



Water and Wastewater Service Policies

General Rules and Regulations

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CHAPTER 1 - TERMS AND CONDITIONS

1.1 GENERAL

In order that all customers may receive uniform, efficient and adequate utility service, all customers who have applied for or are receiving electric, water and wastewater service from the BPUB shall be subject to the Conditions stated herein.

1.2 POLICY DEFINITIONS

The following definitions are given for the purpose of establishing standard interpretations of the terms used in this policy. Except where specific definitions are used within a certain article or section of this policy for the purpose of such section, the following terms, phrases, words, and their derivations shall have the meaning given herein when not inconsistent with the context. Words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive.

- 1.2.1 **Abutting Property** - Any property that is immediately adjacent to or contiguous with or that is located immediately across any road, public right-of-way or easements from the subject property.
- 1.2.2 **Additional Facilities or Structures** - Any additional construction of buildings or real property appurtenances at a specific location that would create or tend to create additional demand for electric, water or wastewater service.
- 1.2.3 **Apartment** - Two or more buildings constructed on a single parcel of property where each building contains at least two (2) living units or one or more buildings constructed on a single parcel of property where each building contains at least five (5) living units.
- 1.2.4 **Applicant** - The person, organization or corporation who signs an application form requesting electric, water or wastewater services be made available at a specific location and thereby agrees to pay for all such services at the location (also see Customer).
- 1.2.5 **Backflow Preventer** - A mechanical assembly operated by the reduced pressure principal that is installed in conjunction with a water meter to prevent a flow of water from the customer's side of the meter into the BPUB's distribution system under conditions where water pressure on the customer's side of the meter exceeds the pressure in the BPUB's distribution system.

The installation and design of this device will be determined by the Water and Wastewater Engineering Department of the BPUB.

- 1.2.6 Base System** - The BPUB's water transmission and distribution system or wastewater collection or force main system which is in existence at the time an application is made for an extension of service.
- 1.2.7 Biochemical Oxygen Demand (BOD)** - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).
- 1.2.8 Building** - Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, vehicles, goods, merchandise, equipment, materials or property of any kind. This definition shall include but is not limited to tents, lunch wagons, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, store rooms or vehicles serving in any way the function of a building as described herein.
- 1.2.9 Cameron County** - A County in the State of Texas hereinafter called the "County."
- 1.2.10 Central Wastewater System** - The pipes, pumps, tanks, treatment plants, collection mains and other appurtenances either connected directly to or isolated from the BPUB's base system which serve two or more lots or which serves any multiple family, commercial, industrial, institutional or other use where the total wastewater flow exceeds two thousand (2000) gallons per day. All central wastewater systems shall meet the design and construction requirements of the BPUB.
- 1.2.11 Central Water System** - The water sources, pumps, treatment plants, distribution mains, fire protection mains and other appurtenances either connected directly to or isolated from the BPUB's base system which serve two or more lots or which serves any multiple family, commercial, industrial, institutional or other use where the total water usage exceeds three thousand (3000) gallons per day. All central water systems shall meet the design and construction requirements of the BPUB.
- 1.2.12 City of Brownsville** - A municipal corporation hereinafter called the "City."
- 1.2.13 Chemical Oxygen Demand (COD)** - The quantity of oxygen equivalent to the organic matter content of a sample that is susceptible to oxidation by strong chemical oxidant.
- 1.2.14 Conduit System** – All conduits (including spare conduits), equipment pads, trenching and backfilling.
- 1.2.15 Connection Charges** - A general term referring to the specific development charges that must be satisfied in order to receive water and/or wastewater service. Water connection charges include: meter installation, acreage, water rights, fire service line, tapping fees and impact fees. ☀Wastewater connection charges include: acreage, service installation, service inspection fees, tapping fees and impact fees.

- 1.2.16 Consumer** - The person or persons who actually receive and utilize electric, water or wastewater service at a specific location.
- 1.2.17 Customer** - The person, organization or corporation responsible for payment for all electric, water or wastewater services used at a specific location and further defined as that person, organization or corporation who signed the application requesting that electric, water and/or wastewater services be made available at the specific location and thereby agreeing to pay for all usage of such services occurring at said location (also see Applicant).
- 1.2.18 Customer's Installation** - All service entrances, weatherheads, bus ducts, pipes, shut-off valves, fixtures and appliances or apparatus of every kind and nature used in connection with or forming a part of an installation for utilizing electric, water or wastewater service. In general, customer's installations are located on the customer's side of the "point of delivery," whether such installation is owned outright by the customer or is used by the customer under lease or otherwise.
- 1.2.19 Deposit** - The amount of money placed with the BPUB by each customer as security for payment of the electric, water or wastewater bill.
- 1.2.20 Detector Check Valve** - A device which detects leakage or unauthorized use of water from a fire service line.
- 1.2.21 Developer** - Any person or legal entity engaged in developing or subdividing land to which utility services are to be rendered by the BPUB. Where applicable, any individual or legal entity that applies for the extension of utility services or connection to the utility system in order to serve a certain property.
- 1.2.22 Development** - A parcel or tract of land of any size within the city limits of the City of Brownsville or its extraterritorial jurisdiction and regardless of whether it is legally described (by plat or metes and bounds) as a single lot, parcel or tract or subdivided into and described (by plat or metes and bounds) as, two or more lots, tracts, or parcels that is being improved or developed to accommodate residential, commercial or industrial land uses including any combination thereof together with certain public uses such as but not limited to streets, alleys and parks. The parcel or tract of land may ultimately be sold whether in whole or in part to one or more parties but the proposed or actual sale of developed land is not a prerequisite for the parcel or tract of land to constitute a development under these service policies. For the purpose of clarity and not limitation on the scope of the definition of development, a development will include but is not limited to a parcel or tract of land that is subdivided into two or more lots with only one lot being developed or improved at the present time and the remaining parcel(s), tract(s) or lot(s) of land being developed or improved at a future date.
- 1.2.23 Dwelling** - A house, mobile home, apartment or building used primarily for human habitation. The word dwelling shall not include hotels, motels, tourist courts or

other accommodations for transients, nor shall it include dormitories, fraternities, sororities, rooming houses, business or industrial facilities.

- a. **Single Family** - A building containing not more than one living unit on one or more lots. Mobile homes not in approved mobile home parks are considered single family dwellings.
- b. **Single Family Attached** - Single family dwelling units constructed in such a manner that the units share a common wall and lot line with another unit. Duplexes, triplexes and quadruplexes shall be considered single family attached housing units.
- c. **Duplex** - A single building containing two living units constructed on one or more lots.
- d. **Triplex** - A single building containing three living units constructed on one or more lots.
- e. **Quadruplex** - A single building containing four living units constructed on one or more lots.
- f. **Multiple Family** - A building in which two or more living units exist. Multiple family units shall be the same as duplexes, triplexes, quadruplexes, apartments, condominiums, townhouses, and mobile homes in approved mobile home parks for the purpose of billing monthly service charges.

1.2.24 Definition was intentionally removed

1.2.25 Definition was intentionally removed.

1.2.26 Definition was intentionally removed

1.2.27 Definition was intentionally removed

1.2.28 Definition was intentionally removed

1.2.29 Definition was intentionally removed

1.2.30 Engineering Estimate - A calculation of the construction costs of a project based on the BPUB's Engineering and Planning Division's best available current estimates of costs for material and labor plus overheads for engineering, contingency, general and administrative costs.

1.2.31 Equivalent Service Unit (ESU) - The basic service unit for determining the level or quantity of use of existing facilities with excess capacity, proposed capital improvements or facility expansions for the purpose of assessing a water and/or wastewater Impact Fee.

Calculation of ESUs for water and wastewater service: For impact fee purposes, the following Equivalent Service Unit (ESU) conversion table is hereby established.

5/8" to 3/4"	- 1.00	ESU	
1"	- 2.00	ESUs	
1 1/2"	- 2.50	ESUs	
2"	- 6.00	ESUs	
3"	- 13.75	ESUs	
4"	- 25.00	ESUs	
6"	- 55.00	ESUs	
8"	- 90.00	ESUs	
10"	- 150.00	ESUs	(AWWA Standards shall prevail)

Meter equivalency ratios were based on AWWA M6 Water Meters- Selection, Installation, and Maintenance, and AWWA C700 through C703 design standards for various meter types.

1.2.32 Excess Strength Wastewater - Wastewater containing constituents whose parameters are in excess of those specified for normal strength wastewater.

1.2.33 Extension (Water and Wastewater) - An 8 inch or larger water or gravity wastewater line or a 8 inch or larger wastewater force main added to the base system for the purpose of furnishing additional water, wastewater, or fire protection service to one (1) or more customers. All extensions shall be located within a public right-of-way or public utility easement.

1.2.34 Facility Service Area - The facility service area is the total geographical area which a water or wastewater oversized facility or facilities ultimately is capable of servicing, and upon which an acreage charge is imposed. The facility service area shall include the facility service zone and such additional acreage as determined by the Board in accordance with this definition. The size of the facility service area is determined by the Board based upon the ultimate capacity of the oversized facility or facilities, regardless of need for additional oversized extensions.

1.2.35 Facility Service Zone - The facility service zone is an area of acreage determined by the Board to be directly served by a water or wastewater oversized facility or facilities, and upon which an acreage charge is imposed. The area within the zone shall be as determined by the Board based upon geographical boundaries, extension capacity, and such other conditions as may be applicable, i.e., such as need, or lack

of need, for additional oversized extensions. The BPUB will advertise any proposed facility service zone in a local newspaper for public interest.

- 1.2.36 Fire Service Lines** - The pipe, isolating valves and fittings of the BPUB which extend from the water main to the fire line pipes of the customer and which are used for supplying water exclusively for fire protection purposes. The point of service for fire lines shall be on the customer's side of the detector check valve vault up to the public R.O.W..
- 1.2.37 Force Main** - A wastewater line which carries wastewater under pressure from a lift station.
- 1.2.38 Frontage** - The actual width, normally expressed in feet, along an abutting Public street right-of-way or easement, but without relation to the front, side or rear of any structure located on the property along which the water or wastewater line(s) is installed or to be installed. Frontage may be on more than one side of a lot or parcel of property.
- 1.2.39 Grease/Grit Interceptor** - A device designed to use differences in specific gravities to separate and retain oil & grease, sand and grit prior to the wastewater entering the sanitary sewer collection system.
- 1.2.40 Hotel** - A building designed to provide accommodations for transients or persons for short time residence, with or without meals. A hotel shall have ten (10) or more sleeping rooms including the customary accessory facilities. Sleeping rooms shall have no provisions for cooking.
- 1.2.41 Identifiable Internal Water Service Line** - A waterline, owned and installed by the customer on the customer's side of the point of delivery whose purpose is to provide water service to any additional or new facility or structure.
- 1.2.42 Individual or Person** - The word "individual" or "person" includes any group of persons, firms, corporations, associations, organizations, or legal entities.
- 1.2.43 Industrial Wastewater** - Water borne solid or liquid wastes from any manufacturing or processing plant or other industrial undertaking, or water borne wastes discharged from dwellings, restaurants, hotels, grocery stores, or other commercial establishments that are prohibited, or that require special monitoring and treatment either because of strength, quantity or nature of the wastewater, in order to protect the wastewater system, general public, and environment.
- 1.2.44 Industry** - Any activity involving the manufacturing or treatment of any commodity including the assembly, packaging, canning, bottling, or processing of any item. To change any commodity in composition, form, size, shape, texture, or appearance is deemed to be an industrial process.

- 1.2.45 Interceptor** - A large size gravity wastewater line for the transmission of wastewater which has been designed to receive wastewater from two (2) or more collecting wastewater lines.
- 1.2.46 Inspector or Inspection Authority** - A person or agency authorized to inspect and approve electric, pretreatment, water and wastewater installations.
- 1.2.47 Lift Station** - A facility which receives wastewater from gravity wastewater collection lines and/or other lift stations and pumps the wastewater under pressure through a force main to another location.
- 1.2.48 Living Unit** - A room or rooms comprising the essential elements for a single housekeeping unit. Facilities for the preparation, storage and keeping of food for consumption within the premises shall cause a unit to be construed as a living unit. Those facilities need not be private from the living unit, but shall be conveniently accessible to the living area.
- 1.2.49 Lot** - A part of a subdivision or any other parcel of land intended as a unit for building development or transfer of ownership or both. Parcels of land less than one acre for commercial projects or multiple family dwellings and parcels of land for each single family dwelling shall be considered lots.
- 1.2.50 Lot Line** - The property line, abutting the right-of-way line, or any line defining the exact location and boundary of the lot or property.
- 1.2.51 Meter** - The measuring device owned and installed by the BPUB on a service line for the purpose of accurately measuring electric or water consumption by a customer.
- 1.2.52 Mobile Home** - A detached residential dwelling designed for long term occupancy and intended to be transported after fabrication on streets and highways on its own wheels or on a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation, connection to utilities and the like.
- 1.2.53 Mobile Home Park (Approved)** - A parcel of property zoned under provisions of the applicable City or County zoning regulations whose allowed and recognized use is the business of renting spaces or lots upon which mobile homes are placed and occupied as single family dwellings and shall include any associated and allowed laundry and recreational and common facilities incidental thereto.
- 1.2.54 Motel** - The term "motel" shall include the term "motor hotel," "tourist court," "transient accommodations," primarily for those persons traveling by automotive vehicles and consisting of two (2) or more units or buildings designed to provide sleeping accommodations and with customary accessory uses.

1.2.55 Normal Strength Wastewater - Wastewater with constituents which do not exceed the following limits:

Constituent	Maximum Concentration mg/l
Total Solids	750
Volatile	525
Fixed	225
Total Suspended Solids	200
Volatile	175
Fixed	75
Total Dissolved Solids	550
Volatile	350
Fixed	200
BOD (5-day)	200
COD (3/2 BOD)	300
Total Nitrogen	65
Organic	25
Free Ammonia	40
Nitrates (No ₂)	0.075
Nitrates (No ₃)	0.0300
Chlorides	300
Alkalinity	150
Fats	30
pH	5.0-10.5 standard units

1.2.56 OHD - Overhead electric distribution systems or facilities.

1.2.57 On-Site Facilities - The water mains, services, meters, fire hydrants, wastewater lines, force mains and lift stations installed within a residential, commercial, or industrial development.

1.2.58 Off-Site Facilities - Water mains, wastewater lines, force mains and lift stations constructed to connect on-site facilities with the nearest point in the base system at which adequate capacity is available to meet the requirements of the new services.

1.2.59 Oversized Facilities - A facility such as a water main, a wastewater line, a lift station, a pump station, a treatment plant and related facilities thereto, designated in size and location by the BPUB to exceed the capacity required to serve the immediate project. In the case of mains and lines, unless otherwise determined by BPUB, oversized facilities shall be all of those facilities larger than the following:

- a. Water mains - 8 inches.
- b. Gravity wastewater lines - 8 inches.
- c. Force mains - 8 inches.

1.2.60 Point of Delivery or Connection

- a. Electric Service - See definition of "Electric Service."
- b. Water Service - The point where the City's water meter nipple is connected with the pipe of the customer and where water service to the customer begins.
- c. Wastewater Service - The point where the service lateral crosses the customer's property line.

1.2.61 Pretreatment or Treatment - The reduction of the amount of pollutants, the elimination of pollutant or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

1.2.62 Primary - That portion of the electric distribution system which delivers energy to the primary (high voltage) electric side of the distribution transformer from the substation or point of supply. Nominal voltages of the primary system are 2.4 KV and 12.5Y/7.2_KV.

1.2.63 Brownsville Public Utilities Board (BPUB) - A common term used to identify the public utility providing electric, water and wastewater service that is owned by the City of Brownsville, Texas and operated by the seven-member Public Utilities Board as defined by the City Charter Article VI.

1.2.64 Publicly Owned Treatment Works (POTW) – A treatment works which is owned in this instance by the City of Brownsville and operated through its Brownsville Public Utilities Board. This definition includes any devices and systems used in transportation, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant.

1.2.65 Rooming House - A residential building used or intended to be used as a place where sleeping or housekeeping accommodations are furnished or provided for pay to transient or permanent guests or tenants in which less than ten (10) and more than three (3) rooms are used for the accommodation of such guests or tenants, but which does not maintain a public dining room or cafe in the same building, nor in any building in connection therewith.

1.2.66 Rooming Unit - A room or rooms used as a place where sleeping or housekeeping accommodations are provided for pay to transient or permanent guests.

- 1.2.67 Sample Port** – An access point on the wastewater service line that allows periodic compliance and surcharge monitoring. The sample port consists of an eight inch "tee" and shall be located after the pretreatment system, but before public sanitary discharge connection.
- 1.2.68 Secondary** - That portion of the electric distribution system which distributes the energy from the secondary (low voltage) side of the distribution transformer to a pedestal at utilization voltage. Nominal voltages of these secondary systems are 120/240 volts delta, 240 volts, 208/120 volts wye, and 480/277 volts wye.
- 1.2.69 Service Lateral** – Underground service conductors between an electrical source (i.e. transformer, pedestal, riser pole) and the customer's point of connection typically located outside a building wall.
- 1.2.70 Subdivision** - A division of a lot, tract or parcel of land or water into two (2) or more lots, plots, sites or other subdivisions of land or water for the purpose, whether immediate or future, of sale, rent, lease, building development or other use, and which further includes the term "subdivide," meaning to divide land by conveyance or improvement into lots, blocks, parcels, tracts, or other portions.
- 1.2.71 Trunk Main** - A water transmission main or a wastewater gravity or pressure line designed to contain excess capacity to serve areas as opposed to serving individual customers or developments.
- 1.2.72 Total Suspended Solids (TSS).** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by mechanical and/or laboratory filtering.
- 1.2.73 URD** - Underground residential distribution system or facilities.
- 1.2.74 Water and Wastewater Service** - Shall include the readiness and ability on the part of the BPUB to furnish water or wastewater service to the customer on demand. Thus, the maintenance of water pressure at the point of delivery or presence of a wastewater service lateral shall constitute the rendering of service, irrespective of whether the customer makes any use thereof.
- 1.2.75 Wastewater Line** - A pipe which carries wastewater and to which storm, surface and ground waters are not intentionally admitted.
- 1.2.76 Wastewater Service Lateral** - A wastewater connection extending from the collecting wastewater line in the street to a customer's property line or from the collecting wastewater line in an easement to the easement line.
- 1.2.77 Wastewater Systems** - The entire wastewater utility system that serves the needs of the customer which includes treatment facilities, collection lines, lift stations, force mains, and all other related appurtenances incidental thereto.

1.2.78 Water System - The entire water utility system that serves the needs of the customer which includes treatment facilities, transmission, distribution and fire protection lines, taps, meters, and all other related appurtenances incidental thereto.

1.3. TERMS AND CONDITIONS

1.3.1. Application for Service - It shall be unlawful for any person to use the BPUB's electric, water or wastewater facilities without first making written application to the BPUB for service at a current electric or water meter installation at least forty-eight (48) hours before the service is desired and paying all charges incidental to such application. Such application shall constitute an agreement by the customer with the BPUB to abide by the rules, regulations and policies of the BPUB and ordinances of the City in regard to its service.

1.3.2. Ownership - No person shall by the payment of or causing any construction of facilities accepted by the BPUB, acquire any interest or right in any of these facilities, or any portion thereof, other than the privilege to have their property connected thereto for electric, water and wastewater service in accordance with these procedures and regulations.

1.3.3. Continuity of Service - The BPUB shall use reasonable diligence to provide continuous service, and having used reasonable diligence will not be liable to the customer for failure or interruption of service. The BPUB shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accidents, litigation, shutdowns for repairs or adjustments, interference by governmental agencies, failure of electric power, acts of God, or other causes beyond its control.

1.3.4. Indemnity to BPUB - The customer shall not hold the BPUB responsible for any damage or injury to persons or property, in any manner directly or indirectly connected with or growing out of the transmission and use of electricity or water or the utilization of the wastewater system by the customer at or on the customer's side of the point of delivery or connection.

1.3.5. Protection of BPUB's Property - It shall be the customer's responsibility to properly protect the BPUB's property on the customer's premises or easements and the customer will permit no one who is not an agent of the BPUB to remove or tamper with the BPUB's property. When service lines, meters, or other equipment are damaged by contractors, construction companies, governmental agencies or others, such damage will be repaired by the BPUB and the cost of repair charged to the party or parties causing the damage. In the event of any loss or damage to property of the BPUB caused by or arising out of carelessness, neglect or misuse by the customer or by unauthorized parties, the cost of making good such loss or repairing such damage shall be paid by the customer.

- 1.3.6. Location of BPUB Facilities** - The BPUB will provide the location of underground facilities upon request. Customers, contractors, developers or others will be held financially responsible for any damage to the BPUB's facilities.
- 1.3.7. Access to Premises** - The duly authorized agent of the BPUB shall have access to the customer's premises for the purpose of installing, maintaining, inspecting or removing the BPUB's property for purposes incidental to, performance under, or termination of the BPUB's service to the customer, and in such performance shall not be liable for trespass.
- 1.3.8. Obstruction of Meters** - Customers and their agents (such as employees, contractors, etc.), are prohibited from placing any obstacles on or about electric or water meters, and other equipment which in any way obstructs free access to such facilities.
- 1.3.9. Right-of-Way** - The customer shall grant or cause to be granted to the BPUB without cost, all rights, easements, permits and privileges, which in the opinion of the BPUB are necessary for rendering and maintaining service. See Appendix A.
- 1.3.10. Metering of Adjacent Properties** - The customer will not build or extend his electric, water or wastewater lines across or under a street, alley, lane, court, avenue or other way in order to furnish service for adjacent property through one meter, even though such adjacent property is owned by the customer, unless written consent is obtained from the BPUB. Consent may be given when such adjacent properties are operated as one integral unit, under the same name, for carrying on parts of the same business.

Separately owned properties shall not be supplied with electricity or water through one meter.

1.4. BILLING, COLLECTION, DISCONNECTION AND SERVICE POLICIES

The customer is advised to refer to the BPUB's adopted policies on the above items which are contained in a separate document obtainable from the BPUB's Customer Service office.

- 1.4.1** The applicant is obligated to comply with all Rates, Rules and Regulations of the Brownsville Public Utilities Board of the City of Brownsville, Texas, herein referred to as "BPUB."
- 1.4.2** Bills rendered are due upon receipt. Payment must be made within 20 days from the date of the Bill, unless a longer period is provided by applicable law, regulation or order. The BPUB will apply a 5% penalty on bills not paid within this period or other amount determined by BPUB Board of Directors.
- 1.4.3** The applicant will pay for all electric current and/or water passing through BPUB metered connections to premises from date of occupancy/application, and until

such time as the applicant/tenant notifies the BPUB to discontinue the service(s). The above applies regardless of whether services are used or wasted or whether or not premises are occupied by the applicant/tenant.

- 1.4.4** The BPUB reserves the right to discontinue service for causes as follows:
- i. Using electric current for any purpose other than specified at time of making application unless a written request to do so has been made to the BPUB.
 - ii. For Non-payment of all or any portion of a bill.
 - iii. Tampering or interfering with BPUB property or rendering same inaccessible to authorized BPUB employees.
 - iv. If service is discontinued for any of the above reasons, the BPUB reserves the right to make a service charge for re-establishing same.
- 1.4.5** The BPUB shall have the right at any time and without notice to suspend services for repairs, extensions and other necessary maintenance. The BPUB shall not be held liable for any damage that may occur directly there from.
- 1.4.6** The applicant will be held responsible for the protection of all BPUB property in or on the premises or adjacent thereto. The applicant shall exercise all reasonable diligence to prevent loss or damage to said property.
- 1.4.7** The BPUB reserves the right to bill the applicant for repair or replacement of damaged BPUB property, excluding ordinary wear and tear.
- 1.4.8** In the event that the BPUB is rendered unable, wholly or in part, by force majeure or other causes herein specified to carry out its obligations under these Terms and Conditions, to provide services, BPUB's obligations under these Terms and Conditions shall be suspended during the continuance of such inability. The term force majeure as employed herein means acts of God, or any other causes not reasonably within the control of the BPUB.
- 1.4.9** The BPUB disclaims all warranties, expressed or implied. In no event and under no circumstances shall the BPUB be liable for any interest, loss of anticipated revenues, earnings, or profits, increased expense of operations, loss by reason of shutdown or non-operation of electric, water, or wastewater service, or for any consequential, punitive, indirect or special damages.
- 1.4.10** In the event that applicant determines that there has been an overcharge error in billing, and if the date of discovery is within six months of the billing error occurrence, the BPUB shall calculate a billing adjustment. The BPUB shall only calculate an adjustment for error(s) occurring within the previous six months of the date of any discovery of the billing error. If the applicant was undercharged, the BPUB may back bill the applicant for a period not to exceed six months, unless such undercharge was caused by the willful or intentional acts of the applicant. The BPUB shall offer to the applicant a deferred payment plan option for the same length of time as that of the under billing. If the applicant is a residential customer, the deferred payment plan will be offered if the under billing

is \$25 or more. For commercial and industrial customers, the deferred payment plan will be offered if the under billing is in the amount of \$500 or more. However, if the undercharge billing was caused by the willful or intentional acts of the applicant, all sums owed by applicant shall become due and payable upon discovery of the undercharge.

