

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

1. District 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 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 two inches (2") 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 nonresidential 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. Unless specifically approved by the District's Board of Directors, a non-standard service contract may not contain any terms or conditions that conflict with this Rate Order.

4. Non-Standard Service Application Process.

(A) Project Packet. The Applicant contacts the District to receive planning requirements for water and/or wastewater service and general information about the District's service capability. The Applicant will receive a copy of the District's Rate Order, non-standard service application form and a form contract for non-standard service [see Appendix B, Form B-04].

(B) Application Submission and Fees. The Applicant submits three (3) copies of its nonstandard Service Application with all supporting documentation and data (plats, engineering studies etc.) to the District office for initial review. At this time, the Applicant shall pay to the District the District's non-refundable Service Investigation Fee of \$3,000.00 for a project with up to 250 meter or meter equivalents, plus \$10.00 for each additional meter or meter equivalent to complete build-out of the project. [NOTE: the District will transmit plat/plans to the District engineer for review.] In addition, a nonrefundable fee of \$1,500 shall be paid with each re-submittal of plans to correct deficiencies as identified by the District staff or engineers. All plans and re-submittals shall only be delivered to the District offices where the Applicant will receive a receipt for such plans or re-submittals. Under no circumstance shall the Applicant deliver plans directly to the District engineer. The District reserves the right to increase the review payment for non-typical applications requiring excessive administrative, engineer or legal review.

(C) Staff Review. The District staff and the District engineers will review the nonstandard service application together with plans, schedules, data or other materials filed with the District supporting the application and provide feedback to the Applicant regarding service capability, development fees within Rate Order, and any necessary changes in plans. The Applicant should expect at least 30 days for this process.

(D) Development Review Committee ("DRC"). The District's DRC may meet with the Applicant to determine whether planned water and wastewater improvements satisfy the requirements of the District's Rate Order. DRC will normally consist of the District's general manager, contracts administrator, operations manager, and engineer. The District reserves the right to include individual District directors and legal counsel in review of projects that vary from the normal non-standard requirements of the District's Rate Order. Such meetings may be subject to requirements of the Texas Open Meetings Act. If any project is outside of the current service area as defined by the District's CCN maps and/or if the planned project does not conform with the District's requirements, the Applicant will be given a list of requirements to be met prior to the District's moving forward with the application, as well as additional fees, if any, that may be charged by the District in connection with the application. The District will take no further action until all conditions and requirements are met. Under no circumstances will the District consider executing a contract to provide service outside its CCN until the Applicant has agreed to reimburse the District for all costs incurred by obtaining the CCN to service the area requested by the Applicant.

(E) Non Standard Contract or ("NSC"). Following the completion of staff review and approval and/or any DRC meetings together with the DRC's recommendation, the District's Board of Directors will review and vote on approval of the NSC during a public meeting of the District Board of Directors. Construction of water and /or wastewater improvements shall not commence until the District's Board of Directors approve the Applicant's NSC and all fees required to be paid pursuant to the NSC are paid to the District. The balance of all applicable fees shall be paid upon the District's inspection and approval of construction and prior to the District's acceptance of the improvements constructed by the Applicant and the installation of any water meters within the project.

(F) District Water Use Prohibition. Under no circumstances shall the District provide any water to the project for construction, testing, or other purposes until the District's Board of Directors have approved a NSC for the project, and the Applicant has paid all fees then due and payable pursuant to this Rate Order and the NSC.

5. Facilities Design.

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:

(A) The District's consulting engineer may design, or review and approve, plats and 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. The consulting engineer shall notify the applicant in writing of any necessary changes to applicant's proposed plats and/or plans. Allow a minimum of thirty (30) days for the review process.

(B) The Applicant's consulting engineer shall ensure that all facilities to be constructed by the Applicant meet the demands for service as requested 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 over sizing in excess of the Applicant's facility requirements by payment by the District of the actual construction cost of the upgrade, the allowance of credits against connection fees payable by the Applicant equal to the actual construction cost of the upgrade or providing for prorated payments to the Applicant by future Applicants who utilize such upgrades. The method of reimbursement is in the sole discretion of the District.

