

**APPENDIX B RULES AND REGULATIONS CONCERNING AQUA'S SERVICE TO  
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**APPENDIX B**  
**Rules and Regulations Concerning Aqua's Service to Subdivisions**

**I. Purpose**

The purpose of this policy is to establish the terms and conditions under which Aqua will provide water for subdivisions, additions to subdivisions, or developments where service to one or more tracts is requested. The General Manager of Aqua shall act on behalf of the Board to implement this policy.

**II. Definitions**

- A. “Aqua” means the Aqua Water Supply Corporation as represented by its Board of Directors.
- B. “Aqua's Engineer” means a person or firm licensed by the State of Texas and engaged by Aqua to provide engineering consulting services to Aqua.
- C. “Aqua's System” means Aqua's production, treatment and storage facilities and Aqua's general purpose transmission facilities.
- D. “Board of Directors” or “Board” means the duly elected members of the Board of Directors of Aqua Water Supply Corporation.
- E. “Cost of Construction” means all expenses associated with constructing, installing and placing a facility into operation including, but not limited to, planning, engineering, clearing, surveying, legal, land acquisition, acquisition of rights-of-way, the construction contract, and the like.
- F. “Developer” means an individual, partnership, corporation, or other legal entity that has subdivided land or desires to subdivide land or requests more than two water service connections on a single contiguous tract of land.
- G. “Developer Project” means the construction of facilities by a Developer to serve a subdivision owned or controlled by the developer, including water lines and related equipment necessary to transport water from General Purpose Transmission Facilities to provide water service to individual lots in a subdivision, which facilities will be deeded to Aqua.
- H. “Feasibility Study” means the report prepared by Aqua's Engineer to determine if sufficient water capacity is available to a particular tract of land, and if construction of certain improvements to Aqua's System is required before capacity is available.
- I. “General Purpose Transmission Facilities” means those pumps, filters, lines, chlorination units, and the like which are designed to provide water service to more than one subdivision.
- J. “Production and Storage Facilities” means the equipment, structures, and appurtenances necessary to produce, treat and store water from groundwater or surface water sources for delivery to General Purpose Transmission Facilities.

- K. “Service Area” means that area to which Aqua may lawfully provide water service, whether within or outside the area described by the Certificate of Convenience and Necessity held by Aqua.
- L. “Subdivision” means the division of any lot, tract, or parcel of land, within the Service Area of Aqua, into two or more lots or sites for the purpose of sale or development, whether immediate or future, including re-subdivision of land for which a plat has been filed and recorded. The following are exempted from this definition: Divisions of land resulting from a family or testamentary transfer of a parcel of land having an area of two (2) acres or more, which will not require Aqua to construct new water lines and which may be accessed by existing water lines which meet Texas Commission on Environmental Quality requirements to service the additional meters. The term "family" includes only the grantor's spouse, parents, children, grandparents, grandchildren, or siblings. The exemption provided in this definition for the divisions of any lot, tract, or parcel of land as a result of a family transfer also extends to any purchaser of such a lot, tract, or parcel of land from a person who meets the definition of “family” under this definition. Provided, however, this exemption shall not apply to an *inter vivos* family transfer that constitutes a subdivision of land for sale to the public.
- M. “United States Department of Agriculture – Rural Development Rules” or “USDARD Rules” means those rules promulgated by USDARD with which Aqua must comply. This includes existing and future rules to which Aqua is subject.

### III. Process to Identify Water Availability to Subdivision – Feasibility Study

- A. To begin the process of reserving water capacity and the subsequent provision of water service to a proposed Subdivision, Developer must file, a request in writing for Aqua to prepare a Feasibility Study for the proposed Subdivision to determine if there is sufficient capacity in Aqua's System to serve the proposed Subdivision, or if a need exists for an expansion to the capacity of the production, treatment and storage or General Purpose Transmission Facilities, or a combination of both, to serve the proposed Subdivision. Aqua's ability to provide fire flow to the development is dependent on many factors: the size of infrastructure (production and delivery facilities); the topography of the area; and the specific flows required for the particular project.

