

LAKE KIOWA SPECIAL UTILITY DISTRICT

133 KIOWA DRIVE SOUTH
LAKE KIOWA, TEXAS 76240
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RATE ORDER

CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 11140
COOKE, TEXAS

Comprehensive Amendment Adopted January 20, 2016

(Original adopted July 13, 2012)

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TABLE OF CONTENTS

Section A. Adoption and Authority

1. Effective Date
2. Preexisting Penalties and Vested Rights
3. Official Rate Order; Copies
4. Conflicts

Section B. Statements

1. Organization
2. Non-Discrimination Policy
3. Policy and Rule Application
4. Fire Protection
5. Damage Liability
6. Public Information Disclosure
7. Notice of Change in Rates
8. Customer Service Inspections
9. Submetering Responsibility
10. District Forms Policy

Section C. Definitions

Section D. Geographic Area Served

1. Certificate Holder
2. General Description and Location of Service Area
3. Certificated Service Area Maps

Section E. Service Rules and Regulations

1. Service Entitlement
2. Application Procedures and Requirements
3. Activation of Standard Service
4. Line Extension Reimbursement
5. Changes in Service Classification
6. Landlords and Tenants
7. Refusal of Service
8. Applicant's Recourse
9. Insufficient Grounds for Refusal of Service
10. Deferred Payment Agreement
11. *[Reserved for Future Use]*
12. Charge Distribution and Payment Application
13. Due Dates, Delinquent Bills, and Service Disconnection Date
14. Rules for Disconnection of Service
15. Returned Check Policy
16. Billing Cycle Changes
17. Back-billing
18. Disputed Bills
19. Grievance Procedures
20. Inoperative Meters
21. Bill Adjustment Due to Meter Error
22. Leak Adjustment Policy
23. Meter Tampering and Diversion of Service

24. Meter Relocation
25. Prohibition of Multiple Connections to a Single Tap
26. Customer Responsibilities
27. Prohibited Plumbing Practices
28. Water Service Connections
29. Standards for Water Service Lines
30. Authority to Tap or Repair District Facilities
31. Standard Details for Service Facilities
32. Service outside District Boundaries
33. Enforcement and Civil Penalties

Section F. Developer, Subdivision and Non-standard Service Requirements

1. Districts Limitations
2. Purpose
3. Application of Rules
4. Non-standard Service Application
5. Facilities Design and Approval
6. Non-standard Service Contract
7. Property and Right-of-Way Acquisition
8. Contractor Selection
9. Construction
10. Dedication of Service Facilities
11. Service Within Subdivisions

Section G. Rates and Service Fees

1. Classes of Users
2. Service Investigation Fee
3. Deposits
4. Connection Fee
5. Activation Fee
6. Monthly Charges
7. Late Payment Fee
8. Increased Risk Deposit
9. Returned Check Fee
10. Reconnect Fee
11. Service Trip Fee
12. Equipment Damage Fee
13. Customer History Report Fee
14. Meter Test Fee
15. Meter Relocation Fee
16. *[Reserved for Future Use]*
17. Hydrant Meter Service
18. Information Disclosure Fee
19. Customer Service Inspection Fee
20. Additional Assessments
21. Other Fees
22. Fees Non-refundable
23. Free Service Prohibited
24. Credit Card Convenience Fee
25. Credit Card Service Charge

Appendix A. Monthly Charges

SECTION A.
ADOPTION & AUTHORITY

(Adopted by Ord. 2016-001, Jan. 20, 2016)

1. **Effective Date.** This Rate Order was originally adopted by the Board of Directors of the Lake Kiowa Special Utility District effective July 1, 2012 pursuant to Ordinance No. 2012-001, and has subsequently been amended from time to time. This comprehensively amended and republished Rate Order was adopted by the Board of Directors on January 20, 2016, pursuant to Ordinance No. 2016-001, and supersedes all service policies, rates, rules and tariffs adopted by the Board prior to the date of adoption of this Rate Order. This Rate Order became effective immediately upon its adoption.

2. **Preexisting Penalties and Vested Rights.** The adoption of this Rate Order shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or vested right established or accrued prior to the effective date of the adoption of this Rate Order.

3. **Official Rate Order; Copies.**

(a) Location and Maintenance. The official Rate Order approved by the Board of Directors shall be maintained by the Assistant Secretary in the District's regular office. The Assistant Secretary will clearly enter and delineate all additions, deletions and amendments to the Rate Order adopted from time to time by the Board.

(b) Copies Available. An official copy of the Rate Order shall be available to the public for examination at the District's regular office during regular office hours. A copy of this Rate Order shall be made available upon request and payment of a \$12.00 reproduction charge.

4. **Conflicts.** Rules and regulations of state and federal agencies having applicable jurisdiction, promulgated under any applicable state or federal law, shall supersede all terms of this Rate Order that directly conflict with such state and federal rules or regulations. If any section, paragraph, sentence, clause, phrase, word or words of this Rate Order are declared unconstitutional or in violation of law, the remainder of this Rate Order shall not be affected thereby and shall remain in full force and effect.

SECTION B. STATEMENTS

(Adopted by Ord. 2016-001, Jan. 20, 2016)

1. **Organization.** The District was formed by converting the Kiowa Homeowners Water Supply Corporation to the Lake Kiowa Special Utility District under the authority of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 65 of the Texas Water Code. The District operates pursuant to Texas law and the regulations and authority of the Texas Commission on Environmental Quality and the Public Utility Commission. The District exists for the purpose of furnishing potable water utility service for domestic use. The District is managed by a Board of Directors. Members of the Board are elected by qualified voters residing within the political boundaries of the District.

2. **Non-Discrimination Policy.** Service is made available to all qualified applicants that comply with the provisions of this Rate Order regardless of race, creed, color, national origin, sex, disability or marital status.

3. **Policy and Rule Application.** These policies, rules and regulations apply to the service provided by the District. Failure on the part of a customer or applicant to observe these policies, rules and regulations gives the District authority to deny or discontinue service.

4. **Fire Protection.** The District's water system provides potable water primarily for domestic consumption and will provide additional capacity to meet reasonable local demand characteristics. It is not a primary responsibility of the District to provide fire-flows from the District's water system. However, it is District policy to design and construct the water system with sufficient capacity to provide fire-flows and the District will use its best efforts to maintain and operate the water system in accordance with any applicable fire-flow standards. Therefore, the District does not imply that fire protection is available on the District's water system at all times and in all places. All hydrants or flush valves are for the operation and maintenance of the system and may be used for refill only by authorized fire departments. The District reserves the right to remove any hydrant due to improper use or detriment to its water system as determined by the District.

5. **Damage Liability.** Pursuant to State Law, the District is not liable for damages caused by service interruptions due to waterline breaks or equipment failure, tampering by third persons or customers of the District, system failures, system maintenance or repairs, or other events beyond the District's control. The limit of liability of the District is the extent of the cost of service provided. Notwithstanding anything herein to the contrary, nothing in this Rate Order shall be construed as a waiver of immunity by the District of its officials.

6. **Public Information Disclosure.** District records shall be kept at the District's office at 133 Kiowa Drive South, Lake Kiowa, Texas 76240. All information collected, assembled or maintained by or for the District shall be disclosed to the public in accordance with the Texas Public Information Act. An individual customer may request in

writing that the District keep the customer's name, address, telephone number or social security number confidential. Such confidentiality does not prohibit the District from disclosing this information to an official or employee of the state or a political subdivision of the state acting in an official capacity or an employee of the District acting in connection with the employee's duties. A reasonable charge pursuant to the Texas Public Information Act may be assessed to any person requesting copies of District records.

7. **Notice of Change in Rates.** The District will give written notice of a change to monthly water rates by publication, mail or hand delivery to all affected customers at least thirty (30) days prior to the effective date of the new rate. The notice shall state the old rates, the new rates, the effective date of the new rates, the date of Board approval, and the name and telephone number of the District representative designated to address inquiries about the rate change. Failure of the District to give the notice shall not invalidate the changed rate or any change based on the changed rate.

8. **Customer Service Inspections.** A customer service inspection is an examination of private water distribution facilities for the purpose of providing, denying or terminating water service. The District requires a customer service inspection certificate to be completed prior to providing continuous water service to new construction and for all new customers as part of the activation of standard and some non-standard service. The District may also require customer service inspections of existing service connections when the District has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction or addition to private water distribution facilities. Under the foregoing conditions, the inspection is limited to the identification and prevention of cross connections, potential contaminant hazards and illegal lead materials. [30 TAC § 290.46(j)]. A customer service inspection is not a plumbing inspection as defined and regulated by the Texas State Board of Plumbing Examiners (TSBPE).

9. **Submetering Responsibility.** Submetering and non-submetering by Master Metered Accounts may be allowed in the District's water system provided the Master Metered Account customer registers with the Texas Commission on Environmental Quality (TCEQ) and complies with its rules on submetering at Title 30, Chapter 291, Subchapter H of the Texas Administrative Code. The District has no jurisdiction over or responsibility to tenants receiving water under a Master Metered Account, and such tenants are not considered customers of the District. Any interruption or impairment of water service to the tenants is the responsibility of the Master Metered Account customer. Any complaints regarding submetering should be directed to the TCEQ. From time to time, the District may check on the master metered account customer to:

(a) verify that the master metered account customer is registered with the TCEQ (Water Code, Chapter 13, Subchapter M);

(b) verify that the master metered account customer charges tenants no more than the total amount of charges billed (if the aggregate bill is greater than the District's charge, the Master Metered Account Customer is considered by the TCEQ

to be a separate public water system and it will be required to comply with all TCEQ regulations); or

(c) protect the District's CCN area. Should the master metered Account customer continue to violate these or other state regulations, the District will apply to the TCEQ for a cease and desist order (Water Code, §13.252 and 30 TAC §291.118).