Additionally, the BPUB, pursuant to Texas Local Government Code Section 552.0025, as it may be amended or superseded, and City enabling Ordinance and BPUB Resolution, may impose a lien against an owner's property, unless it is a homestead as protected by the Texas Constitution, for delinquent bills for BPUB utility services to the property. The City, acting by and through the BPUB, shall perfect any lien for delinquent utility charges in the Cameron County real property records by filing Notice of Lien containing the legal description of the property and the BPUB property/customer account number. The lien may include penalties, interest at 10%, attorney's fees and collection costs. While the City's lien is inferior to bona fide mortgage liens recorded before the City's utility lien, it is superior to all other liens. Refer to Appendix A herein for BPUB Forms associated with such liens.

Please refer to Appendix R for Table of approved Customer Service Fees.

CHAPTER 2 – GENERAL SERVICE POLICIES

2.2 GENERAL - WATER AND WASTEWATER POLICIES

- 2.2.1 Maintenance and Liability** - The BPUB shall make a reasonable effort to inspect and keep its facilities in good repair, but assumes no liability for any damage caused by the water or wastewater system that is beyond the control of normal maintenance or that is due to situations not previously reported to the Water Distribution or the Wastewater Collection Departments. These situations shall include but not be limited to damages due to breaking of a pipe, poor quality of water caused by unauthorized or illegal entry of foreign material into the water system, faulty operation of fire protection facilities or other incidental reasons.

The BPUB shall not be responsible for the repair and maintenance of house connections to water or wastewater service laterals nor for privately owned lift stations, force mains and wastewater lines. BPUB shall not be responsible for failure of plumbing devices installed by customer or customer's plumber and/or negligent operation or maintenance of said devices installed by customer or customer's plumber. The customer is responsible for that device and its maintenance/replacement/faulty operation. The BPUB shall be responsible only for the repair and maintenance of all public wastewater lines, lift stations, and force mains in the BPUB's system and shall make a diligent effort to inspect and keep those facilities in good repair.

- 2.2.2 Non-Guarantee of Water Pressure** - The BPUB does not guarantee an uninterrupted supply of water nor does it guarantee continual water at any pressure. The BPUB reserves the right to shut off the water at any time for the purpose of making repairs, extensions, or for other purposes incidental to a public water supply. In doing so, the BPUB shall not be responsible for any damage caused by low pressure or which results from the act of a consumer leaving a faucet open.

The BPUB shall in no case be liable or responsible to any persons whatsoever in case of fire or damage that may result from alleged insufficiency of such fire protection, either from want of pressure or volume, accessibility, or from any other cause. The BPUB reserves the right to shut off any water service where a building has been burned or razed in order to insure the protection of the water system.

- 2.2.3 System Specifications** - The BPUB reserves the right to specify the size, type, materials, and design of all lines as well as taps, meters, laterals, lift stations, pretreatment system, and any other incidental components being added to the water distribution or wastewater collection systems.

The BPUB further reserves the right to remove, test, seal or interfere with any said components for such causes that are detrimental to the water or wastewater systems or deemed necessary by the BPUB.

- 2.2.4 Limitation of Use** - Water or wastewater service purchased from the BPUB shall be used by the customer only for the purposes specified in the application for service, and the customer shall not sell or otherwise dispose of such service to other parties without the authorization by formal agreement with the BPUB.
- 2.2.5 Inspection of Customer's Installation** - All installations for water or wastewater service and pretreatment system or changes therein shall be inspected upon completion of construction by the proper governmental authority to observe the piping, equipment and devices for installation in apparent accordance with accepted standard practice to protect the public interest, and to assure general compliance with local ordinances or rules and building codes. Customer and/or customer's contractor or plumber are responsible for quality control of installations to be in compliance with applicable standards and codes and any latent defects not observed by the BPUB inspection remain the responsibility of customer. Service shall not be rendered if the inspecting authority notifies the BPUB that the installation has not been approved.
- 2.2.6 Type and Maintenance of Equipment** - The customer's water or wastewater lines and equipment shall be selected, installed, used and maintained in accordance with all policies herein, as well as all laws and governmental regulations applicable thereto. The customer expressly agrees to abstain from utilizing any appliance or device which may adversely affect the service, and the BPUB reserves the right to withhold or to discontinue service whenever any such adverse apparatus is used or any deviation of this policy is maintained.
- 2.2.7 Change of Customer's Installation** - No alterations or increases in the customer's installation, which will materially affect the proper operation of lines, mains, or stations of the BPUB shall be made without the written consent of the BPUB. The customer and/or his contractor/plumber will be liable for any damage resulting from a violation of this policy.
- 2.2.8 Connections to Water System** - No person shall tap or make unauthorized connections to the BPUB's water system without first obtaining a permit. This includes the unauthorized opening or closing of valves, turning on hydrants, or causing of any water not legally paid for, to flow from the system. The offending person shall pay all costs attributable to such tampering, as well as all penalties that may apply.
- 2.2.9 Connections to Wastewater System** - No unauthorized person shall tamper with, work on, uncover, make connection with, or in any way alter or damage any part of the BPUB's wastewater system. Furthermore, no unauthorized person shall cause storm water, ground water, or any other unauthorized water or material to enter the

wastewater system, including waste from septic tank trucks. This includes the tapping of downspouts or air conditioning condensate lines into the wastewater system, raising of manhole lids to allow for drainage, the dumping of garbage, refuse or other wastes in manholes, the draining of swimming pools into the wastewater collection lines or any other means of causing or allowing any substance not considered domestic wastewater or not legally paid for as wastewater, to enter the wastewater system. BPUB must approve the discharge of any wastewater coming from any user, for better understanding see sections 5.2.1, 5.2.2 and 5.2.3. The offending person shall pay the total cost of all charges attributable to such tampering and be subject to all penalties as may be provided by law.

2.2.10 Swimming Pool Discharge Requirements - Discharges from swimming pools, wading pools, spas, whirlpools, and therapeutic pools shall be admitted to the BPUB's collection system on a case-by-case basis. Each user or person who desires to drain a swimming pool, wading pool, spa, whirlpool, or therapeutic pool to the BPUB's wastewater collection system shall first obtain written permission from BPUB prior to discharging any of these waters. Permission shall be granted by the General Manager or designee if the following conditions are met:

- a. The discharge will not cause a hydraulic overload condition in the area's sewer lines;
- b. The chlorine residual in the water shall be less than 0.1 mg/L;
- c. The discharge of the water shall in no way create a public nuisance;
- d. The discharge of the water shall in no way damage, destroy, erode, or impair surrounding property;
- e. The discharge of the water shall in no way violate any BPUB Electric, Water and Wastewater Service Policies, General Rules and Regulations or City of Brownsville Ordinance;
- f. The user has obtained written permission from the General Manager or designee for the discharge; and
- g. An appropriate fee may be determined and charged by BPUB based upon volume and strength of discharge and any BPUB manpower monitoring for the discharge.

Such wastewater must be pH neutralized between 5.0 and 10.5 and discharged to the wastewater collection system as indicated in section 5.2.1.B. In the event a sewer connection is not available, such wastewater must be neutralized and disposed at a legal disposal site. The owner of the swimming pool, wading pool, spa, whirlpool, or therapeutic pool will be required to provide proof of properly permitted disposal upon BPUB's request.

- 2.2.11 Interconnection to Private Water System** - No person shall interconnect a privately owned water system to the BPUB's water system without prior written permission of the BPUB and other state regulatory agencies.
- 2.2.12 Interconnection of Individually Metered Services** - No person shall interconnect two (2) or more individually metered water services within private or Public property without prior written approval of the General Manager or his designee.
- 2.2.13 Modifications to the System** - In the event that existing waterlines, fire hydrants, gravity wastewater lines, manholes, force mains, lift stations, etc., are in conflict with any proposed development, the developer or contractor is to advise the BPUB's Water and Wastewater Engineering Department of the conflict, in writing, and request system modifications. Any modification will be reviewed by the Water and Wastewater Engineering Department to determine whether it is feasible. If it is determined that it is feasible, the developer or contractor shall pay all costs to the BPUB for labor, material, equipment, overhead, and all other related charges associated with said modifications.
- 2.2.14 Wastewater Lateral Maintenance** - The customer shall be responsible for keeping the wastewater lateral free of all obstruction from his premises to the main wastewater collection line within a public right-of-way or easement. The customer shall be responsible for removing any obstruction (stoppages) that occurs within the wastewater lateral.
- The BPUB will be responsible for keeping all main wastewater collection lines within a public right-of-way or easement free of obstructions.
- 2.2.15 Limitation of Payment** - All connection charges paid to the BPUB for service to a particular location are subject to increase when new rates have been established by the City/BPUB subsequent to the payment of the initially lower charges, and where no written request to begin construction has been made within three (3) months of the payment of the initially lower connection charges, or where the BPUB is unable to begin construction due to an inadequately customer/owner prepared site.
- 2.2.16 Miscellaneous Charges** - Miscellaneous charges shall be made to customer/owner for any work done by the BPUB beyond normal maintenance or extensions. This work, which will include such items as moving connection, moving meters, relocating fire hydrants, relocating manholes, or any other work done at the property owner's/customer's request for the benefit of the property owner, shall be charged for at direct cost plus overhead. Payment in full for the estimated cost will be required from customer/owner prior to doing this type of work with appropriate refunds, if any, when the work is completed.
- 2.2.17 Bill Adjustments**
- a. No allowance or adjustment to any water bill shall be made for leaks of any nature occurring on the customer's side of the BPUB point of delivery.

- b. No allowance or adjustments to any wastewater bill shall be made for water leaks occurring on the customer's side of the BPUB point of delivery which results in flow into the BPUB wastewater system.
- c. An allowance or adjustment to a portion of the wastewater bill may be made for water leaks occurring on the customer's side of the BPUB point of water delivery if the customer can show that the water leak did not result in a flow into the BPUB wastewater system. The burden of proof is placed on the customer. The customer must provide evidence that the leak did not flow into the BPUB wastewater system and must be acceptable to BPUB. Only one (1) month prorated estimated credit will normally be provided to the customer requesting a credit or adjustment to the wastewater bill, unless extenuating and unusual circumstances are otherwise determined by BPUB, such as a leak occurring during any winter averaging period that could impact monthly wastewater bills for an entire year.
- d. In the event any water meter fails to register due to damage or malfunction, the customer shall be billed for water and wastewater service on the basis of customer's previous water consumption for comparable months.

2.2.18 Temporary Water Service - At the option of the BPUB, temporary service such as for circuses, fairs, carnivals, swimming pool filling, construction work, and the like, may be rendered by installing a meter on an existing fire hydrant. Service may be rendered in this manner upon written application for a permit accompanied by a non-refundable meter installation and removal charge, and a deposit, refundable upon the safe return of the meter and payment of the water bill. Water used through such a temporary meter shall be paid for at the prevailing general water service rate. This type of temporary connection shall be allowed for a maximum time period of sixty (60) days or as arranged with the BPUB, but may be extended in writing at the discretion of the General Manager or his designee. It shall be illegal to utilize or in any manner tamper with any fire hydrant except for employees of the fire department in performing their duties, or any employee of the BPUB engaged in installing or maintaining fire hydrants, or for temporary fire hydrant service as defined in this section.

2.3 GENERAL - FINANCIAL POLICIES

2.3.1 Authority of General Manager and Chief Executive Office - The General Manager and Chief Executive Officer or designee of BPUB shall have the authority to in writing waive the requirement of payment in advance for certain services offered by BPUB when necessary to avoid a demonstrated undue financial burden upon an applicant for service; provided, however, the applicant shall sign an agreement providing for an alternative payment structure and if the agreement is on a form approved by BPUB. The General Manager and Chief Executive Officer are authorized to sign the agreement on behalf of BPUB.

CHAPTER 3 - Section was intentionally removed.

CHAPTER 4 - WATER SERVICE POLICY

4.1 CLASSES OF WATER SERVICE AVAILABILITY

- 4.1.1 General Water Service** - This service covers the normal use of water in faucets, sinks, baths, urinals, toilets, water heaters, boilers, air conditioners, refrigerators, irrigation sprinklers not separately metered, and other similar fixtures or apparatus in residences, apartments, hotels, stores, offices and industrial buildings.
- 4.1.2 Consumptive Water Service** - This service is available where separate metering is required because the permanent designated usage will not be incorporated into the wastewater flow (e.g. beverage bottling, irrigation sprinkler system).
- 4.1.3 Temporary Water Service** - This service is available for short periods of time (maximum of 60 days subject to renewal), upon application only, for construction work, circuses, fairs, exhibitions, displays, lunch carts, camps and other temporary facilities or needs.
- 4.1.4 Fire Protection Water Service** - This service is intended to provide an emergency supply of water exclusively for fire protection purposes. This portion of the customer's installation to which this service is rendered must be entirely separate and apart from the customer's installation for general water service.

4.2 WATER DISTRIBUTION SYSTEM CRITERIA

- 4.2.1 System Service Area** - The BPUB will extend or allow the extension, under policies contained herein, of its water distribution system for the purpose of providing water service to areas that are inside the city limits of the City of Brownsville and to areas outside the city limits of the City of Brownsville and to which it is duly certificated to provide water service by the Texas Commission on Environmental Quality (TCEQ).
- 4.2.2 Extension Policy**
 - I. Inside City Limits ("ICL") Service Zone**
 - A. Single Family - Existing**
 - 1. The entire cost of the off-site water main extension to a single-family unit shall be paid by the customer or developer.
 - 2. The cost of any specifically requested oversize for customer developer private benefit, as determined by the

BPUB Engineering Department, shall be paid by the customer or developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.

3. The customer or developer will be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending the water line.
4. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the customer's or developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the customer's or developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
5. If the BPUB's General Manager and CEO elects to have the BPUB design and construct the off-site water main extension, the customer or developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
6. The customer or developer shall pay all applicable meter and connection charges as outlined in Section 4.2.3 during the plat process and prior to final plat approval.

B. Single Family - New

This policy shall be the same as outlined in Section 4.2.2.I.A.

C. Multifamily - Existing (Apartments, Multifamily Dwellings and Motels - Existing)

1. The entire cost of the off-site water main extension (including specifically requested over sizing for customer/developer private benefit) to multifamily dwellings, apartments and motel units shall be paid by the developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.

2. The over sizing of any water main shall be determined by the BPUB Engineering Department.
3. The customer or developer will be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending the water line.
4. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
5. If the BPUB's General Manager and CEO elects to have the BPUB design and construct the off-site water main extension, the developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
6. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by the developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
7. All borings and crossings must be constructed or installed prior to street construction. The developer may install meters in lieu of the tap fee (water).
8. The customer or developer shall pay all applicable meter and connection charges as outlined in Section 4.2.3.

D. Multifamily - New

This policy shall be the same as outlined in section 4.2.2.I.C.

E. Single Family Subdivisions - Existing

1. All mains inside the subdivision are the responsibility of the developer.
2. The entire cost of the off-site water main extension (including specifically requested over sizing for

customer/developer private benefit) to the subdivision shall be paid by the developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.

3. The over sizing of any water main shall be determined by the BPUB Engineering Department.
4. The customer or developer will be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending the water line.
5. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
6. If the BPUB's General Manager and CEO elects to have the BPUB design and construct the off-site water main extension, the developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
7. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by the developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
8. All borings and crossings must be constructed or installed prior to street construction. The developer may install meters in lieu of the tap fee (water).
9. The customer or developer shall pay all applicable meter and connection charges as outlined in Section 4.2.3.

F. Single Family Subdivision - New

1. All mains inside the subdivision are the responsibility of the developer.
2. The entire cost of the portion of the off-site water main extension (including specifically requested over sizing for customer/developer private benefit) to the subdivision shall be paid by the developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.
3. The over sizing of any water main shall be determined by the BPUB Engineering Department.
4. The customer or developer will be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending the water line.
5. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
6. If the BPUB's General Manager and CEO elects to have the BPUB design and construct the off-site water main extension, the developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
7. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by the developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
8. All borings and crossings must be constructed or installed prior to street construction. The developer may install meters in lieu of the tap fee (water).
9. The customer or developer shall pay all applicable meter and connection charges as outlined in Section 4.2.3.

G. Industrial and Commercial Customers or Developers - Existing

1. The entire cost of the off-site water main extension (including specifically requested over sizing for customer/developer private benefit) to industrial and commercial customers or developers shall be paid by the customer or developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.
2. The over sizing of any water main shall be determined by the BPUB Engineering Department.
3. The customer or developer will be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending the water line.
4. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the customer's or developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the customer's or developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
5. If the BPUB's General Manager and CEO elects to have the BPUB design and construct the off-site water main extension, the customer or developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
6. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by the customer or developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
7. All borings and crossings must be constructed or installed prior to street construction. The developer may install meters in lieu of the tap fee (water).

8. The customer or developer shall pay all applicable meter and connection charges as outlined in Section 4.2.3.

H. Industrial and Commercial Customers or Developers - New

This policy shall be the same as outlined in Section 4.2.I.G.

II. Outside City Limit ("OCL") - Within Extraterritorial Jurisdiction (ETJ) Service Zone

A. Single Family Subdivisions

1. The cost of all on-site facilities within the subdivision shall be paid by the developer.
2. The cost of the entire off-site water main extension to the subdivision shall be paid by the developer.
3. The cost of any specifically requested oversize for customer/developer private benefit, as determined by the BPUB Engineering Department, shall be paid by the customer or developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas. See Section IV.
4. The customer or developer will be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending the water line.
5. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
6. All borings and crossings must be constructed or installed prior to street construction. The developer may install meters in lieu of the tap fee (water).
7. The extension of services outside the city limits shall be limited by the size of the existing BPUB trunk main, treatment capacity and related facilities.

8. The customer or developer shall pay all applicable meter and connection charges as outlined in Section 4.2.3.
9. The developer shall be responsible for having the off-site water line extension: (a) designed by an independent engineer, subject to having the design approved by the BPUB, and (b) constructed by an independent contractor, subject to having the work of the contractor inspected and approved by the BPUB. The developer shall comply with the water main size, design and other criteria established by the BPUB.

B. Single Family

This policy shall be the same as Section 4.2.2.II.A.(2)-(9), except that Paragraph 2 should read as follows:

The cost of the entire off-site water main extension to a single-family unit shall be paid by the customer or developer.

All other paragraphs shall be interpreted to apply to a customer or developer.

C. Multifamily (Apartments, Multifamily Dwellings and Motels)

This policy shall be the same as Section 4.2.2.II.A.(1)-(9), except that Paragraph 2 should read as follows:

The cost of the entire off-site water main extension to apartments, multifamily dwellings or motels shall be paid by the customer or developer.

D. Commercial and Industrial

This policy shall be the same as Section 4.2.2.II.A.(1)-(9), except that Paragraph 2 should read as follows:

The cost of the entire off-site water main extension to commercial and industrial customers or developers shall be paid by the customer or developer.

All other paragraphs shall be interpreted to apply to a customer or developer.

III. Outside Extraterritorial Jurisdiction (ETJ)

The same policy for inside the ETJ and outside the city limits applies to Outside - ETJ. Before service can be connected, BPUB approval if recommended by the General Manager, must be obtained. The limited capacity of existing lines and treatment facilities shall limit use of the BPUB System for all customers outside the city limits.

IV. Water Rights

BPUB's ability to extend water service is dependent on the prior BPUB acquisition of dependable and adequate water supplies and water rights to provide an adequate present and future water supply for new customers.

No development will be connected to a waterline unless the developer transfers to BPUB the amount of water rights, or water rights charge, or some combination of both, as determined in Section 4.2.3(E) to provide for adequate water service to the development to be served.

No water rights shall be obtained or alternatively, no water rights connection charge shall be collected from applicants for service to single family residences within the corporate limits of the City of Brownsville if the projected water usage by the customer is expected to be equal to or less than the water usage of a single family residence within the corporate limits of the City of Brownsville using a 1-inch or smaller water meter. No water rights shall be obtained or alternatively, no water rights connection charge shall be collected from applicants for service to small commercial customers if the projected water usage by the customer is expected to be equal to or less than the water usage of small commercial customers within the corporate limits of the City of Brownsville using a 2-inch or smaller water meter. This exemption does not apply to persons developing land for use as single family homes, industrial or large commercial purposes.

4.2.3 Connection Charges

- A. Acreage Charge** - Each applicant for water service in which the applicant is applying to connect to an oversized water facility or facilities, the cost of which has been previously paid by an individual customer or a developer as a requirement by the BPUB, and for which the BPUB has established a predetermined acreage charge, shall pay to the BPUB the appropriate acreage charge as calculated by the BPUB as a prior condition to connect to the oversized facility or facilities. The acreage charge shall be calculated by dividing the total construction cost of the oversized facility or facilities to provide service by the number of acres in the Facility Service Zone applicable to the particular oversized facility and

multiplied by a factor of 1.5 to allow the recovery of costs of the oversized facility or facilities within a fifteen (15) year repayment period. The acreage charge shall include a proportionate interest charge factor if the individual customer or developer eligible for reimbursement is entitled to interest under Chapter 6, "Eligible Repayment Policy."

The acreage charge is based upon a use of six (6) homes per acre. Land uses with higher densities shall have an acreage charge increased in direct proportion to the ratio of the higher density to six (6) units per acre.

Acreage Charge (Minimum Acreage Charge)

$$\frac{\text{COST OF OVERSIZED FACILITY}}{\text{Acreage of Zone}} \times 1.5 = \text{Charge/Acre} \quad \text{6 units/acre)}$$

Adjusted Acreage Charge (for High Density)

$$\frac{\text{Units/Acre}}{6} \times \text{Acreage Charge} = \text{Adjusted Acreage Charge for High Density Use}$$

For commercial and industrial acreage, the density/acre shall be as outlined in the Texas Commission on Environmental Quality design criteria on loading/sq. ft. population, strengths, etc. and adjusted to units/acre. In no case shall the cost be less than the minimum acreage charge.

Industrial customers shall be adjusted on the basis of waste quality and strength. The minimum charge is for 6 Homes/Acre as stated above.

The total charge to the customer or developer shall be the acreage charge plus the proportional part of the accumulative interest on the unpaid principal.

(i.e. Area Developed x Accumulated and Unpaid Interest = Facility Service Zone Interest Charge)

Total Charge = Acreage Charge (Acres Developed) + Interest Charge

The predetermined acreage charge shall cease to be collected from applicants in the Facility Service Area and Facility Service Zone applying to connect to the oversized facility or facilities at such time as all the acreage in the Facility Service Zone is developed and the acreage charge assessed thereon has been collected by BPUB. Examples of the calculation of acreage charges is described in Appendix J.

No acreage charge shall be assessed against an area in a Facility Service Zone designated as a "prepaid" area in the "Development Reimbursement Agreement" executed between the BPUB and the customer or developer installing and paying the total construction cost of the oversized facility or facilities.

- B. Meter Installation Charge** - Upon written application and payment to the BPUB of the appropriate meter installation charge, the BPUB shall furnish all labor, material and equipment necessary to provide water service to the customer's property line. The water meter installation fee is due and payable prior to the issuance of a building permit. The water meter installation charge may include the cost of backflow prevention devices where deemed necessary to protect the water system from possible contamination.
- C. Tapping Charge** - A tapping charge shall be made for the BPUB tapping into water main when required for developer installed water facilities. Charges for water taps will be based on the engineering estimate of the Water and Wastewater Engineering Department according to the size of the tap made or the cost of replacing an existing tap with a larger tap. The water tapping charge shall be paid prior to the service being rendered.
- D. Impact Fee** - An impact fee, as may periodically be amended by the City, will be assessed and collected in order to provide water service to properties considered "new development" in accordance with the provisions of Chapter 7 of these Service Policies and Chapter 395 of the Texas Local Government Code, as may periodically be amended. The Water Impact Fee is specified in Appendix M.
- E. Water Rights/Water Rights Charge** - Any developer requesting water service to a development, as defined in Section 1.2.21 of these service policies shall transfer to BPUB, as a condition of connection to or extension of the BPUB water system and extension of water service, 1.50 acre-feet of water rights per acre of the development. The developer of a development that is larger or smaller than one (1) acre shall transfer a prorated amount of water rights based on 1.50 acre-feet per acre and calculated by multiplying the size of the development (in terms of acres) by 1.50. The developer shall transfer the water rights to the BPUB prior to connection to or extension of the BPUB water system and extension of water service to the development.

