

RULES AND REGULATIONS
OF THE
MT. ELBERT WATER ASSOCIATION

The Board of Directors of the Mt. Elbert Water Association (the “Association”) hereby declares that the following Rules and Regulations (“Rules and Regulations”) have been prepared and adopted to provide for the construction, administration and operation of the Association’s Water System and Facilities. These Rules and Regulations shall be effective on the date of adoption by a majority of the Board at a public meeting.

The Board of Directors hereby expressly reserves the right to make any lawful additions and/or revisions in these Rules and Regulations when and as they may become advisable to properly manage the Association and to promote the peace, health, safety and welfare of the inhabitants of the Customers that will be served by the Association. These Rules and Regulations are supplementary to, and are not to be construed as, any abridgement of any lawful rights of the Board as outlined in the Colorado Revised Statutes governing non-profit corporations, including the right to disconnect or to refuse permission to connect any Customer to the Association Water System or for violation of these Rules and Regulations or any other applicable law of the State of Colorado.

Adopted the ____ day of _____, 2013.

MT. ELBERT WATER ASSOCIATION

By: _____
President

Attest:

By: _____

Its: Secretary

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I. GENERAL PROVISIONS

A. General.

1. **Authority:** These Rules and Regulations are adopted in accordance with the authority conferred pursuant to Title 7, Article 121, *et seq.*, and other provisions of the Colorado Revised Statutes and the Bylaws of the Association, by the Mt. Elbert Water Association, Inc., Board of Directors. The Association is a non-profit corporation with all the powers thereof which are specifically granted to the Association, or are necessary or incidental to or implied from powers specifically granted by statute, constitution or other law, for carrying out the objectives and purposes of the Association.

2. **Definitions:** Capitalized terms used in these Rules and Regulations shall have the definitions set forth in Article I.C., unless otherwise defined herein.

3. **Scope:** These Rules and Regulations have been adopted and promulgated pursuant to 7-123-102, C.R.S., and the Bylaws of the Association, and shall be considered a comprehensive set of Rules and Regulations governing the operations of the Association Water System as of the effective date stated herein. The Association has the authority to implement the Rules and Regulations provided herein by policies and resolutions. The Board reserves the right to make and adopt resolutions concerning matters not covered herein as and when appropriate in the opinion of the Board.

4. **Purpose:** The purpose of these Rules and Regulations is to facilitate the orderly construction, financing, control, management and operation of the Water System and Association Facilities, including additions, extensions and connections thereto, and to provide for the administration and enforcement of standards to promote the safety and general welfare of Customers or other service users of the Association. Provision of Water Service by the Association will be available only in accordance with these Rules and Regulations.

5. **Limitations:** The Association's provision of Water Service to Customers is contingent upon the Association having an adequate Association Water Supply and adequate Association Facilities. Because of these limitations, the Association cannot guarantee that it will be able to provide Water Service to Customers or properties even if they are within the Association's Service Area.

6. **Initial Service Area:** The initial Service Area consists of underserved areas within the Pan-Ark Subdivision, Twin Lakes, Lake County, Colorado. Upon proper and legal authorization, the Service Area may be expanded to serve other properties as demand for service increases and resources to provide such services become available.

B. Construction of Rules and Regulations.

1. **Intent of Construction:** It is intended that these Rules and Regulations shall be liberally construed to affect the general purposes set forth herein, and that each and every part thereof is separate and distinct from all other parts. No omission or additional material set forth in these Rules and Regulations shall be construed as an alteration, waiver, or deviation from any grant of power, duty or responsibility, limitation or restriction, imposed or

conferred upon the Board by virtue of statutes now existing or subsequently amended or adopted, or under any Agreement existing between the Association and any other private or governmental entity or Customer. Nothing contained herein shall be so construed as to prejudice or affect the right of the Association to secure the full benefit and protection of any law which is now enacted or may subsequently be enacted by the Colorado General Assembly pertaining to the governmental or proprietary affairs of the Association.

2. Incorporation of Decrees and Rules and Regulations by Other Governmental Entities:

a. General: Any limitations, restrictions or prohibitions validly placed upon the Association or the water rights comprising the Association Water Supply by any governmental entity or by any Agreement to which the Association is a party are hereby incorporated into these Rules and Regulations by this reference and shall constitute a limitation, restriction and/or prohibition on the Association's ability to provide service to Customers.

b. Water: The provision of Water Service by the Association may be governed by and subject to court decrees, stipulations, rulings, findings or other court orders or decrees, including any subsequent court orders concerning the Water to be supplied through service or delivery Agreements by the Association to Customers. The Association acknowledges that water sources also may be limited by all applicable laws, rules and regulations governing the withdrawal of groundwater, including, but not limited to, the Colorado Ground Water Management Act, Section 37-90-101, C.R.S., *et seq.*, the Rules and Regulations for the Management and Control of Designated Ground Water, 2 C.C.R. 410-1, and all other applicable laws and regulations, as now or hereafter constituted.

3. Amendment: It is specifically acknowledged that the Association shall retain the power to amend these Rules and Regulations as it deems appropriate and such amendments shall be entered in the minutes of the Association and periodically incorporated into printed copies of these Rules and Regulations. Prior notice of these amendments shall not be required to be provided by the Association in exercising its amendment powers pursuant to this Article. The Board will, from time to time, amend the rates, fees and other charges set forth on **Exhibit A**. The Board shall have the power to resolve to adopt policies not in conflict with these Rules and Regulations, which policies shall be binding on all Customers. The Association will endeavor to provide all Customers prompt notice of such policies.

4. Conflict: Except for Agreements executed prior to June 9, 2012, in the event of a conflict between these Rules and Regulations and specific terms or conditions of any Agreement entered into between the Association and any party, these Rules and Regulations shall control.

5. Severability: If any provision of these Rules and Regulations, or its application to any person or circumstances is held invalid, the application of such provision to other persons or circumstances, and the validity, enforceability or legality of the remainder of these Rules and Regulations, shall not be affected thereby.

6. Modification, Waiver and Suspension of Rules: The Board of Directors shall have the authority to waive, suspend or modify the application of these Rules and Regulations, and any such waiver, suspension or modification must be in writing, signed by the Board, and shall not be deemed an amendment of the Rules and Regulations. No waiver, suspension or modification on any one occasion shall constitute a waiver, suspension or modification on any subsequent or other occasion.

7. Saving Provision: The enactment of these Rules and Regulations, any amendment thereof, or the repeal of any prior existing policies, procedures, rules, regulations or resolutions shall not waive, terminate or limit any right, action, cause of action, penalty charge or fee which arose under any of the foregoing provisions.

8. Repeal of Conflicting Resolutions: All resolutions or parts of resolutions in conflict herewith as of the effective date hereof, are hereby repealed, except as may be expressly provided herein.

C. Definitions.

1. Definitions: Unless the context specifically indicates otherwise, the meaning of the terms used herein shall be applicable to these Rules and Regulations.

a. Agreement, Agreements or Certificates: Any Board approved contract or agreement necessary or desirable for the provision of Water Service to Customers.

b. Applicant: The Customer or other person or entity entering into a contract with the Association for new or additional Water Service, Extensions or a Certificate.

c. Association: The Mt. Elbert Water Association, a Colorado non-profit corporation, whose address is 312 Mt. Elbert Dr., Twin Lakes, Colorado 81251.

d. Association Engineer: The person or firm, if any, appointed by, employed by, or contracted with the Association to provide engineering and similar services.

e. Association Facility or Facilities: All components of the Association's Water System, however acquired, constructed or operated by the Association. The Association Facilities shall also include all land, Water, water rights, wells, easements, permits or other interests in real property, all operational permits and licenses, all roadways or access facilities, and all improvements or personal property necessary to the operation of the Association Facilities and to carry out the purposes of the Association.

f. Association Manager: The person or firm, if any, that may be retained by the Board to administer and supervise the affairs of the Association, including, but not limited to, enforcement of the Association's Rules and Regulations, and who may, among other things, operate, inspect and approve all connections, excavations, Extensions, installations, Association Facilities owned, to be dedicated to, or under the control of the Association. The Association Manager may be one of the Board Members of the Association. The Association Manager shall work with the consultants and contractors of the Association.

g. Association Water Supply: All Association-owned non-potable Water, potable Water, first use or reuse Water, return flows, Water shares, ditch shares, banked Water credits, banked return flow credits, tributary, not non-tributary, non-tributary and designated basin water rights and groundwater rights, or such supplies used by or which are made available by dedication, lease, contract or Agreement to the Association for provision of Water Service to Customers.

