

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY Water and Sewer Rate Ordinance

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Section 1 WATER AND SEWER RATES

1-1-1. SHORT TITLE.

This Ordinance will be known and may be cited as the "Albuquerque Bernalillo County Water Utility Authority Water and Sewer Rate Ordinance."

1-1-2. COMPUTATION OF REVENUES, EXPENSES AND DEBT SERVICE; DETERMINATION OF DEBT COVERAGE; REQUIRED MONTHLY FIXED CHARGE.

(A) Definition of Terms.

AWWA. American Water Works Association.

CLASS AVERAGE. The Class Average is the average monthly water use billed in the winter months (December, January, February, and March) for each customer class and meter size. This calculation is completed annually.

CONSERVATION AVERAGE. An average based on a customer's Winter Average and determined as follows: For residential customers that have a Winter Average greater than zero units but less than four (4) units, and who do not fall in the category of a new account, the conservation average used for the Conservation Surcharge is four (4) units. For residential customers that have a Winter Average greater than fifteen (15) units, the conservation average used for the Conservation Surcharge is fifteen (15) units.

CONSERVATION SURCHARGE. During the billing months of May thru November, a surcharge is billed to customers that have used over a determined percentage (200%, 300%, and/or 400%) of their conservation average (the conservation average is determined by their individual Winter Average).

COST OF SERVICE. A rate setting methodology that is legally and fiscally required by bond covenants which sets sewer charges based upon EPA guidelines, uses a standard rate setting approach within the industry, requires users to pay their proportionate cost of the system and creates equity within classes of customers and among classes of customers.

CITY. The City of Albuquerque, New Mexico.

COUNTY. Bernalillo County, New Mexico.

CUSTOMER. Any person, association, corporation, or entity receiving Utility service, related products or services in the metropolitan Service Area.

DEBT SERVICE REQUIREMENTS. With respect to System Obligations for any given period, the sum of: (1) the amount required to pay the interest, or to make reimbursements for payments of interest, becoming due on System Obligations during that period, plus (2) the amount required to pay the principal or Accreted Value, becoming due on System Obligations during that period, whether at maturity, an accretion term date or upon mandatory sinking fund redemption dates, plus (3) the periodic payments required to be made by the Water Authority pursuant to a Qualified Exchange Agreement minus (4) the periodic payments to be received by the Water Authority pursuant to a Qualified Exchange Agreement. No payments required for any System Obligations which may be tendered or otherwise presented for payment at the option or demand of the owners of System Obligations, or which may occur because of the exercise of an option by the Water Authority, or which may otherwise become due by reason of any other circumstance or contingency, including acceleration or early termination payments, which constitute other than regularly scheduled payments of principal, Accreted Value, interest or other regularly scheduled payments on System Obligations shall be included in any computation of Debt Service Requirements for that period.

DROUGHT. Drought occurs when there is insufficient precipitation combined with other environmental factors that cause an increase of overall water usage.

DROUGHT MANAGEMENT STRATEGY. The Water Authority's Drought Management Plan which contains four different drought severity levels, with each level containing increasingly stringent measures to reduce demand on the Water Authority's water system.

EXECUTIVE DIRECTOR. The Executive Director of the Water Authority.

EXPENSES. All expenses necessary for the operation and maintenance of the water and sewer systems, excluding depreciation, amortization, and payments in lieu of taxes and expenses for capital items.

FISCAL YEAR. July 1 through June 30.

FRANCHISE. The authorizations granted by the City of Albuquerque, City of Rio Rancho, Bernalillo County or Village of Los Ranchos to the Water Authority to use their respective rights-of-way and public places to construct, operate, and maintain Water Authority water and wastewater systems.

LOW INCOME HOUSING DEVELOPMENTS. Any multi-family residential development constructed by the City of Albuquerque or Bernalillo County or a non-profit developer in conjunction with one of these local governments which is substantially intended to provide affordable housing to very low income citizens as defined by 60 percent or less of median income as established by the US Department of Housing and Urban Development.

METER SIZE. The physical size of a water meter as designated by AWWA Standard.

NET REVENUES. The Revenues of the Utility less the Expenses. For purposes of calculating compliance with Sections 1-1-2(B) and 1-1-2(C) and the Additional Bonds Tests and Rate Covenants in the Debt Management and Policy & Guidelines, Net Revenues shall be defined and calculated in accordance with the definition of Net Revenues established in the applicable ordinance authorizing the issuance of the relevant System Obligations.

PAJARITO MESA MUTUAL DOMESTIC WATER AND WASTEWATER CONSUMERS ASSOCIATION (PMMDWWCA). Non-profit organization generally located in the Pajarito land grant established in 2000 under the laws of New Mexico Sanitary Projects Act.

REVENUES. Revenues will include all charges for current water and sewer service, income from miscellaneous services or property, interest on investments of the Joint Water and Sewer Funds, connection fees, and interest on notes or other receivables.

RIO RANCHO. The City of Rio Rancho, New Mexico.

SENIOR OBLIGATIONS. System Obligations now outstanding or hereafter issued with a first lien, but not an exclusive first lien, on the Net Revenues on a parity with the lien of the Outstanding Senior Obligations.

SERVICE AREA. Those parts of Bernalillo County and contiguous territory served by the Water Authority.

SERVICE SIZE. Service sizes range from size 1 to size 8. Each size is based upon the meter size or equivalent for each account.

SUBORDINATE OBLIGATIONS. System Obligations now outstanding or hereafter issued with a lien on the Net Revenues subordinate to the lien thereon of the

Senior Obligations but superior to the lien thereon of the Super Subordinated Obligations.

SUPER SUBORDINATED OBLIGATIONS. System Obligations now outstanding or hereafter issued with a lien on the Net Revenue subordinate to the lien thereon of the Senior Obligations and subordinate to the lien thereon of the Subordinate Obligations.

SYSTEM OBLIGATIONS. All bonds and other similar indebtedness payable solely or primarily from the Net Revenues, including, without limitation, the Senior Obligations, the Subordinate Obligations, and the Super Subordinated Obligations.

UEC. Utility Expansion Charge

UTILITY. The water and wastewater facilities and all operations and management of such facilities necessary to provide water and wastewater service in the Service Area.

VILLAGE OF LOS RANCHOS. Village of Los Ranchos de Albuquerque, New Mexico.

WATER 2120 SECURING OUR WATER FUTURE. A 100-year water resource management strategy and policy document (R-16-12) which provides ratepayers a resilient and sustainable water supply for the next century.

WATER AUTHORITY. The Albuquerque Bernalillo County Water Utility Authority or its authorized agent.

WATER RESOURCE CHARGE (WRC). A charge assessed by the Water Authority at the time of meter sale or application for service to any new water user customer requesting connection to the water system in an area not located within the Water Authority's Established Service Area.

WINTER AVERAGE. For all customers, the average monthly water use billed in the months of December, January, February and March for each account. If a customer has a new account and does not have a full four months to calculate a winter average or if a customer's winter average is zero, then the average for that customer will be based off the class and size average.

(B) **Computation of Revenues, Expenses and Debt Service.** At the end of each quarter of the fiscal year a determination will be made as to the total revenues, expenses and current debt service requirements of the system in accordance with definitions in §1-

1-2(A). The determination will be made by the end of the first month following the end of each quarter. The results of the determination will be transmitted to the Water Authority.

(C) Increasing Minimum Monthly Fixed Charges. So long as there are Senior Obligations outstanding, if the determination of §1-1-2(B) above shows that the Net Revenues are less than 133 percent of the Debt Service Requirements on the outstanding Senior Obligations, the fixed monthly charge will be increased for water and sewer accounts. So long as there are Subordinate Obligations outstanding, if the determination of §1-1-2(B) above shows that the Net Revenues are less than 120 percent of the Debt Service Requirements on the outstanding Senior Obligations and outstanding Subordinate Obligations, the fixed monthly charge will be increased for water and sewer accounts. The increase in the fixed monthly charges will be a percentage of the established fixed monthly charges that produce additional revenues so that if the adjusted charges had been effective the previous quarter, the total Net Revenues would have been sufficient to meet the requirements of this paragraph. If the determination of §1-1-2(B) above shows that the Net Revenues are insufficient to meet the requirements above, it shall be determined if the revenue loss is due to efforts of Water Authority Customers to conserve water by reviewing usage patterns. If the usage study shows that the reduced revenues are due to conservation efforts, the Executive Director shall analyze the Utility's operations for the purpose of determining whether or not corresponding expense reductions can be affected and shall present any such expense reduction proposals to the Water Authority.

(D) Increasing Water Commodity Charges. If the quarterly analysis of power cost related to water pumping shows that costs are increasing or decreasing, the Executive Director is authorized to adjust the water commodity charge to reflect the change. An adjustment in the commodity charge will only be made if the needed commodity charge adjustment is \$0.01 or greater, and shall be in \$0.01 increments. The Electric Fuel Cost Adjustment is to be calculated: $(\text{Fuel Rider} - \$0.50) \times \text{Average annual kWh} / \text{Annual Billed Consumption in CCF}$.

(E) General Procedural Provisions. The Executive Director may enact administrative procedures to carry out the purposes of this Ordinance.

1-1-3. WATER RATES.

(A) Definitions. As used in this Section, unless the context otherwise requires: CUSTOMER CLASSIFICATIONS Include:

(1) RESIDENTIAL. Single-family detached, condominiums served by individual meters, townhouses served by individual meters, duplexes served by individual meters, or mobile homes served by individual meters.

(2) MULTI-FAMILY. Any metered/account serving more than one dwelling unit; i.e., duplexes, residences with guest houses, triplexes, four-plexes, apartment complexes, condominiums, town-homes, or mobile homes served by common meters.

(3) COMMERCIAL. Retail, offices, hotels, motels, shopping centers, none of which use process water in the conduct of business.

(4) INDUSTRIAL. Manufacturing, or process facility which is engaged in producing a product.

(5) INSTITUTIONAL. Government buildings, hospitals, schools, and other facilities that provide public and quasi-public services.

(6) WHOLESALE-SPECIAL CONTRACTS. Wholesale customers purchase bulk treated water from the Water Authority from one or more points of connection for re-sale and/or distribution within the Wholesaler's service area. Special contract customers purchase water from the Water Authority under a negotiated agreement as a result of unique service characteristics.

(B) Water Credit Eligibility and Procedures.

(1) Single-family detached, condominiums, townhouses, duplexes, or triplexes served by common or individual meters; mobile homes served by individual meters; but limited to those Customers who own the dwelling in which they reside and qualify under the United States Department of Health and Human Services poverty guidelines.

(2) The Executive Director shall establish procedures regarding certification for water credits and shall periodically make administrative changes to the income guidelines as circumstances require.

(C) Metered Water Service.

(1) The rates and compensation to be paid to the Water Authority for public and private use of water supplied by the Water Authority for any and all purposes shall be in accordance with the following schedule of charges.

Fixed Monthly Charge - Metered Service

Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi-Family
1	$\frac{5}{8} \times \frac{3}{4}$	\$11.21	\$11.74	\$22.00	\$12.08	\$13.77
2	1	\$23.14	\$23.63	\$46.14	\$24.06	\$28.13
3	1½	\$64.79	\$67.33	\$137.71	\$70.29	\$82.40
4	2	\$138.89	\$143.95	\$300.38	\$150.78	\$178.12
5	3	\$265.82	\$276.25	\$569.86	\$288.61	\$331.96
6	4	\$600.36	\$621.50	\$1,308.53	\$652.08	\$772.78
7	6	\$1,018.45	\$1,031.80	\$2,118.06	\$1,076.78	\$1,263.57
8	8 & over	\$2,133.01	\$2,212.50	\$4,619.30	\$2,513.62	\$2,736.60

(2) The rates and compensation to be paid to the Water Authority for public and private use of water supplied by the Water Authority for Wholesale-Special Contracts Water Users shall be in accordance with the following schedule of charges.

(a) Fixed Monthly Charges- Pajarito Mutual Domestic

Meter Size

$\frac{5}{8} \times \frac{3}{4}$	\$15.86
1	32.01
1½	92.62
2	198.87
3	413.32
4	918.67
6	1,550.71
8	3,289.26

(b) Fixed Monthly Charges – To'Hajiilee

Meter Size

$\frac{5}{8} \times \frac{3}{4}$	\$29.93
1	54.64

1½	199.71
2	448.98
3	1,097.89
4	2,618.88
6	4,088.82
8	4,398.24

(c) Fixed Monthly Charges – Intel Special Contract

Monthly water fixed charges will commence when ABCWUA is capable of delivering non-potable water to Intel and continue unchanged through December 31, 2025; the monthly charge shall be:

\$118,097.63

(D) Unmetered Water Service.

(1) For service connections to the utility for private fire protection. Applicable to all service through which water is used solely for extinguishing accidental fires.

Fixed Monthly Charge

Line Size

(inches)

2	\$5.55
3	8.33
4	11.11
6	20.83
8	31.94
10	44.42
12	65.24

(2) Unmetered water service for any purpose other than standby fire protection will be a violation of this Ordinance and subject to the penalties specified herein; except by written agreement approved by the Executive Director.

(E) Private Use of Fire Hydrants for Non-Potable Use.

(1) Permits.

(a) Connections to fire hydrants at any location are prohibited except by the Water Authority, Fire Departments within the service area or by written permit (fire hydrant meter permit) issued by the Water Authority. The Fire Departments within the service area are given permission to use fire hydrants based upon written agreements with the Executive Director which pertain to inspection and maintenance. Each Fire Department is required to perform agreed upon maintenance on all fire hydrants within their service area as a condition of use.

(b) A qualified applicant (business owner or licensed contractor) or designated agent wishing to obtain a fire hydrant meter permit must submit a completed application form to the Water Authority. Completed and signed applications may be submitted online. If the applicant assigns a designated agent to obtain the permit, a designated agent certification form must be signed by the business owner or licensed contractor and submitted with the completed application.

(c) Fire hydrant meter permits may be issued for a period not to exceed one year. Failure to comply with one or more of the terms and conditions shall be cause for terminating the permit.

(d) Under a standard fire hydrant meter permit, the applicant may use any fire hydrant from the Water Authority's designated network of green-top fire hydrants. Applicants desiring to use an out-of-network hydrant must submit an alternate location application stating the reason(s) for needing to use the out-of-network hydrant. Water Authority staff will review such requests on a case-by-case basis and a decision shall be issued within three business days of receiving the request.

(e) The Water Authority reserves the right to refuse to issue a fire hydrant meter permit to any applicant or to require an applicant to pay all current charges on the applicant's Water Authority account as a condition to the issuance of a permit.

(2) System Connection and Water Use.

(a) Water taken from fire hydrants may be used only for non-potable, non-recreational purposes within the Water Authority service area. The use of non-potable water taken from fire hydrants for swimming pools is prohibited.

(b) The permit holder shall utilize a backflow prevention method or device acceptable to the Water Authority at all times the fire hydrant meter is in use to protect the Water Authority's water supply. Failure to use an acceptable backflow

prevention method or device shall be cause for confiscating the fire hydrant meter and terminating the permit.

(c) The Executive Director may appoint employees to inspect fire hydrant meters at any time, but not less than once per annum. Permit holders shall make provisions for such inspections.

(d) For permit holders that contract with the Water Authority, the Executive Director is authorized to withhold all or a portion of the surety bond for outstanding fire hydrant meter charges including but not limited to repair and replacement of the hydrant meter and usage.

(3) Loss, Damage and Payment Surety Bond.

(a) A loss, damage, and payment surety deposit of \$3,000.00 for each fire hydrant meter is required at the time the permit is issued. If a fire hydrant meter is lost or stolen, the \$3,000.00 deposit shall be forfeited, and the permit holder shall be assessed up to a \$1,000.00 charge for water usage.

(b) All or a portion of the loss, damage and payment surety deposit will be refunded depending upon the cost of repairing the fire hydrant meter and the outstanding balance for meter charges when it is returned to the Water Authority. The Water Authority shall cause the repair work to be done and compute the time and materials necessary to rehabilitate the fire hydrant meter.

(c) The Executive Director may waive the loss, damage and payment surety deposit for special events or non-construction related short term projects.

(4) Reporting. The permit holder shall be required to report and pay for fire hydrant water usage on a monthly basis. Fire hydrant meter readings shall be submitted online between the first (1st) and tenth (10th) day of the month for water usage during the previous calendar month, regardless of whether any water usage occurred during that month. Failure to submit meter readings between the first (1st) and the tenth (10th) of the month shall result in a \$20.00 late meter reading fee per occurrence. Failure to report meter readings on or before the last day of the month the readings are due shall be cause for confiscation of the meter and termination of the permit.

(5) Fees and Charges.

(a) A nonrefundable program fee of \$230.00 will be charged for each fire hydrant meter permit.

(b) All fire hydrant meter permit holders shall pay a monthly base charge of \$80.12. This monthly base charge shall not be prorated.

(c) All water withdrawn from a fire hydrant shall be charged at the current commodity rate. Connections to fire hydrants in violation of this Ordinance will be subject to the penalties specified herein and shall be considered an unauthorized connection and be subject to hydrant meter confiscation.

(d) The permit holder shall be required to remit payment for all water withdrawn from fire hydrants on a monthly basis. Failure to remit payment in full within ten (10) days after final notice is issued shall result in a \$50.00 late payment fee per occurrence and shall be cause for confiscation of the fire hydrant meter and termination of the permit.

(F) Water Commodity Charge.

(1) (a) In addition to the Fixed Monthly Charge, all water used by a Customer within the Service Area for any purpose whatsoever shall be charged at the rate of \$2.310 per unit (one unit equals 100 cubic feet). In addition, there shall be a charge of 0.024 per unit, added to this commodity charge, which is the amount necessary to compensate the Water Authority for the water conservation fee charged by the State of New Mexico. This is determined by the meter reading or by estimating the usage by statistical methods. Customers shall pay bills monthly.

(b) Included in the commodity charge is a \$0.122 charge per unit that will be dedicated to the Water Resources Management Program in the Operating Fund to fund the Ground-Water Protection Policy and Action Plan, the Water Conservation Program, Water Resources Management Planning, and Arsenic Investigations. All interest earned on these dedicated funds shall be used only for this purpose.

(c) In addition to the Fixed Monthly Charge customers with a wholesale-special contract water rate shall be charged a commodity rate in accordance with the following schedule of charges.

Pajarito Mutual Domestic -	\$1.602 per CCF
To'Hajillee	\$0.534 per 100 CCF

(2) Bills may be based on the estimated average annual water use in units, annualized and divided by 12 months, plus the fixed monthly charge. Any special

charges, such as UEC, shall be included on the bill. The Executive Director may administratively adjust bills periodically by crediting and debiting accounts as appropriate if errors have been found and verified.

(3) (a) Surcharges for irrigation-only water accounts shall be assessed annually in the year following the water usage based upon an annual irrigation budget allowance established for such accounts and in accordance with the following:

(i) Water budgets will be established by the Water Authority whenever a new irrigation account is established or an existing account is converted to an irrigation account.

(ii) All usage will be calculated annually on a per site basis. Any usage of individual wells at these sites shall be submitted in writing to the Water Authority by the 15th of the month following the use.

(iii) All golf courses existing prior to October 1, 1995 will be allowed up to 40 inches of water over the entire landscaped area per calendar year.

(iv) All new golf courses or existing golf course expansions permitted after October 1, 1995 will be allowed up to 37 inches of water over the entire landscaped area per calendar year.

(v) Athletic fields will be allowed up to 45 inches of water over the entire landscaped area per calendar year.

(vi) All other landscaped areas will receive a water budget of 35 inches of water over the entire landscaped area per calendar year.

