

FRUITLAND SPECIAL SERVICE DISTRICT
AMENDED AND RESTATED
OPERATING REGULATIONS AND BYLAWS

as of December 20, 2021

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1 GENERAL

1.1 Mission Statement

1.1.1 Fruitland Special Service District, hereinafter referred to as “District,” was created to provide water and other future services to its service area. The District is a political subdivision and operates as an independent Special Service District to the extent allowed by Utah law.

1.2 Seal

1.2.1 The seal of the District shall be a circular seal with the name of the District and its place of business around the border and the word “Seal” in the center.

1.3 Rules of Construction

1.3.1 The singular number includes the plural.

1.3.2 Words used in the present tense include the future.

1.3.3 Words used in the masculine gender comprehend, as well, the feminine and neuter.

1.3.4 The word “person” includes bodies politic and any individual, partnership, association, corporation or group of individuals, however styled or designated.

1.4 Conflicts and Invalidity Clause

1.4.1 If any provision, paragraph, word, section, or chapter hereof is invalidated by any court of competent jurisdiction or by any state or federal statute, the remaining provisions, paragraphs, words, sections, and chapters hereof shall not be affected and shall continue in full force and effect.

1.5 Amendments

1.5.1 These Amended and Restated Operating Regulations and Bylaws may be amended by a majority vote of the Trustees in favor of such amendment at any duly noticed meeting of the Board. Notice of the proposed amendments shall be posted at the District’s offices and two other public places within the District at least 14 days prior to said Board meeting and shall state that a copy of the proposed amendments is available for review during normal business hours at the District’s offices. A copy of the proposed amendments shall be made available at the District’s offices during this 14-day period. The Board may also publish notice of the Board’s resolution adopting the amendments in a newspaper having general circulation in the District in accordance with U.C.A. § 17B-1-313 in order to limit any challenges of thereof after 30 days, provided that notice of the District’s action includes a statement substantially to the effect that a person in interest may file an action in district court to contest the regularity, formality, or legality of the resolution or action within 30 days after the date of posting and that no one may so contest the action after that 30 day period.

1.6 Nature of District

1.6.1 The District is a political subdivision of the State of Utah organized pursuant to the provisions of the Special Service District Act.

2 BOARD OF TRUSTEES

2.1 District Government Vested in the Board of Trustees

2.1.1 The Duchesne County Commission is the creating and governing authority over the District, but hereby delegates to an appointed administrative control board, referred to herein as the “Board of Trustees” or the “Board,” all rights, powers, and authority to govern the District and be its policy making body, to the fullest extent permitted by law. (U.C.A. § 17D-1-301.)

2.1.2 The Board is composed of five board members, referred to herein as “Trustees,” who are appointed for terms of four years, except that the initial terms shall be staggered pursuant to Utah law. (U.C.A. § 17D-1-304.)

2.1.3 The District Manager and the subordinate officers and employees will execute the will of the Board as expressed by Board policy and direction.

2.2 Functions of the Board of Trustees

2.2.1 Generally speaking the Board exercises all powers and duties in the operation of the properties of the District as are ordinarily exercised by the governing body of a political subdivision, and has the final responsibility and authority in the administration of the affairs of the District, to the extent permitted by law. (U.C.A. § 17A-1-301.)

2.2.2 In every case, the will of the Board shall be expressed by at least a majority vote of the Board. No statement or act of any individual member of the Board shall be viewed as the will of the Board.

2.2.3 The Board shall appoint, as the need arises, qualified persons to function as District Manager, Water System Operator, and District Clerk. The Board shall also create any other offices as may be deemed necessary for the good government of the District and shall regulate and prescribe the powers and duties of all officers of the District, except as provided by law.

2.2.3.1 The District Manager administers the policies and directives of the Board and manages the day-to-day operations and affairs of the District. The Board shall review the Manager’s performance. When a non-Trustee is hired to fill this position, the Board shall review the Manager’s compensation level annually.

2.2.3.2 The responsibilities of the Water Systems Operator include: (a) coordinating and installing water meters; (b) inspecting and maintaining water lines; (c) collecting water usage data from water meters; (d) submitting water samples to the appropriate testing

agency; (e) protecting and maintaining water source integrity in water system operation, maintenance and repair; (f) initiating and maintaining inspection records, maps and other documents as needed; (g) responding to water system emergencies; and (h) ensuring compliance with State regulations.

2.2.4 The Board shall review this document annually to ensure that it is pertinent and current.

2.3 Board Committees

2.3.1 The Board may from time to time appoint committees of its own members to conduct investigations into the conduct of any officer, of district government, or any matter relating to the welfare of the district, and delegate to those committees such powers of inquiry as the Board may deem necessary.

2.4 Oath of Office

2.4.1 Prior to assuming official duties, each Trustee shall take an oath before an officer authorized to administer oaths, as follows: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity."

2.5 Chair of the Board of Trustees

2.5.1 The Board shall select one of its members to act as Chair any time Board membership changes.

2.5.2 The Chair shall:

2.5.2.1 Preside at all meetings of the Board.

2.5.2.2 Execute, on behalf of the District, all bonds, resolutions of the Board, and, where required, contracts, other written obligations, and countersign disbursement checks.

2.5.2.3 Attend and, if appropriate, preside at ceremonial activities (including, but not limited to ribbon cutting, open houses, and receptions) in which ceremonial representation is needed or sought.

2.5.2.4 Be a spokesperson for the Board, unless the Board directs otherwise. When the Chair acts as a spokesperson for the Board or the District, he should speak for the majority of the Board. When speaking for himself or in his capacity as an individual member of the Board, he should clearly identify that limited capacity.

2.5.2.5 Assume the duties of the District Manager until such time as there is a non-Trustee hired to act as the District Manager. The Chair may not also be the District Clerk or the Treasurer.

2.5.2.6 Represent the will of the Board.

2.5.3 The Chair shall have no duties other than those specified in this section.

2.5.4 The Chair has the right to vote as a Trustee.

2.6 Trustee Compensation

2.6.1 Each member of the Board of Trustees shall receive compensation for necessary traveling and other expenses actually expended while engaged in the performance of the official duties. (U.C.A. § 17B-1-307.)

2.6.2 The Board may compensate its members for their service as Trustees up to the limit set forth in U.C.A. § 17B-1-307, as it may be amended or re-codified from time to time.

2.7 Vacancy in the Board of Trustees and Offices

2.7.1 In the case of a vacancy in the Board of Trustees which vacancy shall be occasioned by reason of death, disability, removal, or resignation, the Board of Trustees, according to law, shall fill the vacancy within sixty days by appointment of a qualified person to be Trustee to fill the un-expired term of the Trustee whom he/she replaces in accordance with U.C.A. § 20A-1-512, as it may be amended from time to time.

2.7.2 In the case of a vacancy in any of the offices of the District which vacancy shall be occasioned by reason of death, disability, removal, or resignation, then and in that event the Board shall fill such vacancy by appointment within thirty days.

2.8 Qualifications of Trustees

2.8.1 Each Trustee shall be qualified pursuant to U.C.A. § 17D-1-304.

2.9 Attendance at Board Meetings

2.9.1 Each Trustee is expected to make reasonable efforts to attend each meeting of the Board of Trustees. When unable to attend, the Trustee should make reasonable efforts to notify the District Clerk, or any other officer or Trustee if the District Clerk cannot be reached, in advance of the meeting that the Trustee will not be able to attend the meeting and the reason for the absence. Because section 2.2.2 requires a majority vote of the Board in order to take action, the unexcused absence of a Trustee at four consecutive Board meetings or at seven or more Board meetings in any calendar year may constitute grounds for removal of said Trustee.

3 DISTRICT ADMINISTRATION

3.1 Structure of District Administration

3.1.1 District administration consists of the District Manager and other officers as needed.

3.1.2 The administrative powers of the district are vested in and exercised by the Manager.

3.1.3 Each officer of the District shall have such authority as is necessary to enable him to

carry out duties and responsibilities assigned to him by this document or by direction of the Manager. The designation of a duty or responsibility shall constitute such authority as is necessary to affect the duty or responsibility so imposed.

3.2 Appointment of the District Manager

3.2.1 Until such time as the Board elects by a majority vote of its full membership to hire an employee to serve as the District Manager, the Chair shall perform the duties of the District Manager. At such time as the Board elects to hire an employee to serve as the District Manager, the Board shall appoint a District Manager solely on the basis of his ability, integrity, and prior experience relating to the duties of the office, including but not limited to managerial capabilities that, in the opinion of the Board, befit him to provide professional direction to the District.

3.3 Power and Duties of District Manager

3.3.1 The District Manager shall:

3.3.1.1 Faithfully execute and enforce all applicable laws, rules and regulations and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the District are observed;

3.3.1.2 Carry out the policies and programs established by the Board of Trustees;

3.3.1.3 Establish standards, qualifications, criteria, and procedures to govern the appointment of employees within the District, subject to any applicable provisions of the Personnel Rules and Regulations and this Document.

3.3.1.4 Submit to the Board plans and programs relating to the development and needs of the District, and annual or special reports concerning the financial, administrative and operational activities of the District;

3.3.1.5 Attend all meetings of the Board and take part in its discussions and deliberations;

3.3.1.6 Recommend to the Board for adoption such measures as deemed necessary or expedient;

3.3.1.7 With the assistance of the District Treasurer and District Clerk, prepare a financial estimate of the annual budget and advise the Board of the financial condition and needs of the District;

3.3.1.8 With the assistance of the District Treasurer and District Clerk, schedule public hearings before the Board as required by law, including, but not limited to, rate hearings and budget hearings, and cause notice thereof to be published as required by law.