Any developer requesting water service to his development and who does not possess or is unable to secure adequate water rights to support water service to the development to be served, shall pay to the BPUB as a condition of connection to or extension of the BPUB water system and extension of water service, a water rights charge (determined by the Texas

Attorney General in Opinion No. GA-0482, November 7, 2006, not to be an impact fee) for the development on a per-acre basis in lieu of water rights or adequate water rights. The water rights charge is established and periodically changed by the BPUB based upon periodic actual water rights purchase prices incurred by the BPUB. A developer may combine the transfer of water rights and payment of the water rights charge to BPUB to equate to the required BPUB total under the policies and formulas contained herein, to assure an adequate present and future BPUB water supply to the development tract.

For a development that is larger or smaller than one (1) acre, the developer shall pay a prorated water rights charge based on the per-acre charge established by the BPUB and calculated by multiplying the size of the development (in terms of acres) by the current per-acre charge. The developer shall pay the water rights charge to the BPUB during the platting process and prior to the plat approval.

If a development is developed or improved in units, phases or segments and the developer elects to pay a water rights charge in lieu of transferring water rights, the developer shall have the option of either:

1. paying the BPUB a water rights charge on the entire development regardless of the time when each individual unit, phase or segment of the development is platted; or
2. paying the BPUB a water rights charge for each individual unit, phase or segment of the development as each unit, phase or segment is platted.

The water rights charge for the entire development under option no. 1 shall be payable during the platting process and prior to final plat approval. The water rights charge shall be calculated by multiplying the size of the entire development (in terms of acres) by the current per-acre water rights charge.

The water rights charge under option no. 2 for each individual unit, phase or segment shall be due during the platting process and prior to final plat approval. The water rights charge for each unit, phase or segment shall be calculated by multiplying the size of each individual unit, phase or segment by the then prevailing per-acre water rights charge established by the BPUB in these Service Policies.

The developer and the BPUB shall execute an agreement for the payment of water rights charges if the developer elects to plat the

development in units, phases or segments and pay a periodic water rights charge.

No water rights shall be obtained or alternatively, no water rights connection charge shall be collected from applicants for service to single family residences within the corporate limits of the City of Brownsville if the projected water usage by the customer is expected to be equal to or less than the water usage of a single family residence within the corporate limits of the City of Brownsville using a 1-inch or smaller water meter. No water rights shall be obtained or alternatively, no water rights connection charge shall be collected from applicants for service to small commercial customers if the projected water usage by the customer is expected to be equal to or less than the water usage of small commercial customers within the corporate limits of the City of Brownsville using a 2-inch or smaller water meter. This exemption does not apply to persons developing land for use as single family homes, industrial, or large commercial purposes.

4.2.4 Application for Extension and Construction of Off-Site Water Main Constructed by the BPUB (Inside The City Limits Of Brownsville)

- A. Application for non-subdivided property** - A letter of application shall be required for extension of water service under the provisions hereof, and shall be signed by the customer or developer desiring water service. The application shall be filed with the BPUB Water and Wastewater Engineering Department and shall include a legal description of the property and indicate the name, street address, lot and block number, and the street frontage of each site, along with the proposed usage. Each applicant shall agree to connect to and use the BPUB's water service for his property. No off-site water mains shall be extended and constructed by the BPUB or connections to off-site water mains made until all applicable connection charges for water service outlined in Section 4.2.3. have been paid.
- B. Processing of Applications for non-subdivided property** - Upon receipt by the BPUB Water and Wastewater Engineering Department of a letter of application requesting that an off-site water main be extended and constructed by the BPUB, it will be evaluated, and if the BPUB determines not to extend and construct the off-site water main, returned to applicant with the proper written explanation. If the BPUB determines to extend and construct the off-site water main, the cost to the customer or developer will be estimated and submitted to the customer or developer for consideration. If the customer or developer agrees to pay all applicable connection charges in order to extend and construct an off-site water main to his property or connect to an off-site water main, the BPUB

Water and Wastewater Engineering Department shall prepare the proper forms specifying all the terms and conditions for service and the related applicable connection charges to the customer or developer. See Appendix A. Quoted connection charges shall only be valid for ninety (90) days or whenever connection charges are changed by the City and/or BPUB, whichever time period is less.

- C. **Application for subdivided property** - A letter of application shall be required for extension of water service under the provisions hereof, and shall be signed by the developer desiring water service. The application shall be filed with the BPUB Water and Wastewater Engineering Department and shall include a legal description of the subdivision, streets abutting the subdivision, along with the proposed land uses. The developer shall agree to connect to and use the BPUB's water service for his subdivision. No off-site water mains shall be extended and constructed by the BPUB or connections to off-site water mains made until all applicable connection charges for water service outlined in Section 4.2.3. have been paid.
- D. **Processing of Applications for subdivided property** - Upon receipt by the BPUB Water and Wastewater Engineering Department of a letter of application requesting that an off-site water main be extended and constructed to the subdivision, it will be evaluated, and if the BPUB determines not to extend and construct the off-site water main, returned to applicant with the proper written explanation. If the BPUB determines to extend and construct the off-site water main, the applicable connection charges to the developer will be estimated and submitted to the developer for consideration. If the developer, during or prior to approval of the final subdivision plat, pays all applicable connection charges in order to extend and construct an off-site water main to the subdivision or connect to an off-site water main, the BPUB Water and Wastewater Engineering Department shall prepare the proper forms, including a 30 year water supply availability agreement specifying all the terms and conditions for service and the related applicable connection charges to the developer. See Appendix A. Quoted connection charges shall only be valid for ninety (90) days or whenever connection charges are changed by the City and/or BPUB, whichever time period is less.
 - 1. **30-Year Water Supply Availability Agreement** - The BPUB and the developer shall enter into an agreement providing that if the developer ties onto the BPUB's water system and complies with the BPUB's Service Policies and City's Subdivision Ordinance, the BPUB, in accordance with Texas law, shall provide a sufficient supply of water for domestic and fire protection service to serve the needs of the subdivision for a term of 30 years ("30-Year Water Supply Availability Agreement") beginning on the date that

the on-site and off-site water facilities are accepted by the BPUB and provided the subdivision plat is previously approved by the Brownsville Planning and Zoning Commission. The BPUB does not guarantee continuous uninterrupted service and the developer understands and agrees that the BPUB shall not be responsible for any damages resulting from interruptions in service.

- E. The cost of the extension and construction of an off-site water main including the cost of construction and installation of all borings, trestle pipe crossings, service laterals, meters and taps shall be the sole responsibility of the developer or customer.

The developer or customer shall install the service laterals for all lots, whether utilizing an existing or proposed water main. The developer or customer will not be allowed to install the following items: main taps on the base system, meters, master meter installations (3 inches and larger), and detector valves. These items will be installed by the BPUB with their complete costs chargeable to the developer or customer. The developer or customer will be allowed to install meters 1" and smaller. The developer or customer will procure all water meters through the BPUB.

4.2.5 Off-Site and On-Site Water Facilities Construction by Customer or Developer

A developer shall design and construct all of the on-site water facilities within its subdivision. The developer's or customer's obligations with respect to extensions and construction of off-site water mains are specified in Section 4.2.2. herein. The developer or customer must meet all requirements as defined in this policy and transfer without charge to the BPUB legal title to the water facilities, whether off-site or on-site, free and clear of all liens and encumbrances. See Appendix A. The BPUB shall then assume responsibility for the operation and maintenance of those off-site and on-site water facilities to the point of BPUB delivery. No off-site water mains and on-site water facilities shall be extended and constructed by the developer or customer, or connections to off-site water mains made until all applicable connection charges for water service outlined in Section 4.2.3. have been paid.

- A. **Plat Approval** - In the case of subdivisions, a letter of application must be submitted and shall be accompanied by two copies of the proposed final plat of the subdivision or in the case of a commercial development, a proposed final master plan of the project site.
- B. **Other Approval** -In the case of non-subdivided property, a letter of application must be submitted and shall be accompanied by two copies of a survey of the property.

- C. Design Approval** - All off-site water mains and on-site water facilities, shall be designed by a Professional Engineer registered in the State of Texas and be in accordance with the rules and regulations of the State Board of Fire Insurance, Texas Commission on Environmental Quality (TCEQ) and design standards of the BPUB.

Prior to the construction and approval of the off-site water mains and on-site water facilities, the developer or customer, or their consulting engineer shall furnish one (1) set of signed and sealed engineering drawings to the BPUB Water and Wastewater Engineering Department for review and approval by the BPUB. Prior to the construction but after approval by the BPUB of the off-site water mains and on-site water facilities, the developer or customer, or their consulting engineer shall furnish eight (8) sets of signed and sealed engineering drawings to the BPUB Water and Wastewater Engineering Department. No construction of the off-site water mains and on-site water and fire protection facilities shall take place until BPUB approves the drawings in writing.

The developer or customer shall give written notification to BPUB 48 hours prior to the start of construction. Work performed without prior written notification to BPUB shall not be accepted by the BPUB.

Upon completion of construction, the developer or customer shall furnish one (1) set of signed and sealed as-built mylar reproducible and certified construction costs broken down into the BPUB's units of property for the off-site water mains and on-site water distribution and fire protection facilities the developer or customer installed. See Appendix H.

- D. Installation of Borings, Trestle Pipe Crossings, Laterals, Meters, Taps, etc.** - The off-site water mains and on-site water facilities constructed and installed by the developer or customer shall include complete service laterals for all lots, as well as borings and trestle pipe crossings. This shall also include the installation of water service laterals for all lots utilizing an existing waterline. This includes all materials except the water meter.

The developer or customer will not be allowed to install the following items: main taps on the base system, meters, master meter installations (3 inches and larger), and detector valves. These items will be installed by the BPUB with their complete costs chargeable to the developer or customer. The developer or customer will be allowed to install meters 1" and smaller. The developer or customer will procure all water meters through the BPUB.

- E. Construction Standards** - All construction shall conform to the requirements of the Water and Wastewater Construction Standards of the

BPUB, where applicable. In addition, the on-site water facilities within a subdivision must be designed to be compatible with any other present or future water facilities of customer developer. In order to provide adequate distribution service, all new off-site water mains and on-site water facilities constructed by a developer or customer shall be reviewed and approved by the Water and Wastewater Engineering Department of the BPUB prior to the start of construction. Construction inspection of all developer or customer installed work will be provided by the BPUB, however, such BPUB inspection does not relieve the developer customer and his contractor from primary quality control responsibilities.

- F. Easements** - No water main will be installed under the provisions outlined in this chapter and accepted by the BPUB for operation and maintenance unless it is within a public right-of-way or permanent public easement with a minimum width of fifteen (15) feet. Conveyance of all easements shall be at no cost to the BPUB and shall be in accordance with the current BPUB practices, and conform to all applicable local, state and federal laws and regulations. See Appendix A.
- G. Developer's or Customer's Guarantee of Work** - A developer or customer shall guarantee all off-site water mains and on-site water facilities he installs for a period of one year after completion and BPUB acceptance as to their being completed in strict conformance with the Water and Wastewater Construction Standards of the BPUB. The completion and inspection by BPUB of sections of the off-site water mains and on-site water facilities does not constitute acceptance of any latent defects within those sections. See Appendix A.
- H. 30-Year Water Supply Availability Agreement** - The BPUB and the developer shall enter into an agreement providing that if the developer ties onto the BPUB's water system and complies with the BPUB's Service Policies and City's Subdivision Ordinance, the BPUB, in accordance with Texas law, shall provide a sufficient supply of water for domestic and fire protection service to serve the needs of the subdivision for a term of 30 years ("30-Year Water Supply Availability Agreement") beginning on the date that the on-site and off-site water facilities are accepted by the BPUB and provided the subdivision plat is previously approved by the Brownsville Planning and Zoning Commission. The BPUB does not guarantee continuous uninterrupted service and the developer understands and agrees that the BPUB shall not be responsible for any damages resulting from interruptions in service.

4.2.6 Inspection

- A. General** - The BPUB shall inspect the installation of all water distribution lines, service laterals, fire service lines, and fire hydrants connected to the

BPUB's water distribution system for the protection of BPUB and the general public. Inspectors shall make periodic checks during all phases of construction to see that the contractor, developer or customer is complying with the Water and Wastewater Construction Standards of the BPUB, however primary quality control construction responsibility remains with the customer developer and its contractor. The inspector shall also check to confirm that the contractor is following the engineering plans approved by the BPUB Water and Wastewater Engineering Department. Any deviation or revision to the approved engineering plans shall be made in writing by the engineer and submitted to the BPUB Water and Wastewater Engineering Department for written approval prior to the actual field change. These general BPUB inspections do not relieve the engineer of record who designed the water facilities of any design or other professional responsibilities that obligate the engineer under laws to design the facilities in accordance with generally accepted engineering practices, the rules and regulations of the State Board of Fire Insurance, Texas Commission on Environmental Quality and the design standards of the BPUB.

- B. Notification** - The contractor shall notify the BPUB in writing, a minimum of 24 hours in advance before starting any work on utility construction involving BPUB inspection or construction. Work to be performed on weekends and holidays needs a minimum 48 hours notice for consideration or approval. Work performed without prior written notification shall not be accepted by the BPUB.
- C. Final** - Prior to the BPUB rendering permanent BPUB public water service, the developer or customer shall comply with all the criteria specified in the Water and Wastewater Construction Standards of the BPUB.
- D. Repeated Trips** - If after a request for final inspection, the BPUB Water and Wastewater Engineering Department finds the water facilities are not yet ready for final inspection or acceptance, return trips for final inspection will be charged to the developer or customer. (It should be noted that these potential repeat inspection charge(s) apply to repeated trips for final inspection and does not apply under any other circumstances.) This charge shall be paid in full by the developer or customer prior to the BPUB providing permanent public water service and final inspection approval.
- E. Testing** - The owner/developer shall bear the cost of initial trench backfill density testing, initial bacteriological sampling and testing for waterlines, and initial televising of water lines. All testing shall be witnessed and approved by a BPUB Construction Inspector or representative thereof. Pressure testing of waterlines shall be the responsibility of the contractor

and he shall notify the BPUB engineers and/or inspectors in writing a minimum 24 hour notice of his scheduled time for such tests so that the tests can be witnessed by a BPUB representative.

If any of the initial tests show failure, the contractor, or the developer customer shall pay the costs of retesting the areas that failed after contractor corrective action has been taken, as well as reimburse the BPUB for the personnel and equipment costs incurred by the BPUB in said retesting, on a per diem basis. The per diem costs shall be determined based on the hourly wage plus overhead of the BPUB personnel needed and present at the site, during retesting and by the going BPUB hourly rate for the vehicles and equipment utilized during retesting. These retesting labor and equipment costs shall be paid to BPUB by the contractor or the owner/developer prior to BPUB's final acceptance of the improvements.

Soil analyses for clay/sand content to determine acceptability of site soil for bedding material shall be the responsibility of the developer, customer or contractor, and copies of said analyses shall be submitted to BPUB prior to utilization of site soil for bedding. BPUB, at their own discretion, reserves the right to have their own lab test the material when it is delivered at the job site to determine if it complies with BPUB (-200 wash) sieve specifications.

4.2.7 Performance and Payment Guarantee.

- A. Unless the off-site water mains and on-site water facilities involving a subdivision or development (and including but not limited to service laterals, meters, taps, etc., that the developer must pay for and install under Sections 4.2.2. and 4.2.3. herein), are already constructed prior to approval of the final plat of the subdivision, the developer shall be required by the BPUB to: (1) pay the BPUB upon demand the cost of any necessary off-site water mains within the city limits of Brownsville if the BPUB has elected to construct the off-site water mains pursuant to Section 4.2.2; and (2) enter into a facilities extension and performance agreement with the BPUB secured by a cash deposit, irrevocable letter of credit or performance and payment bond for the construction of the off-site water mains and on-site water facilities that the developer must pay for and install. The final subdivision plat will not be approved until: (1)(a) any necessary off-site water mains and on-site water facilities that have been constructed are accepted by the BPUB; or (1)(b) the cost of any necessary off-site water mains within the city limits of Brownsville are paid to the BPUB upon demand (if the BPUB has elected to construct the off-site water mains pursuant to Section 4.2.2); and (2) there is provided to the BPUB an extension and performance agreement secured by a cash deposit, irrevocable letter of credit or performance and payment bond and

providing that such off-site water mains and on-site water facilities will have been completed and will have been accepted by the BPUB within three (3) years of the date the final subdivision plat is approved by all applicable authorities, unless this time period is extended by the BPUB and the Brownsville Planning and Zoning Commission. The General Manager and Chief Executive Officer of the BPUB shall be authorized to waive the requirement that the performance agreement be secured by a cash deposit, irrevocable letter of credit or performance and payment bond if the General Manager and Chief Executive Officer determines to his or her satisfaction that: (1) the developer is not otherwise required to deliver a cash deposit, irrevocable letter of credit or performance and payment bond to the City of Brownsville as a condition to obtaining final plat approval under the subdivision ordinance; (2) a cash deposit, irrevocable letter of credit or performance and payment bond is not required to secure the developer's obligations under the performance agreement; and/or (3) a cash deposit, irrevocable letter of credit or performance and payment bond is not required under federal, state or local laws or regulatory requirements.

B. The performance and payment bond shall meet the following requirements:

1. Each bond or letter of credit shall be payable to the BPUB.
2. The performance bond shall be in an amount determined by the BPUB to be adequate to ensure proper construction or installation of the off-site water main and on-site water facilities based on BPUB approved plans and specifications to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount of the estimated construction cost for on-site and off-site water facilities to serve the subdivision as established by the BPUB.
3. The payment bond shall be in the same amount as the performance bond to protect all claimants supplying labor and materials in the construction of the off-site water mains and on-site water facilities.
4. Each bond shall be executed with sureties as may be approved by the BPUB. The BPUB shall establish criteria in accordance with the Texas Government Code and Texas Local Government Code for acceptability of the surety companies issuing bonds that include but are not limited to:
 - a. registration with the Secretary of State and be authorized to do business in Texas; and

- b. authorization to issue bonds in the amount required by the BPUB; and:
 - c. rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the federal Small Business Administration.
- 5. The performance bond to the BPUB shall be conditioned upon completed construction or installation of the off-site water main and on-site water facilities meeting the criteria of the BPUB and upon construction of the off-site water main and on-site water facilities within the time stated on the extension and performance agreement, on the plat, or on any applicable document attached to the plat for the subdivision, or within any extension of time granted in writing by the BPUB.
- C. Any cash deposit shall be in an amount determined by the BPUB to be adequate to ensure proper construction or installation of the off-site water mains and on-site water facilities based on BPUB approved plans and specifications to service the subdivision, including reasonable contingencies, but in no event shall the amount of the cash deposit be less than the total amount of the estimated construction cost for on-site and off-site water facilities to serve the subdivision as established by the BPUB. Any cash deposit shall additionally be in an amount determined by the BPUB to be adequate to protect all claimants supplying labor and materials in the construction of the off-site water mains and on-site water facilities.
- D. **Letter of Credit** - A letter of credit shall meet the following requirements:
 - 1. Any letter of credit submitted as a financial guarantee for combined (water and wastewater) amounts greater than \$10,000.00 and less than \$250,000.00 must be from financial institutions which meet the following qualifications:
 - a. Bank qualifications:
 - (i) Must be federally insured,
 - (ii) Sheshunoff rating must be thirty (30) or better and primary capital must be at least six percent (6.0%) of total assets, and

- (iii) Total assets must be at least twenty-five million dollars.
 - b. Savings and loan association qualifications:
 - (i) Must be federally insured,
 - (ii) Tangible capital must be at least one and a half percent (1.5%) of total assets and total assets must be greater than twenty-five million dollars, or tangible capital must be at least three percent (3.0%) of total assets if total assets are less than twenty-five million dollars,
 - (iii) Sheshunoff rating must be thirty (30) or better.
 - c. Other financial institutions qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a BPUB investment,
 - (ii) the investment instrument must be registered in the BPUB's name and the BPUB must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- 2. Any letter of credit submitted as a financial guarantee for combined amounts (water and wastewater) greater than \$250,000.00 must be from financial institutions which meet the following qualifications:
 - a. Bank qualifications:
 - (i) Must be federally insured,
 - (ii) Sheshunoff rating must be thirty (30) or better and primary capital must be at least seven percent (7.0%) of total assets, and
 - (iii) Total assets must be at least seventy-five million dollars.
 - b. Savings and loan association qualifications:

- (i) Must be federally insured,
 - (ii) Tangible capital must be at least three percent (3.0%) of total assets and total assets must be greater than seventy-five million dollars, or tangible capital must be at least five percent (5.0%) of total assets if total assets are less than seventy-five million dollars,
 - (iii) Sheshunoff rating must be thirty (30) or better.
- c. Other financial institutions qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a BPUB investment,
 - (ii) the investment instrument must be registered in the BPUB's name and the BPUB must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- 3. The letter of credit shall list as sole beneficiary the BPUB or the BPUB's successor and must be approved by the BPUB. Each letter of credit shall be irrevocable and shall be in a form acceptable to the BPUB's attorneys.
- 4. The letter of credit shall be conditioned upon proper and complete installation or construction of off-site and on-site water facilities meeting the requirements of the Water and Wastewater Construction Standards of the BPUB, and upon completed construction of facilities within the time stated on the plat, or on any applicable document attached to the plat for the subdivision, or within any extension of time granted in writing by the BPUB and the Brownsville Planning and Zoning Commission.

4.3 WATER METER CRITERIA

- 4.3.1 **Water Meter Sizing** - The customer and his registered professional engineer shall have the responsibility to specify the correct water meter size for the customer's facility. At no time will the BPUB be responsible for the sizing of water meters.
- 4.3.2 **Water Meter Location** - Water meters 2" and smaller in size, will be located approximately three (3) feet either side of a common lot line, within the public right-of-way or permanent public easement, or as otherwise approved by the

Water and Wastewater Engineering Department. Water meters 3" and larger in size and meter vaults shall be located in a non-traffic area within the Public right-of-way or permanent public easement. Such location should be agreeable to the applicant and the BPUB.

- 4.3.3 Meter Installation Time Limit** - The BPUB shall install a two (2) inch or smaller water meter within ten (10) working days after payment of the water meter installation fee. The customer shall be notified in writing when some unforeseen BPUB delay is encountered that will prohibit the meter installation within the required ten working days.

4.3.4 Changing Water Meter Sizes

- A. Increase in Size** - A customer desiring a water meter larger than the size of the meter then in service, shall pay to the BPUB the difference between the meter installation charge of the larger meter and the salvage value to the BPUB of the old meter, including any additional BPUB fees that may include materials, equipment cost, installation cost and applicable fees.
- B. Reduction in Size** - A customer desiring a meter smaller than the size of the meter then in service, shall pay to the BPUB the engineering estimate for BPUB materials, labor and equipment costs plus overhead for installing the smaller size meter, less the salvage value to BPUB of the larger meter being removed.

4.3.5 Second Water Meters

- A. Installation Criteria** - A separate water meter for the measurements of water not returned to the wastewater system may be installed by any customer. The water used through this second meter will not be subject to a wastewater charge. Customers opting for this method of dual metering shall be charged 100 percent of the water used through the primary meter supplying general water service as the basis for customer's wastewater charge. Back-Flow devices shall be required as per the Texas Commission of Environmental Quality – Rules and Regulations for Public Water Systems 30 TAC Chapter 290 Subchapter D. The BPUB is not responsible for the installation or sizing of these devices. The property owner will be responsible for obtaining a licensed plumber and/or irrigator with the required back-flow certification for the design, sizing and installation of these devices. The BPUB will monitor and enforce all needed compliance measures associated with these devices including yearly inspections. It will be the customer's responsibility to have yearly inspections and testing done with proper documentation at the customer's expense and submit to BPUB and made available for record purposes as mandated by the state. Failure to comply may result in BPUB assessing a fee to the customer to cover the expense of complying with this provision.

Deductive (Diversion) water meters will not be allowed on new services.

4.3.6 Individual or Master Meters - A single water meter will normally be provided for residential buildings, apartments, approved mobile home parks, professional or commercial buildings, located on property abutting a public right-of-way or permanent public easement. Owners of multiple-family complexes, approved mobile home parks, and professional or commercial buildings or complexes have the option of installing a master meter or individually metering each multiple family dwelling unit, mobile home lot, building, office, store or group of buildings.

