

ARTICLE F
DEVELOPER, SUBDIVISION AND
NON-STANDARD SERVICE REQUIREMENTS

[Amended Aug 15, 2023, Ord 2023-002]

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

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

3. **Application of Rules.** This section is applicable to subdivisions, additions to subdivisions, commercial, industrial and governmental developments, and any situation where additional service facilities are required to serve a single tract of property. Examples of non-standard service to a single tract of land include, without limitation, service requests that require road bores, extensions to the district's distribution system, service lines exceeding two inches (2") internal diameter in size, service lines exceeding twenty feet (20') in length, or which require a meter larger than 5/8 x 3/4" for service. Most nonresidential service applications will be considered non-standard by the district at its sole discretion. For purposes of this Rate Order, applications subject to this section shall be defined as "non-standard." This section may be altered or suspended for facility expansions constructed by the district at its expense. The district's general manager shall interpret, on an individual basis, whether or not an applicant's service request shall be subject to all or part of the conditions of this section. For purposes of this section the term "project" includes subdivisions, additions to subdivisions, and commercial, industrial and governmental developments.

This section sets forth the general terms and conditions pursuant to which the district will process non-standard service requests. The specific terms and conditions pursuant to which the district will provide non-standard service in response to any request will depend upon the nature of such request and may be set forth in a contractual

agreement to be entered between the district and applicant. Unless specifically approved by the district's Board of Directors, a non-standard service contract may not contain any terms or conditions that conflict with this Rate Order.

4. *[Reserved For Future Use]*

5. **Non-Standard Service Application.** The applicant shall meet the following requirements prior to entering into a Non-Standard Service Contract with the district:

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

(b) Simultaneous with submission of the Non-Standard Service Application, the applicant must submit three (3) copies of the proposed final plat showing the applicant's requested service area for approval by the district. The final plat must be approved by all governmental authorities exercising jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities except to the extent Section E.4 above is applicable. Plans, specifications, and special requirements of such governmental authorities shall be submitted with the plat. Applicants for single taps that require an extension or oversizing of district facilities shall be required to submit maps or plans detailing the location of the requested extension and details of demand requirements.

(c) The applicant shall pay a Service Investigation Fee to the district in accordance with the requirements of Section G for purposes of paying the district's administrative, legal and engineering fees. In the event such a fee is not sufficient to pay all expenses incurred by the district, the applicant shall pay to the district all remaining expenses that have been or will be incurred by the district, and the district shall have no obligation to complete processing of the request until all remaining expenses have been paid.

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

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

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

(3) the district's boundaries and/or CCN, as appropriate, shall be amended to include the entirety of the applicant's property for which service is requested and the applicant shall pay all costs incurred by the district in amending its CCN, including but not limited to engineering and professional fees. If the service location is contiguous to or within one-fourth ($\frac{1}{4}$) mile of the district's certificated service area, the district may extend service prior to

completing the amendment to its CCN, but will do so only upon applicant's legally enforceable agreement to fully support such amendment (including but not limited to payment of all professional fees, including legal, surveying and engineering fees incurred by district in securing the amendment).

6. Facilities Design.

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

(1) The district's consulting engineer shall design, or review and approve, plats and plans for all on-site and off-site service facilities for the applicant's requested service in accordance with the district's specifications and any applicable municipal or other governmental codes and specifications. The consulting engineer shall notify the applicant in writing of any necessary changes to applicant's proposed plats and/or plans. Allow a minimum of thirty (30) days for the review process.

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

(3) Water and sewer line size and location will be determined by the district, whose determination is final.

(4) All water line material fittings shall conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) standard 61 and must be certified by an organization accredited by ANSI and not less than DR18 C900 PVC.

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

(6) The water system shall be designed to afford effective circulation of water with a minimum of dead ends. All dead-end mains shall be provided with acceptable flush valves and discharge piping. All dead-end lines less than two inches (2") in diameter will not require flush valves if they end at a customer service connection. The district may permit dead ends when necessary as a stage in the growth of the water system, but they shall be located and arranged to ultimately connect the ends to provide circulation. [30 TAC § 290.44(d)(6)].

