



## RULES AND REGULATIONS

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THESE RULES AND REGULATIONS of the Blue Ridge Domestic Water Improvement District are effective as of the *19<sup>th</sup>* day of *March, 2022*, as approved and authorized by the Board of Directors in Resolution No. 4-16-2022 dated *April 16, 2022*.

BLUE RIDGE DOMESTIC WATER IMPROVEMENT DISTRICT

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## Article I. DEFINITIONS

Section 1 - Defined Terms. In these Rules, unless the context clearly requires otherwise:

- a) "Applicant" means a Property Owner who applies for water service from the District, to be delivered to real property within the District owned by the Property Owner, either through an existing connection and District water meter in the case of a transfer, or through a new connection and water meter.
- b) "Board" means the Board of Directors of the District. "Board Chairperson" means the Chairperson of the Board of Directors. "Board Member" means a member of the Board of Directors.
- c) "Customer" means an individual Entity, or Property Owner that is receiving water service from the District through one or more existing connections and District water meters.
- d) "County" means Coconino County, Arizona.
- e) "District" means the Blue Ridge Domestic Water Improvement District, or BRDWID, as its legal boundaries may exist from time to time.
- f) "District Manager", "District Management", or "District Employee" means those individuals employed directly by the BRDWID or its' contracted agents.
- g) "Entity" means a corporation, limited or general partnership, limited liability company, trust, or any other form of association or legal entity.
- h) "Officer" is defined as one of the following positions: Chairperson, Vice-Chairperson, Secretary, or Treasurer.
- i) "Open Meeting Law" means those laws or regulations enacted by the State of Arizona or Coconino County relating to transparency in the conducting of public business.
- j) "Plans" means the detailed construction plans, specifications and cost estimates for a water main extension and/or re-configuration of the District's systems, equipment, and/or infrastructure that would be reasonably required to provide domestic water service to an Applicant.
- k) "Property Owner" means each of the individuals and entities that are the owners (as shown on the records of the County) of any real property located within the boundaries of the District.
- l) "Qualified Electors" means any natural person who is a qualified elector of this state and who is a real property owner within the District is eligible to vote in a district election without regard to that person's residency and shall be deemed a qualified elector of the district for purposes of service on the board of directors (per A.R.S. 48-1012 Section G.).
- m) "Rate Schedule" means the Rate and Fee Schedule of the District adopted by the Board, as it may be amended from time to time.
- n) "Rules" means these Rules and Regulations, as they may be amended from time to time.
- o) "State" means the State of Arizona.

## **Article II. BOARD PROCEDURES**

### Section 1 - Duty of Board:

- 1.1. It shall be the duty of the Board to control and manage all matters pertaining to the water system of the District in conformity with all applicable federal, state, county and local laws and regulations of this resolution, along with any other resolutions of the District, Coconino County, Arizona. The Board shall have general supervision over the District's water system, all real and personal property connected thereto; as well as the employees thereof. Board members shall conduct themselves with utmost integrity and are subject to Arizona Revised Statutes (A.R.S.) if any complaints are filed with the County or State.

### Section 2 - Board of Directors Structure and Membership:

- 2.1. Membership. The Board of Directors, consisting of five members, shall hold all authority as provided by the Arizona Revised Statutes (A.R.S.) to operate the District for the benefit of the District. Members of the Board shall be a qualified elector of the District.
- 2.2. Term of Office. Beyond the initial terms of office, all terms of office for the elected Board Members shall begin on the first of January of each calendar year following the election of Board members and ending with the election and qualification of a replacement Board Member, four years later.
- 2.3. Elections. After the initial appointments to the Board of Directors by the Coconino County Board of Supervisors upon creation of the district, each Director shall be elected at the general election conducted by Coconino County on the first Tuesday after the first Monday in November of even numbered years.
- 2.4. Vacant Board Seats. If a vacancy occurs in the Board as prescribed in A.R.S. 48-1012, any Board Member resigning shall notify the District Clerk and Board Chairperson as well as the Coconino County Board of Supervisors as to the effective date of such resignation. When vacancies occur, the Board shall within 90 days, solicit letters of interest from potential replacement members who are qualified electors of the District. The remaining Board Members, as long as they number a majority of the five-person Board, shall ultimately select a replacement to fill the unexpired term of the departing member and shall notify the Board of Supervisors of that person's identity and availability to take the required oath of office.

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- 2.5. Conflicts of Interest. Board Members shall avoid conflicts of interest and the appearance of conflicts of interest. Upon Board membership, any likely, actual conflicts or the lack of conflicts shall be disclosed in writing so that Board Members (excluding the party in a possible conflict) can evaluate the situation. The conflict-of-interest statement shall be updated annually by each Board Member. For certain conflicts, the solution may be that the Board Member abstains from the discussion and the vote related to a possible conflict of interest situation. Board Members excluded from a decision because of a conflict of interest shall be included in the determination of a quorum being present for a meeting. It is not considered a conflict of interest if the benefit or detriment upon an individual Board Member is similar to that gained by or suffered by the public at large, such as, but not limited to setting rates, establishing or approving a budget, or developing and adopting rules and regulations. See Article II, Section 4.7 for guidelines on possible conflicts of interest and Article XII, Section 7 for additional information on conflicts of interest related to purchasing.

#### Section 3 - Meetings and Activities of the Board of Directors:

- 3.1. Meeting Location, Frequency, and Notices. Meetings shall be held in accordance with notice and agenda requirements and open meeting laws of the State of Arizona, normally held at locations located within the District. Regular periodic meetings shall be scheduled at least four times per year. Formal locations for public posting of notices of meetings shall be agreed upon yearly by the Board as required by the Arizona Revised Statutes.
- 3.2. Board Member Participation. To hold a meeting, a quorum (more than 50% of the five-member Board) shall be in attendance. A meeting at which a quorum was initially present may continue even though a Board Member must leave a meeting or abstain from participation during a scheduled meeting. Telephonic participation in meetings by the Board Members shall be allowed as long as all Board Members can communicate, and the public can hear. All Board Members shall be allowed to make and second motions fully, participate in all discussions of topics, and vote on all matters before the Board. Meetings may be temporarily adjourned to allow for breaks, executive sessions, movements to alternate locations, or for continuation of sessions that are running long; however, Board Members, not in attendance at the time of temporary adjournment, must be notified of the future continuance of the meeting if it is delayed for less than 24 hours. Temporary adjournments for over 24 hours require the scheduling of another posted meeting.
- 3.3. Meeting Protocol/Rules of Order. Roberts Rules of Order will be the standard procedure for all meetings. Any variation from Roberts Rules of Order must be approved at the specific meeting where it is proposed that the Board deviate from them and the majority of the Board must approve of the deviation. If a tie vote occurs, the vote of the Board Chairperson will count as the tiebreaker.
- 3.4. Meeting Agendas. The Secretary and Board Chairperson shall prepare agendas after seeking input from all Board Members.
- 3.5. District Member/Public Participation. Prior to Board consideration of items on a current agenda, the meeting agendas and procedures should normally contain some opportunity for limited public comment on such items, and this limitation procedure then becomes subject to a majority vote of the Board. For items brought up by the public, but not on the current agenda, a limited public comment period can be included, usually near the end of the meeting.

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- 3.6. Board Meeting Minutes. The Board Secretary shall record the minutes of each Board meeting, carefully noting the wording of motions and the votes thereon. Recording of the full details of all discussion is not required. Roll call votes other than simple "aye" and "nay" may be required at the request of any Board Member. Within three days after a meeting, the formal preliminary minutes should be completed under supervision of the Board Secretary, shall be posted in the officially agreed upon locations, and passed to all Board Members for review prior to final approval of any adjustments at the following public meetings. Upon final approval, the minutes shall be posted at the locations described herein.
- 3.7. Record Keeping. The District shall keep the following records, which shall be open to public inspection as prescribed by A.R.S. 39-121: Minutes to all meetings of the Board; all resolutions of the Board; accounts showing all monies received and disbursed; the annual budget of the District; as well as all other records that are required to be maintained bylaw.

### Section 4 - Officers of the Board/District Staffing:

- 4.1. Board Member Duties. Each Board Member shall be eligible for one of the following officer's positions and shall serve in that position at the pleasure of the full Board. A majority of the Board shall elect officers at a January meeting each calendar year to take office at that meeting. Normally, no Board Member should hold more than one officer position, except temporarily, until a replacement can be appointed by a majority of the remaining Board Members.
- 4.2. Chairperson Duties. The Chairperson shall preside over the Board meetings, provide leadership and direction for other Board Members, as well as be the official District spokesperson for the District. The Chairperson shall supervise the District Manager.
- 4.3. Vice-Chairperson Duties. The Vice-Chairperson shall serve as Chairperson in the absence of the Chairperson.
- 4.4. Secretary Duties. The Secretary shall maintain and file all documents and formal records other than those maintained by the District Manager or an administrative assistant. The Secretary is responsible for making sure that all meeting agendas and minutes are properly documented and published in accordance with State Statutes. The Board shall approve record storage locations.
- 4.5. Treasurer Duties. The Treasurer is the primary custodian of all funds and is responsible for presenting, at each regular Board meeting, a written report of cash balances, income, and expenses for the prior accounting periods. The Treasurer shall also present completed bank reconciliations and credit card activity report at the meeting. Disbursements of all funds shall be at the direction of the Treasurer, or his designee, or at the direction of the Chairperson in the Treasurer's absence.
- 4.6. Staffing Protocol. At the pleasure of the Board, additional staffing may be engaged to carry on the day-to-day activities of the District. The duties of additional staff shall be documented in writing and shall be approved by the Board.
- 4.7. Conflict of Interest. Anyone employed by the Board whether on a full-time, part-time or contract basis is considered an employee for the purposes of the conflict-of-interest laws. Anyone employed by the Board shall avoid conflicts of interest and appearances of conflicts-of-interest. Upon engagement by the Board, any likely or actual conflicts shall be disclosed in writing so that Board Members can evaluate the potential conflict.



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- 4.8. To determine whether a substantial interest exists, as defined by Arizona law, the Board Member or employee should ask the following questions:
- a. *Will the decision affect, either positively or negatively, an interest of the Board Member/employee or Board Member's/employee's relative?*
  - b. *Is the interest a pecuniary or proprietary interest?*
  - c. *Is the interest other than one statutorily designated as a remote interest?*

If the answer to each of these questions is "yes," then a substantial interest exists that requires disclosure and disqualification by the Board Member or employee. See Article XI, Section 7 for additional information on conflicts of interest related to purchasing.

- 4.9. Public Meetings. All meetings of the District and any standing, special or advisory committee or subcommittee of or appointed by the District shall be public meetings. The District, and any standing, special or advisory committee or subcommittee of or appointed by the District shall comply with all relevant Open Meeting Laws. All persons desiring to attend shall attend and listen to the deliberations and proceedings. All legal actions of the District shall occur during a public meeting unless otherwise accepted by Arizona law.
- 4.10. Serial Meetings. Serial meetings of the District are prohibited. A serial meeting is defined as a series of communications, each of which involves less than a quorum of the Board, and during which the Board Members discuss outside of a public meeting a topic that is or may be presented to the District for a decision. Such communications are prohibited, whether the communications occur through direct communication, personal intermediaries, employees, telephone, technological devices or other means.