4.3.7 Testing Water Meter - Upon written notice by the customer, a water meter will be tested by the BPUB. In the event the water meter when tested is found to be within the accuracy limits below, the expense of the test shall be paid by the customer. If the meter is found to be outside the accuracy limits below, the expense of the test will be borne by the BPUB, the meter repaired or replaced by BPUB, and billing adjustments for a period not to exceed three (3) months will be made. The accuracy limits for testing shall be as follows:

ACCURACY LIMITS IN PERCENT

	Maximum	Intermediate	Minimum	Flow Rate
Meter Type	Flow Rate	Flow Rate	New	Repaired
Displacement	98.5 - 101.5	98.5 - 101.5	95 - 101.5	90 - 101.5
Turbine				
Compound and	98 - 102	98 - 102	95 - 102	90 - 102
Fire Flow*	97 - 103	97 - 103	95 - 103	90 - 103

*The minimum required accuracy for compound meters at any rate within the "changeover" range of flows shall be 90 percent for compound meter and 85 percent for fire flow meters.

4.4 FIRE SERVICE SYSTEM CRITERIA

4.4.1 Fire Service Lines

- A. **Application** - The developer or customer shall pay the entire cost of a fire service line and detector check valve. A letter of application signed by the developer or customer requesting a fire service line connection shall be submitted to the Water and Wastewater Engineering Department. The application shall include a legal description of the property and indicate the street address, lot and block number, and the street frontage of the site, along with the proposed usage. Each applicant shall connect to or be connected to the BPUB's water system for water service to be eligible for a fire service line connection. No fire service line connection shall be provided until all charges for water service have been paid.
- B. **Location** - The BPUB shall install a fire service line connection, including a detector check valve and pit, which is to be located in a non-traffic, readily accessible permanent public easement area. The developer or customer shall pay the BPUB upon request the cost of the fire service line, detector check valve and pit. This location will be within the Public right-of-way or permanent public easement. The Water and Wastewater Engineering Department retains the right to establish the exact point of connection within the public right-of-way or permanent public easement.

4.4.2 Specifications and Ownership

- A. **Design** - All fire protection systems shall be designed to satisfy the fire support requirements established by the Insurance Service Office and Water and Wastewater Construction Standards of the BPUB.

- B. Materials** - Only fire mains, fire hydrants, fittings, valves, and other items and materials meeting the Water and Wastewater Construction Standards of the BPUB shall be permitted for use in any fire support system.
- C. Location of Hydrants** - Under the recommendation of the Director of Fire Services and the Insurance Service Office, fire hydrants shall be located within public right-of-way or within permanent public easements as approved by the BPUB.
- D. Separation of the Customer's System** - No connection of any description, temporary or otherwise is permitted between the customer's separate installation for general water service and the separate fire support system that is supplied through a fire service line connection.
- E. Ownership, Operation and Maintenance** - The BPUB will only be responsible for the ownership, operation and maintenance for the waterline to and including the detector check valve for fire service line connections.

CHAPTER 5 - WASTEWATER SERVICE POLICY

5.1 CLASSES OF WASTEWATER SERVICE AVAILABLE

- 5.1.1 Residential and Commercial Wastewater Service** - This service covers wastewater discharges from the use of water in faucets, sinks, baths, toilets, urinals, and other similar fixtures or apparatus generally producing normal domestic strength wastewater in residential and commercial establishments.
- 5.1.2 Industrial Wastewater Service** - This service covers wastewater discharges that require special monitoring and treatment either because of strength, quantity or nature of the wastewater.
- 5.1.3 Septic Tank and Other Wastewater Service** - This service covers the discharge into the wastewater treatment system at limited points of disposal of septic tank and portable toilet wastes. The BPUB must authorize the time, place, and manner in which these wastes may be added to the system.
- 5.1.4** In this chapter, the terms "wastewater main" or "wastewater line" are synonymous and include only gravity lines, not force mains.

5.2. BPUB PRETREATMENT PROGRAM

The purpose of the Brownsville Public Utilities Board (BPUB) Pretreatment Department is to monitor, manage, control, and prevent the introduction of industrial wastewater pollutants into the municipal wastewater system. The BPUB shall implement all policies in accordance with latest City of Brownsville Code of Ordinances, in order to comply with State and Federal Laws required by the Clean Water Act and the EPA General Pretreatment Regulations.

5.2.1 Type of Wastewater Unacceptable.

- A.** The BPUB reserves the right to require any industrial or commercial establishment to install flow equalizing devices, grease trap/interceptor, lint, oil, or sand interceptors, or other forms of pre-treatment and to specify the degree of pre-treatment of any wastewater before it is discharged into the Publicly Owned Treatment Works, "POTW" collection system of the BPUB. These devices and/or treatments shall not be necessary for normal domestic wastewater, but will be required for any waste that, because of its toxic nature, high BOD or TSS, high oil or grease content, septicity, bulk, temperature, pH, or any other factor, may be harmful to people, equipment, wastewater treatment processes, or may cause nuisance, odor or flow stoppage problems in the wastewater system.

Under no conditions will the BPUB consider accepting commercial/industrial wastewater that is detrimental to the BPUB facilities, hazardous because of explosive liquid or gases, or which may cause flow stoppages. Any customer found discharging any of the above listed types of wastewater to the BPUB POTW system will be subject to paying all costs necessary to stop such flow, remove the objectionable item from the system, and repair the system and environment if necessary, as well as pay all civil and/or criminal penalties as may be provided by local, state, or federal laws.

B. Specific Prohibitions

The following pollutants shall not be introduced into the BPUB POTW:

- (a) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, waste streams with a closed cup flashpoint of less than one hundred and forty (140) degrees Fahrenheit using the test methods specified in 40 CFR 261.21.
- (b) Solid, liquid or viscous pollutants which will cause obstruction to the flow in the POTW resulting in interference, but in no case solids greater than ½" in any dimension.
- (c) Any wastewater having a pH less than 5.0, or higher than 10.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, the general public, and/or personnel of the POTW.
- (d) Any discharge of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause POTW interference or pass through.
- (e) Any substance which may cause the POTW's effluent or any other product of the POTW such as gases, residues, sludge, or scums, to be unsuitable for reclamation and reuse, or to interfere with the reclamation reuse or disposal process.
- (f) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (g) Heat in amounts which will inhibit wastewater biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the wastewater temperature exceeds one hundred and fifty (150) degrees Fahrenheit, or that the temperature at the POTW treatment plant exceeds one hundred and four (104) degrees

Fahrenheit, unless the Approval Authority, upon request of the POTW approves alternate temperature limits.

- (h) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause Pass Through or Interference to the POTW. In no case shall a wastewater slug have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- (i) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the Approval Authority in compliance with applicable State or Federal regulations.
- (j) Any storm water, roof runoff, subsurface drainage or drainage from downspouts, yard drains, yard fountains and ponds, or lawn sprays and/or other unpolluted water.
- (k) Any free or emulsified fats, waxes, greases or oils containing substances which may solidify or become discernibly viscous at any temperature between thirty two (32) and ninety (90) degrees Fahrenheit; or any wastewater which exceeds a total recoverable Oil and Grease daily average concentration of 300 mg/l as determined by EPA method 413.1.
- (l) Any pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (m) Any trucked or hauled pollutants, or industrial or domestic holding tank waste, except at discharge points designated by the POTW, and unless the pollutants to be discharged are subject to testing by the Control Authority prior to discharge, to ascertain compliance with this Ordinance.

When the Pretreatment Manager determines that a User(s) is contributing to the POTW any of the above-enumerated prohibited substances in such amounts as to cause POTW Pass Through or Interference, the Pretreatment Manager shall:

- (1) Advise the User(s) of the impact of the contribution on the POTW; and

- (2) Develop effluent limitation(s) and technically assist User to implement mitigating methods and private pretreatment facilities for such User to correct the Pass Through or Interference with the POTW. These administrative options will not in any way exempt the User from any enforcement action resulting from any violation.

5.2.2 Pre-Treatment - In the event that an industrial user discharges wastewater into the BPUB sanitary sewer and is subject to the Federal Categorical Standards, the industrial user must provide adequate pre-treatment in order to comply with the requirements set forth by the Federal Government. If any industrial user discharge is not subject to the Federal Categorical Standards, the industrial user must comply with the latest City of Brownsville Industrial Wastewater Pretreatment Ordinance.

5.2.3 Discharge Authority - All wastewater discharges to the POTW from industrial/commercial User shall be approved by BPUB Pretreatment Department and must comply with the requirements set forth the latest City of Brownsville Industrial Wastewater Pretreatment Ordinance.

5.2.4 Surcharge Program - Any industrial/commercial User which discharges BOD and/or TSS in amounts higher than normal domestic strength sewage shall be assessed a surcharge as described in BPUB "Excess Strength Waste Surcharge Program" found in the City's Industrial Wastewater Pretreatment Ordinance. The surcharge shall be based on concentration of BOD, TSS and monthly water consumption.

5.2.5 Pretreatment Charges – Refer to Appendix Q – Summary of Pretreatment Charges and Definitions

5.3 WASTEWATER COLLECTION SYSTEM CRITERIA

5.3.1 Service Area - The BPUB will extend or allow the extension, under policies contained herein, of its wastewater system for the purpose of providing wastewater service to areas inside the city limits of the City of Brownsville and to areas outside the city limits of the City of Brownsville in which it is duly certificated to provide wastewater service by the Texas Commission on Environmental Quality (TCEQ).

5.3.2 Extension Policy

I. Inside City Limits ("ICL") Service Zone

A. Single Family - Existing

1. The entire cost of the off-site wastewater main extension to a single-family unit from a BPUB trunk main shall be paid by the customer or developer.
2. The cost of any specifically requested over sizing for customer developer private benefit, as determined by the BPUB Engineering Department, shall be paid by customer or developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.
3. The customer or developer shall be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending a gravity or pressure main.
4. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the customer's or developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the customer's or developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
5. If the BPUB's General Manager and CEO elects to have the BPUB construct the off-site water main extension, the customer or developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
6. The customer or developer shall pay all applicable connection charges as outlined in Section 5.3.3.

B. Single Family - New

This policy shall be the same as outlined in Section 5.3.2.I.A.

C. Multifamily - Existing (Apartments, Multi-Family Dwellings and Motels-Existing)

1. The entire cost of the off-site wastewater main extension (including specifically requested over sizing for customer/developer private benefit) to multi-family dwellings, apartments and motel units shall be paid by the developer. BPUB reserves the right to add project over

sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.

2. The over sizing of any wastewater main shall be determined by the BPUB Engineering Department.
3. The customer or developer shall be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending a gravity or pressure main.
4. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the customer's or developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the customer's or developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
5. If the BPUB's General Manager and CEO elects to have the BPUB construct the off-site water main extension, the customer or developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
6. All lift stations and force mains shall be paid by the developer.
7. All borings, crossings and sewer laterals must be constructed or installed prior to street construction.
8. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by the developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
9. The customer or developer shall pay all applicable connection charges as outlined in Section 5.3.3.

D. Multifamily - New

This policy shall be the same as Section 5.3.2.I.C.

E. Single Family Subdivisions - Existing

1. All mains inside the subdivision are the responsibility of the developer.
2. The entire cost of the off-site wastewater main extension (including specifically requested over sizing for customer/developer private benefit) to subdivisions shall be paid by the developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.
3. The customer or developer shall be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending a gravity or pressure main.
4. The over sizing of any wastewater main shall be determined by the BPUB Engineering Department.
5. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
6. If the BPUB's General Manager and CEO elects to have the BPUB construct the off-site water main extension, the developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
7. All lift stations and force mains shall be paid by the developer.
8. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by the developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
9. All borings, crossings and sewer laterals must be constructed or installed prior to street construction.

10. The customer or developer shall pay all applicable connection charges as outlined in Section 5.3.3.

F. Single Family Subdivision - New

This policy shall be the same as Section 5.3.2.I.E.

G. Industrial and Commercial Customers - Existing.

1. The entire cost of the off-site wastewater main extension (including specifically requested over sizing for customer/developer private benefit) to industrial and commercial customers or developers shall be paid for by the customer or developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas.
2. The over sizing of any wastewater main shall be determined by the BPUB Engineering Department.
3. The customer or developer shall be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending a gravity or pressure main.
4. The BPUB's General Manager and CEO shall have the right to determine whether the off-site water main extension is (a) designed and constructed by the BPUB, or (b) designed by the customer's or developer's independent engineer, subject to having the design approved by the BPUB, and constructed by the customer's or developer's independent contractor, subject to having the work of the contractor inspected and approved by the BPUB.
5. If the BPUB's General Manager and CEO elects to have the BPUB construct the off-site water main extension, the customer or developer shall pay this cost to the BPUB at such time as payment is requested by the BPUB.
6. All lift stations and force mains shall be paid by the developer.
8. All borings, crossings and sewer laterals must be constructed or installed prior to street construction.

9. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs by the customer or developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.
10. The customer or developer shall pay all applicable connection charges as outlined in Section 5.3.3.

H. Industrial and Commercial Customers or Developers - New

This policy shall be the same as Section 5.3.2.I.G.

II. Outside City Limits ("OCL") - Within Extraterritorial Jurisdiction (ETJ) Service Zone

A. Single Family Subdivisions

1. The cost of all mains and services within the subdivision shall be paid by the developer.
2. The cost of the entire off-site wastewater main extension to the subdivision shall be paid by the developer.
3. The cost of any specifically requested over sizing for customer/developer private benefit, as determined by the BPUB Engineering Department, shall be paid by the developer. BPUB reserves the right to add project over sizing design and construction costs to be funded by BPUB for the general benefit of the public in projected growth areas. See Section IV.
4. The customer or developer shall be responsible for the full cost of borings or trestle pipe crossings, if such are required in extending a gravity or pressure main.
5. All lift stations and force mains shall be paid by the developer.
6. If the main extension is oversized, at the request of the BPUB for the general benefit of the public in a projected growth area, and the developer funds that over sizing rather than the BPUB, then repayment for the total costs paid by

the developer shall be made by BPUB over a fifteen (15) year period as per the eligible repayment policy.

7. All borings, crossings and sewer laterals must be constructed or installed prior to street construction.
8. The extension of services outside the city limits shall be limited by the size of the existing BPUB trunk main and the treatment capacity.
9. The customer or developer shall pay all applicable connection charges as outlined in Section 5.3.3.
10. The developer shall be responsible for having the off-site wastewater line extension: (a) designed by an independent engineer, subject to having the design approved by the BPUB, and (b) constructed by an independent contractor, subject to having the work of the contractor inspected and approved by the BPUB. The developer shall comply with the wastewater main size, design and other criteria established by the BPUB.

B. Single Family

This policy shall be the same as Section 5.3.2.II.A.(2)-(10), except that Paragraph 2 should read as follows:

The cost of the entire off-site wastewater main extension to a single-family unit shall be paid by the customer or developer.

All other paragraphs shall be interpreted to apply to a customer or developer.

C. Multifamily (Apartments, Multifamily Dwellings and Motels)

This policy shall be the same as Section 5.3.2.II.A.(1)-(10), except that Paragraph 2 should read as follows:

The cost of the entire off-site wastewater main extension to apartments, multifamily dwellings or motel units shall be paid by the developer.

D. Commercial and Industrial

This policy shall be the same as Section 5.3.2.II.A.(1)-(10), except that Paragraph 2 should read as follows:

The cost of the entire off-site wastewater main extension to commercial and industrial customers or developers shall be paid by the customer or developer.

All other paragraphs shall be interpreted to apply to a customer or developer.

III. Outside The Extraterritorial Jurisdiction (ETJ)

The same policy for inside the ETJ and outside the city limits applies to outside - ETJ. Before service can be connected, BPUB approval, if recommended by the General Manager, must be obtained. The limited capacity of existing lines and treatment facilities shall limit use of the BPUB System for all customers outside the city limits.

5.3.3 Connection Charges - See Appendix I for summary of the current charges Cost estimates for main line extensions will be prepared on a case by case basis.

- A. Acreage Charge** - Each applicant for wastewater service in which the applicant is applying to connect to an oversized wastewater facility or facilities, the cost of which has been previously paid by an individual customer or a developer as a requirement by the BPUB, and for which the BPUB has established a pre-determined acreage charge, shall pay to the BPUB the appropriate acreage charge as calculated by the BPUB as a prior condition to connect to the wastewater oversized facility or facilities. The acreage charge shall be calculated by dividing the cost of the oversized facility or facilities to provide service by the number of acres in the Facility Service Zone applicable to the particular wastewater oversized facility or facilities and multiplied by a factor of 1.5 to allow the recovery of costs of the wastewater oversized facility or facilities within a fifteen (15) year repayment period. The acreage charge shall include a proportionate interest charge factor if the individual customer or developer eligible for reimbursement is entitled to interest under Chapter 6, "Eligible Repayment Policy".

The acreage charge is based upon a use of six (6) homes per acre. Land uses with higher densities shall have an acreage charge increased in direct proportion to the ratio of the higher density to six (6) units per acre.

Acreage Charge (Minimum Acreage Charge)

Cost of Oversized Facility x 1.5 = Charge/Acre

Acreage of Zone (6 units/acre)

Adjusted Acreage Charge (for High Density)

$$\frac{\text{Units/Acre}}{6} \times \text{Acreage Charge} = \text{Adjusted Acreage Charge for High Density Use}$$

For commercial and industrial acreage, the density/acre shall be as outlined in the Texas Natural Resource Conservation Commission design criteria on loading/sq. ft. population, strengths, etc. and adjusted to units/acre. In no case shall the cost be less than the minimum acreage charge.

Industrial customers shall be adjusted on the basis of waste quality and strength. The minimum charge is for 6 Homes/Acre as stated above.

The total charge to the customer or developer shall be the acreage charge plus the proportional part of the accumulative interest on the unpaid principal.

(i.e. $\frac{\text{Area Developed}}{\text{Service Zone}} \times \text{Accumulated \& Unpaid Interest} = \text{Facility Service Zone Interest Charge}$)

Total Charge = Acreage Charge (Acres Developed) + Interest Charge

The acreage charge shall cease to be collected from applicants in the Facility Service Area and Facility Service Zone applying to connect to the oversized facility or facilities at such time as all the acreage in the Facility Service Zone is developed and the acreage charges assessed thereon has been collected by BPUB. Examples of the calculation of acreage charges is described in Appendix J.

No acreage charge shall be assessed against an area in a Facility Service Zone designated as a "pre-paid" area in the "Development Reimbursement Agreement" executed between the BPUB and the customer or developer installing and paying the total construction cost of the oversized facility or facilities.

- B. Impact Fee** - An impact fee, as may periodically be amended by the City, will be assessed and collected in order to provide wastewater service to property considered new development in accordance with the provisions of Chapter 7 of these Service Policies and Chapter 395 of the Texas Local Government Code, as may be periodically amended. The wastewater impact fee is specified in Appendix M.

- C. **Wastewater Service Laterals** - Upon written application and payment to the BPUB of the appropriate wastewater service lateral installation charge, the BPUB shall furnish all labor, material and equipment necessary to provide wastewater service to the customer's property line. The wastewater service lateral installation fee is due and payable prior to the installation of the service lateral.

5.3.4 **Application For Extension And Construction Of Off-Site Wastewater Main Constructed By The BPUB (Inside The City Limits Of Brownsville)**

- A. **Application for non-subdivided property** - A letter of application shall be required for extension of wastewater service under the provisions hereof, and shall be signed by the customer or developer desiring wastewater service. The application shall be filed with the BPUB Water and Wastewater Engineering Department and shall include a legal description of the property and indicate the name, street address, lot and block number, and the street frontage of each site, along with the proposed usage. Each applicant shall agree to connect to and use the BPUB's wastewater service for his property. No off-site wastewater lines shall be extended and constructed by the BPUB or connections to off-site wastewater lines and force mains made until all applicable connection charges for wastewater service outlined in Section 5.3.3. have been paid.
- B. **Processing of Applications for non-subdivided property** - Upon receipt by the BPUB Water and Wastewater Engineering Department of a letter of application requesting that an off-site wastewater line be extended and constructed by the BPUB, it will be evaluated, and if the BPUB determines not to extend and construct the off-site wastewater line, returned to applicant with the proper written explanation. If the BPUB determines to extend and construct the off-site wastewater line, the cost to the customer or developer will be estimated and submitted to the customer or developer for consideration. If the customer or developer agrees to pay all applicable connection charges in order to extend and construct an off-site wastewater line to his property or connect to an off-site wastewater line or force main, the BPUB Water and Wastewater Engineering Department shall prepare the proper forms specifying all the terms and conditions for service and the related applicable connection charges to the customer or developer. See Appendix A. Quoted connection charges shall only be valid for ninety (90) days or whenever connection charges are changed by the City and/or BPUB, whichever time period is less.
- C. **Application for subdivided property** - A letter of application shall be required for extension of wastewater service under the provisions hereof, and shall be signed by the developer desiring wastewater service. The application shall be filed with the BPUB Water and Wastewater Engineering Department and shall include a legal description of the

subdivision, streets abutting the subdivision, along with the proposed land uses. The developer shall agree to connect to and use the BPUB's wastewater service for his subdivision. No off-site wastewater lines shall be extended and constructed by the BPUB or connections to off-site wastewater lines or force mains made until all applicable connection charges for wastewater service outlined in Section 5.3.3. have been paid.

- D. Processing of Applications for subdivided property** - Upon receipt by the BPUB Water and Wastewater Engineering Department of a letter of application requesting that an off-site wastewater line be extended and constructed to the subdivision, it will be evaluated, and if the BPUB determines not to extend and construct the off-site wastewater line, returned to applicant with the proper written explanation. If the BPUB determines to extend and construct the off-site wastewater line, the applicable connection charges to the developer will be estimated and submitted to the developer for consideration. If the developer, during or prior to approval of the final subdivision plat, pays all applicable connection charges in order to extend and construct an off-site wastewater line to the subdivision or connect to an off-site wastewater line or force main, the BPUB Water and Wastewater Engineering Department shall prepare the proper forms including a 30-year wastewater treatment capacity availability agreement specifying all the terms and conditions for service and the related applicable connection charges to the developer. Quoted connection charges shall only be valid for ninety (90) days or whenever connection charges are changed by the City and/or BPUB, whichever time period is less.

1. **30-Year Wastewater Treatment Capacity Availability Agreement** - The BPUB and the developer shall enter into an agreement providing that if the developer ties onto the BPUB's wastewater system and complies with the BPUB's Service Policies and City's Subdivision Ordinance, the BPUB, in accordance with Texas law, shall provide sufficient wastewater treatment capacity to serve the needs of the subdivision for a term of 30 years ("30-Year Wastewater Treatment Capacity Availability Agreement") beginning on the date that the on-site and off-site wastewater facilities are accepted by the BPUB and provided the subdivision plat is previously approved by the Brownsville Planning and Zoning Commission. The BPUB does not guarantee continuous uninterrupted service and the developer understands and agrees that the BPUB shall not be responsible for any damages resulting from interruptions in service. See Appendix A.

- E.** The cost of the extension and construction of an off-site wastewater line by the BPUB shall not include the cost of the construction and installation of borings, trestle pipe crossings, and service laterals. The cost of

construction and installation of all borings, trestle pipe crossings, and service laterals shall be the sole responsibility of the developer or customer. The developer or customer shall install the service laterals for all lots, whether utilizing an existing or proposed wastewater line or force main.

5.3.5 On-Site Wastewater Facilities Construction By A Customer Or Developer (When The BPUB Places This Obligation On The Customer Or Developer)

A developer shall design and construct all of the on-site wastewater facilities within its subdivision. The developer's or customer's obligations with respect to extensions and construction of off-site wastewater lines, force mains and lift stations are specified in Section 5.3.2. herein. The developer or customer must meet all requirements as defined in this policy and transfer without charge to the BPUB legal title to the wastewater facilities, whether off-site or on-site, free and clear of all liens and encumbrances. See Appendix A. The BPUB shall then assume responsibility for the operation and maintenance of those off-site and on-site wastewater facilities to the point of collection. No off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities shall be extended and constructed by the developer or customer, or connections to off-site wastewater lines and force mains made until all applicable connection charges for wastewater service outlined in Section 5.3.3. have been paid.

- A. Plat Approval.** In the case of subdivisions, a letter of application must be submitted and shall be accompanied by two copies of the proposed final plat of the subdivision or, in the case of a commercial development, a proposed final master plan of the project site.
- B. Other Approval.** In the case of non-subdivided property, a letter of application must be submitted and shall be accompanied by two copies of a survey of the property.
- C. Design Approval.** All off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities shall be designed by a Professional Engineer registered in the State of Texas and shall be in accordance with the rules and regulations of the Texas Commission on Environmental Quality and the design standards of the BPUB.