7. Prepayment of Certain Fees Required. An applicant for non-standard service shall pre-pay certain fees in accordance with the following:

(a) On or before the date that a Non-Standard Service Contract or a Three Way Contract is executed for the construction of service facilities required to provide service to the applicant's project or a phase thereof, the applicant shall deposit with the district a sum of money equal to one-half ($\frac{1}{2}$) of the Connection Fee required under Section G.5 of this Rate Order multiplied by the total number of lots to be developed for the project or phase, as applicable, pursuant to the approved final plat. Payment of the foregoing sum is a mandatory prerequisite to the commencement of construction of the project.

(b) Before the applicant's project or a phase thereof is approved and accepted by the district, the applicant shall pay to the district the remaining fees due the district which have not been paid by the applicant, including without limitation the remaining balance of the fees due under the previous Section F.7(a) of this Rate Order. This requirement is a mandatory prerequisite to the initiation of water service to the project pursuant to a Non-Standard Service Contract. Upon acceptance of the Project by the district, the district shall apply any Reserved Service Fee deposited by the applicant pursuant to this Rate Order.

(c) Subsequent purchasers of individual lots shall pay the Deposits, required under Section G.3 of this Rate Order, upon applying to the district for activation of service to individual lots.

8. Non-Standard Service Contract. Applicants requesting or requiring non-standard service shall be required to execute a written Non-Standard Service Contract prepared by the district. The district shall prepare and deliver the Non-Standard Service Contract to the Applicant within a reasonable time period as determined by the complexity of the project. The Non-Standard Service Contract shall define the terms of service prior to construction of required service facilities for the project and may include, without limitation, provisions for the following:

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

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

(c) amount and payment of capital contributions required by the district in addition to other costs required under this section;

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

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

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

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

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

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

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

The district and Applicant must execute a Non-Standard Service Contract before construction of service facilities for the project is commenced. In the event that the Applicant commences construction of any such facilities prior to execution of the contract, the district may refuse to provide service to the applicant (or require full costs of replacing/repairing any facilities constructed without prior execution of the contract from any person buying a lot or home from applicant), require that all facilities be uncovered by the applicant for inspection by the district, require that any facilities not approved by the district be replaced, or take any other lawful action determined appropriate by the Board of Directors.

9. Property and Right-of-Way Acquisition. With regard to construction of facilities, the district shall require private utility easements on private property as per the following conditions:

(a) If the district determines that easements or facility sites outside the Applicant's property are required, the Applicant shall use all due diligence to secure easements or facility sites in behalf of the district. All easements and property titles

shall be researched, validated, and recorded by the district at the expense of the Applicant.

(b) All costs associated with facilities that must be installed in public rights-of-way on behalf of the Applicant, due to the inability of the applicant to secure private utility easements, shall be paid by the Applicant. The district reserves the right to secure utility easements or facility sites by eminent domain on its own initiative. The Applicant shall pay all costs, including legal and other professional fees, and the condemnation award in the event the district determines that a public necessity exists to secure private utility easements or facility sites in order to provide service to the Applicant's project through eminent domain proceedings.

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

(d) Easements and facilities sites shall be prepared for the construction of the district's pipeline and facility installations in accordance with the district's requirements and at the expense of the Applicant.

10. Contractor Selection & Qualification.

(a) Selection. The district shall choose one of the following methods for selection of a contractor to construct line extensions and/or water distribution facilities required by the district to serve a development:

(1) The district reserves the right to use its approved contractor for the facilities project.

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

(b) Qualification Criteria.

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

(2) the contractor shall provide an adequate bid bond under terms

acceptable to the district;

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

(4) the contractor shall supply favorable references acceptable to the district;

(5) the contractor shall qualify with the district as competent to complete the work; and

(6) the contractor shall provide adequate certificates of insurance as required by the district.