10. **District Forms Policy.** The District has promulgated official forms for various uses. Official forms must be used when applicable. The District reserves the right to amend, revise and discontinue use of any form, and to create and use new forms for any reason including compliance with federal and state laws and regulations, improving administrative efficiency, preparing for future system demands, and meeting the unique service needs of developers and non-standard service applicants or customers.

SECTION C.
DEFINITIONS

(Adopted by Ord. 2016-001, Jan. 20, 2016)

The following words and terms, when used in this Rate Order, shall have the following meanings unless the context clearly indicates otherwise:

1. **Applicant:** A person, corporation, organization, government or governmental subdivision or agency, business trust, estate trust, partnership, association, or any other legal entity applying to the District for service. A person must have reached the age of majority (18 years) in Texas to apply for service. (Civil Practices & Remedies Code § 129.001).

2. **Designated representative (or) District representative:** The General Manager of the District or a representative or employee of the District engaged in carrying out the terms of or performing services prescribed by this Rate Order pursuant to either general or specific authorization to do so from the General Manager or the Board of Directors.

3. **Board of Directors (or) Board:** The governing body of the District elected by qualified voters residing within the District's boundaries in accordance with applicable election laws.

4. **Certificate of Convenience and Necessity (or) CCN:** The authorization granted by the Texas Commission On Environmental Quality under Chapter 13, Subchapter G, of the Texas Water Code for the District to provide water utility service within a defined territory. The District has been issued CCN No. 11140.

5. **Customer:** Any person receiving service from the District.

6. **Deposit:** A non-interest bearing refundable fee that is held by the District as security for service rendered.

7. **Developer:** Any person that subdivides land, requests two (2) or more water service connections on a single contiguous tract of land, or who is developing a non-residential project with a water demand that cannot be served through a standard residential water meter (3/4"). [See Water Code § 13.2502(e)(1)].

8. **Disconnection of service:** The discontinuance of water service to a customer of the District.

9. **District:** Lake Kiowa Special Utility District.

10. **Easement:** A private perpetual dedicated right-of-way for the installation of water or wastewater service lines and facilities that allow the District access to property for purpose of operating, maintaining, replacing, upgrading, or installing one or more pipelines

and appurtenant facilities, to limit installation of structures or obstacles that may interfere with the District's intended use of the easement.

11. **Final plat:** A complete and exact plan for the subdivision or development of a tract of land which has been approved by all local governments having jurisdiction pursuant to Chapters 212 or 232 of the Texas Local Government Code. The District shall determine if a plat submitted under this Rate Order qualifies as a final plat. [See 30 TAC § 291.85].

12. **General manager:** The person appointed to the position of General Manager by the Board of Directors and given full authority to manage and operate the affairs of the District subject only to orders of the Board.

13. **Hazardous condition:** A condition that jeopardizes the health and welfare of District customers or employees as determined by the District or any other regulatory authority with jurisdiction.

14. **Mobile Home Park:** A property on which spaces are rented for the occupancy of manufactured or mobile homes for non-transient residential use and for which rent is paid at intervals of one month or longer.

15. **Person:** Any natural person, firm, corporation, cooperative, limited liability company, partnership, unincorporated association, public agency or governmental entity, or any other public or private organization or entity of any type or character.

16. **Public Utility Commission (or) PUC:** A Texas state regulatory agency having certain jurisdictional authority over water and wastewater service utilities.

17. **Recreational Vehicle:** A motor vehicle primarily designed as temporary living quarters for recreational, camping, or travel use, which includes a travel trailer, camping trailer, truck camper, and motor home. [See Transportation Code § 522.0044(b)]

18. **Recreational Vehicle Park:** A commercial property that is designated primarily for recreational vehicle transient guests use for which fees for site service connections are paid daily or longer. [See Water Code § 13.087]

19. **Re-Service:** Providing service to an applicant at a location at which service previously existed and at which there is an existing setting for a meter. Costs of such re-servicing shall be as established in this Rate Order or based on justifiable expenses in connection with such re-servicing.

20. **Service** — Any act performed, anything furnished or supplied, and any facilities or lines committed or used by the District in the performance of its duties under the Texas Water Code, the Texas Administrative Code, or applicable Commissioner's Court order to its customers, employees, other retail public utilities and the public, as well as the interchange of facilities between the District and one or more retail public utilities.

21. **Service application and agreement (or) service agreement:** A written agreement between a customer and the District defining the type or level of service requested, and the responsibilities of each party regarding the service to be provided on the property designated to receive service.

22. **Service Area:** The geographic area in which the District furnishes water service as described in CCN No. 11140. Sometimes referred to as a "certificated service area".

23. **Service classification:** The type of water service required by an applicant as may be determined by the District based on specific criteria such as estimated or actual usage, meter size, demand, nature of use, and other factors related to the applicant's request.

24. **Service unit:** The base service unit used by the District for rate making and to determine service classification is a 3/4" water meter.

25. **Subdivide:** To divide the surface area of land into lots or tracts. [See Local Gov't Code § 232.021(11)].

26. **Subdivision:** An area of land that has been subdivided into lots or tracts. [See Local Gov't Code § 232.021(13)].

27. **Texas Commission on Environmental Quality (or) TCEQ:** A state regulatory agency having certain jurisdictional authority of water and wastewater service utilities.

28. **Water system:** The water production, treatment, supply, storage and distribution facilities operated by or constructed by or for the District, and any water system extensions, improvements or facilities that may be built within the District's boundaries or service area in the future.

SECTION D.
GEOGRAPHIC AREA SERVED

(Adopted by Ord. 2016-001, Jan. 20, 2016)

1. Certificate Holder. The District has been granted CCN No. 11140 for the purpose of providing retail water service to the public. CCN No. 11140 was transferred from the Kiowa Homeowners Water Supply Corporation to the District by order of the TCEQ dated March 1, 2012, and is held subject to District compliance with applicable state law and the regulations and orders of the TCEQ and PUC. The CCN is valid until amended or revoked by the TCEQ.

2. General Description and Location of Service Area. The area covered by CCN No. 11140 is located approximately 7 miles southeast of Gainesville, Texas on Farm Road 902. The service area is generally bounded on the east by County Road 3164, on the south by Farm Road 902, on the west by County Road 211 and on the north by County Road 244 in Cooke County, Texas.

3. Certificated Service Area Maps. The PUC maintains official service area maps at the following location: Public Utility Commission of Texas 1701 N. Congress Ave., Austin, Texas 78711.

A copy of CCN No. 11140 with the District's water service area map follows this page.

SECTION E.
SERVICE RULES AND REGULATIONS

(Adopted by Ord. 2016-001, Jan. 20, 2016)

1. **Service Entitlement.** An applicant requesting service to real property located within the District's service area shall be considered qualified and entitled to water service when proper application has been made, the terms and conditions of service have been met and continue to be met, and all fees have been paid as prescribed. An applicant requesting service to real property located outside the boundaries of the District's service area shall be considered for service in accordance with current District policies on providing service outside the District's service area.

2. **Application Procedures and Requirements.**

(a) Service Classifications. Applications to the District for service shall be divided into the following two (2) classes:

(1) *Standard Service.* Standard service is defined as service from an existing District service line where line or service facility extensions are not required and special design and/or engineering considerations are not necessary. Standard water service is provided to a 3/4" meter set on an existing waterline. The District may classify applications for service to commercial or industrial uses or for service requiring a one inch (1") or larger meters as non-standard service.

(2) *Non-standard Service.* Non-standard service includes service to a subdivision or commercial development, service that requires a larger than one inch (1") meter, temporary water service, service to a Master-Metered Account, or service that requires construction of additions or improvements to the District's water system. The District shall determine the appropriate size and type of meter to serve non-standard service applicants.

(b) Requirements for Standard and Non-standard Service.

(1) Prior to receiving service, applicants shall complete and sign a Service Application and enter into a Service Agreement with the District.

(2) As a condition for service, the District may require an applicant to complete and execute a waterline easement form, a sanitary control easement or such other easement forms to grant the District rights of access to construct, install, maintain, replace, upgrade, inspect or test any facility necessary to serve the applicant as well as the District's purposes in providing system-wide service. [See Tex. Water Code § 49.218. Note that this requirement may be delayed for non-standard service applicants.] New meters shall be located within a utility easement at or near the boundary line of the property designated for service.

(3) The applicant shall provide proof of ownership or lawful authority to control or possess the real property designated to receive service. To prove ownership, the applicant must produce a deed or other recordable documentation of fee simple title. To prove authority to control or possess, the applicant must produce a counter-signed lease or rental agreement.

(4) *Individual Metering for Multiple Use Facilities.* At the request of a property owner or an owner's authorized agent, the District shall install individual meters owned by the District in an apartment house, multiple use facility, or condominium on which construction began after January 1, 2009, unless the District determines that the installation of individual meters is not feasible. If the installation of individual meters is not feasible, the property owner or manager shall install, at the property owner's or manager's expense, a plumbing system that is compatible with the installation of submeters or individual meters. The District shall be entitled to the payment of reasonable costs to install individual meters pursuant to 16 TAC § 24.122(d). The District shall consider master metering or other non-standard service to apartments, condos, business centers and other similar type enterprises at an applicant's request provided the total number of units to be served are:

(A) owned by the same person, partnership, cooperative, corporation, agency, or public or private organization of any type, but not including a family unit;

(B) not directly accessible to a public right-of-way (such as a gated community); and

(C) considered a commercial enterprise (i.e., for business, rental or lease purposes).