Prior to the construction and approval of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities, the developer or customer, or their consulting engineer shall furnish one (1) set of signed and sealed engineering drawings to the BPUB Water and Wastewater Engineering Department for review and approval by the BPUB. Prior to the construction but after approval by the BPUB of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities, the developer or customer, or their consulting

engineer shall furnish eight (8) sets of signed and sealed engineering drawings to the BPUB Water and Wastewater Engineering Department. No construction of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities shall take place until BPUB approves the drawings in writing.

The developer or customer shall give written notification to BPUB 48 hours prior to the start of construction. Work performed without prior written notification to BPUB shall not be accepted by the BPUB.

Upon completion of construction, the developer or customer shall furnish one (1) set of signed and sealed as-built mylar reproducible and certified construction costs broken down into the BPUB's units of property for the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities the developer or customer installed. See Appendix H.

- D. Installation of Borings, Trestle Pipe Crossings and Wastewater Service Laterals** - The off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities constructed and installed by the developer or customer shall include complete service laterals for all lots, as well as borings and trestle pipe crossings. This shall also include the installation of wastewater service laterals for all lots utilizing an existing wastewater line or force main.
- E. Construction Standards** - All construction shall conform to the requirements of the Water and Wastewater Construction Standards of the BPUB where applicable. In addition, the on-site wastewater facilities within a subdivision must be designed to be compatible with any other present or future wastewater facilities of customer developer. In order to provide adequate collection service, all new off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities constructed by a developer or customer shall be reviewed and approved by the Water and Wastewater Engineering Department of the BPUB prior to the start of construction. Construction inspection of all developer or customer installed work will be provided by the BPUB, however, such BPUB inspection does not relieve the developer customer and his contractor from primary quality control responsibilities.
- F. Easements** - No wastewater line will be installed under the provisions outlined in this chapter and accepted by the BPUB for operation and maintenance unless it is in a public right-of-way or public easement. Only under unusual circumstances and by approval of the BPUB Water and Wastewater Engineering Department will gravity wastewater collection lines be constructed within a private easement. All said public and private easements shall be a minimum of fifteen (15) feet in width. Conveyance

of all easements shall be at no cost to the BPUB and shall be in accordance with the current BPUB's practices and conform to the applicable local, state and federal laws and regulations. See Appendix A.

- G. Developer's or Customer's Guarantee of Work** - A developer or customer shall guarantee all off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities he installs for a period of one year after completion and BPUB acceptance as to their being completed in strict conformance with the Water and Wastewater Construction Standards of the BPUB. The completion and inspection by BPUB of sections of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities does not constitute acceptance of any latent defects within those sections by the BPUB. See Appendix A.
- H. 30-Year Wastewater Treatment Capacity Availability Agreement** - The BPUB and the developer shall enter into an agreement providing that if the developer ties onto the BPUB's wastewater system and complies with the BPUB's Service Policies and City's Subdivision Ordinance, the BPUB, in accordance with Texas law, shall provide sufficient wastewater treatment capacity to serve the needs of the subdivision for a term of 30 years ("30-Year Wastewater Treatment Capacity Availability Agreement") beginning on the date that the on-site and off-site wastewater facilities are accepted by the BPUB and provided the subdivision plat is previously approved by the Brownsville Planning and Zoning Commission. The BPUB does not guarantee continuous uninterrupted service and the developer understands and agrees that the BPUB shall not be responsible for any damages resulting from interruptions in service.

5.3.6 Inspection

- A. General** - The BPUB shall inspect the installation of all gravity wastewater trunk lines, lift stations and/or force mains which are connected to and will flow into the BPUB's wastewater collection system for the protection of BPUB and the general public. Inspectors shall make periodic checks during all phases of construction to see that the contractor, developer or customer is complying with the Water and Wastewater Construction Standards of the BPUB, however primary quality control construction responsibility remains with the customer developer and its contractor. The inspector shall also check to confirm that the contractor is following the engineering plans approved by the BPUB Water and Wastewater Engineering Department. Any deviation or revision to the approved engineering plans shall be made in writing by the engineer and submitted to the BPUB Water and Wastewater Engineering Department for written approval prior to the actual field change. These general BPUB inspections do not relieve the engineer of record who designed the wastewater facilities of any design or other professional responsibilities

that obligate the engineer under laws to design the facilities in accordance with generally accepted engineering practices, the rules and regulations of the Texas Commission on Environmental Quality and the design standards of the BPUB.

- B. Notification** - The contractor shall notify the BPUB in writing, a minimum of 24 hours in advance of work to be performed on weekends and holidays. Work performed without prior written notification shall not be accepted by the BPUB.
- C. Preliminary** - In unusual circumstances, the BPUB Water and Wastewater Engineering Department may grant a preliminary inspection. This preliminary inspection is only for authorization to discharge plumbing test water into the unfinished wastewater facilities or system and does not authorize the customer, developer or contractor to discharge raw wastewater into the facilities or system. It should be noted that it shall be the responsibility of the customer, developer or contractor to pump dry and dispose of said plumbing test water in an acceptable manner prior to requesting a final inspection. At no time will the BPUB be obligated to preliminary accept raw water for treatment.
- D. Final** - Prior to the discharging of any wastewater effluent into the BPUB's wastewater collection system for BPUB treatment, the developer or customer shall comply with all the criteria specified in the Water and Wastewater Construction Standards of the BPUB.
- E. Repeated Trips** - If after a request for final inspection, the Water and Wastewater Engineering Department finds the wastewater facilities are not yet ready for final inspection or acceptance, return trips for final inspection will be charged to the developer or customer. (It should be noted that these potential repeat inspection charge(s) apply to repeated trips for final inspection and does not apply under any other circumstances.) This charge shall be paid in full by the developer or customer prior to the BPUB's acceptance of any wastewater effluent into the wastewater facilities for transportation and treatment and final inspection approval. See Appendix O for a list of charges.
- F. Testing** - The owner/developer shall bear the cost of initial trench backfill density testing, initial bacteriological sampling and testing for wastewater lines, and initial televising of wastewater lines. All testing shall be witnessed and approved by a BPUB Construction Inspector or representative thereof. Pressure testing of wastewater lines shall be the responsibility of the contractor and he shall notify the BPUB engineers and/or inspectors in writing of his scheduled time for such tests so that the tests can be witnessed by a BPUB representative.

If any of the initial tests show failure, the contractor or the developer customer shall pay the costs of retesting the areas that failed after contractor corrective action has been taken, as well as reimburse the BPUB for the personnel and equipment costs incurred by the BPUB in said retesting, on a per diem basis. The per diem costs shall be determined based on the hourly wage plus overhead of the BPUB personnel needed and present at the site, during retesting and by the going BPUB hourly rate for the vehicles and equipment utilized in retesting. These retesting labor and equipment costs shall be paid to BPUB by the owner/developer prior to BPUB's final acceptance of the improvements.

Soil analyses for clay/sand content to determine acceptability of site soil for bedding material shall be the responsibility of the developer, customer or contractor, and copies of said analyses shall be submitted to BPUB prior to utilization of site soil for bedding.

5.3.7 Performance and Payment Guarantee

- A. Unless the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities involving a subdivision or development and including, but not limited to service laterals, that the developer must pay for and install under Sections 5.3.2. and 5.3.3. herein, are already constructed prior to approval of the final plat of the subdivision, the developer shall be required by the BPUB to: (1) pay the BPUB upon demand the cost of any necessary off-site wastewater lines within the city limits of Brownsville if the BPUB has elected to construct the off-site wastewater lines pursuant to Section 5.3.2; and (2) enter into a facilities extension and performance agreement with the BPUB secured by a cash deposit, irrevocable letter of credit or performance and payment bond for the construction of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities that the developer must pay for and install. The final subdivision plat will not be approved until: (1)(a) any necessary off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities that have been constructed are accepted by the BPUB; or (1)(b) the cost of any necessary off-site wastewater lines within the city limits of Brownsville are paid to the BPUB upon demand (if the BPUB has elected to construct the off-site wastewater lines pursuant to Section 5.3.2); and (2) there is provided to the BPUB an extension and performance agreement secured by cash deposit, irrevocable letter of credit or performance and payment bonds and providing that such off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities will have been completed and will have been accepted by the BPUB within three (3) years of the date the final subdivision plat is approved by all applicable authorities, unless this time period is extended by the BPUB and the Brownsville Planning and Zoning Commission. The General Manager and Chief Executive Officer of the

BPUB shall be authorized to waive the requirement that the performance agreement be secured by a cash deposit, irrevocable letter of credit or performance and payment bond if the General Manager and Chief Executive Officer determines to his or her satisfaction that: (1) the developer is not otherwise required to deliver a cash deposit, irrevocable letter of credit or performance and payment bond to the City of Brownsville as a condition to obtaining final plat approval under the subdivision ordinance; (2) a cash deposit, irrevocable letter of credit or performance and payment bond is not required to secure the developer's obligations under the performance agreement; and/or (3) a cash deposit, irrevocable letter of credit or performance and payment bond is not required under federal, state or local laws or regulatory requirements.

B. The Wastewater facilities performance and payment bonds shall meet the following requirements:

1. Each bond or letter of credit shall be payable to the BPUB.
2. The performance bond shall be in an amount determined by the BPUB to be adequate to ensure proper construction or installation of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities based on BPUB approved plans and specifications to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount of the estimated construction cost for on-site and off-site wastewater facilities to serve the subdivision as established by the BPUB.
3. The payment bond shall be in the same amount as the performance bond to protect all claimants supplying labor and materials in the construction of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities.
4. Each bond shall be executed with sureties as may be approved by the BPUB. The BPUB shall establish criteria in accordance with the Texas Government Code and Texas Local Government Code for acceptability of the surety companies issuing bonds that include but are not limited to:
 - a. registration with the Secretary of State and be authorized to do business in Texas; and
 - b. authorization to issue bonds in the amount required by the BPUB; and:

- c. rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the federal Small Business Administration.
 - 5. The performance bond to the BPUB shall be conditioned upon completed construction or installation of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities meeting the criteria of the BPUB and upon construction of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities within the time stated on the extension and performance agreement, on the plat, or on any applicable document attached to the plat for the subdivision, or within any extension of time granted in writing by the BPUB.
- C.** Any cash deposit shall be in an amount determined by the BPUB to be adequate to ensure proper construction or installation of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities based on BPUB approved plans and specifications to service the subdivision, including reasonable contingencies, but in no event shall the amount of the cash deposit be less than the total amount of the estimated construction cost for on-site and off-site wastewater facilities to serve the subdivision as established by the BPUB. Any cash deposit shall additionally be in an amount determined by the BPUB to be adequate to protect all claimants supplying labor and materials in the construction of the off-site wastewater lines, force mains and lift stations, and on-site wastewater facilities.
- D. Letter of Credit** - A letter of credit shall meet the following requirements:
- 1. Any letter of credit submitted as a financial guarantee for combined (water and wastewater) amounts greater than \$10,000.00 and less than \$250,000.00 must be from financial institutions which meet the following qualifications:
 - a. Bank qualifications:
 - (i) Must be federally insured,
 - (ii) Sheshunoff rating must be thirty (30) or better and primary capital must be at least six percent (6.0%) of total assets, and

- (iii) Total assets must be at least twenty-five million dollars.
 - b. Savings and loan association qualifications:
 - (i) Must be federally insured,
 - (ii) Tangible capital must be at least one and a half percent (1.5%) of total assets and total assets must be greater than twenty-five million dollars, or tangible capital must be at least three percent (3.0%) of total assets if total assets are less than twenty-five million dollars,
 - (iii) Sheshunoff rating must be thirty (30) or better.
 - c. Other financial institutions qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a BPUB investment,
 - (ii) the investment instrument must be registered in the BPUB's name and the BPUB must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- 2. Any letter of credit submitted as a financial guarantee for combined (water and wastewater) amounts greater than \$250,000.00 must be from financial institutions which meet the following qualifications:
 - a. Bank qualifications:
 - (i) Must be federally insured,
 - (ii) Sheshunoff rating must be thirty (30) or better and primary capital must be at least seven percent (7.0%) of total assets, and
 - (iii) Total assets must be at least seventy-five million dollars.
 - b. Savings and loan association qualifications:
 - (i) Must be federally insured,

- (ii) Tangible capital must be at least three percent (3.0%) of total assets and total assets must be greater than seventy-five million dollars, or tangible capital must be at least five percent (5.0%) of total assets if total assets are less than seventy-five million dollars,
 - (iii) Sheshunoff rating must be thirty (30) or better.
 - c. Other financial institutions qualifications:
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a BPUB investment,
 - (ii) the investment instrument must be registered in the BPUB's name and the BPUB must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- 3. The letter of credit shall list as sole beneficiary the BPUB or the BPUB's successor and must be approved by the BPUB. Each letter of credit shall be irrevocable and shall be in a form acceptable to the BPUB's attorneys.
- 4. The letter of credit shall be conditioned upon proper and complete installation or construction of off-site and on-site wastewater facilities meeting the requirements of the water and wastewater construction standards of the BPUB, and upon completed construction of facilities within the time stated on the plat, or on any applicable document attached to the plat for the subdivision, or within any extension of time granted in writing by the BPUB and the Brownsville Planning and Zoning Commission.

CHAPTER 6 - ELIGIBLE REPAYMENT POLICY

6.1 INSIDE CITY LIMITS

- A. In those instances where the BPUB assesses and collects acreage charges in association with the previous construction of an oversized facility or facilities, the individual customer or developer “originally constructing” at its cost the oversized facility or facilities shall be entitled to a reimbursement not to exceed its total original construction cost, as defined below, of the oversized facility or facilities and only to the extent of the funds available from the acreage charges later collected by the BPUB. The originally constructing individual customer or developer is also entitled to interest, if collected by the BPUB, from the later assessment of acreage charges from others as hereinafter provided. Interest shall be paid only upon the unreimbursed cost of construction of the oversized facility or facilities and only to the extent of funds later collected by the BPUB from other customers and developers for such purpose. The interest rate shall be based upon the quote for a \$100,000.00 Certificate of Deposit for 30 days by the BPUB's current local banking institution. The interest rate shall be applied against the balance of the unreimbursed total construction cost eligible for repayment on each anniversary date of the "Development Reimbursement Agreement," hereinafter called the "Agreement." No interest shall accrue nor be paid during the first year of the Agreement. Thereafter, the above described computed interest shall be added to the acreage charge assessment applied to a customer requesting a connection to the previously built oversized facility eligible for reimbursement and shall be pro-rated as shown by the formula in sections 4.2.3 and 5.3.3 of the Policies. Interest neither shall accrue under the Agreement nor be assessed or collected by the BPUB after the originally constructing developer eligible for reimbursement has been reimbursed for the total original construction cost of the oversized facility or facilities, or after fifteen (15) years from the date of the execution of the Agreement, whichever occurs first.

Appendix L is a simple graphic illustration of how an originally constructing developer might later be reimbursed. No reimbursements shall be made to the individual customer or the developer after fifteen (15) years from the date of execution of the above described Agreement or after the total construction cost has been reimbursed to the individual customer or developer, whichever event occurs first. Reimbursements shall be made only from funds later collected by BPUB from acreage and interest charges paid by later developer customers, and only to the extent that such charges are actually collected by the BPUB.

The original total construction cost shall be defined as the final costs of installation of the oversized facility or facilities, plus engineering fees directly

related thereto. The total original construction cost is subject to the review and approval of the BPUB Engineering Department prior to execution of the above described reimbursement Agreement.

- B.** The eligible repayment policy applies to all developments requiring the construction of oversized facilities at the initial cost of the individual customer or developer. Such policy would not be applicable if the BPUB itself funded the upfront cost of oversizing to serve projected growth areas.

6.2 INSIDE THE EXTRATERRITORIAL JURISDICTION (ETJ)

Same as Inside City Limits (6.1 A).

6.3 OUTSIDE THE EXTRATERRITORIAL JURISDICTION (ETJ)

This policy is the same as set out as Section 6.2.

6.4 GENERAL PROVISIONS

1. Utilities Availability Letter: The BPUB will issue a letter of availability to an owner upon written request for availability of service. A separate fee may apply and due at the time of the request is made for the letter of utilities availability.

This request for availability of service shall include the following:

- a) Map of the area.
- b) Area in acres.
- c) Type of land use and approximate water and sewer loads.

The availability letter is good for six (6) months with one renewal. An automatic renewal for six (6) months will be given for an approved preliminary subdivision plat or a final subdivision plat. See Appendix K for Schematic Diagram.

2. When the BPUB participates in the financing of an oversized facility, the BPUB shall provide the customer, developer or his consulting engineer with a "Letter Estimate" outlining costs to construct water and wastewater system paid extensions and project costs to be borne by the customer or developer. The "Letter Estimate" when approved by the BPUB will represent a commitment that is good for six (6) months.

The "Letter Estimate" is only valid if accepted by the customer or developer within thirty (30) days, and then within five (5) additional days after customer or developer acceptance, is then approved in writing by the

General Manager and/or the BPUB Board. The estimate of cost shall be subject to mutual revision every ninety (90) days.

3. All developer, customer private construction must be competitively bid at Public openings, as if it were a public bid, to be eligible under the repayment program and the lowest responsive and responsible bid meeting plans and specifications shall be awarded. This bid must be approved by BPUB and conform to Subchapter C of Chapter 212 of the Texas Local Government Code.
4. At such time as the installation of the oversized facility or facilities have been completed in conformance with plans and specifications approved by BPUB, and have been tested and accepted for operations and maintenance by BPUB, the developer shall enter into a Development Reimbursement Agreement with the BPUB.
5. All construction is to be developer contracted and managed subject to BPUB inspection.
6. Bid Bonds, Payment Bonds and Performance Bonds are required prior to award of all contracts.
7. The Development Re-Payment Checklist approval is required prior to executing the Agreement between the BPUB and the Developer.

CHAPTER 7 - APPLICATION OF IMPACT FEES TO FINANCE WATER AND WASTEWATER SERVICE TO NEW DEVELOPMENT

7.1 POLICY

This Chapter establishes the procedures to be used by the PUB in assessing and administering Water and Wastewater Impact Fees. These fees have been developed in accordance with the provisions of Section 395.001 et seq of the Texas Local Government Code.

Impact Fees may be assessed in addition to other charges authorized by these Service Policies. However, where an Impact Fee is applied, this Chapter takes precedence over the other Chapters in these Service Policies which address PUB extension policies.

7.2 APPLICATION

An Impact Fee may be applied to the excess capacity in an existing water and/or wastewater capital improvement, an expansion of currently operating water and/or wastewater facilities and to the financing of new water and/or wastewater capital improvements necessary to provide service to new development with the PUB's Service Area.

When an application for service is submitted, the PUB's staff will calculate the applicable Impact Fee. The amount of each Impact Fee for each Equivalent Service Unit is detailed per Service Zone in Appendix M. No application for service for a new development shall be approved without assessment of a Water and/or Wastewater Impact Fee.

7.3 DEFINITIONS

New Development - If the property being platted is within an area that is the subject of a formal commitment for water and/or wastewater service, executed by the PUB before the date of enactment of the Water and Wastewater Impact Fees Ordinance by the City Commission, development of the property will not be considered new development for Water and/or Wastewater Impact Fees as long as the development is consistent with the water and/or wastewater service commitment, and therefore may not be assessed Water and/or Wastewater Impact Fees at the time of platting. All other property being platted will be considered new development for water and/or wastewater service and therefore will be assessed a Water and/or Wastewater Impact Fee.

If a property owner proposes to: (a)_increase the number of Equivalent Service Units for a property, or (b)_service a property with a new, additional or larger water meter and/or wastewater connection (which results in more ESUs) regardless of whether the property is inside or outside an area that is the subject of a formal commitment for water and/or

wastewater service executed by the PUB before the date of the enactment of the Water and Wastewater Impact Fees Ordinance and platting or replatting is not necessary in either case, such property will be considered new development for water and/or wastewater service and, therefore, will be assessed a water and/or wastewater Impact Fee.

If a property owner proposes to: (a)_increase the number of Equivalent Service Units for a property, or (b)_service a property with a new, additional or larger water meter and/or wastewater connection (which results in more ESUs) after the date of the enactment of the Water and Wastewater Impact Fees Ordinance and platting or replatting is not necessary in either case, such property will be considered new development for water and/or wastewater service and, therefore, will be assessed a Water and/or Wastewater Impact Fee.

Equivalent Service Unit (ESU) - The Equivalent Service Unit (ESU) is the basic service unit for determining the level or quantity of use of existing water and/or wastewater facilities with excess capacity, water and/or wastewater facility expansions and/or future capital improvements for the purpose of assessing a Water and/or Wastewater Impact Fee. The calculation of ESUs for water service and wastewater service is outlined in Section 1.2.31.

Facility Expansions - The expansion of the capacity of any water and/or wastewater system facility in order to permit the facility to serve new development. A "facility expansion" serves the same purpose as an otherwise new capital improvement. For purposes of assessing a Water and/or Wastewater Impact Fee, facility expansions may not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development.

Impact Fee - A charge or assessment imposed upon new development in order to generate revenue for funding or recouping the costs of water and/or wastewater capital improvements and/or facility expansions necessitated by and attributable to new development. An Impact Fee will also be charged for existing water and/or wastewater facilities with excess capacity if that capacity is used to service new development. The PUB's Water and Wastewater Impact Fee structure shall consist of a Water and Wastewater Impact Fee applicable within the ICL Service Zone of the PUB's Service Area and a Water and Wastewater Impact Fee applicable within the OCL Service Zone of the PUB's Service Area.

Capital Improvement - Any water supply, treatment or distribution facilities (i.e., only transmission mains) and any wastewater collection (i.e., only trunk mains) and treatment facilities, whether located in the PUB's Service Area or not, with a life expectancy of three (3) or more years that are owned by the City of Brownsville and operated by the PUB.

Capital Improvement Plan - A plan identifying specific PUB existing water and/or wastewater facilities with excess capacity, proposed water and/or wastewater capital improvements or facility expansions and their costs useful for, or necessitated by and

attributable to new development in the PUB's Service Area based on the approved land use assumptions and for which a Water and/or Wastewater Impact Fee may be assessed.

Service Area - For purposes of Impact Fee assessment, the PUB's Water and Wastewater Service Area includes the area certificated to it by the Texas Natural Resource Conservation Commission. The PUB's Service Area is divided into the area inside the city limits of Brownsville ("ICL Service Zone") and the area outside the city limits of Brownsville, but within its extraterritorial jurisdiction ("OCL Service Zone").

Service Zone(s) - The PUB's total Service Area is divided into two Service Zones consisting of the ICL Service Zone and OCL Service Zone.

ICL Service Zone - The area inside the Brownsville city limits in effect at the time of the assessment of the water and/or wastewater Impact Fee.

OCL Service Zone - The area outside the Brownsville city limits, but within the extraterritorial jurisdiction in effect at the time of the assessment of the water and/or wastewater Impact Fee.

Land Use Assumptions Plan - A plan prepared under the direction of the City of Brownsville's Capital Improvements Advisory Committee and approved by the City Commission of the City which includes a description of utility service areas and projections of changes in land uses, densities, intensities, and population in the PUB's Service Area over at least a ten-year period.

7.4 CAPITAL IMPROVEMENTS PLAN

A Water and/or Wastewater Impact Fee may only be applied to projects which are included in the Capital Improvements Plan for Water and Wastewater Facilities prepared on the basis of the City of Brownsville's Land Use Assumptions. The City of Brownsville shall update its Land Use Assumptions not less than once every three (3) years as established by law. At that time, the PUB shall update its Capital Improvements Plan for Water and Wastewater Facilities and recalculate each Water and/or Wastewater Impact Fee.

The PUB, in cooperation with the City of Brownsville, may review its Impact Fees, Capital Improvements Plan, and other factors (e.g. market conditions) more frequently than the above time limit to determine whether the Plan should be amended and/or each Impact Fee recalculated.

