



ARTICLE X

Water System Extension

10.00 General Statement. The District shall make or cause to be made such extensions, or replacements, to the water transmission and distribution system as it deems necessary and feasible to serve any property situated within the boundaries of the District. The purpose of the provisions contained herein is to provide sound engineering and long-range planning in the extension of the water system, promote the orderly development of the water system, and provide equitable distribution of the cost of extending the water system.

In the event an application for service is approved by the Board of Directors and the applicant fails to pursue the application and request service for a period of two years, or more, from the date of the first approval, then in that event a new application must be submitted and approved by the Board of Directors, prior to any service being provided.

10.01 New and Increased Water Service and Construction of Main Line Extensions. Any person, development company, or entity wishing to receive or increase water service from the St. Charles Mesa Water District to any lot or parcel of land shall comply with the following conditions:

A. **Administrative Fee:** Every applicant for new or increased water service shall, contemporaneous with the submission of any application for new or increased service, pay to the District a non-refundable Administrative Fee of \$200.00 to help defray the District's costs relative to evaluation of the application and the feasibility of incorporating the requested water service into the District's water distribution system. The District will not consider any application for new or increased water service unless the Administrative Fee for such application is paid.

B. **Construction Costs:** Every applicant for new or increased water service shall reimburse or directly pay the District for all applicable engineering, legal and administrative costs incurred by the District relative to increasing the water service to and/or extending water main lines to the applicant's lot or property. If the new or increased water service requires any line extensions or upgrades, the applicant for such service shall, through a licensed contractor of applicant's choosing, prepare and submit to the District a complete list of proposed materials and a construction schedule relative to completion of the requested extension or upgrade. District will review the materials list and proposed construction schedule and approve or reject applicant's plan. All materials and construction shall be performed by applicant's contractor, at applicant's cost and must comply with the District's specifications and installation requirements. The applicant will be required to install the water meter service lines to the property line at each lot upon request by the District. Upon completion of the extension or upgrade, applicant shall



deliver to the District a complete as built list of materials, labor and equipment costs. Any contract applicant has with a contractor and manufacturer warranties shall inure to the benefit of the District as well as applicant. Water service shall not be commenced to applicant's property until the following have been completed:

- 1) applicant has submitted a recorded plat to the District office
- 2) paid all fees incurred by the District
- 3) extension or upgrade has been inspected and accepted by the District
- 4) all warranty materials delivered to the District if applicable

- C. The applicant, or his/her heirs, legal representatives, successors, or assigns, shall pay to the District a water tap fee, at the rate in effect at the time of application for new or expanded service for each tap requested. The water tap fee shall be in addition to the fees and raw water supply requirements set forth in 10.01 E, F and G below. If applicant is increasing the size of an existing tap, applicant shall be given credit against the new tap fee in an amount equal to the then current tap fee of the tap being replaced.
- D. Monthly Service Charges: The minimal monthly service charge for each tap shall commence thirty (30) days after payment of the tap fee.
- E. Property Description for Water Service: All applications for water service shall be submitted in writing to the District office in a form acceptable to the District and must contain the legal description of the property served. The submission shall be referred to hereafter as the Plan.
- F. New or Increased Water Service Fees and Requirements:
- (1) In light of the finite and variable quantities of water represented by the water rights owned by the District, the semi-arid environment, and the District's obligations to its current patrons, in the event an applicant requests new or increased water service to any lot or parcel of property ("Plan Area"), the applicant shall, as a condition precedent to the District's provision of water service to the Plan Area, provide to the District sufficient shares of stock in the Bessemer Irrigating Ditch Company ("Ditch Company") to serve the Plan Area. No new taps or water service is available to Zone 2 of the District.



- (2) The number of shares of Ditch Company stock that must be provided to the District is dependent upon the size and the number of taps being requested, as set forth below:

<u>Size of Water Service Requested by Applicant</u>	<u>Bessemer Ditch Shares Required Per Tap</u>
5/8" x 3/4"	1
1"	2
1 1/2"	7
2"	10
3"	25
4"	40

- (3) The District recognizes that it may not be feasible for some properties within the District boundaries that do not currently receive water service from the District to provide Ditch Company shares to the District in compliance with Sections 10.01 F (1) and (2) above. Therefore, the District shall establish and maintain a Water Bank of Ditch Company shares which shall be available to owners of properties within the District as provided below. The number of Ditch Company shares determined by the District to be available for use by undeveloped areas within the District as of May 10, 2006 is 500 shares. Such shares shall be deposited in the Water Bank by the District and made available for use as described in this Section 10.01 F.