(C) Water and wastewater line size and location will be determined by the District, whose determination is final.

(D) 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.

(E) Any water line extensions constructed by an Applicant 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.

(F) 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. The District may permit dead ends when necessary as a stage in the growth of the water system, but they shall be located and arranged to ultimately connect the ends to provide circulation. [see 30 TAC § 290.44(d)(6)].

6. Prepayment of Certain Fees Required.

An applicant for non-standard service shall pre-pay certain fees in accordance with the following:

(A) On or before the date that a Non-Standard Service Contract is executed for the construction of service facilities required to provide service to the Applicant's project or a phase thereof, the Applicant shall deposit with the District a sum of money equal to the following: one-half ($\frac{1}{2}$) of the Connection Fee, required by Section G of this Rate Order, multiplied by the total number of meters or meter equivalents to be developed or located in the project or phase, as applicable. Payment of the foregoing sum is a mandatory prerequisite to the commencement of construction of the water and/or wastewater infrastructure of the project.

(B) Before the Applicant's project or a phase thereof is approved and accepted by the District, the applicant shall pay to the District the remaining fees due the District which have not been paid by the Applicant, including without limitation the remaining balance of the Connection Fees due under the previous subsection (a). This requirement is a mandatory prerequisite to the initiation of water and/or wastewater service to the project pursuant to a Non-Standard Service Contract.

(C) Subsequent purchasers of individual lots shall pay a meter installation fee and a deposit upon applying to the District for activation of service to individual lots, as required by Section G.3 of this Rate Order.

7. 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. [see Appendix B, Form B-04]. The District shall prepare and deliver the Non-Standard Service Contract to the Applicant within a reasonable time period as determined by the complexity of the project. The Non-Standard Service Contract shall define the terms of service prior to construction of required service facilities for the project and 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 and/or wastewater 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) amount and payment of capital contributions required by the District in addition to other costs required under this section;

(D) 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 system capability to meet other service requests;

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

(F) terms by which the applicant shall 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;

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

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

(I) terms by which the District shall administer the applicant's project with respect to:

- (1) the design of the applicant's service facilities;
- (2) securing and qualifying bids;
- (3) execution of the contract;
- (4) selection of a qualified bidder for construction;
- (5) dispensing advanced funds for construction of facilities required for the applicant's service;
- (6) inspecting construction of facilities; and
- (7) testing facilities and closing the project.

The District and Applicant must execute a Non-Standard Service Contract before construction of service facilities for the project is commenced. In the event that the Applicant commences construction of any such 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 facilities not approved by the District be replaced, or take any other lawful action determined appropriate by the Board of Directors.

8. Property and Easement Acquisition.

With regard to construction of facilities, the District shall require private utility easements on private property as per the following conditions:

(A) If the District determines that easements or facility sites outside the Applicant's property are required, the Applicant shall use all due diligence to secure easements or facility sites in behalf of the District. All 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 utility easements, shall be paid by the Applicant. The District reserves the right to secure utility easements or facility sites by eminent domain on its own initiative. The Applicant shall pay all costs, including legal and other professional fees, and the condemnation award in the event the District determines that a public necessity exists to secure private utility easements or facility sites in order to provide service to the Applicant's project through eminent domain proceedings.

(C) The District shall require an exclusive dedicated utility easement 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.

9. Contractor Selection and Qualification.

(A) Selection. Applicants shall choose one of the following methods for selection of a contractor to construct water or wastewater facilities required by the District to serve a project:

(1) The applicant may select a qualified contractor. The District reserves the right to reject any contractor selected by the applicant in accordance with the criteria set forth in the following subsection 11(b); or

(2) The District's consulting engineer shall advertise for bids for the construction of the applicant's proposed facilities in accordance with generally accepted practices. The applicant shall provide the District with a sufficient number of plans and specifications, without charge, for prospective bidders. The District reserves the right to reject any bid or contractor, the District shall generally award the contract to the lowest and best bidder in accordance with the criteria set forth in the following subsection 11(b). After the applicant has executed the Non-Standard Service Contract, the applicant shall pay to the District all costs necessary for completion of the project's service facilities prior to construction and in accordance with the terms of the Non-Standard Service Contract.

