining eight (8) months of the year is the average metered water usage for the December through March bills.

For accounts with separate meters for in-building use and for irrigation use, the Sewer Volume Charge is based on the actual monthly metered water use received through the in-building water meter.

Except as provided in this paragraph, all sewer-only residential Customers shall be billed for 5,000 gallons per month. If the sewer-only residential Customer believes monthly usage is less than 5,000 gallons, the Customer may submit actual water bills for the period December through March to the Authority. Similar to other residential Customers, if the water bills show usage different than 5,000 gallons/month for the period December through March, then the sewer-only Customer will be billed based on actual metered water use for the period December through March. For the balance of the year, sewer volume charges will be based on the average metered water use for the period December through March.

- c) **Sewer Service—Commercial, Industrial and Multi Family.** The Monthly Sewer Service Fee and the Sewer Volume Charge is applied to all accounts with sewer service. This Monthly Sewer Service Fee is the same regardless of the size of the meter associated with the Customer account.

For accounts receiving all water service through a single in-building water meter, the Sewer Volume Charge is based on actual metered water use during the winter months (December through March billing periods). The monthly Sewer Volume Charge for the remaining eight (8) months of the year is based on the average metered water usage for the December through March bills.

For accounts with separate meters for in-building use and for irrigation use, the Sewer Volume Charge is based on the actual monthly metered water use received through the in-building water meter.

Sewer Use fees will also be paid as directed in Appendix A.

Service and Volume Charges are initiated when the water meter is set and water service is turned on to the property and/or structure by Authority personnel. When an expansion or change of use is approved by the Authority, Service and Volume Charges are initiated thirty (30) days after issuance of a revised Tap Permit by the Authority. Also see Section 5.4.2, Expansion or Change—Duty to Notify and Section 5.5.4, Redetermination of Tap Fees.

6.4.2 Surcharge For Certain Wastes

A surcharge shall be paid by any Customer discharging certain wastes as provided in the Schedule of Fees and Charges attached hereto as Appendix A.

6.4.3 Amended Service Charges

In those situations where, in the Board's reasonable discretion, the Monthly Service

Charges shown in Appendix A do not represent a fair, reasonable and equitable charge for the intended use, the Board may adjust said rates based upon the nature of the use, volume requirements, system compatibility and safety or health needs.

6.4.4 Responsible Party

Monthly Service Charges are the responsibility of the property owner. The owner may authorize the Authority to send a copy of the monthly statement to other designees. In such instances, however, the owner of the property remains ultimately liable for such charges.

When a condominium association governs a number of units receiving service from the Authority through one meter, said condominium association shall receive a single bill for all units serviced by the Authority. In no event shall the Authority be obligated to bill the owners of individual units within a condominium unless service to each unit is metered separately.

6.4.5 Bankruptcies

When the Authority is notified by the Court that a Customer has filed for Chapter 7, Chapter 11, or Chapter 13 bankruptcy protection, the Authority will segregate the pre-petition amount due. The Customer shall be responsible for timely payment of all post-petition amounts.

The Authority may require the Customer to post a deposit in an amount up to six (6) months of Service Charges at the Customer's historic or anticipated water demand. A Customer filing Chapter 7 or Chapter 13 will be given twenty (20) days to post the deposit. A Commercial Customer filing Chapter 11 will be given up to thirty (30) days to post a deposit. If the deposit is not made within the specific time period, the account will be considered in default for all post-petition amounts and service will be discontinued. All disconnection, connection, penalties and other fees will apply for all post-petition amounts. The Authority will not attempt collection on pre-petition amounts except as allowed by Bankruptcy Law.

6.5 Other Charges

6.5.1 Fire Protection System Standby Fee

The Authority shall assess a fee for a fire protection system (standby water) as set in Appendix A.

6.5.2 Turn-Off-Service Fee

Whenever service is turned off, either for voluntary reasons such as vacation or vacancy of rental property, or involuntary reasons such as delinquency of payment or violation of the Authority Rules and Regulations, a turn-off-service fee shall be charged. Where customers have domestic and irrigation service, both services will be required to be turned off. The customer's account will continue to be billed the regular

monthly base and surcharge service fees. See Appendix A for current fee.

