

## **ARTICLE 6 - System Expansions and Extensions**

### 6.1 Water Main Extension- General

- 6.1.1 Any expansion or extension of the Water System shall conform to the District's Standard Construction Specifications and District approved construction drawings. The point of connection to the Water System shall be determined by the District. Physical connection will be made by District authorized personnel following receipt of Connection Fees and other applicable fees, if any. See Exhibit I Rates and Charges for Connection Fees.
- 6.1.2 The District plans to construct its Water Mains parallel and adjacent to state highways and county roads within the District by utilizing available state highway rights of way using the Special Use Permit Process available through the Colorado Department of Transportation (CDOT) and the La Plata County permit provisions for use of the public highway rights of way within the District. If any easements upon private property are required, the District expects that those property owners who wish to receive Water Service from the District will grant any easements required for Water Mains or District Service Lines to the District at no cost.

### 6.2 Main Line Extension by the District.

The District may construct any Water Main if the Board deems it in the best interest of the District and funds are available to do so. All Water Main extensions, which are so authorized, shall be bid competitively, when required by state law, and a contract awarded under the authority of the Board. The Contractor installing the Water Mains shall be responsible to the Board. The District, through its staff and consultants, shall observe construction activity and coordinate all matters pertaining to the completion of the subject project, including permits, easements, material approvals, site inspection, acceptance, payments to the Contractor, and field verified record drawings. Record data shall be provided in a digital format as per District specifications.

### 6.3 Extensions into Existing Subdivisions.

- 6.3.1 When the District is requested to extend its Water Mains into a subdivision that existed prior to June 1, 2010 and which had completed residential improvements as of that date, if additional facilities constructed in accordance with District specifications are required to serve such residential properties within the subdivision, the total amount of the CIF paid and actually collected from the property owners within the subdivision shall be credited by the District against the cost of installing such facilities and the property owners within the subdivision shall pay the balance of such costs to the District. In order to qualify for this credit, such work must be done within 2 years of the date water service was available to the subdivision and the work is done by District approved contractors or by District crews. Water service is considered available when a District pipeline has been constructed and placed into service in the County Road rights-of-way adjacent to the road which serves the subdivision.

6.3.2 Any water service agreement or proposal for Water Main extension into a subdivision shall include provisions for conveyance of the appropriate utility easements to the District necessary for the extension, either within any private roads which may exist, within existing utility easements or on private property at no cost to the District. Any costs incurred by the District for any easements necessary to serve property within a subdivision shall be added to the costs of the extension to be paid to the District.

### 6.3.3 Subdistrict

6.3.3.a To date, the District has financed water infrastructure primarily by means of a 5 mill levy imposed on all taxable property within its boundaries. Realizing that many property owners may have a difficult time with paying for the construction of the water infrastructure into their subdivision up front, the District's Service Plan has anticipated the possibility of financing these improvements using Subdistricts to issue debt payable from a mill levy on the properties benefited. Subdistricts would allow the District Board to impose a higher mill levy on certain properties to finance improvements that specifically benefit the area served (subject to approval by vote of the property owners and residents). Under the Subdistrict property tax model, the mill levy would be the same for all properties in the Subdistrict, but the tax burden would differ based on the assessed value of each property.

6.3.3.b The Board has carefully considered the possible use of Special Improvement Districts to accelerate the provision of service into subdivisions and has decided their use is impractical for a variety of reasons. Among other things, the County has not authorized the District to form Special Improvement Districts as required by the Special District Act.

6.3.3.c The Board hereby establishes a formal policy to use Subdistricts as the preferred method of financing subdivision improvements because they are authorized by the Service Plan and consistent with the District's other financing practices and procedures.

6.3.4 Property owners within a subdivision may request the District Board to create a Subdistrict.

6.3.4.a If the Board receives sufficient interest from property owners in a subdivision to form a Subdistrict, the Board will initially draw the proposed Subdistrict boundaries to include all properties currently within the District.

6.3.4.b Under the Special District Act, a property must be within the District before it can be included into the Subdistrict. Owners of property outside the District wishing to include their property into the Subdistrict must therefore first submit Petitions for Inclusion of their properties into both the District and the Subdistrict before such properties can be included into the Subdistrict and

ultimately connect to the water pipeline serving the subdivision. Because there are certain economies of scale, if multiple property owners within a subdivision submit Petitions for Inclusion into the District and Subdistrict at the same time, the Board may reduce the District's standard inclusion fee.

6.3.4.c Owners of property within the District not wishing to have their properties included within the Subdistrict shall be allowed to exclude their properties from the proposed Subdistrict as long as such requests are made no later than the public meeting at which the District Board determines to form the Subdistrict.