(5) Notice of application approval and costs of service as determined by the District shall be presented to the applicant in writing and shall remain in effect for a period not to exceed thirty (30) days. After that time the applicant must re-apply for service. [16 TAC § 24.81(a)(1)].

(6) If a water main has been located in the public right-of-way and is adjacent to applicant's property, then the District may, in its sole discretion, require the applicant, prior to receiving the requested service, grant an easement as required under this Rate Order. In addition to the normally required fees for new customer service, the District may require the Applicant to pay such sums as are reasonably necessary to remove or cap the existing water main in the public right-of-way and to construct the appropriate lines within that easement for the District's water distribution system.

(7) If an applicant fails to provide all documentation or information required at the time of application, the District will issue written notice that the applicant must provide the documentation and/or information within ten (10)

days or service will be terminated. This provision applies to both standard and non-standard service requests.

3. Activation of Standard Service.

(a) New Service Connection. The District shall charge a Deposit, Connection Fee and other applicable fees as required under Section G of this Rate Order. The fees shall be quoted in writing to the applicant. An applicant must pay all fees or enter into a Deferred Payment Agreement prior to installation of a new service connection.

(b) Re-service. On property where service previously existed, the District shall charge the following fees or charges before restoring service:

(1) The District will charge a Deposit and Activation Fee if the meter was pulled from the service location within twelve (12) months prior to the re-service request.

(2) The District will charge an additional fee to cover any additional expenses incurred to restore service if the meter was pulled more than twelve (12) months prior to the re-service request.

(c) Performance of Work. The District shall install all standard service taps and equipment necessary to provide service within five (5) working days after approval and receipt of payment of all quoted fees and charges for the property designated to receive service, unless service requires construction of a line extension from the District's water system. Where service previously existed, this shall occur within one (1) day. This time may be extended for installation of facilities and equipment necessary to serve a request for non-standard service. [See 16 TAC § 24.85].

(d) Inspection of Customer Service Facilities. The District shall inspect an applicant's property to insure compliance with state required Minimum Acceptable Operating Practices For Public Drinking Water Systems as promulgated by the TCEQ or its successor agency. [30 TAC § 290.46(j)].

4. Line Extension Reimbursement. An approved applicant may have to pay, on a pro-rated basis, a line reimbursement fee to the District for the purpose of reimbursing the District or a third-party that made the capital outlay to extend service to that area.

5. Changes in Service Classification. If at any time the District determines that the service classification of a customer has changed from that originally applied for and that additional or different facilities are necessary to provide adequate service, the District shall require the customer to re-apply for service under the terms and conditions of this Rate Order. Customers failing to comply with this provision shall be subject to Disconnection with Notice under Section E.14(a) below.

6. Landlords and Tenants.

(a) In cases of landlord/tenant relationships, the District may require both parties to sign an agreement specifying which party is responsible for monthly bills, deposits and other fees. This agreement may be included as a provision of the District's approved service application form. The District shall not require the landlord to guarantee the tenant's customer deposit or monthly service bill as a condition of service. However, if the landlord signs a guarantee of payment for deposits, monthly service bills and fees, the guarantee shall remain in full force and effect until the guarantee is withdrawn in writing by the landlord and copies are provided to both the District and the tenant.

(b) The owner of property designated to receive service under this Rate Order shall be solely responsible for payment of service extension fees if the facilities will remain in service to the property after the tenant vacates the premises.

7. Refusal of Service. The District may refuse to serve an applicant for the following reasons:

(a) failure of an applicant to complete all required easement forms and pay all required fees and charges;

(b) failure of an applicant to comply with the rules, regulations and policies of the District;

(c) existence of a hazardous condition at the applicant's property which would jeopardize the welfare of other customers of the District upon connection;

(d) failure of an applicant to provide representatives or employees of the District reasonable access to property, for which service has been requested;

(e) failure of an applicant to comply with all rules and regulations of the District which are in this Rate Order on file with the state regulatory agency governing the service applied for by the applicant;

(f) failure of an applicant to provide proof of ownership, control or possession of the property designated to receive service to the satisfaction of the District (e.g., presenting a deed, lease agreement, or other reliable documentation);

(g) the District has determined that the applicant's service facilities are known to be inadequate or of such character that satisfactory service cannot be provided;

(h) failure of an applicant to comply with applicable regulations for on-site sewage disposal systems if the District has been requested to deny service by the TCEQ or the TCEQ's designated representative under Chapter 366 of the Texas Health and Safety Code; or

(i) failure of the applicant to pay any previous outstanding delinquent account(s) with the District in full.

8. **Applicant's Recourse.** In the event the District refuses to serve an applicant under the provisions of this section, the District shall inform the applicant in writing of the basis of its refusal and that the applicant may file a written complaint with the Board of Directors.

9. **Insufficient Grounds for Refusal of Service.** The following shall not constitute sufficient cause for the refusal of service to an applicant:

(a) delinquency in payment for service by a previous owner or tenant of the property designated to receive service;

(b) failure to pay a bill to correct previous underbilling more than six (6) months prior to the date of application;

(c) violation of the District's rules pertaining to operation of non-standard equipment or unauthorized attachments which interferes with the service of others, unless the customer has first been notified and been afforded reasonable opportunity to comply with said requirements;

(d) failure to pay a bill of another customer as guarantor thereof unless the guarantee was made in writing to the District as a condition precedent to service, re-service or re-activation;

(e) failure to pay the bill of another customer at the same address except where the change of customer identity is made to avoid or evade payment of a utility bill;

(f) failure to comply with regulations or rules for anything other than the type of utility service specifically requested including failure to comply with septic tank regulations.

10. **Deferred Payment Agreement.** The District may enter into a Deferred Payment Agreement, not to exceed a term of one (1) year, with a customer who cannot pay an outstanding balance in full and is willing to pay the balance in reasonable installments as determined by the District, including any late payment penalties or interest on the monthly balance to be determined as per agreement.

11. *[Reserved for Future Use]*

12. **Charge Distribution an Payment Application.**

(a) Base Rate. The applicable Base Rate shall be charged for the billing period from the first day of the billing period to the last day of the billing period. The Base Rate shall be prorated for meter installations and service terminations falling during

a billing period. All active service connections shall be assessed a monthly base rate charge whether or not there is use of service.

(b) Gallonge Charge. A Gallonge Charge shall be billed at the rate specified in Section G and shall be calculated in one thousand (1000) gallon increments. Charges for water usage are based on monthly meter readings and are calculated from reading date to reading date. The District shall take all meter readings used in calculating billing.

(c) Posting of Payments. All payments shall be posted against previous balances prior to posting against current billings.

(d) Forms of Payment. The District will accept the following forms of payment: cash, personal check, cashier's check, money order or credit cards. The District will not accept two-party checks, pay checks or any other instrument of payment that is not made payable solely to the District. The District reserves the right to require exact change and may refuse to accept payments made using more than \$1.00 in coins.

13. Due Dates, Delinquent Bills, and Service Disconnection Date.

(a) The District shall mail all bills on or about the twenty-ninth (29th) day of each month. All bills shall be due and payable upon receipt and are past due beyond the date indicated on the bill, allowing approximately fifteen (15) days to pay, after which time a penalty shall be applied pursuant to Section G. Payments made by mail will be considered late if postmarked after the past due date. The District may allow a five (5) day grace period for delayed payments prior to mailing of final notices. Final notices shall be mailed allowing ten (10) additional days for payment prior to disconnection. The ten (10) additional days shall begin on the day the final notice is deposited with the U.S. Postal Service with sufficient postage. If the past due date for a regular or final bill falls on a weekend or holiday, the past due date for payment purposes shall be the next day the District office is open for business after said weekend or holiday. For all disputed payment deadlines, the date postmarked on each bill will determine the beginning of each billing cycle or final notice mailings.

(b) Upon written request, any residential customer sixty five (65) years of age or older who occupies the entire premises of a dwelling receiving water utility service from the District shall receive an extension of the past due date, without penalty. The extension shall not exceed ten (10) days beyond the usual fifteen (15) day payment period, for a total of no more than twenty-five (25) days from the date the bill is issued. [See Utilities Code §§ 182.001 - 182.005].

14. Rules for Disconnection of Service. The following describes the rules and conditions for disconnection of service.

(a) Disconnection with Notice. Water service may be disconnected after proper notice for any of the following reasons:

(1) returned checks (see Section E.15 Returned Check Policy);

(2) failure to pay a delinquent account for utility service provided by the District, failure to timely provide a deposit, or failure to comply with the terms of a Deferred Payment Agreement;

(3) violation of the District's rules pertaining to the use of service in a manner which interferes with the service of others;

(4) the operation of non-standard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation;

(5) failure to comply with the terms of a service agreement, the District's drought contingency plan or this Rate Order provided the District has given notice of said failure to comply, and the customer has failed to comply within a specified amount of time after notification;

(6) failure to provide District personnel or designated representatives access to a meter or to property designated to receive service is received for purposes of inspecting and verifying the existence of potential hazardous conditions or policy violations;

(7) any misrepresentation of fact by an applicant or customer on any form, document or agreement required by the District;

(8) failure to re-apply for service upon notification by the District that customer no longer meets the service classification originally applied for under the original service application; or

(9) violation of any applicable regulation or statute pertaining to on-site sewage disposal systems if the District has been requested in writing to disconnect service by the TCEQ or the TCEQ's designated representative under Chapter 366 of the Texas Health & Safety Code.