A surcharge will be applied to the usage above the annual irrigation budget allowance. For excess usage up to 150 percent (first tier) of the annual irrigation budget, the surcharge shall be 50 percent of the commodity rate shown in §1-1-3(F)(1)(a). For excess usage greater than 150 percent (second tier) of the annual irrigation budget, the surcharge shall be 100 percent of the commodity rate shown in §1-1-3(F)(1)(a). For excess usage greater than 200 percent (third tier) of the annual irrigation budget, the surcharge shall be 150 percent of the commodity rate shown in §1-1-3(F)(1)(a).

(b) The conservation surcharge amount added for each unit exceeding 200 percent of the Winter Average water usage as calculated in §1-1-2(A), shall be equal to 50 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(1)(a) for usage during the following

months of April through October. For those residential customers that have a Conservation Average equal to or greater than 15 units, the conservation surcharge amount added for each unit exceeding 200 percent of the Conservation Average water usage as calculated in §1-1-2(A), shall be equal to 100 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(1)(a) for usage during the months of April through October.

(c) The conservation surcharge amount added for each unit exceeding 300 percent of the Conservation Average water usage as calculated in §1-1-2(A), shall be equal to 50 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(b) for usage during the months of April through October. For those residential customers that have a Conservation Average equal to or greater than 15 units, the conservation surcharge amount added for each unit exceeding 300 percent of the Conservation Average water usage as calculated in §1-1-2(A), shall be equal to 100 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(b) for usage during the months of April through October.

(d) The conservation surcharge amount added for each unit exceeding 400 percent of the Conservation Average water usage as calculated in §1-1-2(A) shall be equal to 50 percent of the commodity charges in §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(c) for usage during the months of April through October. For those residential customers that have a Conservation Average equal to or greater than 15 units, the conservation surcharge amount added for each unit exceeding 400 percent of the Conservation Average water usage as calculated in §1-1-2(A), shall be equal to 100 percent of the Commodity Charges §1-1-3(F)(1)(a), and shall be added to the total charge determined in §1-1-3(F)(3)(c) for usage during the months of April through October.

(e) Drought Related Surcharges. Under the four levels of Drought defined in the Drought Management Strategy, the Water Authority may, at its sole discretion, increase surcharges described in §1-1-3 by a factor of two, three or more as may be necessary to assist in water use reduction during a drought. During a drought, the Water Authority shall declare to the public the Drought Level, which can be raised and lowered by the Water Authority, and the proposed increase in surcharges. The Drought

level only applies to the current year and must be approved by the Water Authority on a year-by-year basis. The Water Authority delegates the implementation of the Drought Management Strategy including the increase of surcharges to the Executive Director. Based on the Drought Level approved by the Water Authority, the Executive Director shall implement the Drought Management Strategy and announce the effective date of the new surcharges.

(f) For residential class Customers only having service sizes 1 through 3, a 50 percent discount shall be applied to the commodity charges in §1-1-3(F)(1)(a) for water usage greater than the customer's Winter Average water usage during the months of April through October when water usage is equal or less than 150 percent of the Class Average water usage.

(G) Multiple Meter Service. Each Customer Classification on the same premise requires a separate meter. Customers with service by more than one meter to any premise shall be charged the applicable fees associated with each meter except for single-family residential Customers who have two meters, of which one is used for irrigation. The monthly fixed charge for these single-family residential Customers will be based on the largest meter at the single-family residence.

(H) Water Credit. For those accounts included within the Water Credit classification, a credit equal to the sum of the water fixed monthly charge and the water fixed monthly facility rehabilitation charge will be applied to their billing; the billing shall be calculated using the Fixed Monthly Charge and Commodity Charge as set forth in this Ordinance.

(I) Water Assistance Fund (WAF).

(1) The WAF is established to offer one-time, emergency assistance for qualifying low-income Water Authority customers having difficulty paying their water and sewer bills.

(2) The Executive Director is authorized to establish program guidelines for qualification and eligibility procedures and shall periodically make administrative changes to the guidelines as circumstances require.

(J) Tag and Testing Charge. When a customer disputes meter accuracy, a "Tag & Test" service will be done after all the steps taken by the Water Authority have

been exhausted and if requested in writing by the legal property owner or his/her authorized representative.

(1)	Meters 5/8 X 3/4" to 2"	
	Meter Size	Tag and Testing Charge Service
	5/8" x 3/4"	\$140
	1"	185
	1-1/2"	380
	2"	455

The meter in question will be removed and a new one installed so that service can be maintained. The removed meter will be bench tested by the Water Authority in accordance with AWWA Standard C705. Should the meter fail the accuracy test such that the requestor was being overcharged, there would be no charge to the requestor.

(2) Meter 3" and greater. The meter in question will be tested in place in accordance with AWWA Standard C701, C702 or C703 and AWWA manual M6. Should the meter fail the accuracy test such that the requestor was being over charged, there would be no charge to the requestor. The testing charge for this will be \$500 for all sizes.

(K) Customer utility statements shall contain the following itemized element: "Facility Rehabilitation: \$`x,' where `x' shall be the cost of the rate increase to fund facility rehabilitation."

(L) Real property owners receiving water service from the Water Authority are responsible for hiring a licensed plumber to connect their customer service line to the Water Authority system at the point of metered service, or obtain a Homeowner Permit from the permitting Agency, allowing the property owner to make the connection.

(M) Each legally platted property shall have individual, independent water service and fire line (if applicable). No property shall share a water service or fire line with any other property.

1-1-4. NON-POTABLE WATER RATES.

(A) Definitions. Refer to §1-1-3(A) Water Rates for the definitions of Customer Classifications, which apply to this Section.

(B) Metered Service. The rates and compensation to be paid to the Water Authority for public and private use of non-potable water supplied by the Water Authority

within the Service Area for any and all purposes shall be in accordance with the schedule of charges listed in §1-1-3(A) for potable water metered service.

(C) Commodity Charge.

(1) In addition to the Fixed Monthly Charge, all non-potable water used by a Customer within the Service Area shall be charged at the rate corresponding to 80 percent of the potable water commodity rate (one unit equals 100 cubic feet). This is determined by the meter reading or by estimating the usage by statistical methods. Customers shall pay bills monthly.

(2) Bills may be based on the estimated average annual non-potable water use by units, annualized and divided by 12 months, plus the fixed monthly charge. Any special charges, such as UEC, shall be included on the bill. The Executive Director may administratively adjust bills periodically by crediting and debiting accounts as appropriate if errors have been found and verified.

(3) All surcharges for irrigation-only water accounts shall be charged at the rate based upon the non-potable water commodity rate (one unit equals 100 cubic feet).

(D) Multiple Meter Service. Customers with non-potable water service by more than one meter to any premise shall be charged the applicable fees associated with each meter.

(E) Tag and Testing Charge. Refer to §1-1-3 (I) for applicable provisions and charges.

(F) Utility Expansion Charge (UEC).

(1) A Utility Expansion Charge shall be paid to the Water Authority at the time of non-potable meter sale or application for non-potable water service for all new services connecting to the non-potable water system. The UEC may be paid in full at the time of non-potable service application, or paid over time with an initial minimum of 5 percent down payment. The balance shall be subject to a fixed monthly charge to include a carrying charge set at 7 percent per annum. On all connections, the balance shall be paid in full within 120 months.

(2) The UEC for non-potable water service shall be the same as the UEC for potable water service. Refer to §1-1-8(A) for applicable provisions and charges.

(3) Existing water Customers wishing to receive non-potable water shall not be charged a UEC unless the new combined potable and non-potable system capacity exceeds the Customer's previous existing potable system capacity.

(4) Redundant potable water and non-potable water metered services are not required for non-potable service.

(G) Non-potable Water Meter and Service Installation Fees. Refer to §1-1-9 for applicable provisions and charges.

(H) Customers that are currently using potable water for irrigation or other qualified industrial purposes as determined by the Water Authority and whose property is located within 200-feet of a non-potable water line are required to connect to the non-potable system within one year of service availability. Connection to non-potable system is a condition of service. The Water Authority is required to provide written notification to the property owner that non-potable water is available and that connection to the system is mandatory. If requested, the Water Authority will meet with the affected property owners and provide additional information regarding service availability, connection locations and other information that may be deemed necessary. The property owner has one year from the date of notification to connect to the system. Failure to connect may result in termination of service.

(I) Water Rights Leases. Beginning July 1, 2006, except for lease agreements that provide for periodic rate increases, water rights leases entered into by the Water Authority for the purpose of offsetting depletive effects on the Rio Grande from pumping by others shall be charged at the non-potable water rate.

(J) Each legally platted property shall have individual, independent non-potable water service. No property shall share a non-potable water service with any other property.

1-1-5. SEWER RATES.

(A) Definitions. For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD or BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in the biochemical oxidation of organic matter by Standard Methods procedures in five days at 20° C. expressed in milligrams per liter (mg/l).

CLEANOUT. A tee section in the sanitary sewer located outside any structure accessible 24 hours a day and constructed according to the Utility's standard detail.

COD or CHEMICAL OXYGEN DEMAND. A measure of the oxygen-consuming capacity of organic and inorganic matter present in wastewater as milligrams per liter (mg/l), by Standard Methods procedures.

NH₃N OR AMMONIA NITROGEN. Total Ammonia – A measure of the total ammonia as nitrogen concentration as milligrams per liter (mg/L) by Standard Methods or EPA approved procedures.

CUSTOMER CLASSIFICATIONS.

(1) RESIDENTIAL. Single-family detached, condominiums served by individual meters, townhouses served by individual meters, duplexes served by individual meters, or mobile homes served by individual meters.

(2) MULTI-FAMILY. Any metered/account serving more than one dwelling unit; i.e., duplexes, residences with guest houses, triplexes, four-plexes, apartment complexes, condominiums, town-homes, or mobile homes served by common meters.

(3) COMMERCIAL. Retail, offices, hotels, motels, shopping centers, none of which use process water in the conduct of business.

(4) INDUSTRIAL. Manufacturing, or process facility which is engaged in producing a product.

(5) INSTITUTIONAL. Government buildings, hospitals, schools, and other facilities that provide public and quasi-public services.

(6) WHOLESALE-SPECIAL CONTRACTS. Contract Customers that are responsible for a collection system from which their wastewater discharges into the Water Authority's interceptors.

(7) KIRTLAND AIR FORCE BASE (KAFB).

(8) FOOD SERVICE ESTABLISHMENT or FSE. Any establishment, commercial or noncommercial, such as a restaurant, cafeteria, snack bar, temple, mosque, church, synagogue, worship hall, banquet facility, preschool, school, or meeting place, with a kitchen that is used for preparing, serving, or otherwise making available for

consumption foodstuffs in commercial amounts in or on a receptacle that requires washing and that discharges to the Water Authority's POTW.

INDUSTRIAL WASTE. Wastes resulting from any process of industry, manufacturing, trade, or business, or from the development, recovery, or processing of natural resources.

LATERAL SEWER. An individual user's sewer pipe beginning at the public sewer and extending to the premises actually served. The lateral sewer includes the stub to which a user connects to the public sewer and all appurtenances on such lateral sewer. The user is responsible for the maintenance of the lateral sewer including those portions that may be within any right-of-way. The term is interchangeable with "house service connection," "sewer service line," or "building sewer."

NORMAL DOMESTIC WASTEWATER. Effluent which contains constituents and characteristics similar to effluent from a residence and specifically for the purposes of this Ordinance does not contain BOD, COD, NH₃N and TSS in excess of the following concentration:

BOD -- 250 mg/l

COD -- 500 mg/l

TSS -- 330 mg/l

NH₃N – 25 mg/l

PUBLICLY OWNED TREATMENT WORKS or POTW. A treatment works as defined by §212 of the Clean Water Act, (33 USC 1292) which is owned by the Water Authority. The term also includes Water Authority works, as defined in §502 of the Clean Water Act, (33 USC 1362) which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. The "treatment works" includes all plants, sanitary sewers, lift stations, odor control stations, and all other properties, now or hereafter existing, used or useful in connection with the collection, pumping, disposal and treatment of wastewater, as now or hereafter added to, expanded or improved.

SEWER CREDIT ELIGIBILITY AND PROCEDURES. Single-family detached, condominiums, townhouses, duplexes, or triplexes served by common or individual meters; mobile homes served by individual meters; but limited to those Customers who own the dwelling in which they reside and qualify under the United States Department of Health and Human Service poverty guidelines.

STANDARD METHODS. The laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association and American Water Works Association and the Water Pollution Control Federation.

TOTAL SUSPENDED SOLIDS or TSS. Those solids which are retained by a standard glass fiber filter and dried to constant weight at 103 – 105° C. expressed in milligrams per liter (mg/l), by Standard Methods procedures.

WASTEWATER. The used water of a community. Such used water may be a combination of the liquid waterborne wastes from residences, commercial buildings, industrial plants and institutions.

(B) Methodology and Calculation of Rates and Charges.

(1) The rates and charges described in this Ordinance are developed in conformance with standard cost-of-service rate making principles as recommended by the American Water Works Association, the Water Environment Federation, and the United States Environmental Protection Agency (USEPA).

(2) The Water Authority's rates and charges are calculated based on each customer classification's use of the system. Historical billed flows by classification and a systematic allocation of operation, maintenance, and capital costs were used to calculate the schedule of charges contained in this Ordinance.

(C) Fixed Monthly Charge.

(1) The rates and compensation to be paid to the Water Authority for public or private use by discharge of liquid waste into the Water Authority within the Service Area for any and all purposes whatsoever shall be in accordance with the following schedules of charges. The Fixed Monthly Charge for Customers with Water Authority water service shall be based on the water service size. The Fixed Monthly Charge for Customers without Water Authority water service shall be based on the liquid waste flow. Liquid waste flow will be calculated in accordance with the methodology set forth in the Commodity Charge Section of §1-1-5(D).

(2) Fixed Monthly Charge for Customers with water service:

Serv Size	Meter	Resid	Comm	Indust	Instit	Multi-family
1	5/8 X 3/4	\$3.64	\$4.51	\$20.49	\$3.49	\$6.06
2	1	\$5.89	\$7.19	\$34.70	\$5.64	\$10.01
3	1 1/2	\$24.16	\$30.59	\$149.48	\$22.99	\$42.17
4	2	\$60.13	\$76.27	\$375.57	\$57.18	\$105.13
5	3	\$80.53	\$102.20	\$503.80	\$76.56	\$140.89
6	4	\$171.53	\$217.84	\$1,076.03	\$163.06	\$300.57
7	6	\$228.45	\$288.69	\$1,433.82	\$217.18	\$400.40
8	8 & over	\$406.09	\$515.89	\$2,550.77	\$386.05	\$712.04

(3) Fixed Monthly Charge for Customers without water service:

Liquid Waste

Flow (CCF)	Meter	Resid	Comm	Indust	Instit	Multi-family
0 - 10	5/8 X 3/4	\$3.64	\$4.51	\$20.49	\$3.49	\$6.06
11-19	1	\$5.89	\$7.19	\$34.70	\$5.64	\$10.01
20-63	1 1/2	\$24.16	\$30.59	\$149.48	\$22.99	\$42.17
64-82	2	\$60.13	\$76.27	\$375.57	\$57.18	\$105.13
83-343	3	\$80.53	\$102.20	\$503.80	\$76.56	\$140.89
344-599	4	\$171.53	\$217.84	\$1,076.03	\$163.06	\$300.57
600-803	6	\$228.45	\$288.69	\$1,433.82	\$217.18	\$400.40
800-over	8 & over	\$406.09	\$515.89	\$2,550.77	\$386.05	\$712.04

(4) Fixed Monthly Charges for Wholesale and KAFB

Serv Size	Wholesale	Item	KAFB
1	\$4.61	Per Month	\$14,663.19
2	\$7.54		
3	\$16.69		
4	\$78.06		
5	\$104.60		

6	\$222.96
7	\$296.98
8	\$502.93

(D) Commodity Charge. All wastewater discharge shall be charged on the basis of the Commodity Charges for Retail and Special Customers rate table on a per unit basis (one unit equals 100 cubic feet).

Commodity Charges for Retail and Special Contract Customers

Customer Classification	Base (\$/CCF)	Rehab (\$/CCF)	Total Commodity (\$/CCF)
Retail Customers			
Residential	\$1.698	\$0.350	\$2.049
Commercial	1.698	0.350	2.049
Industrial	1.698	0.350	2.049
Institutional	1.698	0.350	2.049
Multi-family	1.698	0.350	2.049
Special Contracts			
Wholesale	\$0.885	\$0.184	\$1.070
KAFB	0.885	0.184	1.070

(1) Customers with Water Service. The commodity charge for usage during the months of December, January, February, and March (winter months) shall be based upon 95 percent of the metered or estimated volume of water usage during each of these months for each account. The commodity charge for usage during other months shall be based upon 95 percent of the metered or estimated volume of water usage during that month or shall be based upon 95 percent of the prior winter months' average, whichever is less for each account. The winter months' average is determined by averaging the metered or estimated volume of water used during the winter months.

(2) Customers without Water Service. The volume of wastewater discharge shall be determined by the physical measurement at the expense of the customer; however, where accurate and reasonable estimates can be made by statistical methods, such estimates shall be considered the volume of discharge upon which the Commodity Charge is based. The Water Authority expressly reserves the right to determine the estimated wastewater volume for any customer without water service, which determination may be appealed to the Executive Director.

(3) Special Wastewater Discharge Volume. The Water Authority recognizes that sewage discharge patterns for individual Customers may vary to a great extent from the norms of any particular class; therefore, any Customer may, at their own expense, provide the Water Authority with sewage flow data for consideration of a special wastewater discharge volume. Such data shall be certified by an engineer registered in the state. The Water Authority expressly reserves the right to determine the estimated wastewater volume for any Customer, which determination may be appealed to the Executive Director.

(E) Extra-Strength Surcharge.

(1) All Customers discharging wastewater into the POTW are subject to a surcharge if the discharged wastewater exceeds normal domestic wastewater strength. NORMAL STRENGTH is defined as:

- (a) Chemical Oxygen Demand (COD) less than or equal to 500 mg/l; and
- (b) Biochemical Oxygen Demand (BOD) less than or equal to 250 mg/l; and
- (c) Total Suspended Solids (TSS) less than or equal to 330 mg/l; and
- (d) Ammonia Nitrogen (NH₃N) less than or equal to 25 mg/l.

(2) The Water Authority shall determine strength as defined by the above parameters in §1-1-5(E)(1) above. The procedures are described §1-1-5(I) below. If it is determined that the wastewater strength exceeds the limits specified, a surcharge shall be levied at the rate of:

- (a) \$.209 per pound of COD for the excess of 500 mg/l of COD; and
- (b) \$.406 per pound of BOD for the excess of 250 mg/l BOD; and
- (c) \$.325 per pound of TSS for the excess of 330 milligrams per liter of TSS; and
- (d) \$.986 per pound of NH₃N for the excess of 25 mg/l of NH₃N.

(3) Any customer that is a Food Service Establishment permitted by the City of Albuquerque, Village of Los Ranchos, Bernalillo, or Sandoval County shall be charged an extra strength surcharge of \$2.39 per unit (100 cubic feet).

(4) The Water Authority shall promulgate administrative procedures to carry out the provisions of the extra-strength surcharge.

(F) Septic Tank Truck Discharge. No user owning vacuum or "cesspool" type pumping trucks or other liquid waste transport trucks shall discharge such waste into the POTW, unless such person shall first have applied for and received a Septic Tank Discharge or Chemical Toilet Discharge Permit from the Industrial Pretreatment Engineer pursuant to the Sewer Use and Wastewater Control Ordinance Section 3-3-7.

(G) Sewer Use Regulations. The Water Authority's Sewer Use and Wastewater Control or successor Ordinance, shall govern all discharges of wastewater to the POTW.