(B) Qualification Criteria.

(1) the Applicant shall sign the Non-Standard Service Contract noting applicant's willingness to proceed with the project and shall pay all costs in advance of construction associated with the project.

(2) the contractor shall provide an adequate bid bond under terms acceptable to the District;

(3) the contractor shall secure adequate performance and payment bonding for the project under terms acceptable to the District;

- (4) the contractor shall supply favorable references acceptable to the District;
- (5) the contractor shall qualify with the District as competent to complete the work; and
- (6) the contractor shall provide adequate certificates of insurance as required by the District.

10. 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. If the District determines that water or wastewater facilities are not being constructed in accordance with the plans and specifications approved by the District or the District's standards, then the District reserves the right to stop construction until the defective work has been corrected or replaced.

(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.

11. Dedication and Acceptance of Service Facilities.

Upon proper completion and testing 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.

12. Service Within Subdivisions.

The District's obligation to provide service to any customer located within a project governed by this Section F is limited to the service specified in the NSC. The Applicant is responsible for paying for all costs necessary to provide non-standard service to a project as determined by the District under the provisions of this Rate Order, and in particular, the provisions of this section and the NSC. 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 or wastewater 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.

13. Pro-Rata Reimbursement.

The District may from time to time negotiate and enter into a pro-rata reimbursement agreement with a project applicant on condition that the following factors must be present:

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

(B) 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;

(C) 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

(D) the pro-rata reimbursement agreement will contain the following items:

(1) the term of the agreement shall not exceed ten (10) years;

(2) reimbursement may 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 one of the following formulas:

(a) Acres in connecting applicant's project

_____ (x) Actual cost of off-site facilities (=) Pro-Rata Fee

Total potential acres served by off-site facilities of constructing applicant.

(less)

Total acres in constructing applicant's project.

EXAMPLE:

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

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.

(b) The construction cost (including professional fees and other direct soft costs) of the off-site pipeline extension divided by the number of meter or meter equivalents in the

project that constructed the pipeline extension. The resulting quotient is the cost per meter. The cost per meter is multiplied by the quotient of the distance from the beginning point of the off-site pipeline to the connection point of the project divided by the total length of the pipeline extension. The resulting quotient is then multiplied times 100 to convert the same to a percentage. The cost per meter is multiplied by the percentage to determine the prorata fee due per meter in the connecting project. The prorata fee per meter is then multiplied times the number meters or meter equivalents in the connecting project to determine the total prorata fee due from the connecting project.

EXAMPLE:

C = total construction cost of the pipeline extension constructed by the first developer including and contribution or credits issued by the District for over sizing. Construction includes professional fees and other direct soft costs.

L = total number of meters or meter equivalents in the project constructed by the first developer.

D = the total distance from location of the connection point of the pipeline extension to the District's water distribution system or the District's wastewater collection system to the point of connection to the first developer's project.

D2 = the total distance from the location of the connection point of the pipeline extension to the District's water distribution system or the District's wastewater collection system to the connection point of the pipeline extension to second developer's project.

L2 = number of meters or meter equivalents in the connecting project.

$C / L =$ construction cost per meter or meter equivalent constructing project (Q1)

$Q1 \times (D / D2) =$ prorata payment due for each meter or meter equivalent in the connecting project $\times L2 =$ total prorata fee.

Assume a construction cost of \$250,000.00
Assume L is 280 meters or meter equivalents
Assume that D is 5,000 feet
Assume that D2 is 2,500 feet
Assume that L2 is 138

$\$250,000.00 / 280 \text{ meters} = \$892.86 ;$
 $5,000' / 2,000' = 0.40 \times 100 = 40\%$
 $\$892.86 \times 40\% = \$357.14 \times 138 = \$49,285.32$ the total prorata fee