In addition to the payment of the fees set out in Paragraph B, a request for a Feasibility Study shall include the following:

1. Four (4) copies of a map or plat showing the proposed Subdivision, indicating the location of said Subdivision within Aqua's CCN, and the proposed improvements to be constructed by Developer necessary to connect to Aqua's System. The map or plat must show the dimensions of the lots or tracts that result from the subdivision of the property. The map or plat, and any revisions, amendments, or supplements thereto, must be signed and sealed by a licensed surveyor or registered professional engineer.

2. The intended land use of the Subdivision, including detailed information concerning the types of land uses proposed.
3. The projected water demand of the Subdivision when fully built out and occupied, the anticipated water demands for each type of land use, and a projected schedule of build-out for the Subdivision and associated water demand schedule of events leading up to the approximate date upon which service from Aqua will first be needed.
4. A statement on whether fire flow is needed and requested water demand, in quantity and time, to meet the fire flow requirements.
5. A proposed calendar of events, including design, plat approval, construction phasing and initial occupancy, and the approximate date upon which service from Aqua will first be needed.
6. Any other information required by Aqua to facilitate the evaluation of water service for the proposed Subdivision.

B. All requests for a Feasibility Study shall be accompanied by a non-refundable fee according to the following schedule:

Proposed Number of LUEs	Fee
1-10	\$1,200.00
11-250	\$1,800.00
251 or more	\$3,000 plus any additional cost to Aqua

If fire flow is needed, an additional non-refundable fee of \$3,000 shall be added to the applicable Feasibility Study fee listed above.

C. The request for a Feasibility Study will be submitted by Aqua's General Manager to Aqua's Engineer for review and evaluation. Under normal circumstances and where sufficient information is submitted with the request, Aqua's Engineer will complete the Feasibility Study within 30 days of Aqua's receipt of the request and payment of the required fee. The Feasibility Study will include the cost of additional facilities, if any, needed by Aqua to provide water service to the proposed Subdivision based on current material and labor prices and preliminary site and engineering information. A copy of the Feasibility Study will be provided to the Developer upon payment of all fees listed above.

D. Upon the request of Developer and payment of all applicable fees, the Feasibility Study shall be submitted to the Board of Directors for its consideration at the next regular Board meeting, provided that the next Board meeting is at least 10 days following the date the request is received. If the request is received less than 10 days prior to the next Board meeting, the request will be on the agenda for the following

month's meeting. If the Board of Directors determines that providing water service to the proposed subdivision is feasible, the Board shall adopt a resolution indicating Aqua's ability to provide water service to the Subdivision subject to special terms and conditions to such service identified in the Feasibility Study and to be incorporated in a Reserve Capacity Agreement. Aqua's General Manager shall provide the Developer with the final Feasibility Study identifying the estimated cost to the Developer for Aqua to provide water service to the proposed Subdivision and Aqua's fees to reserve capacity in Aqua's System. The Developer's share of the actual cost to construct the facilities necessary to provide water service to the proposed Subdivision will be determined at the time Aqua receives quotations from contractors based on final detail design of the facilities. In addition, Aqua will provide the Developer with the amount of expenses, such as attorney's fees, estimated to be incurred by Aqua in negotiating and drafting the Reserved Capacity Agreement. The Developer must pay Aqua a deposit in the amount of estimated expenses and provide Aqua with a copy of the warranty deed conveying title to the Developer prior to the drafting of the Reserved Capacity Agreement. If there are any funds remaining after payment is made to cover all such expenses, then Aqua will refund the amount of surplus funds to the Developer. If the deposit is insufficient to cover such expenses, then the Developer shall immediately pay Aqua additional funds in the amount of the balance.

