SECTION F.

DEVELOPER, SUBDIVISION AND NON-STANDARD SERVICE REQUIREMENTS

1. **District's 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. [See Section F.3; Appendix C, Form C-07].

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 kinds 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 on behalf the owner, or that it otherwise has authority to request non-standard service for the property.

3. **Application of Rules.** This section is applicable to subdivisions, additions to subdivisions, commercial, industrial and governmental developments, and any situation where additional service facilities are required to serve a single tract of property. Examples of non-standard service to a single tract of land include, without limitation, service requests that require road bores, extensions to the District's distribution system, service lines exceeding one inch (1") internal diameter in size, service lines exceeding twenty feet (20') in length, or which require a meter larger than 5/8" x 3/4" for service. 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 a Non-Standard Service Application to the District, while giving special attention to that portion entitled "Special Service Needs of the Applicant." [Appendix B, Form B-01].

(b) Simultaneous with submission of the Non-Standard Service Application, the applicant must submit three (3) copies of the proposed final plat showing the applicant's requested service area for approval by the District. 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. Plans, specifications, and special requirements of such governmental authorities shall be submitted with the plat. Applicants for single taps that require an extension or oversizing of District facilities shall 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 to the District in accordance with the requirements of Section G for purposes of paying the District's administrative, legal and engineering fees. In the event such a fee 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.

(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 Certificate of Convenience and Necessity shall be amended 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 but not limited to engineering and professional fees. If the service location is contiguous to or within one-fourth (¼) 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 but not limited to payment of all professional fees, including legal, surveying and engineering fees incurred by District in securing the amendment).

5. **Facilities Design and Approval.** Upon receipt of the 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:

(a) The District's consulting engineer shall design, or review and approve plans for all on-site and off-site service facilities for the applicant's requested service in accordance with the District's specifications and any applicable municipal or other governmental codes and specifications.

(b) The consulting engineer fees shall be paid out of the Service Investigation Fee under subsection 4(c) above.

(c) The consulting engineer shall submit to the District a set of detailed plans and specifications, and cost estimates for the project.

(d) The consulting engineer shall ensure all facilities for any applicant meet the demands for service as platted and/or requested in the plans or plat submitted by the applicant. The District reserves the right to upgrade and/or oversize the planned service facilities to meet future customer demands on condition that the applicant shall be reimbursed the additional expense of such upgrading and/or oversizing in excess of the applicant's facility requirements.

(e) Water line size and location will be determined by the District's engineer, whose determination is final.

(f) 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.

(g) Any water line 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.

(h) 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. **Payment of Fees Required.** An applicant for non-standard service shall pay the fees required by the Non-Standard Service Contract executed by the District and the Applicant.

7. **High Density Developments**. The District reserves the right to declare a subdivision or development a "High Density Development." The District may determine that a project is a High Density Development based on lot sizes, the total number of lots or living units in the project, or both. The determination of whether a project is a High Density Development is within the sole discretion of the District. In the event the District declares that a project is a High Density Development, then the following regulations will apply:

(a) Off-Site Construction Costs.

(1) "Off-Site Construction Costs" are the costs to construct an adequate pipeline to serve a project of at least eight inch (8") I.D. in size from a point to be determined by the District to and across the frontage of the project. An applicant for service to a High Density Development project shall pay the Off-Site Construction Costs pursuant to a Non-Standard Service Agreement and/or Three-Way Contract by and between the applicant and District.

(2) In the event that all or a portion of any unallocated capacity in an existing pipeline previously constructed to serve a High Density Development or subdivision is utilized to transmit water to a subsequent project, then the applicant shall pay to the District the unrecouped construction costs of the line. Payment shall be made upon execution of a Non-Standard Service Agreement. The construction costs of a new pipeline, if any, will be paid in the manner stated in the previous paragraph.

(3) In the event that water is transmitted to the project through a pipeline on which all construction costs have been recouped, then no Off-Site Construction Costs relating to the pipeline will be charged.