### Section 5 - Committees:

- 5.1. General. From time to time, the Board may establish various committees to help carry out the purposes of the District. Each approved committee shall only have the authority to make recommendations to the Board rather than final decisions. At least one Board Member shall be assigned to participate on any committee formed. Citizen and outside advisors approved by the Board may be assigned to be members of established committees. All Board Members have the right to vote on committee matters, which must be carried out under the Open Meeting Law requirements and procedures as established for the full Board. Committees shall meet as frequently as necessary to carry out their purposes and assigned work. At a minimum, the Board may maintain an Audit Committee and/or Budget Committee.
- 5.2. Audit Committee. This committee shall periodically review the financial books and legally required records of the District and it shall file a report of its findings with the Board at least once per year. The District Treasurer and Secretary may not be a member of the Audit Committee, but shall be available to the committee for possible questions.
- 5.3. Budget Committee. This committee shall periodically study and recommend financial plans including sources of income, tax rates, along with expected month by month and capital expenditures for the current and next fiscal year.

### Section 6 - Outside Support:

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- 6.1. Outside Support Protocol. To carry out the District's work, the Board may from time-to-time engage various individuals, consultants, or firms to assist with District work.

### Section 7 - Financial Activities and Records:

- 7.1. Fiscal Year/Financial Reports/Annual Reviews. The Fiscal Year shall be from July 1<sup>st</sup> of a year through the following June 30<sup>th</sup> of the next year. Financial reports including interim balance sheets, income statements, and actual income and expenses compared to budgets shall be provided each quarter of the fiscal year. As directed by the Board, the financial statements of the District shall be compiled by a certified public accountant. As directed by the Board, auditor cover letters may be read at public meetings.
- 7.2. Budgets. Annually, a budget of projected income, expenses, and capital items shall be prepared and if property taxes are to be levied, the Budget shall be provided to Coconino County within the timelines they establish so that taxes are collected and remitted to the District.
- 7.3. Expenses of Board Members. Board Members shall be reimbursed for reasonable out-of-pocket expenses incurred in the normal course of District activities. Reimbursement claims shall be supported by appropriate documents normally acceptable in business situations and as allowed by the Internal Revenue Service ("IRS"). Expenses for travel costs outside Coconino County shall be allowed at the standard IRS rate.
- 7.4. Insurance. The District shall maintain a reasonable level of property and casualty insurance to protect owned assets and to protect the District against general liability claims. In addition, the Board Members and District Management shall be protected by an Officer and Directors Liability Policy with limits of at least \$1,000,000 per incident.
- 7.5. Limitations on Liability. The District shall not be responsible or liable for the actions or negligence of Customers or other third parties or forces beyond its control resulting in any interruption of service or for any damage or claim of damage attributable to any interruption or termination of service. As examples and without limiting the scope hereof, this limitation of liability shall include any cause against which the District could or could not have reasonably foreseen or made provision for, and for any service interruptions required to minimize potential water quality problems, water outages, or to make repairs necessary to minimize the possibility of damage to Customer or District equipment, or for the safety of operational personnel.
- 7.6. Donation Policy of the District. Only the BRDWID Board may authorize donations.
- 7.7. Credit card policy. District credit cards shall not be issued in the names of individual board members or employees. The District shall establish and maintain a credit card usage policy. The policy shall address guidelines for when purchases can be made with the credit card, any dollar limits, credit card access and security rules, who is authorized to use the card, who is authorized to change the terms of the credit card, the procedures for adding and removing authorized users, and the receipt requirements for purchases. Those members of the District staff that are granted access to the credit card shall sign a credit card usage agreement.

### Article III. DISTRICT BOUNDARY ALTERATIONS

#### Section 1 - Boundary Alteration Requirements

- 1.1. Per A.R.S. 48-1014, there are specific actions and timing requirements that BRDWID must adhere to in preparation for a hearing on a case to change district boundaries (Opting In or Out of BRDWID).

#### Section 2 - BRDWID Boundary Alterations Procedure – Amending the District Boundaries

##### 2.1. From A.R.S. 48-1014 Section C:

*"any property owner whose land is within a county that contains an improvement district and whose land is adjacent to the boundaries of the improvement district may request in writing that the governing body of the district amend the district boundaries to include that property owner's land. "*

##### 2.2. Procedure:

- a. Requester submits request for her/his property to be included in the district via email to the BRDWID Clerk.
- b. Request should include property location, address, development name, lot number, and Assessor's Parcel Number (APN from Coconino County Assessor).
- c. The request is reviewed and confirmed the requested property is adjacent to the district boundaries. If property is **not** adjacent to district boundaries, the requester will need to petition the BRDWID to alter the district boundaries.
- d. If requested property is adjacent to the district boundary, the request to amend the district boundary will be added to the agenda for the next regular BRDWID Board meeting to consider and possibly approve.
- e. If approved, the BRDWID Board will create a resolution reflecting the amended District boundary, get the document recorded with Coconino County, advise the Coconino County Assessor of the change, and prepare an invoice for costs associated with amending the district boundaries.
- f. An invoice with backup documents to validate the costs for the request to amend the district boundaries will be sent to the requester.

#### Section 3 - BRDWID Boundary Alterations Procedures – Petitioning for Additions or Alterations

##### 3.1. From A.R.S. 48-1014 Section B:

*"Additions to and alterations of the district shall be made as follows:*

1. *A petition addressed to the district governing board requesting the addition or alteration may be filed with the clerk . . ."*

##### 3.2. Petitioning Procedure:

- a. Petitioner(s) prepare and complete the petition documents required by statute (ARS 48-1014) to be considered for boundary alteration. Copies available at: <http://brdwid.org/opt-in-out-water-district/>
- b. The petition shall set forth:

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1. The name of the improvement district to which the addition or alteration is proposed.
  2. The necessity for the proposed addition or alteration.
  3. That the public convenience, necessity, or welfare will be promoted by the addition or alteration of the district and that the property to be included in the district will be benefited.
  4. The boundaries of the proposed addition or alteration (plat or sketch).
- c. The completed petition package is sent to the BRDWID Clerk via email if possible, with original documents sent to:
- Blue Ridge Domestic Water Improvement District  
PO Box 19656  
Happy Jack, AZ 86024-0656
- d. BRDWID receives completed petition documents to alter district boundaries and insures completeness. The postmark of the sent complete package starts the clock for the process to set a hearing for the case.
  - e. Board must set a hearing date not more than 40 calendar days from receipt of petition.
  - f. Notice announcing the hearing and stating the boundaries of the proposed addition or alteration shall be published twice in a local newspaper. The Arizona Daily Star in Flagstaff has widest coverage in Coconino County.
  - g. The newspaper publications shall be one week apart, and the first publication shall be not less than ten days before the date of the hearing (example in Exhibit 1).
  - h. The public notice of the boundary change hearing shall also be mailed by first class mail at least twenty days before the hearing to the property owners within the area of the proposed addition or alteration. Area defined as properties within radius of 600` of requesters property(s) approximate center point.
  - i. Any comments or objections must be filed with the District Clerk before the hearing.

BRDWID Boundary Alteration Petitioning Process Timeline

	Start	10 days	20 days	30 days	40 days	Finish
Petitioner	Completes & Submits Petition to BRDWID Clerk					Pay invoice from BRDWID within 30 days of invoice receipt.
BRDWID	Board set Hearing Date <40 days from receipt of completed petition to alter District Boundaries	>20 days before hearing date, send Public Notice letters to property owners in the area of proposed alteration	1 <sup>st</sup> Newspaper Public Notice >10 days before hearing 2 <sup>nd</sup> Newspaper Public Notice one week after 1 <sup>st</sup> publication		Boundary Alteration Hearing – consider petition, hear any objections, issue findings. If approved, create resolution and get recorded with County.	Prepare invoice to petitioner(s) with supporting documents for costs associated with boundary alteration if approved.
Property Owners			File comments or objections with BRDWID Clerk before hearing			

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- j. At the hearing, all interested property owners may appear and be heard on any matter **related** to the boundary alteration.
- k. At the hearing, if it appears that after consideration of all objections and the public convenience, necessity, or welfare will be promoted by the alteration, the BRDWID Board shall declare its findings by formal order.
- l. If the governing board finds that the public convenience, necessity or welfare will **not** be promoted by the addition to or alteration of the district, BRDWID by formal order shall declare its findings.
- m. On approval of any boundary change of the District, the BRDWID Board will create a resolution reflecting the altered district boundary, get the document recorded with Coconino County, advise the Coconino County Assessor of the change, and prepare an invoice to the requester(s).
- n. An invoice with backup documents to validate the costs for the petition to alter the district boundaries will be sent to requester(s).

## **Article IV. GENERAL CONDITIONS GOVERNING WATER CONNECTIONS, SECURITY DEPOSITS AND USE**

### Section 1 - Reserve Fund and Uniform Plumbing Code:

- 1.1. Reserve Fund. The Board shall maintain a reserve fund in the amount directed by the holder of its bonds, or other evidence of indebtedness, to provide for adequate cash reserves for payment of the principal and interest owing and due on the bonds. Furthermore, an amount will be set by the Board to provide adequate cash reserves for any unbudgeted repair, replacement or maintenance required to the water system within the District.
- 1.2. Uniform Plumbing Code. The District adheres to the requirements set forth in 2019-10 Coconino County Building Ordinance - adopting the 2018 Suite of Building Codes with Amendments et seq. as if the same were set forth herein verbatim. Revisions to the Coconino County Building Ordinance regarding the Uniform Plumbing Code shall automatically be incorporated into these Rules.

### Section 2 - Conditions for Connections Made to the District Water System:

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- 2.1. It shall be unlawful for any person to make a new connection to the water line or lines of any portion of the District's water system unless said person has first made proper application to connect to said water system, has paid all fees required by the District to accompany said application and said application has been approved by the proper District authorities. All connections to the District shall be made pursuant to any rules, regulations, or resolutions pertaining to the payment of meter installation fees. Furthermore, all connections shall be made in compliance with any specifications adopted by the District and the Uniform Plumbing Code (Article IV, Section 1.2) and subject to inspection by the District, its agents or assigns, at the time of connection. A water connection shall be deemed to have occurred when there has been a connection to a water line of the District or tributary line thereto, regardless of the terminus of said connection.
- 2.2. Customer Applications for Service:
- 2.3. The Property Owner, their legal representatives or assigns, shall make application for service for the Property Owner, in person or by USPS First-Class mail, and/or e-mail and fax to the District office and at that time make a Security Deposit along with the payment of all fees required to be paid as a condition of connection to the water system as well as the costs of planning, engineering and constructing the extension or alteration of any and all wells, storage facilities, pumps, pressure tanks, or water lines and other related appurtenant facilities necessary to provide water service to the parcel of property for which service is being applied. All fees must be paid before connection of service can occur. Once fees are paid and have cleared the banking system, the service will be connected for customers with existing services within ten business days. For new customers with no prior service, the service will be connected within 120 business days. In addition, the Applicant shall pay to the District all administrative fees and legal fees incurred by the District in the processing of said application or the preparation of any and all agreements and documents necessitated thereby. At the time of the application, the District shall determine whether or not any additional facilities as set forth above must be constructed or improved to provide water service to the Applicant's property. All agreements between the Applicants and the District must be in writing and fully executed by the District's administrative office and the Property Owner(s) and/or Customers. All plans and engineering drawings shall be prepared by the District or by others at its direction and paid for by the Applicant and shall be the property of the District. All work performed off the Applicant's property will be performed by the District or by third parties under the direction of the District. No interest shall be paid on any deposit made to the District. The District shall provide the necessary forms and agreements to accomplish these purposes.
- 2.4. All plans, materials, equipment, and improvements acquired and/or installed pursuant to these Rules shall become the sole property of the District.