- E. A determination that providing water service to a proposed Subdivision is feasible does not reserve capacity for use with the proposed Subdivision. Uncommitted water supply capacity that exists in Aqua's System is available on a first come, first served basis and may be reserved only in accordance with Section IV of this Tariff. Developer shall not have any rights to water supply capacity until after the Reserved Capacity Agreement is fully executed and capacity reservation fees have been paid.
- F. Aqua recognizes that a developer may desire to determine the feasibility of providing water supply to a proposed Subdivision prior to the purchase of the property. When a request for a Feasibility Study has been submitted by a Developer who does not own the subject property and service to the property has been determined to be feasible, the subject capacity may be held for the proposed Subdivision until the next regularly scheduled meeting of the Board of Directors. Existing water supply capacity may be held for a proposed Subdivision for a period of 120 days by payment of the greater of \$2500 or 10% of the total capacity reservation fee, which payment shall be nonrefundable. A request to hold capacity must be written and hand delivered or sent by certified mail to Aqua's General Manager accompanied by the appropriate fee. The request to hold capacity must be received by Aqua within 30 days after the date of the meeting of the Board of Directors at which service to the proposed Subdivision is determined to be feasible.
- G. In order to maintain the right to utilize the capacity held under Subsection IV.A, the Developer must execute the Reserve Capacity Agreement required under Subsection III. E and pay in full the capacity reservation fees required under Section IV, prior to the expiration of the holding period. The capacity reservation fees shall be payable

in the form of a Cashier's Check or other form of payment approved by the Board of Directors or Aqua's General Manager. If all requirements of this subsection are not satisfied, any capacity held for the proposed Subdivision shall revert to first come, first served availability.

#### H. Large Volume Service – Conservation Districts

This section is only applicable to conservation districts that entered into agreements with Aqua prior to August 5, 2013.

1. Any Conservation District desiring to buy water on a bulk basis will be required to negotiate a special contract for such purpose. The contract shall, as a minimum, provide that Aqua will provide a specified quantity of water at a metered point of delivery. Each Conservation District will be responsible for constructing, owning, operating, and maintaining all repressurization facilities, retail water distribution facilities, and the like to provide retail water service.
2. All Large Volume Service – Conservation District contracts will require that Aqua be the sole source of water for whatever area is to be served by the Conservation District.

### IV. Reserving Capacity in Aqua's System

Except as allowed by Section V of these Rules and Regulations, Aqua will not provide water service to a lot in a Subdivision unless the Developer has reserved capacity for the requested connection under this Section pursuant to Section 3.01 of Aqua's Tariff.

#### A. Reserving Existing Production, Treatment and Storage Capacity

1. In order to reserve available capacity for a Subdivision, based on the following types of service, the Developer shall:
  - (a) Standard Service. Pay to Aqua a commitment fee in the amount of \$600.00 for each LUE. The commitment fee is a component of the System Development Fee. The commitment fee is paid at the time capacity is reserved and the remainder of the System Development Fee is collected at the time a meter is installed. The System Development Fee compensates Aqua for its investment in the water production, treatment, storage, and transmission facilities which the new customer will utilize when connected to Aqua's System. In the case of multi-family residences with 2 or more units, each dwelling unit shall have its own meter and a capacity reservation fee shall be charged for each dwelling unit. This fee shall be payable in the form of a Cashier's Check or other form of payment approved by the Board of Directors at the time the Reserved Capacity Agreement is executed

- (b) Multi-Unit Residences. In the case of multi-dwelling unit residences served by Large Volume Service -- Multiple Owner, the development may be served by one or more master meters. The number of dwelling units shall be adjusted by multiplying by a factor of 0.7 for dwelling units that share common walls, such as townhouses or condominiums. This fee shall be payable in the form of a Cashier's Check or other form of payment approved by the Board of Directors at the time the Reserved Capacity Agreement is executed
- (c) Commercial. Each commercial user shall have its own meter. The commercial capacity reservation fee shall be calculated by calculating the ratio of the water demand needed by the commercial customer to the water demand for a single family residential customer, and then multiplying the then current single family capacity reservation fee times the ratio derived above. Provided, however, the cost of a commercial capacity reservation fee shall never be less than the single family residential capacity reservation fee. This fee shall be payable in the form of a Cashier's Check or other form of payment approved by the Board of Directors at the time the Reserved Capacity Agreement is executed

2. Pay to Aqua the Costs of Construction necessary to provide service from the nearest point of adequate supply in Aqua's existing General Purpose Transmission Facilities to the proposed Subdivision. Developer shall pay Aqua the Costs of Construction at the time the Reserved Capacity Agreement is executed. These costs shall be payable in the form of a Cashier's Check or other form of payment approved by the Board of Directors or Aqua's General Manager.
3. Agree to construct all facilities included in Developer Project and deed all facilities constructed under this Paragraph to Aqua together with all easements in which the facilities are located, upon completion and acceptance by Aqua's Engineer.