3.3.1.9 Execute such contracts as are necessary for the good order and functioning of the District, provided the expenditures pursuant to such contracts are within the appropriations contained within the appropriate budget, as adopted by the Board of

Trustees;

- 3.3.1.10 Implement and administer such plans as approved by the Board for the compensation of District employees;
- 3.3.1.11 Approve such expenditures made for official District business, provided such expenditures are within the appropriations contained within the appropriate budget as adopted by the District;
- 3.3.1.12 Act as the Records Officer for the District. (U.C.A. § 63-2-103(24).)
- 3.3.1.13 Act as the HIPAA Privacy Officer and the HIPAA Security Officer under the Health Insurance Portability and Accountability Act of 1996 and any federal regulations enacted thereunder and shall be responsible for complying with said Act and regulations.
- 3.3.1.14 Discharge any other duties specified by statute or designated by the Board.

3.4 Removal of the District Manager

- 3.4.1 The District Manager serves at the pleasure of the Board of Trustees. The Board may, at its pleasure, by unanimous vote, remove the District Manager. When the Chair is performing the duties of the District Manager, he may be removed by a two-thirds majority vote of the full Board, in which case he is also removed as Chair and the Board shall elect a new Chair who will take over the duties of the District Manager.

3.5 District Clerk

- 3.5.1 The Board shall appoint a District Clerk to attend to the District's administrative and secretarial duties. The District Clerk shall attend the Board's meetings and keep a record of the proceedings of the Board. (U.C.A. § 17B-1-631.) The District Clerk shall also maintain the financial records of the District. (U.C.A. § 17B-1-632.) Until such time as there is an employee of the District who can act as the District Clerk, the Board shall appoint one of the Trustees to serve as the District Clerk. The District Clerk may not also be the Chair, the Treasurer, or the District Manager.

3.6 Treasurer

- 3.6.1 The Board shall appoint a Treasurer who shall be the custodian of the funds of the District. (U.C.A. § 17B-1-633.) Until such time as there is an employee of the District who can act as Treasurer, the Board shall appoint one of the Trustees to serve as Treasurer. The Treasurer may not be the Chair, the District Clerk, or the District Manager.

3.7 Fidelity Bonds

- 3.7.1 The Board Chair, District Manager, District Clerk, Treasurer, and any other Trustee or Officer responsible for the safekeeping or investment of public funds (U.C.A. § 51-7-3)

shall obtain a fidelity bond effective as of the date each such official assumes office and issued by a corporate surety licensed to do business in Utah and having a current A.M. Best Rating of "A" or better (R628-4-2). The District shall pay the premium of the surety bond. The coverage and amount shall be at least the minimum required by law (see R628-4, as amended or re-codified), by the courts, or by financing obligations of the District. (U.C.A. § 51-7-15.)

3.8 Indemnification of Employees

3.8.1 Trustees, officers, and employees of the District shall be indemnified for acts and omissions occurring during the performance of their duties, within the scope of their employment or under color of authority pursuant to the provisions of the Utah Governmental Immunity Act.

3.9 Ethical Conduct

3.9.1 The purposes of this section are to establish standards of conduct for Trustees, officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

3.9.2 The conduct of District Trustees, officers and employees shall be consistent with, among other things and not by way of limitation, the Utah Public Officers' and Employee's Ethics Act (U.C.A. § 67-16-1, *et seq.*, as amended); U.C.A. § 10-6-146; and U.C.A. §§ 76-8-105, 201, 202, 203 and 402.

4 DISTRICT MEETINGS

4.1 Types of Meetings

4.1.1 Regular Meeting: A regularly scheduled meeting of the Board of Trustees for which notice of the date, time and place has been given in the Annual Meeting Schedule.

4.1.2 Special Meeting: Any meeting of the Board that replaces or is held in addition to a regular meeting.

4.1.3 Emergency Meeting: A special meeting held as a result of unforeseen circumstances to consider matters of an urgent or emergency nature.

4.2 Date and Location of Meetings

4.2.1 The Trustees shall hold regular meetings monthly, and special meetings and emergency meetings as they shall deem necessary, to conduct the affairs and transact the business of the District.

4.2.2 The regular meetings of the Board of Trustees shall be held at such place and time as the Board shall by resolution appoint.

4.3 Public Notice of Meetings

- 4.3.1 The District shall provide notice of its meetings in conformance with Utah's Open and Public Meetings Act, U.C.A. § 52-4-101, et seq. or applicable successor statute, including but not limited to U.C.A. § 52-4-202, which requires that notice of each regular and special meeting of the District be given 24 hours' in advance of the meeting and be: (1) posted on the Utah Public Notice Website; (2) posted at the District's principal office, or in the absence of a principal office, at the location of the meeting; and (3) given to a local media correspondent or one newspaper of general circulation within the District's service area. The District will also post notice of regular and special meetings at the Post Office for the District and may, in its discretion, post notice of its regular and special meetings on its website. All notices will include the date, time, place, and agenda for each regular and special meeting.
- 4.3.2 Annual Schedule: An annual schedule of the regular meetings of the Board shall be posted once a year to the Utah Public Notice Website pursuant to the posting requirements in section 4.3.1 and U.C.A. § 52-4-202 or applicable successor statute. The annual notice will include the date, time, and place of the scheduled meetings.
- 4.3.3 Emergency Meeting Notice: Pursuant to U.C.A. § 52-4-202 or applicable successor statute, when unforeseen circumstances require an emergency meeting, the notice requirements set forth herein and within the Open and Public Meetings Act may be disregarded and the best practicable notice given. No emergency meeting shall be held until a reasonable attempt has been made to notify all Trustees and a majority of such Trustees are contacted and polled and agree to hold such emergency meeting.

4.4 Conduct of Meetings

- 4.4.1 All meetings of the Board shall be conducted according to Robert's Rules of Order when so requested by any member of the Board.
- 4.4.2 Any member of the Board shall have the right to place any matter on the agenda if a reasonable notice is given. The meeting shall follow the agenda unless otherwise agreed.

4.5 Quorum

- 4.5.1 A majority of the actual number of Trustees shall constitute a quorum for the transaction of District business. A concurrence of a majority of the quorum in any matter within the scope of the duties of the Board of Trustees shall be sufficient for the determination of such matter, except as otherwise required by statute or herein.
- 4.5.2 In case of death, disability, removal, resignation or other disqualification of one or more of the Trustees, a majority of the remaining Trustees shall constitute a quorum for the purposes of transacting the business of the District.

4.6 Presumption of Assent

- 4.6.1 A Trustee who is present at a meeting of the Board at which action on any matter is

taken is be presumed to have assented to the action taken unless: (1) his dissenting vote is recorded in the minutes of the meeting at the time of the vote; or (2) he submits a written statement to the Chair or the District Clerk before the adjournment of the meeting indicating his dissenting vote (in the event that he believes his dissenting vote may not have been correctly recorded in the minutes at the time of the vote). A Trustee who voted in favor of the action may not later submit a written statement indicating a dissenting vote.

4.7 No Proxy

4.7.1 No Trustee may appoint another individual by proxy or otherwise to assume his responsibilities as Trustee.

4.8 Open and Closed Meetings; Actions Taken

4.8.1 Open Meeting: All meetings of the Board, except closed meetings as defined below, shall be open to the public.

4.8.2 Closed Meetings:

4.8.2.1 Purposes of Closed Meetings. Closed meetings may be held:

4.8.2.1.1 To discuss the character, professional competence, or physical or mental health of an individual;

4.8.2.1.2 To discuss deployment of security personnel, devices or systems;

4.8.2.1.3 To investigate allegations of criminal misconduct;

4.8.2.1.4 As strategy sessions to discuss collective bargaining;

4.8.2.1.5 As strategy sessions to discuss threatened, pending or reasonably imminent litigation;

4.8.2.1.6 As strategy sessions to discuss the purchase/exchange/lease or real property, including an form of a water right or water shares, if public discussion would disclose the valuations or would prevent the public body from getting the best possible terms;

4.8.2.1.7 As strategy sessions to discuss the sale of real property, including an form of a water right or water shares, if (a) public discussion would disclose the valuations or would prevent the public body from getting the best possible terms; (b) prior public notice has been given that the property would be offered for sale; and (c) the terms of the sale are publicly disclosed before the sale is approved; or

4.8.2.1.8 For any other purpose permitted by the Utah Open and Public Meetings Act. (U.C.A. Chapter 52-4)

4.8.2.2 Procedures for Calling a Closed Meeting;

4.8.2.2.1 The proposal for a closed meeting must be made in a properly noticed open meeting

- 4.8.2.2.2 A quorum must be present at the open meeting.
- 4.8.2.2.3 The proposal for a closed meeting must be approved by two-thirds of the members present.
- 4.8.2.2.4 The vote of each member on the proposal must be recorded in the minutes.
- 4.8.2.2.5 The general reason(s) for the proposed closed meeting must be recorded in the minutes (e.g., to discuss a land purchase).
- 4.8.2.3 Except as otherwise directed by the Board, participation in closed meetings shall be limited to the Board, the Manager, and other invited District staff.
- 4.8.2.4 No resolution, rule, regulation, contract, or appointment may be approved in a closed meeting.

4.9 Minutes of Meetings to be Kept by District Clerk

- 4.9.1 Open Meeting: An audio recording and written minutes shall be taken of all open meetings. The written minutes, once approved, shall be signed by the Chair and the District Clerk and shall become the official record of the meeting. Such minutes shall include:
 - 4.9.1.1 the date, time, and place of the meeting;
 - 4.9.1.2 the names of members present and absent;
 - 4.9.1.3 the names of all matters proposed, discussed, or decided, and a record, by individual member, of votes taken;
 - 4.9.1.4 the names of all citizens who appeared and the substance in brief of their testimony;
 - 4.9.1.5 any other information that any member of the Board requests be entered in the minutes.

4.9.2 Closed Meetings:

- 4.9.2.1 In closed meetings held to discuss the character, professional competence, or physical or mental health of an individual or to discuss deployment of security personnel, devices or systems, the presiding official in the closed meeting shall sign a sworn statement affirming that the sole purpose of the meeting was to discuss the character, professional competence, or physical or mental health of an individual or to discuss deployment of security personnel, devices or systems.
- 4.9.2.2 In all other closed meetings, an audio recording and written minutes shall be taken of the discussions.
- 4.9.2.3 The written minutes, once approved, shall be signed by the Chair and the District Clerk

and shall become the official record of the meeting.