- (4) (i) Ditch Company shares in the Water Bank shall be available to property owners within the District boundaries to support development on such property in circumstances where the District determines that it is not practical or equitable for the property owner requesting water service to provide Ditch Company shares to the District. This situation may arise when: (a) the Plan Area was not historically irrigated by the Ditch Company shares; (b) when the Plan Area was formerly irrigated by Ditch Company shares but the shares were severed from the land before the date of establishment of the Water Bank ("Establishment Date") and are no longer owned by the applicant; or (c) when the number of water taps



- required in the Plan exceeds the number of shares of Ditch Company stock owned by the applicant. The Board of Directors may, in its discretion, allow an applicant to purchase Ditch Company shares from the Water Bank for provision to the District in compliance with Sections 10.01 F (1) and (2) above. The price for purchase of a Ditch Company share from the Water Bank is initially established at \$5,028.00, and may be modified by the Board of Directors from time to time. The Board of Directors reserves the right to refuse to provide Ditch Company shares from the Water Bank to any applicant the Board determines, in its discretion, to have available Ditch Company shares from other sources, or if Ditch Company shares formerly associated with the Plan Area have been sold or severed after the Establishment Date, or if the number of shares requested exceeds 20 shares.
- (ii) In the event applicant is approved to receive all or a portion of the requested shares of Bessemer Irrigating Ditch Company stock from the District's Water Bank program, applicant must, within fifteen (15) calendar days from the date of such approval, either pay the District the sum of \$5,028.00 per Water Bank share to be received to cover the cost of the Water Bank share(s), or provide District with an Irrevocable Commercial Letter of Credit in a sum equal to 100% of the current total cost of the Water Bank shares applicant will be acquiring from the District, guaranteeing applicant's payment for the shares of the Bessemer Irrigating Ditch company shares applicant will be purchasing from the Water Bank. In the event applicant fails to timely provide the District with the funds mentioned in this subparagraph ii or the requisite letter of credit, District shall have no obligation to provide the water service requested by applicant.
- (5) The District is not required to replenish the Water Bank or to provide any additional Ditch Company shares to the Water Bank if the shares in the Water Bank are depleted. The Board of Directors may order the removal of Ditch Company shares from the Water Bank if it determines, in its discretion, that such shares are required to provide water service to existing customers of the District. Unused shares in the Water Bank may be leased by the District to the Ditch Company or other parties.
 - (6) The applicant shall enter into a written contract with the District under which the District agrees to provide water service to a specified number of taps and the applicant agrees to provide the required number of Ditch Company shares to the District. The contract shall require, among other things that: a) the applicant to obtain the transfer of the water represented by such Ditch Company shares to the Bessemer Ditch lateral designated by the District, in accordance with the Ditch Company By-Laws, at applicant's sole cost and expense; b) an affidavit from a person with knowledge attesting to the applicant's historical use of the Ditch Company shares, unless such shares were purchased by applicant from the Water Bank; and c) if applicant is to



transfer Ditch company shares to the District, the attachment hereto of a stock certificate or certificates representing the required number of Ditch Company shares together with a special warranty deed in a form acceptable to the District conveying those shares to the District, which shares certificate and deed shall be held by the District in escrow until final approval of the applicant's subdivision or project by the Pueblo County Planning Commission, if such is necessary, or final approval of the application by the District if any other agency approval is not required, at which time the District shall be free to effect the transfer of the Ditch company shares into its name. The District, in its sole discretion, may decline to accept Ditch Company shares for which historical use cannot be documented.

- (7) If applicant's Plan requires the review by the Pueblo County Planning Commission:
- (i) The applicant must, on or before the time of applicant's submission of the Plan to the Planning Commission, regardless of whether the Plan is for subdivision or other property partition plan, enter into the contract described in Section 10.01 F (6) above to provide the required number of Ditch Company shares to the District. The District will provide a commitment letter to Pueblo County upon: (1) applicant's entry into such contract and (2) applicant's provision to the District of written confirmation from the Ditch Company that the required number of Ditch Company shares are available to the applicant and identifying the certificate number(s) of such shares. The commitment letter shall provide that the District's obligation to provide a water supply shall be conditioned upon the completion of transfer of the required number of Ditch Company shares prior to recordation of any final plat. If applicant's Plan does not require the review by the Pueblo County Planning Commission, applicant shall provide the required number of Ditch Company shares to the District upon or before applicant's request for connection to the District's water distribution system. In any event, no connection will be allowed to the District's water distribution system prior to transfer of the required number of Ditch Company shares to the District.
 - (ii) And, if applicant's previously approved or prospective Plan encompasses property which was previously irrigated by water from more shares of the Bessemer Irrigating Ditch Company than are necessary for applicant to obtain water service to the Plan area per Section 10.01 F (2) of these Regulations (*e.g., the Plan are was irrigated by water from 12 shares of the Bessemer Irrigating Ditch Company, but applicant's Plan only requires ten (10) 5/8 x 3/4" taps*), District may, in its absolute discretion, and if such would have the effect of drying up the entire Plan