B. Reserving New Production, Treatment and Storage Capacity

If it is necessary for Aqua to add capacity to Aqua's System before Aqua can adequately serve the Subdivision proposed by the Developer, the following requirements shall apply:

1. The Developer shall pay the Costs of Construction necessary to provide service from the nearest point of adequate supply in Aqua's existing General Purpose Transmission Facilities to the proposed Subdivision.

2. The Developer shall pay the greater of (i) a commitment fee in the amount of \$600.00 for each single family residential customer (or equivalent as described in Section IV.A.1 above), or (ii) all Costs of Construction necessary to upgrade that portion of Aqua's Production and Storage Facilities to meet the needs of the Developer's requested service.
3. The design of all improvements to Aqua's System shall be accomplished by Aqua's Engineer and the construction of such improvements shall be done by Aqua or Aqua's agents. The Costs of Construction of all such improvements shall be borne by the Developer in accordance with Subsections IV.B.1 and IV.B.2 above. Developer shall pay to Aqua the full amount of the Costs of Construction at the time the Reserved Capacity Agreement is executed. These costs shall be payable in the form of a Cashier's Check or other form of payment approved by the Board of Directors or Aqua's General Manager.
4. The Developer shall agree to construct all facilities identified as Developer Project and convey all facilities constructed under this Paragraph to Aqua together with all easements in which the facilities are located upon completion and acceptance by Aqua.

**C. Reserved Capacity Agreements**

All Reserved Capacity Agreements shall be subject to the terms of the Aqua Water Supply Corporation's Rules and Regulations, including the Tariff on file with the Texas Commission on Environmental Quality. All Reserved Capacity Agreements shall also be subject to all future amendments or modifications of the Rules and Regulations and the Tariff. In the event the terms of a Reserved Capacity Agreement conflict with the Rules and Regulations and the Tariff, the Rules and Regulations and the Tariff shall control. The Reserved Capacity Agreement shall have a term of ten years. A request for an agreement with a term of greater than ten years or any extensions to existing agreements shall be considered on a case by case basis. Upon the expiration of any Reserved Capacity Agreement and the construction of Developer Project is not underway, the capacity reserved pursuant to such Agreement shall be returned to Aqua and available on a first come, first served basis.

**D. Construction of Developer Project Required to Establish Availability of Water Service to Individual Lots**

The approval and execution of the Reserved Capacity Agreement between Developer and Aqua results in the availability of a specific amount of water capacity at the boundary of the Subdivision. The availability of water capacity at the boundary of the Subdivision does not mean that water service is available at a particular lot or that Aqua will set a meter at a lot upon request by the owner of the lot. Developer must complete Developer Project and deed to Aqua in order for capacity and water service to be available at a lot within the Subdivision.

E. Developer Request for Aqua to Indicate on a Plat that Water Capacity is Available to a Subdivision

In order for Aqua to indicate on a final plat of a Subdivision that water service is available, Developer must either (1) complete construction of Developer Project, or (2) if construction of Developer Project is not complete, (i) execute restrictive covenants in a form similar to Exhibit A attached hereto, or (ii) provide a letter of credit ("LOC") payable to Aqua in an amount equal to the costs of construction of the on-site water facilities plus 15% contingencies.

In the event Developer chooses to request the filing of restrictive covenants, said restrictive covenants will be filed by Aqua in the real property or plat records of the county where the Subdivision is located. Aqua will file the appropriate instrument to release the restrictive covenants when Developer Project is complete; however, if Developer Project is larger than 10 lots and completed in stages, Aqua will release specific lots from the restrictive covenants in groups of not less than 10 lots.

In the event, Developer chooses to submit a LOC as set out herein, Developer must first submit construction plans and specifications for Developer's Project, including a detailed cost estimate, to Aqua for its review and approval. Aqua shall have 30 days to review and approve the plans and cost estimate for Developer's Project.