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- 2.5. The District reserves the right to upgrade any water line to the size necessary to serve additional lots that are not currently being served but will be served by that line when such lots are developed. The Applicant shall pay the full costs of the plans, materials, and construction for such an upgraded line, but the District agrees to collect, and remit to the Applicant, the pro rata share of the upgrade cost from each lot being served by the upgraded line at such time as each lot applies for and receives water service for a period of ten years from the date of acceptance of the constructed facilities by the District. The District does not guarantee that such lots will ever apply for or qualify to receive water service.
- 2.6. The District reserves the right to combine planning and construction for the improvements necessary to serve Applicant with other infrastructure improvements and to allocate the total costs for the plans, materials, equipment and construction between the Applicant and the District on a reasonable pro rata basis.
- 2.7. The District may reject any application for service when, and so long as, the Applicant is delinquent in the payment of bills incurred for service previously applied by the District at any location or under a previous name.
- 2.8. Customers shall also provide their current telephone number(s) and any email addresses to the District for emergency contact purposes.

#### Section 3 - Security Deposits:

- 3.1. A Security Deposit is required in the amount of the current quoted rate sheet. No interest shall be paid on any Security Deposit. The Security Deposit shall be refunded to the Property Owner at the time of the discontinuance or termination of service in the name of the Property Owner, subject to collection of monies for any amounts owing and due to the District.
- 3.2. The Customer in whose name the Security Deposit is made shall be responsible for payment of all bills incurred in connection with the services furnished.
- 3.3. A separate Security Deposit may be required for each meter installed.
- 3.4. The Security Deposit receipt is not negotiable and can be redeemed only at the District's office upon termination of service.
- 3.5. When services are disconnected and all bills are paid, the Security Deposit will be refunded.
- 3.6. Where the District finds that the request for a Security Deposit refund is questionable, the District may require the Applicant applying for the refund produce the properly endorsed Security Deposit receipt.
- 3.7. Variations from the terms and conditions of these provisions shall be permitted only upon the verified application by an affected party to the Board, setting forth the circumstances whereby the public interest requires such variation. The Board requires an application for such variation to be presented at a public meeting.

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- 3.8. The District may use Security Deposit funds provided by a Customer to pay any amount then due and owing by that Customer to the District. The Customer shall immediately replenish the Security Deposit to replace the amount of any such payment.
- 3.9. The District shall not comingle Security Deposit funds with other District funds.
- 3.10. Leased or Rented Properties. When property owners lease or rent their properties to tenants, the tenant shall:
  - (a) Put ownership of a water service account in their name.
  - (b) Pay establishment and security deposit fees to transfer meter service to their name.
  - (c) When tenant moves out, all outstanding water bills due will be taken from the security deposit funds and the remaining amount will be refunded to the tenant, if applicable.
- 3.11. Owners of Leased or Rented Property. The owner of leased or rented property shall:
  - (a) Have a security deposit on file; if they choose to have security refunded when the tenant moves into property then they will be required to pay another security deposit when they transfer service back into their own name.
  - (b) If owner takes the option to keep a security deposit on file, then only the establishment fee to transfer service back to owner's name will be charged.
- 3.12. Foreclosed Properties. If a property is foreclosed on and the service is still in place at the time of foreclosure, then the new buyer of foreclosed property must pay security and re-establishment fees to reestablish service. The meter service will be terminated if payment is not kept current with 30 days of foreclosure.

#### Section 4 - Installations:

- 4.1. The District may install its meter at the property line, or at the District's option, on the Customer's property, or in a location mutually agreed upon by the Customer and the District.
- 4.2. When two or more meters are to be installed on the same premises for different Customers, they shall be clearly designated as to which service each applies.
- 4.3. The District shall extend service lines and system connections to the edge of the Customer's property at sites that are convenient to the District for meter reading purposes. Piping on the Customer's premises must be so arranged that the connections are conveniently located with respect to the District's lines, mains, and meters.
- 4.4. The Customer shall furnish and maintain a high-quality private cut-off valve on the Customer's side of the meter and within 18" of meter. A suitable and separate valve box, accessible to the District at all times, shall be provided and installed by the Customer to enclose this valve.



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- 4.5. Each Customer's piping, fixtures and equipment shall be installed and maintained by the Customer at the Customer's expense, in excellent condition and in a safe and efficient manner, in accordance with the District's Rules, as well as in full compliance with all laws and regulations of all governing federal, state, county, and local agencies.
- 4.6. Customers shall take full responsibility for the inspection, maintenance and repair of Customer owned piping, fixtures, and equipment. The District will not make any repairs on the Customer side of the meter unless damages are caused by the District's infrastructure or authorized representatives.
- 4.7. Indemnification. Acceptance of water service from the District indicates the agreement of the Customer and Property Owner with these Rules and the agreement of each of them to indemnify the District for any damages to District assets, infrastructure or facilities caused by the activities of the Customer or the Property Owner.
- 4.8. The Customer and the Property Owner shall jointly and severally indemnify and hold the District, and its Board Members, representatives, agents, employees, engineers, attorneys and other lawful successors, harmless from any loss or damage to the property of the District, or any accident or injury to persons or property (except for any damage caused by the gross negligence of a representative of the District) that occurs on the Customer's property, or that was caused by the Customer or the Property Owner. The cost of necessary repairs or replacements shall be paid to the District by the Customer or Property Owner, and any liability otherwise resulting shall be assumed by the Customer and the Property Owner. The amount of such loss or damage, or the cost of repairs, shall be added to Customer's next bill; however, if the amount is over \$200, it shall be billed separately and paid to the District within seven days.

#### Section 5 - Access to the area of the Customer's Property where water service is provided by the District :

- 5.1. Duly authorized agents of the District shall have access at all reasonable hours to the Customer's property where the meter and associated infrastructure is located for the purpose of installing or removing the District's property, inspecting piping, reading and testing meters, or for any other purpose in connection with the District's service and facilities.
- 5.2. Access for construction and for monthly meter readings shall be during daylight hours.
- 5.3. Customers shall provide 24 hour per day access to authorized District representatives on their private property where the meter and associated infrastructure is located for the purpose of leak detection and infrastructure failure. Emergency operations to save water losses may occur in the middle of the night or during periods of time inconvenient to Customers.

#### Section 6 - Construction Specifications:

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- 6.1. All service lines and appurtenances to be constructed shall comply with and conform to the Uniform Plumbing Code (Article IV, Section 1.2) in effect at the time of construction.
- 6.2. There must be a meter, which will be provided by the District, installed in all service connections and the Customer shall pay all fees therefore in accordance with the District's Rate Schedule. No meter may be moved from property to property to avoid payment of required meter installation fees.

## **Article V. FEES, CHARGES, ACCOUNTING AND REPORTING**

### Section 1 - Minimum Charge; Taxes:

- 1.1. The monthly base fee as provided in the Board approved Water Rate Schedule shall be charged for each meter installed, regardless of location.
- 1.2. A Customer's account is predicated on meter size to determine the monthly base fee. The tiered rate fee is charged on the usage for a particular month.
- 1.3. A Security Deposit fee shall be required for each meter on the service connection as set forth in the Water Rate Schedule.
- 1.4. In addition to the collection of regular rates, the District may collect from the Customer a proportionate share of any privilege, sales or use tax of imposition based on revenue received by the District or water used, transported, or sold by the District.
- 1.5. If service that was previously disconnected is to be established at the same service location for the original Customer, or for any member of such Customer's household, a non-refundable re-establishment fee equal to that specified in the Water Rate Schedule shall be required as a precondition to the re-establishment of such service. In addition, the customer is subject to the base rate times the number of months that service was terminated up to twelve months.
- 1.6. The District reserves the right to estimate or average bills when inclement weather prevents the reading of meters. See Section 3.3 for details.
- 1.7. If the seal of a meter is broken by someone other than a District representative, or if a meter is broken, the Customer shall pay an amount reasonably estimated by the District taken from the record of the Customer's previous billings.
- 1.8. If a meter fails to register or stops for any cause for which the Customer is not responsible, the next monthly bill may be estimated by the District. Thereafter, the Customer shall be billed at the monthly base fee until the meter is repaired or replaced by the District.
- 1.9. Appropriate adjustments for over or under estimating will be made at the next actual meter reading and billing cycle. The District will apply a credit to the customer's account for any over-payments.
- 1.10. The Property Owner shall be responsible for all taxes levied and collected pursuant to Arizona Revised Statutes 42-5301 et seq.

### Section 2 - Rate Schedule, Meter Reading, Billing and Collecting:

- 2.1. Rate Schedule. Rates and fees for water services are periodically established by the Board after public hearings are noticed to the customers. A Water Rate Schedule is published and available along with these Rules and Regulations on the District's website, [www.BRDWID.org](http://www.BRDWID.org).
- 2.2. Connection, Water Charges and Water Rate Schedule. Water charges for services commence upon installation and turn-on of the meter, whether the water is used or not. Meter usage during construction is subject to full charges as specified in the Water Rate Schedule.

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- 2.3. The monthly base fee, as provided in the Water Rate Schedule, shall be levied for each meter installed, regardless of location. Readings from more than one meter may not be combined for billing purposes.
- 2.4. If a Customer's service was terminated due to delinquency, a re-connection fee as defined in the Water Rate Schedule must be paid before service will be restored for the Customer.
- 2.5. Taxes. In addition to the collection of fees and usage charges, the District may collect from the Customer a proportionate share of any privilege, sales or use tax, or similar tax, imposed on gross Customer revenue received by the District.

Section 3 - Meter Reading and Billing:

- 3.1. Meters will be read, weather permitting, and bills rendered monthly. The District may, however, vary the dates or lengths of the billing period.
- 3.2. Bills for water will be computed in accordance with the District's approved Water Rate Schedule and will be based on the amount of water consumed for the period covered by the meter reading, except where a Customer orders a turn-on or a turn-off resulting in a period of availability of service of less than one month. Then, the minimum bill to such Customer shall equal the pro rata base fee charge for one month's full service plus usage charges.
- 3.3. In the event of a No Meter Read month due to weather, operator availability, or other issues affecting the whole water system causing the meters not to be read for a particular month, the base rate will be billed for the No Meter Read month. Successful meter reads for the next month will be averaged over the 2-month period and billed on the averaged amount for each month. Example follows:

**No Meter Read Example**

	Month 1	Month 2
<b>Meter Reading</b>	No meter reading	Good meter reading
<b>Billing</b>	Base Rate	Base rate + Product of meter reading divided by 2 applied to tiered rate schedule, then multiplied by 2.
<b>Notes:</b>	No water use recorded	Averages the total of 2 months water use, applies the average to the tiered rate schedule, then multiplied by 2 to bill for 2 months of water consumption charges.