4.9.2.4 The District shall post meeting recordings and minutes of District meetings in accordance with U.C.A. § 52-4-203(4)(g) or applicable successor statute, meaning that the District will: (1) make pending or draft minutes available to the public within a reasonable time after holding the open meeting that is the subject of the minutes; (2) make an audio recording of an open meeting available to the public within three business days of holding the open meeting; and (3) post final, written minutes of an open meeting to the Utah Public Notice Website within three business days of the date the Board approves the written minutes for the open meeting in question along with any written materials that were publicly distributed at the open meeting.

5 DISTRICT FINANCE

5.1 Budget Officer

5.1.1 The Manager shall function as the Budget Officer, as designated in Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts. The Manager is authorized to make expenditures for:

- 5.1.1.1 Payroll;
- 5.1.1.2 Repetitive contractual obligations such as utility bills; and/or
- 5.1.1.3 All items approved by the Board in the annual budget or by specific Board action.

5.2 Preparation of Budget

5.2.1 On or before the first regularly scheduled meeting of the Board in November of each year, the Budget Officer shall prepare for the ensuing fiscal year, on forms provided by the state auditor, and file with the Board, tentative budgets setting forth actual revenues and expenditures for the last completed fiscal year, estimated total revenues and expenditures for the current fiscal year; and the Budget Officer's estimates of revenues and expenditures for the budget year together with specific work programs and any other supporting data required by the Board. (U.C.A. § 17B-1-607).

5.2.2 The tentative budgets shall be reviewed and considered by the Board at any regular meeting or any special meeting called for that purpose. The Board may make any changes considered advisable in the tentative budgets, pursuant to statute. At the meeting at which the tentative budget is adopted, the Board shall establish the time and place of a public hearing to consider its adoption and order that notice of the hearing be published according to law. (U.C.A. § 17B-1-609).

5.2.3 At the time and place advertised, or at any time or any place to which the public hearing may be adjourned, the board of trustees shall hold a public hearing on or before December of each year on the budgets tentatively adopted and give all interested persons in attendance an opportunity to be heard on the estimates of revenues and expenditures or any item in the tentative budget of any fund. The District

will provide notice of the date, time, location, and agenda for the public hearing in accordance with U.C.A. § 17B-1-609 or applicable successor statute by doing the following seven days before the public hearing: (1) posting the notice in three places within the District; and (2) posting the notice and the tentative budget to the Utah Public Notice Website. The District may, in its discretion, post the notice of the public hearing and the tentative budget on its website.

- 5.2.4 The Board shall adopt operating and capital budgets which shall be in effect for the budget year, subject to later amendment. The Budget Officer shall certify a copy of the final budget for each fund and file it with the state auditor within thirty days after adoption. During the budget year, the Board may, in any regular meeting or special meeting called for that purpose, review the operating and/or capital budget for the purpose of determining if the total should be increased.
- 5.2.5 The budget may be reopened at any time during the fiscal year by properly noticing the meeting in accordance with statute.
- 5.2.6 The budget shall contain a District contingency to pay for any unanticipated expenses or to cover budget line items over-runs. The Board of Trustees may only use the contingency upon approval.
- 5.2.7 When a total line item appropriation is exceeded, the over-run may be covered by a transfer from another line item in the budget with the approval of the Manager, provided that the adjustment is within the same fund or department and the adjustment does not increase total expenditures or involve reducing the amount budgeted for debt retirement or reduction of a deficit (U.C.A. § 17B-1-622).
- 5.2.8 For any amendments to an approved District Budget that do not satisfy the requirements of section 5.2.7, the District shall hold a public hearing to amend its budget pursuant to section 5.2.3 and U.C.A. § 17B-1-622 or applicable successor statute. The District must finalize all amendments to an approved budget before December 31.

5.3 Financial Reports

- 5.3.1 The District Clerk, with the assistance of the Treasurer and Manager, shall prepare, and present to the Board, quarterly summary financial reports showing the financial position and operations of the District for that quarter and the year-to-date status of the District.
- 5.3.2 Within one hundred and twenty days after the close of each fiscal year, the District Clerk shall present to the Board an annual financial report prepared in conformity with generally accepted accounting principles, as prescribed in the Uniform Accounting Manual for Special Districts. This requirement may be satisfied by presentation of the appropriately prepared and reviewed report with the Board.

5.4 Independent Auditor

5.4.1 When revenue or expenses of the District shall exceed \$100,000, an independent auditor or certified public accountant has the responsibility of reporting whether the District's financial statements are prepared in conformity with generally accepted accounting principles. Copies of the annual financial report or of the audit report furnished by the independent auditor shall be filed with the state auditor and shall be filed as a public document in the office of the District. (U.C.A. § 51-2a-201.) Until an independent auditor is required, the District may prepare and submit a fiscal report on forms provided by the state auditor.

5.4.2 The Manager, with the consent of the Board of Trustees, shall select the District's independent auditor.

5.5 Checks

5.5.1 All checks shall be signed by two Trustees.

5.5.2 With the exception of minor "petty cash" purchases or the use of an authorized credit card, payments and disbursements by the District shall be made by a check drawn on the District's account or by an authorized direct deposit or electronic transfer. A check signer machine or computer with appropriate signature plates or equivalent may be utilized to generate checks after it has been determined that the payment has been properly authorized and does not overextend the budget and there are sufficient funds in the bank account to honor the check. Except as otherwise authorized by the Board, the signatures of the General Manager (or Director) and the Clerk will be depicted on any computer/machine generated checks. When a check is manually prepared, the check shall be signed by any two of the following officers of the District: the General Manager, the Clerk, the Treasurer, the Board Chair, the Board Vice-Chair or any other officer of the District as authorized by the Board. A person may sign a check no more than once, even if the person holds more than one office. All checks presented for signature are to be accompanied by documentation supporting the expenditure. A check is not to be submitted for signature, either using the check signer machine or computer or manual signatures, and a direct deposit or electronic transfer is not to be made, unless there are available funds to cover the expenditure.

5.6 Fiscal Year

5.6.1 The fiscal year of the District shall be the calendar year. (U.C.A. § 17B-1-602.)

5.7 Fee Schedule

5.7.1 The Board may enact, adopt, or amend the Fee Schedule by resolution provided that the Board's resolution complies with U.C.A. § 17B-1-643, including any and all public hearing requirements.

6 PURCHASING

6.1 Scope

6.1.1 This chapter shall, except where otherwise noted, govern the acquisition of real or

personal property, supplies or services, and disposal or property, whether real or personal, by the District.

- 6.1.2 No purchase shall be made and no encumbrances shall be incurred for the benefit of the District except as provided in this Chapter.
- 6.1.3 No purchase shall be made and no encumbrance shall be incurred unless funds sufficient to cover the purchase or encumbrance have been budgeted and are available within the approved budget or unless the purchase or encumbrance is approved by the Board by a vote at a regular Board meeting.

6.2 Chief Procurement Officer

- 6.2.1 Designation: The Manager shall act as and is herein designated to be the Chief Procurement Officer (CPO) of the District with Board approval.
- 6.2.2 The Manager is hereby the authorized officer charged with the responsibility of staying within the budget and authorizing no expenditures in excess of said budget as required by Utah Code Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

6.3 Purchasing and Contacting Procedures

- 6.3.1 A purchase of goods and services for greater than \$2,000.00 requires the solicitation of price quotations from enough prospective vendors or suppliers to reasonably ensure that the District received the best price. Such quotations in excess of \$2,000.00 shall be in writing.
- 6.3.2 Whenever the total service of a contract or purchase exceeds \$10,000 the contract shall be awarded through competitive bidding or proposal process.
- 6.3.3 Funds designated for the purchase of goods or services under a particular budget line item may not be used for the purchase of goods or services under a different budget line item without the prior approval of the CPO.
- 6.3.4 All purchases shall be reported to the Board of Trustees for review at the next regular Board meeting.
- 6.3.5 Bond Construction Fund and Other Capital Fund Expenditures:
 - 6.3.5.1 Projects shall be submitted to the Board of Trustees for authorization of funding.
 - 6.3.5.2 Construction Change Orders of 15% or less may be approved by the CPO and submitted to the Board for review at its next regular Board meeting.
 - 6.3.5.3 Construction Change Orders exceeding 15% shall be submitted to the Board of Trustees for approval.
 - 6.3.5.4 Upon completion of each project, a final summary of costs shall be submitted to the Board for review.

- 6.3.6 Other Expenditures or Fund Transfers: All other expenditures or fund transfers shall be submitted to the Board of Trustees for review.
- 6.3.7 The Board may waive the above requirements at such time as the public good justifies such action and shall not be prohibited by the terms of this section from awarding contracts or purchase orders without advertisement or other solicitation if the item to be procured is a brand-name type product that can be procured from only one source. No contract or purchase order in excess of \$5,000.00 may be awarded for such brand-name type of product without the review of the Board.
- 6.3.8 An official copy of each awarded purchase order or contract, together with all necessary attachments, including assignments, shall be retained by the Manager in an appropriate file open to the public for such period of time after termination of the contract as an action against the District might ensue under applicable statutes of limitations. After such period of time, purchase orders, contracts and attachments may be destroyed by the direction of the Manager.

6.4 Emergency Procurements

- 6.4.1 Notwithstanding any of the provisions of these rules and regulations, when there exists a threat to public health, welfare, or safety under emergency conditions, the CPO may make or authorize others to make emergency procurements; provided that emergency procurements shall be made with as much competition as practicable under the circumstances.
- 6.4.2 A written determination of the basis for the emergency and the selection of the particular contractor shall be included in the contract file.

6.5 Exceptions to Competitive Bidding

- 6.5.1 Contracts which by their nature are not adapted to award by competitive bidding, such as contracts for the services of individuals possessing a high degree of professional skill, where the ability of the fitness of the individual plays an important part, shall not require competitive bids.
- 6.5.2 Products for services currently defined and contracted for open purchase by the State of Utah shall not require competitive bids.