11. Construction.

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

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

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

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

13. Service Within Subdivisions. The district's obligation to provide service to any customer located within a project governed by this Section F is limited to the service specified in the NSC. The Applicant is responsible for paying for all costs necessary to provide non-standard service to a project as determined by the district under the provisions of this Rate Order, and in particular, the provisions of this section and the NSC. Should the applicant fail to pay these costs, the district has the right to require payment

of these costs by any one or more of the persons purchasing lots within such subdivision before the district is obligated to provide water service to the subdivision. In addition, the district may elect to pursue any remedies provided by the Non-Standard Service Contract and the laws of Texas.

14. Service Within RV Parks. The district's obligation to provide service to any customer located within a project governed by this Section F is limited to the service specified in the NSC. The Applicant is responsible for paying for all costs necessary to provide non-standard service to a project as determined by the district under the provisions of this Rate Order, and in particular, the provisions of this section and the NSC. Service to RV Parks will require the following:

- (a) a residential house on the same property as an RV Park shall have a separate standard meter;
- (b) the RV Park shall receive service from a master meter (meter size shall be approved by the District's Engineer);
- (c) any RV Park with sewer facilities shall have an RPZ (Reduced Pressure Zone) backflow prevention assembly installed on the master meter to prevent a possible cross-connection (RPZ will be maintained by the applicant and will require annual testing in accordance with applicable District Policies);
- (d) the RV Park property will have common ownership;
- (e) the RV Park shall meet all applicable governmental rules and regulations;
- (f) system improvements as may be determined by the District's Engineer may be required to provide adequate service to the master meter.

15. Pro-Rata Reimbursement for Commercial and Institutional Developments and for Residential Subdivisions. The district may from time-to-time negotiate and enter into a pro-rata reimbursement agreement with developers applying to the district for non-standard service to commercial or institutional developments or to residential subdivisions.

(a) The development or subdivisions must satisfy the following conditions:

(1) the developer applicant (hereinafter called the "constructing applicant") must construct a waterline extension or other off-site service facilities to receive service from the district's water system; and

(2) the waterline extension and/or off-site service facilities must be over-sized so the district has capacity to serve additional and future customers in addition to the capacity required by the constructing applicant's development or subdivision.

(b) The district shall assess a five percent (5%) administrative fee for the administration of pro-rata fees collected by the district from subsequent connecting service applicants, which shall be deducted from pro-rata reimbursements before remittance to the constructing applicant.

(c) The pro-rata reimbursement agreement shall contain the following terms:

(1) the term of the agreement shall not exceed five (5) years unless a different term is recommended by the district manager or engineer and approved by the Board of Directors;

(2) the district shall collect reimbursement funds from non-standard service applicants only because individual standard residential service applicants are exempt;

(3) total reimbursement collected from connecting service applicants shall not exceed eighty percent (80%) of the actual cost of the waterline extension and/or other off-site service facilities constructed by the constructing applicant; and

(4) the amount due to the constructing applicant from a future connecting non-standard service applicant shall be based on one of the following formulas as determined by the district's engineer:

[Formula #1 to Follow]

Formula #1:

Acres in connecting applicant's project
_____ (x) Actual cost of off-site facilities (=) Pro-Rata Fee
Total potential acres served by off-site
facilities of constructing applicant.
(less)
Total acres in constructing applicant's project.

EXAMPLE:

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

Where:

- (a) = Acres in connecting applicant's project.
- (b) = Total potential acres served by the off-site facilities constructed by the constructing applicant as determined by the district's consulting engineer.
- (c) = Total acres in the constructing applicant's project.
- (d) = Actual cost of the off-site facilities.
- (e) = Pro-rata fee to be collected from any water service applicant that connects or desires to connect to the off-site facilities.

NOTE: "Off-site facilities" includes waterline extensions and/or other off-site service facilities.

[Formula #2 to Follow]

Formula #2:

The construction cost (including professional fees and other direct soft costs) of the off-site waterline extension divided by the number of meter or meter equivalents in the constructing applicant's waterline extension. The resulting quotient is the cost per meter. The cost per meter is multiplied by the quotient of the distance from the beginning point of the off-site waterline extension to the connection point of the project divided by the total length of the waterline extension. The resulting quotient is then multiplied by 100 to convert the same to a percentage. The cost per meter is multiplied by the percentage to determine the pro-rata fee due per meter in the connecting project. The pro-rata fee per meter is then multiplied times the number meters or meter equivalents in the connecting project to determine the total pro-rata fee due from the connecting project.