(ii – Cont'd)

- (ii) area, agree to accept the remaining shares of the Bessemer Irrigating Ditch Company applicable to the Plan area in return for a waiver of tap fees for 5/8 x 3/4" taps in that Plan area in the same ratio as Bessemer Irrigating Ditch Company stock is required for water service as set forth in Section 10.01 F (2) of these Regulations. *(By way of example only, in the above example, as applicant has two additional shares of Bessemer Irrigating Company stock, District may elect to waive the tap fees for two 5/8 x 3/4" taps in exchange for applicant's transfer of his/her/it's two other shares of Ditch stock to District.)*
- (iii) In the event District elects to accept additional shares of Bessemer Irrigating Ditch Company shares as set forth in Section 10.10 F (7)(ii), District shall enter into a contract with applicant under which applicant shall transfer the additional water shares to District contemporaneous with applicant's transfer of the shares required under Section 10.01 F (2), and District agrees to waive the agreed number of tap fees whenever applicant applies for such tap or taps to be installed.
- (8) Upon receiving the Ditch Company shares as provided above, the District will provide water taps for the Plan Area. The tap fees for such taps shall be paid when application for service to each lot or parcel in the Plan Area is made and shall be in the amount of the District's tap fee in effect at the time as specified in Sections 7.00 and 7.01 above.
- ((9) In the event that an applicant for water service is unable to provide Ditch Company shares as provided above, the applicant may propose, and the Board of Directors may consider, a transfer of ownership to the District of comparable other water rights to service the Plan Area ("Other Water Rights"). The applicant shall be responsible, at its sole expense, for obtaining any required approvals to allow use of the Other Water Rights for municipal purposes and within Zone 1 of the District's boundaries, and diversion through the Bessemer Ditch and the District's pumping station on the Arkansas River. The Board shall consider, and shall have discretion to accept or reject, any such proposal. Factors which may be considered by the Board of Directors may include: (a) the estimated amount of time required to obtain any necessary approvals; (b) the reliability and seniority of the Other Water Rights proposed for transfer; (c) the historical consumptive use of the Other Water Rights; and (d) any reasonable concerns of water users in the vicinity of the historical use of the Other Water Rights concerning export of the Other Water Rights to the District.



- (10) The form and terms of the agreement between the applicant and the District, **including the necessity of applicant either making prior payment or providing an Irrevocable Commercial Letter of Credit**, shall be as set forth in Appendix "B", which agreement may, from time to time, be changed at the direction of the Board of Directors.
- G. In the event applicant's subdivision or other property partition plan requires the review by the Pueblo County Planning Commission and is not finally approved by the Pueblo County Commissioners within two years of the date of applicant's submission of the application under Section 10.01, or any additional time mutually agreed to in writing by applicant and District, District may withdraw its commitment for water service to the Plan property and declare any contract relative to the purchase of the Ditch Company stock to be null and void.
- H. Minimum specifications for construction of water main extensions have been adopted by the District. Water main extensions shall comply with said specifications.
- I. An applicant desiring the District to serve any undeveloped area must submit to the District a preliminary map of the area to be developed showing the number of parcels, intended utility easements, and location of access roads. The District Manager will then develop a work plan for all water facilities to be constructed, a cost estimate for such water facilities, including an inflation factor for the term of the contract. All such plans for the water main extension and water tap location shall be submitted to the Board of Directors for comment and recommendations. The Board of Directors will act to approve, approve with conditions, or disapprove the submitted plan at a regular or special Board Meeting.
- J. The District assumes no responsibility for the processing of or decision not to process an application for main line extension before the Colorado Department of Health and Environment, Pueblo County or any agency. The decision to process or not to process such an application rests solely with the developer and the District assumes no responsibility or liability for that decision.
- K. Water mains shall be installed in roads or streets which Pueblo County, the State Highway Department or other public agency has accepted for maintenance as a public right-of-way, as well as any easements granted for the use of the District. All lateral lines and service line stub-outs shall be installed to the property line at the time of construction of the main. All such main lines, laterals and stub-outs shall be constructed prior to paving.