7 AUDIT COMPLIANCE

7.1 Cash Management and Deposits

- 7.1.1 All monies, promissory notes, and evidences of debt or investments belonging to the District shall be deposited on a daily basis where possible, or at least every three business days in financial centers or banks or with the Utah State Treasurer as authorized by the State Money Management Act, Title 51, Chapter 7, of the Utah Code, or other applicable law (U.C.A. § 51-4-2(2)).
- 7.1.2 As noted in section 7.1.1 immediately above, properly approved payments, including but

not limited to payroll, may be made by direct deposit into an authorized financial institution account or by electronic transfer.

- 7.1.3 Approved disbursements may be shown in the Board meeting minutes and, if so shown, the minutes shall constitute authority for the payment of capital items and other expenditures which require Board approval. Other disbursements may be approved as provided in these operating regulations and bylaws.
- 7.1.4 All persons with check signing or direct deposit authority and/or with investment and/or financial recordkeeping responsibilities shall be bonded or covered by theft or crime insurance in such sum as may be required by law or prescribed by the State Money Management Council and with such surety, sureties, insurance company or insurance companies as the Board shall determine, with the costs of each bond or insurance coverage to be paid by the District. If it appears that the Treasurer or any other officer or employee of the District is making a profit out of public money, is comingling District funds with personal funds, or is using District funds for any purpose not authorized by law, the Treasurer, officer or employee shall be suspended from office and/or employment as provided by law and may be subject to criminal prosecution and/or civil suit.

7.2 Investments

- 7.2.1 Investment transactions are to be conducted only with institutions authorized by the Utah Money Management Counsel (U.C.A. § 51-7-1, et seq).
- 7.2.2 Funds may not be invested for terms which exceed the anticipated rate of the expenditure of the funds. (U.C.A. § 51-7-11 (2)).
- 7.2.3 Funds may only be invested in instruments and assets authorized by the Money Management Act (U.C.A. § 51-7-11(3)).
- 7.2.4 All securities are to be delivered to an authorized safekeeping custodian within fifteen days of the transaction (U.C.A. § 51-7-7).
- 7.2.5 Selections of investments shall be made with the exercise of that degree of judgment and care which persons of prudence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety for their capital, as well as the probably benefits to be derived. (U.C.A. § 51-7-14).
- 7.2.6 All public funds invested in deposit instruments should be invested with qualified depositories within Utah, unless national market rates on instruments of similar quality and term significantly exceed those offered by qualified depositories within the state.

7.3 Public Debt

- 7.3.1 The District shall have the power to incur indebtedness, however, it shall contract no debt in excess of state statute limits.

7.4 Other General Compliance

- 7.4.1 Abandoned Property: Any tangible or intangible property which is presumed abandoned over one year will be submitted to the State Treasurer's Office. The annual abandoned property report (ST-2) will be filed regardless of whether or not the District holds any abandoned property.
- 7.4.2 The District shall provide, annually, its name, telephone number, and address to the telephone directory publisher serving the geographical area within the district.
- 7.4.3 No District trustee or officer may employ, appoint, vote for, supervise, evaluate, or set the salary for a relative, when the salary, wages or compensation of that relative will be paid from public funds. (U.C.A.52-3-1). However, this does not preclude the Board from employing or appointing a relative of a trustee or officer if that trustee or officer abstains from participating in the employment, appointment, supervision, evaluation, and salary setting processes.

8 WATER SYSTEM POLICIES

8.1 Definitions and General Policies

- 8.1.1 A "Water Connection" is an authorized physical connection to the District's water system in order to receive delivery of water from the District. Each Water Connection includes a water meter so that water usage may be monitored. A Connection Fee as set forth in the District's Fee Schedule is required for each Water Connection.
- 8.1.2 A "Service Connection" is a previously established right to receive water service from the District for one standard residential connection, i.e., 0.45 acre-feet of water for indoor culinary use and 0.75 acre feet for outdoor use which allows for the irrigation of up to one-quarter acre of landscaping, which may not be sold under any circumstances except to the District.
- 8.1.3 "Water Dedication" is a requirement to dedicate to the District sufficient water rights, of a nature and type which are acceptable to the District, to adequately meet the needs of new developments, as determined by District. Unless otherwise approved by the Board, this consists of 1.2 acre-feet of water per standard residential connection, i.e., 0.45 acre-feet of water for indoor culinary use and 0.75 acre feet for outdoor use which allows for the irrigation of up to 0.25 acres of landscaping. If the area to be irrigated per lot varies substantively from 0.25 acres or if other water uses are proposed, the District, in its sole discretion, may adjust the quantity of water to be dedicated upon written request with appropriate supporting data. The Board will consider and determine the amount of water to be dedicated for other uses on a case-by-case basis. The water right must be a right that is acceptable to the District (including acceptable depletion limits) and must be approved for diversion and municipal use in the District's system. If the District's existing sources lack sufficient capacity for the rights being dedicated, the applicant must also provide a new source that is acceptable to the District.

- 8.1.4 A “Connection Fee,” as used in the District’s Fee Schedule, consists of the approximate average actual cost for physical connection to the main water system, The Connection Fee is set forth in the District’s Fee Schedule.
- 8.1.5 An “Impact Fee,” as used in the District’s Fee Schedule, consists of the payment imposed upon new residents/developers for new development activity necessary for the use of occupants or users, aka system improvements as defined in the Impact Fees Act (U.C.A. § 11-36-101 *et seq.*). The District’s Impact Fees are set forth in the District’s Fee Schedule.
- 8.1.6 “Water Rates,” as used in the District’s Fee Schedule, consist of the rates charged by the District for water usage in accordance with the Water Rate Schedule set forth in the District’s Fee Schedule.

8.2 Water Connection and Meter Installation

- 8.2.1 Applications for service shall be made on forms provided by the District and shall include the address and legal description or tax identification number of the lot(s) or property to be serviced. The application must also describe how the applicant intends to provide the water necessary for the development as described in section 8.2.2 below. Upon submission of a complete application and any other information requested by the District, a letter of availability of service may be requested. Any letter of availability of service or intent to provide water service sent from or by the District shall expire after one year from the date thereof and will be of no force or effect after such time. The letter of availability of service applies to the development project as proposed in the application submitted.
- 8.2.2 The applicant is responsible for providing all of the water needed for the applicant’s development unless water has already been dedicated or otherwise provided for. This requirement may be met by either: (a) dedication of sufficient water rights (and sources if necessary) to meet the District’s “water dedication” requirement for each lot and parcel within the development; or (b) a fee-in-lieu of water dedication for each lot and parcel if there are “service connections” available and the applicant is next in line on the waiting list for those service connections, if prior written consent is received from the District. Applicants that do not have the necessary water to meet the District’s water dedication requirements are placed on a waiting list in the order in which such applications are received. If service connections become available when an applicant is next in line on the waiting list, the applicant will be notified and shall have fifteen days to purchase those service connections. Any service connections remaining un-purchased at the end of that 15 day period shall be made then be available to the next applicant on the waiting list. If an applicant sells his/her property before a connection is approved, the application and its position on the waiting list may be transferred to the new purchaser with the approval of the Board.
- 8.2.3 Service connections are permanently attached to the lot(s) they serve or were intended to serve, except as provided for herein. Service connections owned by the District will become appurtenant to specific lots upon the sale of such service connections to

applicants for water service. Any service connection owner who wishes to sell service connections shall notify the District and the District may, in its sole discretion, purchase the service connections. No service connections may be sold except to or from the District. The District will not honor any service connection transfer made after the effective date of this amendment except those made in accordance with this section. The sales price for District service connections shall be the greater of the price of the last owner service connection sold or 120% of the price the District paid for the service connection. The cost of purchasing an available service connection is the amount of the fee-in-lieu of water dedication mentioned in the previous section.

8.2.4 Once an applicant has acquired sufficient service connections and/or has met the water dedication requirements, the Board shall review the applicant's application at the next Board meeting. If the application is approved by the Board, the applicant will be notified and given fifteen days from the date of notice to pay all remaining fees, including the impact and connection fees, after which such approval shall expire. The connection fee is for a standard connection with no road crossings and no long laterals to the meter box. The applicant is responsible for all extra costs associated with a non-standard connection. The amount of the fees shall be determined using the Fee Schedule in effect at the time the application is approved. Water service shall be provided to new connections in the order in which connection fees are paid on approved applications.

8.2.5 All culinary connections shall be made directly to District water mains located in easements immediately adjacent to or upon the property receiving the service. Installation of private water lines across adjacent lots, building premises, or property owned by others shall not be permitted. The District shall not be responsible for providing pressure boosting facilities to any new connections. If the District's water source, storage, and/or delivery facilities do not have adequate capacity or are not physically capable of delivering the water service necessary for a proposed new development project, the developer shall be responsible for all costs associated with providing the required capacity and/or physical capability for such service.

8.2.6 If a District water line with sufficient capacity to serve the proposed development is not located on or adjacent to the property being developed, the applicant is responsible for extending a water line of sufficient capacity, as determined by the District, to service the applicant's development. The applicant may, at its option, or shall, at the District's option, install a water line with excess capacity designed to service other properties in the area. If a line with excess capacity is installed at the applicant's option, the District will charge any property owners adjacent to the line with excess capacity that connect onto that line within five years from the date the completed line is accepted by the District a prorated share of the cost of the line. The proration shall be based on the number of standard connections to be served by the respective developments in relation to the total capacity of the line. If a line with excess capacity is installed at the District's option, the District shall pay all of the increased pipe costs for the excess capacity. This approach may also be used with respect to excess storage capacity and/or source capacity provided by the Applicant, as provided for in Section 10.

8.2.7 All customers of the District must be metered. All meters must be installed through the

District. An applicant may request or propose a location for meters; however, the final decision as to the location is in the sole discretion of the District. If, for any reason, any meter fails, does not register accurate readings, or cannot be read, District personnel may make an estimate of usage based on historical usage and other relevant information and then repair or change out the meter.