- 3.4. Charge for services commence when the meter is installed and connection is made, whether used or not. Customers who purchase property with existing service are subject to all administrative and regular monthly fees regardless of usage, beginning on the date the property closes.
- 3.5. The Customer is fully responsible for the security of and payment for all water that flows through the meter, whether the water is put to beneficial use, goes to waste, flows through broken pipes or stuck toilets, is stolen, or is consumed by malicious mischief, or Acts of God or force majeure.

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- 3.6. A late fee will be applied if a payment is received after the due date and shall bear a \$5.00 penalty plus 2% monthly interest on balance due from the date of delinquency as established in the current Water Rate Schedule.
- 3.7. The District may charge the fee shown in the Water Rate Schedule for any "Non- sufficient Funds" check.
- 3.8. Readings from different meters may not be combined for billing, irrespective of the fact that said meters may be for the same or different premises or for the same or different Customers or for the same or different services.
- 3.9. Bills are due on the due date and delinquent thereafter. After 30 days, the District may discontinue service to a Customer whose bill is delinquent. The District may, pursuant to A. R. S. 48-910 (E), file a lien on the property for the nonpayment of user fees for services provided to the property if the fees are delinquent for more than 90 days. At least 30 days before the filing of the lien, the District shall provide written notice to the Property Owner and/or Customer and shall include notice of an opportunity for a hearing before a designated officer of the District. The Notice of Lien shall be personally served on the Property Owner or mailed by certified mail to the Property Owner's last known address or to the address to which the most recent property tax assessment was mailed. If the Property Owner does not reside on the property, the notice shall be mailed by certified mail to the owner's last known address.
- 3.10. Failure to receive bills or notices shall not prevent such bills from being delinquent nor relieve Customers of their obligations therein.
- 3.11. Customers who believe their bill to be in error shall present their claim to the District before the bill becomes delinquent.
- 3.12. Meters will be tested at the request of the Customer upon the payment to the District of the cost, per the District's Water Rate Schedule of fees, for making the test; provided, however, that if the meter is found to over-register beyond three percent of the connect volume, no charge will be made for the meter test. All corrected amounts shall be credited on the next bill to the Customer. No credit will be made by the District to anyone other than the Customer last served by the meter prior to the testing.
- 3.13. If the seal of a meter is broken by anyone other than the District's representative, the Customer shall pay an amount estimated from the record of his previous bills or from other proper relevant data.
- 3.14. If a meter fails to register or stops for any cause, the Customer's bill may be estimated by the District. Thereafter, the Customer shall be billed the monthly base fee until the meter is repaired or replaced.
- 3.15. Service discontinued for delinquency of 30 days or more will be restored only after payment of a re-connection fee, security deposit, all usage and base arrears accumulated to date, all late fees, any fees required under Article III, Section 1.5 of this document, and any other prior unpaid fees, as outlined in the current Rate Schedule.

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#### Section 4 - Change of Occupancy:

- 4.1. Not less than Three Days' Notice must be given in writing to the District to discontinue service or to change occupancy.
- 4.2. The outgoing party shall be responsible for all water consumed up to the time of actual departure or the time specified for departure, whichever is the longest.
- 4.3. The new Property Owner must file an application for water service with the District and pay Establishment and Security Deposit fees and provide any easements. The District may reject the application for any of the reasons specified herein.
- 4.4. The former Property Owner shall be responsible for all water consumed and all charges and fees assessed with respect to the property until either the former Property Owner has the meter turned off and pays all other amounts then due and owing to the District.

#### Section 5 - Meter Installation Fees:

- 5.1. The Property Owner shall pay to the District a new meter installation fee, impact fee if applicable, establishment fee, and security deposit as set forth in the Water Rate Schedule of the District at the time of connection to the property if no service has ever been established at the location.
- 5.2. To reinstall a meter for the same Customer in a previously plumbed location, the Customer shall pay to the District a meter re-install fee, establishment fee, security deposit, any additional fees called for by Article IV, Section 2.3 of this document, and any other arrears that were in place at the time that the meter was removed. The fees shall be as specified in the Water Rate Schedule of the District.

## **Article VI. THE DISTRICT'S RESPONSIBILITIES AND LIABILITIES; CUSTOMER RESPONSIBILITIES**

#### Section 1 - The District's Responsibilities and Liabilities:

- 1.1. The District does not assume the responsibility of inspecting the Customer's piping or apparatus and will not be held responsible, therefore.
- 1.2. The District reserves the right to refuse service unless the Customer's lines or piping are installed in such a manner as to prevent cross connections or backflow.
- 1.3. Under normal conditions, the Customer will be notified of any anticipated interruption of service.
- 1.4. The District shall not be responsible for negligence of third persons or forces beyond the control of the District resulting in any interruption of service.
- 1.5. The District shall comply with Arizona Revised Statutes 48-910 as it pertains to changing or raising fees and providing proper notice to District Property Owners and Customers.
- 1.6. The District reserves the right to refuse service to any parcel of property for any reason, including but not limited to the following:

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- a. *A lack of adequate and consistent supply of water taking into consideration the anticipated needs of existing undeveloped lots within the District.*
  - b. *Lack of storage capacity to service additional Customers.*
  - c. *Lack of current equipment, infrastructure and facilities to adequately treat and process water for any additional demands.*
  - d. *The Applicant is delinquent in the payment of any amount owed to the District.*
  - e. *A condition exists, or may exist, on a lot, which in the District Manager's judgment is unsafe or hazardous to the Applicant, the District's facilities, other Customers or any operational staff.*
  - f. *The Applicant is known to be in violation of the District's Rules or the general utility and property use ordinances or the requirements of any federal, state, county, and local statutes, rules or regulations applicable within the District.*
  - g. *Failure if the Applicant to provide: (i) the meter installation fees if applicable; (ii) payment of assessment or impact fees, if applicable; (iii) payment for District improvements, if applicable; (iv) a Security Deposit; (v) property improvements to the Applicant's lot necessary for the District to serve the Applicant as set forth in these Rules and reasonably specified by the District as a condition for providing service; or (vi) easements.*
- 1.7. The District may consider any Entity controlling, controlled by, or under common control with the Applicant, any immediate family member of the Applicant, and any person residing with the Applicant, to be the Applicant for the purposes of determining whether grounds exist to reject an application for service.
  - 1.8. Emergencies and Interruption of Service. The District shall, under normal circumstances, attempt to notify Customers of any anticipated interruption of service.
  - 1.9. The District has the authority to institute water conservation plans, drought plans, meter installation moratoriums, water delivery in cases of trucked in water, and other emergency operational plans that result from droughts, lack of water production, infrastructure problems, equipment failures, water quality issues as well as any such actions that may restrict use of the system or water resources.
  - 1.10. The District shall allow local fire departments, federal forest services, or state forest service's access to reasonable amounts of water for fire protection of structures or National Forests.

#### Section 2 - Customer's Responsibilities:

- 2.1. The Customer shall pay all bills or invoices submitted to the Customer by the District within 30 calendar days of the date of submission of said bill or Invoice.
- 2.2. Piping on the Customer's premises must be so arranged that the connections are conveniently located with respect to the District's lines or main.
- 2.3. If the Customer's piping on the Customer's premises is so arranged that the District is called upon to provide additional meters, each additional meter to the Customer's property will be considered as a separate and individual account.

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- 2.4. Where a meter is placed on the Customer premises, a suitable place shall be provided by the Customer for such meter, and such place shall be unobstructed and accessible at all times to the meter reader.
- 2.5. The Customer shall furnish and maintain a private cut-off valve and backflow device on the Customer's side of the meter within 18" of the meter and the District shall provide a like valve on the District's side of such meter.  
***THE CUSTOMER SHALL NOT USE THE DISTRICT'S SHUT-OFF VALVE UNDER ANY CIRCUMSTANCES. THE CUSTOMER SHALL BE LIABLE FOR ANY DAMAGES INCURRED IF THEY USE THE DISTRICT'S SHUT-OFF VALVE.***
- 2.6. The Customer's piping and apparatus shall be installed and maintained by the Customer, at the Customer's expense, in a safe and efficient manner and in accordance with the District's Rules and Regulations and in full compliance with the regulations of the State Department of Health and the Uniform Plumbing Code.
- 2.7. The Customer shall safeguard the District's property placed on the Customer's premises and shall permit access to it.
- 2.8. Customers shall not dig near District mains, valves, equipment or facilities before notifying the District to mark approximate locations of such assets using the State's Blue Stake system to identify underground utilities.
- 2.9. Each Customer shall immediately notify the District of any system leaks, equipment failure, or damage to meter boxes, meters or any of the infrastructures belonging to the District.
- 2.10. The Customer is fully responsible for payment for all damages to District property on the Customer's premises unless such damage was caused by the District or its representatives.
- 2.11. Customers shall not use the District's meter as a "turn-on/turn-off device except in the case of emergencies.
- 2.12. When, at the request of a Customer, a meter or main location is changed for any reason, the Customer shall pay for all costs, fees, labor and plumbing necessary for relocating or replacing the infrastructure. The Customer shall also provide the District with new or amended easements conforming to the changes.
- 2.13. In the event that any loss or damage to the property of the District or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the Customer, his agents, or employees, the cost of necessary repairs or replacements shall be paid by the Customer to the District and any liability otherwise resulting shall be assumed by the Customer.
- 2.14. The amount of such loss or damage or the cost of repairs may be added to the Customer's bill and if not paid, service may be discontinued by the District.
- 2.15. Water furnished by the District shall be used by the Customer, members of his/her household, guests, tenants and employees only. The Customer shall not sell water to any other person or permit any other person to use the water. During a critical water condition, as determined by the District or a public agency, Customer shall use water only for those purposes specified by the District. Disregard for this rule shall be sufficient cause for refusal or discontinuance of service.



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- 2.16. Meter Removal. The District may, at its option, remove any meter whether or not the account is delinquent. However, the District shall either lock or disable water service through other means, if possible, before resorting to removal of the meter. Customer will be notified via BRDWID's means of communication and meter will be removed. The Customer shall be notified before such action is taken. If a meter is removed and/or locked, the Customer shall pay the re-install fee and any other applicable fees defined in the Water Rate Schedule.
- 2.17. Meter Tampering. If the meter, locks, or other devices used to disable water service are tampered with, removed, or damaged, the District will remove the meter. The meter will be re-installed after all delinquencies and fees have been paid.

**Article VII. EASEMENTS**

Section 1 - The Use of Easements:

- 1.1. All Property Owners requesting to connect improvements on their property to the District's water system or any Property Owner of more than one lot seeking a connection of a subdivision or other non-residential improvement to the water system shall grant to the District all easements, in a recordable form, required by the District to provide water service to, across or on the property for which the connection is being sought. The District shall not grant any party not granting such required easements a connection.
- 1.2. Driveways shall not be constructed over, or in the path of water lines, meter boxes or other facilities of the District located within an easement granted to the District or prior to the Customer's meter box. Customers shall not construct buildings, major landscape features, culverts, or other items over water line easements, valve boxes or District mains in a manner which impairs the easements granted to the District. Any landscaping installed within an easement shall be such that it will not interfere with the District's access to its property, nor which will have roots which seek out and invade the District's water lines or facilities. No fences will be installed which will interfere with the District's right to use an easement or right of way, or the use of the surface of the ground in the vicinity of District owned water facilities, pipelines or other District property.
- 1.3. Customers shall maintain buildings, water ditches, culverts, landscaping, and other improvements to the property, as to not obstruct the District's easements, and so that flows of normal or seasonal floodwaters do not damage roadways, easements, and other such culverts, whereas District infrastructure may be located and damaged due to constant pooling of water or other hazardous materials.
- 1.4. Customers shall seek District approval when extra heavy equipment (e.g., cranes, cement mixers, etc.) is to be moved over areas where infrastructure is buried.
- 1.5. The District will use commercially reasonable efforts to avoid damage or destruction of landscaping and improvements on the property of Customers and Property Owners. However, except in the case of gross negligence by the District or its representatives, the District will not be liable for any damage to the property of a Customer or Property Owner within the easements granted to the District, or within the usual and customary boundaries of the types of easements required by these Rules.