6.3.4.d Owners requesting exclusion of their properties from the Subdistrict after its formation must file Petitions for Exclusion and follow the District's exclusion policy; the Petitions should indicate whether the exclusion is from the Subdistrict only or from the District as well. Property owners should be aware that under Section 32-1-503(1), C.R.S., exclusion must be effected before issuance of the Bonds (as defined in Section 6.3.5) or the property will remain subject to Subdistrict mill levy until the Bonds are paid in full.

6.3.5 The District Board may consider the request to form a Subdistrict and upon making the proper statutory findings, may create a Subdistrict and submit a debt and tax Ballot Issue to the eligible electors of the Subdistrict at a TABOR election to authorize unlimited tax general obligation bonds (Bonds) to pay the costs of the main extension (including all related administrative, transactional and soft costs) benefiting the subdivision, subject to certain approvals by La Plata County. In particular, La Plata County must not allocate the Bonds against the District's Service Plan debt limit.

6.3.6 After formation, changes to the Subdistrict's boundaries shall follow the inclusion and exclusion statutes and the District's relevant policies and procedures.

6.3.6.a Owners of properties within the District requesting inclusion into the Subdistrict after its formation must file Petitions for Inclusion and follow the District's inclusion policy.

6.3.6.b Owners of properties outside the District requesting inclusion into the Subdistrict after its formation must file Petitions for Inclusion into both the District and Subdistrict and follow the District's inclusion policy. A Petition for Inclusion into the District and Subdistrict shall be subject to a single inclusion fee.

6.3.7 If a Subdistrict is formed, the Ballot Issue is approved and La Plata County does not have objections or impose objectionable conditions, then the District Board will seek to issue the Subdistrict's Bonds with the least cost lender, which has historically been the Colorado Water Resources and Power Development Authority. To the extent reasonably available in a timely manner, the District's Board intends to apply for grants to offset the costs of connecting the subdivision to the District's water system.

### 6.3.8 Capital Investment Fees in Subdistricts

6.3.8.a To recognize that property owners in Subdistricts at the time of its formation will be paying for the costs of the main extensions through the Subdistrict's mill levy, the General Manager will divide the expected total Subdistrict project cost (after application of any grant funds) by the number of properties within the Subdistrict. If the quotient of the foregoing calculation is greater than the then-current Capital Investment Fee, the District Board shall waive the Capital Investment Fee for all properties which are subject to the Subdistrict's mill levy from its first year of collection to recognize the revenues from such mill levy are paying for the entirety of the Subdistrict improvements being financed to connect the subdivision to the District's water system.

6.3.8.b For properties which are subject to the Subdistrict mill levy after its first year of collection, the District Board may provide a credit against the Capital Investment Fee, provided that such property owners must follow the procedures to include their properties into the District and Subdistrict set forth in Section 6.3.4.b. In certain cases, the Board may also establish an additional Subdistrict Capital Investment Fee that is reasonably related to the equitable costs to serve later-included properties relative to the costs of other properties currently in the Subdistrict. Property owners will be asked to acknowledge and accept such fees as part of their Petitions of Inclusion to the District and/or Subdistrict. Such property owners are encouraged to submit Petitions for Inclusion into the District and/or Subdistrict by March 15 so that such inclusions may be completed by May 1 to allow for the collection of property taxes in the following calendar year. Capital Investment Fees collected from owners under this Section 6.3.8.b shall be applied to either prepayment of the Bonds (if permitted) and/or earmarked for repair and replacement of subdivision infrastructure, at the discretion of the District's Board.

6.3.8.c Property owners who desire to connect to the District's system after the Subdistrict's Bonds have been paid in full must follow the procedures to include their properties into the District set forth in Section 6.3.4.b. Such owners shall receive no credit towards the Capital Investment Fee. In certain cases, the Board may also establish an additional Subdistrict Capital Investment Fee that is reasonably related to the equitable costs to serve later-included properties relative to the costs of other properties currently in the Subdistrict.

### 6.4 Water Main Extension by Developers.

The District has no obligation to extend any Water Main. At the discretion of the District, the District may permit any applicant for Water Service to construct, at the sole expense of the applicant, the Water Main extension required to provide such Service. The applicant shall request intent to provide service from the District and subsequently enter into a written Water Main Extension Agreement with the District prior to the proceeding with any construction.

## 6.5 Locations of Water Main Extensions.

- 6.5.1 Water mains shall be installed in road or street rights-of-way, as well as in easements granted to the District or within any dedicated utility easements. Where it is required that Water Mains must cross land not being subdivided or where such land is under the applicant's ownership or control for the granting of the public right-of-way, each applicant who desires service will, in consultation with and with the approval of the District, plat or grant to the District appropriate rights-of-way or easements in which the required Water Mains shall be constructed.
- 6.5.2 Water Mains shall extend from the point of connection to the District's existing Water System to a point beyond any property frontage improvements or, at the discretion of the District, for the entire width of the subject property frontage.