The LOC shall be in an amount equal to the detailed cost estimate for Developer's Project plus 15% contingencies, shall be irrevocable, issued by a state or federally chartered banking institution, payable to Aqua Water Supply Corporation and have a one year term. Aqua will release the LOC to Developer at the time the Developer's Project has been completed and accepted by Aqua.

If Developer's Project is not constructed within 30 days of the expiration date of the LOC, then Aqua will cash the LOC and construct Developer's Project. Any amounts remaining from the LOC after payment of all costs resulting from the construction of Developer's Project shall be refunded to Developer.

If Developer desires to extend the LOC beyond the one year term, a request for a substitute LOC must be submitted to Aqua not later than 60 days prior to the expiration of the LOC. Developer shall submit a revised cost estimate for Developer's Project for Aqua's review and approval. The amount of the successor LOC must include any cost increases for construction of Developer's project. The substitute LOC shall be submitted to Aqua not later than 30 days prior to the expiration of the LOC. Upon Aqua's receipt of a substitute LOC, Aqua will release the previous LOC to Developer.

Once water supply capacity has been reserved and allocated to a particular tract of land and Aqua has indicated on a final plat that water service is available to the land, the water supply capacity shall not be transferred to other land.

**F. One Time Eligibility for Refund of Capacity Reservation Fees**

A Developer who has paid commitment fees but has not received approval of the subdivision plat from a local governmental entity having jurisdiction and authority to approve subdivision plats in the area in which the proposed Subdivision is located, may request a refund of commitment fees, less any costs and expenses incurred by Aqua in connection with the proposed Subdivision provided the following additional conditions are satisfied:

1. Not more than 90 days have elapsed since the date the commitment fees were paid to Aqua; and,
2. The Developer has not received a previous refund of commitment fees in connection with the land on which the proposed Subdivision is located; and
3. No plat has been filed of record indicating that Aqua will provide service to the proposed Subdivision.

The General Manager shall determine the Developer's eligibility for a refund and the amount of refund to be made, if any. Any unrecorded plat bearing an original signature showing Aqua's commitment for service to a proposed Subdivision must be returned to Aqua with the request for a refund. The 90 day deadline for requesting a refund may be extended for a period of 30 days for good cause by action of the Board of Directors. A request for the extension that states the grounds for good cause must be submitted to Aqua no less than seven days prior to the last Board of Directors meeting that is held within the 90 day period.

**G. Transfer of Reserved Capacity Prohibited**

Any agreement entered into in accordance with this policy shall only be a commitment to provide water to the specific tract of land described in the Reserved Capacity Agreement.

**H. Recording of Information Concerning Water Availability**

When a tract of land is subdivided and water supply capacity is not reserved for the entire tract, Aqua may file a notice concerning water availability in the real property records of the county in which the tract of land is located. The notice may reference the agreement between Aqua and the Developer and the notice may specify the portions of the tract of land for which water service is available and the residual portions of the tract of land for which no water supply capacity has been reserved.

**V. Obtaining Water Service in Small Subdivisions Containing No More than Four Lots or Parcels**

This Section applies to an application for setting a meter and providing water service to a lot or parcel of land where the lot or parcel results from subdividing a tract of land into 4 or less lots or parcels, and where the Developer has not complied with the requirements of these

Rules and Regulations Concerning Aqua's Service to Subdivisions. Subject to availability of water supply capacity in Aqua's System, an applicant, other than the Developer, may obtain service to a single lawfully platted lot or a single lawfully subdivided parcel by payment of the membership fee, the applicable meter installation and System Development Fees, and the capacity reservation fee required by Section IV.A of these Rules and Regulations. Additionally, if an extension of Aqua's water supply lines is necessary to provide water service to the lot or parcel, the applicant must pay all costs which the Developer would have been required to pay to receive service, including but without limitation, those costs to extend Aqua's General Purpose Transmission Facilities and the cost of materials and installation of an adequately sized water line to deliver water to the lot or parcel, which in no case shall be smaller than a four (4) inch line.