(b) Disconnection Without Notice. Water service may be disconnected without prior notice for the following reasons:

(1) a known dangerous or hazardous condition exists for which service may remain disconnected for as long as the condition exists, including but not limited to a public health nuisance as defined in Sections 341.011 or 343.011 of the Texas Health and Safety Code and regulations adopted pursuant thereto. If the District has reason to believe a dangerous or hazardous condition exists, the District may conduct a customer service inspection (CSI) to verify the hazardous condition and may notify the local county health office. The District will disconnect without notice if the customer refuses to allow access to the property for the purpose of confirming the existence of such condition and/or

removing the dangerous or hazardous condition. [See Sections E.3(d) and E.23; 30 TAC § 290.46(i), (j)]. Service will be restored when a CSI confirms no health hazard exists, the health hazard has been removed or repaired, or the health hazard has been isolated from the District's water system by the installation of an appropriate backflow prevention device;

(2) service is connected without District authority by a person who has not made application for service or who has reconnected service without District authority following termination of service for nonpayment;

(3) in instances of tampering with the District's meter or equipment, by-passing the meter or equipment, or other diversion of service; or

(4) a returned check is received on an account that was scheduled for disconnection, service shall be immediately disconnected in accordance with the District's standard delinquent account policy. Notice shall be provided by same day mail or hand delivery that an insufficient check was received. Notice shall state the hours and location where the insufficient check can be redeemed to allow service to be reconnected.

(c) Disconnection Prohibited. Utility service may not be disconnected for any of the following reasons:

(1) failure to pay charges for non-utility service provided by the District, unless there is an agreement whereby the customer guaranteed payment of non-utility service as a condition of service;

(2) failure to pay for a different type or class of utility service unless a fee for such service is included in the same bill;

(3) failure to pay charges arising from an underbilling due to any misapplication of rates more than six (6) months prior to the current billing;

(4) failure to pay the account of another customer as guarantor thereof, unless the District has in writing the guarantee as a condition precedent to service;

(5) failure of the customer to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under Section E.20 (Inoperative Meters);

(6) failure of the customer to pay estimated bill other than a bill rendered pursuant to an approved meter reading plan, unless the District is unable to read the meter due to circumstances beyond its control; or

(7) in response to a request for disconnection by an owner of rental property where the tenant is billed directly by the District as authorized by the

owner, and the renter's account is not scheduled for disconnection under the rules for disconnection of service in this Rate Order.

(d) Disconnection on Holidays and Weekends. Unless a dangerous condition exists or the customer requests disconnection, service shall not be disconnected on a day, or on a day preceding a day, when District personnel are not available to the public for the purpose of making collections and reconnecting service.

(e) Disconnection Due to Utility Abandonment. The District may not abandon a customer or a certificated service area without written notice to its customers and all similar neighboring utilities, and obtained approval from the TCEQ.

(f) Disconnection Due to Illness or Disability. The District may not discontinue service to a delinquent residential customer permanently residing in an individually metered dwelling unit when that customer establishes that discontinuance of service will result in some person at that residence becoming seriously ill or more seriously ill if service is discontinued. To avoid disconnection under these circumstances, the customer must provide a written statement from a physician to the District prior to the stated date of disconnection. Service may be disconnected in accordance with Section E.14(a) of this section if the next month's bill and the past due bill are not paid by the due date of the next month's bill, unless the customer enters into a Deferred Payment Agreement with the District.

(g) Disconnection of Master-Metered Accounts. When a bill for service to a Master-Metered Account customer is delinquent, the following shall apply:

(1) The District shall send a notice to the customer as required. This notice shall also inform the customer that notice of possible disconnection will be provided to the customer's tenants or occupants of the master-metered property in five (5) days if payment is not rendered before that time.

(2) At least five (5) days after providing notice to the customer, and at least five (5) days prior to disconnection, the District shall post notices, stating "Termination Notice," in public areas of the master-metered property to notify tenants or occupants of the scheduled date for disconnection of service.

(3) The tenants or occupants may pay the District for any delinquent bill on behalf of the customer to avert disconnection or to reconnect service to the master-metered property.

(h) Payment During Disconnection. The District is not obligated to accept payment of a bill when a District employee or designated representative is at a customer's property for the purpose of disconnecting service.

(i) Disconnection of Temporary Service. When a customer receiving temporary service fails to comply with the conditions stated in the temporary service agreement or other rules of this Rate Order, service may be terminated with notice.

15. **Returned Check Policy.** Payment by check which has been rejected for insufficient funds, closed account, or for which a stop payment order has been issued is not deemed to be payment to the District. The District shall mail, via the U.S. Postal Service, a Notice of Returned Check requiring that a returned instrument be redeemed at the District office within ten (10) days of the date of the notice. Redemption of the returned instrument shall be made by cash, money order, or certified check. Failure to meet these terms shall result in disconnection of service. A customer shall be considered a bad credit risk for having an instrument returned as insufficient or non-negotiable for any reason for any two billing periods within a 12-month period, and shall be placed on a "cash-only" basis for a 12-month period during which the District will only accept payment by means of a certified check, money order or cash.

16. **Billing Cycle Changes.** The District retains the right to change monthly billing cycles at any time and for any reason.

17. **Back-billing.** If a customer was undercharged, the District may back-bill the customer for the amount which was under-billed. The back-billing shall not exceed six (6) months unless such undercharge was the result of meter tampering, bypass, or diversion of service by the customer as defined in Section E.23 below. If the under-billing is \$25 or more, the District shall offer to enter into a Deferred Payment Agreement with such customer for the same length of time as that of the under-billing. In cases of meter tampering, bypass, or diversion of service, the District may, but is not required to, offer a customer a deferred payment plan.

18. **Disputed Bills.** In the event of a dispute between a customer and the District regarding any monthly bill, the dispute shall be resolved or disposed of in accordance with the Grievance Procedures set forth in the following Section E.19, except as follows:

(a) Notice of the bill dispute must be submitted to the District, in writing, and a payment equal to the customer's average monthly usage at current rates must be received by the District prior to the due date posted on the disputed bill.

(b) The customer shall not be required to pay the disputed portion of a bill which exceeds the amount of that customer's average monthly usage at current rates pending the completion of the determination of the dispute. For purposes of this subsection, the customer's average monthly usage shall be the average of the customer's usage for the preceding 12-month period. Where no previous usage history exists, consumption for calculating the average monthly usage shall be estimated on the basis of usage levels of similar customers under similar conditions.

(c) Notwithstanding any other section of this Rate Order, a utility customer's service shall not be subject to discontinuance for nonpayment of that portion of a bill under dispute pending the completion of the determination of the dispute. The customer is obligated to pay any billings not disputed as established in Section E.14 of this Rate Order (relating to Disconnection of Service).

19. **Grievance Procedures.** Any customer of the District or person demonstrating an interest under the policies of this Rate Order in becoming a customer shall have an opportunity to voice concerns or grievances to the District by the following means and procedures:

(a) The aggrieved party must first submit written notice to the General Manager or authorized staff member stating the concern or grievance and the desired result. The General Manager shall investigate the matter and provide a response to the aggrieved party within fourteen (14) days after receipt of the written notice of grievance.

(b) If the General Manager does not resolve the grievance to the satisfaction of the aggrieved party, the party may appeal the General Manager's decision, in writing, to the President of the Board of Directors for disposition. The written notice of appeal must be submitted to the District within seven (7) days after the date of the General Manager's written response to the notice of grievance.

(c) Upon receipt of an appeal, the President of the Board of Directors shall review the request and determine the best means by which the grievance shall be resolved. The President may direct that a grievance be heard by the Board of Directors for final disposition, or initially by District staff appointed by the President and serving in an advisory capacity to the Board of Directors. The President shall also determine a reasonable time and place for the grievance to be heard, but such hearing shall take place within sixty (60) days of the date that the President received the written notice of appeal. Final disposition by the Board of Directors shall be reported to the aggrieved party in writing.

(d) If under this subsection an aggrieved party contests a charge or fee as sole or partial basis of a grievance, the contested charge or fee shall be suspended until such time as the grievance is satisfactorily resolved by the General Manager, the deadline for delivering an appeal to the President of the Board of Directors has passed, or the Board of Directors has rendered its final disposition of the dispute. This provision does not apply to disputed monthly bills pursuant to Section E.18 above.

20. **Inoperative Meters.** Water meters found inoperative will be repaired or replaced by the District within a reasonable time. If a meter is found not to register for any period, unless by-passed or tampered with, the District shall make a charge for units used, but not metered, for a period not to exceed three (3) months, based on amounts used under similar conditions during the period preceding or subsequent thereto, or during corresponding periods in previous years.

21. **Bill Adjustment Due to Meter Error.** The District shall test any customer's meter upon written request of the customer. In the event the meter tests within the accuracy standards of The American Water Works Association, a meter test fee as prescribed in Section G.14 of this Rate Order shall be imposed. In the event the test results indicate that the meter is faulty or inaccurate, the test fee shall be waived, the meter shall be calibrated or replaced, and a billing adjustment may be made as far back as six (6)

months. The billing adjustment shall be made to the degree of the meter's inaccuracy as determined by the test. The customer must complete and sign a Meter Test Authorization and Test Report prior to the test.

22. Leak Adjustment Policy.

(a) A customer who receives an unusually high monthly bill due to a leak on the customer's property is eligible for a one-time billing adjustment provided all of the following conditions apply:

(1) the customer has not previously requested a leak adjustment by the District for any property owned by the customer; and

(2) the water usage reflected in the high monthly bill must show a minimum of five-times (5x) the customer's average monthly usage for the property where the leak occurred; and

(3) on or before the due date of the high monthly bill, the customer must submit to the District a written request for a leak adjustment together with payment equal to the customer's average monthly water usage at current rates and documentary evidence that the leak was repaired (such as a plumber's invoice or receipt for parts purchased to repair the leak).