h. Board or Board of Directors: The duly elected Board of Directors of the Association, which acts as the governing body of the Association.

i. Certificate: A Water Tap Certificate, Water Tap/Hydrant Certificate and/or a Water Tap/Stub Certificate, each of which shall be issued only by way of the Association. Only a Water Tap Certificate can be transferred and such transfers can occur only by way of the Association. Water Tap/Hydrant Certificates and Water Tap/Stub Certificates are issued at the time of physical connection to the water main and cannot be transferred to another lot. A Certificate shall be appurtenant to a Property Owner's lot and shall be conveyed with the sale or other legal conveyance of such lot, without regard to any mention in a deed or other instrument for the same, unless a valid Transfer of Water Tap Certificate has been approved by the Association and recorded in the real property records of the County. A membership Certificate in the Association, if issued by the Association, shall not constitute a Certificate and shall have no monetary value.

j. Cost(s): All direct costs applicable to the construction, reconstruction, enlargement or dedication of a given Association Facility, including, but not limited to, costs associated with planning, design, preliminary and design engineering, construction, inspection, administration, acquisition, operation and maintenance or dedication of Association Facilities, acquisition of all required rights-of-way, fee interests, easements, acquisition of water rights, depreciation, attorney fees, regulatory agency fees, plan approval fees, "as built" drawings, and all other fees and/or costs necessary to provide existing, new, different or additional Water Service, Association Facilities, and related services.

k. County: Lake County, Colorado.

l. Customer: Any person, company, corporation, public entity or authority, developer, Property Owner, lessee, tenant or occupant of such Property Owner, or visitor of any of the foregoing, who is supplied with or uses Water Service furnished by the Association, pursuant to the procedures set forth herein.

m. Customer Service Lines: The Customer's service line extending from the main water line to an individual Customer's lot. All new Customer Service Lines shall be built, designed and installed in accordance with these Rules and Regulations. Customer Service Lines shall be excluded from the water system and shall be owned and maintained (except as may be provided below in these Rules and Regulations) by the Customer.

n. Design and Construction Standards and Specifications for Association Facilities ("Design Standards"): The Association's minimum standards for the design and construction of all Association Facilities.

- o. ERU (Equivalent Residential Unit): An approximate measure of the level of service necessary to serve a single-family dwelling, which may be used to calculate the cost of connection fees and service charges.
- p. Extension: A water transmission main required in order for the Association to provide service to Customers according to the terms and conditions set forth herein.
- q. Force Majeure: Any of the following events that prevents, delays, retards or hinders a party's performance of its duties hereunder: act of God; fire; earthquake; flood; explosion; war; invasion; insurrection; riot; mob violence; sabotage; vandalism; inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation; strikes; lockouts; litigation; condemnation; requisition; governmental, civil, military or naval authorities; or any similar cause not within such party's control.
- r. Inspector: A person, persons or firm duly authorized by the Board to inspect, monitor and approve the installation, connection, and operation of the Association Facilities and to periodically monitor and inspect the operations of such Association Facilities.
- s. Main Water Line: Water pipe and all associated and related facilities, improvements and fixtures used for the purpose of conveying Water to a Water Connection Point that is part of the Association Facilities.
- t. Main Water Line Lateral Extension: A future Extension of the Main Water Line from a point where the Main Water Line then exists to the point where the most distant boundary of a Property Owner's lot line abuts an adjoining property.
- u. Permit: Written permission of the Board given pursuant to these Rules and Regulations, subject to the specific terms and conditions contained therein.
- v. Person: Any individual, partnership, co-partnership, firm, company, corporation, association, unincorporated association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns, or two or more such persons acting jointly as a firm, partnership, unincorporated association, joint adventurers or otherwise.
- w. Property Owner, Homeowner or Owner: The Person or Persons who hold title to a parcel of land as shown on the property tax assessment roll in the office of the applicable County Assessor.
- x. Service Area: A planning term that refers to all areas currently being served or proposed or planned to be served by the Association. Any reference to the Association Service Area or proposed Service Area does not mean that the Association is capable of providing, or that the property within the Service Area is entitled to, service. Generally, the Association's Service Area is the Pan-Ark Estates, which consists of the Twin Lakes Addition No. 1-A, No. 1-B and No. 1-C.

y. Testing: The analysis of Water samples for composition, and other characteristics; in the context of construction, connection to or provision of water from Water System Facilities, and the inspection and trial operation of the construction or connection of Water System Facilities.

z. Water: For purposes of these Rules and Regulations, Water shall mean potable water and/or non-potable irrigation and other water, where appropriate.

aa. Water Connection Point: The point at which a Customer Service Line connects to the Water System for a permanent or temporary purpose.

bb. Water Distribution System: All structures, facilities and equipment owned and used by the Association for storing, boosting, and/or transporting to the Water Connection Point, and measuring the Association Water Supply, including, but not limited to, tanks, wells, pumps, booster pump stations, distribution piping and metering facilities.

cc. Water Meter: A measuring device used to determine the amount of Water supplied to a recipient of Water at a Water Connection Point.

dd. Water Service(s): the delivery of safe, reliable and adequate potable Water to the Customers. Water Service shall only be used for domestic uses.

ee. Water System: All components, including, but not limited to, all water lines, pumps, components, operating stations, water rights, real property and other items comprising or necessary for the operation, maintenance, repair, rebuilding, rehabilitation, enlargement and other activities of the Water Distribution System.

ff. Water Tap Certificate. The certificate issued upon payment of the Water Tap Fee which demonstrates ownership of a water tap and the right to connect to the Water Distribution System.

gg. 2000 Water Tap Commitment: The 2000 Water Tap Commitment, made by the Association, recorded in the real property records of Lake County, State of Colorado on May 5, 2000, at Reception No. 323228.

hh. 2012 Water Tap Commitment. The 2012 Water Tap Commitment made by the Association, recorded in the records of Lake County, State of Colorado on _____, 2013, at Reception No. _____, as the same may be amended, supplemented and/or modified.

ii. Any Other Term: Any other term not herein defined shall be defined as presented in the “Glossary - Water and Sewage Control Engineering,” A.P.H.A., A.W.W.A., A.S.C.E., and F.W.S.A., latest editions.

D. Association Facilities.

1. Ownership and Maintenance of Association Facilities: Except as otherwise provided in these Rules and Regulations, it is the policy of the Association that all

Association Facilities are the property of the Association upon acceptance by the Association regardless of whether such Association Facilities are constructed, financed, or paid for by the Association or by other Persons. The Association shall be responsible for maintenance, repair and reconstruction of such Association Facilities and all appurtenances thereto, at the cost of the Association, unless the Association Facility is under warranty, in which case the warranty provisions shall apply to the fullest extent provided by law. No other Persons, except those authorized by the Association, shall have any right to enter upon, inspect, operate, adjust, change, alter, move or relocate any portion of the Association Facilities.

2. Customer System Compliance with Design Standards: [Reserved].

3. Encroachment of the Association's Easements and Property: No Person, including, but not limited to, Customers with whom the Association has an Agreement, shall construct any temporary or permanent building or other similar structure, place any fill or other material on, or otherwise encroach upon any of the Association's easements or the Association Facilities.

4. Use of Association's Easements: A Customer, Property Owner, developer or contractor may request permission from the Association to share or use the Association's easements for the installation of drains, pipelines, Extensions or other facilities necessary to utilize the Association Facilities. The Association's determination to allow a Customer, Property Owner, developer or contractor to share or use the Association's easements shall be made in the sole discretion of the Association. Any such approval shall be in the form of a written agreement, which shall set forth fully the terms of the agreement, specifically including, but not limited to, the terms set forth below:

a. Any such agreement shall be subject to Board approval.

b. The Customer, Property Owner, developer or contractor shall, at all times, have the obligation, enforceable at the demand of the Association, to construct, operate, maintain, repair and replace any non-Association owned facilities within the easement from time-to-time.

c. The Customer, Property Owner, developer or contractor shall agree to indemnify and save the Association, its officers, directors, agents and employees harmless from and against every claim, demand, liability, cost, charge, suit, judgment and expense of whatsoever kind or nature, including, but not limited to, interest, court costs and attorney's fees which the Association, its officers, directors, agents or employees may pay or incur by reason of, or which in any way arise out of, the sharing or using of the Association's easements by the Customer, Property Owner, developer or contractor. Said indemnification shall extend to claims, demands and liability or injury to Persons and property and financial loss which occur off the job site as well as on, and for injury and damage to person and property and financial loss occurring after construction and installation of the non-Association owned facilities within the Association's easements by the Customer, Property Owner, contractor or developer.