**Article VIII. WATER ACQUISITION POLICY**

Section 1 - Water Acquisition Policy:

- 1.1. It is the policy of the District that it may purchase water from individuals, partnerships, corporations or other entities to supplement the supply of water in the District. A Water Sharing Agreement that defines the terms and conditions of sharing water to/from a purveyor maybe in place for all entities that the District purchases water from, provides water to, or shares water with.
- 1.2. All purveyors of water to the District shall be treated in the same manner and shall be paid on the same basis, to wit:

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- a. Prices will be based on the negotiated agreement with purveyor per 1,000 gallons of water. This rate will be reviewed annually.*
  - b. All other costs to maintain electricity and/or equipment maintenance shall be paid by the District.*
- 1.3. Such payment shall be made to the purveyor of the water on a monthly basis for the water extracted and used by the District for the preceding month. The pro rata costs associated with the Water Sharing Agreement shall be deducted from the payments made to the purveyor of water. Any applicable wheeling charges shall be deducted from the payments made to the purveyor of water.
- 1.4. In cases where the District, by virtue of any document of conveyance, owns any of the physical assets of the well, then no amount shall be paid for the repair, replacement, or depreciation of the facilities.

## Article IX. GENERAL

### Section 1 - General Rules:

- 1.1. Exceptions. Variation from the terms and conditions of these Rules shall be permitted only upon the verified application of an affected party to the Board setting forth the circumstances whereby the public interest requires such variation, and upon the issuance of a special order of the District. The District may require an application for such variation to be presented in a public hearing.
- 1.2. Amendments. Rules shall be amended by a majority of the Board during a public meeting.
- 1.3. Number and Gender. In these Rules, where the context is required in any particular case, the singular includes the plural and vice versa, and the neuter gender includes the masculine and feminine genders.
- 1.4. Legal Protocol. If any section, paragraph, subdivision, sentence, clause or phrase of these Rules shall for any reason be held illegal or unenforceable, such decision shall not affect the validity of the remaining portions of these Rules.
- 1.5. Release of Responsibility. Besides acting in a capacity as a Board Member, officer, committee member, or staff member, such parties shall not be prohibited from acting in their own behalf as a Property Owner, Customer, or citizen within the District; and any actions taken by such individuals shall not constitute an action by the District.
- 1.6. Authorization. The District hereby authorizes its attorneys, agents and employees to take all steps as are necessary to enforce these Rules.
- 1.7. Records Management. The District shall manage and retain records pursuant to the Arizona Revised Statutes.
- 1.8. Superseding Laws. If anything in these Rules is determined to be contrary to applicable federal, state, county and local laws, the latter shall take precedence and control, while the remaining provisions of these Rules shall remain in full force and effect.

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- 1.9. Variances. Any variation in the application of these Rules, shall not be binding on the District unless it has been agreed upon in writing and approved by the Board.
- 1.10. Non-Discrimination. These Rules shall be applied to Property Owners and Customers on a non-discriminatory basis.

## **Article X. ENFORCEMENT**

### Section 1 - Enforcement Authority:

- 1.1. The Board shall enforce the provisions and requirements prescribed in these Rules.

### Section 2 - Violation Notice:

- 2.1. In the event of a Customer's or Property Owner's violation of these Rules, the District Manager shall issue a notice to the violator to cease and desist and to remedy the violation. Said notice shall require the violator to submit to the District Manager within three business days a detailed plan and time schedule of specific action the violator will take in order to correct or prevent a violation. If the violation is causing an immediate loss of potable water, the District can require an immediate remedy or terminate the service at the location where the problem is occurring.

### Section 3 - Enforcement Procedures:

- 3.1. Any Customer, who violates these Rules is subject to having water service terminated.

### Section 4 - Appeals:

- 4.1. Any Applicant, Customer, Property Owner, or other user affected by any decision, action, or determination, including cease and desist orders made by the District Manager or District employee authorized to do so, interpreting or implementing the provisions of this resolution, may file with the District Manager a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.
- 4.2. If the ruling made by the District Manager is unsatisfactory to the persons requesting reconsideration, they may within ten days after notification of District action, file a written appeal to the Board. The written appeal shall be heard by the Board within 30 days from the date of filing. The District Manager's decision, action or determination shall remain in effect during such period of reconsideration.

### Section 5 - Damage to Facilities:

- 5.1. When a Customer or Property Owner causes damage, or any other impairment to District facilities, the District Manager may assess a charge against the Customer for the work required to repair the facility and add such charge to the user's water service charge.

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#### Section 6 - Indemnity:

- 6.1. Any person who violates or aids or abets the violation of any provisions of these regulations, requirements, or conditions set forth in permits duly issued, shall be liable to indemnify the District in the full amount of any penalty or judgment rendered against the District which is attributable to, or results from, such violation.

#### Section 7 - Correction of Violations/Collection of Costs:

- 7.1. The District Manager may correct any Customer's or Property Owner's violation of these Rules. The cost of such correction may be added to any water service charge payable by the person in violation, or the owner or tenant of the property upon which the violation occurred. The District shall then have such remedies for the collection of such costs as it has for the collection of water service charges, including but not limited to the imposition of late charges and the placing of liens upon the subject property.

#### Section 8 - Injunctive Relief/Continuing Violations:

- 8.1. The District may petition the appropriate court for a preliminary or permanent injunction, or both, to correct any violation of these Rules or any violation of any order issued by the District Manager.

#### Section 9 - Falsifying of Information:

- 9.1. Any person who knowingly makes any false statements, representation, record, report, plan or other document filed with the District, or who falsifies, tampers with or willingly renders inaccurate any monitoring device or method required under these regulations, is declared to be in violation of these Rules, and subject to the civil liabilities to be imposed by the District.

#### Section 10 - Remedies Are Cumulative:

- 10.1. The remedies and sanctions provided in these Rules are cumulative and the institution of any proceeding or action seeking any one of such remedies or sanctions does not bar any simultaneous action of proceeding to seek any other of such remedies or sanctions.

#### Section 11 - Specific Remedies Do Not Impair Other Rights:

- 11.1. No remedy or sanction provided in these Rules impairs any right which the District or any person may have under any statute or common law.
- 11.2. Enforcement. The District may in its discretion take any and all action at law or in equity to legally pursue its rights and remedies for any delinquent amounts owed to the District and for any violations of these Rules. The Property Owner or Customer shall be jointly and severally liable for all legal fees and expenses incurred by the District in enforcing its rights under these Rules.

## Article XI. EMPLOYEE POLICIES

### Section 1 - Employment Policies:

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- 1.1. The Employee Handbook has been established to assist employees in understanding the Employment Policies of the District. Each employee will be required to sign and acknowledge they have received the Handbook and understand the Policies of the District. All revisions to the Handbook must be in writing and must be approved by the Board of Directors.
- 1.2. The policies and procedures set forth in the Handbook are not intended to be, nor will they be construed to establish an employment contract or an agreement between Blue Ridge Domestic Water Improvement District and any of its employees. Only the District Board or their designee, with the Board's approval, has the authority to execute any employment contracts, and such contracts must be in writing.
- 1.3. The policies and procedures set forth in the Handbook are only general guidelines and the District may, from time to time, at its sole discretion; expand, delete or change the policies, procedures and practices to meet the needs of the District or individual employees, and to comply with legal requirements. Although the District strives to announce changes in advance, this may not always be feasible. Therefore, some changes may be made without notice. Employees will be informed in writing of any changes as soon as possible.
- 1.4. The Board retains the authority to develop and administer the personnel policies as well as to administer all matters pertaining to personnel practices.

## **Article XII. PROCUREMENT**

### Section 1 - Purpose:

- 1.1. The purposes of this Article are:
  1. To simplify, clarify and codify the law governing procurement by this District.
  2. To permit the continued development of procurement policies by this District.
  3. To make as consistent as possible the procurement policies within the District.
  4. To provide for increased public confidence in the procedures used by the District.
  5. To ensure the fair and equitable treatment of all persons who deal with the District.
  6. To provide increased economy in District procurement activities and to maximize, to the fullest extent practicable, the purchasing value of funds of the District.
  7. To foster effective broad-based competition within the free enterprise system.
  8. To provide safeguards for the maintenance of a procurement system of quality and integrity.

### Section 2 - Applicability:

- 2.1. This Article applies only to contracts or purchases solicited or entered into after the adoption of this Article. Renewal of existing contracts shall be subject to this Article unless current contract terms provide otherwise.

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- 2.2. This Article shall apply to all expenditures of District funds regardless of source, including state and federal assistance monies, by this District, under any contract, except that nothing in this Article shall prevent the District from complying with the terms and conditions of any grant, gift or bequest or cooperative agreement. This Article shall also apply to the disposal of District property. In the event state or federal assistance requirements or statutes conflict with the provisions of this Article, nothing in this Article shall prevent the District from complying with the terms and conditions of the state or federal assistance requirements or statutes. Further, any applicable state or federal law regarding procurement which supersedes this section shall be applied to any procurement thereunder or by the District.
- 2.3. It shall be unauthorized for any District employee, appointed or elected official to order the procurement of materials, supplies or services, or make contracts within the purview of this Article, other than through the District purchasing division. Contracts or purchase orders made contrary to the provisions hereof may not be approved and the District may not be bound thereby. Unauthorized contracts or purchases may result in disciplinary action or personal liability of the person entering into said unauthorized contract or purchase.

### Section 3 - Procurement Organization:

- 3.1. The District administrative staff is vested with the authority for procurement and contracts negotiation by the Board.
- 3.2. The District Manager shall serve as the principal procurement officer of the District with the authority to procure or supervise the procurement of supplies, materials, equipment and services for the offices, departments, and agencies of the District according to the regulations prescribed in this Article.
- 3.3. The District Manager shall establish guidelines for the management of all inventories of materials belonging to the District.
- 3.4. The sale, trade or other disposal of District-owned personal property and surplus supplies shall be supervised by the District Manager.
- 3.5. Procedures and programs for the inspection and acceptance of supplies, materials, equipment and services shall be established by the District Manager and maintained by the District Manager.

### Section 4 - Centralization of Procurement Authority:

- 4.1. All rights, powers, duties and authority relating to the procurement of supplies, services and construction, as well as the management, control, warehousing, sale and disposal of supplies, services and construction now vested in or exercised by any District department, regardless of source of funding, are hereby vested in the District Board of Directors.
  1. The District Board may delegate authority for the procurement of specific goods and services to the District Manager where to do so would be in the best interest of the District. Any such delegation must be expressed in writing.
  2. The District Manager shall obtain expert advice and assistance from personnel of the District in the development of specifications and the District Manager or his designee may delegate to prepare and utilize its own specifications.