(H) Sampling; Metering Manhole Requirements. When required by the Utility, the owner of property serviced by a lateral sewer carrying industrial wastes shall install a suitable control manhole or cleanout together with such necessary meter and other appurtenances in the lateral sewer to facilitate observation, sampling, and measurement of the wastes. Such monitoring locations shall be accessible, safely located, and constructed in such a manner as to prevent infiltration of ground and surface waters. They shall be constructed in accordance with plans approved by the Utility. The Utility has established standard details. The monitoring location and all equipment shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(I) Sampling and Testing Procedures.

(1) All dischargers subject to monitoring according to the Water Authority's Sewer Use and Wastewater Control Ordinance, will be monitored by the Water Authority. The discharge will be sampled and tested for compliance with the Water Authority's Sewer Use and Wastewater Control Ordinance, and to determine the surcharge amount.

(2) All measurements, tests, and analysis of the characteristics of waters and wastes shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association and Water Pollution Control Federation, and the American Water Works Association.

(3) Sampling shall be carried out by customarily accepted methods. The particular analyses involved will determine whether a 24-hour composite of all outfalls of

a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, COD, NH3N and TSS analyses are obtained from 24-hour composites of all outfalls.

(4) Those industries suspected of discharging either high COD, BOD, NH3N wastes or high TSS wastes shall be sampled for four consecutive days by grab samples or 24-hour composite samples from a Utility manhole. If COD results exceed 500 mg/l, BOD results exceed 250 mg/l, NH3N results exceed 25 mg/l, or TSS results exceed 330 mg/l on any of the two of the four consecutive days, or in any of the 24-hour composite samples, a sampling manhole may be required for industries discharging greater than 25,000 gallons per day or if required by the Water Authority's Sewer Use and Wastewater Control Ordinance or successor Ordinance. Upon installation of the sampling manhole, an automatic sampler will be used to gather a composite which shall be used to compute a monthly surcharge. Industries discharging less than 25,000 gallons per day and not otherwise requiring a sampling manhole may be required to install a cleanout and an automatic sampler will be used to gather a composite which shall be used to compute a monthly surcharge. Pretreatment may be required according to the Water Authority's Sewer Use and Wastewater Control Ordinance or successor Ordinance.

(5) The Water Authority may assess penalties for noncompliance with the Sewer Use and Wastewater Control Ordinance or successor Ordinance.

(J) Sewer Credit. For those accounts included within the Sewer Credit classification, a credit equal to the sum of the sewer fixed monthly charge and the sewer fixed monthly facility rehabilitation charge will be applied to their billing; the billing shall be calculated using the Fixed Monthly Charge and Commodity Charge as set forth in this Ordinance.

(K) Customer utility statements shall contain the following itemized element: "Facility Rehabilitation: \$`x,' where `x' shall be the cost of the rate increase to fund facility rehabilitation."

1-1-6. WATER AND SEWER REHABILITATION FUND.

(A) An established portion of the revenue generated by fixed water rates and the Water Commodity Charge shall be distributed to a Water and Sewer Rehabilitation Fund. The fixed rate portion of the Water Rates contained in §1-1-3(C) which shall be

distributed to the Water and Sewer Rehabilitation Fund are contained in the following schedule of charges. The portion of the water commodity rate to be distributed to the Water and Sewer Rehabilitation Fund shall be \$0.449 per unit.

Fixed Water Rates (per month)

Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi-family
1	5/8 X 3/4	\$7.01	\$7.34	\$13.74	\$7.54	\$8.61
2	1	\$14.45	\$14.77	\$28.83	\$15.03	\$17.58
3	1 1/2	\$40.48	\$42.07	\$86.03	\$43.92	\$51.48
4	2	\$86.77	\$89.94	\$187.69	\$94.21	\$111.29
5	3	\$166.08	\$172.60	\$356.06	\$180.32	\$207.41
6	4	\$375.11	\$388.31	\$817.59	\$407.42	\$482.84
7	6	\$636.33	\$644.67	\$1,323.37	\$672.78	\$789.49
8	8 & over	\$1,332.71	\$1,382.38	\$2,886.17	\$1,570.53	\$1,709.85

(B) In addition to the portion of the commodity rate to be distributed to the Water and Sewer Rehabilitation fund as identified in §1-1-5(D) above, the following fixed rate portions of the sewer rates contained in §1-1-5(C) shall be distributed to the Water and Sewer Rehabilitation Fund.

Fixed Monthly Rehabilitation Charges

Fixed Sewer Rates (per month)

Serv Size	Meter Sz	Resid	Comm	Indust	Instit	Multi-Fam	Wholesale
1	5/8 X 3/4	\$9.19	\$11.37	\$51.64	\$8.79	\$15.25	\$11.61
2	1	\$14.87	\$18.11	\$87.49	\$14.21	\$25.25	\$19.01
3	1 - 1 1/2	\$60.92	\$77.08	\$376.84	\$57.97	\$106.30	\$42.06
4	2	\$151.58	\$192.29	\$946.84	\$144.14	\$265.01	\$196.79
5	3	\$202.99	\$257.62	\$1,270.10	\$193.01	\$355.22	\$263.70
6	4	\$432.44	\$549.18	\$2,712.69	\$411.10	\$757.74	\$562.11
7	6	\$575.91	\$727.80	\$3,614.70	\$547.50	\$1,009.41	\$748.72
8	8 & over	\$1,023.78	\$1,300.56	\$6,430.55	\$973.22	\$1,795.09	\$1,267.89

Monthly Rehabilitation Charges for KAFB

Item	KAFB
Per Month	\$36,966.21

(C) Committed expenses for the rehabilitation of water wells, pump stations, reservoirs, service lines, other water lines, gate valves and the committed expenses for rehabilitation of sewer lines, odor control stations, pumping stations and treatment facilities from revenues in the Water and Sewer Rehabilitation Fund shall not be less than \$40 million dollars per year.

(D) The distributions from water and sewer rates to the Water and Sewer Rehabilitation Fund shall be reviewed every five years and updated as needed to adjust for construction inflation, new capital inventory, rate increases and other factors.

1-1-7. WATER AND SEWER SYSTEM AND UTILITY FINANCIAL POLICIES.

(A) The term of each and every instrument of debt shall be 12 years or less; except for sustainable water supply projects. This policy shall not apply to the possible acquisition of other operating water and wastewater utility systems or to mitigate short term rate impacts.

(B) At a minimum, an average of 50 percent of the cost of capital projects which constitute the normal capital program of the water and sewer system including the rehabilitation and replacement of existing facilities, and the construction of water wells, pump stations, reservoirs, service lines, other water lines, gate valves, revenue meters and meter boxes, sewer lines, odor control stations, and pumping stations, and treatment facilities shall be paid with cash rather than borrowed funds. The normal capital program excludes special capital projects such as the expansion of the wastewater treatment plants, arsenic mitigation, state and federal grant projects, state and federal mandated projects, and related to water resources management to achieve a sustainable supply of water. This policy shall not apply to the possible acquisition of other operating water and wastewater utility systems or to mitigate short term rate impacts.

(C) At a minimum, 25 percent of the cost of capital projects not included in the normal capital program of the water and sewer system shall be paid with cash rather than borrowed funds. This policy shall not apply to the possible acquisition of other operating water and wastewater utility systems sustainable water supply or to mitigate short term rate impacts.

(D) Utility Expansion Charge (UEC) revenues or those of successor development fees in excess of \$6 million per year shall be transferred to the Joint Water and Sewer Capital Funds. The transfer of these funds shall be made in the fiscal year following the most recent audited Annual Comprehensive Financial Report.

(E) Utility Expansion Charge rates shall be based on adopted policies of the Water Authority.

(F) Appropriations of cash transfers from water and sewer utility operating funds or debt service funds to a Joint Water and Sewer Capital Fund shall be made in the amounts appropriated during the year for which the appropriations have been made.

(G) The Water Authority has implemented an asset management program to manage its capital infrastructure focusing on minimizing the total cost of designing, acquiring, operating, maintaining, replacing, and disposing of capital assets over their life cycle while achieving desired service levels. It will allow the Water Authority to manage existing assets more effectively, make informed decisions on policy and budgetary matters, and plan for future needs. Based upon this program the Water Authority will begin to incrementally increase its Capital Implementation Program spending at approximately \$3 million a year until the Water Authority can reach and sustain a spending level of approximately \$76 million a year.

(H) A Rate Reserve Fund is established for reserving water and sewer revenues in a dedicated fund for the purpose of offsetting declines in rate revenue and to mitigate future rate increases. This Rate Reserve Fund will be funded at \$2 million per year. The goal for the Water Authority is to achieve and maintain a Working Capital Balance that will be 1/12 of the Water Authority's annual budgeted expenses. The Rate Reserve Fund will be counted in the Working Capital Balance calculation, however any expense from the Rate Reserve Fund will require an appropriation approved by the Water Authority Board.

(I) The Water Authority's Investment Policy is attached as Appendix A and provides the policy guidance on the investment of funds. The Water Authority's Debt Management Policy and Guidelines is attached as Appendix B and sets forth the parameters for issuing debt and managing the outstanding debt portfolio and provides guidance regarding the purposes for which debt may be issued, types and amounts of permissible debt, timing and method of sale that may be used, and structural features

that may be incorporated. The Water Authority’s Post Issuance Compliance Policy is attached as Appendix C and provides the post-issuance tax compliance controls and procedures related to financial obligations.

(J) A Water 2120 Fund is established to fund water resource infrastructure projects in implementing the adopted Water 2120: Securing Our Water Future (R-16-12). Revenue from the Water Resource Charge shall be earmarked solely for the projects identified in Water 2120 into this fund. Beginning in Fiscal Year 2021, this fund will be funded at a minimum of \$2 million per year.

1-1-8. UTILITY EXPANSION CHARGE (UEC) and WATER RESOURCE CHARGE (WRC).

(A) (1) A UEC charge will be paid to the Water Authority at the time of meter sale or application for service for all properties connecting to the water and/or wastewater system in accordance with the following schedule. The amount of the UEC’s shall be adjusted annually by building cost or construction cost indices (BCI or CCI) as published by the Engineering News Record (ENR), or as directed by the Water Authority Board. Where water service does not exist and sewer service is to be taken and the sewer UEC is applicable, the charge shall be based upon the wastewater flow. A unit of flow is equal to 100 cubic feet.

(a) Financing for Water UEC

Effective 7/01/2024, Year 1 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$3,899	\$195	\$3,704
1"	\$6,498	\$325	\$6,173
1-1/2"	\$12,995	\$650	\$12,345
2"	\$20,798	\$1,040	\$19,758
3"	\$41,587	\$2,079	\$39,508
4"	\$64,980	\$3,249	\$61,731
6"	\$129,966	\$6,498	\$123,468
8" or More	\$207,942	\$10,397	\$197,545

Effective 7/01/2025, Year 2 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$4,638	\$232	\$4,406
1"	\$7,730	\$387	\$7,343
1-1/2"	\$15,459	\$773	\$14,686
2"	\$24,734	\$1,237	\$23,497
3"	\$54,107	\$2,705	\$51,402
4"	\$92,754	\$4,638	\$88,116
6"	\$208,697	\$10,435	\$198,262
8" or More	\$247,345	\$12,367	\$234,978

Effective 7/01/2026, Year 3 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$5,377	\$269	\$5,108
1"	\$8,961	\$448	\$8,513
1-1/2"	\$17,923	\$896	\$17,027
2"	\$28,676	\$1,434	\$27,242
3"	\$62,729	\$3,136	\$59,593
4"	\$107,535	\$5,377	\$102,158
6"	\$241,955	\$12,098	\$229,857
8" or More	\$286,761	\$14,338	\$272,423

Effective 7/01/2027, Year 4 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$6,116	\$306	\$5,810
1"	\$10,193	\$510	\$9,683
1-1/2"	\$20,386	\$1,019	\$19,367
2"	\$32,618	\$1,631	\$30,987
3"	\$71,351	\$3,568	\$67,783
4"	\$122,317	\$6,116	\$116,201
6"	\$275,213	\$13,761	\$261,452
8" or More	\$326,178	\$16,309	\$308,869

Effective 7/01/2028, Year 5 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$6,855	\$343	\$6,512
1"	\$11,425	\$571	\$10,854
1-1/2"	\$22,850	\$1,143	\$21,707
2"	\$36,559	\$1,828	\$34,731
3"	\$79,974	\$3,999	\$75,975
4"	\$137,098	\$6,855	\$130,243
6"	\$308,470	\$15,424	\$293,046
8" or More	\$365,595	\$18,280	\$347,315

Effective 7/01/2029, Year 6 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$7,594	\$380	\$7,214
1"	\$12,657	\$633	\$12,024
1-1/2"	\$25,313	\$1,266	\$24,047
2"	\$40,501	\$2,025	\$38,476
3"	\$88,596	\$4,430	\$84,166
4"	\$151,879	\$7,594	\$144,285
6"	\$341,728	\$17,086	\$324,642
8" or More	\$405,011	\$20,251	\$384,760

Effective 7/01/2030, Year 7 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$8,333	\$417	\$7,916
1"	\$13,888	\$694	\$13,194
1-1/2"	\$27,777	\$1,389	\$26,388
2"	\$44,443	\$2,222	\$42,221
3"	\$97,219	\$4,861	\$92,358
4"	\$166,660	\$8,333	\$158,327
6"	\$374,986	\$18,749	\$356,237
8" or More	\$444,428	\$22,221	\$422,207

Effective 7/01/2031, Year 8 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$9,072	\$454	\$8,618
1"	\$15,120	\$756	\$14,364
1-1/2"	\$30,240	\$1,512	\$28,728
2"	\$48,384	\$2,419	\$45,965
3"	\$105,841	\$5,292	\$100,549
4"	\$181,442	\$9,072	\$172,370
6"	\$408,244	\$20,412	\$387,832
8" or More	\$483,844	\$24,192	\$459,652

Effective 7/01/2032, Year 9 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$9,811	\$491	\$9,320
1"	\$16,352	\$818	\$15,534
1-1/2"	\$32,704	\$1,635	\$31,069
2"	\$52,326	\$2,616	\$49,710
3"	\$114,463	\$5,723	\$108,740
4"	\$196,223	\$9,811	\$186,412
6"	\$441,502	\$22,075	\$419,427
8" or More	\$523,261	\$26,163	\$497,098

Effective 7/01/2033, Year 10 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$10,550	\$528	\$10,022
1"	\$17,584	\$879	\$16,705
1-1/2"	\$35,167	\$1,758	\$33,409
2"	\$56,268	\$2,813	\$53,455
3"	\$123,086	\$6,154	\$116,932
4"	\$211,004	\$10,550	\$200,454
6"	\$474,759	\$23,738	\$451,021
8" or More	\$562,678	\$28,134	\$534,544

(b) Financing for Sewer UEC

Effective 7/01/2024, Year 1 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$2,924	\$146	\$2,778
1"	11-19	\$4,874	\$244	\$4,630
1-1/2"	20-63	\$9,748	\$487	\$9,261
2"	64-82	\$15,595	\$780	\$14,815
3"	83-343	\$31,264	\$1,563	\$29,701
4"	344-599	\$49,968	\$2,498	\$47,470
6"	600-803	\$99,943	\$4,997	\$94,946
8" or More	804 & over	\$155,949	\$7,797	\$148,152

Effective 7/01/2025, Year 2 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$3,247	\$162	\$3,085
1"	11-19	\$5,411	\$271	\$5,140
1-1/2"	20-63	\$10,822	\$541	\$10,281
2"	64-82	\$17,315	\$866	\$16,449
3"	83-343	\$37,877	\$1,894	\$35,983
4"	344-599	\$64,932	\$3,247	\$61,685
6"	600-803	\$146,098	\$7,305	\$138,793
8" or More	804 & over	\$173,153	\$8,658	\$164,495

Effective 7/01/2026, Year 3 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$3,569	\$178	\$3,391
1"	11-19	\$5,948	\$297	\$5,651
1-1/2"	20-63	\$11,897	\$595	\$11,302
2"	64-82	\$19,035	\$952	\$18,083
3"	83-343	\$41,638	\$2,082	\$39,556
4"	344-599	\$71,380	\$3,569	\$67,811

6"	600-803	\$160,604	\$8,030	\$152,574
8" or More	804 & over	\$190,346	\$9,517	\$180,829

Effective 7/01/2027, Year 4 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$3,891	\$195	\$3,696
1"	11-19	\$6,486	\$324	\$6,162
1-1/2"	20-63	\$12,971	\$649	\$12,322
2"	64-82	\$20,754	\$1,038	\$19,716
3"	83-343	\$45,399	\$2,270	\$43,129
4"	344-599	\$77,827	\$3,891	\$79,936
6"	600-803	\$175,111	\$8,756	\$166,355
8" or More	804 & over	\$207,538	\$10,377	\$197,161

Effective 7/01/2028, Year 5 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$4,214	\$211	\$4,003
1"	11-19	\$7,023	\$351	\$6,672
1-1/2"	20-63	\$14,046	\$702	\$13,344
2"	64-82	\$22,473	\$1,124	\$21,349
3"	83-343	\$49,160	\$2,458	\$46,702
4"	344-599	\$84,274	\$4,214	\$80,060
6"	600-803	\$189,617	\$9,481	\$180,136
8" or More	804 & over	\$224,731	\$11,237	\$213,494

Effective 7/01/2029, Year 6 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$4,536	\$227	\$4,309
1"	11-19	\$7,560	\$378	\$7,182
1-1/2"	20-63	\$15,120	\$756	\$14,364
2"	64-82	\$24,192	\$1,210	\$22,982
3"	83-343	\$52,921	\$2,646	\$50,275

4"	344-599	\$90,722	\$4,536	\$86,186
6"	600-803	\$204,123	\$10,206	\$193,917
8" or More	804 & over	\$241,924	\$12,096	\$229,828

Effective 7/01/2030, Year 7 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$4,858	\$243	\$4,615
1"	11-19	\$8,097	\$405	\$7,692
1-1/2"	20-63	\$16,195	\$810	\$15,385
2"	64-82	\$25,912	\$1,296	\$24,616
3"	83-343	\$56,682	\$2,834	\$53,848
4"	344-599	\$97,169	\$4,858	\$92,311
6"	600-803	\$218,630	\$10,932	\$207,698
8" or More	804 & over	\$259,117	\$12,956	\$246,161

Effective 7/01/2031, Year 8 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$5,181	\$259	\$4,922
1"	11-19	\$8,635	\$432	\$8,203
1-1/2"	20-63	\$17,269	\$863	\$16,406
2"	64-82	\$27,631	\$1,382	\$26,249
3"	83-343	\$60,443	\$3,022	\$57,421
4"	344-599	\$103,616	\$5,181	\$98,435
6"	600-803	\$233,136	\$11,657	\$221,479
8" or More	804 & over	\$276,310	\$13,816	\$262,494

Effective 7/01/2032, Year 9 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$5,503	\$275	\$5,228
1"	11-19	\$9,172	\$459	\$8,713
1-1/2"	20-63	\$18,344	\$917	\$17,427
2"	64-82	\$29,350	\$1,468	\$27,882

3"	83-343	\$64,204	\$3,210	\$60,994
4"	344-599	\$110,063	\$5,503	\$104,560
6"	600-803	\$247,643	\$12,382	\$235,261
8" or More	804 & over	\$293,502	\$14,675	\$278,827

Effective 7/01/2033, Year 10 Phase-In:

Water Meter Size	Liquid Waste Flow	Sewer Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	0-10	\$5,826	\$291	\$5,535
1"	11-19	\$9,709	\$485	\$9,224
1-1/2"	20-63	\$19,418	\$971	\$18,447
2"	64-82	\$31,070	\$1,554	\$29,516
3"	83-343	\$67,965	\$3,398	\$64,567
4"	344-599	\$116,511	\$5,826	\$110,685
6"	600-803	\$262,149	\$13,107	\$249,042
8" or More	804 & over	\$310,695	\$15,535	\$295,160

(2) The UEC may be paid in full or paid over time with an initial minimum of 5 percent down payment and the balance shall be subject to a fixed monthly charge to include a carrying charge set at 7 percent per annum. On all connections, the balance shall be paid in full within 120 months.