6.5.3 Turn-On-Service Fee

When service has previously been involuntarily turned off by the Authority, a turn-on-service fee as set forth in Appendix A shall be charged prior to the Authority's turning on service. A turn-on service fee shall not be charged when service has been voluntarily turned off at the request of the customer; the payment of the voluntary turn-off-service fee being deemed as covering the subsequent turn-on request.

6.5.4 Extraterritorial Service Fees

Properties not included in the PID, that desire service from the Authority, may seek inclusion into the PID pursuant to these Rules and Regulations and receive service as any other included property.

In the alternative, such properties also may seek service under a separate contractual arrangement or as Extraterritorial Users. Unless specified by separate contractual agreement, Extraterritorial Users shall be subject to an Extraterritorial Service Fee (ET Fee) calculated as follows:

a) **Sewer Service Only**

A surcharge of 50 percent on Sewer Tap Fee and Monthly Service Charge for sewer service.

b) **Use of Water Infrastructure with Water Provided From Non-PID/Authority Sources**

A surcharge of 50 percent on Water Tap Fee and Monthly Service Charge for water service

c) **Use of Water and Sewer Infrastructure with Water Provided From Non-PID/Authority Sources**

A surcharge of 50 percent on Water Tap Fee and Sewer Tap Fee and Monthly Service Charge for water and sewer service

d) **Combined Water Service and Sewer Service With Water From Authority Sources**

A surcharge of 50 percent on Water Tap Fee and Sewer Tap Fee and Monthly Service Charge for water and sewer service

6.5.5 Unauthorized Water or Non-Potable Water Use and/or Damage Charges

The Authority may charge any person(s) discovered using water or non-potable water without authorization as follows:

a) Unauthorized Hydrant Use

This charge will be assessed when it is discovered that a hydrant is being used without Authority permission or without an Authority-issued meter and shall be considered Unauthorized Use. The charge shall be included in the Schedule of Fees and Charges attached hereto as Appendix A. Each subsequent infraction is charged double the previous amount.

b) Meter Upsizing

If it is discovered that a meter has been upsized without Authority approval, the Customer shall pay the difference in Tap Fees from the previous meter size plus 50 percent of the increase in Tap Fee in effect at the time of the discovery. In addition, the Customer shall be subject to additional charges for tampering.

c) Meter Tampering

If it is discovered that a meter or its associated electronic remote transmitter (ERT) has been removed, by-passed, and/or tampered with in any way, the Customer will be assessed an additional charge for Unauthorized Use as included in the Schedule of Fees and Charges attached hereto as Appendix A.

d) Curb Stop and Valve Box Replacement

It is the Customer's responsibility to keep the curb stop and valve box in good and operable condition. If the box or valve is damaged or broken, the Customer must replace the box and/or valve within 30 days of discovering the damage or inoperable condition. If after 30 days the damaged curb valve and/or box is not replaced, the Authority will replace it at Customer's cost.

e) Damaged ERT Replacement

It is the Customer's responsibility to protect the automatic meter reading ERT and the wire from the ERT to the meter from damage. If the ERT or the wire is damaged, the Customer shall be charged for the repair and/or replacement, and may be assessed an additional charge for Unauthorized Use as included in the Schedule of Fees and Charges attached hereto as Appendix A

f) Meter Pit Concrete Ring/Dome Replacement

It is the Customer's responsibility to maintain the meter pit at the property in good condition. If the meter pit dome or concrete rings are damaged or broken, the Customer must replace them within 30 days of discovery of the

damage. If after 30 days the damaged meter pit is not replaced, the Authority will replace it at the Customer's cost. [NOTE: The liability or fault for injury due to a damaged meter pit lies solely with the property owner.]

g) **Damaged Meter Replacement**

It is the Customer's responsibility to protect the meter from damage. The Authority will replace a damaged meter at the Customer's cost.