7.5 CALCULATION OF THE IMPACT FEE

- A. Following the filing and acceptance of an application for a request for connection to the PUB's water and/or wastewater system facilities, the PUB shall compute the total water and/or wastewater Impact Fee due for a new development in the following matter:

1. For new development within the ICL Service Zone, the total amount of the water and/or wastewater Impact Fee shall be determined by multiplying the number of Equivalent Service Units ("ESU") generated by the new development by the ICL water and/or wastewater Impact Fee per ESU as outlined on Appendix M. For new development within the OCL Service Zone, the total amount of the water and/or wastewater Impact Fee shall be determined by multiplying the number of ESUs generated by the new development by the OCL water and/or wastewater Impact Fee per ESU as outlined on Appendix M. The number of ESUs shall be determined by using the conversion table contained in Section 1.2.30 of these Service Policies.
 2. The total amount of the water and/or wastewater Impact Fee due for the new development shall be calculated and attached to the: (a) application for water and/or wastewater service as a condition of approval for service, or (b) application for increased water and/or wastewater service as a condition of approval for increased service.
 3. The amount of the total water and/or wastewater Impact Fee due shall be reduced by any allowable offsets or credits for that category of capital improvements or facility expansions, in the manner provided in Section 7-12.
- B.** The maximum allowable Water and Wastewater Impact Fee per ESU is computed by dividing the total costs of existing water and/or wastewater facilities with excess capacity, proposed water and/or wastewater capital improvements and/or facility expansions useful for, or necessitated by and attributable to new development in the PUB's Service Area by the total number of ESUs projected for that area. If the number of ESUs projected over the ten-year period covered by the most recent approved land use assumptions ("ten-year period") is less than the total number of ESUs shown by the approved land use assumptions at full development of the Service Area, the maximum allowable Water and Wastewater Impact Fee per ESU shall be calculated by dividing the costs of the part of the existing water and/or wastewater facilities with excess capacity, proposed water and/or wastewater capital improvements and/or facility expansions useful for, or necessitated by and attributable to the projected ESUs over the ten-year period by the projected ESUs during this ten-year period.
- C.** The water and/or wastewater Impact Fee per ESU which is to be paid by each new development shall be that established by the PUB and approved by the City Commission, as may be amended from time to time, and shall be an amount less than or equal to the maximum allowable fee per ESU established in paragraph B above and shown on Appendix N attached hereto and made a part of this Section by reference. The Water and Wastewater Impact Fees which are to be assessed

and collected shall be as set forth in Appendix M attached hereto and made a part of this Section by reference.

- D. Whenever the property owner proposes to increase the number of ESUs, or service a property with a new, additional or larger water meter and/or wastewater connection for a property and platting or replatting is not necessary, the additional Water and/or Wastewater Impact Fee collected for such new ESUs, or new, additional or larger water meter and/or wastewater connection shall be determined by using Appendix M then in effect and such additional charges shall be collected prior to the time of enlargement or increase in the number of the connections to the PUB's water and/or wastewater system facilities to obtain increased service.
- E. The Water and/or Wastewater Impact Fee as specified in Appendix M and N may be amended from time to time by the PUB and City Commission as set forth in Section 7-4.

7.6 ASSESSMENT OF IMPACT FEE

- A. The approval of any new development shall include as a condition of approval the assessment of the Water and/or Wastewater Impact Fee applicable to such development. The assessment of the applicable Water and/or Wastewater Impact Fee for any new development shall be made as follows:
 - 1. For a development which is submitted for approval pursuant to the City of Brownsville's Subdivision Ordinance regulations following the effective date of the enactment of the Water and Wastewater Impact Fees Ordinance, assessment of the Water and/or Wastewater Impact Fee shall be made at the time of approval of the application for water and/or wastewater service and shall be based on the amount of the Water and/or Wastewater Impact Fee per ESU per Service Zone then in effect, as set forth in Appendix M.
 - 2. For property that is to have an increase in ESUs allocated to it, or be serviced by a new, additional or larger water meter and/or wastewater connection, said property being declared new development, the PUB may assess the Water and/or Wastewater Impact Fee at the time of approval of the application for increased service and shall be based on the amount of the Water and/or Wastewater Impact Fee per ESU per Service Zone then in effect, as set forth in Appendix M.

7.7 PAYMENT OF IMPACT FEES

- A. If a property considered new development is located within the ICL Service Zone of the PUB's Service Area, each water and/or wastewater Impact Fee assessed shall be paid by the property owner: (1) at the time the City of Brownsville issues a building

permit to the property owner for construction of a dwelling unit, building or other structure that requires water and/or wastewater service, or (2) in the event a building permit is not required; (a) at the time the property owner first connects the property to the PUB's water and/or wastewater system facilities, either by installing a new meter and/or wastewater connection, or turning service on if the new water meter and/or wastewater connection is already installed, or (b) at the time the property owner installs an additional or larger water meter and/or wastewater connection

B. If a property considered new development is located within the OCL Service Zone of the PUB's Service Area, each water and/or wastewater Impact Fee assessed shall be paid by the property owner: (1) at the time the property owner first connects the property to the PUB's water and/or wastewater system facilities either by installing a new water meter and/or wastewater connection, or turning service on if the new water meter and/or wastewater connection is already installed, or (2) at the time a property owner installs an additional or larger water meter and/or wastewater connection.

7.8 IMPACT FEE FUND ACCOUNT

The Finance Director of the PUB shall establish a water and wastewater fund into which Water and Wastewater Impact Fee payments shall be deposited. Interest earned from the Water and Wastewater Impact Fee Fund Accounts shall be considered funds of the accounts and shall only be used for purposes authorized by law.

7.9 REFUNDS

A Water and/or Wastewater Impact Fee, or portion thereof, collected pursuant to this Chapter, which has not been expended for the purposes for which it was intended within ten (10) years from the date of collection shall be refunded, upon application, to the property owner of record at the time the refund is to be paid. Interest, calculated from the date of collection to the date of refund, shall accompany the refund at the statutory rate established in Article 1.03, Title 79, Revised Statutes (Article 5069-1.03, Vernon's Texas Civil Statutes) or any successor statute.

A Water and/or Wastewater Impact Fee collected under the provisions of this Chapter of the Service Policies shall be considered expended if the total disbursements for water and/or wastewater capital improvements or facility expansions within the PUB's Service Area during the ten (10) year period following the date of payment exceed the total fees collected for such improvements or expansions during that same period.

If a refund is due because all or part of the Water and/or Wastewater Impact Fees have not been spent, the PUB shall pro-rate the amount per ESU by dividing the difference between funds expended and the fees collected within the entire PUB Service Area by the total number of developed ESUs within the Service Area for the period in question ("Refund Amount per ESU"). The Refund Amount per ESU applicable to the ICL Service Zone shall then be calculated by multiplying the Refund Amount per ESU for the

entire Service Area by the percentage of the amount of funds collected from the property owners owning property within the ICL Service Zone to the total amount of funds collected within the entire PUB Service Area. The Refund Amount per ESU applicable to the OCL Service Zone shall then be calculated by multiplying the Refund Amount per ESU for the entire Service Area by the percentage of the amount of funds collected from the property owners owning property within the OCL Service Zone to the total amount of funds collected within the entire PUB Service Area. The refund to the owner of record shall be calculated by multiplying the Refund Amount due per ESU either in the ICL Service Zone or OCL Service Zone by the number of ESUs within the development for which an Impact Fee was paid; any interest due shall be calculated upon that amount.

Upon completion of all the capital improvements or facility expansions identified in the Capital Improvements Plan for Water and Wastewater Facilities, the PUB shall recalculate the Water and/or Wastewater Impact Fee per ESU per Service Zone using the actual costs of the improvements or facility expansions. If a Water and/or Wastewater Impact Fee based on actual costs is less than a Water and/or Wastewater Impact Fee paid, the PUB shall refund to the present owner of record the difference if that figure exceeds a Water and/or Wastewater Impact Fee actually paid by more than 10%. The refund to the owner of record shall be calculated by multiplying that difference by the number of ESUs for which a Water and/or Wastewater Impact Fee was paid; any interest due shall be calculated upon that amount.

The PUB will refund any Water and/or Wastewater Impact Fee collected in the event that the building permit or other development approval expires for a property determined to be new development and the property remains undeveloped.

7.10 USE OF OTHER FINANCING STRUCTURES

The PUB may recoup the costs of existing water and/or wastewater facilities with excess capacity and/or finance water and/or wastewater capital improvements or facility expansions designated in the Capital Improvements Plan for Water and Wastewater Facilities, in addition to the use of Impact Fees, through the issuance of bonds or any other financing method authorized by law. There is nothing in this Chapter 7 which shall be construed as limiting the PUB's financing or extension policy options. In addition to a Water and/or Wastewater Impact Fee, the PUB may require payment of any other fee, charge, or assessment which is lawfully imposed on and due against the property.

7.11 EFFECT OF IMPACT FEES ON OTHER PARTS OF THE REGULATIONS FOR WATER SERVICE

Nothing in this Chapter 7 shall affect, in any manner, the PUB's application of its Service Policies, not inconsistent with this Chapter 7, to any part of its Service Area.

7.12 OFFSETS AND CREDITS AGAINST IMPACT FEES

- A. The PUB shall offset the reasonable value of any Service Area related water and/or wastewater capital improvements and/or facility expansions identified in the Water and Wastewater Capital Improvements Plan pursuant to rules established in this Chapter and which have been dedicated to and have been received after initial acceptance by the PUB on or after the date of enactment of the Water and Wastewater Impact Fee Ordinance, including the value of water and/or wastewater capital improvements and/or facility expansions constructed pursuant to an Agreement with the PUB, against the amount of the Impact Fee due for that type of capital improvement and/or facility expansion.
- B. All offsets and credits against a Water and/or Wastewater Impact Fee shall be subject to the following limitations and shall be granted based on this Chapter 7.
 - 1. No offset or credit shall be given for the construction of on-site related facilities.
 - 2. No offset or credit shall exceed an amount equal to the eligible value of the offset.
 - 3. The unit costs used to calculate the offsets shall not exceed those assumed for the water and/or wastewater capital improvements and/or facility expansions included in the Capital Improvements Plan for the type of facility within the Service Area for which the Impact Fee is imposed.
 - 4. If an offset or credit applicable to a plat has not been exhausted within ten (10) years from the date of the acquisition of the first building permit or connection made after the effective date of this Chapter or within such period as may be otherwise designated by contract, such offset or credit will lapse.
 - 5. In no event will the PUB reimburse the property owner or developer for an offset or credit when no Water and/or Wastewater Impact Fee for the new development can be collected pursuant to this Chapter or for any amount exceeding the total Water and/or Wastewater Impact Fee due for the property or development for that type of capital improvement, unless otherwise agreed to by the PUB.
- C. An applicant for new development must apply for an offset or credit against the Water and/or Wastewater Impact Fee due for the development either at the time of application for connection to or application for an additional connection or enlargement of the connection to the PUB's water and/or wastewater system facilities, unless the PUB agrees to a different time period. The applicant shall file a petition for offsets or credits on a form provided for such purpose. The contents of the petition shall be established by the PUB. The PUB within a reasonable time must provide the applicant, in writing, with a decision on the offset or credit request, including the reasons for the decision. The decision shall

specify the maximum value of the offset or credit which may be applied against an Impact Fee.

- D. The available offset or credit associated with new development shall be applied against the Water and/or Wastewater Impact Fee due at the time the fee is due.

7.13 LAND USE ASSUMPTIONS

A copy of the resolution of the City of Brownsville adopting the land use assumptions together with the land use assumptions report are available at the offices of the PUB.

7.14 WATER AND WASTEWATER CAPITAL IMPROVEMENTS PLAN AND IMPACT FEES

A copy of the ordinance of the City of Brownsville adopting the Water and Wastewater Capital Improvements Plan and Impact Fees is available at the offices of the PUB.

7.15 APPEALS

- A. The property owner or applicant for new development may appeal the following decisions to the PUB: (1) the applicability of an Impact Fee to the development; (2) the amount of the Impact Fee due; (3) the availability or the amount of an offset or credit; (4) the application of an offset or credit against an Impact Fee due; (5) the amount of a refund due, if any.
- B. The burden of proof shall be on the appellant to demonstrate that the amount of the Impact Fee or the amount of the offset or credit was not calculated according to the applicable schedule of Impact Fees or the guidelines established for determining offsets and credits.
- C. The appellant must file a notice of appeal with the General Manager of the PUB within thirty (30) days following the decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the PUB in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.

7.16 RELIEF PROCEDURES

Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the City Commission of the City of Brownsville, Texas, to determine whether any duty required by the Water and Wastewater Impact Fee Ordinance and this Chapter has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request

that the act be performed within sixty (60) days of the request. If the City Commission determines that the duty is required pursuant to the Water and Wastewater Impact Fee Ordinance and this Chapter and is late in being performed, it shall cause the duty to commence within sixty (60) days of the date of the request and to continue until completion.

APPENDIX A

FORMS

LIST OF FORMS IN APPENDIX A

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BPUB Form No. 1	Agreement Regarding Connection Charges - (Option No. 1)	A-1
BPUB Form No. 2	Agreement Regarding Connection Charges - (Option No. 2)	A-4
BPUB Form No. 3	Extension and Performance Agreement for Non-Subdivided Property	A-7
BPUB Form No. 4	Extension and Performance Agreement for Subdivided Property	A-14
BPUB Form No. 5	Development Repayment Agreement	A-23
BPUB Form No. 6	Dual Oblige Rider to Performance Bond -(Non-Subdivided Property)	A-26
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BPUB Form No. 23 Release Of Delinquent Utility Bill Lien

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BPUB Form No. 24 Delinquent Utility Bill Lien

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1) Developer agrees to pay the BPUB at the time of the execution of this Agreement a Water Rights Charge in the amount of \$_____ in order to obtain water service for the parcel or tract of land described in Exhibit B and without regard to the time each individual unit, phase or segment of the development is developed or improved. This Water Rights Charge is not an Impact Fee in that it does not fund eligible water related capital improvements, rather, it funds the BPUB acquisition of dependable and adequate water supplies and water rights. The BPUB has calculated this total water rights charge by multiplying the size of the parcel or tract of land described in Exhibit B by the current per-acre water rights charge established by the BPUB in its Electric, Water and Wastewater Service Policies.

2) The BPUB shall provide water and wastewater service to the parcel or tract of land described in Exhibit B only upon compliance by Developer with all of the terms and conditions outlined under this Agreement; the ordinances of the City of Brownsville; the BPUB's Electric, Water and Wastewater Service Policies; and applicable federal, state and local regulatory requirements.

3) In connection with the development of the Property described in Exhibit A, Developer hereby agrees to pay the following applicable connection charges, as indicated, upon demand by the BPUB:

a. Water Connection Charges:

1. Acreage Charge: \$ _____
(pursuant to the Developer
Reimbursement Agreement between
the BPUB and

dated _____)
2. Meter Installation Charge \$ _____
3. Tapping Charge \$ _____
4. Impact Fee \$ _____

b. Wastewater Connection Charges:

1. Acreage Charge: \$ _____
(pursuant to the Developer
Reimbursement Agreement
between the BPUB and

dated _____)
2. Impact Fee \$ _____

4) Developer further agrees to pay all applicable water and/or wastewater connection charges for the remaining tract or parcel of land described in Exhibit C prior to connection to or extension of the BPUB water and/or wastewater system, and extension of water and/or wastewater service to the remaining tract or parcel of land. The connection charges assessed shall be based on the then-prevailing connection charges established by the City and/or BPUB in its Electric, Water and Wastewater Service Policies. If the remaining tract or parcel of land described in Exhibit C is developed in small units, segments or phases, the Developer shall pay the BPUB all applicable water and/or wastewater connection charges for each individual unit, phase or segment of the remaining tract or parcel of land described in Exhibit C prior to connection to, or extension of, the BPUB water and/or wastewater system, and extension of water and/or wastewater service to each such individual unit, phase or segment. The connection charges assessed shall be based on the then-prevailing connection

charges established by the City and/or BPUB in its Electric, Water and Wastewater Service Policies.

Continues with Standard Conditions For Agreements (BPUB Form No. 19); Standard Signature Block (BPUB Form No. 20); Standard Acknowledgments (BPUB Form No. 21); and Standard Lienholder's Consent (BPUB Form No. 22).

BPUB Form No. 2: AGREEMENT REGARDING CONNECTION CHARGES

STATE OF TEXAS §

COUNTY OF CAMERON §

(Option No. 2)

AGREEMENT REGARDING CONNECTION CHARGES.

This is an agreement between the Brownsville Public Utilities Board of the City of Brownsville, Texas ("BPUB") and _____, a ("Developer").

WHEREAS, Developer desires to develop a tract or parcel of land through platting known as _____ (the "Property") and described in Exhibit A attached hereto and incorporated herein; and,

WHEREAS, the Property has been severed from a larger tract or parcel of land described in Exhibit B attached hereto and incorporated herein; and,

WHEREAS, Developer desires to reserve the remaining tract or parcel of land for development in the future; and,

WHEREAS, the "remaining tract or parcel of land" is described in Exhibit C attached hereto and incorporated herein; and,

WHEREAS, Developer desires to obtain water and wastewater service to the Property.

NOW, THEREFORE, for and in consideration of the BPUB providing water service to the Property and granting the Developer the option to periodically pay a Water Rights Charge for each individual unit, phase or segment of the entire development that is sequentially developed or improved, the parties agree as follows:

1) Since Developer has decided to develop only a portion of the tract or parcel of land described in Exhibit "B," which portion is known as the Property and described in Exhibit A, and Developer has elected to pay to the BPUB at the time of the execution of this Agreement a Water Rights Charge in the amount of \$_____ in order to develop the Property. This Water Rights Charge is not an Impact Fee in that it does not fund eligible water related capital improvements, rather, it funds the BPUB acquisition of dependable and adequate water supplies and water rights. The BPUB has calculated this Water Rights Charge by multiplying the size of the parcel or tract or land described in Exhibit A by the current per-acre

Water Rights Charge established by the BPUB in its Electric, Water and Wastewater Service Policies.

2) Developer further agrees to pay to the BPUB a Water Rights Charge applicable to the remaining parcel or tract of land described in Exhibit C prior to the connection to, or extension of, the BPUB water system and extension of water and wastewater service to the remaining tract or parcel of land by multiplying the size of the remaining tract or parcel of land by the then-prevailing per-acre water rights charge established by the BPUB in its Electric, Water and Wastewater Service Policies. If the remaining tract or parcel of land described in Exhibit C is developed in smaller units, segments or phases, the Developer shall pay to the BPUB a Water Rights Charge for each individual unit, phase or segment of the remaining tract or parcel of land prior to connection to or extension of the BPUB water system and extension of water service to each such individual unit, phase or segment. The Water Rights Charge for each individual unit, phase or segment that is developed or improved shall be calculated by multiplying the size of each individual unit, phase or segment by the then-prevailing per-acre Water Rights Charge established by the BPUB in its Electric, Water and Wastewater Service Policies.

3) The BPUB shall provide water and wastewater service to the parcel or tract of land described, in Exhibit B only upon compliance by Developer with all of the terms and conditions outlined under this Agreement; the ordinances of the City of Brownsville; the BPUB's Electric, Water and Wastewater Service Policies; and federal, state, and local regulatory requirements.

4) In connection with the development of the Property described in Exhibit A, Developer hereby agrees to pay the following applicable connection charges, as indicated, upon demand by the BUB:

a. Water Connection Charges:

1. Acreage Charge: \$ _____
(pursuant to the Developer
Reimbursement Agreement between
the BPUB and _____
dated _____)
2. Meter Installation Charge \$ _____
3. Tapping Charge \$ _____
4. Impact Fee \$ _____

b. Wastewater Connection Charges:

1. Acreage Charge: \$ _____
(pursuant to the Developer
Reimbursement Agreement between
the BPUB and _____
dated _____)

2. Impact Fee

\$ _____

5) Developer further agrees to pay all applicable water and/or wastewater connection charges for the remaining tract or parcel of land described in Exhibit C prior to connection to or extension of the BPUB water and/or wastewater system, and extension of water and/or wastewater service to the remaining tract or parcel of land. The *connection* charges assessed shall be based on the then-prevailing connection charges established by the BPUB in its Electric, Water and Wastewater Service Policies. If the *remaining* tract or parcel of land described in Exhibit C is developed in small units, segments or phases, the Developer shall pay the BPUB all applicable water and/or wastewater connection charges for each individual unit, phase or segment of the remaining tract or parcel of land described in Exhibit C prior to connection to or extension of the BPUB water and/or wastewater system, and extension of water and/or wastewater service to each such individual unit, phase or segment. The connection charges assessed shall be based on the then-prevailing connection charges established by the BPUB in its Electric, Water and Wastewater Service Policies.

Continues with Standard Conditions For Agreements (BPUB Form No. 19); Standard Signature Block (BPUB Form No. 20); Standard Acknowledgments (BPUB Form No. 21); and Standard Lienholder's Consent (BPUB Form No. 22).

BPUB Form No. 3 EXTENSION AND PERFORMANCE AGREEMENT FOR NON-SUBDIVIDED PROPERTY

STATE OF TEXAS §

COUNTY OF CAMERON §

EXTENSION AND PERFORMANCE AGREEMENT FOR NON-SUBDIVIDED PROPERTY

1) Parties. The parties to this Extension and Performance Agreement for Non-Subdivided Property (the "Agreement") are _____ (individually and collectively the "Developer") and the Brownsville Public Utilities Board of the City of Brownsville, Texas (the "BPUB").

RECITALS

2) Developer is the owner of the land more particularly described by the metes-and-bounds description attached and incorporated into this Agreement as Exhibit A (the "Property"); and

3) Developer seeks to serve the Property in accordance with the requirements imposed by the BPUB's Electric, Water and Wastewater Service Policies and other applicable regulations; and

4) The purpose of this Agreement is to protect the BPUB from the expense of completing off-site and on-site improvements which the Developer has agreed to install; and

5) This Agreement is authorized by and consistent with the BPUB's Electric, Water and Wastewater Service Policies and other applicable regulations.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

DEVELOPER'S OBLIGATIONS

6) Improvements. The Developer agrees to construct and install, at Developer's expense, all off-site and on-site improvements required to comply with City of Brownsville orders, ordinances, policies, the BPUB's Electric, Water and Wastewater Service Policies ("Service Policies"), specifically including without limitation those water and wastewater improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, "the Improvements," any one of which is an "Improvement"). All Improvements shall be constructed in conformity to the BPUB's Service Policies, requirements, procedures, and specifications, pursuant to construction plans, contracts, permits, and specifications prepared and

sealed by a registered professional engineer licensed in Texas, filed with and approved by the BPUB prior to commencement of construction, and subject to inspection, certification, and acceptance by the BPUB. All improvements must be identified in detail on the plans and specifications. The plans and specifications shall detail items such as size and type of materials. All bench marks and profiles must be shown. The design calculations must include (a) a sanitary zone map and the calculated flow in each line and, (b) the domestic and fire flow for waterlines.

7) Completion. Unless a different time period is specified by the BPUB for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date of this Agreement (the "Completion Date"). Upon completion of each of the Improvements, the Developer agrees to provide to the BPUB a complete set of construction plans for the Improvements, certified "as built" by the Developer's professional engineer responsible for preparing and sealing the approved construction plans and specifications.

8) Warranty. The Developer warrants that the Improvements constructed by Developer or Developer's agents, contractors, employees, tenants, or licensees will be free from construction workmanship defects for a period of one (1) year from the date the BPUB accepts the dedication of a completed Improvement or group of Improvements (the "Warranty Period"), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Developer does not warrant the Improvements against defects caused by events outside the control of the Developer or the Developer's agents, contractors, employees, tenants, or licensees, such as a design error or a manufacturer defect covered by a product warranty. The Developer agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities.

9) Security. If the Improvements involve oversized facilities, Developer agrees to require the Contractor to provide the BPUB and Developer adequate financial guarantees of construction completion performance in the form of a Dual Obligatee Rider to a Performance Bond acceptable to the BPUB in the amount of _____ Dollars (\$ _____) (the "Stated Amount"), which amount is the professional engineer's estimated total cost of constructing each of the Improvements as shown on Exhibit B. The Bond Surety shall be licensed to underwrite payment and performance bonds in the State of Texas. Developer also agrees to require the Contractor to provide the BPUB and Developer a Dual Obligatee Rider to a Payment Bond in the same amount as the Performance Bond or a Cash Deposit to BPUB to protect all claimants lawfully owed compensation for supplying labor and materials in the construction of the Improvements shown on Exhibit B.

10) Rights-of-Way and Easements. Developer agrees that it shall grant and convey to the BPUB all rights-of-way and permanent public utility easements deemed necessary by the BPUB to repair, maintain and operate the Improvements. All rights-of-way and easements must be conveyed to the BPUB at the time of execution of this Agreement as follows:

- a. a plat recorded in the Cameron County Deed Records; and
- b. signed and executed easements to BPUB recorded in the Cameron County Deed

Records and delivered to the BPUB.

11) Proof of Ownership of Property. The Developer will present to the BPUB prior to execution of this Agreement, a title commitment report stating that the Developer has the right to transfer such permanent public utility easement or right-of-way to the BPUB.

Any trustee agreements or lienholders to the affected property must also execute the right-of-way or easement agreement. All recorded plats must have lienholder's approval statement certifications.