(3) The fixed monthly charge for the UEC shall run against the property and be the responsibility of any subsequent owner until paid in full. All monies collected through the imposition of the UEC, including the fixed monthly charge, shall be placed in a separate account to be used for financing the expansion for the water and sewer system.

(4) The Executive Director is authorized to continue the Water Authority's partnerships with other governmental entities to support non-profit community development projects. Qualified projects may be approved to defer payment of all or a portion of applicable Utility Expansion Charges until the property is sold. The Water Authority will secure its position with a second mortgage on the subject property.

(B) Reactivation of disconnected service. No refund of UEC will be made for a service downsizing. Reconnections requesting larger service than was originally

installed shall pay UEC determined by subtracting the current charge for the original service size from the current charge for the new service size requested.

(C) Charges for multiple residential units:

(1) Requests for residential or commercial water and/or sewer service which will provide for more than one residential unit will pay UEC according to one of the following schedules:

(a) Apartment Complexes.

(i) With 30 dwelling units or less shall pay 50 percent of the product of the total number of units times the water and/or sanitary sewer UEC for a 5/8" x 3/4" water meter.

(ii) With more than 30 dwelling units shall pay the amount given by the equation below:

$$\text{Equivalent Units} = (0.45) \times (\text{No. of Units}) + 1.49$$

$$\text{Total UEC} = (\text{Equivalent Units}) \times (5/8" \times 3/4" \text{ Meter UEC})$$

(b) Mobile Home Parks, regardless of size, shall pay 53 percent of the product of the total number of dwelling units times the water and/or sanitary sewer UEC for a 5/8" x 3/4" water meter.

(c) Condominiums and townhomes, regardless of size, shall pay 53 percent of the product of the total number of dwelling units times the water and/or sanitary sewer UEC for a 5/8" x 3/4" water meter.

(d) Commercial service shall pay the larger of the following:

(i) The water and/or sewer UEC as shown in §1-1-8(A).
(ii) 50 percent of the product of the number of equivalent residential units times the water and/or sewer UEC charge for a 5/8" x 3/4" meter.

(e) Low income housing developments shall pay the greater of either:

(i) Eight percent of the product of the total number of dwelling units times the water and sanitary sewer UEC set forth in §1-1-8(A)(1) of this Ordinance for a 5/8" x 3/4" water meter; or,

(ii) The UEC set forth in §1-1-8(A)(1) of this Ordinance for the meter size required to service the development. The size shall be determined by the Water Authority based on the number of water fixture units described in AWWA M-22.

(f) At the time the water and sewer UEC is due and payable for a low income housing development, the owner of the low income housing development shall give the Water Authority a promissory note in the principal amount that is equal to the difference between the amount of the water and sewer UEC set forth in §1-1-8(A)(1) of this Ordinance for a 5/8" x 3/4" water meter and the amount of the water and sewer UEC set forth in §1-1-8(C)(1)(e). The promissory note shall be due and payable on the date the Low Income Housing Development ceases to qualify as a low income housing development as defined in §1-1-2(A), which shall constitute its maturity date. The promissory note shall not bear any interest from the date of the promissory note to its maturity date, but shall bear interest thereafter at the rate imposed by §1-1-8(A)(2) from the maturity date of the promissory note until the date the promissory note is paid. The promissory note shall be secured by a mortgage on the low income housing development that is subject and subordinate only to mortgages securing the costs to purchase the land for the low income housing development and to design and construct the low income housing development.

(2) If the service requested necessitates modification and/or installation of additional facilities other than those already in existence and available to serve the property, then the cost of such modifications and/or additional facilities shall be applied and apportioned according to existing Water Authority policy.

(D) (1) A Water Resource Charge (WRC), as specified herein, will be assessed by the Water Authority at the time of meter sale or application for service to any new water user customer requesting connection to the water system in an area requiring new or enhanced infrastructure through a service expansion in accordance with §1-1-8(D)(1). The proceeds from this charge will be dedicated to the Water 2120 Fund.

(a) Financing for Water Resource Charge – WRC

Effective 7/01/2024, Year 5 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$3,747	\$187	\$3,560
1"	\$6,246	\$312	\$5,934
1-1/2"	\$12,491	\$625	\$11,866
2"	\$19,986	\$999	\$18,987

3"	\$43,720	\$2,186	\$41,534
4"	\$74,949	\$3,747	\$71,202
6"	\$168,635	\$8,432	\$160,203
8" or More	\$199,864	\$9,993	\$189,871

Effective 7/01/2025, Year 6 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$4,163	\$208	\$3,955
1"	\$6,939	\$347	\$6,592
1-1/2"	\$13,877	\$694	\$13,183
2"	\$22,203	\$1,110	\$21,093
3"	\$48,570	\$2,429	\$46,141
4"	\$83,263	\$4,163	\$79,100
6"	\$187,341	\$9,367	\$177,974
8" or More	\$222,034	\$11,102	\$210,932

Effective 7/01/2026, Year 7 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$4,579	\$229	\$4,350
1"	\$7,631	\$382	\$7,250
1-1/2"	\$15,263	\$763	\$14,500
2"	\$24,420	\$1,221	\$23,199
3"	\$53,420	\$2,671	\$50,749
4"	\$91,577	\$4,579	\$86,998
6"	\$206,047	\$10,302	\$195,745
8" or More	\$244,204	\$12,210	\$231,994

Effective 7/01/2027, Year 8 Phase-In:

Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
5/8 X 3/4"	\$4,995	\$250	\$4,745
1"	\$8,324	\$416	\$7,908
1-1/2"	\$16,648	\$832	\$15,816
2"	\$26,637	\$1,332	\$25,305
3"	\$58,269	\$2,913	\$55,356
4"	\$99,890	\$4,995	\$94,895

6"	\$224,753	\$11,238	\$213,515
8" or More	\$266,374	\$13,319	\$253,055

(2) The WRC may be paid in full or paid over time with an initial minimum of 5 percent down payment and the balance shall be subject to a fixed monthly charge to include a carrying charge set at seven percent per annum. On all new hook-up connections, the balance shall be paid in full within 120 months.

(3) The fixed monthly fee for the WRC shall run against the property and be the responsibility of any subsequent owner until paid in full. All monies collected through the imposition of the WRC shall be placed in a separate account to be used for financing the development of additional long term water supplies to serve expansions of the Water Authority's service area subsequent to June 15, 2007.

(4) The WRC is not reimbursable under the line extension policy except for master planned water, wastewater, and reuse supply projects as contained in development agreements. All revenues generated from the WRC will be maintained in its own activity and to be used only as specified in §1-1-8(D)(1).

(5) Master planned developments outside the service area shall meet additional water, wastewater, and reuse service provision requirements in accordance with Water Authority policies and plans. New service within Rio Rancho city limits and/or outside of Bernalillo County shall require provision of water rights to serve.

(6) The WRC for multiple residential units will be calculated in a manner consistent with the UEC charges as set forth in 1-1-8(C).

(7) The WRC may not be deferred.

1-1-9. SPECIFIC SERVICES.

Fees for specific services shall be as follows:

(A) Metered Service Lines.

(1) 5/8 X 3/4" meter set only, \$310

(2) 1" meter set only, \$373

(3) 1 1/2" meter set only, \$583

(4) 2" meter set only, \$667

(5) 3" metered service line installation.

(a) 3" meter set only with compound meter without vault, \$2,294

(6) 4" metered service line installation.

- (a) 4" meter set only with compound meter without vault, \$3,281
 - (b) 4" meter set only with fire assembly meter without vault \$7,571
- (7) 6" metered service line installation.
 - (a) 6" meter set only with compound meter without vault, \$5,397
 - (b) 6" meter set only with fire assembly meter without vault \$7,896
- (8) 8" metered service line installation.
 - (a) 8" meter set only with fire assembly without vault \$13,692
- (9) 10" and larger: contact the Utility for price quote
- (B) Meter Size Reduction Installation.
 - (1) 5/8 X 3/4" through 1-1/2", contact the Utility for price quote
 - (2) 2", contact the Utility for price quote
 - (3) 3" and larger, contact the Utility for price quote
- (C) Turn Off Fee.
 - (1) 5/8 X 3/4" and 1", \$45
 - (2) 1-1/2" through 10", \$60
- (D) Combined Fire-Domestic Meters.

(1) Requests for this type of metered service, which provide both fire protection and domestic-irrigation service, may be made at the New Services Section of Utility Development. Upon the satisfactory determination of peak flow water delivery requirements, as certified by an engineer registered in the State of New Mexico, in accordance with the City and the County fire codes and the AWWA M22 an equivalent meter size will be determined for the service. Fixed monthly charges for private fire protection shall also be applied commensurate with the degree of fire protection capacity being provided.

(2) Fees for installation (set only) is in §1-1-9(A).

(E) Cross Connection Fees

(1) Containment Inspection Fees. An inspection fee of \$50 shall be assessed to all customers required to have premise inspections to cover expenses incurred by the Water Authority during the initial inspection of the premise. The inspection fee shall be assessed only to those customers whose premise are in compliance with this Ordinance at the time of inspection.

(2) Backflow Prevention Assembly Administrative Charge. All customers required to provide cross-connection control by containment and/or isolation shall be assessed an annual administrative fee of \$30 (fee is not to be prorated in case of change in ownership) for each backflow prevention assembly located at the premise. This fee incorporates expenses incurred by the Water Authority to maintain records, to process required testing notices and to enter data as required.

(3) Late report fee. A late report fee of \$100 per month may be assessed for passing test reports submitted more than 30 days past the due date. The late report fee will be assessed monthly until a passing test report is submitted.

(4) Non-existent containment backflow preventer assembly fee. A non-existent containment backflow preventer assembly fee of \$200 per month may be assessed for each service line without a backflow preventer or with an unapproved backflow preventer.

(5) Unauthorized connection fee. An unauthorized connection fee of \$200 per month may be assessed for each service line with an unauthorized tee, branch, connection fitting, or opening between the containment backflow prevention assembly and the service connection.

(F) Meter Reset

(1) Contact the Utility for a price quote.

(G) Septage Fees. Each time the septage hauler enters the septage disposal site at the Southside Water Reclamation Plant, the permittee will be assessed a charge based on the type of permitted waste and based on 85% of the permitted septage hauler tank capacity no matter the amount discharged. The amount of the Septic Tank and Chemical Toilet charge shall be adjusted annually by building cost or construction cost indices (BCI or CCI) as published by the Engineering News Record (ENR), or as directed by the Water Authority Board.

(1) Septic Tank Charge. The septic tank charge is \$.03202 per gallon.

(2) Chemical Toilet Charge. The chemical toilet charge is \$.06701 per gallon.

(3) Septage Hauler Registration Charge. A septage hauler registration charge of \$25 per vehicle per year shall be assessed to all septage haulers submitting a septage hauler application.

(4) Septage Hauler Deposit. New septage haulers must complete an application and pay a one-time deposit of \$500.

1-1-10. FRANCHISE FEE.

There shall be a charge of four percent on the total sales of water and sewer services added to customer billings to compensate the Water Authority for the franchise fee charged by the City, County and the Village of Los Ranchos and a charge of two percent on the total sales of water and sewer services added to customer billings to compensate the Water Authority for the franchise fee charged by the City of Rio Rancho for the granted authorization to use rights-of-way and public places to construct, operate, and maintain water and wastewater systems.

1-1-11. PAYMENT.

All charges shall be payable at any location as designated by the Water Authority and will become delinquent 15 days following the "due by" date on the Customer's utility statement.

1-1-12. PENALTY FOR DELINQUENT ACCOUNTS.

A penalty of 1.5 percent per month may be imposed on any delinquent amount owed.

1-1-13. PENALTY FOR NONCOMPLIANCE WITH THE SEWER USE AND WASTEWATER CONTROL ORDINANCE.

(A) Any permitted Industrial user who has violated, or continues to violate, any Pretreatment Standard or Requirement as defined in the Sewer Use and Wastewater Control Ordinance shall be assessed a penalty of up to \$1,000 per violation per day.

(B) Any other violations of the Sewer Use and Wastewater Control Ordinance may be subject to a penalty up to \$1,000 per violation per day.

1-1-14. RESPONSIBILITY OF PAYMENT, LIENS, AND DEPOSIT.

(A) The assessed fees and service charges provided for herein are the personal responsibility of the owner of record, as reported by the Bernalillo County Assessor for the real property served.

(B) The Water Authority may file a lien of record on such real property for such charges including any interest or penalties accruing on same.

(C) Reasonable deposits may be required of any Customer including tenants. Deposits not to exceed six months in duration. Such deposits and accrued interest shall

be applied to the utility account immediately upon becoming delinquent or the expiration of six-month period. Any credit status created by applying the deposit will be absorbed by the monthly service charges and considered prepayments for services. Such deposits shall draw reasonable interest.

(D) The Executive Director is authorized to establish and issue guidelines for billing procedures, including but not limited to payment plans for delinquent accounts.

1-1-15. DISCONTINUANCE OF SERVICE; HEARING.

(A) The Water Authority may cause the water supply to be turned off and discontinue service to the property if any charge provided for herein remains unpaid for a period of 30 days from the "due by" date on the Customer's utility statement. Service may not be discontinued for delinquencies of a previous owner unless a lien, or a record has been filed prior to the real property changing ownership or responsibility with the Bernalillo County Clerk indicating that outstanding Utility charges remain.

(B) In order to discontinue service, a written notice shall be sent to the Customer at least ten calendar days' notice before termination of service and notice of the right to protest the Water Authority's proposed action at an administrative hearing.

(C) The Customer must request in writing that a hearing be held, and such request must be received by the Executive Director on or before the date the services are to be terminated. If the Customer requesting the hearing is not the owner of record, the Customer must provide proof that the owner of record will be bound by the decision of the hearing officer.

(D) At such hearing, the Customer may present evidence as the Water Authority and the Executive Director, or his designated hearing officer, may affirm, overrule, or modify the decision to terminate the services. The decision shall be final.

(E) In the event a hearing is requested, the services shall not be terminated pending the conclusion of the hearing and this issuance of a decision.

(F) A nonrefundable hearing fee of \$50.00 shall accompany each appeal filed pursuant to this §1-1-15.

(G) For purposes of expediting the satisfaction of delinquent accounts the Executive Director may at his discretion waive, credit, and or remove penalty fees or other fees from any account.

1-1-16. EFFECTIVE DATE AND PUBLICATION.

The effective date of this Ordinance will be July 1, 2024, unless otherwise stated.

1-1-98. PROHIBITIONS.

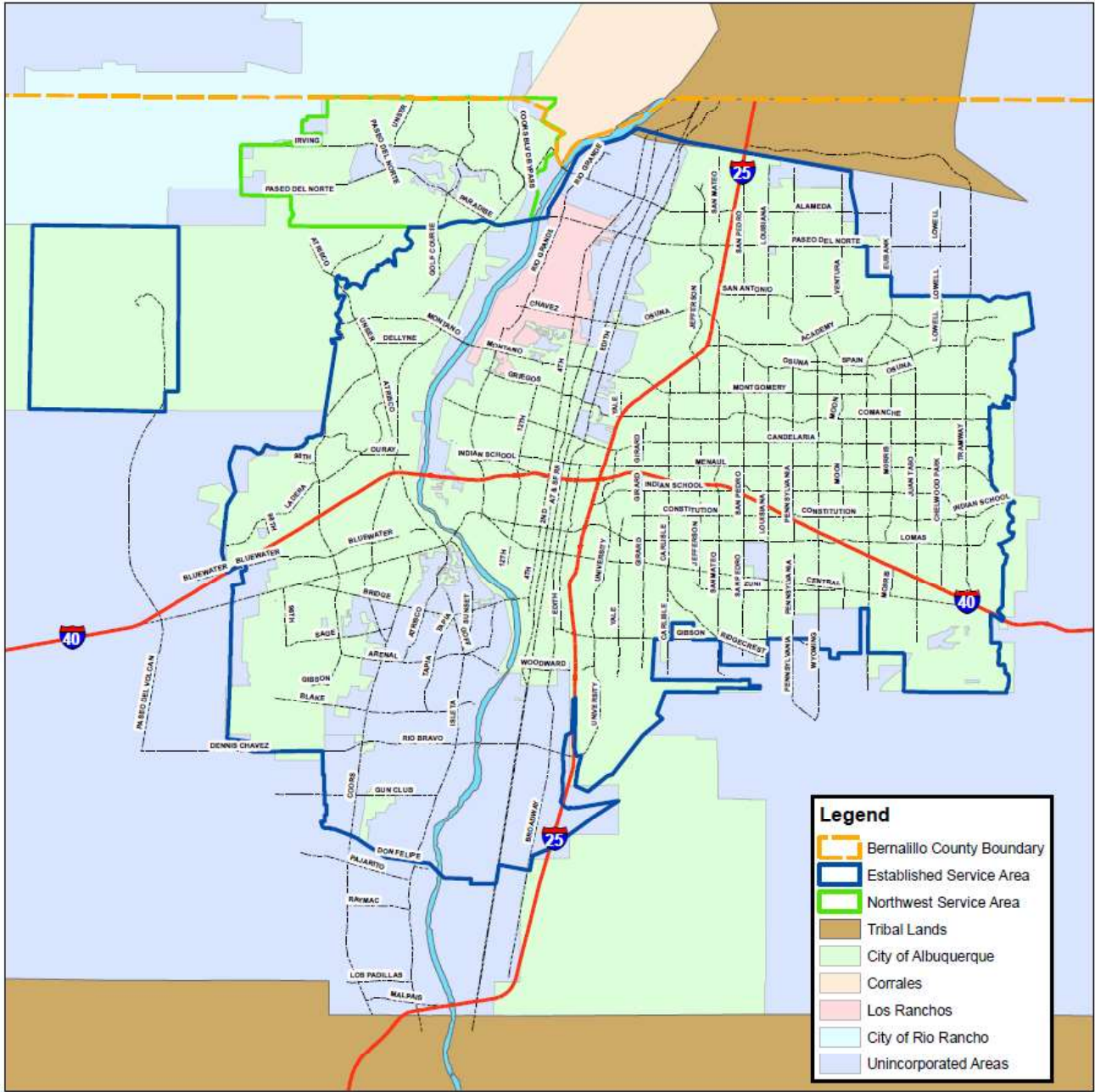
(A) No person shall use or cause to be used any water produced or distributed by the Water Authority without the consent of Water Authority. Water distributed through an authorized meter or obtained by any means authorized by ordinances or administration rules and regulations shall constitute the consent of the Water Authority.

(B) No person shall discharge or cause to be discharged any liquid waste to the liquid waste collection or treatment system operated by the Water Authority without the consent of the Water Authority and in compliance with the Water Authority’s Sewer Use and Waste Water Control Ordinance. Approved connections or permits shall constitute such consent.

(C) No person shall willfully break, injure, or tamper with any property of the Water Authority, including but not limited to: wells, pump stations, reservoirs, sewage treatment plants, lift stations, distribution lines, fire hydrant service lines, meters, gate valves, manhole covers or grates.

(D) Violation of any of the above-described Prohibitions constitutes a violation of the conditions of Water Authority service and may be subject to a connection service charge of \$400.00 per occurrence and charges of four years of usage based upon prior usage or the customer class average or termination of service.

Section 2. SEVERABILITY CLAUSE. If any Section, paragraph, sentence, clause, word, or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Water Authority hereby declares that it would have passed this Ordinance and each Section, paragraph, sentence, clause, word, or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.