6.5.6 Copy and Research Charges

Copy charges for documents and for public records research shall be charged and paid as set forth in Appendix A.

6.6 Billing and Payment Procedures

6.6.1 Monthly Service Charges Billing

Statements for Service Charges will be mailed monthly. Except as specifically provided by written agreement between the Authority and an owner; all service charges are due upon receipt. Payments not received at the Authority office on or before the twenty-fifth (25th) day of the month after billing are considered delinquent and shall be assessed a penalty as set forth in Appendix A.

6.6.2 All Other Charges And Fees

Except as specifically provided by written agreement between the Authority and an owner, tap permit fees, inspection fees, turn-off and turn-on service fees, fees for water meter installation and maintenance, performance bonds and guarantees, funds estimated to cover the cost to the Authority associated with any construction, and all other fees and charges are due when application for such permit or approval is made, or the task requiring the fee or charge is initiated, whichever occurs first. All such charges and fees not paid when due are delinquent and shall be assessed a penalty.

6.6.3 Delinquent Charges And Fees

All fees and charges not-received by ACWWA on or before the twenty-fifth (25th) day of the month in which the bill is sent shall be considered delinquent and will be assessed a penalty as set forth in Appendix A plus all costs and attorneys fees associated with the collection of delinquent charges and fees. If such fees or charges are delinquent, the Authority may discontinue service to the property after providing notice of the proposed termination of service. The account must be paid in full; partial payments will not be accepted as settlement of the account to avoid discontinuance of service.

The Authority assumes no responsibility for any agreements between owners and occupants, or vendors and vendees.

6.6.4 Discontinuing Water Service

a) Shut-off Procedure

When an account becomes 30 days delinquent (such 30 days beginning on the 25th day of the month the bill is due), a notice will be mailed to the service address and any other addresses on record that request notices of delinquencies. Failure to receive said notice shall not be grounds to delay shut off of service. The notice will state the date the service will be shut off. This shut-off date will not be less than five (5) Business Days after the date the notice is mailed.

The Authority assumes no responsibility for agreements between owners and occupants and vendors and vendees.

b) Turn-Off Service Fee

On or about the 45th day of delinquency, service will be discontinued and the Health Department may be notified via mail that the service has been shut-off. Whenever service is turned off for voluntary reasons such as vacation or vacancy of rental property, payment of balance and turn-off service fee will be required. When a service is turned off other than at the request of the customer, such as delinquency of payment or violation of these Rules and Regulations, a Turn-Off-Service Fee will be charged in the amount specified in Appendix A. When a water service is turned off, Monthly Service Charges will continue to accrue at the current rate.

c) Turn-On Service Fee

When the Authority has previously discontinued service for a non-voluntary reason, a Turn-on Service Fee as specified in Appendix A will be charged prior to service being resumed. A Turn-On Service Fee will not be charged when service has been voluntarily turned off at the request of the Customer. Payment of a voluntary Turn-Off Service Fee will be deemed as covering the subsequent turn-on request.

6.6.5 Defective Meters

It shall be the duty of all customers to notify the Authority office immediately if a meter is operating defectively. The Authority shall perform the maintenance, repair or replacement of all meters.

If any water service meter shall fail to register in any period and the customer has failed to notify the Authority, the customer shall be charged the average period consumption during the two preceding periods as shown by the meter when in order.

6.6.6 Deposit for Chronically Delinquent Accounts

For those accounts where there has been a delinquency for more than three consecutive billing periods and service has been terminated, the General Manager is authorized to require a deposit from the Customer in the amount of six (6) months of Service Charges at the Customer's historic or anticipated water and/or sewer demand before such service is restored.

6.6.7 Returned Checks

Any check or other negotiable instrument tendered to the Authority for payment which is returned to the Authority as dishonored for any reason whatsoever shall be subject to a Returned Check Fee as specified in Appendix A. After the first such instance, the Authority will accept only credit card, cash, money order or certified check for the three (3) months following the return of a check or other negotiable instrument. Upon a second instance of a returned check, the Authority will accept only credit card, cash, money order, or certified check for the six (6) months following the return of a check. Should a Customer have three such instances, the Authority will require a deposit from the Customer equal to six (6) months of Service Charges at the Customer's historic or anticipated water demand. The Authority will keep this deposit in a non-interest bearing account for up to three (3) years.