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3. Advisory groups may be appointed by the District Manager to assist in the evaluation of specifications, proposals, bid and quotations, without compensation.
4. The District Manager shall cooperate in the preparation of statistical data concerning the procurement, usage and disposal of all supplies, services and construction. The District Manager with the advice and consent of the Board shall have authority to prescribe forms to be used by the District in requisitioning, ordering and reporting of supplies, services and construction.

### Section 5 - Requirements of Good Faith:

- 5.1. This Article requires all parties involved in the negotiation, performance or administration of District contracts or purchases to act in good faith.
  1. District employees and elected or appointed officials must discharge their duties impartially so as to ensure fair competitive access to governmental procurement by responsible suppliers of goods and services. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the District procurement process.
  2. To achieve the purpose of this Article, it is essential that those doing business with the District also observe the ethical standards prescribed herein. Any effort to influence any public employee to breach the standards of ethical conduct is also a breach of ethical standards.
  3. Any District employee who knowingly violates any of the provisions of this Article shall be subject to disciplinary action and/or termination depending upon the severity of the violation.
  4. An individual who is not an employee of the District who violates any provision of this Article can be subject to debarment from having the opportunity to bid or be awarded any District contracts for a period of up to 24 months, depending upon the severity of the violation, in the sole discretion of the Board. Any individual, organization or entity so debarred shall be advised in writing by the District of the debarment, the period thereof, and the reason therefore. Any appeal of the Board's determination of debarment must be filed with the District clerk, in writing, within ten days of the notice of debarment. The District Board shall hear the appeal at the next regular Board meeting at which the item can be properly scheduled.
  5. Criminal, civil and administrative remedies otherwise available against employees or non-employees for a violation of this Article are cumulative and shall not be impaired by this Article.

### Section 6 - Fraud and Collusion:

- 6.1. No District employee or elected or appointed official shall assist a supplier of goods or services in securing a contract or purchase order by prejudicing the election of that supplier or the price paid for goods or services sold to the District.
- 6.2. Willful misleading or withholding of information by a prospective supplier or District representative regarding the character of the goods or services procured or sold by the supplier or the District representative shall be considered a breach of ethical standards, resulting in administrative and civil remedies.



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- 6.3. It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
- 6.4. Public information, which is not confidential shall be a public record to the extent provided by state law and its use or disclosure by a current or former employee shall not constitute a violation of the foregoing subsection.
- 6.5. Prices offered by suppliers of goods and services procured by the District shall be independently developed without consultation or collusion with other suppliers or potential suppliers when responding to bids, quotes or requests for proposals

### Section 7 - Conflict of Interest:

- 7.1. The District may purchase through the Board, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, if the Board approves such a policy on an annual basis.
- 7.2. No member of the Board or employee of the District may participate as an agent of the District in the negotiation or execution of a contract between the District and any private business in which he/she has a significant pecuniary interest.
- 7.3. The Board declares that public office is a public trust. Further, that a goal of the Board is to strengthen the faith and confidence of the District's customers in actions by the Board.
- 7.4. Before a contract is awarded, a person who has bid on the contract or an officer, employee, representative, agent, or consultant of such a person shall not:
  1. Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, an evaluator or member of the Board offering the contract.
  2. Offer, give or promise to offer or give money, a gratuity or any other thing of value to an evaluator or member of the Board offering the contract.
  3. Solicit or obtain from an officer, employee or member of the Board offering the contract, any proprietary information regarding the contract.
- 7.5. Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void. Advance disclosures of any information to any bidder which would give that bidder any advantage over any other interested bidder in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the Board or an employee or representative thereof, shall operate to void all bids received in response to that particular request for bids.

### Section 8 - Gifts and Gratuities:

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- 8.1. A Board Member or employee shall not seek or accept any gift, service, favor, employment, engagement or economic opportunity which would tend to improperly influence a reasonable person in his/her position to depart from the faithful and impartial discharge of his or her duties.

#### Section 9 - Requisition Procedure:

- 9.1. If the Board determines the need for goods or services, the District Manager shall prepare a purchase requisition to initiate procurement.
- 9.2. Requests for procurement shall show justification of the need for the goods or services and funds designated for the expenditure.
- 9.3. Upon completion of the requisition, the Board shall determine the form and manner in which the procurement shall be solicited in accordance with this Article. The completed requisition shall be provided to the Board, regardless of the manner in which procurement will be solicited.
- 9.4. The District Manager shall examine each requisition or estimate and have authority to revise it as to quantity, quality or estimated cost. The matter of quality shall be governed by the specifications below. The Board shall have final authority in any disputed revisions of requisitions or estimates.
- 9.5. Urgent needs for goods or services, not considered as emergencies, in situations requiring timely action for procurement are initiated by the District Manager with a numbered purchase order that includes a written request provided subsequent to the assignment of that order, excepting contracts that require supervision or approval of the Board.

#### Section 10 - Regulations:

- 10.1. The District Manager is authorized to adopt and enforce such regulations or administrative instructions as are necessary to implement this Article.

#### Section 11 - Specifications:

- 11.1. All specifications, including those prepared by architects, engineers, consultants and others for procurement by the District shall not be so restrictive that comparable goods or sources are excluded and shall encourage maximum, practical<sup>1</sup> competition among suppliers.
- 11.2. Specifications for goods and services that exclude suppliers offering similar performance or functional characteristics shall not be used unless such specifications are technically justified or it is not practicable nor advantageous to use a less restrictive specification.

#### Section 12 - Procurement Methods:

- 12.1. The method, form and manner of procurements shall be uniform and consistent with the provisions of this Article.

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- 12.2. The cost of an item as set forth in Sections 15, 16, and 17, not the method of payment, determines the means of procurement. Artificial division, splitting or fragmentations of a transaction to circumvent source selection or to avoid requirements for bidding or authorization of procurements are prohibited.
- 12.3. Procurements made for the District shall be documented item as set forth in Sections 15, 16, and 17.
- 12.4. The District shall maintain a current list of prospective suppliers who have expressed an interest in providing goods and services to the District and they may be contacted for quotations or bids.
- 12.5. Prompt service, accessibility, delivery, travel, whether the goods are made from recycled material, or other factors that may reduce or offset the cost of goods and services solicited by the District shall be considered in source selection.
- 12.6. The Board may use on-line bidding to receive bids submitted in response to a request for bids. The District shall not use on-line bidding as the exclusive means of receiving bids for the request for bids.
- 12.7. A request for bids for which bids may be submitted must designate a date and time at which bids may begin to be submitted and may designate a date and time after which bids will no longer be accepted.
- 12.8. The Board or its District Manager may require bidders to:
  1. Register before the date and time at which bids may begin to be submitted.
  2. Agree to terms, conditions or requirements of the request for bids to facilitate on-line bidding.
- 12.9. The procedures established by the Board for the purposes of conducting on-line bidding must not conflict with the provisions of this Article.
- 12.10. As used in this section, "on-line bidding" means a process by which bidders submit bids for a contract on a secure website on the internet or its successor, if any, which is established and maintained for that purpose.
- 12.11. The District Manager shall limit procurement to licensed, bonded contractors, when applicable.

#### Section 13 - Exceptions to Requirements for Competitive Bidding:

- 13.1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:
  1. Items which may only be contracted from a sole source;
  2. Professional services which may only be contracted from a sole source;
  3. Additions to, repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;
  4. Equipment which by reason of the training of the personnel or of any inventory of replacement parts maintained by the local government is compatible with existing equipment;
  5. Perishable goods;

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6. Insurance;
  7. Hardware and associated peripheral equipment and devices for computer
  8. Software for computer\$
  9. Books, library materials and subscriptions;
  10. Goods or services purchased from organizations or agencies whose primary purpose is the training and employment of handicapped persons are not subject to the requirements of this Article for competitive bidding as determined by the Board.
- 13.2. Except as otherwise provided by law; if the Board or District Manager determines that the supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale, sale of merchandise left after an exhibition, or other similar sale at a reasonable savings over the cost of like merchandise and below the market cost in the community, a contract or contracts may be let or the purchase made without complying with the requirements of this Article for competitive bidding. The documentation for the purchase or acquisition must be summarized for the next regularly scheduled meeting of the Board, together with written justification showing the savings involved.
- 13.3. The purchase of safety equipment for use by District personnel is not subject to the requirements of this Article for competitive bidding, as determined by the Board or its District Manager, if:
1. The personal safety equipment will be used by District personnel in responding to emergencies in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened.
  2. The cost of the safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.
- 13.4. As used in this section, "personal safety equipment" means safety equipment that is worn or otherwise carried on a regular basis by personnel engaged in activities on behalf of the District.
- 13.5. Notwithstanding any provisions of these Rules, the District may, as an alternative to competitive bid, enter into an installment or lease purchase performance contract with a qualified service company for the purchase and installation of operating cost savings energy measures related to and improvement, repair or alteration of a building or equipment including electrical, natural gas, water and the disposal of waste and related labor costs.
- 13.6. The District may, in lieu of the procedures outlined herein, in accordance with the laws of the State of Arizona, purchase items through the State Procurement System.

#### Section 14 - Emergency Procurements:

- 14.1. The Board may make or authorize others to make emergency procurements a threat to the public health, welfare or safety or in the event of a disaster exists.
- 14.2. An emergency procurement shall be limited to the goods or services necessary to satisfy the emergency need with as much competition as practicable under the circumstances.
- 14.3. A written purchase requisition for the emergency procurement shall be submitted to the District Manager or his/her designee as District Manager within two working days after the emergency procurement to document the existence of the emergency need.

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- 14.4. Emergency expenditures and obligations to suppliers of goods and services in natural or manmade disasters that exceed \$25,000.00 shall be submitted to the Board for authorization or ratification subsequent to the emergency procurement.

### Section 15 - Normal Operating Expenses:

- 15.1. Normal Monthly Operating Expenses. All normal monthly operational expenses will be processed and paid per agreements and/or verbally agreed upon amounts. No purchase order or pricing is required for these expenses. A master list of normal monthly expenses will be maintained by the Accountant and updated yearly at the beginning of each fiscal year. The master list contains the following information:

1. Vendor Name
2. Monthly amount to be paid
3. Date due

A copy of the master agreement, if applicable, will be kept by the Accountant and signatures of two authorized board members will constitute approval of such.

- 15.2. Office Supplies. An office inventory will be kept monthly by the customer service representative and office supplies will be purchased accordingly. The customer service representative will turn in the inventory listing and purchases will be made by the Accountant. No purchase order or pricing is required for these expenses. Only if the item is \$1,000.00 or more, an authorized purchase order and pricing of two vendors will be required.
- 15.3. Payment of normal office supplies will be made by the Accountant with District Manager approval. Payment will be made by check or the District Manager credit card when needed. Payment of such credit card constitutes authorization by the Board of Directors for these purchases.
- 15.4. Field Supplies & Materials. Field Supplies & Materials under \$2,500.00 will be made by the field office supervisor and/or District manager, these purchases will not require pricing of competitive vendors and/or a purchase order. The field office supervisor or District Manager will provide the Accountant with appropriate invoice and delivery ticket of invoice accordingly. Delivery ticket and invoice will indicate a received stamp dated and initialed along with indication in writing as to what the purchase was made for.
- 15.5. Any purchase between \$2,500.01-\$9,999.99 will require a Purchase Order, Delivery Ticket and District Manager authorization along with documentation of competitive pricing (Vendor Pricing Sheet) to be processed for payment.
- 15.6. Any and all purchases above \$9,999.99 will require that the Rules be followed: All purchases between \$2,500.01-9,999.99 must contain:
  1. Price quote sheet showing two vendors priced out;
  2. Purchase order completed and signed by authorized buyer; and
  3. Delivery ticket indicating date of delivery, PO# & person that received product.