(b) If the General Manager determines that the absence of a frost-proof lockable faucet contributed to the water loss for which an adjustment is requested, then the General Manager may require the customer to install a frost-proof lockable faucet as an additional condition to receiving a leak adjustment.

(c) Customers eligible for an adjustment will be charged the District's bulk rate for water use in excess of the customer's average monthly usage as indicated on the high monthly bill. For purposes of this section, a customer's "average monthly usage" shall mean the average of the customer's monthly water usage at the subject property during the preceding 12 months, or lesser history if the customer has not received service at the subject property for 12 months, or, where no previous usage history exists for that customer at the subject property, the average monthly usage shall be estimated by the General Manager of the District based on usage levels of similar customers under similar conditions.

23. Meter Tampering and Diversion of Service. All meters connected to the District's water system shall be provided, owned, installed and maintained by the District. Meter-tampering, by-pass and diversion of service is prohibited. For purposes of this Rate Order, meter tampering, bypass, or diversion shall be defined as tampering with a District meter or service equipment causing damage or unnecessary expense to the District, bypassing the same, or other instances of diversion of service, such as:

(a) removing or altering District equipment, including locks or shut-off devices installed by the District to discontinue service;

- (b) physically disorienting a meter;
- (c) attaching objects to a meter to divert service or to by-pass;
- (d) inserting objects into a meter;
- (e) other electrical and/or mechanical means of tampering with, by-passing, or diverting service;
- (f) connecting or reconnecting service without District authorization; or
- (g) connecting to the service line of adjacent customers of the District.

The burden of proof of meter-tampering, by-passing, or diversion is on the District. Photographic evidence or any other reliable and credible evidence may be used; however, any evidence shall be accompanied by a sworn affidavit by one or more employees or agents of the District upon the initiation of an action for meter-tampering under this Rate Order. A court finding of meter tampering may be used instead of photographic or other evidence, if applicable. Unauthorized users of District services shall be prosecuted to the fullest extent allowed by law under the Texas Penal Code §§ 12.21 and 28.03.

24. **Meter Relocation.**

(a) Upon customer request, the District may relocate the meter and related service facilities on the same property designated to receive service provided that:

- (1) an easement for the proposed location has been granted to the District; and
- (2) the customer pays a Meter Relocation Fee. [See Section G.15].

(b) The District retains the right to relocate service facilities at its expense for any purpose.

25. **Prohibition of Multiple Connections to a Single Tap.** No more than one (1) residential, commercial or industrial service connection is allowed per meter. The District may permit the owner of an apartment building, mobile home/RV park or other commercial account to apply for a single meter as a "Master-Metered Account". Any unauthorized submetering or diversion of service shall be considered a "multiple connection" and subject to disconnection of service. If the District has sufficient reason to believe a multiple connection exists, the District shall discontinue service under the Disconnection with Notice provisions.

(a) For purposes of this section, the following definitions shall apply:

- (1) A "multiple connection" is the connection to any portion of a customer's water line that is connected to a primary delivery point already

servicing one residence or commercial facility for the purpose of diverting service to another residence or commercial facility. Water lines connecting to outbuildings, barns or other accessory structures will not be considered a multiple connection if (i) the structure is located on the same tract as the primary delivery point, and (ii) the structure is not used as a residence or commercial facility.

(2) "Primary delivery point" means the physical location of a meter that is installed in accordance with this Rate Order and applicable law, and which provides water service to one residence or to one commercial facility of a District customer.

(3) "Residence" means any structure used for human habitation that includes kitchen and bathroom facilities or other evidence of habitation as defined by the District.

(4) "Commercial" facility means any structure or combination of structures at which any business trade, occupation, profession or other commercial activity is conducted. A business conducted within a customer's residence or property that does not require water in addition to that provided to the customer's residence shall not be considered a separate commercial facility

(b) The District agrees to allow customers in good standing to share water usage with a visitor on their property housed in a recreation vehicle (RV) or travel trailer for a period of no longer than three months. However, if the recreational vehicle or travel trailer is being used as a permanent residence, the District will require the property owner to install an additional meter to serve the recreational vehicle or travel trailer. The District may require the installation of an additional meter for a customer who routinely has more than one visitor at a time residing in recreation vehicles or travel trailers, or has multiple visitors throughout the year. The customer must submit a written request to the District's business office at least five (5) business days prior to sharing District water with a visitor. The District has the right to refuse or deny the shared usage for any reason. The District also has the right to inspect the premises for any potential cross-contamination issues as outlined in the Customer Service Inspection requirements and to ensure that the meter is properly sized for the additional usage at the time of total peak water demand. *These requirements pertain to visitors only.* No commercial usage where fees for water are charged is allowed. If a customer is found to violate these conditions, the customer will be sent a letter of notice stating that water service will be cut off in ten (10) days if the situation is not corrected.

26. **Customer Responsibilities.**

(a) District Access to Meters. Customers shall allow District employees and designated representatives access to meters for the purpose of reading, testing, installing, disconnecting, maintaining and removing meters and using utility cutoff

valves. If access to a meter is hindered so that the District is prevented from the reading of the meter, an estimated bill shall be rendered to the customer for the month and a notice of the hindrance shall be sent to the customer. If access is denied for three (3) consecutive months after notice to the customer, then service shall be discontinued and the meter removed with no further notice.

(b) Compliance with On-Site Service and Plumbing Requirements. Customers shall be responsible for complying with all local, state and federal codes, requirements and regulations concerning on-site service and plumbing facilities.

(1) All connections shall be designed to ensure against back-flow or siphonage into the District's water system. In particular, livestock water troughs shall be plumbed above the top of the trough with an air space between the discharge and the water level in the trough. [30 TAC § 290.46].

(2) It is prohibited to use pipe and pipe fittings that contain more than 8.0% lead, or solder or flux that contains more than 0.2% lead, in private water distribution facilities installed on or after July 1, 1988 is prohibited for any plumbing installation or repair of any residential or non-residential facility providing water for human consumption and connected to the District's facilities. It is prohibited to use pipe and pipe fittings that contain more than 0.25% lead in private water distribution facilities installed on or after January 4, 2014. Customer service pipelines shall be installed by the applicant. [30 TAC § 290.46].

(3) All sewer and potable water service pipeline installations must be a minimum of nine feet (9') apart and meet all applicable regulations for line separation and crossing.

(4) Service shall be discontinued without further notice when the installation of new facilities or repair of existing facilities are found to be in violation of this subsection until such time as the violation is corrected.

(c) Backflow Prevention Assembly Requirements for Septic.

(1) Chapter 344 of the Texas Water Code, the Landscape Irrigation Program Regulations, applies to all irrigation systems. These regulations require the use of a Reduced Pressure Principle Backflow Prevention Assembly (RPZ) on irrigation systems that are installed on property which also has an On-Site Sewage Facility (OSSF). This is due to the significant increase in the contamination hazard posed by the OSSF.

(2) Prior to the adoption of the current Landscape Irrigation Rules in 2009, a double-check valve assembly (DCVA) was an acceptable form of backflow prevention for irrigation systems installed on property which also has an OSSF. After 2009, the new rules an RPZ is required. As a result, many currently installed irrigation systems lack the appropriate, required backflow prevention.

To remedy this the District will implement the following policy: If an irrigation system is connected to a potable water supply and requires major maintenance, alteration, repair, or service, the system just be connected to the potable water supply through an approved, properly installed backflow prevention method as defined in the title before any major maintenance, alteration, repair or service is performed.

(d) Payment on Multiple Accounts. A customer owning more than one service connection shall keep all payments current on all accounts. Failure to maintain current status on all accounts shall be enforceable as per Service Application and Agreement executed by the customer or the terms of this Rate Order.

(e) Extent of District Ownership and Maintenance. The District's ownership and maintenance responsibility of water supply and metering equipment shall end at the meter or other service equipment. Therefore, all water usage registering upon and/or damages occurring to the metering equipment owned and maintained by the District shall be subject to charges pursuant to this Rate Order.

(f) Cut-off Valve Requirement. The District shall require each customer to have a cut-off valve on the customer's side of the meter for purposes of isolating the customer's service pipeline and plumbing facilities from the District's water pressure. The valve shall meet AWWA standards (a ball valve is preferred). The customer's use of the District's curb stop or other similar valve for such purposes is prohibited. A customer shall be subject to charges for any damage to the District's meter or other service equipment. A cut-off valve may be installed as a part of the original meter installation by the District.

27. Prohibited Plumbing Practices

(a) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination will be isolated from the public water system by an air gap or an appropriate backflow prevention device.

(b) No cross-connection between the water supply and a private water system is permitted. These potential threats to the public drinking water supply must be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.

(c) No connection which allows water to be returned to the public drinking water supply is permitted.

(d) No pipe or pipe fitting which contains more the eight percent (8.0%) lead may be used for the installation or repair of plumbing at any connection which provides water for human use.

(e) No solder and flux which contains more than two-tenths of one percent (0.2%) lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

28. Water Service Connections.

(a) Applications for water service connections shall be filed with the District on approved forms. Applicants shall meet all District requirements for service, including the grant of any necessary easements (as determined by the District) and the installation of a cut-off valve at the expense of the service applicant.

(b) No person, other than District employees or designated representatives, shall be permitted to tap or make any connection with the mains or service lines of the District's water system, or make any repairs or additions to or alterations in any tap, pipe, cock or other fixture connected to a water service line.