12) Warranties and Guarantees. Developer agrees that all material, equipment and supply item guarantees, parts list, warranties, etc. shall be submitted to the BPUB prior to transfer of ownership of the Improvements.

13) Remedies to Faulty Construction. The BPUB shall have the right to retain or reduce funds from any repayment charges to the Developer in the event Developer does not comply with the one year workmanship warranty commitment. Such reduction shall be the cost of the BPUB warranty correction construction.

14) Repayment. In those instances involving the construction of an oversized main extension facility or facilities by the Developer, the Developer shall be entitled to a reimbursement pursuant to the repayment policy of the BPUB. The repayment policy of the BPUB as of the execution date of this Agreement shall be the policy applicable to this Agreement regardless of later modifications to the BPUB repayment policy. A copy shall be attached as Exhibit C. This policy applicable to this Agreement shall not be subject to any changes in policy or prior policies.

15) The Installation Cost, Engineering Cost and Total Construction Cost.
The total estimated construction cost of the Improvements is:

Installation Cost = _____
Engineering Cost = _____
Total Cost = _____

16) Facility Service Zone. The map of the facility service zone of this oversized facility or facilities showing acreage charges together with the engineering calculations shall be made a part of this Agreement. The acreage charge calculations shall be Exhibit D, and the map shall be Exhibit E to this Agreement.

17) Checklist of Requirements. A checklist of the requirements prior to execution of this Agreement shall be included as a part of this Agreement as Exhibit F. (Development Repayment Checklist.)

18) Service Laterals. With respect to the installation of Improvements to the Developer's Property that constitute service laterals, BPUB understands and acknowledges that the final determination by the Developer of the specific size and quantity of service laterals to the

Property may not be feasible at the time of the execution of this Agreement. In consideration of BPUB providing water service to the Property, Developer agrees to preliminarily provide an engineer's estimate of the total cost of the service lateral Improvements deemed necessary to serve the Developer's Property. At such time as Developer finally determines the specific size and quantity of service lateral Improvements, Developer shall provide the BPUB with the total cost of the service lateral Improvements.

19) Indemnification. The Developer hereby expressly agrees to indemnify and hold the city of Brownsville, BPUB and their respective officers and employees harmless from and against all third-party claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from (a) any default under or violation of any federal, state, or local statute, regulation, order; or (b) any breach on the part of developer of any provision in this agreement; or (c) from any act, omission or negligence of Developer or Developer's agents, independent contractors, employees, tenants, or licensees in the construction of the improvements. The developer further agrees to aid and defend the city of Brownsville and/or the BPUB if they are named as a defendant in an action arising from any breach on the part of Developer of any provision in this agreement, or from any act of negligence of Developer or Developer's agents, independent contractors, employees, tenants, or licensees in the construction of the improvements. The Developer is not a partner, co-venturer, employee or agent of the BPUB. The Developer further agrees to indemnify and hold the city of Brownsville, BPUB and their respective officers and employees harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the city of Brownsville, BPUB, their respective contractors, employees, tenants, or licensees, even if that act or negligence is a concurring cause of the injury or damage.

20) Connection Charges. In connection with the development of the tract of land described by Exhibit A, Developer hereby agrees to pay the following applicable connection charges, as indicated, upon demand by the BPUB:

a. Water Connection Charges:

1. Acreage Charge: \$ _____
(pursuant to the Developer
Reimbursement Agreement between
the BPUB and _____
dated _____)
2. Meter Installation Charge \$ _____
3. Tapping Charge \$ _____
4. Impact Fee \$ _____

b. Wastewater Connection Charges:

1. Acreage Charge: \$ _____
(pursuant to the Developer

Reimbursement Agreement between the
BPUB and _____
dated _____)

2. Impact Fee \$ _____

BPUB'S OBLIGATIONS

21. Inspection and Certification. The BPUB agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the BPUB standards, designs, and specifications for such Improvements, to certify the Improvements as being in compliance with BPUB's Service Policies, designs, standards and specifications. Such a BPUB certification does not constitute a waiver by BPUB of its right to enforce this Agreement regarding obligations of Developer and its engineer and contractors to assure that the Improvements contain no latent design, construction, or manufacturer defects. The inspections and certifications will be conducted in accordance with the BPUB's Service Policies, standards, and requirements. The Developer grants the BPUB, its employees, officers, consultants and contractors a license to enter the Property, any easement or other right-of-way, if deemed necessary by the BPUB to perform such inspections.

22. Notice of Obvious Defect. The BPUB will provide notice to the Developer whenever BPUB inspection reveals that an Improvement is not constructed or completed in accordance with the BPUB standards and specifications for health or safety, and the BPUB notice of defect will include a statement explaining why the defect creates such immediate and substantial harm, or threat of harm. A cure period will be allowed by BPUB and it may be shortened to no less than five (5) days. The BPUB may declare a default under this Agreement if not satisfied that the defect is cured by the end of the cure period. Any cure period should be reasonable in relation to the nature of the default.

23. Conditions of Draw on Security. The BPUB may draw upon any Developer financial guarantee posted in accordance with Paragraph 9, due to Developer's failure to construct the Improvements in accordance with Paragraph 6 of this Agreement.

The BPUB shall provide written notice of the Contractor's failure to properly design or construct the Improvements. Where a performance bond has been provided as the financial guarantee, and the Contractor has failed to properly design or construct the Improvements, the BPUB shall provide notice to the Developer, Engineer, Contractor and the Surety Company of the specific default and the notice shall include a statement that the BPUB intends to perform some or all of Developer's/Contractor's/Engineer's obligations under Paragraph 6 for specified Improvements, if the failure is not timely cured by Developer and/or Surety. The Developer hereby grants to the BPUB, its successors, assigns, consultants, contractors, and employees, a nonexclusive right to enter the Property, any easement or other right-of-way, for the purposes of inspecting, constructing, maintaining, and repairing such Improvements.

24. Supplementary Guarantees. Supplementary guarantees may be required as follows:

(a) One (1) year from the date of this Agreement, and annually thereafter until the

expiration of the three (3) year period from the date of Agreement execution, the BPUB engineer shall review the estimated cost of completing such Improvements as are not then completed and determine the adequacy of the existing performance guarantee, if required. Should the BPUB engineer reasonably determine that the sum set out in the original performance guarantee is then inadequate to provide security for the completion of the uncompleted Improvements at the then-prevailing construction costs, he shall require the Developer, to require the Developer's Contractor, to provide the BPUB and Developer, an increased and amended written guarantee to cover the newly estimated cost for completion.

(b) Should the Developer fail to provide the necessary amended guarantee within thirty (30) days of a request for same by the BPUB engineer, the BPUB shall have the right to pursue all legal and equitable remedies available to it under any law to enforce this requirement.

25. Release Upon Completion. Upon final BPUB acceptance of all Improvements, the BPUB agrees to complete, execute and deliver to the Developer a written release, releasing the Developer and Developer's heirs, successors and assigns, and the Property, from the completed and performed provisions of this Agreement.

26. Transfer of Ownership and Assumption of Service Maintenance. The BPUB will accept for operation, maintenance and service, all Improvements, when the construction has been finally tested and accepted by the BPUB, provided: (a) Developer is not in violation of any ordinance of the City of Brownsville, or BPUB's Electric, Water and Wastewater Service Policies, or other applicable law or regulation; and (b) Developer is not in default of this or any other agreement with BPUB; and (c) no litigation is pending relating to the Improvement(s) or this Agreement. Ownership of the private Improvements will transfer to public ownership only when the BPUB has issued a final acceptance certificate to the Developer.

Upon completion of all requirements of this Agreement and final acceptance of the Improvements by the BPUB, the BPUB is obligated to provide service and maintain the public Improvements accepted, provided: (a) Developer is not in violation of any ordinance of the City of Brownsville or BPUB's Electric, Water and Wastewater Service Policies or other applicable law or regulation; (b) Developer is not in default of this or any other agreement with BPUB; and (c) no litigation is pending relating to the Improvement(s) or this Agreement.

27. Non-Acceptance by BPUB of Facilities and Construction. If, in the reasonable opinion of the BPUB, the design or construction of such Improvements does not meet the BPUB's and Developer's Engineer's standards set forth in Developer's finally approved construction documents, or Developer is in violation of any ordinance of the City of Brownsville, BPUB's Electric, Water and Wastewater Service Policies, or other applicable law or regulation, or Developer is in default of this Agreement or any other agreement with BPUB; or litigation is pending regarding this Agreement or the Improvements, the BPUB may not accept the Improvements for long term public ownership, operation or maintenance. The BPUB may choose not to provide service to such Improvements.

28. Minimum Measure of Damages. The minimal measure of damages available to BPUB for breach of this Agreement by the Developer, is the reasonable cost of BPUB completing the

Improvements in conformance with the BPUB's Service Policies. The estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, that amount does not establish the maximum amount of the Developer's potential liability to BPUB.

29. Effective Date. The effective date of this Agreement is the date on which the BPUB executes the Agreement.

Continues with Standard Conditions For Agreements (BPUB Form No. 19); Standard Signature Block (BPUB Form No. 20); Standard Acknowledgments (BPUB Form No. 21); and Standard Lienholder's Consent (BPUB Form No. 22).

EXHIBITS:

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: IMPROVEMENTS

Improvements. Developer, Developer's registered professional engineer, and BPUB agree that the following water and wastewater improvements are required in connection with the development of the Property (collectively, the "Improvements"):

<u>Description of Improvement(s)</u>	<u>Developer's Engineer's Estimated Cost of Completion</u>
--------------------------------------	--

a)

b)

c)

EXHIBIT C: BPUB REPAYMENT POLICY AS OF DATE OF THIS AGREEMENT

EXHIBIT D: ACREAGE CHARGE CALCULATIONS

EXHIBIT E: MAP OF OVERSIZED FACILITY SERVICE ZONE

EXHIBIT F: BPUB DEVELOPMENT REPAYMENT CHECKLIST

**BPUB Form No. 4: EXTENSION AND PERFORMANCE AGREEMENT FOR
SUBDIVIDED PROPERTY**

STATE OF TEXAS §

COUNTY OF CAMERON §

EXTENSION AND PERFORMANCE AGREEMENT FOR SUBDIVIDED PROPERTY

1. Parties. The parties to this Subdivision Extension and Performance Agreement (the "Agreement") are _____ (individually and collectively the "Developer") and the Brownsville Public Utilities Board of the City of Brownsville, Texas (the "BPUB").

2. Effective Date. This Agreement is effective on the date the City of Brownsville ("City") Planning Commission approves the final plat for the Subdivision described in Paragraph 3 of this Agreement, in accordance with City ordinances (the "Effective Date").

RECITALS

3. Developer is the owner of the land included in the proposed final subdivision plat of the subdivision, as shown in City's File Number _____ (the "Subdivision") and more particularly described by the metes-and-bounds description attached and incorporated into this Agreement as Exhibit A (the "Property"); and

4. Developer seeks authorization from the City to subdivide the Property in accordance with the most recently amended requirements imposed by Texas statutes, the City's ordinances, the BPUB's Electric, Water and Wastewater Service Policies and other applicable regulations; and

5. City ordinances require the completion of various water and wastewater improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the Brownsville community and to limit the harmful health and economic effects of substandard subdivisions; and

6. The purpose of this Agreement is to protect the BPUB from the potential expense of completing any unfinished off-site and on-site subdivision improvements required to be installed by the Developer; and

7. This Agreement is authorized by and consistent with Texas law, the City's ordinances, the BPUB's Electric, Water and Wastewater Service Policies and other applicable regulations governing development of a private subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

DEVELOPER'S OBLIGATIONS

8. Improvements. The Developer agrees to design, construct and install, at Developer's expense, all off-site and on-site subdivision improvements required to comply with City of Brownsville orders, ordinances, policies, the BPUB's Electric, Water and Wastewater Service Policies ("Service Policies"), and policies governing subdivision approval, specifically including without limitation those water and wastewater improvements listed on Exhibit B attached and incorporated herein by reference into this Agreement (collectively, "the Improvements," any one of which is an "Improvement"). All Improvements shall be designed and constructed in conformity to the BPUB's Service Policies, requirements, procedures, and specifications, pursuant to construction plans, contracts, permits, and specifications prepared and sealed by a registered professional engineer licensed in Texas, filed with and approved by the BPUB prior to commencement of construction, and subject to inspection, certification, and acceptance by the BPUB. All improvements must be identified in detail on the plans and specifications. The plans and specifications shall detail items such as size and type of materials. All bench marks and profiles must be shown. The design calculations must include (a) a sanitary zone map and the calculated flow in each line and, (b) the domestic and fire flow for water lines.

9. Completion. Unless a different time period is specified by the PUB and the Planning Commission as provided in Ordinance No. 90-567-X for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date (the "Completion Date"). Upon completion of each of the Improvements, the Developer agrees to provide to the BPUB a complete set of construction plans for the Improvements, certified "as built" by the Developer's professional engineer responsible for preparing and sealing the approved construction plans and specifications

10. Warranty. The Developer warrants that the Improvements constructed by Developer or Developer's agents, contractors, employees, tenants, or licensees will be free from construction workmanship defects for a period of one (1) year from the date the BPUB accepts the dedication of a completed Improvement or group of Improvements (the "Warranty Period"), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Developer does not warrant the Improvements against defects caused by events outside the control of the Developer or the Developer's agents, contractors, employees, tenants, or licensees, such as a design error or a manufacturer defect covered by a product warranty. The Developer agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the BPUB's final acceptance of dedication of any of the Improvements, the BPUB may require the Developer to post an extended performance bond or a maintenance bond, or other financial security acceptable to the BPUB, to secure the warranty established by this Agreement.

11. Security. If BPUB's service policy requires a financial guarantee of performance to secure the completed performance of Developer's obligations under this Agreement, Developer agrees to provide adequate financial guarantees of construction performance in the form of a

Performance Bond (acceptable to the BPUB), a Letter of Credit, or a Cash Deposit (collectively, the "Financial Guarantee"). The form of the Financial Guarantee is to be acceptable to BPUB. The amount of the Financial Guarantee shall be _____ Dollars (\$ _____) (the "Stated Amount"), which amount is the professional engineer's estimated total cost of constructing each of the Improvements as shown on Exhibit B. Any Bond Surety shall be licensed to underwrite performance and payment bonds in the State of Texas. Developer also agrees to provide a Payment Bond in the same amount as the Financial Guarantee to protect all claimants lawfully owed compensation for supplying labor and materials in the construction of the Improvements shown on Exhibit B. Any Letter of Credit shall be issued on BPUB's standard form, must conform with all of the requirements set forth in BPUB's Electric, Water and Wastewater Service Policies, and must have an expiration date three (3) years and six (6) months from the date hereof, or if annually renewable, Developer shall provide the renewed Letter of Credit at least 90 days prior to the expiration date of the prior Letter of Credit. Failure to renew the Letter of Credit within said time frame shall satisfy a BPUB Condition of Draw.

12. Rights-of-Way and Easements. Developer agrees that it shall grant and convey to the BPUB all rights-of-way and permanent public utility easements deemed necessary by the BPUB to repair, maintain and operate the Improvements. All rights-of-way and easements must be conveyed to the BPUB at the time of execution of this Agreement as follows:

- a. a plat recorded in the Cameron County Deed Records; and
- b. signed and executed permanent public utility easements to BPUB recorded in the Cameron County Deed Records and delivered to the BPUB.

13. Proof of Ownership of Property. The Developer will present to the PUB prior to execution of this Agreement, a title commitment report stating that the Developer has the right to transfer such permanent public utility easement or right-of-way to the BPUB.

Any trustee agreements or lienholders to the affected property must also execute the right-of-way or easement agreement. All recorded plats must have lienholder's approval statement certifications.

14. Warranties and Guarantees. Developer agrees that all material, equipment and supply item guarantees, parts list, warranties, etc. shall be submitted to the BPUB prior to transfer of ownership of the Improvements.

15. Remedies to Faulty Construction. The BPUB shall have the right to retain or reduce funds from any repayment charges to the Developer in the event Developer does not comply with the one year workmanship warranty commitment. Such reduction shall be the cost of the BPUB warranty correction construction.

16. Repayment. In those instances involving the construction of an oversized mam extension facility or facilities by the Developer, the Developer shall be entitled to a reimbursement pursuant to the repayment policy of the BPUB. The repayment policy of the BPUB as of the

Effective Date of this Agreement shall be the policy applicable to this Agreement regardless of later modifications to the BPUB repayment policy. A copy shall be attached as Exhibit C. This policy applicable to this Agreement shall not be subject to any changes in policy or prior policies.

17. The Installation Cost, Engineering Cost and Total Construction Cost.

The total estimated construction cost of the Improvements is:

Installation Cost = _____
Engineering Cost = _____
Total Cost = _____

18. Facility Service Zone. The map of the facility service zone of this oversized facility or facilities showing acreage charges together with the engineering calculations shall be made a part of this Agreement. The acreage charge calculations shall be Exhibit D, and the map shall be Exhibit E to this Agreement.

19. Checklist of Requirements. A checklist of the requirements prior to execution of this Agreement shall be included as a part of this Agreement as Exhibit F. (Development Repayment Checklist).

20. Service Laterals. With respect to the installation of Improvements to the Developer's Property that constitute service laterals, BPUB understands and acknowledges that the final determination by the Developer of the specific size and quantity of service laterals to the Property may not be feasible at the time of the execution of this Agreement. In consideration of BPUB providing water service to the Property, Developer further agrees to preliminarily provide an engineer's estimate of the total cost of the service lateral Improvements deemed necessary to serve the Developer's Property and provide a financial guarantee to cover this cost as provided for in Paragraph 11 of this Contract. At such time as Developer finally determines the specific size and quantity of service lateral Improvements, Developer shall provide the BPUB with the total cost of the service lateral Improvements. Developer shall also supplement the original financial guarantee at such time(s), if the total actual or projected final cost provided to the BPUB exceeds the original estimated cost.

21. **INDEMNIFICATION. THE DEVELOPER HEREBY EXPRESSLY AGREES TO INDEMNIFY AND HOLD THE CITY OF BROWNSVILLE, BPUB AND THEIR RESPECTIVE OFFICERS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL THIRD-PARTY CLAIMS, DEMANDS, COSTS, AND LIABILITY OF EVERY KIND AND NATURE, INCLUDING REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING FROM (A) ANY DEFAULT UNDER OR VIOLATION OF ANY FEDERAL, STATE, OR LOCAL STATUTE, REGULATION, ORDER; OR (B) ANY BREACH ON THE PART OF DEVELOPER OF ANY PROVISION IN THIS AGREEMENT; OR (C) FROM ANY ACT, OMISSION, OR NEGLIGENCE OF DEVELOPER OR DEVELOPER'S AGENTS, INDEPENDENT CONTRACTORS, EMPLOYEES, TENANTS, OR LICENSEES IN THE CONSTRUCTION OF THE IMPROVEMENTS. THE DEVELOPER FURTHER**

AGREES TO AID AND DEFEND THE CITY OF BROWNSVILLE AND/OR THE BPUB IF THEY ARE NAMED AS A DEFENDANT IN AN ACTION ARISING FROM ANY BREACH ON THE PART OF DEVELOPER OF ANY PROVISION IN THIS AGREEMENT, OR FROM ANY ACT OF NEGLIGENCE OF DEVELOPER OR DEVELOPER'S AGENTS, INDEPENDENT CONTRACTORS, EMPLOYEES, TENANTS, OR LICENSEES IN THE CONSTRUCTION OF THE IMPROVEMENTS. THE DEVELOPER IS NOT A PARTNER, CO-VENTURER, EMPLOYEE OR AGENT OF THE BPUB. THE DEVELOPER FURTHER AGREES TO INDEMNIFY AND HOLD THE CITY OF BROWNSVILLE, BPUB AND THEIR RESPECTIVE OFFICERS AND EMPLOYEES HARMLESS FROM ANY CLAIMS, DEMANDS, COSTS, OR LIABILITIES ARISING FROM ANY ACT OR NEGLIGENCE OF THE CITY OF BROWNSVILLE, BPUB, THEIR RESPECTIVE CONTRACTORS, EMPLOYEES, TENANTS, OR LICENSEES, EVEN IF THAT ACT OR NEGLIGENCE IS A CONCURRING CAUSE OF THE INJURY OR DAMAGE.

22. Connection Charges. In connection with the development of the tract of land described by Exhibit A, Developer hereby agrees to pay the following applicable connection charges, as indicated, upon demand by the BPUB:

- a. Water Connection Charges:
 - 1. Acreage Charge: \$ _____
(pursuant to the Developer
Reimbursement Agreement
between the BPUB and
dated _____)
 - 2. Meter Installation Charge \$ _____
 - 3. Tapping Charge \$ _____
 - 4. Impact Fee \$ _____
- b. Wastewater Connection Charges:
 - 1. Acreage Charge: \$ _____
(pursuant to the Developer
Reimbursement Agreement
between the BPUB and
dated _____)
 - 2. Impact Fee \$ _____

BPUB'S OBLIGATIONS

23. Inspection and Certification. The BPUB agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the BPUB standards, designs, and specifications for such Improvements, to certify the Improvements as being in compliance with BPUB's Service Policies, designs, standards and specifications. Such a

BPUB certification does not constitute a waiver by BPUB of its right to enforce this Agreement regarding obligations of Developer and its engineer and contractors to assure that the Improvements contain no latent design, construction, or manufacturer defects. The inspections and certifications will be conducted in accordance with the BPUB's Service Policies, standards, and requirements. The Developer grants the BPUB, its employees, officers, consultants and contractors a license to enter the Property, any easement or other right-of-way, if deemed necessary by the BPUB to perform such inspections.

24. Notice of Obvious Defect. The BPUB will provide notice to the Developer whenever BPUB inspection reveals that an Improvement is not constructed or completed in accordance with the BPUB standards and specifications for health or safety, and the BPUB notice of defect will include a statement explaining why the defect creates such immediate and substantial harm, or threat of harm. A cure period will be allowed by BPUB and it may be shortened to no less than five (5) days. The BPUB may declare a default under this Agreement if not satisfied that the defect is cured by the end of the cure period. Any cure period should be reasonable in relation to the nature of the default.

25. Use of Proceeds. The BPUB will disburse funds drawn from the Financial Guarantee only for the purposes of completing the Improvements in conformance with the BPUB's Service Policies, requirements and specifications for the Improvements, or to correct defects in, or failures of, the Improvements. The Developer has no claim or rights under this Agreement to funds drawn from the Financial Guarantee by BPUB, or any initially accrued interest earned on the funds. The Financial Guarantee shall be maintained by the BPUB in an interest bearing account or accounts, together with accrued interest thereon, until acceptance of the Improvements. The BPUB may disburse or release all or portions of the Financial Guarantee as Improvements are completed and accepted by the BPUB, or in accordance with the terms of a written construction contract between the BPUB and a third party independent contractor for the construction of Improvements. Any portion of the Financial Guarantee not used or held by the BPUB for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with any final interest accrued thereon, shall be paid by the BPUB to the Developer no later than sixty (60) days following the BPUB's acceptance of the Improvement, or BPUB's decision not to complete the Improvement using the Financial Guarantee, whichever date is earlier.

26. Conditions of Draw on Security. The BPUB may draw upon any Developer financial guarantee posted in accordance with Paragraph 11, due to Developer's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement or if applicable, due to Developer's failure to provide a renewed Letter of Credit in accordance with Paragraph 11.

The BPUB shall provide written notice of the Developer's failure to properly design or construct the Improvements. The notice with respect to a default due to Developer's failure to design or construct the Improvements shall be given no less than twenty (20) days before BPUB drawing funds from the Financial Guarantee, unless, in the reasonable opinion of the BPUB, the failure creates an immediate and substantial harm, or threat of harm, to the public health or safety, in which case the notice shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before BPUB drawing funds

from the Financial Guarantee. Where a performance bond has been provided as the Financial Guarantee, and the Developer has failed to completely construct the Improvements, the BPUB shall provide written notice to the Developer and the Surety Company of the specific default, and the notice shall include a statement that the BPUB intends to perform some or all of Developer's obligations under Paragraph 8 for specified Improvements, if the failure is not timely cured by Developer and/or Surety. In the event of a draw based on the Developer's failure to completely construct the Improvements, the BPUB shall be entitled to draw an amount it considers necessary to perform Developer's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement that BPUB intends to construct or complete in accordance with the BPUB standards and specifications for such improvement. The Developer hereby grants to the BPUB, its successors, assigns, consultants, contractors, and employees, a nonexclusive right to enter the Property, any easement or other right-of-way, for the purposes of inspecting, constructing, maintaining, and repairing such Improvements.