- 8.2.8 Each building or unit shall be serviced through its own separate water lines. Two or more buildings or units on the same property may be serviced through a single connection only upon written authorization by the District, which authorization is in the District's sole discretion. Furthermore, property owners must agree to be responsible even after any separation of ownership by sale or otherwise of one or more of the buildings or units until the new owner(s) have signed new applications and new connections have been made at the expense of the owners. Where service is currently being provided to two or more buildings or units through a single connection, the District may, in its sole discretion, either refuse further service until separate connections have been made or continue to provide service on the condition that the property owner be responsible for all payments due the District for each such building or unit and to remain responsible therefore even after any separation of ownership by sale or otherwise of one or more of the buildings or units until the new owner(s) have signed new applications and new connections have been made at the expense of the owners.
- 8.2.9 No individual water supply system shall be used or permitted on any lot or group of lots unless such system is located, constructed and equipped in accordance with the requirements, standards, and recommendations of the State Health Department, Engineer and/or County officials. Approval of such system as installed shall be obtained from such authority. If there exists a state-approved well prior to the inception of this District, that well shall remain in place and usable as long as it continues to meet the above-mentioned requirements.
- 8.2.10 Water usage will be monitored by District personnel and water meter readings collected, recorded and submitted to the District Manager for billing purposes. Each property owner must allow the District access to its meters, wherever located, and to all other lines and facilities belonging to, and/or operated by, the District that are within the boundaries of the property being serviced by the District.

8.3 Water Rates

- 8.3.1 All water customers with improved lots must be metered and shall be charged a basic monthly fee, plus a water usage fee, as set forth in the Fee Schedule.
- 8.3.2 All water customers with unimproved lots, either metered or unmetered, shall be charged a minimum of the basic monthly fee, regardless of whether or not any quantity of water is used, as set forth in the Fee Schedule.

8.4 Inspections

- 8.4.1 Prior to commencing any service, District personnel shall have the right to inspect all

plumbing lines, laterals, connections, and related facilities within and upon the premises. If District personnel do not approve of the same, the applicant shall cause each deficiency identified to be corrected at the applicant's sole expense so as to meet the requirements of the District and of any other governmental entity having jurisdiction.

8.4.2 All customers have the duty to keep their plumbing, lines, laterals, connections, and related facilities operational and in good repair and shall promptly repair any leaks and defects at their own expense. After service has commenced, District personnel shall have the right to inspect all lines, laterals, connections, related facilities, and reasonably accessible plumbing within and upon the premises with reasonable notice to the customer to ensure that the District's rules and regulations are being complied with and may required that leaks, defects, and/or violations be corrected.

8.5 Septic Systems

8.5.1 Septic systems are not to be installed within a Drinking Water Source Protection Zone or Management Area for any of the District's Ground Water Sources as those terms are defined in R309-113-6 of the Utah Administrative Code (1994). The District is required under these terms to prohibit the installation of any potential contamination source which may discharge into the ground water either within a 2-mile radius or, or within a 15 year ground-water time of travel to, a drinking water wellhead collection area, whichever is applicable. Septic systems are contamination sources which discharge into the ground-water and therefore cannot be allowed in these areas.

8.6 Rented Premises

8.6.1 The owner of leased premises shall be responsible and liable for all water services furnished to the tenants of the owner. Billing for water services will be sent to the owner. The owner may pass the costs billed on to the tenant or tenants but the owner is responsible for making payment on the billing. A separate billing will be made for each meter the owner has installed.

8.6.2 All new applications for service to leased premises shall be made by the owner.

8.7 Applications

8.7.1 Whenever a person desires a meter installation, he shall make written application to the Manager and sign an agreement that, among other things, he will be governed by such rules and regulations as may be prescribed by the District.

8.8 Unauthorized Use of Water

8.8.1 If any water customer shall permit any person from other premises or any unauthorized person to use or obtain water from his building, premises, or fixtures, whether inside or outside a building, the supply of water may be terminated, after being notified by the District Manager. In addition, such person shall pay for any and all damage to District property.

8.9 Penalties

8.9.1 Failure to make the necessary applications, give notice, make payment on the bills rendered, or abide by all the District's rules and regulation shall subject the person to the applicable fees or penalties set forth in the Fee Schedule.

8.10 Billing

8.10.1 All water customers shall be billed monthly. The bill will include a statement for water service and may include a statement for any other services provided by the District. When such a consolidated statement is furnished, the bill shall show the separate charges due for the respective services furnished; provided however, that all customers shall pay the total sum of the charges contained on said billing.

8.10.2 Customers are responsible for water lost through leaks on the customer's side of the meter. Therefore, credits will be issued to customers only for errors in billing.

8.11 Delinquent Accounts

8.11.1 All monthly bills rendered for water service or any other valid charge made by the District shall become past due on the twenty-sixth day of each month. After thirty days, the District shall give notice that the Account is past due and that service may be discontinued unless payment is made in full or appropriate arrangements for payment are made. All past due accounts are subject to interest and late fees as set forth in the Fee Schedule.

8.11.2 If delinquency continues for sixty days, water service will be discontinued after a final 24 Hour Delinquency Notice is hand delivered to the service address by two or more Board Members. After the expiration of this final 24-hour notice, the District may disconnect the water service associated with the delinquent account and may seek any or all remedies allowed by law to recover the delinquent amount. The disconnection and reconnection fees set forth in the Fee Schedule shall apply to any such disconnections.

8.12 Control of Cross Connection and Backflow

8.12.1 All connections to the District culinary water system shall conform to the Uniform Plumbing Codes as adopted by the State of Utah and the State of Utah Public Drinking regulations. The purpose is to protect the public potable drinking water supply from contamination or pollution by backflow within the distribution system. Compliance with these minimum safety codes will be considered reasonable vigilance for prevention of contaminants or pollutants which could backflow into the public drinking water system.

8.12.2 Definitions

8.12.2.1 Backflow: The reversal of the normal flow of water caused by either back pressure or back siphonage.

- 8.12.2.2 **Back pressure:** The flow of water under pressure into the potable water supply system lines from any source other than the intended source.
- 8.12.2.3 **Backflow prevention assembly:** An assembly designed to prevent backflow (Utah Plumbing Code Appendix J, Chapter 10)
- 8.12.2.4 **Cross connection:** Any physical connection or arrangement of piping or fixtures which may allow non-potable water or other material of questionable quality to come into contact with potable water inside the distribution system. This includes any temporary connections, including swing connections, removable sections, four-way plug valves, or other similar plumbing arrangements.
- 8.12.3 Each resident shall purchase, install, test, and maintain an approved backflow prevention assembly on the water meter connection at each resident's property line. Each resident shall arrange to have the District witness the testing of each backflow prevention assembly at the time it is installed.
- 8.12.4 Cross connections of any type are prohibited.
- 8.12.5 The District shall inspect the water system on a regular basis for cross connections and backflow prevention assemblies. The District shall also provide public awareness information to its residents annually concerning prevention of cross connections. District personnel shall participate in approved cross connection training annually and shall create and maintain records of all cross connection and backflow prevention assembly surveys and inspections, incidents, corrective actions, enforcement actions, and the locations of backflow prevention assemblies. These records shall be maintained for a period of at least five years.
- 8.12.6 Each resident's own water lines shall be open for inspection at reasonable times to an authorized representative of the District to determine whether cross connections exist and whether an approved backflow prevention assembly is in place and function properly. A resident found to have a hazardous condition will be required to install one or more backflow prevention assemblies at his own expense.
- 8.12.7 Water service to locations found in violation with no plan for correction shall be discontinued by the District per disconnection procedures described in Section 8.11.2 of this Manual, or immediately, with notice, if a serious threat to health or safety exists. Restoration of water to that location shall not occur until such defects are corrected and the re-connection fee paid.

8.13 Flood Control

- 8.13.1 It is the responsibility of residents to preserve existing drainage ditches for the purposes of District drainage and flood control. Specifically, residents must install a culvert any time an existing roadside drainage ditch is intersected or bridged by construction, and must restore any roadside ditches along the periphery of their lot which may become obscured by construction.

8.14 Prohibited Acts

- 8.14.1 No person shall, after water services has been terminated for non-payment or for the violation of the rules and regulations pertaining to the water system of the District, turn on or allow water to be turned on or used without authority from the District.
- 8.14.2 No person shall destroy, deface, injure, or interfere with the operation of any part, pipe, fixture, appliance, meter or appearance of the District water system.
- 8.14.3 No person shall place, cause to be placed, or induced into the District water system or any source of water supplying said system, any matter, substance, chemical, or compound poisonous to the human life or harmful to human health.
- 8.14.4 No person shall open or uncover any meter box without permission from the District.

8.15 District Liability for Damages

- 8.15.1 The District shall not be held liable for damages to any water customer by reason of stoppage or interruption of his water supply caused by scarcity of water, accidents to works or mains, alterations, repairs or from other unavoidable causes.

9 RECORDS MANAGEMENT

9.1 General Purpose

- 9.1.1 It is the District's policy to establish and implement guidelines for open government information recognizing the need to maintain and preserve accurate records, provide public access to public records and preserve the right of privacy of personal data collected or received by the District.

9.2 District Policy

- 9.2.1 In adopting this policy, the District recognizes the enactment of Government Records Access and Management Act (U.C.A. § 63-2-101 *et seq.*) and the application of that Act to the District records. The purpose of these policies is to conform to U.C.A. § 63-2-701 which provides that each political subdivision may adopt an ordinance or a policy relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention and amendment of records. The intent of this policy is to provide modification to the general provision of State law, where allowed, to best meet the public needs, operation, management capabilities and resources of the District.

9.3 Compliance with State Law

- 9.3.1 In adopting the policy, the District recognized the following sections of the Government Records Access and Management Act (U.C.A. § 63-2-101, *et seq.*) applies to the District and adopt by reference these provisions as part of this policy. Any inconsistency or conflict between this policy and the following reference statutes shall

be governed by this statute.