(b) Reserved Service Fee. In order for a applicant to continue to reserve capacity within a water pipeline that was built pursuant to this subsection, the Reserve Service Fee established by the Section G of this Rate Order must be paid by the applicant. The applicant must pay the Reserve Fee each month for each lot in the project until the District is paid a deposit from the purchaser of a lot within the project. In the event that the Reserve Service Fee is not timely paid, then the District will not be obligated to continue to reserve capacity for the project.

(c) Conflict. If any other provision in this Rate Order conflicts with a provision of this subsection, then the provisions of this subsection will control. The determination of a conflict will be in the sole discretion of the District.

8. **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.

9. **Property and Right-of-Way Acquisition.** With regard to construction of 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 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 facilities sites shall be prepared for the construction of the District's pipeline and facility installations in accordance with the District's requirements and at the expense of the applicant.

10. **Contractor Selection & Qualification.** Applicants shall choose one of the following methods for selection of a contractor to construct line extensions and/or water distribution facilities required by the District to serve a development or project:

(a) the applicant may select a qualified contractor from the District's list of approved contractors; or

(b) the applicant may select a qualified contractor subject to the District's review and approval. The applicant shall provide references to the District for its review. The District reserves the right to reject any contractor selected by the applicant.

11. **Construction.**

(a) All road work shall be completed in accordance with applicable state, county and/or municipal standards prior to construction of project 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.

12. **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 dedicate the service facilities to the District by an appropriate legal instrument approved by the District's attorney, and the District shall accept the dedication. The District shall thereafter own the 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.

13. **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.

14. **Service to a Campus Development.** It is the District's policy that service to a development that has multiple facilities on a single site such as an educational, religious, or corporate campus will be through one or more large meters located on the outer perimeter of the campus development, the specifications of which must be approved in writing by the District's engineer. All internal water distribution lines, fire hydrants and other water supply facilities on the

customer's side of the large meter(s) will be owned, operated and maintained by the owner or owner(s) of the facilities served through such perimeter meter(s).

15. **Pro-Rata Reimbursement.** The District may from time to time negotiate and enter into a pro-rata reimbursement agreement with a project applicant in accordance with the following provisions]:

(a) the District's consulting engineer shall review each non-standard service application and advise the District as to whether a pro-rata reimbursement agreement is appropriate under the circumstances of each project;

(b) the project applicant (or "constructing applicant") must construct off-site service facilities to the District's water system;

(c) the constructing applicant must comply with a District requirement to oversize the off-site service facilities to service future growth not generated by the constructing applicant's project;

(d) developers of subdivision projects that connect to the off-site service facilities ("connecting applicants") will pay a pro-rate reimbursement fee to the District according to the amount of excess capacity utilized;

(e) the District will not collect pro-rate reimbursement fees from an applicant who requests standard residential service to a single tract or parcel of land;

(f) the District shall assess a five percent (5%) administrative fee for the administration of pro-rata fees collected by the District from subsequent connecting applicants, which shall be deducted from pro-rata reimbursements before remittance to the constructing applicant; and

(g) the pro-rata reimbursement agreement shall contain the following items:

(1) the term of the agreement shall not exceed five (5) years;

(2) reimbursement shall not be for more than eighty percent (80%) of the actual cost of the off-site improvement constructed; and

(3) the amount due to the constructing applicant from a future connecting applicant shall be based on the following formula:

$$\frac{\text{Acres in connecting applicant's project}}{\text{Total potential acres served by off-site facilities of constructing applicant. } \textit{(less)} \text{ Total acres in constructing applicant's project.}} \textbf{(x)} \text{ Actual cost of off-site facilities } \textbf{(=)} \text{ Pro-Rata Fee}$$

EXAMPLE:

$$\frac{100\textbf{(a)}}{500\textbf{(b)} \ (-) \ 100\textbf{(c)}} \quad (x) \quad \$50{,}000.00\textbf{(d)} \quad (=) \quad \$12{,}500.00\textbf{(e)}$$

Where:

(a) = Acres in connecting applicant's project.

(b) = Total potential acres served by the off-site facilities constructed by the constructing applicant as determined by the District's consulting engineer.

(c) = Total acres in the constructing applicant's project.

(d) = Actual cost of the off-site facilities.

(e) = Pro-rata fee to be collected from any water service applicant that connects or desires to connect to the off-site facilities.