## VI. Construction Rules and Regulations

A. A preliminary or final plat and water facilities plan must be submitted to Aqua and approved by Aqua's Engineer before construction of Developer Project commences. There shall be a non-refundable fee of \$50 per LUE to review the water facilities plan internal to the subdivision. The water facilities plan shall include the plans and specifications (construction drawings) of the improvements to be located within the subdivision and a description of the rights-of-way in the subdivision in which the facilities will be constructed. The preliminary or final plat and plan must be approved, if needed, by:

1. The county or counties in which the land is located;
2. The governing body of any city within whose corporate or extraterritorial jurisdiction the Subdivision lies;
3. The United States Fish and Wildlife Service and/or the Texas Parks and Wildlife Department; and
4. Any other person or political subdivision whose approval will be required before Aqua can provide the service contemplated by the Developer's request.

A Developer may also meet the requirements of VI.A.1. with a statement in writing from a county or counties that approval of the plat is not required. In the event there is no response from the pertinent county or counties regarding plat approval or exemption, the Developer shall submit written documentation establishing that approval of the plat by the pertinent county or counties is not required.

### B. Easements

#### 1. Easements for Approach Main

Before construction of the Developer Project begins, the Developer shall dedicate to Aqua, or pay the cost of acquiring, title to a 15 foot permanent easement and an adjacent 15 foot temporary workspace easement, which easements shall run from Aqua's existing General Purpose Transmission Facilities to the Developer's subdivision. The 15 foot permanent easement shall include exclusive easement rights to a 5 foot wide strip of land, the center line of which shall be defined as the center line of the water line as

installed. These costs shall be payable in the form of a Cashiers Check or other form of payment approved by the Board of Directors or Aqua's General Manager.

2. Easements for Developer Project

The Developer shall dedicate to Aqua all easements within the subdivision necessary for water line construction within the subdivision and shall dedicate such additional easements as are necessary where a deviation from dedicated utility easements is deemed necessary by Aqua. In locations where the applicable county commissioner's court or municipal governing body has approved specific utility location assignments within public utility easements (PUE), internal water distribution lines shall be installed within the PUE at the location assigned for water utility service. Where specific utility location assignments are not applicable, every easement for water lines within the subdivision shall have a minimum width of 15 feet. All water line easements shall be shown on the final recorded plat of the subdivision.

3. Boundary Easements

The Developer shall dedicate to Aqua title to a 15 foot permanent easement and an adjacent 15 foot temporary workspace easement along all roads and highways adjoining the subdivision for future water line construction. The 15 foot permanent easement shall include exclusive easement rights to a 5 foot wide strip of land, the center line of which shall be defined as the center line of the water line as installed.

4. Clearing of Easements

The Developer shall bear the cost of clearing and chipping the entire width of: (1) all easements which run from Aqua's existing General Purpose Transmission Facilities to the Developer's subdivision; (2) all easements within the subdivision necessary for water line construction within the subdivision; (3) all additional easements necessary where a deviation from dedicated utility easements is deemed necessary by Aqua; and (4) all public utility easements, if an applicable County Commissioner's Court or municipal governing body has approved specific utility location assignments within the public utility easement.

C. The Developer shall pay all costs of obtaining right-of-way easements necessary to connect the Developer Project to Aqua's General Purpose Transmission Facilities, whether or not the easements are in the Subdivision. These costs shall be payable in the form of a Cashier's Check or other form of payment approved by the Board of Directors or Aqua's General Manager.

- D. All Subdivisions shall meet the conditions of all local, state, and federal agencies having regulatory authority over lot sizes, sewage control, drainage, and right-of-way. When possible, meters should not be placed in locations where they may be subjected to vehicular traffic, such as a meter placed under a driveway providing access to a dwelling. If a Developer desires that one or more meters be placed in a location where, in the opinion of Aqua, the meter(s) may reasonably be subjected to vehicular traffic of any sort, then the report produced by Aqua's Engineer will also include an estimate of the cost to Developer of providing one or more meter boxes designed and constructed to minimize the likelihood of damage to the meter resulting from said vehicular traffic.
- E. The Developer shall provide accurate on-the-ground markings of all Developer Projects in conformance to Aqua's requirements.
- F. The Developer shall provide sufficient notification to Aqua to allow Aqua to observe critical elements of construction. These include, but are not limited to:
  - 1. Water line and facility installation;
  - 2. Connections to existing mains;
  - 3. Pressure testing procedures; and
  - 4. The testing of all water facilities.