9.3.1.1 General Provisions

§ 63-2-101	Short title
§ 63-2-102	Legislative intent
§ 63-2-103	Definitions
§ 63-2-104	Administrative Procedure Act not applicable
§ 63-2-105	Confidentiality agreements

9.3.1.2 Access to Records

§ 63-2-201	Right to inspect records and receive copies of records
§ 63-2-202	Access to private, controlled and protected documents
§ 63-2-205	Denials
§ 63-2-206	Sharing records

9.3.1.3 Classification

§ 63-2-301	Records that must be disclosed
§ 63-2-302	Private records
§ 63-2-303	Controlled records
§ 63-2-304	Protected records
§ 63-2-306	Procedure to determine classification
§ 63-2-307	Segregation of records
§ 63-2-308	Business confidentiality claims

9.3.1.4 Accuracy of Records

§ 63-2-601	Rights of individuals on whom data is maintained
§ 63-2-602	Disclosure to subject of records – Context of use
§ 63-2-603	Request to amend

9.3.1.5 Applicability to Political Subdivisions

§ 63-2-701	Ordinance in compliance with chapter
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9.3.1.6 Remedies

§ 63-2-801	Criminal penalties
§ 63-2-802	Injunction – Attorneys' Fees
§ 63-2-803	No liability for certain decisions of governmental entities
§ 63-2-804	Disciplinary action

9.3.1.7 Archives and Records Service

§ 63-2-904	Records declared property of the State – Disposition
§ 63-2-907	Right to replevin

9.3.1.8 Other

§ 63-30-10.6	Attorneys' fees for records request
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9.4 Definitions

9.4.1 As used in this ordinance, the following definitions shall be applicable.

9.4.1.1 “Act” shall refer to Government Records Access and Management Act (U.C.A. § 63-2-1, *et seq.*)

9.4.1.2 “District” shall refer to Fruitland Special Service District, or any public or private entity which pursuant to contract with the District has agreed to produce and maintain public District records.

9.4.1.3 “Computer software program” means the series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation, manuals, or other source material explaining how to operate the software program. “Software” does not include the original date or record which is manipulated by the software.

9.4.1.4 “Controlled” records shall be those defined as controlled under the provisions of the Act.

9.4.1.5 “Data” shall refer to individual entries (for example, birth date, address, etc.) in records.

9.4.1.6 “Dispose” means to destroy, or render irretrievable or illegible, a record of the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, non-written formats, date processing or other records.

9.4.1.7 “Non-public” records shall refer to those records defined as private, controlled, or protected under the provisions of the Act.

9.4.1.8 “Private” records shall refer to those records classified as private under provisions of the Act.

9.4.1.9 “Protected” records shall refer to those records which have not been classified as non-public in accordance with the provisions of the Act.

9.4.1.10 “Record” means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received or retained by the District where all the information in the original is reproducible by some mechanical, electronic, photographic or other means.

9.4.1.11 “Record” does not mean temporary drafts of similar materials prepared for the originator’s personal use or repaired by the originator for the personal use of a person for whom he is working; materials that are legally owned by an individual in his private capacity; materials to which access is limited by the laws of copyrights or patent; junk mail or commercial publications received by the District or by an officer or employee of the District; proprietary computer software programs as defined in subsection 9.4.1.3 above that are developed or purchased by or for the District for its own use.

9.5 Public Right to Records

- 9.5.1 Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the District, of all District governmental records defined as “public” under the provisions of this Policy, upon the payment of the lawful fee and pursuant to the provisions of this Policy and the Act.
- 9.5.2 The District has no obligation to create a record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept;
- 9.5.3 When a record is temporarily held by a custodial District agency; pursuant to that custodial agency’s statutory functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this Policy. The record shall be considered a record of the District and any requests for access to such records shall be direct to the District, rather than the custodial agency, pursuant to these procedures.

9.6 Public, Private, Controlled, and Protected Records

- 9.6.1 Public records shall be those District records as defined in the Act. Public records shall be made available to any person. All District records are considered public unless they are (1) expressly designated, classified, or defined otherwise by the District in accordance with policies and procedures established by this Policy, (2) are so designated, classified or defined by the Act, or (3) are made non-public by other applicable law.
- 9.6.2 Private records shall be those District records classified as “private”, as defined in the Act and as designated, classified, or defined in procedures established pursuant to this Policy. Private records shall be made available to the following persons: The subject of the record, the parent or legal guardian of a minor who is the subject of the record, the legal guardian of an incapacitated individual who is the subject of the record, any person who has power of attorney or a notarized release form the subject of the record of his legal representative, or any person possessed of or serving a legislative subpoena or a court order issued by a court of competent jurisdiction.
- 9.6.3 Controlled records shall be those District records classified as “controlled” as defined in the Act and as designated, classified, defined in procedures established in this Policy. Controlled records shall be made available to a physician, psychologist, or licensed social worker who submits a notarized release form the subject of the record or any person presenting a legislative subpoena or a court order signed by a judge of competent jurisdiction.
- 9.6.4 Protected records shall be those District records classified as “protected”, as defined in the Act and as designated, classified or defined in procedures established in this Policy. Protected records shall be made available to the person who submitted the information in the record, to a person who has power of attorney or notarized release from any persons or governmental entities whose interests are protected by the classification of the record, or to any person presenting a legislative subpoena or a court order regarding

the release of the information and signed by a judge or competent jurisdiction.

9.7 Privacy Rights

- 9.7.1 The District recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records.
- 9.7.2 The District may, as determined appropriate by the Manager, notify the subject of a record that a request for access to the subject's record has been made.
- 9.7.3 The District may require that the requester of records provide a written release, notarized within thirty days before the request, from the subject of the records in question before access to such records is provided.

9.8 Designation, Classification and Retention

- 9.8.1 All District records and record series, of any format, shall be designated, classified and schedule for retention according to the provisions of the Act and this Policy. Any records or record series generated in the future shall also be so designated, classified and scheduled for retention. Records designation classification and scheduling for retention shall be conducted under the supervision of the District Records Officer.

9.9 Procedures for Records Request

- 9.9.1 Under circumstances in which the District is not able to immediately respond to a records request, the requester shall fill out and present to the District a written request on forms provided by the District. The date and time of the request shall be noted on the written request form and all time frames provided under this Policy shall commence from that time and date. Requesters of non-public information shall adequately identify themselves and their status prior to receiving access to non-public records.
- 9.9.2 The District may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by the Board.
 - 9.9.2.1 In most circumstances and expecting those eventualities set out below, the District shall respond to a written request for a public record within ten business days after that request.
 - 9.9.2.2 Extraordinary circumstances shall justify the District's failure to respond to a written request for a public record within ten business days and shall extend the time for response thereto that time reasonably necessary to respond to the request, as determined by the District Manager. Extraordinary circumstances shall include but not be limited to the following:
 - 9.9.2.2.1 Some other governmental entity is currently and actively using the record;
 - 9.9.2.2.2 The record requested is for either a voluminous quantity of records or requires the District to review a large number of records or perform extensive research to locate the

materials requested;

- 9.9.2.2.3 The District is currently processing either a large number of record requests and/or is subject to extraordinary seasonal work loads in the processing of other work;
- 9.9.2.2.4 The request involves an analysis of legal issues to determine the proper response to the request;
- 9.9.2.2.5 The request involves extensive editing to separate public data in a record from that which is not public; or
- 9.9.2.2.6 Providing the information request required compute programming or other format manipulation.

- 9.9.2.3 When a record request cannot be responded to within the ten day period, the District Manager shall give the requester an estimate of the time required to respond to the request.
- 9.9.3 The failure or inability of the District to respond to a request for a record within the time frames set out herein, or the District's denial of such a request, shall give the requester the right to appeal as provided in subsection 9.11

9.10 Fees

- 9.10.1 Applicable fees for processing of information requests under this Policy shall generally be set at actual costs or as otherwise established by policies adopted under this Policy. The District will charge the following fees for requests relating to the Act
 - 9.10.1.1 Reviewing a record to determine whether it is subject to disclosure - No Charge
 - 9.10.1.2 Inspection of record by requesting person No Charge
 - 9.10.1.3 Copy Fees..... \$1.00/page
(for District prepared copies)
 - 9.10.1.4 Computer Disk Actual Cost
(including overhead and time of District staff in preparation of information request, with a minimum of \$5.00)
 - 9.10.1.5 Other Forms including Maps Actual Cost
(including overhead and time of District staff or outside consultant in preparation of information request, with a minimum of \$1.00 per page)
 - 9.10.1.6 Miscellaneous Fees Actual Cost
(same as 9.10.1.5 above)

9.11 Appeal Process

- 9.11.1 Any person aggrieved by the District's denial or claim of extraordinary circumstances

may appeal the determination within thirty days after notice of the District's action to the District Manager by filing a written notice of appeal. The notice of appeal shall contain the petitioner's name, address, phone number, relief sought and if petitioner desires, a short statement of the facts, reasons and legal authority for the appeal.

- 9.11.2 If the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an individual, the District Manager may send a notice of the requester's appeal to the affected person.
- 9.11.3 The District Manager shall make a determination on the appeal within ten days after receipt of the appeal. During the thirty day period, the District Manager may schedule an informal hearing or request any additional information deemed necessary to make a determination. The District Manager shall send written notice to all participants providing the reasons for the District Manager's determination.
- 9.11.4 In addition, if the District Manager affirms the denial in whole or in part, the denial shall include a statement that the requester has a right to appeal the denial to the District's Board of Trustees within thirty days at the next scheduled meeting.
- 9.11.5 The person may file a written notice of appeal to the Board of Trustees to be heard at the next scheduled meeting of the Board. If there is no meeting scheduled in the next thirty days the Board of Trustees shall schedule a meeting for the purpose of hearing the appeal. The final decision of the Board of Trustees shall be by majority vote of a quorum of the Board. The Board shall prepare a written decision outlining their final determination and reasons for the final determination.
- 9.11.6 If the Board of Trustees affirms the denial, in whole or in part, the person may petition for judicial review in district court as provided in U.C.A. § 63-2-404.