If a Customer has two (2) dishonored checks or other negotiable instrument tendered to the Authority for payment within one calendar year, the Authority will only accept payment by credit card, cash, money order or certified check for the next six (6) consecutive months. In addition, the Authority may require a deposit from the Customer up to six (6) months of Service Charges at the customer's historic or anticipated water demand.

If a Customer that is scheduled to be disconnected makes payment with a check or other negotiable instrument which is returned to ACWWA and dishonored for any reason whatsoever, a disconnect notice will be delivered via standard mail and certified mail to the service address. The notice will state the date the service will be shut-off. The shut-off date will be not less than one (1) business day from the date the notice is posted. The Authority will accept only credit card, cash, money order, or certified check as payment.

6.6.8 Liens For Unpaid Charges And Fees

All charges and fees, including all attorneys fees, costs of collection, and costs of ACWWA staff time, shall be charged against the owner of the property served and shall be a perpetual lien upon the property to which said service is provided or requested from the time when due.

6.6.9 Accounting for Wholesale Customer Costs

a) Record Keeping

ACWWA's Finance Department will keep records of direct and indirect costs arising from and related to the provision of service to wholesale customers. These costs include, but are not limited to, engineering, legal, accounting, equipment, staff, and administration costs arising from responding to inquiries, disputes, contract drafting and administration, regulatory matters, and costs of collecting delinquent accounts, and interest and delinquency fees thereon, that are directly or indirectly attributable to improvements or services furnished to the wholesale customer.

b) Allocation of direct and indirect costs

The Finance Department will allocate all direct and indirect costs attributable to wholesale customers to such customers.

c) Billing Method

The Finance Department will develop a method to bill and proceed to bill the wholesale customers for their:

- 1) Direct charges, and
- 2) Indirect charges.

d) Other Costs

Staff time and other costs shall be billed at the rates provided in Appendix A to the Rules and Regulations.

The Finance Department will bill wholesale customers for their pro rata share of rate setting studies, evaluations and processes.

Section VII. Enforcement, Variances, Appeals and Hearing Procedures

7.1 Enforcement

7.1.1 Violations

In any case of violation of these Rules and Regulations, the Authority may revoke service, disconnect, turn-off service, require the responsible person to disconnect, or return or require the responsible person to return the Authority's facilities and/or systems to original condition, and shall require payment of all applicable fees and charges provided by these Rules and Regulations along with all costs associated with the violation, including any expense, loss, damage or attorneys' fees occasioned by such violation by the responsible person prior to the Authority providing any service to any property or facilities owned, leased or occupied by the responsible party, whether or not such property or facilities are directly involved in the violation. This Section shall not be construed to limit the rights of the Authority to pursue other fees, charges, remedies or forms of relief provided in these Rules and Regulations and by other applicable law.

7.1.2 Criminal Offenses

Any person who maliciously, willfully, or negligently, breaks, damages, destroys, uncovers, defaces or tampers with any portion of the Authority's Water System, Non-Potable Water System or Sewer System, or take water from the Authority's Water System or Non-Potable Water System, including fire hydrants, without written authorization, shall be referred to the appropriate law enforcement agency or District Attorney with a recommendation that the person be charged with a misdemeanor or felony, and upon conviction thereof, fined in an amount as established by the court for each violation, along with whatever additional penalties or charges as may be appropriate.

7.1.3 Suspension Of Service

Service shall be revocable by the Authority upon non-payment of valid fees or charges owing to the Authority, upon failure to comply with these Rules and Regulations, or when the General Manager determines that an emergency exists and such revocation is necessary to protect the health, safety and welfare of the inhabitants and visitors of the Authority.