5. Non-Association Water Wells Prohibited: Except those Property Owners having existing wells that have executed a "keep alive" agreement with the Association and who

are current in the obligation to continue to pay the “keep alive” annual fees, and in an effort to coordinate the provision of Water Services, only those wells forming part of the Association Water Supply may connect to the Association Water System. The Association is not responsible for the augmentation of any wells within the Association’s Service Area other than those owned by the Association, except by separate Agreement.

6. Limits on Construction: No Property Owner or Customer shall, by itself or through the use of a private contractor, connect to or tap into the Main Water Line, a Main Water Line Lateral Extension or the Association Facilities other than as expressly set forth in these Rules and Regulations. All maintenance, repair, reworking, installation, removal, Extensions, and other service on the Main Water Line, a Main Water Line Lateral Extension or any of the Association Facilities shall only be performed by a contractor retained by and at the direction of the Association.

7. Timing: All excavating work for connections to the Main Water Line or a Main Water Line Lateral Extension, the installation and construction of a Main Water Line Lateral Extension or similar work will be scheduled generally during the months of May to October or as soon as such work may reasonably be accomplished.

E. Inspections.

1. Powers and Authority of Association: The Association Manager, if any, or the Board’s designee bearing proper credentials and identification shall be permitted to enter all property of Customers necessary for the purposes of reading meters, Testing related to discharge(s) to the Water System, inspection, observation, measurement, sampling, repair, maintenance of any portion of the Association Facilities lying within said properties and related matters, upon reasonable notice to the Customer, except in the case of an emergency, in which case prior notice is not required.

2. Construction Inspection: The Board’s designee bearing proper credentials and identification, or, if retained, the Association Manager shall have the right to inspect any and all work during and after construction of any Customer Service Lines necessary to receive Water Service from the Association, to ensure installation in accordance with Association standards. After completion of construction, any such designee and/or the Association Manager shall make a final inspection of construction prior to commencement of service.

F. Protection of Association Facilities.

1. Compliance with Statutes and Regulations: For all projects that require digging, boring, directional drilling or excavation in or around Association Facilities, the Person, contractor or excavator wishing to dig or excavate around said Association Facilities shall comply with all applicable statutes and regulations of the State of Colorado.

2. Locate Information: For projects that require digging, boring, directional drilling or excavation around Association Water System facilities, a contractor or excavator must provide location information to the Association and must comply with all other Association requirements for notification and processing prior to commencing any digging, boring, directional drilling or excavation.

II. REQUIREMENTS FOR ACQUIRING WATER/SERVICE FROM THE ASSOCIATION

A. Water Service.

1. **Policy:** Provision of Water Service by the Association to Customers is subject to these Rules and Regulations. The Association may require certain additional conditions, obligations, actions, agreements and similar items prior to granting service from the Association.

2. **No Obligation of Service:** The Association may enter into contracts and agreements affecting the Association's Water Service and the Association's ability to provide such service. The Association is not obligated to provide Water Service other than as required by existing express written Agreements. Subject to the limitations and conditions herein and in any Agreement, it is the intent of the Association to make available Water Service to those Customers that are within the Service Area of the Association.

3. **Revocation of Service:** Either the Water Service and/or a Certificate shall be revocable by the Association upon non-payment of fees or charges owed to the Association, upon failure to comply with the Association's Rules and Regulations, or when the Board determines that an emergency exists and such revocation is necessary to protect the health, safety and welfare of the Customers.

a. **Notice and Hearing:** In all cases, except as specifically provided otherwise herein, or except in those circumstances involving an imminent hazard to the health, safety or welfare of Customers or to the Association Water System, the Association may make provisions for notice and hearing prior to revocation of service.

4. **Covenants:** Some conditions of Agreements between the Association and Customers or other users seeking service may require Customers to enter into commitments and agree to certain conditions concerning real property. Such commitments may be recorded and shall constitute covenants that run with the property.

5. **Subject to Water Tap Commitment:** All Water Service Customers having Certificates issued, re-issued or transferred after May 2000 and prior to June 9, 2012, are expressly subject to the 2000 Water Tap Commitment and the terms of the same are fully incorporated into these Rules and Regulations. All Water Service Customers having Certificates issued, re-issued or transferred after June 9, 2012 are expressly subject to the 2012 Water Tap Commitment, the terms of the same are fully incorporated herein.

6. **Contracts and Agreements:** Each Agreement is subject to these operating Rules and Regulations, Association engineering standards, and all rules and policies promulgated hereunder and amendments thereto. The operating rules and engineering standards and any amendments shall be incorporated by reference and made a part of any Agreements with Customers and other users by reference to these Rules and Regulations.

7. **Denial of Service:** The Board retains, in its sole discretion and judgment, the right to deny an application for Water Service in situations where granting the application for

Water Service would not be in the best interests of the Association. The Association may deny any application for Water Service to any property within the Association's Service Area, based on the Association's determination that the Association lacks sufficient water treatment capacity, Association Facilities, Association Water Supply, and/or water resources to serve the properties within the Service Area making application to the Association for Water Service. Other factors that the Board may consider, not by way of limitation, include the following:

- a. The number of remaining allowable Certificates that the Association may issue;
- b. Whether adequate water resources, water rights, Association Water Supply, water storage and related Association Water facilities, including individual taps, are available and will be available in the future to serve existing or proposed Customers and the impact of other factors resulting in the unavailability of Association Water Supply, including restrictions that may be imposed by the State Engineer or other applicable agency;
- c. The impact of the requested service on the Association's existing Water Service, treatment, transmission and storage facilities, and capacity limitations related to water treatment;
- d. The economic effect that the approval of the application for Water Service would have on the Association;
- e. Whether granting the application for Water Service would adversely affect the public health, welfare or safety of the residents and Property Owners served by the Association's existing or future Customers; and/or
- f. Any other factors related to the application for service.

There may be factors and aspects of an application for service that are unique to that application and are not contained in the above list, and the Board retains the right to consider any and all factors related to an application for service and to make a decision based thereon.

8. Application for System Review: Unless exempted or waived upon recommendation of the Board or the Association Engineer, a Customer seeking to acquire Water Service from the Association shall submit an application for system review, which is the Association's review process designed to ensure that the Association has adequate resources, and to assess Association Facility needs, and determine whether the Customer's water facilities proposed to be connected to the Association Water System comply with the Association's Design Standards. The Association's review will determine the scope of additional Association Facilities required to serve the Customer. All costs associated with the Application for System Review, to review water main maps and the physical inspection of Applicant's lot, are included in the Tap Fee.

9. Other Conditions for Service: In addition to the requirements for Water Service set forth in this Article II, the Association may require that a Customer seeking to acquire service from the Association satisfy certain conditions, as set forth more specifically in other sections of these Rules and Regulations.

a. Integrated System: The Association may condition Water Service upon the Customer being able to become part of a viable integrated system for the installation, operation and maintenance of water delivery systems. The Association may adopt operating rules and engineering standards establishing the minimum service requirements.

b. Adequate Water Resources: A Customer seeking to acquire Water Service from the Association may be required to dedicate reuse or return flow water rights to the Association.

c. Adequate Water Systems: The Association may require, as a condition of Water Service, advance dedication of fees or capital to build necessary water Association Facilities. The Association may require payment of additional fees for the purpose of meeting costs of expanding Association Facilities and other activities of the Association, such fees to be determined by the Board from time to time. The Association may also require that a Customer allow the Association to place a third party security interest, including a deed of trust, on the Water System and the Customer Service Line to allow the Association to maintain, repair, operate and expand the Association Facilities.

d. Adequate Main Lines and Service Lines: The Association shall design and install all Extensions, lines and other improvements and facilities required to connect any and all Customer Service Lines to the Main Line.

e. Water Line and the Water System. A Customer seeking to acquire Water Service from the Association shall be required to pay for the Association's design, engineering, construction, legal, administrative, and related Costs of all facility Extensions necessary to connect the Customer Service Line to the Water System of the Association.

f. Adequate Main Lines and Service Lines: The Association may require that the Customer Service Line and related improvement be pledged as security or collateral for the payment of loans, grants and similar obligations of the Association incurred to install, construct, rehabilitate, repair and maintain the Water System.

g. Well Site Dedication: In order to provide Water Service to property within the Association's Service Area, the Association may require the dedication of easement(s), easement(s) for well site(s), together with access easement(s), water and/or electrical line easement(s) at no cost to the Association. The dedication of such easement(s) shall be free and clear of all liens and encumbrances prior to the approval of service to the Customer.

h. Dedication of Groundwater Rights: [Intentionally Omitted].

i. Dedication of Water Rights: [Intentionally Omitted].

j. Water Resources Fee: In the sole discretion of the Board, the Association may impose a water resources fee, adequate to purchase or compensate the Association for the water rights, groundwater rights, water storage or related water facilities required to provide service to the Customer. The Association may adopt policies from time to time, by Board resolution, regarding such determinations.

k. Reimbursement for Agreement Processing: The Association may, in special circumstances, require in the application process that, on completion of the Board's approval or denial of a proposed Agreement, the Association may determine the actual cost expended by the Association in considering any Agreement and require reimbursement.