9.12 Reasonable Accommodation

- 9.12.1 Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with the Americans with Disabilities Act upon request of the applicant.

9.13 Records Amendments

- 9.13.1 Government records held by the District may be amended or corrected as needed. Requests for amendments, corrections, or other changes shall be made in writing to the District having custody of the records and setting forth, with specificity, the amendment or correction requested. When an amendment or correction of a government record is made, only the amended or corrected record shall be retained, unless provided otherwise by the Act or other State or Federal law.

9.14 Penalties

- 9.14.1 District employees who knowingly refuse to permit access to records in accordance with the Act and this Policy, who knowingly permit access to non-public records, or

who knowingly, without authorization or legal authority, dispose of, alter, or remove records or allow other persons to do so in violation of the provisions of the Act, this Policy or other law or regulation may be subject to criminal prosecution and disciplinary action, including termination.

9.14.2 In accordance with the Act, neither the District nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

9.15 Records Officer

9.15.1 The District Records Officer shall be the District Manager. The Records Officer shall oversee and coordinate records access, management and archives activities. The Records Officer shall make annual reports of records services activities to the Board of Trustees.

9.16 Records Maintenance

9.16.1 Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve District records safely and accurately over the long term. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication and disposal of District records. He/she shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use and maintenance of records.

9.16.2 All District records shall remain the property of the District unless federal or state legal authority provides otherwise. Property rights to District records may not be permanently transferred from the District to any private individual or entity, including those legally disposable obsolete District records. This prohibition does not include the providing of copies of District records produced for release or distribution under this chapter.

9.16.3 Custodians of any District records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or the District Records Officer.

9.17 Series Classifications

9.17.1 [To be determined at later date by resolution.]

10 IMPACT FEES POLICY

10.1 Purpose

10.1.1 The Impact Fees Policy is promulgated pursuant to the requirements of the Impact Fees Act, U.C.A. §§ 11-36-101 through 11-36-401. In the event of a conflict between the Impact Fees Policy and a provision of the Act applicable to the District, including subsequent amendments, the Act shall control.

10.2 Definitions

10.2.1 Words and phrases that are defined in the Act shall have the same definition in the Impact Fees Policy. The following words and phrases shall have the following meanings:

10.2.1.1 "Developer" means any person or entity desiring to be engaged in development activity.

10.2.1.2 "Development activity" means any construction or expansion of a building, structure or use, any change in use of a building or structure, or any change in the use of land that creates additional demand and need for public facilities.

10.2.1.3 "Development approval" means any written authorization from the District that authorizes the commencement of development activity including, but not limited to, letters of availability of water service.

10.2.1.4 "Hookup fees" has the same meaning as "connection fees" and means reasonable fees, not in excess of the approximate average costs to the District for services provided for and directly attributable to the connection to utility services provided by the District.

10.2.1.5 "Impact fee" means a payment of money imposed upon development activity as a condition of development approval. "Impact fee" does not include a tax, a special assessment, a hookup fee, a fee for project improvements, or any other reasonable permit or application fee.

10.2.1.6 "Project improvements" means site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupants or users of the development resulting from a development activity. "Project improvements" do not include "system improvements."

10.2.1.7 "Proportionate share" of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.

- 10.2.1.8 "Service area" refers to a geographic area designated by the District on the basis of sound planning or engineering principles in which a defined set of the District's public facilities provide service. The District may be divided into several service areas or a service area may include the entire District. Unless specifically indicated otherwise, "service area" shall refer to the entire District.
- 10.2.1.9 "System improvements" refers both to existing public facilities designed to provide services to the District's service area(s) at large and to future public facilities identified by the District that are intended to provide services to the District's service area(s) at large. "System improvements" do not include "project improvements."

10.3 Impact Fees

- 10.3.1 Assessment of Impact Fees. Whenever a customer receives either a new connection or an enlarged connection into the District's water system, or otherwise engages in development activity, appropriate fees and charges will be assessed, as set forth in the District's Fee Schedule in effect at the time a customer receives a new connection or an enlarged connection.
- 10.3.2 Public Facilities. The District is a public water supplier. For the cost of "public facilities" owned or operated by or on behalf of the District to qualify for inclusion in the District's impact fees, those facilities must have a life expectancy of ten or more years and may consist of water rights, water supply, and/or treatment and distribution facilities.
- 10.3.3 Enactment of Impact Fees. The Board of Trustees of the District may from time to time, by resolution, enact or modify impact fees that do not exceed the highest fees justified by the impact fee analysis under this Section 10.3 in accordance with the procedure and requirements of the Act and this Chapter.
- 10.3.3.1 Elements. In calculating the impact fees, the District may include the construction contract price, land acquisition costs, costs of improvements, materials costs, the cost of fixtures, fees for planning, surveying, and engineering services provided for and directly related to the construction of system improvements, and debt service charges if the District might use impact fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.
- 10.3.3.2 Notice and Hearing. Before approving the resolution, the District will hold a public hearing and make a copy of the resolution available to the public at least fourteen days before the date of the hearing, all in conformity with the requirements of U.C.A. § 17B-1-111. After the public hearing, the Board of Trustees may adopt the impact fee resolution as proposed; amend the impact fee resolution and adopt or reject it as amended; or reject the resolution.
- 10.3.3.3 Contents of the Resolution. The resolution adopting or modifying an impact fee will contain such detail and elements as deemed appropriate by the Board of Trustees, including a designation of the service area or service areas within which the impact fee

is to be calculated and imposed. The resolution will include (i) a schedule of impact fees for each type of development activity specifying the amount of the impact fee to be imposed for each type of system improvement or (ii) the formula to be used by the District in calculating each impact fee, or both.

10.3.4 Adjustments. The resolution will specifically state that the standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances in specific cases and to insure that impact fees are imposed fairly. Even if that provision is missing from the resolution, the District shall have the right, power and authority to adjust impact fees in response to unusual individual circumstances to achieve fairness. By way of illustration, but not limitation, the impact fee may be adjusted, under appropriate circumstances, based upon studies and data submitted by the developer. Furthermore, as provided in Subsection 10.4.1, low income housing and other development activities with broad public purposes may be exempted by the Board of Trustees, in whole or in part, from impact fees. Where such an exemption is granted, one or more sources of funds other than impact fees may be identified to offset impact fees attributable to that development activity.

10.3.4.1 Previously Incurred Costs. To the extent that new growth and development will be served by previously constructed improvements, the District's impact fee may include public facility costs previously incurred by the District. Where such is the case, the resolution should make specific reference to the cost of previously constructed improvements being included in the impact fee. Should, however, such reference not be included in the resolution, and should part of the impact fee be based upon such previously incurred costs, this provision shall be deemed to be incorporated in the resolution in satisfaction of any requirement of the Act that the resolution make specific reference to the imposition of an impact fee for previously incurred public facility costs.

10.3.4.2 Developer Credits. A developer may be allowed a credit against impact fees for any dedication of land for, improvement to, or new construction of system improvements provided by the developer provided that those public facilities provided by the developer are (i) identified by the District as "system improvements" and (ii) required by the District as a condition of approving the development activity. Otherwise, no credit may be allowed.

10.3.5 Impact Fees Accounting. The District will establish separate interest bearing ledger accounts for each type of public facility for which an impact fee promulgated in accordance with the requirements of the Impact Fees Policy is collected. Impact fee receipts are to be deposited in the appropriate ledger account. Interest earned on each fund or account is to be retained in that fund or account.

10.3.5.1 Ledger Account Types. The District directly or indirectly operates water supply facilities. The District will maintain one or more appropriate ledger accounts and make appropriate expenditures from each account.

10.3.5.2 Reporting. At the end of each fiscal year, the District shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.

10.3.5.3 Impact Fee Expenditures. The District may expend impact fees covered by the Impact Fees Policy only for system improvements that are of the specific public facility type for which the fee was collected.

10.3.5.4 Time of Expenditure. Impact fees adopted under the requirements of the Impact Fees Policy are to be either expended or encumbered for a permissible use within six years of the receipt of those funds by the District. Unless the Board of Trustees otherwise directs, for purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

10.3.5.5 Extension of Time. The District may hold fees for longer than six years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years and (ii) an absolute date by which the fees will be expended.

10.3.5.6 Refunds. The District shall refund any impact fees paid by a developer, plus interest actually earned, when (i) the developer does not proceed with the development activity and files a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted. An impact which would preclude a developer from being entitled to receive a refund from the District may include any impact reasonably identified by the District, including, but not limited to, the District having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

10.3.6 Contractual Fees. To the extent allowed by law, the Board of Trustees may, by contract, agree to impact fees and other fees different from those set forth in the District's Fee Schedule. Those changes may, in the discretion of the Trustees, include reductions in impact fees and the assessment of an area benefit payback fee, all or part of which may be reimbursed to the developer who installed improvements that service land that is connecting into the District's system(s).

10.3.7 Additional Fees and Costs. The impact fees set forth in the District's Fee Schedule are separate from and in addition to service fees and other fees and charges lawfully imposed by the District, such as the fee for the preliminary engineering report, the fee for the design report, any area benefit payback fee (which may be itemized as part of the impact fee), and other fees and costs that may not be included as itemized component parts of the Impact fee schedule. In charging any such fees as a condition of development approval, the District recognizes that the fees must be a reasonable charge for the service provided. Certain fees, such as area benefit payback fees, may be mandated by contractual arrangements entered into by the District prior to the effective date of the Act. The District does not view the Act as affecting contractual obligations

and commitments and the District will continue to collect and remit such fees as provided in any such contract.

10.3.8 **Fees Effective at Time of Payment.** Unless the District is otherwise bound by a contractual requirement, the impact fee shall be determined from the Fee Schedule in effect at the time of payment and shall not be determined at the time a request for an estimate is received by the District. There shall be no guarantee that any quoted fee, whether oral or in writing, will be in effect when the developer or the prospective customer actually makes the impact fee payment. If a developer or prospective customer desires to hold the rate quoted by the District, payment must be made at that time.