7.2 Dispute Resolution, Hearings and Appeals

These dispute resolution, hearing and appeal procedures shall apply to all complaints concerning the interpretation, application or enforcement of these Rules and Regulations, as same may hereafter be amended. These dispute resolution, hearing and appeal procedures shall not apply to personnel matters (which shall be governed exclusively by the Authority's personnel rules) or contract disputes.

If the complaint relates to fees and charges due and payable to the Authority, such fees and charges shall be paid in full prior to initiation of these dispute resolution, hearing and appeal procedures.

7.3 Complaint Procedure and Hearings

7.3.1 Initial Complaint Resolution

Complaints concerning the interpretation, application, or enforcement of these Rules and Regulations must be presented to the General Manager in writing. Upon receipt of a complaint, the General Manager shall make a full and complete review of the allegations contained in the complaint, and shall take such action and/or make such determination as may be warranted. The complainant shall be notified of the action or determination by mail within twenty (20) Business Days after receipt of the complaint.

7.3.2 Hearing

In the event the decision of the General Manager is deemed unsatisfactory by the complainant, a written request for hearing ("appeal") may be submitted to the General Manager within twenty (20) Business Days from the date written notice of the decision was mailed.

If receipt of the request for hearing is timely, and if all other prerequisites prescribed by these Rules and Regulations have been met, the General Manager or a hearing officer which he or she may appoint as hereinafter provided, shall conduct a hearing within thirty (30) Business Days after receipt of the request for hearing. The hearing shall be conducted in accordance with and subject to all pertinent provisions of these Rules and Regulations as provided herein.

7.3.3 Conduct of Hearing

The General Manager, after receiving a complaint or appeal, may conduct a hearing or may appoint a hearing officer to conduct an evidentiary hearing into the facts of the complaint or appeal. In the event a hearing officer is appointed to conduct the hearing, the following shall apply:

- a) The General Manager shall decide who to appoint as hearing officer within ten (10) Business Days after having received the complaint or appeal.
- b) Notice of the General Manager's decision to appoint a hearing officer, together with the name and business address of the person selected, shall be delivered to the complainant or sent by first-class mail to the last known address of the complainant. In the event the complainant has obtained legal representation,

and the complainant has indicated such to the Authority, notification shall be sent to the office of the legal counsel.

- c) The hearing officer will establish the date, time and place for the hearing within twenty (20) Business Days after being appointed by the General Manager. In establishing the date, time and place for the hearing, the hearing officer shall consider the convenience of the parties involved, as well as their representatives. The hearing officer shall give notice of the date, time and place of the hearing to the General Manager, as well as the complainant or his/her legal representative.
- d) The complaining party may file a request for removal of a hearing officer for cause by submitting an affidavit to the General Manager setting forth the factual basis for such an objection. The affidavit must be sent to the General Manager not later than ten (10) Business Days from the date of notice of the appointment of the hearing officer.

The General Manager shall rule upon the reasons contained in such affidavit within ten (10) Business Days of having received the affidavit, and may remove the hearing officer based upon sufficient cause, as determined in the General Manager's sole discretion. In the event a hearing officer is removed for cause, the General Manager will select and appoint another hearing officer. The same procedures and time frames established in b) and c) above shall be followed in this subsequent appointment. A hearing officer may, at any time prior to the hearing, withdraw from serving as the hearing officer if (s)he is unwilling or unable to serve or has a conflict of interest. In the event of a withdrawal or disqualification of the hearing officer, the General Manager shall appoint another hearing officer within ten (10) Business Days of having received a notification of withdrawal. In the event of a withdrawal, the same time frames and procedures established in numbers two, three and four shall be followed.

The General Manager, or hearing officer if one is appointed, shall have authority to: rule upon offers of proof and receive evidence; dispose of motions; regulate the course of the proceedings; reprimand or exclude from the hearing any person for any improper or contemptuous conduct; and take any other action consistent with these Rules and Regulations and due process.

During the hearing, every party to the proceedings shall have the right to present his/her case by oral or written arguments, testimony, and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The parties may offer such evidence as they desire and shall produce such additional evidence as the hearing officer may deem necessary to an understanding and determination of the facts in the complaint or appeal.