Albuquerque Bernalillo County Water Utility Authority

Investment Policy

Approved by Albuquerque Bernalillo County Water Utility Authority Board
May 8, 2024
Ordinance #O-24-1

Albuquerque Bernalillo County Water Utility Authority

INVESTMENT POLICY

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Albuquerque Bernalillo County Water Utility Authority

INVESTMENT POLICY

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY' ("The Water Authority") INVESTMENT POLICY

INVESTMENT AUTHORITY: The responsibility for investing the excess funds of the Water Authority lies with the Chief Financial Officer (CFO) of the Water Authority or their designee, the investment manager. The Water Authority's governing body acts as the Board of Finance per New Mexico Statute § 6-10-9(2021).

PURPOSE:

- A.** The CFO's investment authority is to prudently manage the investment of public money that is not immediately required for the operations of the Water Authority.
- B.** In satisfying this financial responsibility, the CFO must also observe the fiscal obligation of maintaining sufficient liquidity to provide for the continuing functions of the Water Authority.
- C.** While serving, the CFO is bound to satisfy the fundamental fiduciary obligation of preserving and protecting the principal of the public money.
- D.** The CFO and/or investment manager, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these changes are reported at the next meeting or immediately, via email if necessary, to the investment committee and that appropriate action is taken to control adverse developments.

SCOPE OF THE INVESTMENT POLICY: This investment policy is a comprehensive guide governing the investment functions of the Water Authority with respect to funds invested by the investment manager. The guidance formulated in this policy is to be observed by individuals and entities involved in any aspect of the administration or management of investments made by the Water Authority's investment manager or an investment management firm. This investment policy will be effective upon approval by the governing board.

II. DEFINITIONS:

- A. "Competitive bid for securities"** - The selection of securities through a solicitation or review and evaluation of online inventory offerings from various approved broker/dealers.
- B. "Investment committee" or "committee"** - The Water Authority's investment committee; see also Section III.C of this policy.
- C. "Investment grade"** - For purposes of this policy, a rating within any of the following rating ranges by at least two of the rating agencies:

<u>Rating Agency</u>	<u>Long-Term</u>	<u>Short-term</u>
Standard & Poor's	A- to AAA	A-1
Fitch	A- to AAA	F1
Moody's	A3 to Aaa	P-1

A rating from a rating agency not on the list shall not be considered.

- D. "Investment portfolio"** - Each separate fund managed by the investment manager, including operating funds, bond proceeds and other monies.
- E. "Investment manager"** - the person and/or firm responsible for investing the public funds per this policy.

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- F. **"Financial institution"** - A federally insured bank or savings and loan association, see section III.F.2(d) below.
- G. **"Local financial institution"** - Those with a main office or manned branch office located within the service area of the Water Authority.
- H. **"Time deposit"** - A certificate of deposit or savings certificate deposited in a federally insured bank or savings and loan association located in New Mexico.
- I. **"Net worth"** - As defined by the Financial Institutions Division of the Department of Commerce and Industry of the State of New Mexico.
- J. **"Basis points"** - One hundred (100) basis points equals one (1) percent interest.

III. POLICY STATEMENT

- A. **Investment Policy Priorities:** The Water Authority's investment manager will observe the following priorities in making investment decisions:

- 1. **Safety of funds** –the first priority must be accorded to the preservation and protection of the principal of the funds to be invested to ensure the performance of basic governmental functions, ;
- 2. **Maintenance of liquidity** – the second level of priority must be accorded to maintaining sufficient liquidity to satisfy the reasonably anticipated, continuing operational requirements of the Water Authority;
- 3. **Maximum return after first two priorities are met** – the third priority must be accorded to maximizing investment return, through budgetary and economic cycles, consistent with the higher priorities of safety and liquidity;
- 4. Allow for diversification of the Water Authority's portfolios; and
- 5. Recognize the impact of the Water Authority's investment program on the local economy.

- B. **Standard of Investment:**

- 1. The standard of prudence to be applied in the investment of public money by the Water Authority's investment manager shall be the "prudent person" rule:
"Investments shall be made with the judgment and care, under circumstances then prevailing, that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."
- 2. Fiduciary Duty should be upheld:
"A fiduciary relationship is generally viewed as the highest standard of customer care available under law. Fiduciary duty includes both a duty of care and a duty of loyalty. Collectively, and generally speaking, these duties require a fiduciary to act in the best interest of the customer, and to provide full and fair disclosure of material facts and conflicts of interest."

~ **Securities Industry and Financial Markets Association (SIFMA)**

- 3. The investment manager, acting in accordance with this policy and any other written procedures pertaining to the investment of excess funds and exercising due diligence,

Albuquerque Bernalillo County Water Utility Authority

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shall be relieved of personal responsibility, if any, for credit risk or market price changes of a particular security.

C. Investment Committee: The investment committee shall monitor the efficacy, efficiency, and currency of the investment policy.

1. The investment committee shall consist of one member of the Water Authority's Board as appointed by the Chairperson of the Board, the Executive Director, the Chief Financial Officer (CFO) and the Chief Operating Officer (COO), plus one private sector finance professional, appointed by the Chief Financial Officer. Any vacancy created by a private sector member shall be filled in the same manner as original appointments. The investment manager will attend and make reports at all investment committee meetings.
2. The investment committee shall meet no less than annually or as deemed necessary by the Water Authority to:
 - a. Review the investment policy every two years, and recommend, if advisable, modifications in the investment policy from time to time and have changes formally adopted by board resolution;
 - b. assess, no less than annually, the utility and efficacy of established internal controls as loss prevention measures with respect to the investment portfolio;
 - c. deliberate these topics: economic outlook, portfolio diversification and maturity structure, potential risks, and the rate of return on the investment portfolio assessed within the parameters of first meeting safety and liquidity requirements;
 - d. identify potential violations of and suggest remedial actions to achieve conformity with the investment policy;
 - e. recommend, no less than annually, action on depositories, custodians, broker/dealers and investment managers and advisors; and
 - f. assess whether the investment policy is being properly implemented by the individuals and entities involved in the administration and management of investment activities.

D. Internal Controls:

1. The Water Authority CFO shall establish a system of internal controls governing the administration and management of the investment portfolios. Any audit findings related to investment-related internal controls shall be reviewed annually by the investment committee.
2. The controls shall be designed to prevent and control losses of public money arising from fraud, error, misrepresentation, unanticipated market changes, conflicts of interest or imprudent actions.
3. All securities held for the Water Authority's portfolio will be held in the name of the Water Authority with a third-party custodian, free and clear of any lien.
4. The fiscal agent and custodial banks responsible for, or in any manner involved with, the safekeeping and custody process on behalf of the Water Authority shall be bonded to protect from losses, malfeasance, and misfeasance.

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E. Ethics and Conflicts of Interest:

1. The Water Authority CFO shall adopt and implement an employee code of conduct policy, a campaign contributions policy, and a whistle blower policy applicable to the public officers and employees subject to the Water Authority policies and supervision. These policies shall be included in this investment policy as appendices. These policies may be updated according to the policies and procedures of the Water Authority. Any changes or updates implemented by the CFO shall be reported to the governing body at its next regularly scheduled meeting.
2. The CFO and employees involved in the investment process, in addition to complying with the applicable policies listed above and statutes, shall refrain from personal business activity that may impair their ability to make impartial investment decisions, or otherwise conflict with the selection of broker/dealers or investment advisors for best execution of the investment policy.
3. All broker/dealers and other securities professionals working with the Water Authority shall become familiar with and comply with all policies of the office and state laws including, but not limited to the following statutes, as they may be amended from time to time: the Campaign Reporting Act, §§ 1-19-25 NMSA 1978 *et seq.*; the Governmental Conduct Act, §§ 10-16-1 NMSA 1978 *et seq.*; and the Procurement Code, §§ 13-1-28 NMSA 1978 *et seq.* Any contract professionals working with the Water Authority should acknowledge in writing that they have read and understand this policy and all governing rules and statutes.

F. Investments Permitted by Policy:

1. The scope of investment authority of the investment manager is defined by the applicable investment statutes and constitutional provisions, principally Sections 6-10-10, 6-10-10.1, 6-10-36, 6-10-44 and 6-14-10.1, NMSA 1978, as well as Article VIII, Section 4 of the New Mexico Constitution, specifying particular types of investments that may be made by the investment manager, which establish certain prerequisites, limitations and other requirements relating to those investments. Moreover, the Water Authority CFO and/or board, in its discretion, may further limit or restrict those investments.
2. The Water Authority CFO and its governing body have determined that only the following statutorily authorized investments may be made, and these investments shall be subject to further limitations or restrictions as follows:
 - a. **United States Government Obligations:** Securities backed by the full faith and credit of the U.S. Government including direct obligations of the U.S. Treasury, such as US treasury notes and bills and "Ginnie Mae" mortgage-backed certificates issues by the Government National Mortgage Association. Investments shall be limited to a maximum maturity of five (5) years as measured from the settlement date.
 - b. **United States Government Agency Obligations:** Securities issued or guaranteed by U.S. Government agencies, instrumentalities, or sponsored enterprises, but which are not backed by the full faith and credit of the U.S. Government. These securities include Federal Farm Credit Bank, Federal Home Loan Bank, Federal Home Loan Mortgage Association and Federal National Mortgage Association and other names that qualify as instrumentalities of the U.S. government. . Additionally, mortgage-backed

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certificates, and debentures issued by "Freddie Mac" (Federal Home Loan Mortgage Corporation) and "Fannie Mae" (Federal National Mortgage Association) are allowable. Investments in US Government Agency Obligations shall be limited to a maximum maturity of five (5) years as measured from the settlement date.

c. Repurchase Agreements: Contracts for the present purchase and resale at a specified time in the future of specific securities at specified prices at a price differential representing the interest income to be earned by the Water Authority.

i. The contract at the time of purchase shall be fully secured by obligations of the United States, or its agencies or instrumentalities, or other securities backed by the United States having a market value of at least one hundred two percent (102%) of the amount of the contract.

ii. Section 6-10-10 (J) limits repurchase agreements (other than bond proceeds) to a maximum maturity of one (1) year with no exception or other provision for repurchase agreements that are VRNs, but flexible repurchase agreements shall be restricted to bond proceeds (with a maximum maturity of three (3) years). Providers of repurchase agreements and flexible repurchase agreements shall have an investment grade rating.

iii. Subject to the prior approval of the governing body with respect to the custodial undertaking agreement, tri-party repurchase agreements are proper investments under this policy.

iv. The investment manager will enter into repurchase agreements only with approved primary reporting dealers, banks and other financial institutions having a net worth in excess of \$500 million.

Preference will be given to a provider that is rated in one of the top two rating categories by all national rating agencies, without regard to qualifier, numerical or otherwise.

d. Bank, Savings and Loan Association or Credit Union Deposits:

Deposits are allowed in certified and designated New Mexico financial institutions, per the requirement in the New Mexico Constitution Article VIII, Section 4, whose deposits are insured by an agency of the United States. All deposits will comply with state statute and policies of the governing body related to interest rate and collateral requirements. CD deposits shall not be made with custodial banks. The authorization to invest in CD's shall include certificate of deposit account placement services. Deposits shall be limited to a maximum maturity of three (3) years. A deposit in any credit union shall be limited to the amount insured by an agency of the United States.

e. Municipal Securities:

Pursuant to 6-10-10.F(1), the investment manager may also invest in municipal securities that at time of purchase are rated Investment Grade (as defined in Section II C of this policy and have a final maturity of up to three years from the date of settlement. Bonds or negotiable securities of the State of New Mexico or of any county, municipality, or school district within the state which has a taxable valuation of real property for the last preceding year of at least one million dollars

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(\$1,000,000.00) and which has neither defaulted in the payment of any interest or sinking fund obligation, nor failed to meet any bonds at maturity at any time within five (5) years last preceding. If the rating declines below investment grade the investment manager shall notify the members of the investment committee in writing within two business days. The committee will recommend an appropriate course of action at its next regular meeting or may elect to meet sooner to determine a course of action.

f. Government Money Market Mutual Funds:

Shares of an open-ended diversified investment company that:

- i. is registered with the United States Securities and Exchange Commission;
- ii. complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States Securities and Exchange Commission applicable to money market mutual funds; assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States Securities and Exchange Commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated.
- iii. is invested only in United States Government and Agency Obligations and repurchase agreements secured by such obligations;
- iv. has assets under management of at least one billion dollars (\$1,000,000,000);
- v. the investments made by the Water Authority are less than five percent (5%) of the assets of the fund; and
- vi. is rated AAA or equivalent by a nationally recognized rating agency.

g. Local Government Investment Pool:

As permitted by section 6-10-10.1 NMSA 1978, funds may be invested in the Local Government Investment Pool (LGIP) managed by the NM State Treasurer.

G. Diversification: It is the policy of the Water Authority to diversify the investment portfolios. Investments shall be diversified to reduce the risk of loss resulting from an over concentration of assets in a specific maturity, a specific issuer or a specific class of securities. The following diversification limitations, at the time of purchase, shall apply to each portfolio:

1. Investment maturities will be structured to avoid undue concentration of assets in a specific maturity sector and to meet cash flow requirements.
2. Investment in callable debentures is permitted, but the amount invested in callable instruments should not exceed twenty-five percent (25%) of the total amount invested of each portfolio.
3. The maximum level of deposits in any single financial institution, with preference to local financial institutions, will as a percentage of the investment portfolio not exceed an amount set by the investment committee. CD deposits may only be made in NM financial institutions per the requirement in the New Mexico Constitution Article VIII, Section 4.

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4. Investments in United States agency obligations issued by any single agency shall be limited to thirty-five percent (35%) of a portfolio. US Agency mortgage securities will be limited to twenty five percent (25%) of the portfolio.
 5. Investments in repurchase agreements from any single provider shall be limited to twenty-five percent (25%) of a portfolio.
 6. Municipal securities will be limited to fifteen percent (15%) of the portfolio. Securities issued by a single municipal entity shall be limited to five percent (5%) of a portfolio.
- H. Risk:** The Water Authority recognizes that any portfolio of marketable investment securities is subject to certain risks. To limit the possibility of loss of principal due to interest rate fluctuations or deteriorating credit quality, the investment manager will make reasonable efforts to match investments with anticipated cash requirements and perform credit analysis and monitoring for all credit-sensitive securities. The CFO/investment manager or designee shall give particular emphasis to the following factors when selecting a specific security for inclusion in the portfolio:
1. **Credit Risk:** The credit rating requirements of this policy shall apply at the time of purchase. In the event an issuer is downgraded and falls outside of these credit parameters, the CFO/Investment Officer shall notify the investment committee members within two business days. The CFO/Investment Manager will review the individual facts and circumstances of the situation and determine an appropriate course of action.
 2. **Relative Yield to Maturity:** Comparison of return available from alternative investments for comparable maturity dates.
 3. **Marketability:** Analysis of relative marketability of alternate investments in case of forced sale or possibility of future trades.
 4. **Intermarket Yield Analysis:** Analysis of the spread relationship between sectors of the market, i.e., treasury bonds or bills versus agency bonds or discount notes, to take advantage of aberrations in yield differentials.
 5. **Yield Curve Analysis:** Analysis of the slope of the yield curve to determine the most attractive maturities for earning maximum return with minimal risk.
 6. **General Economic and Interest Rate Outlook:** Review and analysis of current literature on interest rate projections to assist in timing transactions and selecting appropriate maturities.
- I. Anticipated Cash Flow Requirements:** The CFO will project the short-term and long-term cash needs to determine the amount available for short-term and long-term investment and report this information to the investment committee and governing body quarterly or at an interval deemed necessary by the investment committee.
- J. Safekeeping and Custody:**
1. All investment securities purchased by the Water Authority, held as collateral on repurchase agreements or held as collateral on securities lending arrangements shall be held in third-party safekeeping at a fiduciary qualified to act in this capacity. All securities held for the Water Authority's portfolios will be held free and clear of any lien and all transactions will be conducted in compliance with Section 6-10-10(O) NMSA 1978, which requires contemporaneous transfer and same day settlement. On a monthly basis, the custodian will provide reports, which list all transactions that occurred during the month and all securities held for the Water Authority at month-end including the book and market value of holdings.

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2. Any bank that is in any manner involved with, the safekeeping and custody process of the Water Authority shall be bonded in amounts required by the governing body under its custody agreement to protect from losses, from malfeasance and misfeasance.

K. Collateral Policy:

Deposits shall be collateralized at 102%. Such collateral shall be held by an independent third-party financial institution acceptable to the Water Authority. Securities eligible as collateral are those defined under State Statute (6-10-16 NMSA 1978). Collateral shall be held in a custodial bank per 6-10-21, NMSA 1978 and shall be assigned to the Water Authority per 6-10-18, NMSA 1978.

Securities accepted as collateral may be subject to additional restrictions as specified by the investment committee.

L. Selection of Investment Advisors, Consultants/Managers and Broker Dealers: The Water Authority may use an investment advisor, consultant and/or manager for the investment of securities in accordance with the following rules:

1. The firm or individual shall be selected in accordance with the Water Authority's procurement code;
2. The firm and individual shall be registered under the Investment Adviser Act of 1940;
3. Prior to execution and prior to any renewal of every contract, the CFO must obtain approval by the governing body. Approval of a contract requires that the investment advisor, consultant and/or manager must provide in writing to the Water Authority:
4. As deemed appropriate and necessary by the Water Authority, the investment advisor, consultant or manager shall report, in writing, to the investment committee at all regularly scheduled investment committee meetings. The report shall (i) establish performance benchmarks for the Water Authority's portfolios, and (ii) review recommended investments, portfolio strategies and/or performance against established benchmarks. The report shall be included in the investment manager's next monthly report. Performance benchmarks established by the investment manager or the investment advisor, consultant and/or manager must be approved by the investment committee.
5. Investment staff shall review broker/dealers who would like to transact with the Authority to determine if they are adequately capitalized and make markets in the securities appropriate to the Water Authority's needs. The Investment Officer shall send a copy of the current investment policy to all broker/dealers approved to transact with the Water Authority. Financial institutions which desire to become qualified broker/dealers for investment transactions (and which are not transacting solely through an investment advisor) must provide the Water Authority with a statement certifying that the institution has reviewed the Water Authority's Investment Policy.

Selection of broker/dealers used by an external investment adviser retained by the Water Authority will be at the sole discretion of the investment adviser.

It is the policy of the Water Authority to require competitive bidding from at least three broker/dealers for investment transactions that are not classified as "new issue" securities whenever possible and practical. Such competitive bidding can be executed using a nationally recognized trading platform. In such circumstances where competitive price comparisons are not available, best efforts will be made to document quotations for comparable or

Albuquerque Bernalillo County Water Utility Authority

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alternative securities. Competitive biddings wherein at least three bids or offers are solicited but only one bid or offer is received shall satisfy the competitive bidding requirements of this policy.

M. Performance Benchmarks: The investment portfolio shall be designed and managed with the objective of obtaining a market rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and cash flow needs of the Water Authority.

1. Short-term funds (liquidity) and funds that must maintain a high degree of liquidity will be compared to an appropriate short-term index as deemed appropriate and necessary by the Water Authority.
2. Medium term investment and other funds (core) that have longer terms shall be compared to indices of similar duration as deemed appropriate and necessary by the Water Authority.

N. Selection of Depositories: When selecting depositories, consideration will be given to minimizing risk, protecting investment capital and obtaining the best purchase or sale price. The following guidelines will be used in selecting depositories.

1. **Depositories:** In selecting financial institutions for the deposit of the Water Authority funds, the CFO will consider the credit worthiness of the institutions.
 - a. The CFO through their collateral compliance and risk assessment program will monitor the financial institutions' credit characteristics and financial history throughout the period in which the Water Authority funds are deposited.
 - b. Each depository will be always required to collateralize Water Authority deposits at the level required by the collateral policy (see section III.K of this policy) and the depository agreement adopted by the governing body.