10. Procedural Requirements for Acquiring a Water Tap, Certificate or Water Service:

a. Application: A Customer seeking Water Service from the Association shall submit an application on an approved Association form, which form is attached hereto as **Exhibit B**. The application shall be accompanied by the appropriate fees as set forth on **Exhibit A**. The date for payment of such fees shall not be extended for longer than 12 months after a residential or other unit has been issued a certificate of occupancy on such lot. Only upon authorized approval of the application, a receipt therefore, and issuance of a Certificate, in the form attached as **Exhibit C**, may a connection to the Water System be made. All Certificates shall require the signature of two (2) members of the Board and shall be notarized. The Association shall record all Certificates in the real property records of the County at the Customer's expense. Should any information disclosed on the application prove at any time to be false, or should the Applicant omit any information, the Association shall have the right to reassess any fees originally charged at the rate currently in effect at the time of discovery by the Association of the false or omitted information, and/or disconnect the service in question, and/or back-charge the property in question for service fees that may be due and owing, and/or charge any additional fee or penalty specified in these Rules and Regulations, as they may be amended from time to time. Any reassessment shall be due and payable, together with any penalties or other additional fees charged, plus interest at the maximum legal rate on the entire balance, at and from the date of the original application, plus all costs of collection.

b. Denial of Application: The Association reserves the right to deny an application for Water Service when, in the opinion of the Board, the Water Service applied for would create an excessive seasonal, or other, demand on the Association Facilities. Denial may also be based upon an unresolved obligation between the Association and the Applicant, inadequate documentation of easements serving the property, any misrepresentation made in the application for service, inability to pay appropriate rates and charges, failure to own property within the Service Area, or any other reason as determined by the Board.

c. Cancellation of Application: The Association reserves the right to revoke any prior approval of an application before Water Service has been provided and a Certificate issued, and thereafter for any violation of these Rules and Regulations.

d. Deposits: The Association reserves the right to require a Customer or Applicant to pay a deposit as a condition of the provision, continuation, or reinstatement of Water Service. While monies held on deposit may be applied toward any and all past due amounts owing to the Association, the Association shall not be required to make any such application, and the Association's use of such deposits shall not prejudice the Association's right to use other means of collecting past due amounts not covered by the deposit.

e. Change in Ownership: A Customer shall notify the Association upon any change of ownership of property serviced by the Association. Any transfer of a Water Tap Certificate shall require the signature of two (2) members of the Board and shall be notarized.

f. Moved or Destroyed Buildings: When buildings are removed or destroyed, the original tap authorization may be terminated, with no credit authorized for fees paid previously with respect to said building unless the original tap shall remain in good standing by continuous, uninterrupted payment of the Association's required service charges and fees (as they may be amended from time to time). If payment ceases for any reason, said tap shall be in violation of these Rules and Regulations, and the tap and the Certificate may be revoked at the Board's discretion.

11. Transfers of Certificates.

a. Nature of Certificates: A Certificate is appurtenant to the lot to which such Certificate was issued and, except as allowed by these Rules and Regulations, shall not be transferred. No Certificates shall be transferred to any Person other than a Property Owner. Any attempted transfer, assignment, pledge or similar disposition of a Certificate in violation of, or not in accordance with, these Rules and Regulations shall be void ab initio and of no force or effect.

b. Nature of Certificates: At the time that any holder of a Water Tap Certificate makes a physical connection to the Association's Water System (through a connection to the Main Water Line, a Main Water Line Lateral Extension or otherwise), the right to request a transfer of the Water Tap Certificate to any other lot within the Service Area shall terminate.

c. Certificate Transfer Procedure: Prior to physical connection to the Association's Water System, a holder of a Water Tap Certificate may apply to the Board for consent to the transfer of such holder's Certificate. Upon approval of such transfer, the payment of a transfer fee, and the issuance of a valid Transfer of Water Tap Certificate (which shall require the signature of two (2) Board members and which the Association shall record in the real property records of the County at the expense of the holder), a holder may transfer its Water Tap Certificate.

12. "Keep Alive" Well Property Owners. Certain Property Owners with private wells on their respective lots have entered into "keep alive" agreements with the Association, the terms of which agreements provide that, for so long as such Property Owner pays its annual "keep alive" fees, such Property Owner may apply for Water Service from the Association without the requirement to purchase a new tap. The terms of each relationship established by each respective "keep alive" agreement shall be as set forth therein. Unless expressly authorized by a "keep alive" agreement, such right to apply for Water Service from the Association without the requirement to purchase a new tap is personal to such Property Owner, shall not run with such Property Owner's lot and shall not be assigned, conveyed, transferred or otherwise granted to any other Person, lot or property. In addition to the fees set forth in each "keep alive" agreement, Property Owner shall pay an annual fee of Twenty Dollars (\$20.00) for

bookkeeping and administrative costs due on the same date as the “keep alive” fee. Each such Property Owner must follow the procedures (including the payment of fees and costs other than the tap purchase fee) set forth in these Rules and Regulations to obtain Water Service from the Association.

13. Main Water Line Lateral Extensions.

a. Application: If an Applicant or Customer requires a Main Water Line Lateral Extension for Water Service, such Applicant or Customer shall request and be required to submit an extension application to the Association. The Association shall not install or allow curb stops that cannot be connected to a Customer Service Line and shall not install or allow hydrants on vacant lots. In the extension application, the Applicant or Customer shall expressly waive all objections to jurisdiction and notice and consent to the creation and recordation of a special assessment lien against the Applicant’s or Customer’s real property for the actual costs to install and construct the Main Water Line Lateral Extension in excess of its cost estimate as described below. In the event the Applicant or Customer fails to pay the actual costs to install and construct the Main Water Line Lateral Extension, costs in excess of the Applicant’s or Customer’s deposit shall be certified to the County treasurer as a special assessment lien against the Applicant’s or Customer’s real property.

b. Cost Estimate; Actual Costs: All Applicants for a Main Water Line Lateral Extension will be provided with a cost estimate to construct the Main Water Line Lateral Extension, which estimate shall include, but not be limited to, the following costs: (1) pipe, fittings, valves and similar equipment; (2) materials and equipment for excavation and backfill, driveway repair, and roadway repair; (3) steel casings and other materials required for road and/or driveway culverts; (4) blasting of boulders and similar features; (5) excavation costs, including mobilization and demobilization of equipment; (6) restoration and repair of roadways; and (7) pressure testing, chlorination and bacterial testing. The Applicant shall be required to deposit with the Association the full amount of the cost estimate for the Main Water Line Lateral Extension prior to the commencement of construction and installation of the Main Water Line Lateral Extension, together with the administrative and bookkeeping charges set forth in the following subsection. In the event the actual Costs to construct and install the Main Water Line Lateral Extension exceed the cost estimate, the Applicant shall reimburse the Association the full amount of such Cost overages within thirty (30) days from the delivery of an invoice for such costs; provided, however that if such Cost overages exceed 110% of the original cost estimate, the Association shall not proceed with the construction and installation of the Main Water Line Lateral Extension without an additional deposit, in the amount of such Cost overages (together with the administrative and bookkeeping charges derived from such Cost overages), from the Applicant. In the event the cost estimate is less than the actual Costs to install and construct the Main Water Line Lateral Extension, the difference will be refunded to the Applicant.

c. Administrative and Bookkeeping Charges: All Applicants for a Main Water Line Lateral Extension shall be required to pay an administrative and bookkeeping charge in the amount of twelve percent (12%) of the total Costs to construct and install the Main Water Line Lateral Extension. Such charges are intended to cover the Association’s legal, administrative, engineering, bookkeeping, collection and disbursement costs relating to the Main Water Line Lateral Extension and any future reimbursements of the Costs for the same. Upon

completion of the Main Line Lateral Extension, the District shall compute any additional administrative and bookkeeping charges that may be due based upon the final Cost. All such fees shall be due, owing and payable within thirty (30) days from the delivery of an invoice or statement for the final cost amount to construct and install the Main Water Line Lateral Extension. All such fees shall be non-refundable.