If invoice arrives and documentation above is not attached, then it will be returned to the purchaser for completion of documentation before processing of payment is made by the Accountant.

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**Process of purchases - Under \$2,500.00**

1. Order product from preferred vendor;
2. Process delivery of product-stamp delivery receipt received - indicate on delivery receipt what the product is for, i.e.: job location or description of why purchase was made; and
3. Turn in invoice & delivery receipt to accounting manager for processing of payment.

**Process of Purchases - \$2,500.01-\$9,999.99**

1. Price out product with at least two vendors-document pricing request and what the vendor pricing quote was.
2. Order product from vendor preferred.
3. Write Purchase Order for purchase-containing; date, product description, where product will be going and amount of purchase including any tax and/or delivery fees. District Manager must sign Purchase order.
4. Wait for product to be delivered, obtain delivery receipt and stamp received and initial.
5. Turn PO & delivery receipt into Accountant for processing of payment of invoice when it arrives.

15.7. Vendor Approval. The Accountant will maintain a master listing of authorized vendors to be used by BRDWID for purchases. Any purchase over \$2,501.01 should be obtained from the authorized vendors listed.

15.8. Expenditures of \$10,000.00 or less. Any procurement that results in an expenditure of \$10,000.00 or less shall have been made with as much economy as practicable in the open market place at the prevailing price without the requirement of public notice or Board authorization.

15.9. Open market procurements shall, whenever practicable, be based on the lowest price of an item which meets or exceeds the performance or functional characteristics that are available from two or more sources of supply, if available, by written quote or in any acceptable informal manner.

15.10. The District Manager is authorized to compare prices offered by suppliers of goods and services within the open market and have final determination of the prevailing price to be paid by the District.

15.11. Petty cash expenditures of \$100.00 or less may be authorized by the District Manager and disbursed by a designee from a cash fund set aside and maintained for small procurements. Use of petty cash shall not be used to circumvent the above policies.

15.12. The District Manager may delegate the authority to approve minor expenditures for goods or services from budgeted departmental funds. Purchase orders, blanket orders or procurement cards for District Manager authorization shall be issued by the District Manager and shall state the expenditure amount limitation.

Section 16 - Expenditures of \$10,001.00 to \$50,000.00. Informal Bidding Process:

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- 16.1. Expenditures of \$10,001.00 to \$50,000.00. Informal Bidding Process. Any procurement resulting in expenditure from \$10,001.00 to \$50,000.00 shall have been made only after informal competitive solicitation from two or more responsible suppliers if available, without the requirements of public notification by advertisement.
- 16.2. The District Manager or designee shall obtain, when possible, two or more informal competitive bids, in writing, from suppliers on the current prospective supplier list of the District or the state and/or from other available suppliers.
- 16.3. Informal quotations from suppliers responding to a request for bid other than in writing are satisfactory when the method of inquiry, date and person quoted is documented; however, a written informal bid is strongly encouraged. All physical and electronic information related to the informal quotations, along with a list of suppliers contacted, their contact information; notes on conversations with those suppliers, and an explanation of why the winning supplier was selected shall be gathered into physical/electronic folders and retained.
- 16.4. Invitations to informal bids or quotations shall include a description of goods or services and all contractual terms and conditions applicable to the procurement.
- 16.5. The Board Chairperson, as chief administrative officer, is authorized to execute contracts for expenditures of less than fifty thousand dollars (\$50,000.00) unless otherwise provided by resolution or direction of the Board. The Board Chairperson shall present a summary of the expenditure and the supporting information to the Board at the next scheduled Board meeting. The Board Chairperson, as chief administrative officer, is authorized to execute any contract for expenditures of not more than One Hundred Fifty Thousand dollars (\$150,000.00) unless otherwise provided by resolution or direction of the Board. In the absence of the Board Chairperson, the Vice Chairperson will have the same authorization. The Board Chairperson or Vice Chairperson shall present a summary of the expenditure and the supporting information to the Board at the next scheduled Board meeting.

#### Section 17 - Expenditures Exceeding \$50,000.00. Formal Bidding Process:

- 17.1. Unless otherwise provided for or exempt by Arizona Revised Statutes any procurement resulting in an expenditure of more than \$50,000.00 shall have been made only after formal competitive sealed bidding, solicited by public notification, properly received and authorized by the District Board.
- 17.2. Contract Change Orders:
  1. Contracts up to \$1,000,000: The Board Chairperson, as chief administrative officer, is authorized to execute a change order not to exceed 20% of the original contract amount. In the absence of the Board Chairperson, the Vice Chairman will have the same authorization. The Board Chairperson or Vice Chairman shall present a summary of the expenditure and the supporting information to the Board at the next scheduled Board meeting.
  2. The District Manager will have authorization to issue change orders for all contracts up to \$15,000.00. The District Manager shall present a summary of the expenditures and supporting information to the Board at the next scheduled Board meeting.

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3. All changes orders that exceed 20% of the original contract amount will require Board Approval prior to the work being authorized.
- 17.3. When a formal invitation to bid is issued by the District Manager, it shall include the dates of public notice, the time and place for bid receipt and opening as well as a description of the goods or services.
- 17.4. Public notification shall be considered adequate when a formal invitation to bid is advertised and published at least two consecutive publications in a newspaper of general circulation within the county, if a weekly paper, and no less than six, nor more than ten days apart, in a daily paper.
- 17.5. The District Manager shall solicit formal sealed bids from two or more suppliers on the current prospective supplier list or other sources that have requested to be included in bids for goods or services of a specific character and kind. All physical and electronic information related to the formal quotations, along with a list of suppliers contacted, their contact information; notes on conversations with those suppliers, and an explanation of why the winning supplier was selected shall be gathered into physical/electronic folders and retained.
- 17.6. Amendments to invitations to bid that are necessary to make a change shall be issued by the Board within a reasonable time before the bid opening to all suppliers to whom the District Manager distributed invitations to bid and to all suppliers who have requested bid documents or specifications. Acknowledgment of receipt by the bidder before the bid opening or within the bid shall be required.
- 17.7. Sealed bids shall be considered properly received only when delivered in a sealed envelope marked to indicate the purpose of the bid to the District Manager or designee by or before the specified time and designated place as advertised in the public notice. Sealed bids shall be dated and stored unopened in a secure place within the District administrative offices until the public bid opening.
  1. Late bids shall be rejected if received after the designated time in the location for receipt except late bids that are received before the bid opening and would have been timely received but for the action or inaction of District personnel directly serving the procurement function.
  2. Minor informalities may be waived by the Board in consultation with the District Manager and the District's attorney if the waiver is in the best interest of the District.
- 17.8. A modification or withdrawal of bid shall be received before the time and date set for bid opening in the location designated for receipt of bids and shall be time - dated and recorded upon each modification or withdrawal.
- 17.9. Bids and modifications shall be opened publicly by the District Manager or designee in the presence of one or more witnesses at the time, date and location designated in the invitation to bid.
  1. The name of each bidder, the price bid and other information deemed appropriate by any person in attendance shall be read aloud and recorded.
- 17.10. Mistakes in the bid discovered after the bid opening based on an error in judgment may not be corrected or withdrawn.



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1. After bid opening, the Board in consultation with the District Manager and the District's attorney may waive minor informalities in a bid.
2. After bid opening, the District Board or designee may permit a bidder to withdraw a bid when:
  - a. A nonjudgmental mistake is evident on the face of the bid and the intended bid is not clear; or
  - b. The bidder established by clear and convincing evidence in the sole opinion of the District that a nonjudgmental mistake was made; or
  - c. The District Board or designee determines, by clear and convincing evidence, that the bid is so low as to create likelihood that the contract cannot be completed and to enforce compliance with the bid would be unconscionable.

17.11. An invitation for bids, a request for proposals or other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part, if it is in the best interest of the District.

### Section 18 - Multi-Step Sealed Bids:

18.1. When it is considered impractical to initially prepare a procurement description to support an award based on the price of the goods or services, an invitation to bid may be issued requesting the submission of un-priced offers. The initial invitation to bid will be followed by a subsequent invitation to bid limited to those bidders whose offers have been determined technically acceptable under the criteria set forth in the first solicitation.

### Section 19 - Request for Proposal:

- 19.1. Except for professional services, which may be obtained without competitive bidding, a request for proposal shall be utilized whenever the Board or District Manager determines that the District should utilize competitive negotiation. Additionally, a request for proposal may be utilized if the District is unable to provide bid specifications for an entire project and shall be requesting the prospective bidders to specify a method or manner of performing a contract.
- 19.2. Requests for proposals shall be invited and awarded depending upon the estimated dollar amounts for each such as set forth herein.
- 19.3. If a District determines the need for goods or services where competitive negotiation is more practicable or advantageous than competitive bidding, it shall prepare a written request for solicitation of proposals.
- 19.4. Formally advertised proposals shall be opened publicly at the time and place designated in the request for proposals. The name of the offeror and such other relevant information as may be designated by the District Manager or designee shall be publicly read. All other information contained in the proposals shall be confidential as to avoid disclosure of contents prejudicial to competing offerors during the process of negotiation. All proposals shall be open for public inspection after contract award. To the extent as designated by the offeror and the Board concerns, trade secrets or other proprietary data contained in the bid documents shall remain confidential.

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- 19.5. Competitive negotiation may be used when available specifications or procurement specifications are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure a mutual understanding between offerors and the District. Discussions shall not disclose any information derived from proposals submitted by other offerors.
- 19.6. Negotiation following the opening of sealed proposals is not required if one or more of the initial offers is fully satisfactory. Award may be made on the basis of the proposal as first submitted, without any discussion with the offeror or changes to the content of the proposal.
- 19.7. Criteria for evaluation of proposal may include, but shall not be limited to, managerial, or technical capabilities, comparative feasibilities of the approach or other elements where price is not the sole determining factor for selection of a supplier.
- 19.8. Authorized awards shall be made in writing to the responsible offeror whose proposal is determined to be the most advantageous to the District, taking into consideration price and those evaluation factors set forth in the solicitation, and within Sections of this Article.
- 19.9. "Proprietary information" means:
  1. Any trade secret or confidential business information that is contained in a bid submitted to the Board or its District Manager on a particular contract; or
  2. Any other trade secret or confidential business information submitted to the Board or its District Manager by a bidder and designated as proprietary by the Board or its District Manager.
- 19.10. As used in this subsection, "confidential business information" means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost, price, or the customers of a bidder which is submitted in support of a bid. The term does not include the amount of a bid submitted to the Board or its District Manager.
- 19.11. Except as otherwise provided in this subsection, proprietary information regarding a trade secret does not constitute public information and is confidential.
  1. A person shall not disclose proprietary information regarding a trade secret unless the disclosure is made for the purpose of a civil, administrative or criminal investigation or proceeding, and the person receiving the information represents in writing that protections exist under applicable law to preserve the integrity, confidentiality and security of the information.
  2. A bid which contains a provision that requires negotiation or evaluation by the Board or an evaluator may not be disclosed until the bid is recommended for the award of a contract.