O. Reporting Requirements: The Water Authority shall prepare and submit to the governing body an "investment committee report" semi-annually.

1. The Report shall summarize the following:
 - a. a listing of the portfolio in terms of investment securities, balances, maturities, return and other features deemed relevant;
 - b. the book and market value of all holdings;
 - c. a report of all commissions paid in dollars on repurchase agreements and on each transaction where the commission is disclosed;
 - d. for each approved portfolio, returns on a monthly, quarterly, fiscal year-to-date and three-year basis versus approved benchmarks as deemed appropriate and necessary by the Water Authority;
 - e. the total investment earnings by fund for the reporting period;
 - f. report of holdings of variable rate and structured notes;
 - g. the investment strategies employed during the period;
 - h. a summary of recent market conditions, economic developments and anticipated investment conditions;
 - i. any areas of policy concern warranting possible revisions of current or planned investment policies;
 - j. a projection of the Water Authority's short-term and long-term cash needs;

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- k.** all transactions where there were fewer than three bids or offers;
- l.** all sale transactions resulting in a book loss;
- m.** all transaction errors;
- n.** any trades between portfolios; and
- o.** all changed allocations.

Albuquerque Bernalillo County Water Utility Authority

INVESTMENT POLICY

VII. APPROVAL:

**Albuquerque Bernalillo County
Water Utility Authority Board**

**Albuquerque Bernalillo County
Water Utility Authority**

Board Chair

Chief Financial Officer

Date: XXXX 00, 2024

Date: XXXX 00, 2024

History:

Previously issued _____.



DEBT MANAGEMENT POLICY & GUIDELINES

As of May 8, 2024.

Appendix B

Albuquerque Bernalillo County Water Utility Authority Debt Management Policy & Guidelines – Purpose

The Albuquerque Bernalillo County Water Utility Authority (“Water Authority”) recognizes the foundation of any well-managed debt program is a comprehensive debt management policy. The Debt Management Policy & Guidelines sets forth the parameters for issuing debt and managing the outstanding debt portfolio and provides guidance to decision makers regarding the purposes for which debt may be issued, types and amounts of permissible debt, timing and method of sale that may be used, and structural features that may be incorporated. Adherence to a debt management policy helps to ensure that government maintains a sound debt position and that credit quality is protected.

It is the intent of the Water Authority to establish a debt management policy to:

- Ensure high quality debt management decisions
- Impose order and discipline in the debt issuance process
- Promote consistency and continuity in the decision making process
- Demonstrate a commitment to long-term financial planning objectives, and
- Ensure debt management decisions are viewed positively by the investment community, ratepayers and rating agencies

I. DEBT MANAGEMENT POLICY & GUIDELINES - INTRODUCTION

The Water Authority’s Debt Management Policy & Guidelines provides for the following:

- Full and timely payment of principal and interest on all outstanding debt
- System Revenue Bonds shall be used as a source of funding, after considering alternative funding sources, such as federal and state grants and pay as you go financing
- Debt shall be incurred to finance capital improvements and long-term assets associated with the water and wastewater system. Types of projects include, but are not limited to, constructing, acquiring, enlarging, extending, bettering, repairing or improving the water and wastewater system facilities. For a more detailed list refer to New Mexico Statute § 72-1-10-K (1996 through 1st Sess 50th Legis)
- Capital improvements plans should be developed, approved and financed in accordance with the Rate Ordinance and the Decade Plan
- The Water Authority will evaluate the impact of debt amounts and debt service requirements of any new proposed debt within the overall context of outstanding debt
- Principal and interest retirement schedules shall be structured to: (1) meet available cash flow available to service debt, (2) achieve a low borrowing cost for the Water Authority, (3) accommodate the debt service payments of existing debt and (4) respond to perceptions of market demand. Level debt payments and shorter maturities shall always be encouraged to demonstrate to ratepayers, the investment community and rating agencies that debt is being managed and retired prudently
- Debt incurred shall generally be limited to obligations with serial and term maturities but may be sold in the form of other structures if circumstances warrant
- The term of each and every instrument of debt shall not exceed the maximum term permitted by State Law; except for sustainable water supply projects which shall not exceed 25 years. This policy shall not apply to the possible acquisition of other operating water and wastewater utility systems or to mitigate short term rate impacts
- The payment of debt shall be secured by net revenues of the joint water and wastewater system (net system revenues)

Appendix B

- Debt incurred may be issued, at the discretion of the Water Authority, on either a Senior, Subordinate or Super Subordinate lien on net system revenues
- The average life of the debt incurred should be no greater than the projected average life of the assets being financed
- Maintain Post Issuance Compliance Guidelines that formalize post issuance compliance controls and procedures related to the Water Authority's financial and legal obligations (see Appendix C)
- Inter-fund borrowing may be used as an alternative to conventional borrowing
- The Water Authority shall not pledge any Water Authority revenues to any conduit bond financings or guarantee indebtedness of others
- The Water Authority may use the services of qualified internal staff and outside advisors, including Bond Counsel, Disclosure Counsel, underwriters and Municipal Advisors, to assist in the analysis, evaluation, and decision process
- The Water Authority shall select a method of sale that achieves the financial goals of the Water Authority and minimizes financing costs. Such sales can be competitive, negotiated or private placement, depending upon the project and market conditions. The recommendation by the Water Authority's Municipal Advisor will be considered in the decision as to the most appropriate sale method
- The Water Authority shall make every attempt to earn and maintain the highest investment grade rating achievable, while meeting the goals and objectives of the Water Authority and its ratepayers
- Water Authority Finance team members and underwriters should be selected in accordance with the Water Authority Purchasing Procedures and the Debt Management Policy & Guidelines. The selection should maximize the quality of services received while minimizing the cost to the Water Authority. Any subtractions or additions to the finance team members shall be subject to the Water Authority's Chief Financial Officer's (CFO) approval. Selected underwriters and Municipal Advisors shall adhere to the Municipal Securities Rule-making Board (MSRB) and the United States Securities and Exchange Commission (SEC) rules and regulations
- The Water Authority shall maintain good communications with bond rating agencies to ensure complete and clear understanding of the credit worthiness of the Water Authority
- Financial reports and bond official statements shall follow a policy of full, complete and accurate disclosure of financial conditions and operating results. All reports shall conform to guidelines issued by the Government Finance Officers Association (GFOA), SEC and the Internal Revenue Service (IRS) to meet the disclosure needs of rating agencies, underwriters, investors and ratepayers
- Federal income tax laws restrict the ability to earn arbitrage in connection with tax-exempt bonds. Every attempt shall be made to eliminate or minimize negative arbitrage

II. DEBT POLICY ADMINISTRATION

It is the role of the CFO to develop and maintain the Debt Management Policy & Guidelines and to review and recommend to the Executive Director (ED) both the finance teams and structuring plans for all capital financings prior to the introduction to the Water Authority Governing Board (Board). The CFO may employ the assistance of the Water Authority's retained Municipal Advisor and Legal Counsel in the development and ongoing administration of its debt management responsibilities.

Key debt management administration responsibilities include but are not limited to:

- Develop and maintain comprehensive supporting guidelines in accordance with the Water Authority's Debt Management Policy & Guidelines
- Annually assess the Water Authority's ability to issue and repay debt utilizing financial benchmarks

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specified within the Water Authority's Debt Management Policies & Guidelines

- Review and evaluate results of debt financing operations including, but not limited to:
 - Issuance of long-term and short-term debt obligations
 - Selection of bond type, structure, methods of sale and marketing of bonds, and
 - Investor and rating agency communications
- Review expenditures of bond proceeds and the status of various projects being financed, including the capital improvement program for timeliness of spent bond proceeds
- Review and evaluate services provided by Legal Counsel (including but not limited to Bond Counsel and Disclosure Counsel), Municipal Advisor (s), Underwriters and other service providers in bond transactions for effectiveness and quality of service
- Review and revise annually, if necessary, the Debt Management Policy & Guidelines based upon the CFO's review of operations
- Maintain Post Issuance Compliance Guidelines that formalize post issuance compliance controls and procedures related to the Water Authority's financial obligations
- Maintain arbitrage rebate calculations timing and complete and file arbitrage reports on all tax-exempt issues as may be required
- Review and revise annually, if necessary, the Post Issuance Compliance Guidelines based upon CFO's review of operations and legal requirements
- Prepare an annual report to the Board on items including, but not limited to:
 - Results of previous year's financings
 - Bond rating status
 - Bond capacity and relevant comparable financial ratios
 - All bond financings in progress or anticipated for the subsequent fiscal year, and
 - Any significant financial policy changes
 - The occurrence of any event required to be filed in accordance with the Water Authority's continuing disclosure undertakings and Rule 15c 2-12 of the SEC
- Develop and maintain the selection criteria for underwriters, act as the Ad-Hoc Committee under the direction of the Water Authority's Purchasing Officer on all underwriting Requests for Proposals (RFP) and recommend to the Board the underwriting team for all Water Authority debt
- Develop and maintain the selection criteria for Municipal Advisor and other finance team members, act as the Ad-Hoc Committee on all RFP's under the direction of the Water Authority's Purchasing Officer and recommend to the Board the consultant based finance team for all Water Authority bonds, pursuant to the Water Authority's Purchasing procedures
- The debt program will be managed to maintain the highest investment grade ratings reasonably achievable by the municipal bond rating agencies rating the Water Authority's debt

III. DEBT AFFORDABILITY COORDINATION WITH THE LONG-RANGE FINANCIAL PLAN AND CAPITAL IMPROVEMENT PROGRAM

As an important step within the annual development of the budget, the CFO will annually assess the Water Authority's ability to issue and repay its debt. At a minimum, the CFO shall review and evaluate proposed financing plans in conjunction with the long-range financial plan, the capital improvement program, current financial position and financial policy to assess the Water Authority's ability to issue and repay its debt. The

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CFO shall recommend how much new debt, if any, the Water Authority may authorize.

IV. FINANCING ALTERNATIVES

The Water Authority shall assess all financial alternatives for funding capital improvements prior to issuing debt. Pay-as-you-go financing should be considered before issuing any debt. Pay-as-you go financing may include: intergovernmental grants from federal, state and other sources, current revenues and fund balances; private sector contributions; and public/private partnerships. Once the Water Authority has determined that pay-as-you-go and intergovernmental or private sector grants are not a feasible financing option, the Water Authority may use short-term or long-term debt to finance capital projects.

A. Short Term Debt and Interim Financing – Maturity of one (1) year or less

Short term obligations may be issued to finance projects or portions of projects for which the Water Authority ultimately intends to issue long-term debt (or where cash is available in a debt service fund and can be “sponged” to retire bonds immediately thereafter); i.e., it shall be used to provide interim financing which shall eventually be refunded with the proceeds of long-term obligations.

Short-term obligations may be backed with a pledge of net system revenues.

B. Bond Anticipation Notes (BANs)

BANs, including commercial paper notes issued as BANs, may be issued instead of capitalizing interest to reduce the debt service during the construction period of a project or facility. The BANs will not mature more than 1 year from the date of issuance. BANs can be rolled in accordance with federal and state law.

C. Line and Letters of Credit

Where their use is judged by the CFO and ED to be prudent and advantageous to the Water Authority, the Water Authority has the power to enter into agreements with commercial banks or other financial entities for purposes of acquiring lines or letters of credit that shall provide the Water Authority with access to credit under terms and conditions as specified in such agreements. Any agreements with financial institutions for the acquisition of lines or letters of credit shall be approved by the Board. Lines and letters of credit entered into by the Water Authority shall be in support of projects contained in the approved capital improvement plan or similar plans implemented by the Water Authority.

D. Long Term Debt (Bonds) – Maturity over one (1) year

Long-term net system revenue bonds shall be issued to finance significant capital improvements for purposes set forth by the Water Authority’s capital improvement program or similar plans implemented by the Water Authority.

The term of each and every instrument of debt shall not exceed the maximum term permitted by State Law; except for sustainable water supply projects which shall not exceed 25 years. This policy shall not apply to the possible acquisition of other operating water and wastewater utility systems or to mitigate short term rate impacts.

V. ISSUANCE OF DEBT OBLIGATIONS

All Water Authority debt shall be issued in accordance with the following policies, which have been recommended by the CFO and approved by the ED:

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A. Conditions of Sale

Unless otherwise justified, the issuance and sale of all Water Authority bonds, notes, loans and other evidences of indebtedness shall be subject to the following conditions:

- Principal and interest on all outstanding debt shall be paid in a full and timely manner;
- Debt shall be incurred to finance capital improvements and long-term assets associated with the water and wastewater system. Types of projects include, but are not limited to, constructing, acquiring, enlarging, extending, bettering, repairing or improving the water and wastewater system facilities. For a more detailed list refer to New Mexico Statute § 72-1-10-K (1996 through 1st Sess 50th Legis)
- Capital improvements should be developed, approved and financed in accordance with Water Authority Board action and the capital improvement budgeting process;
- At a minimum, an average of 50 percent of the cost of capital projects which constitute the normal capital program of the water and wastewater system including the rehabilitation and replacement of existing facilities, and the construction of water wells, pump stations, reservoirs, service lines, other water lines, gate valves, revenue meters and meter boxes, wastewater lines, odor control stations, and pumping stations, and treatment facilities shall be paid with cash rather than borrowed funds. The normal capital program excludes special capital projects such as the expansion of the wastewater treatment plants, arsenic mitigation, state and federal grant projects, state and federal mandated projects, and related to water resources management to achieve a sustainable supply of water. This policy shall not apply to the possible acquisition of other operating water and wastewater utility systems or to mitigate short term rate impacts;
- Principal and interest retirement schedules shall be structured to: (1) meet available cash flow available to service debt, (2) achieve a low borrowing cost for the Water Authority, (3) accommodate the debt service payments of existing debt and (4) respond to perceptions of market demand. Shorter maturities shall always be encouraged to demonstrate to rating agencies that debt is being retired at a sufficiently rapid pace;
- Debt incurred shall generally be limited to obligations with serial and term maturities but may be sold in other structures if circumstances warrant such as Variable Rate Demand Notes and Floating Rate Notes;
- The average life of the debt incurred should be no greater than the projected average life of the assets being financed.

B. Methods of Sale

Debt obligations in the form of bonds or loans of the Water Authority may be sold by competitive, negotiated sale or private placement methods unless otherwise limited by state law. The selected method of sale shall be the option which is expected to result in the lowest cost and most favorable terms given the financial structure used, market conditions, and prior experience.

C. Additional Obligations Tests

When issuing additional revenue bonds the Board action shall provide for an additional bond test for the following obligations:

(i) Senior Parity Obligations –The Water Authority shall satisfy the following test prior to issuance of any additional Senior Parity Obligations payable from the Net Revenues:

(1) The Net Revenues for the Historic Test Period shall have been sufficient to pay an amount representing at least 133% of the maximum combined annual Debt Service Requirements of only the Outstanding Senior Obligations and the terms of either subparagraph 2(a) or 2(b) shall be satisfied.

(2) (a) Using the fees and rates for use of the System on the date of computation, or assuming that any new schedule of fees and rates approved by the Water Authority during or after the Historic Test Period was in effect during the entire Historic Test Period, the Net Revenues which were or would have

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been received during that Historic Test Period shall have been sufficient to pay an amount representing at least 133% of the maximum combined annual Debt Service Requirement on the Outstanding Senior Obligations and the Senior Obligations proposed to be issued; or

(b) The projected Net Revenues for the Prospective Test Period shall be sufficient to pay an amount representing at least 133% of the maximum combined annual Debt Service Requirements on the Outstanding Senior Obligations and Senior Obligations proposed to be issued. To determine if the annual Net Revenues are sufficient for the purposes of the preceding sentence, the Net Revenues projected for the applicable Prospective Test Period shall be determined by applying the rates for use of the System approved by the Board at the time of computation to be in effect during the Prospective Test Period to the proposed number of connections to the System after giving effect to the purchase, expansion or improvement of the System or the acquisition of an existing water and wastewater system.

(ii) Additional Subordinate Obligations. The Water Authority shall satisfy the test set forth in subparagraph (C)(i) above related to the issuance of additional Senior Obligations and shall satisfy the following test prior to issuance of any additional Subordinate Obligations:

(1) The Net Revenues for the Historic Test Period shall have been sufficient to pay an amount representing at least 120% of the maximum combined annual Debt Service Requirements of only the Outstanding Senior Obligations and the Outstanding Subordinate Obligations and the terms of either subparagraph 2(a) or 2(b) shall be satisfied.

(2) (a) Using the fees and rates for use of the System on the date of computation, or assuming that any new schedule of fees and rates approved by the Water Authority during or after the Historic Test Period was in effect during the entire Historic Test Period, the Net Revenues which were or would have been received during that Historic Test Period shall have been sufficient to pay an amount representing at least 120% of the maximum combined annual Debt Service Requirement on the Outstanding Senior Obligations and Outstanding Subordinate Obligations and the Subordinate Obligations proposed to be issued; or

(b) The projected Net Revenues for the Prospective Test Period shall be sufficient to pay an amount representing at least 120% of the maximum combined annual Debt Service Requirements on the Outstanding Senior Obligations and Outstanding Subordinate Obligations and the Subordinate Obligations proposed to be issued. To determine if the annual Net Revenues are sufficient for the purposes of the preceding sentence, the Net Revenues projected for the applicable Prospective Test Period shall be determined by applying the rates for use of the System approved by the Board at the time of computation to be in effect during the Prospective Test Period to the proposed number of connections to the System after giving effect to the purchase, expansion or improvement of the System or the acquisition of an existing water and wastewater system.

(iii) Super Subordinated Obligations. No additional obligations test is established.

For purposes calculating compliance with the applicable Additional Bonds Test set forth in this Section, the following definitions shall apply:

“Historic Test Period.” Any period 12 consecutive months out of the 24 calendar months next preceding the delivery of additional System Obligations.

“Prospective Test Period.” The 12-month period commencing on the first day of the month following the estimated Completion Date of the project for which additional System Obligations are proposed to be issued or the first day of the thirty-sixth month following the delivery of such additional System Obligations, whichever is earlier.

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D. Rate Covenant

Rates for services rendered by the water and wastewater system shall be reasonable and just, taking into account the cost and value of the system, operation and maintenance expenses, proper allowances for depreciation and the amounts necessary to retire all bonds payable from the revenues, and any reserves therefor. There shall be charged against all users, including the Water Authority, rates and amounts, which shall be increased from time to time, if necessary, sufficient to produce revenues to pay the annual operation and maintenance expenses, and to maintain a rate covenant as follows:

- (i) Senior Parity Obligations – Maintain a minimum debt service coverage on all senior lien parity debt $\geq 1.33x$ (Senior Parity Outstanding Debt Service)
- (ii) Subordinate Parity Obligations – Maintain a minimum debt service coverage on all Senior Obligations and Subordinate Obligations $\geq 1.20x$ Debt Service Requirements on Senior Obligations and Outstanding Subordinate Obligations.
- (iii) Super Subordinated Obligations – No debt service coverage test established;

The planning target debt service coverage for rates and charges proposed to the Board is 1.50x (Senior Parity Outstanding Debt Service).

VI. SELECTION OF DEBT STRUCTURES

To minimize interest rate risk, the preference of the Water Authority is to issue fixed rate debt; however, if an alternative structure is determined to be preferential, the Water Authority may adopt the following bond structures subject to the defined constraints described herein:

A. Variable Rate Bonds

The proportional amount of debt pledged with net system revenues that shall be issued in the form of unhedged variable rate securities shall be limited to a maximum of 20% of the total outstanding net System revenue pledged debt. In considering the amount of unhedged variable rate debt to be issued, consideration shall be given to the amount of cash balances available to be otherwise invested as reserves and available as a natural interest rate hedge. Periodically, the CFO with assistance from the Municipal Advisor shall analyze each outstanding variable rate issue to determine if the issue should be converted to a fixed rate or otherwise hedged.