d. Ownership: All Main Water Line Lateral Extensions are and shall remain the exclusive property of the Association and shall be considered part of the Main Water Line. The Association shall have the sole authority to make decisions regarding the installation, construction, maintenance and operation of all Main Water Line Lateral Extensions.

e. Cost Sharing and Reimbursement for Main Water Line Lateral Extension: Upon receipt of an extension application, the Association will attempt to notify all Property Owners that may benefit from the Main Water Line Lateral Extension, and require that all Property Owners desiring to participate in the construction and installation of the Main Water Line Lateral Extension notify the Association within ten (10) days after receipt of such notice. The notice shall also provide that if a Property Owner does not desire to participate in the construction and installation of the Main Water Line Lateral Extension, such Property Owner shall, upon a later application for Water Service or a Certificate, be charged a connection fee in the amount such Property Owner would have paid if the Property Owner had participated in the construction and installation of the Main Water Line Lateral Extension, plus the additional cost of administration and bookkeeping. If another Property Owner(s) desires to participate in the construction and installation of the Main Water Line Lateral Extension, all participating Property Owners shall pay and be liable for an equal share of the total costs of the Main Water Line Lateral Extension (including the administrative and bookkeeping charges set forth above), shall be required to make the deposit in the amount of such Property Owner's share of the cost estimate, and shall be subject to the other provisions of this Section. For a period of ten (10) years after the completion of the installation the Main Water Line Lateral Extension, if any Applicant for Water Service or a Certificate shall benefit from such Main Water Line Lateral Extension, the Association shall, in connection with such Applicant's application (if approved), charge such Applicant a connection fee in an amount to ensure that each holder of a Certificate benefitting from such Main Water Line Lateral Extension has paid an equal share, without discount or depreciation, of the total Costs of such Main Water Line Lateral Extension (including the administrative and bookkeeping charges set forth above). Applicable amounts so collected by the Association will be refunded, without interest of any kind, to each Property Owner who previously paid a share of the total Costs of such Main Water Line Lateral Extension, in an amount required to equalize the amount of prior Costs paid by each Property Owner. The obligation of the Association to implement the preceding reimbursement provisions shall expire ten (10) years after the completion of the installation of the Main Water Line Lateral Extension. The right to receive a refund of a previously-paid share of the total costs of a Main Water Line Lateral Extension shall not be transferrable or assignable with the sale of the affected property, lot or otherwise. Further, such right to receive reimbursement shall terminate upon the sale or other conveyance of the affected property or lot.

f. Maintenance of Main Water Line Lateral Extensions: Those Customers benefitting from any particular Main Water Line Lateral Extension shall be

responsible for the costs relating to the maintenance, repair, replacement and removal of the same, including frozen pipes and lines.

g. Existing Reimbursement Obligations: With regard to all existing potential reimbursements for existing Main Water Line Lateral Extensions that the Association is currently tracking (as shown on the ledger of the Association as of the initial adoption date of these Rules and Regulations), the right to be reimbursed shall be administered as provided herein, but shall terminate automatically ten (10) years from the date of adoption of these Rules and Regulations.

B. Fees, Rates and Service Charges.

1. Policy: Except as provided in any Agreement, all costs of new construction, reconstruction, repair, replacement or enlargement of the Association Facilities which are necessary to provide new, different or additional Water Services within the Association's Service Area shall be the responsibility of Customers and incorporated into the Association's rate structure to insure the sustainability of Water quality and quantity and the adequacy of Water Service to Customers. The provisions of these Rules and Regulations apply regardless of whether the Association or some other Person contracts for, or initially pays for, such construction, reconstruction or enlargement of the Association Facilities. The Board may act other than as required in this Section when it determines, in its sole discretion, that such action is in the best interests of the Association, or is necessary to provide for the health, safety and welfare of the Association's Customers. All holders of a Certificate, without regard to connection for Water Service, shall be obligated to pay Membership Fees to the Association.

2. Payment of Fees: All outstanding fees, dues, assessments, reimbursements and other charges due to the Association shall be paid prior to connection to Association Facilities and provision of Water Service.

3. Schedule and Types of Fees, Rates and Service Charges:

a. Schedule of Fees, Rates and Service Charges: The Association's fees, rates, service charges and other charges shall be as set forth in **Exhibit A** hereto, which fees, from time to time, shall be amended, modified, enlarged or added to as determined by the Board.

b. Water Facilities Fees: Except as provided in an Agreement, Customers shall pay water facilities fees for Water Service by the Association. Such charges and fees shall be for all Costs associated with construction, development, reconstruction or expansion of all Association Facilities, including, but not limited to, diversion structures, wells, pipelines, pumps, storage facilities, collection or gathering pipelines, and all water treatment facilities, and all other temporary or permanent structures necessary for the development of the Association Water System, as applicable, depreciation, and repair and replacement costs and reserves, pursuant to an allocation formula determined by the Board. Water facilities fees also may include, but not be limited to, water resources fees, all costs associated with acquisition of land, water resources, wells or diversion structures, easements, rights-of-way or permits necessary for the diversion, withdrawal, delivery, treatment, substitution of supply, or storage of the

Association Water Supply or provision of Water Service by the Association. Water facilities fees shall be non-refundable.

c. Connection Fees: Connection fees shall be charged to all Customers and shall be due and payable when application is made to the Association for new or additional Water Service and prior to the installation of a water connection or as otherwise provided in an Agreement. Connection fees can be prepaid. Connection fees shall be calculated to recover all Association expenses and costs associated with providing Water Service to a Customer. Connection fees may consist of different components such as: connection charge, development plan review fee, water resource development charge, and meter charge. Connection fees shall be non-refundable.

d. Membership Fees: Membership Fees shall be charged to and paid by all Members of the Association.

e. Service Charges: Customer's service charges shall be paid by all Customers with a physical connection, based on rates and charges set by the Association pursuant to rate studies, or other method for setting such rates. It shall be the policy of the Association to implement procedures for the timely and regular payment of service charges to the Association.

(i) In those situations where, in the Board's sole discretion, the service charges do not represent fair, reasonable and equitable charges for the intended use, the Board may adjust the charges.

(ii) Billing cycles for statements for service charges to be paid to the Association shall be as determined by the Board or pursuant to an Agreement approved by the Board. Charges for late payments, turn-on, turn-off, or other penalties, shall be added to such statements. Service charges, late fees and interest shall be assessed as provided for in **Exhibit A**. Service charges or fees shall be non-refundable.

(iii) A holder of a Certificate is not obligated to pay Water Service Charges until such holder makes a physical connection of a Customer Service Line to an improvement on a Property Owner's lot or a hydrant located upon such lot is used to provide Water Service more than 7 days during any calendar year.

f. Pro-rated Annual Fee: Upon the purchase and the connection of a Water Tap the Customer shall be billed a pro-rated portion of the annual fees for the first calendar year following connection. For each calendar year thereafter, the Customer shall be billed the Annual Fee in full.

g. Certificate Re-Issuance Fees: Upon application to the Board and the provision to the Board of evidence of ownership and other documentation required by the Board, a Certificate may be re-issued, upon the payment of an administrative fee as determined by the Board and payment of any past due amounts, interest and penalties. Re-issued Certificates shall be recorded in the real property records of the County at the expense of the holder. Other Fees: The Association shall have the express authority to charge other fees, including reasonable administrative fees, in amounts as determined by the Board to be

reasonable, in addition to the other fees, charges and other amounts set forth in these Rules and Regulations.