### Section 20 - Selection of Professional Services:

- 20.1. Services provided by members of certain professions that require specialized knowledge and expertise acquired by advanced training and experience may be procured or retained on an as-needed basis or for a particular project by the Board. Except that legal counsel services shall only be procured under the supervision of the District's attorney.

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- 20.2. Selection of a provider other than professional services shall be made only after adequate public notice of the need for such services, receipt of proposals from qualified offerors and evaluation according to the criteria set forth in the proposal.
1. Notification of the need for professional services in an anticipated amount exceeding \$25,000.00 shall be solicited according to provisions of this Article unless otherwise exempt.
  2. Persons or professional organizations engaged in providing professional services may submit or be required to submit annual statements of qualifications and expressions of interest in providing such services.
  3. The Board shall evaluate current statements of qualifications and performance data and select if possible, in order of preference, the three most qualified providers of such service.
- 20.3. Authorized awards or recommendations for awards may be made in writing to the best-qualified provider.

### Section 21 - Awards:

- 21.1. If the Board has advertised for or requested bids in letting a contract, the Board must, except as otherwise provided in this article, award the contract to the lowest responsive responsible bidder. Authorized awards shall be made to the lowest responsive and responsible supplier whose bid quotation or offer conforms to the procurement requirements and any criterion set forth in the solicitation and is deemed to be in the best interest of the District. The District shall take into consideration price, conformance to specifications, qualifications past performance, performance or delivery date, quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract and the best interest of the public. In determining the responsibility of any bidder, the District shall also take into consideration the possession of and limit on any required license of the bidder and may consider the financial responsibility of the bidder, experience of the bidder, adequacy of the equipment and ability of the bidder to complete performance.
- 21.2. When the award is not made to the lowest price bidder, the additional criteria used to select a different bidder shall be documented along with the comparison of those criteria between all bidders, and the rationale for the selection made.
- 21.3. The evaluation methods to determine the conformity of the procurement requirements and criteria shall be uniform and equal for each responding supplier.
- 21.4. Goods or services shall be evaluated as much as possible by tangible, measurable criteria that includes but is not limited to, transaction privilege or use tax, transportation costs, energy costs, standard practices or procedures, life cycle and effective ownership costs, whether the goods are made from recycled material, or other factors that satisfy the particular function at the lowest overall cost to the District. Additionally, the District may include in its evaluation managerial or technical capabilities, comparative feasibilities of the approach to be used (if applicable), prompt service, accessibility, delivery, travel, or any other factors which may reduce or offset the cost of goods or services solicited by the District.

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- 21.5. A bidder or offeror may be required to submit to the District Manager or designee a certification of current cost or pricing data used to price the bid or offer prior to an award to determine if the price is fair, reasonable, and in the best interests of the District.
- 21.6. The Board retains the authority to debar or suspend any potential supplier of goods or services from consideration of award for breach of this Article or if the potential supplier is in default of any obligation, taxes or fees due and owing the District, until such time as the breach or default is cured.
- 21.7. Low bids, quotations or offers which are identical in all respects from two or more responsible and responsive suppliers may be awarded by the drawing of cards in public in the presence of two or more witnesses.
- 21.8. Multiple awards may be made in whole or in part to two (2) or more suppliers of similar goods or services to facilitate delivery, service product compatibility or obtain the best value in the best interest of the District.
- 21.9. If only one responsive bid, quotation or offer is received from a competitive solicitation:
  1. An authorized award may be made to the single bidder if the price is determined to be fair and reasonable; or
  2. The bid may be rejected; or
  3. A new competitive solicitation may be made; or
  4. If the need for the procurement continues and the acceptance of one bid is not advantageous to the District, the procurement may be made under provision for sole source or emergency.
- 21.10. If no response is received from competitive solicitation, the District Board or designee may consent to the contract without competitive bidding not less than seven days after it publishes a notice stating that no bids were received on the contract and that the contract may be let without further bidding. The District shall entertain any bid which is submitted after it publishes notice and before the expiration of the waiting period.
- 21.11. If after the lowest responsive and responsible bidder has been awarded the contract and during the term of the contract he/she does not supply goods or services in accordance with the bid specifications or if he/she repudiates the contract, the District may re-award the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Re-awarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.
- 21.12. Any or all bids received in response to a request for bid may be rejected if the District or its District Manager determines that any such bidder is not responsive or that the quality of the services, supplies, materials, equipment, or labor offered does not conform to requirements or if the public interest would be served by such a rejection.
- 21.13. When evaluating the award of a contract to the bidders or a purchase of materials, the Board and/or District Manager may take the following considerations into account.
  1. May give preference to recycled products if:
    - a. The product meets the applicable standards; and
    - b. The product can be substituted for a comparable non-recycled product; and
    - c. The product costs no more than a comparable non-recycled product.
  2. May give preference to recycled products if:

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- a. The product meets the applicable standards; and
  - b. The product can be substituted for a comparable non-recycled product; and
  - c. The product cost no more than 5% more than a comparable non-recycled product.
3. May purchase recycled paper products if the specific recycled paper product is:
- a. Available at a price which is not more than 10% higher than that of paper products made from virgin material.
  - b. Of adequate quality; and
  - c. Available to the purchaser within a reasonable period.
4. May give preference to "green" products or services if:
- a. The product or service meets the applicable standards; and
  - b. The product or service can be substituted for a comparable conventional product or service; and
  - c. The product or service cost no more than 5% more than comparable conventional product or service.

### Section 22 - Appeal by Unsuccessful Bidder:

- 22.1. A person who bids on a contract may file a notice of protest with the District Manager regarding the awarding of the contract within five business days after the date the bids were opened by the District.
- 22.2. The notice of protest must include a written statement setting forth in specifics the reasons the person filing the notice believes the applicable provisions of Arizona state law or articles of this document were violated and/or the offeror is unfit for the job.
- 22.3. A person filing a notice of protest may be required by the District or its District Manager, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this State or submit other security, in a form approved by the District, to the District who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:
1. 25% of the total value of the bid submitted by the person filing the notice of protest; or
  2. \$250,000.
- 22.4. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the District on the protest.
- 22.5. A person who makes an unsuccessful bid may not seek any type of judicial intervention until the District has made a determination on the protest and has consequently awarded the contract.
- 22.6. Neither the public body or member of the Board, or its employees or agents, is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who makes a bid, whether or not the person files a notice of protest pursuant to this section.

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- 22.7. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the public body in an amount equal to the expenses incurred by the District because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security. No bid/contract protests will be heard by the Board unless a bidder has followed the proper Notice of Protest route.

### Section 23 - General Contract Authority:

- 23.1. Any lawful contract or agreement for the procurement of goods or services that assigns either rights, remedies, duties or obligations to the District shall be expressed in writing, approved by the District's attorney, and properly authorized before the District shall be contractually bound, except as otherwise provided in this section.

### Section 24 - Types of Contracts:

- 24.1. Any type of contract which will promote the best interest of the District may be used, except that a cost-plus-a-percentage-of-cost is prohibited.
- 24.2. Fixed-price contracts shall be used only when the extent or type of goods or services can be specified and the cost can be reasonably estimated at the outset of the contract.
1. Fixed-price contracts with a price adjustment allowance shall be used only if the solicitation and the contract specify the basis for the price adjustment and provide for adequate notice of such adjustments.
- 24.3. Time and material contracts may be used only when the District Board determines that such a contract is less costly than any other type or that it is impractical to obtain the goods or services except under such a contract. Time-and-materials or labor-hour contracts shall provide for a maximum contractual amount not to be exceeded without prior authorization.
- 24.4. Lease agreements and lease-purchase contracts may be used if all conditions for renewal, including the cost determination for renewal are set forth in the agreement, and the lease is not used to circumvent the required procurement procedures of this Article. A purchase option may be exercised if the lease-purchase was awarded by competitive solicitation.
- 24.5. Multi-term contracts may be used for any period of time deemed to be in the best interests of the District. The term of the contract and any conditions for the renewal or extension shall be included in the solicitation and funds shall be available for the first fiscal year at the outset of the contract. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriations of funds therefore.
1. Before exercising any option for renewal or extension of a contract, the District Board Manager or designee shall evaluate the performance criteria during the original contract period and determine in writing that competitive procurement is not more advantageous to the District than exercise of the particular option.

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2. In the event that funds are not appropriated or made available to support the continuation of a contract in a subsequent fiscal year, the contract shall be canceled and the District shall have no further obligation under said contract.

#### Section 25 - Contract Clauses:

- 25.1. All District contracts for goods or services shall include provisions that define the rights and responsibilities of the parties to the contract and any language that contractually safeguards the District, its employees officers and elected officials that is appropriate to the procurement and in the best interest of the District.
- 25.2. The District's attorney may establish standard contract clauses for inclusion in District contracts.
- 25.3. Such standard clauses may be modified upon review by the District's attorney on a case-by-case basis.
- 25.4. The submission of bid security by the bidder or offeror to guarantee faithful bid may be required by the Board or designee in an amount of not less than 5% of the total bid. Any requirement shall be set forth in the bid solicitation:
  1. When the solicitation requires bid security, it must accompany the bid proposal or the bid will be rejected unless the District Manager decides to grant the bidder an extension to file the bid bond. Extensions are limited to a maximum of two working days to three days after bid opening. Bid bonds received after this will not be accepted and the bids will be rejected.
  2. No action shall be had against the bidder or offeror's bid security if the bidder or offeror is permitted to withdraw its bid or offer prior to award.
- 25.5. The submission of performance or payment security by the bidder or offeror may be required by the District, as required by law, in an amount of not less than 100% of the total bid. Any requirement shall be set forth in the bid solicitation. All performance and payment security shall be submitted to the District prior to execution of the contract and prior to release of any bid security.
- 25.6. All bid, payment or performance security shall be a cash bond or bond provided by an insurance company authorized to do business in the State of Arizona and countersigned by an Arizona resident agent if issued outside the State of Arizona.
  1. A bid payment or performance security shall not be required solely to exclude potential bidders.
  2. The nature of performance and the need for future protection of the District shall be considered when determining the amount and type of security required for each solicitation.
  3. Unless otherwise provided in the bid specifications, the successful bidder shall provide an additional insured endorsement to any required commercial general or automobile liability policy naming the District as an additional insured.

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25.7. In addition to the requirements of the subsection above, depending upon the nature of the contract and amount thereof, the District Board may also require insurance companies and/or bonding companies to have an "A" rating or better with Moody's or A.M. Best Company, and/or to be included on the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bond and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended) by the audit staff, Bureau of Accounts, U.S. Treasury Department.

**Article XIII. AMENDMENTS**

Section 1 - The District has the right to make and enforce new rules and to enforce, change, abolish or modify existing rules, policies, procedures or benefits as it may deem necessary or advisable.

**ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2022**

**BLUE RIDGE DOMESTIC WATER IMPROVEMENT DISTRICT**

\_\_\_\_\_  
**CHAIRMAN - John Ritter**

**ATTEST:**

\_\_\_\_\_  
**SECRETARY - Sue Davis**