10.3.9 **Imposition of Additional Fee After Development.** Should any developer undertake development activities such that the ultimate impact of the development activity on the District is not revealed to the District through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the District shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid, including buildings/lots which have already been connected to the District's water lines.

10.3.10 **Transfer of Ownership.** All service connections shall be considered appurtenant to the land they service unless special provision and approval for transfer to another tract of land owned by the same individual is first obtained from the Board.

10.4 Fee Exceptions And Adjustments

10.4.1 **Waiver for "Public Purpose".** All or any part of any impact fee, and similar and related fees and charges (hereinafter "fees" in this Section) may be waived or reduced for those projects which are deemed to serve a beneficial public purpose that would be harmed by the District requiring full payment of such fees, such as low income housing projects.

10.4.2 **Procedures.** Applications for exceptions are to be filed with the District at the time the applicant first requests the extension of service to the applicant's development or property.

10.4.3 **Amendment or Waiver of Fees.** The District Manager is authorized to reduce or waive fees on public or non-profit or other projects deemed to serve a beneficial public purpose, provided that no waiver or reduction of fees may total more than \$2,000.00 on any one development without Board approval.

10.4.4 **Existing Connections.** Existing connections will be exempt from impact fees to the extent of the existing, authorized use, provided that the connection has been active and a water bill has been paid within the past three years. Nothing contained in the Impact Fees Policy shall preclude or restrict the District's ability to impose special assessments

against benefited property owners to cover the cost of moving or replacing water lines and/or facilities in accordance with the provisions and requirements of state law.

10.5 Extra-Territorial Service

10.5.1 The District shall impose such restrictions and requirements on the provision of services by the District outside of its boundaries as the Board of Trustees may deem expedient and appropriate, on a case by case basis.

10.6 Appeal Procedure

10.6.1 Application. This appeal procedure applies both to challenges to the legality of impact fees and similar and related fees of the District and to the interpretation and/or application of those fees. By way of illustration, in addition to the legality of the impact fee schedule, determinations of the density of a development activity or calculation of the amount of the impact fee due will also be subject to this appeal procedure.

10.6.2 Declaratory Judgment Action. Any person or entity residing in or owning property within the District and any organization, association or corporation representing the interests of persons or entities owning property within the District, may file a declaratory judgment action challenging the validity of an impact fee only after having first exhausted their administrative remedies. A person or entity who fails to comply with the administrative remedies of this Section 10 may not file or join in an action challenging the validity or application of any impact fee of the District.

10.6.3 Request for Information. Any person or entity required to pay an impact fee may file a written request for information with the District. The District will provide the person or entity with any written impact fee analysis and other relevant information relating to the impact fee within two weeks after receipt of the request for information.

10.6.4 Appeal Before Payment of the Impact Fee. Any affected or potentially affected person or entity who wishes to challenge an impact fee, even though that person or entity has not yet paid the fee, may file a written request for information and proceed under the District's appeal procedure.

10.6.5 Appeal After Payment of the Impact Fee. Any person or entity who has paid an impact fee and wishes to challenge the fee shall, within thirty days after having paid the fee, file a written request for information and proceed under the District's appeal procedure. If a written request for information or challenge is not filed with the District within thirty days after the date of payment of the impact fee, the person or entity may neither process an administrative appeal with the District nor seek judicial relief.

10.6.6 Appeal to District Manager. Any developer, landowner or other affected party may appeal any impact fee decision or calculation of the Water System Operator or any other employee or agent of the District to the District Manager, provided that the

affected party does so in writing within thirty days after the action or decision to which the appeal relates. Should the affected party fail to file a written appeal with the District within the said thirty day period, the affected party may not thereafter process an administrative appeal with the District or seek judicial relief.

- 10.6.6.1 **Determination by the District Manager.** If the District Manager determines the appeal to be moot, the District Manager will so declare, which declaration shall be the equivalent of denying the appeal. An appeal is moot where the matter complained of has been completed and cannot, without extreme difficulty, be reversed. The District Manager may, but shall not be required to, declare a "stay" to be in effect respecting any matter appealed to him/her, provided that the matter has not already become moot, while the appeal is pending before the District Manager. In reviewing any such appeal, the District Manager shall affirm the decision or action of the affected District employee, reverse that decision or action, or make any other decision in response to the appeal which is deemed to be appropriate by the District Manager in accordance with the District's policies and procedures and any applicable law, rule or regulation.
- 10.6.6.2 **Time of Decision.** The administrative appeals process must be completed no later than thirty days after the written challenge is filed with the District. To that end, the District Manager will issue a decision within ten days after the filing of the written challenge.
- 10.6.7 **Appeal to the Board.** Any developer, landowner or affected party desiring to challenge the legality of any impact fee or related fee or exaction may appeal directly to the Board of Trustees by filing a written challenge with the District, provided that the affected party does so in writing within thirty days after the action or decision to which the appeal relates. If no written challenge is filed with the District within the said thirty day period, the affected party may neither process an administrative appeal with the District nor seek judicial relief. Any impact fee decision of the District Manager may also be appealed to the Board of Trustees by any developer, owner or other affected party by filing a written notice of such appeal at the District's Office within five working days after the decision to which the appeal relates was provided to the affected party. Any party who fails to appeal a decision of the District Manager to the Board of Trustees within the said five working day time period shall be deemed to have waived its right to further appeal the decision and to have waived its right to seek judicial redress, having not completed or concluded the District's administrative appeal process.
- 10.6.7.1 **Hearing.** An informal evidentiary hearing will be held not sooner than five nor more than twenty-five days after the written appeal to the Board is filed.
- 10.6.7.2 **Decision.** After the conclusion of the informal evidentiary hearing, the Trustees, by majority vote, shall reverse, affirm or take any other action with respect to the challenge or appeal as the Board of Trustees deems to be appropriate in light of the District's policies and procedures and any applicable law, rule or regulation. The decision of the Board of Trustees may include the establishment or calculation of the impact fee applicable to the development activity. Any impact fee set by the Trustees may be the same as or higher or lower than that being appealed provided that it shall

not be higher than the maximum allowed under the District's lawful impact fee rate or formula which either is in existence on the effective date of the Act or is promulgated under the Impact Fees Policy, as appropriate. The decision of the Board will be issued within thirty days after the date the written challenge was filed with the District as mandated by U.C.A. § 11-36-401(4)(b). In light of that statutorily mandated time restriction, the District shall not be required to provide more than three working days prior notice of the time, date and location of the evidentiary hearing and the inconvenience of the hearing shall not serve as a basis of appeal of the District's final determination.

10.6.8 **Denial Due to Passage of Time.** Should the District, for any reason, fail to issue a final decision on a written challenge to an impact fee, its calculation or application, within thirty days after the filing of that challenge with the District, the challenge shall be deemed to have been denied and any affected party to the proceedings may seek appropriate judicial relief from such denial.

10.6.9 **Judicial Review.** Within ninety days of a final District decision upholding an impact fee, its calculation or application, or within one hundred and twenty days after the written challenge to the impact fee, its calculation or application, was filed with the District, whichever is earlier, any party to the administrative action who is adversely affected by the District's final decision may petition the District Court for a review of the decision.

10.6.10 **Record of Proceedings.** After having been served with a copy of the pleadings initiating the District Court review, the District shall submit to the Court the record of the proceedings before the District, including minutes, findings, orders and, if available, a true and correct transcript of any proceedings. If the District is able to provide a record of the proceedings, the District Court's review is limited by U.C.A. § 11-36-401(5)(c) to the record and the Court may not accept or consider evidence outside of the record of proceedings before the District unless the evidence was offered to the District and improperly excluded in the proceedings before the District. If the record is inadequate, however, the Court may call witnesses and take evidence. The Court is to affirm the District's decision if the decision is supported by substantial evidence in the record.

11 EFFECT OF STATE LAW

11.4 **State Law to Supplement.** The District is subject to the requirements of state law as reflected in Title 17D, Chapter 1 and applicable provisions of Title 17B, Chapter 1 and other applicable portions of the Utah Code regardless of whether the subject of those provisions is covered by these Bylaws or other enactments of the Board.

11.5 **State Law to Control.** If there is a conflict between these Bylaws or any other enactment of the Board and an applicable provision of the Utah Code or the District's creation documents, the Code or the creation document provision shall control, even though the Code provision may not have been in effect when these Bylaws, or other Board enactment, were adopted or may have been amended after the effective date of these Bylaws. Notwithstanding the foregoing, however, should the applicable state statute provide that it

is not to impact action previously taken then, to the extent permissible, these Bylaws or other District enactment shall continue to control.

ADDENDUM A

FRUITLAND SPECIAL SERVICE DISTRICT FEE SCHEDULE as of December 20, 2020

Impact Fee (per standard residential equivalent connection) feet (see sections 8.1.3 and 8.2 of the District's regulations for right details and requirements for non-standard connections) use +	\$4,000 + 1.2 acre- of approved water (0.45 af for indoor use +
	0.75 af for outdoor use to irrigate 0.25 acres) or +\$2800.00

Connection Fee (includes meter, installation, and inspection)

¾" Connection	\$ 4000.00*
1" Connection	\$ 5200.00*

*This amount is for a normal connection. Any abnormal costs in making a connection shall be passed on to the applicant

Water User Rates

Monthly Base Rate or Stand-By Fee (includes first 12,000 gallons) connection	\$ 45.00 per
Tier II Rate – 12,001 to 20,000 gallons gal.	\$ 3.00 per 1,000
Tier III Rate – Over 20,000 Gallons	\$ 4.00 per 1,000 gal.
Late Fee on past due balances	\$ 10.00 per month
Interest Rate on past due balances	1.5% per month
Disconnection Service Fee	\$ 250.00
Reconnection Service Fee	\$ 250.00

Rules Violation Fee or Penalty	\$ 100.00 + actual
costs	
Engineering, Design, and/or Inspection Services	At cost