B. Liquidity and Credit Enhancement Facilities

The Water Authority may seek to use liquidity or credit enhancement when such enhancement proves to be cost effective or to improve or establish a credit rating. When their use is judged prudent and advantageous to the Water Authority, the CFO shall have the Water Authority to enter into agreements with commercial banks or other financial entities for the purposes of acquiring lines or letters of credit, bond insurance or surety policies, etc. Selection of enhancement providers is subject to a competitive bid process developed by the CFO and Municipal Advisor and approved by the ED.

C. Prerequisite to use:

- The present value of the estimated debt service savings from the use of credit enhancement should be at least equal to or greater than the premium paid by the Water Authority to obtain such credit support; and
- Criteria to be used in the appointment of credit provider include:
 - An objective evaluation of responses to a request for qualification
 - The short-and long-term credit ratings of the institution and the relative trading level of debt support by such credit provider

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- Institution's experience with providing liquidity facilities to municipal bond issuers
- Competitiveness of fees submitted, interest charged on liquidity draws, maximum legal and administrative fees
- Ability to agree to Water Authority and state legal requirements; and
- Number and amount of liquidity facilities currently outstanding in the market

D. Prior Redemptions

The Water Authority should consider prepaying or defeasing outstanding debt when resources are identified and available to reduce its outstanding debt. Debt will be structured with shortest optional redemption date which does not increase cost.

E. Optional Redemptions

The Water Authority's bonds may be subject to optional redemptions and early calls, consistent with the objective of paying the lowest possible interest cost. Early calls may permit the Water Authority to act upon decreases in interest rates by refinancing debt for the purpose of realizing debt service savings. The Water Authority and its Municipal Advisor will evaluate optional redemption provisions for each issue so the Water Authority does not service its debts at unacceptably higher interest rates.

F. Reserve Requirements & Bond Insurance

In the issuance of bonds, the Water Authority may find it necessary to fund a reserve fund or acquire bond insurance to achieve the lowest possible interest cost. In each instance the Water Authority and its Municipal Advisor will determine the appropriate reserve and or insurance option that allows for the lowest achievable interest cost while maintaining the marketability of the Water Authority's bonds.

To fulfill the requirement and to lower the size of the bond issue, the Water Authority may purchase a Surety Reserve Fund from any qualified Bond Insurance Company.

VII. REFUNDINGS

A. Refunding Bonds

The Water Authority shall consider refunding outstanding debt to:

- Generate interest rate savings
- Restructure principal and/or
- Eliminate burdensome bond covenants

A present value analysis shall be prepared that identifies the economic effects of any refunding proposed.

Prominent among these are:

- Time to call date
- Time remaining to call date
- Negative arbitrage per maturity
- Shape of debt service savings

B. Current Refundings

The Water Authority requires that the refunding escrow may not exceed 90 days; and unless otherwise justified and approved by CFO and ED, a refunding transaction shall require a present value savings of at least three (3) percent of the principal amount of the refunding debt being issued and shall incorporate all costs of issuance expenses. A maturity-by-maturity analysis shall be conducted to determine if the 3% or greater on a maturity-by-maturity basis threshold is met.

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C. Advanced Refundings

The Water Authority requires the refunding escrow duration to exceed 90 days. In accordance with current provisions of the Internal Revenue Code and Treasury regulations, tax-exempt bonds may not be advance refunded with tax-exempt bonds. However, taxable bonds may be issued to advance refund existing tax-exempt debt. Consequently, the Water Authority should carefully weigh the benefits and opportunity costs of such an action; and unless otherwise justified and approved by the ED, an advance refunding transaction shall require a present value savings of at least three (3) percent of the principal amount of the refunding debt being issued and shall incorporate all costs of issuance expenses. A maturity-by-maturity analysis shall be conducted to include a determination of the negative arbitrage incurred in connection with the escrow established for a particular maturity. To be considered, the negative arbitrage for a particular candidate shall not be greater than the net present value savings generated by that candidate. The chart below illustrates the savings matrix for a fixed rate refunding of existing fixed rate bonds so that each individual bond maturity generates a net present value savings of at least the following:

Minimum NPV Savings Decision Matrix				
		Years to Call Date		
			0 - 2	3 - 7
Years from Call Date to Maturity Date	0 - 5	0.50%	1.00%	2.00%
	6 - 10	1.00%	2.50%	4.00%
	11 - 15	3.00%	4.00%	5.00%
	16 - 20	4.00%	5.00%	5.50%

VIII. INVESTMENT OF BOND PROCEEDS

Bond proceeds will be invested pursuant to the Water Authority's Investment Policy and State Law. If the investment of bond proceeds is not addressed within the Water Authority's Investment Policy or in the absence of a policy, the proceeds will be invested in US Treasury and or US Government Agency securities or in permitted investments, as set forth in the documents for the Water Authority's outstanding bonds. Investment maturities will coincide with scheduled construction draw downs.

IX. APPOINTMENT OF PROFESSIONALS

To provide systematic technical advice and support to the Water Authority and for the efficient competitive, negotiated or private placement sale of Water Authority debt, the Board shall approve the selection of qualified professionals including Municipal Advisor(s), and underwriters.

Such selection of qualified professionals shall be based on an evaluation of competitive proposals for a combination of advisory and underwriting services, as recommended to the Board by the ED. In no case may the Municipal Advisor on any Water Authority credit serve as an underwriter in compliance with MSRB rules and regulations.

Term of Appointments

Appointments shall be effective for a term of four (4) years from the date of ratification of the ED's recommendation of award by the Board, unless otherwise amended by the Board.

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Selection Process

The CFO may periodically publish an RFP that invites concurrent proposals from individual offerors to provide services in support of each of the Water Authority's anticipated projects.

Technical advisory subcommittees are authorized. Ancillary subcommittees may be established to provide the CFO with technical support for their assessment of proposals. Overlapping subcommittee memberships are permitted only if a sufficient number of suitable candidates for such subcommittee assignments cannot be timely recruited.

The ED shall approve all advisory committee appointments. All actual or potential conflicts of interest of each proposed subcommittee member must be disclosed by such member for the record, prior to submittal of said member's nomination to the ED so he may judge each individual's suitability to participate.

The results of each subcommittee's review, if such is empaneled, shall be reported to the CFO who shall, after considering the subcommittee's input, forward to the ED their recommendation for the designated Municipal Advisor, and primary underwriter for each available assignment together with a rank ordered listing of the next three finalists. The ED may replace the firm ranked first with either the second or third ranked firm on the CFO's list when formulating their recommendation to the Board;

Blackout Periods Imposed

Communication about an RFP or the selection process with members of a Municipal Advisor, underwriting proposal review committee, Water Authority employees, or elected officials of the Water Authority by any employee or representative of an underwriting team under consideration for selection is explicitly prohibited from the date of publication of such RFP until recommendation of award by the Board. Failure to comply with this requirement shall result in the applicant's disqualification.

Selection Criteria

In order of priority, criteria to be used in the appointment of qualified Municipal Advisor and underwriters shall include, but are not limited to:

- Demonstrated ability of the firm to structure an issue of debt utilizing the contemplated credit structure(s) efficiently and effectively
- Experience of assigned personnel
- Approach to proposed scope of work, including quality and applicability of proposed financing ideas
- Demonstrated capability to sell bonds to institutional and retail investors, especially to investors located in New Mexico (underwriters only)
- Demonstrated commitment and capacity of the underwriting firm or firms to put its firm's capital at risk, especially as evidenced by having successfully bid on prior competitive sales of Water Authority debt or by having underwritten the Water Authority's debt in adverse markets (underwriting firms only)
- Demonstrated secondary market support for debt which the underwriting firm or firms are retained, especially for the specific credit which is to be pledged (underwriting firms only)
- Fees and expenses
- Weights for the above criteria may vary and shall reflect the unique requirements of the proposed engagement
- Other factors. Other factors are defined as those factors that have not been included as technical selection criteria but are factors that in some instances must be considered in making the final selection. Their nature will not permit a meaningful numerical predetermination of relative significance of impact on the selection decision, and therefore, they are not numerically scored.

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Failure to provide complete disclosure for each of the offeror firms to the following questions or misrepresentation shall result in disqualification. The provider must certify that, to the best of its knowledge, the information submitted in response to this section is accurate, complete and not misleading.

Conflicts of Interest

Each offeror shall list all potential conflicts of interest of which the firms have knowledge of which may arise with respect to the representation of the Water Authority on this proposal, including, without limitation, any circumstances which would create the appearance of a conflict of interest.

Each offeror shall disclose any political contribution, gift or fund-raising, either direct or indirect, valued in excess of \$250.00 (singularly or in the aggregate) made by the firms or individuals at the firms to any elected official or person seeking office in the state of New Mexico in the last five (5) years; any current, proposed or past financial or business relationship or arrangement between a firm or any individual at the firm and any Board member, officer or employee of the Water Authority; and any other actual or potential conflict which may give rise to a claim of conflict of interest.

Each offeror shall provide acknowledgement that it has complied with all Municipal Securities Rulemaking Board ("MSRB") rule G-37 filings and shall document specific breaches of the Rule for which sanctions were imposed. The offers shall only be required to provide any supplementary information requested by the Water Authority.

Regulatory Action

Each offeror shall disclose any judicial or administrative proceedings of public record that have been filed against the firm during the five (5) years preceding the date of the proposal that concerned the offeror participation in a securities transaction.

Each offeror shall list and describe the current disposition or status of any litigation or formal or informal action taken by any state or federal securities commission, the MSRB, or any other regulatory body against the firm (or taken against any individuals now at the firm who will work under this contract) within the last five (5) years.

Each offeror shall disclose employment practices and describe the current disposition or status of any litigation or formal or informal action taken by the Equal Employment Opportunity Commission or any other regulatory body against the firm within the last five (5) years with respect to its employment practices.

X. INVESTOR AND RATING AGENCY COMMUNICATIONS

Disclosure

It is the Water Authority's policy to provide primary and secondary disclosure to all its bond investors on a periodic basis as required by the SEC Disclosure Rule 15c2-12 and SEC Antifraud Provision Rule 10b-5 as stated below:

SEC Disclosure Rule 15c2-12 requires that issuers of municipal securities undertake in a written agreement or contract for the benefit of holders of such securities to provide certain annual financial information and the notice of occurrence of certain events to the MSRB.

SEC Antifraud Provisions Rule 10b-5 requires that disclosure made by issuers of municipal securities be both accurate and complete in all material respects at the time the disclosure is provided.

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MSRB Rule G-17 requires, in the conduct of municipal securities or municipal advisory activities, each broker, dealer, municipal securities dealer, and municipal advisor shall deal fairly with all persons and shall not engage in any deceptive, dishonest or unfair practice.

MSRB Rule G-23 establishes ethical standards and disclosure requirements for brokers, dealers, municipal securities dealers who act as Municipal Advisors to issuers with respect to the issuance of municipal securities. Firms are prohibited from engaging in Underwriting and Remarketing activities with issuers of municipal securities with whom they maintain a Municipal Advisory relationship, as defined by MSRB Rule G-23.

The Water Authority acknowledges the responsibilities of the underwriting community and shall assist underwriters in their efforts to comply with SEC Disclosure Rule 15c2-12 and, SEC Antifraud Rule 10b-5.

Official Statement Filing - Primary Disclosure

The Water Authority shall file its official statements with the MSRB.

Annual Comprehensive Financial Report (ACFR)

The Water Authority shall provide its annual comprehensive financial report and shall disseminate other information that it deems pertinent to the market in a timely manner and in accordance with the Water Authority's continuing disclosure undertakings. The Water Authority shall file its ACFR with the Electronic Municipal Market Access system (EMMA) on a timely basis as required.

XI. SECURITIES DISCLOSURE POLICIES AND PRACTICES OF ADMINISTRATION OFFICIALS

In connection with the issuance of certain bonds, notes, and other municipal securities, the Water Authority is required to prepare and disseminate certain disclosure information to comply with Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, including a requirement for continuing disclosure of annual financial information and notices of certain events. This policy shall centralize the information dissemination process, establish appropriate controls on disclosure statements made by the Water Authority and enable the Water Authority and its enterprises to comply with Rule 15c2-12, to assure the Water Authority's access to the capital markets as a source of funds for necessary and useful public undertakings of the Water Authority. This policy is not intended in any way to limit any person's access to public records or information, nor to infringe upon the normal political process, in particular the right of any elected official of the Water Authority to review, discuss, release, comment upon or criticize any information.

Policy

The CFO shall be responsible for reviewing and recommending, prior to release to the public, all official statements and disclosure statements relating to municipal securities as to which the Water Authority is the issuer or an obligated person for purposes of Rule 15c2-12.

No official statement relating to any municipal securities as to which the Water Authority is the issuer or an obligated person for purposes of Rule 15c2-12 shall be issued or released to the public until and unless approved in writing by the ED.

No disclosure statement concerning municipal securities as to which the Water Authority is the issuer or an obligated person for purposes of Rule 15c2-12 shall be made, issued or released to the public by any employee, agent or official of the Water Authority until and unless such disclosure statement and the release thereof shall be approved in writing by the ED.

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No undertaking relating to municipal securities as to which the Water Authority is the issuer or an obligated person for purposes of Rule 15c2-12 shall be binding upon the Water Authority without the written approval of the ED.

No disclosure statement, official statement or undertaking in respect of any municipal securities as to which the Water Authority is the issuer or an obligated person for purposes of Rule 15c2-12 that is issued or released to the public by any employee, agent or official of the Water Authority without the express written approval of the ED as required by this policy shall be deemed to be a statement or undertaking by or on behalf of the Water Authority.

Action

Unless otherwise required by law, prior to releasing to the public any official statement or disclosure statement intended to be made public, all non-elected employees, agents and officials of the Water Authority shall report to and file with the CFO any such proposed disclosure statement, together with such additional information requested by the CFO, including certificates as to the accuracy of such disclosure statement, and each such employee, agent and official of the Water Authority shall consult with the CFO concerning such proposed official statement or disclosure statement.

Published disclosure statements

All information and documentation requested by the CFO that may be required to support the preparation of a disclosure statement, official statement or undertaking shall be provided by the appropriate Water Authority departments, as identified by the CFO, on a timely, complete, and accurate basis.

All disclosure statements, official statements and undertakings shall be compiled by Disclosure Counsel whom, together with the CFO and other counsel who are parties to the documentation. They shall be afforded, by the originating department, such unobstructed access to documentation and information, as they may deem appropriate.

Rating agency, investor and media communications

All communications with rating agency personnel, including responses to their periodic questions, shall be managed through and approved by the ED.

In order to ensure uniform market access to information that may be relevant to the valuation of the Water Authority's securities, the release of any information, whether in response to an ad hoc question or self-initiated, that may be potentially relied upon by the market to impute the credit worthiness of the Water Authority's debt, whether intended for that purpose or not, shall be reviewed by the CFO and disclosure counsel to determine whether or not:

- The information is already in the public domain;
- The information is a disclosure event as defined by the SEC, requiring prompt notification of the MSRB for EMMA filing; and
- The information is full, accurate, complete and not misleading.



POST ISSUANCE COMPLIANCE POLICY

As of May 8, 2024



Albuquerque Bernalillo County Water Utility Authority

Post-Issuance Tax and Securities Compliance Guidelines for Bonds

Overview

This guide lists the post-issuance tax compliance controls and procedures related to financial obligations (Post-Issuance Compliance Guidelines) maintained by Albuquerque Bernalillo County Water Utility Authority (the Water Authority). Post-Issuance Compliance Guidelines are intended to ensure that the Water Authority complies, and is able to demonstrate such compliance with applicable legal provisions including certain recordkeeping and reporting requirements in order (a) to maintain the tax status of the bonds for federal income tax purposes under the Internal Revenue Code and the Treasury Regulations, (b) to ensure that the bonds continue to comply with the securities laws contained in Rule 15c2-12 of the U.S. Securities and Exchange Commission (SEC). References herein to “Tax-exempt bonds” include the issuance of tax exempt and tax-advantaged bonds, loans and other similar debt instruments that may be issued by the Water Authority. This guideline is designed to formalize compliance procedures so that the Water Authority utilizes the proceeds of all issues of bonds in accordance with applicable federal tax requirements and complies with all other applicable federal requirements with respect to bond issues.

A list of currently outstanding bond issues, inclusive of taxable and tax advantaged issues when applicable is set forth in the most recent Annual Information Statement of the Water Authority. Such list will be updated from time to time as new bond issues arise or existing bond issues cease to be outstanding. Certain additional transactional covenants and recurring reporting and similar obligations of the Water Authority relevant to the Water Authority’s current bonds and leases are set forth in the documents governing the Water Authority’s outstanding bonds. The Water Authority will monitor compliance with such covenants as required by such governing documents.

I. ISSUANCE OF BONDS

Financing with tax-exempt bonds is determined by the Water Authority’s Board with consultation from the following:

- Water Authority’s Finance Staff
- Municipal Advisor
- Bond Counsel and Tax Counsel
- Disclosure Counsel

Bond Counsel

The Water Authority will retain a firm of nationally recognized bond counsel (Bond Counsel) to deliver a legal opinion upon issuance of Bonds. The Water Authority will consult with Bond Counsel, other legal counsel and advisors throughout the bond financing process as well as during the post-issuance term of the bonds.

External Counsel Advisors

The Water Authority maintains a relationship with a firm to serve as Municipal Advisor (Municipal Advisor) in connection with the issuance of tax-exempt bond financing to advise with respect to outstanding tax-exempt bonds and for future capital projects.

Tax Certificate

The federal tax requirements relating to each issue of bonds will be set forth in a related Tax Certificate, which will be included in the closing transcript for each issue. The certifications, representations, expectations and covenants set forth in the Tax Certificate relate primarily to the restriction on use of the bond-financed facilities by persons or entities other than the Water Authority, changes in use of bond-financed assets, restrictions applicable to the investment of bond proceeds and other moneys relating to the bonds, arbitrage rebate requirements, and economic life of the bond-financed assets. Bond Counsel will rely in part on the Tax Certificate in rendering its opinion that interest on the bonds is excluded from gross income for federal income tax purposes.

IRS Form 8038-G

Bond Counsel, with assistance from the Water Authority and other professionals associated with each bond issuance, shall prepare an IRS Form 8038-G. The Chief Financial Officer (CFO) or designee will review and sign at closing and will confirm that the IRS Form 8038-G with respect to all bond issues is timely filed by Bond Counsel, including any required schedules and attachments. The Form 8038-G filed with the IRS, together with an acknowledgement copy or IRS Notice CP152, will be included as part of the closing transcript for each bond issue.

Bond Financing Transcript

The transcript associated with each bond financing, will include copies of the executed Opinion of Bond Counsel, Tax Certificate, and IRS Form 8038-G. The CFO will keep a copy of the transcript in accordance with the provisions of Section V-Records Retention, of these Post-Issuance Compliance Guidelines.

II. APPLICATION OF BOND PROCEEDS

The CFO will monitor and report to the Executive Director (ED) the use of bond proceeds. Bond proceeds will be used for the purpose set forth in the respective Tax Certificate.

Reimbursement / Official Intent

If it is anticipated that a capital expenditure will eventually be reimbursed with proceeds of a bond issue, at the time of expenditure, or in any event, not later than 60 days after payment of the original expenditure, the Water Authority will adopt an official intent that complies with Section 1.150-2(e) of the Treasury Regulations. Further, the actual reimbursement allocation must be made not later than 18 months after the later of either the date the original expenditure is paid; or the date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid.