If Developer fails to comply with the above, Aqua may require Developer to have the constructed facilities uncovered and exposed for Aqua's inspection. In any event, the integrity of the facilities is the responsibility of Developer.

- G. Aqua may, if necessary, acquire any essential land or easements by eminent domain in order to provide service to a subdivision. The Developer shall pay all expenses associated with such condemnation proceedings, including legal, engineering, the award of the Commissioners or the Court, and the like. These costs shall be payable in the form of a Cashier's Check or other form of payment approved by the Board of Directors or Aqua's General Manager.

#### H. Oversizing

- 1. Oversizing by Aqua. It may be necessary from time to time for Aqua to oversize improvements which are contemplated by the Developer, or Developers, to either its Production and Storage Facilities, its General Purpose Transmission Facilities, or the Developer Project. The decision on whether to oversize such facilities shall lie exclusively with Aqua. Aqua shall bear the cost of all oversizing requested by Aqua. Should Aqua, in Aqua's sole discretion, determine that: (1) Aqua does not have funds available for such oversizing at the time a request for service is received so that the Developer would, in the Developer's opinion, be delayed from proceeding with its Subdivision, or (2) Aqua's available funds should not be

used for oversizing on Developer Project at the time a request for service is received, Aqua will agree to enter into a contract where all such oversizing is paid by the Developer and Aqua will reimburse the Developer out of future capacity reservation fees. Aqua will agree to, on an annual basis, make an accounting of the capacity reservation fees that have been received for the preceding year which utilized capacity in the System which was oversized at the expense of the Developer and pay the Developer an amount equal to 60% of such fees until Developer is fully compensated for the cost of funding Aqua's oversizing. Provided, however, Aqua shall not pay interest on the funds which the Developer has expended for such oversizing. Additionally, the term of such contract shall not exceed ten years. At the expiration of the term of the contract, Aqua shall have no further obligation to reimburse the Developer for funds expended in such oversizing.

2. Oversizing by Developer. If Aqua's Board of Directors has determined that Aqua should construct an improvement to Aqua's General Purpose Transmission Facilities to serve the needs of existing members and such facilities may reasonably be oversized to provide capacity for a Developer Project, the Developer will be allowed to enter a contract with Aqua to have the facilities oversize to provide capacity for Developer Project provided that Developer pays the incremental cost to oversize the facilities beyond the capacity that Aqua would have constructed.

## VII. Acceptance

- A. Aqua shall approve all facilities constructed in its Service Area. The cost for these services shall be borne by the Developer under this policy.
- B. Aqua will accept the dedicated facilities only if the facilities are constructed in strict conformance with the previously approved construction plans and specifications. .
- C. Aqua will, at the expense of the Developer, inspect and test the facilities to ensure that Aqua's standards are met.
- D. After receipt of as-built drawings, letters of acceptance and final Developer Project approval from Aqua, Aqua shall accept the Developer Project, provided the Developer has complied with other applicable portions of these rules and regulations including but not limited to Section VI. F. above.
- E. Aqua shall not provide service to a Subdivision until (1) the Developer has paid all amounts owed to Aqua under these rules and regulations, (2) the facilities have achieved compliance with applicable hydraulic standards, (3) the Developer has submitted documentation of a satisfactory bacteriological test for the facilities, and (4) Developer has presented Aqua a certificate applicable to the Subdivision issued pursuant Section 212.0115 of the Texas Local Government Code if the subdivision is within the jurisdiction of a municipality under Section 212.0115(a) of the Texas Local Government Code. Until the requirements of this subsection are

satisfied Aqua will not provide water to the Subdivision for any purpose other than testing or flushing.

F. Upon acceptance of Developer's Project, Aqua will sign the plat or release the Restrictive Covenants.

### VIII. USDA – Rural Development

The Developer recognizes that Aqua must comply with USDA – Rural Development rules and regulations as promulgated from time to time as those rules and regulations apply to the service, rates, and capacity addition of Aqua.