4. Billing Procedures for Service Charges:

a. Billing: It is the policy of the Association to bill all monthly service charges and Water usage in arrears. The Association shall have the right to issue only one (1) bill for a multi-unit structure or development off a Customer Service Line which is not separately metered. Any structure or lot with more than one (1) residential or commercial unit off the applicable Customer Service Line which is not separately metered shall establish one (1) responsible party for water bills, but will be charged a higher rate. Other amounts billed or imposed by the Association shall be due payable upon receipt, unless otherwise indicated in writing.

b. Due Date: The Customer shall pay to the Association the full amount shown on each billing statement. Where the Customer believes that said statement is in error, the Customer must file within fifteen (15) days after the statement date, in writing, a notice to the Association of the presumed error and request a clarification from the Board. Upon review by the Board and re-submittal and/or revision of the statement, payment shall be due no later than fifteen (15) days from the date of the resubmitted statement.

c. Late Payments and Termination of Service: Any time the Customer is ten (10) days tardy in payment of any charges or other amounts due the Association, the Association shall charge a late fee and assess a monthly finance charge on the unpaid balance, which finance charge, plus interest on the unpaid balance, shall compound as set forth on **Exhibit A**. The Association also has the right to assess to any Customer who is tardy in payment of his account all legal, court, disconnection, and other costs necessary to or incidental to the collection of said account.

d. Collection Letters; Liens; Referrals to Attorneys and/or Collection Agencies: If a Customer is tardy in the payment of any charges or other amounts due to the Association, the Association may, but shall not be required to, send a demand letter to such Customer. The Association shall have the right, in accordance with the Water Tap Commitment, to deliver and, if applicable, record a notice of intent to file a lien, and in accordance therewith, record a lien against the property of any delinquent Customer. The Association may pursue collection through any other means available pursuant to Colorado law. The Association may refer any delinquent account to its attorneys or a collection agency for collection, the costs, fees and other charges of which shall be paid by the delinquent Customer.

e. Collection of Delinquent Amounts: The Association shall charge a fee for the administrative cost, the costs of imposing any necessary lien and any other costs associated with the Association's collection methods, which costs and fees shall be added to all other delinquent amounts, including other penalties and charges.

f. Termination of Service: Failure to pay usage fees, membership fees and other amounts for a period of two (2) years may result in the termination of Water

Service pursuant to the provisions of these Rules and Regulations. Such termination may also result in the termination of such Customer's Certificate.

g. Special Assessments. [RESERVED]

III. WATER SERVICE

A. Principles for Supplying Water Resources to Public Water Customers.

1. Policy Regarding Use of Association Water System: Use of the Association Water System shall comply with these Rules and Regulations. The right to use the Water System is only by permission granted by the Association through application by a Customer and approval by the Association. The Association reserves the right to determine all matters related to the control and use of its Water System. The right to the use of the Water System shall be subject to suspension, disconnection or revocation as set forth in these Rules and Regulations or in any Agreement with a Customer. The Association shall provide written notice to any Customer using water in a manner that would be in violation of the augmentation plan. Specifically, the augmentation plan limits the use of water to domestic, in-house use only, with no irrigation or any other outside uses allowed. If the Customer does not bring its water usage into immediate compliance, the Association shall shut off water service, and shall turn on water service after reasonable assurance has been provided to the Board that water usage will be brought in to compliance. All fees for shut off and turn on, and all costs of enforcement, will be assumed by the Customer.

2. Water Policy: It is the policy of the Association to provide Customers with potable Water for domestic in-house use only, with no irrigation or any other outside use allowed in conformance with these Rules and Regulations and the augmentation plan.

3. Scope of Association Water Supply: In order to provide for an integrated Water System as contemplated, the Association may acquire water supplies by contractual agreements, purchase contracts, leases or other Agreements. The Association Water Supply shall consist of all legally available Water, including, but not limited to, supplies of non-potable Water, potable Water, first use or reuse Water, tributary, not non-tributary, non-tributary and designated basin water rights and groundwater rights, return flows, banked return flow credits, Water shares, ditch shares or other legally available Water supplies, together with all well structures, diversion structures, easements, delivery systems, measuring devices and all other appurtenances thereto. All rights to Water held, owned or controlled by the Association pursuant to any Agreement or conveyance, may be incorporated into the Association Water Supply and may be available for delivery to Customers.

4. Ownership of Water and Return Flows: To the extent the Association has dominion or control, pursuant to an agreement or otherwise, of Water supplies as part of the Association Water Supply, the Association shall have sole dominion, control, right and use of all Water supplied through the Water System, subject to reasonable use thereof by Customers in compliance with these Rules and Regulations. Such dominion and control shall continue without interruption as to all return flows, runoff, or tailwater attributable to or originating in Water supplied through the Water System, pursuant to any applicable court decrees or regulatory

restrictions. The Association shall have the exclusive right to recapture such return flows or claim credit therefrom for exchange, replacement, augmentation, substitute supply or any other lawful purpose, and the Association's dominion and control over the Association Water Supply shall continue to attach to all such return flows even after they return to the ground. All such return flows from Water supplied through the Water System remain the property of the Association. The Association retains the sole authority to determine the yield of all Water, water rights and augmentation plans which are offered to the Association for any purpose.

5. Consent to Groundwater Appropriation: The Owners of all land, their heirs, successors and/or assigns which overlies the groundwater comprising all or a portion of the Association Water Supply shall be deemed to have consented to the withdrawal by the Association of all such groundwater unless consent shall be deemed to have been withheld as otherwise provided by law upon the effective date of these Rules and Regulations.

B. Association Water System.

1. Ownership and Maintenance of Association Water System.

a. Except as otherwise set forth herein, each Customer Service Line is the property and responsibility of the Customer to design, monitor, operate, regulate and maintain in conformance with these Rules and Regulations. All backflow preventors, valves, water heaters, in-house water treatment units, and other devices connected to the Customer Service Line(s) are the property and responsibility of the Customer and shall be maintained by the Customer in such a way as to insure the integrity and safety of the Association Water System.

b. The Association shall not install or permit the new installation of hydrants on vacant lots with the Service Area.

c. Backflow preventors shall be required on all existing hydrants and in any other situation required by the Association.

d. Leaks or breaks occurring in the Customer Service Line or appurtenances connected thereto shall be repaired by the Customer within seventy-two (72) hours after discovery of such condition by the Customer or delivery notification of such condition to the Customer by the Association. If satisfactory progress toward repairing any leak or break has not been accomplished within such time period, the Association may terminate Water Service until the Customer repairs the leak. For purposes of this paragraph, a Customer will be deemed to be making satisfactory progress toward repairing a leak if such Customer has taken steps to repair that a reasonably prudent Person would take, as shall be determined in the discretion of the Association. The Association reserves the right to inspect repairs to insure the protection of the health, safety and welfare of the inhabitants and visitors of the Association.

e. Each Customer, by agreeing to and accepting the provision of Water Service, agrees to create and does hereby create, grant and convey to the Association, its contractors, agents and assigns a perpetual non-exclusive easement over, across, in, to, through and under so much of such Customer's property to allow the Association ingress, egress and access to all Customer Service Lines to inspect (whether during construction or any reasonable time thereafter) repair, maintain, replace and take all action to cure any situation where a leak,

break or similar situation has occurred or to allow the Association to take any action it determines is required for the safety and/or protection of its Customers.

f. The Association may perform any repair, maintenance or service to a Customer Service Line if, in the opinion of the Board, such repair, maintenance or service is required for the safe and continued operation of the Water System. The Association shall endeavor to provide affected Customer with advance notice any such repair, maintenance or service. Such repair, maintenance and service shall include, but not be limited to, repairing leaks, breaks, faulty backflows, frozen lines and similar occurrences. All Costs of such repair, maintenance or service shall be invoiced directly to the Customer and shall be immediately due and payable. A Customer shall not have any right to dispute the invoiced Costs of any such repair, maintenance or service.

C. Protection of Association Water Supply. In order to protect the Association Water Supply from pollution and from activities that create a hazard to health and water quality and to protect the health, safety and welfare of the Association's Customers or to Association's residents, the Association will not provide service to property that is used for a pollution or hazardous activity if the location of said property poses an unreasonable risk of contamination that could cause pollution to the Association Water Supply. Such determinations shall be made in the sole discretion of the Association. The Association shall take all steps necessary in its discretion to protect the Association Water Supply.

D. Additional Provisions. [Reserved]

E. Turn-Ons/Turn-Offs. Any turn-on or turn-off of Water Service through a shut-off valve on a service line that has been connected to the Association Water System, pursuant to a written permit issued by the Association, shall be performed only by Association personnel regardless of the ownership of a curb stop, the shut-off valve, or service line, and regardless of the circumstances respecting the turn-on or turn-off. The Association shall assess a charge as provided in **Exhibit A** for each turn-off and turn-on performed. The Association will provide this service for: (1) a tap for new construction, one time prior to the occupancy of the building served; and (2) for Customers requiring service to be turned off for maintenance of a Customer Service Line. Any request for a turn-off or turn-on of Association service, other than as set forth in (1) and (2) in the preceding sentence, may be granted or denied by the Board in its sole discretion. Violation of this Section and/or failure to pay the fee shall result in the assessment against the property of a penalty as set forth in **Exhibit A** in addition to the turn-on/turn-off fee, and in addition to the penalties provided for unauthorized tampering with the Association's system.