The General Manager, or hearing officer if one is appointed, shall be the judge of

the credibility of the witness(es) and the relevancy of the evidence, arguments and testimony offered during the investigation and the hearing. Strict conformity to legal rules of evidence is not required.

The General Manager, or hearing officer if one is appointed, may receive and consider the evidence of witnesses by affidavit and shall give the affidavit such weight as (s)he deems proper after consideration of objections, if any, made to its admission.

The General Manager, or hearing officer if one is appointed, shall determine whether grounds exist to alter, amend, defer, waive or cancel the interpretation, application and/or enforcement of the action that is the subject of the complaint or appeal.

The hearing officer shall submit his/her written decision, together with all of the pertinent exhibits and documents, to the General Manager within ten (10) Business Days after the conclusion of the hearing. If a hearing officer is not appointed, the General Manager shall decide the matter within ten (10) Business Days of the conclusion of the hearing. The General Manager shall send copies of the decision to the complainant or his/her counsel. Should the General Manager or hearing officer fail to render a decision in the required time, the interpretation, application or enforcement action which is the subject of the complaint or appeal shall be deemed affirmed and the complaint or appeal denied

7.3.4 Appeals to the Board of Directors

In the event the complainant disagrees with the findings and order of the General Manager or hearing officer if one is appointed, the complainant may, within twenty (20) Business Days from the date of mailing of the findings and order, file with the Authority a written request for an appeal to the Board of Directors. The request for an appeal shall set forth, with specificity, the facts or exhibits presented at the hearing upon which the complainant relies and shall contain a brief statement of the complainant's reasons for the appeal. The General Manager shall thereupon determine the estimated cost of preparing the transcript of the hearing and upon payment of said estimate by the complainant compile a written record of the hearing consisting of:

- a) Transcript of the hearing;
- b) All exhibits or other physical evidence offered and reviewed at the hearing; and
- c) A copy of the written findings and order.

Any monies remain from the payment of the estimate for the transcript shall be refunded to the complainant and any balance due shall be paid by the complainant prior to any further review by the Board.

The General Manager or his or her designee may submit additional written comments that further clarify the hearing findings and order in response to the request for appeal.

The Board shall consider the complainant's written request for appeal and the written record of the hearing at a special meeting or at its next regularly scheduled meeting, or the next meeting thereafter, but not earlier than ten (10) Business Days after the filing of the complainant's request for appeal. Such consideration shall be limited exclusively to a review of the record of the hearing, any written clarifying comments by the General Manager, and the complainant's written request for appeal. No further evidence shall be presented by any party to the appeal and there shall not be the right to a hearing de novo before the Board of Directors. The Board of Directors shall overturn the General Manager's or the hearing officer's decision where the complainant establishes that there is no competent evidence in the record to support the decision, such that the decision was arbitrary or capricious.

7.3.5 Board's Findings

The Board shall make written findings and issue an order concerning the disposition of the appeal, which order may include a directive to the General Manager or hearing officer to rehear the matter consistent with the Board's findings and conclusions. A notice of the decision shall be sent by mail to the complainant within twenty (20) Business Days after the appeal review. Unless otherwise indicated, the Board of Directors' findings shall be final.

7.4 Variances

7.4.1 Authority

The General Manager may authorize variances from the requirements of these Rules and Regulations, subject to terms and conditions fixed by the General Manager, where due to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Section will result in unnecessary hardship or could have an adverse health or safety impact on the Owner, Customer, occupants or users of the property which is the subject of the request. No variance shall be authorized unless the General Manager finds that all of the following conditions exist:

1. That the variance is the minimum that will afford relief and is the least possible modification to the provision in question;
2. That the variance will not adversely affect the public health, safety and welfare;
3. That the hardship, if any, under which the variance is sought, was not created by the Owner, Customer, occupant or agent of the Owner of the property in question; nor was it suffered as a result of a violation of any provision of these Rules and Regulations;
4. That the variance requested would not violate or conflict with requirements or limitations of State or Federal law.