## 6.6 Water Main Extension Procedures for Developers.

- 6.6.1 Letter of Intent. During the design of a development which requires the construction of extension of Water Mains, the developer shall request that the District provide a letter expressing the District's intent to provide service. The developer's request shall include data on the number and type of residential, commercial or individual facilities, and other activities that would have an impact on water use. The District will analyze its ability to provide Water Service to the site. This analysis will determine the adequacy of Water System capacity and the need to increase the capacity of any existing Water Mains, equipment, or facilities. The analysis will also determine the need to oversize any Water Mains within the development site for anticipated future service needs. The District will provide a formal letter of intent to serve the development site and include any conditions deemed appropriate. This letter of intent to serve should be made available to the County Planning Department and Board of County Commissioners.
- 6.6.2 Oversizing Water Mains. Based on the District estimates of future growth and use of a Water Main, the developer shall construct oversized Water Main extensions as required by the District up to 12-inch diameter. Any Water Main that would need to be oversized to greater than 12-inch diameter, the District will participate, at the District's expense, for the incremental material cost of the oversized Water Main. The District reserves the right to recover the cost of oversizing, including reasonable interest, by connection of future Customers or future Water Main extensions.
- 6.6.3 Application for Approval. Any developer desiring to construct a Water Main within the District shall submit a formal application to the District. This application shall contain a legal description of the property to be served by the Water Main, the estimated number of Taps to be served, the type of structures, the use of the property, the easements to be conveyed, and any other information reasonably required by the District. Once initial approval has been received, the developer shall provide detailed construction plans for the District's review and approval. Within a reasonable time, the District staff and consultants shall review the easements, plans, with appropriate documentation to the District for overall review, and recommend construction plan approval. If cost recovery is applicable, a Cost Recovery Agreement must be concluded in accordance with Section 6.5, Water Main Cost Recovery Agreement.

Two sets of documents marked “Approved” by the District shall be returned to the developer. The cost of such review for compliance shall be paid by the developer.

6.6.4 Deposits with the District. Prior to approval of the Water Main extension by the District, the developer shall deposit with the District an amount sufficient to compensate the District for engineering fees, legal fees, and other costs anticipated to be incurred by the District as a result of the application and the construction of the Water Main. All reasonable inspection costs conducted by any governmental agency, including the District, shall be paid by the developer.

6.6.5 Acceptance of Water Mains. When construction of the water main is completed, the developer shall notify the District and provide one set of District approved documents which have been marked to reflect field verified as-built conditions. The District will then inspect and test the Water Main, equipment, special structures, and easements for conformance to the approved requirements. The developer who has completed construction and District inspection of a Water Main shall, before the Water Main is accepted by the District, assign and convey the Water Main and all appurtenances by Bill of Sale to the District free and clear of all liens and encumbrances, together with an Easement Deed for any required easements, and furnish to the District a warranty bond for a two (2) year period from the date of acceptance of the Water Main by the District. Prior to the acceptance of the Water Main by the District, the developer shall provide the District with:

(a) Legally recorded documents of all easements for the Water Main as installed;

6.6.5.a One set of four mil Mylar, field-verified as-built drawings;

6.6.5.b One disk of spatial data in digital format as specified by District specifications;

6.6.5.c Three (3) sets of all operation, maintenance, and part manuals for all electrical and mechanical equipment provided by the contract; and

6.6.5.d A certified statement of the costs of the Water Main.

## 6.7 Water Main Cost Recovery Agreement

6.7.1 The developer or any person that pays for the cost of a Water Main extension may enter into a Water Main Cost Recovery Agreement with the District whereby subsequent connections to and/or services from the Water Main extension, within a specified period of time, shall require payment of a portion of the cost of the Water Main extension.

6.7.2 Cost recovery shall not apply to any lots that existed as of the date of the Agreement, unless specifically required to do so prior to the date of the Agreement as a condition of receiving service.

6.7.3 The District may, but is not obligated to, participate in the Water Main extension by contributing engineering services, labor, materials, or finances. District participation will be considered only when the District determines:

(a) The Water Main extension provides needed benefits to existing Customers in the immediate area, such as increased volume or pressure;

6.7.3.a The Water Main extension provides needed benefits to a previously unserved area; or

- 6.7.3.b The construction of a Water Main larger than is necessary to serve the property of the developer is desired by or beneficial to the District.
- 6.7.4 When the District participates in a Water Main extension, it shall also be entitled to separately recover its costs under the terms of the Water Main Cost Recovery Agreement.
- 6.7.5 The District, at its own expense, reserves the right to abandon any existing parallel Water Main and reconnect pre-existing Customers and distribution laterals to the Water Main extension, without having to make any payments under the terms of any Water Main Cost Recovery Agreement.
- 6.7.6 A Water Main Cost Recovery Agreement shall have a term of not more than ten (10) years from the date that construction is completed and the Water Main is accepted by the District.