(c) A customer must allow the District to inspect his or her property to be inspected for possible cross-connections and other undesirable plumbing practices. These inspections will be conducted by the District prior to initiating service and may be conducted periodically thereafter. All inspections will be conducted during the District's normal business hours.

(d) The customer must, at the customer's expense, properly install a backflow prevention device as required by the District. [30TAC § 290.38(17), (31)]

(e) All costs to extend or oversize District water mains or service lines to serve any residential or commercial user or any undeveloped area within the District shall be the sole responsibility of the property owner and/or developer requesting service.

29. Standards for Water Service Lines. The following standards govern the installation of customer service lines for water service to residences or commercial buildings within the District:

(a) All new residential or commercial connections to the District's water system shall be made in accordance with previous Section E.28 and the Rules and Regulations for Public Water Systems issued by the TCEQ as set forth in Subchapter D, Chapter 290, Title 31 of the Texas Administrative Code. In the event of a conflict between the provisions of Section E.28 and the TCEQ's Rules and Regulations for Public Water Systems, the more stringent shall apply.

(b) Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel or other approved materials.

(c) Water lines and sewer lines shall not be less than three feet (3') apart horizontally and shall be separated by undisturbed or compacted earth.

(d) Water lines or any underground water pipe shall not be run or laid in the

same trench with non-metallic sewer lines or drainage pipe unless all three of the following conditions are met:

- (1) The bottom of the water line at all points shall be at least twelve inches (12") above the top of the sewer line.
 - (2) The water line shall be placed on a solid shelf excavated at one side of the common trench and the two lines shall be separated by a minimum of eighteen inches (18").
 - (3) The water line shall be installed with water tight joints tested to a minimum of 150 PSI.
- (e) *Reserved for future use.*
- (f) Water lines shall be bedded in washed sand to provide six inches (6") of cushion below the line. The trench bottom and walls shall be cleared of all protruding rocks that may damage the pipe before the sand bedding is placed.
- (g) A District-owned water meter and a District-approved meter box shall be installed by the District or its designated representative.
- (h) Potable water supply piping, water discharge outlets, backflow prevention devices, or similar equipment shall not be located so as to make possible the submergence of such equipment in any contaminated or polluted substance.
- (i) Lawn sprinkling systems shall be equipped with an approved reduced pressure zone (RPZ) valve. The RPZ valve shall be installed at least twelve inches (12") above the surrounding ground and above a sufficient number of heads so at no time will the RPZ valve be subjected to back pressure or drainage.
- (j) The District's water system shall be protected from swimming pool makeup water by means of an approved backflow prevention device or an adequate air gap.
- (k) Upon the installation of a service line, a request for inspection shall be made to the District's office, and the line shall not be back-filled until the District has inspected and approved of the installation. The District shall per the inspection within forty-eight (48) hours of receiving the request.
- (l) Back filling of service line trenches must be accomplished within twenty-four (24) hours of inspection and approval, and no debris will be permitted in any service line trench.

30. **Authority to Tap or Repair District Facilities.** No person other than a duly authorized employee or agent of the District is authorized to tap or make any connection to a District owned water distribution line, except for emergency fire-fighting purposes, or to make any repairs or alterations to any meter, meter box, tap, pipe, cock or other fixture

connected to the District's water system. The District reserves the right, immediately and without notice, to:

- (a) remove the meter or disconnect water service to any customer whose meter has been tampered with; and
- (b) to repair any damage to the District's water facilities; and
- (c) to assess an equipment damage fee to the customer under Section G.12 of this Rate Order.

31. **Standard Details for Service Facilities.** All water service facilities shall be constructed in accordance with the District's duly adopted Water Standard Details, if any, a copy of which is available upon request.

32. **Service Outside District Boundaries.** It is the general policy of the District to provide service to users or customers located outside the District's service area only after annexation of the property designated to receive service with approval of the Board of Directors. At the discretion of the Board, the District may enter into contracts with other political subdivisions of this state to provide service to users or customers located outside the District's service area.

33. **Enforcement and Civil Penalties.**

(a) Enforcement.

(1) *Civil Penalties.* Any person violating any provision of this Rate Order may be subject to a civil penalty of not more than \$2,000.00 for each violation. Each day that a violation of this Rate Order is permitted to exist shall constitute a separate violation. A penalty under this section is in addition to any other penalty or remedy provided by the laws of the State of Texas or this Rate Order. A penalty under this section may be enforced by complaint filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located.

(2) *Liability for Costs.* Any person violating any provision of this Rate Order shall be liable to the District for any expense, loss or damage incurred by the District by reason of such violation and the District's enforcement thereof. If the District prevails in any legal action to impose a civil penalty or otherwise enforce this Rate Order, it may, in the same action, recover any reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court.

(b) No Waiver. The failure on the part of the District to enforce any article, section, clause, sentence, or provision of this Rate Order shall not constitute a waiver of the right of the District later to enforce any section, clause, sentence, or provision of this Rate Order.

SECTION F.
DEVELOPER, SUBDIVISION AND
NON-STANDARD SERVICE REQUIREMENTS

(Adopted by Ord. 2016-001, Jan. 20, 2016)

1. **Districts Limitations.** All applicants shall recognize that the District must comply with state and federal laws and regulations as promulgated from time-to-time, and with covenants of current indebtedness. The District is not required to extend retail utility service to any applicant requesting standard service to a lot or tract in a subdivision where the developer responsible for the subdivision has failed to comply with the requirements of the District's subdivision service extension policies and non-standard service requirements set forth in this section.

2. **Purpose.** It is the purpose of this section to define the process by which the specific terms and conditions for service to subdivisions and other types of non-standard service are determined, including the non-standard service applicant's and the District's respective costs. For purposes of this section, the term "applicant" shall refer to a developer or person that desires to secure non-standard service from the District. The applicant must be the same person or entity that is authorized to enter into a contract with the District setting forth the terms and conditions pursuant to which non-standard service will be furnished to the property. In most cases, the applicant will be the owner of the property for which non-standard service is sought. An applicant other than the property owner must furnish evidence to the District that the applicant has authority to request non-standard service either on behalf the owner or for the property itself.

3. **Application of Rules.** This section is applicable to subdivisions, additions to subdivisions, commercial, industrial and governmental developments, and any situation where greater than standard-sized service facilities are required to serve a single tract of property. Most non-residential service applications will be considered non-standard by the District, at its sole discretion. For purposes of this Rate Order, applications subject to this section shall be defined as "non-standard." This section may be altered or suspended for facility expansions constructed by the District at its expense. The District's General Manager shall interpret, on an individual basis, whether or not an applicant's service request shall be subject to all or part of the conditions of this section. For purposes of this section the term "project" includes subdivisions, additions to subdivisions, and commercial, industrial and governmental developments.

This section sets forth the general terms and conditions pursuant to which the District will process non-standard service requests. The specific terms and conditions pursuant to which the District will provide non-standard service in response to any request will depend upon the nature of such request and may be set forth in a contractual agreement to be entered between the District and applicant. The contract may not contain any terms or conditions that conflict with this section.

4. **Non-standard Service Application.** The applicant shall meet the following requirements prior to entering into a Non-standard Service Contract with the District:

(a) The applicant shall complete and submit three (3) copies of a Non-standard Service Application to the District, while giving special attention to that portion entitled "Special Service Needs of the Applicant."

(b) Simultaneous with submission of the Non-standard Service Application, the applicant must submit the following for District approval: (1) three copies of the proposed final plat showing the applicant's requested service area; (2) three copies of the proposed water plans for review by the District's consulting engineer; and, (3) a computer file of the final plat and water plans in Acrobat PDF format. The final plat must be approved by all governmental authorities exercising jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities except to the extent Section F.4 above is applicable. Plans, specifications, and special requirements of such governmental authorities shall be submitted with the plat. Applicants for single taps that require an extension or over-sizing of District facilities may be required to submit maps or plans detailing the location of the requested extension and details of demand requirements.

(c) The applicant shall pay a Service Investigation Fee (See Section G.2) to the District to reimburse any administrative, surveying, engineering and legal fees incurred by the District to process the Non-standard Service Application. If the initial fee amount is not sufficient to pay all expenses incurred by the District, the applicant shall pay to the District all remaining expenses that have been or will be incurred by the District, and the District shall have no obligation to complete processing of the request until all remaining expenses have been paid.

(d) If after completing its service investigation the District determines that the applicant's service request is for property located wholly or partially outside the District's certificated service area, the District may still extend service provided that:

(1) the requested service area is not in an area receiving similar service from another retail utility;

(2) the requested service area is not within another retail utility's certificated service area; and

(3) the District's CCN shall be amended at the PUC to include the entirety of the applicant's property for which service is requested and the applicant shall pay all costs incurred by the District in amending its CCN including surveying, engineering and legal fees. If the service location is contiguous to or within one-fourth ($\frac{1}{4}$) mile of the District's certificated service area, the District may extend service prior to completing the amendment to its CCN, but will do so only upon applicant's legally enforceable agreement to fully support such amendment including payment of all surveying, engineering and legal fees incurred by District in securing the amendment.

5. Facilities Design and Approval.

(a) Design Requirements. Upon receipt of a completed Non-standard Service Application and Service Investigation Fee, the District shall study the design requirements of the applicant's required facilities before preparing a Non-standard Service Contract in accordance with the following:

(1) The District's General Manager or consulting engineer, as appropriate, shall review and approve the plats and plans for all on-site and off-site service facilities for compliance with District specifications. The General Manager or consulting engineer will notify the applicant in writing of any required changes to the proposed plats or plans. Allow a minimum of thirty (30) days for the review process.