7.4.2 Application Requirements

All applications for variances shall be filed with the General Manager. A variance letter shall be provided to the Authority, including the information stated below. The applicant shall pay the applicable fee set forth in Appendix A, at the time the application is filed. The General Manager shall have the power to hear and decide requests for variances under this Section where authorized:

- a) The applicant shall provide the following information:
 - 1. Applicant's name, address, and telephone number;
 - 2. Address of the property;
 - 3. Legal description of the property;
 - 4. Provision of the Rules and Regulations for which a variance request is being filed.
 - 5. Reasons for filing a variance request. Requests for variances must include a brief description of the evidence supporting the request for a variance under 7.4.1.(a).
 - 6. Any other information pertinent to the application which addresses issue raised during the review process, or which is deemed necessary by the applicant.
- b) All applications may be transmitted by the General Manager or his or her designee for comments to any agency or office, either public or private, which might be affected by approval of such application.

7.4.3 Hearing

The General Manager, after receiving the completed application for a variance, may conduct an evidentiary hearing regarding the request, if he or she deems such a hearing to be advisable.

- a) The General Manager will establish the date, time and place for the hearing within twenty (20) Business Days of receiving a completed application and shall give notice of the date, time and place of the hearing to the applicant.
- b) At the hearing, the applicant may provide whatever evidence he or she deems appropriate in support of the application. The General Manager shall have authority to rule on evidence matters, dispose of motions, regulate the course of the proceedings, exclude from the hearing any person for improper conduct and take any other actions consistent with these policies and due process.
- c) Every party to the proceedings shall have the right to present his or her case by oral or written arguments, testimony and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required.
- d) The General Manager shall be the judge of the credibility of the witnesses and the relevancy of any evidence, arguments and testimony offered during the hearing. Strict conformity to the legal rules of evidence is not required.

- e) The General Manager may receive and consider evidence of witnesses by affidavit and shall give any evidence such weight as he or she deems appropriate.
- f) The General Manager shall render a decision with regard to the application within ten (10) Business Days of the conclusion of the hearing.
- g) The General Manager shall send copies of the decision to the applicant or his or her counsel.

7.4.4 Appeals

Any decision of the General Manager is final and subject only to judicial review by the appropriate District Court.

7.5 Notice and Hearing Prior to Disconnection

In all cases except those involving an imminent hazard to the health, safety or welfare of the inhabitants or visitors of the Authority, or to the Authority's Water System, Non-Potable Water System or Sewer Systems, the Owner shall be given due notice of the opportunity to request a hearing prior to involuntary disconnection or termination of service. Any request for a hearing concerning the Authority's intent to disconnect service shall be given in writing to the General Manager within three (3) Business Days of receiving such notice. Such notice shall be deemed to have been received by the Customer upon the delivery of such notice to the address of the property serviced by the Authority. A copy of the notice will be sent to the Owner's billing address, however, any delay caused by the mailing of the notice to the Owner shall not affect the Authority's right to disconnect service. Said hearing shall be scheduled with the General Manager at the earliest possible date and time, and shall otherwise comply with Section 7.3.3 hereof. Service to the property shall be revoked by disconnecting or blocking either or both the Water Service and Sewer Service serving the property.

7.6 Lien Releases

The Authority may release any lien originally imposed by the Arapahoe Water and Sanitation District that meets all of the following criteria:

- a) Lien was imposed on the property on or before April 13, 1996,
- b) Property that is the subject of the lien is currently owned by a person or entity other than the person or entity that owned the property at the time the lien was recorded
- c) Property that is the subject of the lien is currently owned by a government or not-for-profit entity recognized as such by the Internal Revenue Service
- d) Property owner has requested release of the recorded lien and has paid in full, the amount in arrears, bringing the account to a \$0 balance
- e) Value of the lien is \$3,000 or less.

APPENDIX A – Fees and Charges

APPENDIX B – Engineering and Construction Standards

APPENDIX C – Pretreatment Regulations