Assignment of Responsibility and Establishment of Calendar

On the date of issuance of any bond, the CFO will identify for the bond issue:

- The funds and/or accounts into which bond proceeds are deposited
- The types of expenditures expected to be made with the bond proceeds deposited into those funds and/or accounts and any expenditures prohibited from being made from such funds or accounts.
- The dates by which all bond proceeds must be spent or become subject to arbitrage yield limitations (Expenditure Deadlines) and all interim dates by which funds and/or accounts must be checked to ensure compliance with the applicable Expenditure Deadlines.

Timely Expenditure of Bond Proceeds

At the time of issuance of any bond issue, the Water Authority must reasonably expect to spend at least 85% of all proceeds expected to be used to finance improvements, which proceeds would exclude proceeds in a reasonably required reserve fund, (Net Sale Proceeds) within three (3) years of issuance. In addition, the Water Authority must have incurred or expect to incur within six months after issuance expenditures or a binding obligation to a third party of not less than 5% of such amount of proceeds and must expect to complete the project and allocate the proceeds to costs with due diligence. Satisfaction of these requirements allows project-related bond proceeds to be invested at an unrestricted yield for three (3) years. The CFO will review the anticipated project construction and funding timeline. The Water Authority's finance staff will monitor the appropriate capital project accounts and ensure that bond proceeds are spent in the time period required under federal tax law. If the CFO discovers that an Expenditure Deadline has not been met, said person will consult with Bond Counsel to determine the appropriate course of action with respect to such unspent bond proceeds. Special action may need to be taken with such unspent bond proceeds, including yield restriction, or redemption of bonds.

Final Allocation

Expenditures will be summarized in a final allocation of bond proceeds (Final Allocation) in a manner consistent with allocations made to determine compliance with arbitrage yield restriction and rebate requirements. The Final Allocation will memorialize the assets or portion thereof financed with bond proceeds and the assets or portion thereof financed with other funds.

The Final Allocation must occur not later than 18 months after the later of the date the expenditure is paid or the date the project to which the expenditure relates is completed and actually operating at substantially the level for which it was designed. This allocation must be made in any event not later than 60 days after the end of the fifth year after issuance of the bonds or 60 days after none of the bonds are outstanding, if earlier. The CFO will be responsible for ensuring that such Final Allocation is made for the bonds.

Modification of Bond Terms

The CFO is responsible for identifying any events resulting in (a) changes or modifications of any of the contractual terms of bonds (including, without limitation, modifications of the bond interest rates, maturity dates or payment schedule), (b) changes to any credit enhancement of or liquidity facility for bonds, (c) changes in the nature of the security for the bonds, (d) purchase of bonds by the Water Authority or any entities related to the Water Authority or (e) any deferral or forbearance of default of payment of principal and interest due on bonds. Such actions may result in a deemed reissuance of the bonds for federal income tax purposes and could require protective actions to maintain the tax status of the bonds. Bond Counsel should be consulted prior to taking any of these actions.

Use of Bond Proceeds

Bond proceeds generally should be used for long-term capital projects and not more than 5% of the proceeds should be loaned to one or more Non-governmental Persons. Bond proceeds (including earnings on original sale proceeds), other than proceeds deposited in a reasonably required reserve fund or used to pay costs of issuance, should be spent on capital expenditures. For this purpose, capital expenditures generally mean costs to acquire, construct, or improve property (land, buildings and equipment), or to adapt the property to a new or different use. The property must have a useful life longer than one (1) year. Capital expenditures include design and planning costs related to the project, and include architectural, engineering, surveying, soil testing, environmental, and other similar costs incurred in the process of acquiring, constructing, improving or adapting the property. Capital expenditures do not include operating expenses of the projects or incidental or routine repair or maintenance of the project, even if the repair or maintenance will have a useful life longer than one (1) year.

Segregation of Bond Proceeds

Bond proceeds shall be maintained in separate accounts or subaccounts to ensure accurate calculations and accounting as required by the Internal Revenue Code. The Water Authority shall establish separate accounts or subaccounts as provided in the related Bond Resolution.

III. USE OF BOND FINANCED ASSETS

The Water Authority reviews, and will continue to review, any third-party uses of its Bond-financed facilities (Projects) for private business use. In addition, the Water Authority will continue to consult regularly with Bond Counsel and Municipal Advisor regarding applicable federal tax limitations imposed on the Water Authority's outstanding tax-exempt obligations and whether arrangements with third parties give rise to private business use of the Projects. The CFO will maintain records identifying the assets or portion of assets that are financed with proceeds of a Bond issue, the uses and the users (including terms of use and type of use). Such records may be kept in any combination of paper or electronic form. In the event the use of Bond proceeds or the Project is different from the covenants and representations in the Tax Certificate, the CFO shall be notified at that time and Bond Counsel will be promptly notified and consulted to ensure that there is no adverse effect on the tax-exempt status of the Bond issue.

Ownership and Use of Project

For the life of the Bond issue, the Project must be owned and operated by the Water Authority (or another state or local governmental entity). At all times while the Bond issue is outstanding, no more than 10% (or \$15,000,000, if less) of the Bond proceeds or the Project may be used, directly or indirectly, in a trade or business carried on by a person other than a state or local governmental unit (Private Use). Generally, Private Use consists of any contract or other arrangement, including leases, management contracts, operating agreements, guarantee contracts, take or pay contracts, output contracts or research contracts, which provides for use by a person who is not a state or local government on a basis different than the general public. Use may include: (i) owning, leasing, providing services, operating, or managing the Project; (ii) acquiring the output (or throughput) of the Project; or (iii) acquiring or using technology developed at the Project. The Project may be used by any person or entity, including any person or entity carrying on any trade or business, if such use constitutes "General Public Use". General Public Use is any arrangement providing for use that is available to the general public at either no charge or on the basis of rates that are generally applicable and uniformly applied. Water Authority staff will monitor all leases and subleases on property that has been financed with tax-exempt long-term obligations. Prior to entering into any lease or sublease on a bond-financed property, Water Authority staff will consult with Bond Counsel to determine the impact, if any, such lease or sublease would have on the tax status of outstanding tax-exempt obligations.

The Water Authority will use long-term obligations to finance those projects that are intended to be owned and operated by the Water Authority for the entire term of the long-term financing. Prior to selling or otherwise disposing of any tax-exempt debt financed project for which debt remains outstanding, the Water Authority will consult with Bond Counsel to determine the impact, if any, such sale or disposition would have on the tax status of outstanding tax-exempt debt.

Management or Operating Agreements

Any management, operation or service contracts whereby a non-exempt entity is using Bond-financed assets must relate to portions of the Project that fit within the above-mentioned 10% allowable Private Use or the contracts must meet the IRS safe harbor for management contracts, Rev. Proc. 2017-13. Any replacements of or changes to such contracts should be reviewed by Bond Counsel. The Water Authority shall contact Bond Counsel if there may be a lease, sale, disposition or other change in use of Bond-financed assets. The CFO will

maintain records on contracts related with Water Authority real estate on the Facility Management System. In general, management or service contracts related to Projects must provide for reasonable compensation for services rendered with no compensation based on a share of net profits from operations.

The CFO will inform the persons responsible for the management and operation of the Bond-financed assets (“Asset Managers”) of the Private Business Use restrictions relating to the Bond-financed assets. The CFO will require Asset Managers to submit any management contract with respect to any portion of Bond-financed Assets for his or her review prior to entering into such management contract. The CFO will meet at least annually with Asset Managers to identify and discuss any existing or planned use of Bond-financed assets that may give rise to Private Business Use.

Useful Life Limitation

The weighted average maturity of the Bond issue cannot exceed 120% of the weighted average economic life of the Bond-financed assets. In other words, the weighted average economic life of the Project must be at least approximately 83.5% of the weighted average maturity of the Bond issue. The useful life of an object is confirmed at the time of issuance. Also, each asset of the Water Authority has a useful life that is recorded in the Water Authority enterprise resource program.

IV. INVESTMENT RESTRICTIONS, ARBITRAGE LIABILITY

Investment Restrictions

Investment restrictions relating to Bond proceeds and other moneys relating to the Bonds are set forth in the Tax Certificate. The Water Authority’s finance staff will monitor the investment of Bond proceeds to ensure compliance with yield restriction rules. The Water Authority’s CFO is responsible for directing the investment of proceeds of Bonds or other funds related to the Water Authority’s Bonds and will provide periodic updates on the investments of Bond proceeds to the Water Authority investment committee.

Arbitrage Yield Calculations and Rebate

Investment earnings on Bond proceeds will be tracked and monitored to comply with applicable yield restrictions and/or rebate requirements. The Water Authority is responsible for calculating (or causing the calculation of) rebate liability for each Bond issue, and for making any required rebate payments. Any funds of the Water Authority set aside or otherwise pledged or earmarked to pay debt service on Bonds should be analyzed to assure compliance with the tax law rules on arbitrage, invested sinking funds and pledged funds (including gifts or donations linked to the Bond-financed assets).

Arbitrage Rebate Consultant

The Water Authority will retain an arbitrage rebate consultant, to perform rebate calculations as required in the Tax Certificate of each Bond financing. The CFO is responsible for providing the arbitrage rebate consultant with requested documents and information on a prompt basis, reviewing applicable rebate reports and other calculations and generally interacting with the arbitrage rebate consultant to ensure the timely preparation of rebate reports and payment of any rebate liability.

Arbitrage Rebate Payments

The reports and calculations provided by the arbitrage rebate consultant will confirm compliance with rebate requirements, which include the Water Authority to make rebate payments, if any rebate liability exists, no later than the fifth (5th) anniversary date and each fifth (5th) anniversary date thereafter through the final maturity or redemption date of a Bond issue. A final rebate payment must be made within sixty (60) days of the final

maturity or redemption date of a Bond issue. The CFO or their designee will confer and consult with the arbitrage rebate consultant to determine whether any rebate spending exception may be met. Rebate spending exceptions are available for periods of 6 months, 18 months or 2 years. The Water Authority will review the Tax Certificate and/or consult with the arbitrage rebate consultant or Bond Counsel for more details regarding the rebate spending exceptions. Copies of all arbitrage rebate reports, related return filings with the IRS (i.e., IRS Form 8038-T), copies of cancelled checks with respect to any rebate payments, and information statements must be retained as described in Section V below. The Water Authority's finance staff will follow the procedures set forth in the Tax Certificate entered into with respect to any Bond issue that relate to compliance with the rebate requirements.

V. RECORD RETENTION

The CFO will maintain, or cause to be maintained, copies of all relevant documents and records sufficient to support that the tax requirements relating to a Bond issue have been satisfied will be maintained by the Water Authority for the later of: (i) the term of a Bond issue, or (ii) the term of any subsequent issue that refunds the original Bond issue, plus three (3) years, including the following documents and records:

- Bond closing transcript
- All records of investments, arbitrage reports, returns filed with the IRS and underlying documents
- Construction contracts, purchase orders, invoices and payment records
- Documents relating to costs reimbursed with Bond proceeds
- All contracts and arrangements involving Private Use of the Bond-financed property
- All reports relating to the allocation of Bond proceeds and Private Use of Bond-financed property
- Itemization of property financed with Bond proceeds
- Subscription information related to United States Treasury Securities – State and Local Government Series (SLGs)
- Solicitation and all responses received from the bidding of any investment contracts and Government Obligations

VI. ANNUAL REVIEW OF POST ISSUANCE COMPLIANCE CONTROLS

The Water Authority will conduct periodic reviews of compliance with these Post-Issuance Compliance Guidelines to determine whether any violations have occurred so that such violations can be remedied through the “remedial action” regulations (Treas. Reg. Section 1.141-12) or the Voluntary Closing Agreement Program (VCAP) described in IRS Notice 2008-31 (or successor guidance). If any changes to the terms or provisions of a Bond issue are contemplated, the Water Authority will consult Bond Counsel. The Water Authority recognizes and acknowledges that such modifications could result in a “reissuance” for federal tax purposes (i.e., a deemed refunding) of the Bond issue and thereby jeopardize the tax-exempt status of interest on the Bonds after the modifications. At least annually, the CFO will conduct an evaluation of the effectiveness of the design and operation of the Water Authority's Post-Issuance Compliance Guidelines with the assistance of the Water Authority's Municipal Advisor as needed and internal finance staff of the Water Authority as appropriate, to the extent determined by any of them to be necessary or appropriate.

Annual Review and Training

The CFO will coordinate an annual review process to investigate, monitor, assure and document compliance with the tax and continuing disclosure requirements described in these guidelines. CFO or other staff responsible for monitoring post-issuance tax compliance matters will attend regular training or educational forums necessary to stay up to date on tax-exempt bond compliance requirements.

Continuing Disclosure Compliance Requirements

In each year that the Water Authority has bonds or taxable obligations outstanding subject to SEC Rule 15c2-12, it must provide updated information or its designee, must file or cause to be filed its Annual Comprehensive Financial Report (ACFR) with the Municipal Securities Rulemaking Board (MSRB) through its Electronic Municipal Market Access system for municipal securities disclosure (EMMA). Aforementioned updated information must be provided by the Water Authority or designee by the date specified in each bond's official statement.

In preparing its ACFR, the Water Authority should review each of its outstanding continuing disclosure undertakings (if any) (collectively, the Undertakings) to determine the quantitative financial information and operating data which, together with the audited financial statements, will constitute the content of the ACFR. Certain quarterly reports may also need to be filed with the MSRB through EMMA.

The Water Authority, through its Disclosure Counsel, will also continuously monitor other events relevant to the bonds and provide proper notice to the MSRB through EMMA as may be required by the Undertakings. A list of relevant events is included on Exhibit A hereto, which may be amended from time to time to reflect updates in the law.

The Water Authority will coordinate any submissions with the MSRB through EMMA with Disclosure Counsel or other legal counsel.

EXHIBIT A
TO POST-ISSUANCE COMPLIANCE GUIDELINES
SEC RULE 15c2-12 DISCLOSURE REQUIREMENTS

For its Undertakings with respect to bonds or other obligations issued before December 1, 2010, the Water Authority must monitor the following events and provide notice of such events to the MSRB through EMMA as required by the applicable Undertaking:

1. Principal and interest payment delinquencies
2. Non-payment related defaults
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions or events affecting the tax-exempt status of the security
7. Modifications to the rights of security holders
8. Bond calls
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities
11. Rating changes.

For its Undertakings with respect to bonds or other obligations issued on or after December 1, 2010 and before February 27, 2019, the Water Authority must monitor the following events and provide notice of such events to the MSRB through EMMA as required by the applicable Undertaking, but not later than 10 business days after occurrence:

1. Principal and interest payment delinquencies
2. Non-payment related defaults, if material
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security
7. Modifications to rights of bondholders, if material
8. Bond calls, if material, and tender offers
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities, if material
11. Rating changes
12. Bankruptcy, insolvency, receivership or similar event of the Water Authority
13. The consummation of a merger, consolidation or acquisition involving the Water Authority or the sale of all or substantially all of the assets of the Water Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material/applicable.

For its Undertakings with respect to bonds or other obligations issued on or after February 27, 2019, the Water Authority must monitor the following events and provide notice of such events to the MSRB through EMMA as required by the applicable Undertaking, but not later than 10 business days after occurrence:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
7. Modifications to rights of bondholders, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution or sale of property securing repayment of the securities, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Water Authority;
13. The consummation of a merger, consolidation or acquisition involving the Water Authority or the sale of all or substantially all of the assets of the ABCWUA, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material/applicable;
15. Incurrence of a financial obligation of the Water Authority, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Water Authority, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Water Authority, any of which reflect financial difficulties.

Senior staff (i.e., ED, CFO, Chief Operations Officer, General Counsel, or other executive positions within the Water Authority), as applicable, will report to the CFO the execution by the Water Authority of any agreement or other obligation that might constitute a “financial obligation” for purposes of Rule 15c2-12 and which is entered into after February 27, 2019. Amendments to existing Water Authority agreements or obligations with “financial obligation” that relate to covenants, events of default, remedies, priority rights, or other similar terms should be reported to the CFO as well as soon as senior staff is placed on written notice by the Water Authority staff, consultants, or external parties of such event or receives a written notice of such amendment requests. Notice to the CFO is necessary so that the CFO can determine, with the assistance of Disclosure Counsel, whether such agreement or other obligation constitutes a material “financial obligation” for purposes of Rule 15c2-12. If such agreement or other obligation is determined to be a material “financial obligation” or a material amendment to a “financial obligation” described above, notice thereof would be required to be filed on EMMA within 10 business days of execution or incurrence. The types of agreements or other obligations which could constitute “financial obligations” and which could need to be reported on EMMA are discussed in the memorandum from disclosure counsel as stated below.

An amendment to Securities and Exchange Commission (SEC) Rule 15c2-12 (the Rule) became effective as to underwriters of publicly offered municipal securities on February 27, 2019 (the Effective Date). As a result, with respect to any debt offered publicly by the Water Authority after the Effective Date to which the Rule applies, the Water Authority will be required to enter into a continuing disclosure undertaking pursuant to which it will agree to provide notice on the EMMA electronic reporting system of the incurrence of any “financial obligation” if material and will be obligated to disclose default on and certain other information with respect to any “financial obligation” regardless of when the financial obligation was incurred.

The Rule provides a general definition of a “financial obligation.” While the impetus for the proposed changes to the Rule was a perception by the SEC and others that municipal issuers were increasingly entering into bank or other private placement debt, the final amendment to the Rule defines “financial obligation” more broadly to include “a debt obligation, derivative instrument...or a guarantee of either a debt obligation or a derivative instrument.”

To date the SEC has provided limited guidance on the specific application of the definition of “financial obligation.” The SEC release accompanying the final amendment suggests a key concept in that a “financial obligation” involves the borrowing of money. In public comments representatives of the SEC have declined to provide a definition of a “guarantee” or a “debt” but did indicate that the SEC will not necessarily look to state law definitions of a “guarantee” or “debt.”

The Water Authority will need to carefully monitor agreements or other obligations entered into by the Water Authority after the Effective Date, and any modifications to such agreements or other obligations, to determine whether they constitute “financial obligations” under the Rule and, if material, would need to be disclosed on EMMA within 10 business days of execution or incurrence.

In addition, if the Water Authority receives a notice of default or an event of default or of an acceleration, termination event, modifications of or other similar event on any agreement or other obligation after the Effective Date, the Water Authority will need to determine whether such agreement or obligation constitutes a financial obligation (regardless of when originally incurred) and whether such default or other event reflects financial difficulty (i.e., reduction in overall liquidity, creditworthiness, or debt owner’s rights).

Types of agreement or other obligations that are likely to be “financial obligations” under the Rule include:

1. Bank loans or other obligations which are privately placed;
2. State or federal loans;
3. Commercial paper or other short-term indebtedness for which no offering document has been filed on EMMA;
4. Letters of credit, surety policies, or other credit enhancement with respect to the Water Authority’s publicly offered debt;
5. Letters of credit, including letters of credit that are provided to third parties to secure the Water Authority’s obligation to pay or perform (an example of this is a standby letter of credit delivered to secure the Water Authority’s obligations for performance under a mitigation agreement);
6. Capital leases for property, facilities, fleet, or equipment; and Agreements that guarantee the payment or performance obligations of a third party (regardless of whether the agreements constitute guarantees under New Mexico law).

Types of agreements that could be a “financial obligation” under the Rule include:

1. Payment agreements that obligate the Water Authority to pay a share of another public agency’s debt service; and

2. Service contracts with a public agency or a private party pursuant to which the Water Authority is obligated to pay a share of such public agency or private party's debt service obligation (for example, certain types of P3 arrangements).

Types of agreements that may be a "financial obligation" subject to the Rule include any agreement the payments under which are not characterized as an operation and maintenance expenses for accounting purposes if such agreement could be characterized as the borrowing of money.

The above list is based on disclosure counsel advice as of February 2024. The CFO will continue to work with Disclosure Counsel to refine the definition of financial obligation going forward based on future SEC guidance.