EXAMPLE:

C = total construction cost of the waterline extension constructed by the constructing applicant including and contribution or credits issued by the district for oversizing. Construction includes professional fees and other direct soft costs.

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

D = the total distance from location of the connection point of the pipeline extension to the district's water distribution system or the district's sewer collection system to the point of connection to the constructing applicant's project.

D2 = the total distance from the location of the connection point of the waterline extension to the district's water distribution system or the district's sewer collection system to the connecting applicant's connection point to the waterline extension.

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

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

$C/L \times (D / D2) =$ pro-rata payment due for each meter or meter equivalent in the connecting project
 $\times L2 =$ total pro-rata fee

Assume a construction cost (C) of \$250,000.00

Assume (L) is 280 meters or meter equivalents

Assume that (D) is 5,000 feet

Assume that (D2) is 2,500 feet

Assume that (L2) is 138

$\$250,000.00 / 280 \text{ meters} = \$892.86 ;$

$5,000' / 2,000' = 0.40 \times 100 = 40\%$

$\$892.86 \times 40\% = \$357.14 \times 138 = \$49,285.32$ total pro-rata fee

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16. Pro-Rata Reimbursement for Individual Standard Residential Service Applicants. The district may from time to time negotiate and enter into a pro-rata reimbursement agreement with a standard residential service applicant who must construct a waterline extension from the district's water system to receive service (hereinafter called the "constructing applicant").

(a) The development or subdivisions must satisfy the following conditions:

(1) the constructing applicant must construct a waterline extension to receive service from the district's water system; and

(2) the waterline extension must be over-sized so the district has capacity to serve subsequent connecting service applicants in addition to the capacity required by the constructing applicant.

(b) The district shall assess a five percent (5%) administrative fee for the administration of pro-rata fees collected by the district from subsequent connecting service applicants, which shall be deducted from pro-rata reimbursements before remittance to the constructing applicant.

(c) The pro-rata reimbursement agreement shall contain the following terms:

(1) the term of the agreement shall not exceed ten (10) years unless a different term is recommended by the district manager or engineer and approved by the Board of Directors;

(2) the district shall collect reimbursement funds from all subsequent connecting service applicants including individual standard residential service applicants and non-standard service applicants;

(3) total reimbursement funds collected from connecting service applicants shall not exceed eighty percent (80%) of the actual cost of the waterline extension constructed by the constructing applicant; and

(4) the amount due to the constructing applicant from a subsequent connecting service applicant shall be based on the following formula:

[Formula to Follow]

Formula: The construction cost (including professional fees and other direct soft costs) of the off-site waterline extension divided by the number of linear feet (LF) of the waterline extension. The resulting quotient is the cost per LF. The cost per LF is multiplied 1,000 by the quotient of the distance from the beginning point of the off-site pipeline to the connection point of the project divided by the total length of the pipeline extension. The resulting quotient is then multiplied by 100 to convert the same to a percentage. The cost per meter is multiplied by the percentage to determine the pro-rata fee due per meter in the connecting project. The pro rata fee per meter is then multiplied by the number of meter equivalents requested by the connecting service applicant to determine the total pro-rata fee due.

EXAMPLE:

C = total construction cost of the waterline extension constructed by the first individual including any contribution or credits issued by the district for oversizing. Construction includes professional fees and other direct soft costs.

LF = total number of linear feet of waterline in the project constructed by the constructing applicant.

LF x 1000 = total number of 1,000 linear feet of waterline in the project constructed by the constructing applicant.

$C / LF =$ construction cost per LF of the project

$C/(LF/1000) =$ pro-rata payment due for each meter or meter equivalent that connects to and obtains service from the waterline extension (up to a maximum total reimbursement amount of 80% of the total waterline extension construction cost).

Assume a construction cost (C) of \$450,000.00

Assume (LF) is 10,000 feet

Assume that (LF/1000) is 10

$\$450,000.00 / 10 = \$45,000.00$ total per meter pro-rata fee due to the original individual