F. Revocation of Service. Service shall be revocable by the Association upon non-payment of any valid fees, charges or reimbursement of Costs owing to the Association or upon any violation of these Rules and Regulations. In the event of a proposed revocation of service, the Customer shall be given not less than ten (10) days advance notice in writing of the revocation, which notice shall set forth:

1. The reason for the revocation;

2. That the Customer has the right to contact the Association and the manner in which the Association may be contacted for the purpose of resolving the obligations; and

3. That there exists an opportunity for a hearing in accordance with Article VIII of these Rules and Regulations.

If the obligations are not resolved or a request for a hearing accompanied by a deposit equal to the amount of any fees and charges specified in the notice is not received by the Association within ten (10) days of the date of the notice, the Board may determine to disconnect the service and the Customer shall be assessed the cost of the disconnection. Deposit for service, if any, may be applied against the outstanding obligation.

IV. WATER CONSERVATION

A. Compliance with State and Local Laws: The Association shall implement all measures required by law for water conservation with respect to the operation of the Association Water System.

B. Development and Implementation of Water Conservation Programs.

1. Leak Detection: The Association's objectives in implementing a leak detection program includes assessment of the impact of unaccounted-for Water use and Water System loss estimates on the Association Water Supply, and identification and repair of leaks within the Water System to maintain a low and acceptable amount of unaccounted-for Water use. The goal is to reduce Water System losses.

a. The Association may conduct a Water audit to determine the amount of Water unaccounted-for or lost in the Association Water System. The audit may include recording information on the Water System, estimating leaks, estimating leak losses, estimating revenue losses from leaks, and estimating costs for repairs.

b. If unaccounted-for Water losses from leaks are determined to be ten percent (10%) or more of total consumption, the Association may develop and implement a leak detection program.

C. Meters. [RESERVED]

V. WATER QUALITY

A. Commingling of Water Supplies. The Association may commingle Water from its various raw Water supply sources provided that safe, reliable and adequate Water Service is provided to Customers.

1. Standards: The Association may require that water resources acquired for its Water System meet certain minimum constituent standards for groundwater or other applicable standards and regulations.

VI. MISCELLANEOUS

A. Liability.

1. Association Not Liable: No claim for damage shall be made against the Association, and the Association and its officials and employees shall not be liable by reason of damage resulting from the Water Distribution System, including, without limit, any of the following: breaking of any Customer Service Line, supply line, Main Water Line, pipe, cock or meter by any employee or contractor of the Association; failure of the Association Water Supply; shutting off or turning on Water in the Main Water Line; the making of connections or Extensions; damage caused by Water running or escaping from facilities not owned by the Association; damage to water heaters, boilers, or other appliances resulting from shutting Water Service off, or from turning it on, or from inadequate, sporadic and excessive pressures; failure of Customer backflow preventors or check valves; breakage of Main Water Line by Association personnel or contractors; interruption of Water Service and the conditions resulting therefrom where said interruption of service is brought about by request of claimant, Force Majeure, or by circumstances beyond the Association's control; failure of Association Facilities or Customer water facilities to be located where the Association's map indicates they should be; failure to obtain access to isolation valves; or for taking certain actions with respect to the Water System of the Association deemed necessary by the Board of Directors or its agents. This paragraph shall not relieve the Association from liability for negligence of its employees, if such liability would otherwise have existed.

2. Association Not Responsible for Damages: These Rules and Regulations shall not be construed to hold the Association in any manner responsible for any damages to Persons or property resulting from any inspections as herein authorized or resulting from the issuance or denial of any Certificate, permit or failure to approve any Agreement as herein provided, or resulting from the institution of court action as allowed by law, or the forbearance by the Association to so proceed.

3. Officials Not Liable: Any Association official or employee, charged with the enforcement of these Rules and Regulations, acting in good faith and without malice on behalf of the Association in the discharge of his official duties, shall not thereby render himself or herself personally liable for any damages that may accrue to Persons or property resulting from any act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him in the enforcement or attempted enforcement of any provision of these Rules and Regulations, shall be defended by the Association until final termination of the proceedings, in such a manner as to be consistent with the Association's Bylaws as they pertain to indemnifying such officials and employees.

4. Non-Liability for Work of Others: The Association does not assume any liability for any work performed by others. No claim shall be made against the Association or any of its officers or employees on account of errors of omission or commission made by the Association's licensees or independent contractors.

B. Notices and Written Submissions: Any notice, written submission, report or other documentation required under these Rules and Regulations or any Agreement shall be provided

to the Association by personal delivery, recognized carrier or first class, United States mail, to the following:

Mt. Elbert Water Association
312 Mt. Elbert Drive
Twin Lakes, CO 81251
Email: mewaboard@gmail.com

With copies to:

McGeady Sisneros, P.C.
450 E. 17th Ave., Suite 400
Denver, CO 80203
Attn: MaryAnn M. McGeady
Phone: 303-592-4380
Fax: 303-592-4385
Email: mmcgeady@mcgeadysisneros.com

C. Insurance and Bonding Requirements for Contractors. Unless determined otherwise by the Board, contractors performing work on the Association's Water System shall be required to obtain and maintain the following:

1. Liability: General commercial liability on an occurrence basis with coverage limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. Automobile: Automobile liability providing coverage for owned automobiles, non-owned and hired automobiles and all construction vehicles with coverage limits of \$1,000,000 per each accident.
3. Workers' Compensation: If required, Workers' Compensation coverage with coverage limits not less than that required by Colorado law and employer liability with coverage limits of \$500,000.
4. General: All policies shall list the Association as an additional insured and/or loss payee, as applicable. All policies shall contain waivers of subrogation. Each contractor, prior to commencing work on the Association Water System, shall provide to the Association a certificate evidencing the coverages set forth above (and any additional coverages the board may determine is appropriate for any particular project). The Board may provide additional details regarding insurance coverage. The Board may impose additional insurance requirements and conditions as the Board deems necessary or desirable.
5. Bonds: Unless determined otherwise by the Board, each contractor shall provide: (a) a performance bond in an amount equal to the compensation to be due contractor, for the full and faithful performance of the contractor's duties; and (b) a labor and materials payment bond in an amount equal to the compensation to be paid to contractor, as security for the payment of all wages and the materials and supplies to be used by the contractor.

VII. PROVISIONS REGARDING EMPLOYEE AND PERSONNEL MATTERS

[RESERVED]

VIII. HEARING AND APPEAL PROCEDURES

A. Application. The hearing and appeal procedures established by this Article shall apply to all complaints concerning the interpretation, application, or enforcement of the Rules and Regulations of the Association, as they now exist or may hereafter be amended. The hearing and appeal procedures established by this Article shall not apply to the following complaints:

1. Complaints arising out of the interpretation of the terms of Association contracts;
2. Complaints which arise with regard to personnel matters; and
3. Any other complaint which does not concern the interpretation, application, or enforcement of the Rules and Regulations of the Association.

B. Initial Complaint – Resolution. Complaints must be presented in writing to the Board or such representative as may be designated by the Association (which representative may be a member of the Board) concerning the interpretation, application, or enforcement of Rules and Regulations of the Association. Upon receipt of a complaint, the Board or the designated representative, after a full and complete review of the allegations contained in the complaint, shall take such action and/or shall make such determination as may be warranted and shall notify the complainant of the action or determination by mail within twenty (20) days after receipt of the complaint. Decisions of the any designated representative which impact the Association financially will not be binding upon the Association unless approved by the Board at a special or regular meeting of the Board.

C. Hearings before the Board. In the event the complainant disagrees with the determination of the designated representative, the complainant may, within fifteen (15) days from the date of the mailing of the determination, file with the Association a written request for a hearing before the Board. The request for a hearing shall set forth with specificity the facts or exhibits to be presented at the formal hearing and upon which the complainant intends to rely, and shall contain a brief statement of the complainant's reasons for the complaint. The designated representative shall compile a written record consisting of all exhibits or other physical evidence reviewed in making his or her determination, and a copy of the written determination. The Board shall hold a formal hearing on the complaint at the next regularly scheduled meeting held no earlier than ten (10) days after the filing of the complainant's request for a hearing. At the hearing, the designated representative and the complainant shall be entitled to present all evidence that is, in the Board's view, relevant and material to the dispute, and to examine and cross-examine witnesses. The Board may establish rules and procedures governing the hearing. A record of the hearing shall be maintained.