(2) The District's consulting engineer shall ensure all facilities for any applicant meet the demands for service as platted or requested in the plans or plat submitted by the applicant. The consulting engineer will also determine the fire-flow design for any non-standard service request including new subdivisions, based on density, type of structure and other factors. The District reserves the right to upgrade or oversize the planned service facilities to meet future customer demands on condition that the applicant is reimbursed the additional expense due to such upgrading or oversizing.

(3) The size and location of waterlines and other service facilities will be determined by the District's General Manager or consulting engineer, as appropriate, whose determination is final. In all new installations, the District's waterlines shall be installed on the opposite side of the road as franchise or other utilities except where that may not be possible as determined by the District. Where it is not possible to install waterlines and franchise utilities on the opposite side of the road, a minimum of ten feet of separation shall be maintained.

(4) All water line material fittings shall conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 and must be certified by an organization accredited by ANSI and not less than ASTM-D2241 Class 200.

(5) Any waterline extensions constructed by a developer shall be constructed completely across (property line to property line) the side of the subdivision or development which is contiguous and adjacent to the road or street on which the main entrance to the project is located.

(6) The water system shall be designed to afford effective circulation of water with a minimum of dead ends. All dead-end mains shall be provided with acceptable flush valves and discharge piping. All dead-end lines less than two inches (2") in diameter will not require flush valves if they end at a customer service connection. Where dead ends are necessary as a stage in the growth

of the system, they shall be located and arranged to ultimately connect the ends to provide circulation. [See 30 TAC § 290.44(d)(6)].

6. **Non-standard Service Contract.** Applicants requesting or requiring non-standard service shall be required to execute a written Non-standard Service Contract prepared by the District's attorney. Said contract shall define the terms of service prior to construction of required service facilities for a project. The Non-standard Service Contract may include, without limitation, provisions for the following:

(a) payment of all costs associated with required administration, design, construction and inspection of facilities for water service to the project;

(b) procedures by which the applicant shall accept or deny a contractor's bid, thereby committing to continue or discontinue the project;

(c) reservation of service capacity for the applicant and duration of reserved service with respect to the impact the applicant's service demand will have upon the District's water system capability to meet other service requests;

(d) terms by which the applicant shall indemnify the District from all third party claims or lawsuits arising from or related to the project;

(e) terms by which the applicant shall convey or dedicate all constructed service facilities to the District, and by which the District shall assume operation and maintenance responsibility, including any enforcement of warranties related to construction of the service facilities;

(f) terms by which the applicant shall grant title or easements to the District for rights-of-way, constructed service facilities, and service facility sites, or terms by which the applicant shall provide for the securing of required rights-of-way and sites;

(g) terms by which the Board of Directors shall review and approve any applicable Non-standard Service Contract or any other contract related to the project pursuant to current rules, regulations and policies of the District; and

(h) terms by which the District may administer the applicant's project with respect to: (i) the design of the applicant's water service facilities; (ii) dispensing advanced funds for construction of facilities required for the applicant's service; (iii) inspecting construction of facilities; and, (iv) testing facilities and closing the project.

The District and applicant must execute a Non-standard Service Contract before applicant commences construction of the service facilities for a project. In the event that an applicant commences construction of any water service facilities prior to execution of the contract, the District may refuse to provide service to the applicant (or require full costs of replacing/repairing any facilities constructed without prior execution of the contract from any person buying a lot or home from applicant), require that all facilities be uncovered by the applicant for inspection by the District, require that any service facilities not approved

by the District be replaced, or take any other lawful action determined appropriate by the Board of Directors.

7. **Property and Right-of-Way Acquisition.** With regard to construction of service facilities, the District shall require private right-of-way easements or private property as per the following conditions:

(a) If the District determines that right-of-way easements or facility sites outside the applicant's property are required, the applicant shall secure easements or title to the right-of-way or facility sites in behalf of the District. All right-of-way easements and property titles shall be researched, validated, and recorded by the District at the expense of the applicant.

(b) All costs associated with service facilities that must be installed in public right-of-ways on behalf of the applicant, due to the inability of the applicant to secure private right-of-way easements, shall be paid by the applicant. Alternatively, applicant shall pay all costs, including legal and other professional fees, and the condemnation award in the event District secures such private easements or facility sites through eminent domain proceedings. Any request of applicant to the District to commence eminent domain proceedings shall be made in writing. The District reserves the right to secure right-of-way easements or facility sites by eminent domain on its own initiative.

(c) The District shall require an exclusive dedicated right-of-way on the applicant's property (as required by the size of the planned facilities and as determined by the District) and title to property required for other on-site facilities.

(d) Easements and facility sites shall be prepared for construction of the District's mains, service lines and service facilities in accordance with the District's requirements and at the expense of the applicant.

8. **Contractor Selection.** Applicants shall select a qualified contractor to construct water and wastewater facilities required by the District to serve a project. The District reserves the right to reject any contractor selected by the applicant. Alternatively, the District may agree to construct the service facilities provided the applicant pays all estimated constructions costs prior to the commencement of construction.

9. **Construction.**

(a) All road work shall be completed in accordance with applicable state, county or municipal standards prior to construction of project water service facilities to avoid future problems resulting from road right-of-way excavation and completion. Subject to approval of the requisite authority, road sleeves may be installed prior to road construction to avoid road damage during construction of applicant's service facilities.

(b) The District shall, at the expense of the applicant, inspect the service facilities to ensure compliance with District standards.

(c) Construction plans and specifications shall be strictly adhered to, but the District reserves the right to revise any specifications by change-order due to unforeseen circumstances during the design phase or to better facilitate construction and/or operation of the project service facilities. All change-order amounts shall be charged to the applicant.

(d) After completing construction of the water service facilities, the applicant shall deliver to the District three (3) copies of as-built drawings plus one copy in Acrobat PDF electronic format. The as-built drawings shall verify that all facilities have been properly located within the easements or rights-of-way conveyed or dedicated to the District. The District's receipt of the as-built drawings shall be a condition of acceptance of the service facilities.

10. **Dedication of Service Facilities.** Upon proper completion of construction of an applicant's on-site and off-site service facilities, final inspection and approval thereof by the District, and applicant's payment to the District of all required fees and charges in connection therewith, the applicant shall convey and dedicate the service facilities to the District by an appropriate legal instrument prepared by the District's attorney, and the District shall accept the dedication. The District shall thereafter own the water service facilities subject to applicant's maintenance bond in an amount of not less than twenty percent (20%) of the total construction cost of the service facilities and for a term of not less than two (2) years. The maintenance bond is subject to prior approval by the District's attorney.

11. **Service Within Subdivisions.** The District's objective to provide service to any customer located within a subdivision governed by this section is strictly limited to the non-standard service specified by an applicant. The applicant is responsible for paying for all costs necessary to provide non-standard service to a subdivision as determined by the District under the provisions of this Rate Order, and in particular, the provisions of this section. Should the applicant fail to pay these costs, the District has the right to require payment of these costs by any one or more of the persons purchasing lots within such subdivision before the District is obligated to provide water service to the subdivision. In addition, the District may elect to pursue any remedies provided by the Non-standard Service Contract and the laws of Texas.

SECTION G.
RATES AND SERVICE FEES

(Adopted by Ord. 2016-001, Jan. 20, 2016)

1. **Classes of Users.** All users of the District's water services shall be grouped into the following classes:

(a) Residential users or customers. Persons located within the District's service area who receive District service to a single-family residential unit for domestic purposes only.

(b) Commercial users or customers. Persons located within the District's service area who receive District service to a commercial, industrial or other nonresidential establishment, or who receive District service for commercial, industrial, recreational or other non-domestic purposes. An apartment building or mobile home park may be considered by the District to be a single commercial facility.

(c) Outside users or customers. Persons located outside the District's service area who receive District service.

All classes of users may be grouped into sub-classes according to the size of the meter installed at the property receiving service. Water charges will be assessed in such a manner that each class of users generally pays its share of debt service and operation and maintenance expenses for water service. Outside customers may be assessed additional charges for service to reflect the additional costs associated with serving outside customers or the risk that such customers may have other options for receiving service and may elect to discontinue being District customers. The District may create additional classes of users in the future at its discretion.

2. **Service Investigation Fee.** The District shall conduct a service investigation for each service application submitted to the District. An initial determination shall be made by the District, without charge, as to whether the request is for standard or non-standard service. An investigation shall then be conducted by the District and the results reported under the following terms:

(a) Standard Service Requests. All standard service requests shall be investigated without charge and all applicable costs for providing service shall be quoted in writing to the applicant within ten (10) working days of application.

(b) Non-standard Service Requests. All non-standard service requests shall be subject to a Service Investigation Fee in an amount determined by the General Manager to be appropriate to the project and of sufficient amount to cover all administrative, surveying, legal and engineering costs associated with an investigation of the District's ability to provide service to the applicant's project including review and approval of plats and plans, and preparation of the Non-standard Service Contract

between the District and applicant. The Non-standard Service Contract shall be presented to the applicant within a reasonable amount of time as determined by the complexity of the project. .

3. **Deposits.**

(a) Initial Payment and Amount. At the time an application for service is approved, the applicant shall pay a Deposit to be held by the District, without interest, until settlement of the customer's final bill. The deposit will be used to offset delinquent charges or unpaid bills.

(1) The Deposit for residential users is \$200.00 for each service unit.

(2) The Deposit for commercial users and for non-standard service customers, including Master Metered Accounts, shall be an amount equal to one-sixth of the estimated annual billings as determined by the General Manager of the District.

(b) Commercial and Non-standard Service Customers. If actual monthly billings of a commercial user or non-standard service customer are more than twice the amount of the estimated billings at the time service was established, the District may require payment of an additional deposit within fifteen (15) days after the issuance of written notice.