### IX. Obtaining Water Service for Subdivided Tracts of Land Not in Compliance with Rules and Regulations and Tariff

This Section applies to an application for setting a meter and providing water service to a lot or parcel of land where the lot or parcel results from subdividing a tract of land into 5 (five) or more lots or parcels, and where the Developer has not complied with the requirements of these Rules and Regulations Concerning Aqua's Service to Subdivisions.

Applications submitted to AWSC under this section must meet the following conditions:

1. The tract that is the subject of the application is located:
  - a. in a subdivision of tracts that is exempt from a county's platting requirements;
  - b. in a county that does not indicate whether or not water services is available on a subdivision plat; or
  - c. in a county that indicates with a notation or statement that Aqua WSC is the water provider, but the Developer has not complied with Aqua's Rules and Regulations and Tariff.
2. The Applicant pays the required feasibility study fee.

Subject to availability of water supply capacity in Aqua's System, an applicant, other than the Developer, may obtain service to a single lawfully platted lot or a single lawfully subdivided parcel by payment of the membership fee, the applicable meter installation and System Development Fees, and the capacity reservation fee required by Section IV. A of these Rules and Regulations. Additionally, if an extension of Aqua's water supply lines is necessary to provide water service to the lot or parcel, the applicant must pay all costs which the Developer would have been required to pay to receive service, including but without limitation, those costs to extend Aqua's 'General Purpose Transmission Facilities and the cost of materials and installation of an adequately sized water line to deliver water to the lot or parcel, which in no case shall be smaller than a six (6) inch line.

**EXHIBIT A**  
**TO APPENDIX B**

**RESTRICTIVE COVENANT**

THE STATE OF TEXAS

§

COUNTY OF \_\_\_\_\_

§  
§

WHEREAS, \_\_\_\_\_, a \_\_\_\_\_ (the "Owner"), whose address is \_\_\_\_\_, is the owner of the following real property in \_\_\_\_\_ County, Texas:

\_\_\_\_\_, a subdivision in \_\_\_\_\_ County, Texas, according to the plat recorded in Book \_\_\_, Pages \_\_-\_\_\_, Plat Records of \_\_\_\_\_ County, Texas (the "Property"); and

WHEREAS, Aqua Water Supply Corporation ("Aqua") and the Owner have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desire to set forth their agreement in writing;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby agrees as follows with respect to the Property, which agreement will constitute a covenant running with the Property and will be binding on the Owner, its successors and assigns:

1. No portion of the Property may be sold transferred or conveyed prior to the final acceptance of the water utility improvements for the Property by Aqua and Aqua has filed notice of such acceptance in the real property records of the county; however, utility easements required to serve the Property may be dedicated to the public and/or the applicable utility provider.

2. If all of the water utility improvements required by Aqua for the Property, as more fully described in the Agreement to Construct an Approach Main Extension and to Reserve Water Supply Capacity between the Owner and Aqua dated \_\_\_\_\_, 20\_\_\_, are not complete and accepted by Aqua by \_\_\_\_\_, 20\_\_\_, then this covenant and agreement will constitute an application to Aqua for the vacation of the reservation of water for the Property.

3. If any person or entity violates or attempts to violate this agreement and covenant, Aqua, or its successors and assigns, may prosecute proceedings at law or in equity against the person or entity violating or attempting to violate this agreement and covenant and may prevent said person or entity from violating or attempting to violate this agreement or covenant.

4. If any part or provision of this agreement and covenant is declared invalid, by judgment or court order, that invalidity will not affect any of the other provisions of this agreement, and the remaining portions of this agreement will remain in full force and effect.

5. Any failure of Aqua, its successors and assigns, to enforce this agreement and covenant, whether the violations are known or not, will not constitute a waiver or estoppel of Aqua's right to do so.

6. This agreement may be modified, amended or terminated only by joint action of both (a) the General Manager of Aqua or another duly authorized representative of the Aqua, and (b) the owners of the Property at the time of the modification, amendment or termination.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, a Texas \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_.

## Notary Public in and for the State of Texas