D. Board's Findings. Based on the record established, the Board shall issue a written decision concerning the disposition of the dispute presented to it, and shall cause notice of the decision to be hand delivered or sent, by certified mail, to the complainant within thirty (30) days after the hearing. Such decision shall be final and binding upon the Association and the complainant and shall constitute the final administrative action of the Association.

E. Notice. A complainant shall be given notice of any hearing before the Board by hand delivery or certified mail at least seven (7) calendar days prior to the date of the hearing, unless the complainant agrees to a hearing in less time. When a complainant is represented by an attorney, notice of any action, finding, determination, decision, or order affecting the complainant shall also be served upon the attorney.

F. Termination. If the Board determines that Water Service is to be terminated, the Board shall take all necessary action to terminate Water Service. Such termination may also result in the termination of a Customer's Certificate.

G. Reinstatement. After Water Service has been terminated, a Customer may apply to the Board for reinstatement of Water Service by the payment of all amounts owing to the Association, including all late fees, interest, associated administrative fees, attorney fees, court costs, maintenance costs and other charges, costs and fees. If a Customer's Certificate has been terminated, the Board may require such Customer to re-apply according to the procedures set forth in these Rules and Regulations, may require such Customer to pay the current tap fees, or may charge such other reasonable amounts the Board determines under the circumstances.

IX. BOARD POLICIES AND PROCEDURES

A. Payment on USDA Loan. It shall be the practice of the Association to cause the payments due under its USDA loan to be automatically deducted from the Association Bank Account.

B. Execution of Lake County Building Permits. Upon verification by the Association President that all applicable requirements of these Rules and Regulations regarding eligibility for water service have been met an Association Board member will be authorized to execute, on behalf of the Authority, a Lake County Building Permit application.

C. Required Board Approvals. Without the approval of the Board, no one Board member has the authority to bind the Association. Evidence of the approval of the Board is provided in the approved Minutes of an Association Board meeting.

D. Written Board Communications on Delinquent Accounts. All written communications on delinquent accounts shall be provided to all Board members so each Board member can be informed to respond to questions from the delinquent account holder.

E. Documentation Provided to Operator. Any and all documentation provided to the Association Facility Operator for filing with the State shall be copied prior to distribution and filed in the official records of the Association.

Exhibit A
Schedule of Fees, Rates and Charges
As of June 9, 2012

<u>Description</u>	<u>Fee</u>
Tap Fee:	\$15,000.00
Annual Membership Fee:	\$65.00 per year
Annual Keep Alive Fee:	\$50.00 per year, plus \$20.00 per year for bookkeeping and administration fees
Transfer Fee:	\$116.00; subject to change due to recording fees; contact Board
Water Certificate Holders:	\$200.00 per year
Residential Rate:	\$590.00 per year
Main Water Line Lateral Extension Application Fee:	Contact Board
Certificate Re-Issuance Fee:	Contact Board
Additional Fees:	Contact Board

Other Fees and Charges:

Late Payment Fee:	\$25.00 per month
Finance Charge:	18% per year compounded on all outstanding amounts due (including prior finance charges)
Returned Check Fee:	\$25.00
Violation of Rules & Regulations and/or Tampering with Association Facilities:	\$1,500 to \$2,000 fine, plus actual cost of damage, expense and loss
Turn On/Turn Off Fee:	\$100.00
Hearing Fee:	\$250.00

The Board may adjust such fees, charges, rates, penalties and costs, from time to time, in the Board's sole discretion.

The Board, pursuant to the power and authority granted by these Rules and Regulations, shall have the power the power to assess additional fees, charges, rates, penalties and costs as the Board determines appropriate.

Exhibit B

MT. ELBERT WATER ASSOCIATION, INC.

APPLICATION FOR WATER TAP

Name of Owner: _____

Street Address: _____

PO Box: _____

City: _____ State: _____ Zip: _____

Contact Person: _____

_____ (Home) _____ (Work) _____ (Cell)

Email: _____

Fax: _____

Number of *ERU's: _____

Map location of property (Lot Number and Twin Lakes Addition): _____

Other description of property location (street, highway, intersections, etc.): _____

The Applicant(s), by the Signature(s) below, certify and represent that:

1. The Applicant(s) are the sole Owners of the Lot described above;
2. The Applicant(s) intend to use the Water Tap to install a Customer Service Line on the Lot described above;
3. The Applicant(s) understand(s) and acknowledge(s) that all Tap Connections are subject to the 2012 Water Tap Commitment of the Mt. Elbert Water Association, recorded in the real property records of the County of Lake, State of Colorado and the

Rules and Regulations of the Mt. Elbert Water Association, as amended from time to time.

Date of Application: _____

Signature of Applicant: _____

Signature of Applicant: _____

Application Fee Amount Enclosed: _____

*"ERU" = equivalent residential unit

Exhibit C

**WATER TAP CERTIFICATE
MT. ELBERT WATER ASSOCIATION**

This certificate is issued to Lot No: _____, Mt. Elbert Plamor Ranch, County of Lake, and State of Colorado.

Owner(s): _____
Address: _____

On this ____ day of _____, 20 __, to connect and use the water provided by Mt. Elbert Water Association (“Association”) for Pan Ark Estates in Twin Lakes, Colorado, subject to the following conditions:

This Water Tap Certificate (“Certificate”) shall be recorded in the real property records of Lake County, Colorado, and shall constitute conclusive evidence of ownership unless and until a Transfer of Water Tap Certificate or a new Water Tap Certificate is issued by the Mt. Elbert Water Association. The terms of this Certificate shall be further supplemented by the 2012 Water Tap Commitment dated _____, 2012 recorded in Lake County at reception no. _____ in Book _____, on Pages _____ and the Rules and Regulations adopted by the Mt. Elbert Water Association and as amended from time to time (collectively referred to herein as the “Commitment”).

Owner acknowledges that a main water line may not extend to the Lot and the cost of extending the line to the Owner’s Lot shall be borne solely by the Owner of the Lot, subject to reimbursement pursuant to the terms and conditions of this Commitment.

Acceptance of this Certificate obligates Owner to pay to the Mt. Elbert Water Association a Water Usage Fee and Membership Fee, and other fees as set forth and as defined in the Commitment. The obligation to pay Water Usage Fees shall not commence until the Owner is a Water User defined in the Commitment. Regardless of whether Owner is a Water User, the Owner shall be obligated to pay all other Membership Fees and any other applicable fees to the Mt. Elbert Water Association upon acceptance, conveyance and/or transfer of this Certificate.

The Association shall have the right to pursue collection of all unpaid Membership Fees and any other applicable fees as provided in the Commitment and be entitled to collect all costs, penalties, late fees interest, and attorneys’ fees incurred by it in collecting or attempting to collect unpaid Membership Fees and any other applicable fees. **FAILURE TO PAY ALL OR ANY PORTION OF THE MEMBERSHIP FEES, ANY OTHER APPLICABLE FEES OR SPECIAL ASSESSMENTS WITHIN ONE YEAR OF BECOMING DUE MAY RESULT IN THE TERMINATION OF WATER SERVICE AND INVALIDATION OF THIS CERTIFICATE.**

Upon the conveyance of the lot to another owner the Association shall be notified and a Transfer of Water Tap Certificate shall be recorded in the real property records of Lake County, Colorado. This Certificate shall be appurtenant to the Lot described above and, with the payment of transfer and recording fees, shall be transferred with the Lot to any purchaser of the Lot, regardless of whether this Certificate is referenced in the deed for the Lot.

THIS CERTIFICATE MAY NOT BE TRANSFERRED TO ANY OTHER LOT, EXCEPT WITH THE APPROVAL OF THE BOARD OF DIRECTORS OF THE MT. ELBERT WATER ASSOCIATION.

Additional Provisions: NONE

IN WITNESS WHEREOF, the Mt. Elbert Water Association, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, conveys to Owner this Water Tap Certificate and the corresponding rights and obligations associated with it.

MT. ELBERT WATER ASSOCIATION

ACCEPTED BY:

By: _____
President

Owner

By: _____
Secretary

Owner

STATE OF COLORADO)

) ss.

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2012, by
_____, as President of Mt. Elbert Water Association.

Witness my hand and official seal.

My commission expires: _____

Notary Public

STATE OF COLORADO)

) ss.

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2012, by
_____, as Secretary of Mt. Elbert Water Association.

Witness my hand and official seal.

My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 2012, by
_____, as Owner.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT D
MT. ELBERT WATER ASSOCIATION
2012 WATER TAP COMMITMENT