(c) Reestablishment of Deposit. Every service applicant who has previously been a customer of the District and whose service has been discontinued for nonpayment of bills, meter tampering, bypassing of meter or failure to comply with applicable state regulations or regulations of the District shall be required, before service is resumed, to pay all amounts due the District or execute a deferred payment agreement, if offered, and shall be required to pay a deposit if the District does not currently have a deposit from the customer.

(d) Refund of Deposit. If service is not connected, or after disconnection of service, the District shall refund the service applicant's or customer's deposit in excess of the unpaid bills for service furnished. In the event that a surplus of \$5.00 or more exists after the final bill is paid, the balance of the Deposit will be paid to the customer within forty-five (45) days provided the customer has given the District written notice of a forwarding address. All requests for Deposit refunds shall be made in writing and must be delivered to the District within ninety (90) days of termination of service. In the event that an outstanding balance exists after the Deposit is applied, the District shall attempt to collect the outstanding balance by all lawful means available.

(e) Failure to Provide Forwarding Address for Refund. If the District is not provided with a valid forwarding address in writing to send the balance of a deposit, or if after mailing the balance to the address provided it is returned by the postal service, then the District will hold the deposit balance for **one year**. After the one-year

holding period expires, the District will turn the money over to the Texas Comptroller's office. The customer may still claim the deposit balance from the Texas Comptroller.

4. **Connection Fee.** In addition to a Deposit and any other applicable fees, the District shall charge a Connection Fee to establish service as follows:

(a) Standard Service. Standard service is furnished through 3/4" meters. The Connection Fee for standard service, whether residential or commercial, is \$4,000.00 and includes all labor and materials to install and inspect a tap, service line, meter vault, riser, meter, and other necessary appurtenances. The Connection Fee is charged on a per connection basis and must be paid in advance.

(b) Non-standard Service. The Connection Fee for non-standard service is \$4,000.00 plus the additional cost of the larger meter, if any, and includes all labor and materials to install and inspect a tap, service line, meter vault, riser, meter, and other necessary appurtenances. The Connection Fee is charged on a per connection basis and must be paid in advance.

(c) Extraordinary Expenses.

(1) *Generally.* Extraordinary expenses such as road bores, street crossings, system improvements and pipeline relocations under Section E.2(b)(6) may be added to the Connection Fee and shall be paid by the applicant.

(2) *Street Crossings.* The fee for crossing under a street with a service line is the actual cost of the work and materials, plus a fifteen percent (15%) administrative and overhead fee.

5. **Activation Fee.** When service is requested by a new customer to an existing meter located on property previously served by the District, the District will charge an Activation Fee of \$25.00 prior to restoring service. In addition to the Activation Fee, the applicant shall pay a Deposit and any other applicable fees required under this Rate Order. [See Section E.3(b)].

6. **Monthly Charges.** See **Appendix A** to this Rate Order.

7. **Late Payment Fee.** Except for bills to political subdivisions and state agencies, a one time penalty of \$10.00 or 5.0% of the amount billed, which ever is larger, shall be applied to delinquent bills. This late payment penalty shall not be applied to any balance to which the penalty was applied in a previous billing, but shall be applied to any unpaid balance during the current billing period. Political subdivisions and state agencies will be assessed a late penalty of 1% on any amount unpaid on the 46th day after a bill or statement for service furnished is received by the state agency or political subdivision and an additional 1% shall be assessed for each month thereafter that the bill remains unpaid. [See Gov't Code Chapter 2251].

8. **Increased Risk Deposit.** A customer whose service has been discontinued more than twice in a 12-month period for nonpayment of bills must re-establish the customer's deposit plus an additional \$25.00 to cover increased risk.

9. **Returned Check Fee.** In the event a check, draft, or any other similar instrument is given by any person for payment of services provided for in this Rate Order, and the instrument is returned by the bank or other similar institution as insufficient or non-negotiable for any reason, the account for which the instrument was issued shall be assessed a return check charge of \$35.00.

10. **Reconnect Fee.** The District shall charge a Reconnect Fee of \$50.00 during regular business hours or \$75.00 after regular business hours for restoration of service after disconnection for any reason stated in this Rate Order or to restore service after disconnection at a customer's request, except for re-service under Section E.3(b) of this Rate Order.

11. **Service Trip Fee.** The District shall charge a Service Trip Fee of \$35.00 for any service call or trip to a customer's property at the customer's request and \$50 for any service call or trip to a customer's property for the purpose of disconnecting service or collecting payment for service. However, the District shall investigate reports of damage to District and customer facilities or equipment without charge.

12. **Equipment Damage Fee.** The District shall charge for all labor, material, equipment, and all other actual costs necessary to repair or replace all equipment damaged due to negligence, meter tampering, by-passing or reconnecting service without authority, or by any other service diversion. The District may charge for all actual cost necessary to correct service diversions or unauthorized taps where there is no equipment damage, including incidents where service is reconnected without authority. An itemized bill for the damages will be provided to the customer. In cases of meter tampering or service diversion, the District may disconnect the service of a customer refusing to pay damage charges. [See 16 TAC § 24.87(n)]

13. **Customer History Report Fee.** A fee of \$10.00 shall be charged to provide a copy of the customer's record of past water purchases in response to a customer's request for such a record.

14. **Meter Test Fee.** The District shall test a customer's meter upon written request of the customer and a Meter Test Fee of the actual cost to retest, plus 15% shall be imposed on the affected account.

15. **Meter Relocation Fee.** The fee for moving a meter from one location to another under the terms of Section E.24 shall be the actual costs incurred by the District plus administrative charges, or a minimum fee of \$150.00. Upon removal of the existing meter, the District shall remove the existing service tap.

16. *[Reserved for Future Use]*

17. **Hydrant Meter Service.** Prior to providing hydrant meter service, the District shall receive a deposit in the amount of \$100.00 which is refundable upon return of the hydrant meter and payment for all water used. Hydrant meter service customers shall pay the bulk rate for water used as stated above in Appendix A.

18. **Information Disclosure Fee.** All public information, except that which has been individually requested as confidential, shall be available to the public for a fee to be determined by the District based on the level of service and costs to provide such information, but not to be inconsistent with the terms of the Texas Publication Information Act, Chapter 552, Texas Government Code (f/k/a Texas Open Records Act).

19. **Customer Service Inspection Fee.** After the initial customer service inspection, a fee of \$50.00 will be assessed to an applicant for each additional inspection required, if any.

20. **Additional Assessments.** In the event any federal, state or local government imposes on the District a "per meter" fee or an assessment based on a percent of water charges, this fee or assessment will be billed and collected as a "pass through" charge to the customer.

21. **Other Fees.** All services outside the normal scope of utility operations that the District may be compelled to provide at the request of a customer shall be charged to the recipient based on the cost of providing such service.

22. **Fees Non-refundable.** All fees, rates and charges contained in this Rate Order are non-refundable unless expressly stated otherwise.

23. **Re-service Fee.** The District will charge a Re-service Fee of \$800.00 to a service applicant prior to restoring service under Section E.3(b) of this Rate Order.

24. **Free Service Prohibited.** The District shall not furnish free service to any person except for fire-fighting purposes.

25. **Credit Card Convenience Fee.** The District will assess a convenience fee equal to \$5.00 of the total amount of any payment to the District involving use of a credit card or debit card. The convenience fee is a separate charge and is non-refundable in the event of a refund to the cardholder.

26. **Credit Card Service Charge.** The District will assess a service charge of \$35.00 if a payment for services provided for in this Rate Order by credit card is not honored by the credit card company on which the funds are drawn.

Appendix A

MONTHLY SERVICE CHARGES

(Ord. 2016-001, adopted Jan. 20, 2016)

1. **Base Rate.** The Base Rate is that portion of a customer's monthly bill which is paid for the opportunity of receiving utility service, excluding standby fees and reserved service charges, which does not vary due to changes in service consumption. The standard 3/4" meter (as per American Water Works Association maximum continuous flow specifications) is used as a base multiplier for the Base Rate amount. The District's monthly Base Rates for water service and meter size equivalents are as follows:

<u>Meter Size</u>	<u>Meter Equivalents</u>	<u>Monthly Base Rate</u>
3/4" - 1.0"	1.0	\$55.00

2. **Gallonage Charge.** In addition to the Base Rate, residential and commercial customers of the District will be assessed a Gallonage Charge at the following rates for water usage during a monthly billing period:

0 to 20,000 gallons.	\$2.20 per thousand
20,001 to 60,000 gallons.	\$3.30 per thousand
60,001 to 80,000 gallons.	\$7.70 per thousand
>80,000 gallons.	\$11.83 per thousand

3. **Regulatory Assessment.** In accordance with TCEQ regulations, the District shall collect from each customer a regulatory assessment equal to 0.5% of the monthly charges collected by the District for water utility service. [See 30 TAC § 291.76(d)(3)].

4. **Well-head Fee.** The District's groundwater wells are located in Cooke County within the jurisdiction of the North Texas Groundwater Conservation District ("North Texas GCD"). North Texas GCD levies a Well-head Fee of not greater than \$0.30 per 1,000 gallons of water produced from District wells. The District will pass-through the Well-head Fee to its customers on a monthly basis.

5. **Bulk Rate.** Hydrant meter service customers shall pay a Bulk Rate of \$5.00 per thousand gallons of water used with a \$25.00 minimum. [See Section G.17]

6. **Lake Re-fill Rate.** The Lake Kiowa Property Owners Association shall pay a Lake Re-fill Rate of \$1.27 per thousand gallons of water pumped by the District into Lake Kiowa.