27. Procedures for Drawing on the Cash Deposit. The BPUB may draw upon the Financial Guarantee in accordance with Paragraph 26.

28. Supplementary Guarantees. Supplementary guarantees may be required by BPUB from Developer as follows:

(a) One (1) year from the date of plat recordation of the subject property, and annually thereafter until the expiration of the three (3) year period from the date of plat approval, the BPUB engineer shall review the estimated cost of completing such Improvements as are not then completed and determine the adequacy of the existing Financial Guarantee. Should the BPUB engineer reasonably determine that the sum set out in the original Financial Guarantee is then inadequate to provide security for the completion of the uncompleted Improvements at the then-prevailing construction costs, he shall require an increased and amended written Financial Guarantee to cover the newly estimated cost for completion.

(b) Should the Developer fail to provide the necessary amended Financial Guarantee within thirty (30) days of a request for same by the BPUB engineer, the BPUB engineer shall refuse to accept from such Developer any other performance guarantee under any form which is related to the plat of any other subdivision subsequently filed with the Brownsville City Planning Commission in which such Developer has a principal or subsidiary ownership interest. Additionally, the BPUB shall have the right to pursue all legal and equitable remedies available to it under the City's Subdivision Ordinance, the BPUB Service Policies, and any other law to enforce this requirement.

MISCELLANEOUS

29. Release Upon Completion. Upon final BPUB acceptance of all Improvements, the BPUB agrees: (a) to complete, execute and deliver to the Developer a written release, releasing the Developer and Developer's heirs, successors and assigns, and the Property from the completed and performed provisions of this Agreement; and (b) to return or release to Developer any portion of the Financial Guarantee not expended or obligated by the BPUB for the completion of the Improvements.

30. Transfer of Ownership and Assumption of Service Maintenance. The BPUB will accept for operation, maintenance and service, all lines, when the construction has been finally tested and accepted by the BPUB provided (a) Developer is not in violation of any ordinance of the City of Brownsville, or BPUB's Electric, Water and Wastewater Service Policies, or other applicable law or regulation; (b) Developer is not in default of this or any other agreement with BPUB; and (c) no litigation is pending relating to the Improvement(s) or to this Agreement. Private ownership will transfer to the public when the BPUB has issued a final acceptance certificate to the Developer.

Upon completion of all requirements of this Agreement and final acceptance of the construction and facilities by the BPUB, the BPUB is obligated to provide service and maintain the public system and lines accepted, provided: (a) Developer is not in violation of any ordinance of the City of Brownsville, or BPUB's Electric, Water and Wastewater Service Policies, or other applicable law or regulation; (b) Developer is not in default of this or any other agreement with BPUB; and (c) no litigation is pending relating to the Improvement(s) or to this Agreement.

31. Non-Acceptance by BPUB of Facilities and Construction. If, in the reasonable opinion of the BPUB, the design or construction of such facilities does not meet the BPUB's and Developer's Engineer's standards set forth in Developer's finally BPUB approved construction documents, or Developer is in violation of any ordinance of the City of Brownsville, BPUB's Electric, Water and Wastewater Service Policies, or other applicable law or regulation, or Developer is in default of this Agreement or any other agreement with BPUB, or litigation is pending regarding the Improvements or this Agreement, the BPUB may not accept the construction for long term public ownership, operation, or maintenance. The BPUB may choose not to provide service to such lines.

32. Measure of Damages. The minimal measure of damages available to BPUB for breach of this Agreement by the Developer, is the reasonable cost of BPUB completing the Improvements in conformance with the BPUB's Service Policies, requirements, procedures, and specifications. For Improvements upon which Developer construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount, or the amount of any Cash Deposit, establishes the maximum amount of the Developer's potential liability to BPUB.

33. Expiration. This Agreement shall terminate upon the expiration of the City's approval of the proposed final plat of the Subdivision, or if the platted Subdivision is ever vacated by the Developer.

Continues with Standard Conditions For Agreements (BPUB Form No. 19); Standard Signature Block (BPUB Form No. 20); Standard Acknowledgments (BPUB Form No. 21); and Standard Lienholder's Consent (BPUB Form No. 22).

EXHIBITS:

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: SUBDIVISION IMPROVEMENTS

Subdivision Improvements. Developer, Developer's registered professional engineer, and BPUB agree that the following water and wastewater improvements are required in connection with the approval and development of the Subdivision (collectively, the "Subdivision Improvements"). Developer agrees to deliver a financial guarantee acceptable in form and substance, to the BPUB, in an amount equal to the Estimated Cost of Completion listed below, as follows:

<u>Description of Improvements)</u>	<u>Developer's Engineer's Estimated Cost of Completion</u>
-------------------------------------	--

a)

b)

c)

EXHIBIT C: BPUB REPAYMENT POLICY AS OF DATE OF THIS AGREEMENT

EXHIBIT D: ACREAGE CHARGE CALCULATIONS

EXHIBIT E: MAP OF OVERSIZED FACILITY SERVICE ZONE

EXHIBIT F: BPUB DEVELOPMENT REPAYMENT CHECKLIST

BPUB Form No. 5: DEVELOPMENT REPAYMENT AGREEMENT

STATE OF TEXAS §

COUNTY OF CAMERON §

DEVELOPMENT REPAYMENT AGREEMENT

This Agreement is made between the Brownsville Public Utilities Board of the City of Brownsville, Texas (hereinafter called "BPUB") and _____ (hereinafter called "Developer").

1. Description of Property:

The Developer is the owner and developer of the following property:

- a.
- b.
- c.

The BPUB is providing water and/or wastewater service to the above property.

2. Reimbursement from Acreage Charges:

In consideration of Developer providing the total design and construction cost as defined in BPUB's Electric Water and Wastewater Service Policies, Chapter 6, "Eligible Repayment Policy", of an oversized facility to serve the above properties, the BPUB agrees under certain conditions set out in those Policies ("Service Policies") in effect on the date of this Agreement, to reimburse Developer for its total construction cost (including direct engineering fees) of the above described facility, plus cumulative interest provided in Chapter 6, "Eligible Repayment Policy". Any reimbursement payments to Developer by the BPUB shall be payable solely from funds for acreage fees and interest charges collected by the BPUB from other BPUB customers applying to BPUB to connect to the same facility. Acreage charges collected by the BPUB, from which it will make reimbursement to Developer, will be calculated in accordance with the BPUB's Water and Wastewater Policies. No acreage charges shall be collected from the areas designated as "pre-paid" shown by attachment A to this Agreement and incorporated herein as part of this Agreement.

3. The Acreage Charge:

The predetermined acreage charge which the BPUB will collect under this Agreement shall be that charge shown on attachment A hereto and incorporated herein as part of this Agreement. The monies received by the BPUB for acreage charges and interest will be held in a separate escrow account for the benefit of the Developer.

4. Eligible Repayment:

Developer will be repaid in accordance with the BPUB's Service Policies in effect at the signing of this Agreement from monies collected and held in escrow by the BPUB from the assessment of acreage charges and interest, if appropriate, from other applicants for water or wastewater service within the Facility Service Area of the above described oversized facility.

5. Reimbursable Amounts:

The following is a list of the Developer(s) to this Agreement and the applicable total construction cost for which each party is eligible for reimbursement. Any interest on the unreimbursed principal balance of total construction cost shall be added to the repayment amount, if interest is collected by the BPUB under Chapter 6, "Eligible Repayment Policy". Developer understands and agrees that no interest shall accrue nor be paid during the first year after execution of this Agreement, with the first year beginning on the date of the execution of this Agreement.

- a.
- b.
- c.

6. Accounting of Funds:

The BPUB will be responsible for the collection, deposit and accounting of acreage charges and interest collected from applicants for service within the Facility Service Area. The BPUB records maintained will note the total amount of acreage and interest charges collected by the BPUB. This Agreement will only continue until the reimbursable amount listed for each Developer is totally repaid by BPUB, or for fifteen (15) years from the date of execution of this Agreement, whichever occurs first.

7. Reimbursement Dates:

The BPUB will distribute quarterly, acreage charges from applicants for service, beginning with January 1st of each year, without regard to the Agreement anniversary date. The BPUB will distribute quarterly interest collected from applicants after the first year of this Agreement as described in paragraph five (5) above.

8. Termination of Payments to Developer:

After the expiration of fifteen (15) years from the date of execution of this Agreement, or after Developer has been reimbursed the total construction cost and any interest collected by the BPUB thereon, whichever occurs first, the BPUB will cease to collect acreage charges from applicants for service from the oversized facility described herein.

9. Recordkeeping:

The public records of the BPUB with regard to accounting under this Agreement may be examined by any party to this Agreement during any regular BPUB working day between the hours of 8:00 a.m. and 5:00 p.m. An accounting will be given to each party to this Agreement with each quarterly BPUB payment. If no assessments are recorded as being received by BPUB during any particular quarter, an accounting may be requested by any party to this Agreement.

10. Notice of Ownership:

It is the responsibility of the Developer to this Agreement to notify the BPUB of their current mailing address, any assignments of funds or any other change in status affecting the prospective BPUB payment of funds as described by this Agreement.

Continues with Standard Conditions For Agreements (BPUB Form No. 19); Standard Signature Block (BPUB Form No. 20); Standard Acknowledgments (BPUB Form No. 21); and Standard Lienholder's Consent (BPUB Form No. 22).

BPUB Form No. 6: DUAL OBLIGEE RIDER TO PERFORMANCE BOND

DUAL OBLIGEE RIDER TO PERFORMANCE BOND

WHEREAS, heretofore, on or about the _____ day of _____
20____, as _____ entered into a written agreement with
_____ as _____ for
the construction of _____ (“Contract”); and

WHEREAS, the _____ and the
_____, a _____
corporation, as Surety, _____ executed and
delivered to the _____ their joint and
several Performance Bond; and

WHEREAS, the BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF
BROWNSVILLE, TEXAS has requested the _____ and
Surety to join with the _____
in the execution and delivery of this Rider, and the
_____ and Surety have agreed to do so upon the
conditions herein stated.

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and
valuable consideration, receipt of which is hereby acknowledged, the undersigned agree that
the said Performance Bond shall be, and is amended as follows:

1. The name of the BROWNSVILLE PUBLIC UTILITIES BOARD OF THE
CITY OF BROWNSVILLE, TEXAS shall be added to said bond as an
additional named Obligee.
2. The rights of the BROWNSVILLE PUBLIC UTILITIES BOARD OF THE
CITY OF BROWNSVILLE, TEXAS as a named Obligee shall be subject to
the condition precedent that the obligations under the construction Contract
be performed.
3. The aggregate liability of the Surety under said bond to the _____
_____ (Developer) and BROWNSVILLE
PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS
as their interests may appear as Obligees, is limited to the total penal sum of
the said bond.

The Surety, as its option, may make any payment under said bond by check
issued jointly to the _____

BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF
BROWNSVILLE, TEXAS.

4. The purpose of this Rider is to add an additional Obligee only and is not intended to affect or alter the terms and conditions of this performance bond.

Signed, sealed and dated this ____ day of _____, 20__.

(Seal if corporation)

ATTEST: _____

Obligee, Developer
BY: _____

Obligee, Brownsville Public Utilities Board of the City
of Brownsville, Texas
BY: _____
General Manager and Chief Executive Officer

(Seal if corporation)

ATTEST: _____

Principal, Contractor
BY: _____

Surety
BY: _____
Attorney-In-Fact

BPUB Form No. 7: DUAL OBLIGEE RIDER TO PAYMENT BOND

DUAL OBLIGEE RIDER TO PAYMENT BOND

WHEREAS, heretofore, on or about the _____ day of _____, 20____, _____, as _____ entered into a written agreement with _____ as _____ for the construction of _____ (“Contract”); and

WHEREAS, the _____ and the _____, a _____ corporation, as Surety, executed and delivered to the _____ their joint and several Payment Bond; and

WHEREAS, the BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS has requested the _____ and Surety to join with the _____ in the execution and delivery of this Rider, and the _____ and Surety have agreed to do so upon the conditions herein stated.

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, the undersigned agree that the said Payment Bond shall be, and is amended as follows:

1. The name of the BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS shall be added to said bond as an additional named Obligee.
2. The rights of the BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS as a named Obligee shall be subject to the condition precedent that the obligations under the construction Contract be performed.
3. The aggregate liability of the Surety under said bond to the _____ (Developer) and BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS as their interests may appear as Obligees, is limited to the total penal sum of the said bond.
4. The Surety, as its option, may make any payment under said bond by check issued jointly to the _____ (Developer) and BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS.

5. The purpose of this Rider is to add an additional Obligee only and is not intended to affect or alter the terms and conditions of this payment bond.

Signed, sealed and dated this ____ day of _____, 20____.

(Seal if corporation)

ATTEST:

Obligee, Developer

BY: _____

Obligee, Brownsville Public Utilities Board of the City
of Brownsville, Texas

BY: _____
General Manager and Chief Executive Officer

(Seal if corporation)

ATTEST:

Principal, Contractor

BY: _____

BY: _____
Surety

BY: _____
Attorney-In-Fact

BPUB Form No. 8: PERFORMANCE BOND (SUBDIVIDED PROPERTY)

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF _____§

PERFORMANCE BOND

That we, _____, the undersigned Developer as Principal, and _____, as Surety, do hereby acknowledge ourselves to be held and firmly bound unto the City of Brownsville, for the use and benefit of the Brownsville Public Utilities Board of the City of Brownsville, Texas, ("BPUB") a municipal corporation of the County of Cameron and State of Texas, in the full and just sum of \$ _____, for the payment of which will and truly be made; we hereby bind ourselves and our respective heirs, administrators, executors, other legal representatives, successors and assigns jointly and severally, firmly by these presents.

Whereas, the Principal has petitioned the Planning Commission of the City of Brownsville for permission to develop a subdivision within the jurisdiction of the City of Brownsville which is shown on a subdivision plat _____ [number and name] and which is more particularly described as follows, to wit:

; and

Whereas, the water and wastewater improvements (the "improvements") set out in the Extension and Performance Agreement for Subdivided Property (the "Performance Agreement"), attached hereto as Exhibit No. 1 and incorporated herein for all purposes, together with the plans, specifications and all other documents for the work, must be completed by the Developer in conformance with the standards established by the Electric, Water and Wastewater Service Policies ("Service Policies") of the BPUB no later than three (3) years from the date on which the plat was approved unless this time period is extended by the BPUB and the Brownsville Planning and Zoning Commission; and

Whereas, the Service Policies of the BPUB require that a subdivision plat cannot be approved until such improvements have been completed and have been accepted by the BPUB, or until there is provided to the City of Brownsville for the use and benefit of the BPUB a guarantee of performance that such improvements will have been completed and have been accepted by the BPUB within three (3) years of the date on which the plat was approved unless this time period is extended by the BPUB and the Brownsville Planning and Zoning Commission; and

Whereas, the undersigned Developer has provided to the City of Brownsville for the use and benefit of the BPUB of the City of Brownsville, Texas, such a guarantee of

performance as a condition precedent to the approval of the plat of the subdivision hereinabove described; and

Whereas, the Developer has dedicated the Improvements to the BPUB.

Now therefore, the condition of this obligation is such that if the Principal shall, on or before the _____ day of _____, 20____, or within any extension of time granted by the BPUB and the Brownsville Planning and Zoning Commission, (1) construct or cause to be constructed the above mentioned improvements in accordance with the requirements of the City of Brownsville's Subdivision Ordinance and the Service Policies of the BPUB, (2) observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of the Performance Agreement and the plans and specifications and all of the instruments according to their intent and purpose insofar as the same relate to or are incident to the initial construction and completion of the improvements as distinguished from the BPUB repair and maintenance thereof after acceptance thereof, and (3) repair any and all defects in the construction work occasioned by and resulting from any defects in materials furnished by, or workmanship of, the Developer, its employees, agents, independent contractor, etc., in performing the work covered by the Performance Agreement occurring within a period of twelve (12) months from the date of the completion of the improvements, then and thereupon this obligation shall become null and void, but otherwise shall remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the Principal, and each member of said Principal Party hereto and each and every Surety hereon, and that successive remedies may be had hereon for each and every breach of this bond until the full amount thereof shall have been exhausted; and that the liability of each and every Surety on this bond shall not be released or diminished in any manner by any changes in the work which may be authorized or directed by the BPUB, nor by the exercise or failure to exercise by or on behalf of the BPUB any right or remedy provided by the Performance Agreement or specifications or by any law or ordinance; and further, that if any legal action be filed on this bond, venue shall lie in Cameron County, Texas.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Performance Agreement, or to the work performed thereunder, or plans, specifications, drawings and exhibits accompanying the same shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Performance Agreement or to the work to be performed thereunder, then this obligation shall be void; otherwise the obligations under this bond shall remain in full force and effect.

This bond is given pursuant to the provisions of Section 2253.02 of the Texas Government Code and Article 7.19-1 Texas Insurance Code as amended; Section _____ of the Texas Water Code; and other applicable statutes and code provisions of the State of Texas.

In testimony whereof, witness our hand and seal this _____ day of _____, 20____.

[Developer and principal]_____

By: [signature of Developer] _____

Name: _____

Title: _____

[Surety]_____

By: [signature of attorney-in-fact] _____

Name: _____

Title: Attorney-in-Fact

Approved and accepted this ____ day of _____, 20__.

BROWNSVILLE PUBLIC UTILITIES BOARD OF
THE CITY OF BROWNSVILLE, TEXAS
(Obligee)

By: [signature of official] _____

Name: _____

Title: _____

BPUB Form No. 9: PAYMENT BOND (SUBDIVIDED PROPERTY)

STATE OF TEXAS §
COUNTY OF _____ § KNOW ALL MEN BY THESE PRESENTS:

PAYMENT BOND

That we, _____, the undersigned Developer as Principal, and _____, as Surety, do hereby acknowledge ourselves to be held and firmly bound unto the City of Brownsville, for the use and benefit of the Brownsville Public Utilities Board of the City of Brownsville, Texas, ("BPUB") a municipal corporation of the County of Cameron and State of Texas, for the use, benefit and protection of all persons, firms, corporations and municipal corporations who may furnish material for or perform labor for the water and wastewater improvements (the "Improvements") set out in the Extension and Performance Agreement attached hereto, in the full and just sum of \$_____ for the payment of which will and truly to be made; we hereby bind ourselves and our respective heirs, administrators, executors, other legal representatives, successors and assigns jointly and severally, firmly by these presents.

Whereas, the Developer, Principal has petitioned the Planning Commission of the City of Brownsville for permission to develop a subdivision within the jurisdiction of the City of Brownsville which is shown on a subdivision plat _____ [number and name] and which is more particularly described as follows, to wit:

; and

Whereas, Improvements set out in the Extension and Performance Agreement for Subdivided Property (the "Performance Agreement"), attached hereto as Exhibit No. 1 and incorporated herein for all purposes, together with the plans, specifications and all other documents for the work, must be completed by the Developer in conformance with the standards established by the BPUB Electric, Water and Wastewater Service Policies ("Service Policies"), no later than three (3) years from the date on which the plat was approved by the City Planning and Zoning Commission, unless this time period is extended by the BPUB and the Brownsville Planning and Zoning Commission; and

Whereas, the BPUB Service Policies require that a subdivision plat cannot be approved until such Improvements have been completed and have been accepted by the BPUB, or until there is provided to the City of Brownsville for the use and benefit of the BPUB a payment bond adequate to protect all claimants supplying labor and materials in the construction of the Improvements set out in the Performance Agreement; and

Whereas, the undersigned Developer has provided to the City of Brownsville for the

use and benefit of the BPUB such a payment bond as a condition precedent to the approval of the plat of the subdivision hereinabove described; and

Whereas, the Developer has dedicated the Improvements to the BPUB.

Now, therefore, if Developer, the Principal party to this obligation, shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said Performance Agreement and any and all duly authorized modifications of said Performance Agreement that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation shall be and become null and void, but otherwise remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the Principal and each corporate member of said Principal party hereto, and each and every Surety hereon, and that successive recoveries may be had thereon for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liability of each and every Surety on this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the BPUB, or by the exercise or failure to exercise by or on behalf of the BPUB of any right or remedy provided by the Performance Agreement or specifications or by any law or ordinance; and further, that if any legal action be filed on this bond, venue shall lie in Cameron County, Texas.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Performance Agreement, or to the work performed thereunder, or plans, specifications, drawings and exhibits accompanying the same shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Performance Agreement or to the work to be performed thereunder.

It is further understood that this obligation is incurred pursuant to Section 2253.02 of the Texas Government Code and Article 7.19-1 Texas Insurance Code, as amended, and other applicable statutes and code provisions of the State of Texas.

In testimony whereof, witness our hand and seal this _____ day of _____,
20____.

[Developer, Principal: _____]

By: [signature of Developer] _____

Name: _____

Title: _____

[Surety]

By: [signature of attorney-in-fact] _____

Name: _____

Title: Attorney-in-Fact

Approved and accepted this _____ day of _____, 20____.

BROWNSVILLE PUBLIC UTILITIES BOARD OF
THE CITY OF BROWNSVILLE, TEXAS
(Obligee)

By: [signature of official]_____

Name: _____

Title: _____

BPUB Form No. 10: EASEMENT

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF CAMERON §

PUBLIC UTILITY EASEMENT

That _____, ("Grantor", whether one or more), of Cameron County, Texas, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration to Grantor, in hand paid by the BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS, Cameron County, Texas, (BPUB) the receipt of which is hereby acknowledged, and for which no lien, express or implied, is retained, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto the CITY OF BROWNSVILLE ("Grantee"), a Texas municipal corporation, for the use and benefit of its BROWNSVILLE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS, as such and their successors in office, and which operates pursuant to its authority under the Charter of the CITY OF BROWNSVILLE, TEXAS, an easement and right-of-way in, over and through the parcel of land, located within Cameron County, Texas, that is specifically described in Exhibit _____ attached hereto and made a part hereof (the "Easement"), for the purposes of constructing, reconstructing, re-aligning, inspecting, patrolling, maintaining, operating, altering, servicing, repairing, adding, removing and replacing electric, water and wastewater utility facilities and appurtenances together with (i) the right of ingress and egress over the Easement for the purposes set out above; (ii) the right to relocate such electric, water and wastewater utility facilities within the Easement; (iii) the right to remove from the Easement all trees and parts thereof, or other obstructions which may interfere with the exercise of the dominant rights granted hereby; and (iv) the right of exercising all other rights hereby granted, and Grantor expressly covenants and agrees for itself, its heirs, personal representatives, successors and assigns, that no structure or obstruction of any kind will be placed upon the Easement so long as the Easement remains in effect.

TO HAVE AND TO HOLD the Easement unto Grantee, its successors and assigns, for the uses and purposes set out above, and with the rights of ingress to and egress from and over the Easement for the purposes of constructing, reconstructing, re-aligning, inspecting, patrolling, maintaining, operating, altering, servicing, repairing, adding, removing, relocating and replacing electric, water and wastewater utility facilities until the use of the Easement by Grantee is permanently abandoned.

The Easement and the rights and privileges granted herein are dominant and exclusive, and Grantor covenants that neither it nor its heirs, personal representatives, successors or assigns will convey any other easements or conflicting rights within the Easement.

Grantor hereby binds itself, its heirs, personal representatives, successors and assigns, to WARRANT and FOREVER DEFEND all and singular the Easement and the rights hereby

GRANTED, SOLD and CONVEYED unto Grantee, its successors and assigns, for the uses and purposes set out above, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This document and all of the terms, provisions, covenants and obligations contained in it shall be covenants running with the land affected hereby and shall inure to the benefit of and be binding upon Grantor and Grantee and their respective heirs, successors and assigns.

EXECUTED this _____ day of _____, 20____.

GRANTOR:

Mailing address of Grantee:

City of Brownsville
for the use and benefit of its
Brownsville Public Utilities
Board of the City of Brownsville,
Texas c/o Right-of-Way Agent
P. O. Box 3270, Brownsville,
Texas 78520

Form Continues with Standard Acknowledgments (BPUB Form No. 21)

**BPUB Form No. 11: CERTIFICATE OF CONVEYANCE AND PUBLIC DEDICATION
(INDIVIDUAL)**

THE STATE OF TEXAS §

COUNTY OF CAMERON §

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, the Grantor/Owner of the water distribution and wastewater utility facilities described in Schedule A, attached hereto and made a part hereof (the "Facilities"), hereby conveys the personal property ownership to, and forever dedicates to, the public use, these water and wastewater Facilities to the City of Brownsville, Texas, a municipal corporation, for the use and benefit of the Brownsville Public Utilities Board of the City of Brownsville, Texas, and to their successors in office and which operates pursuant to its authority under the Charter of the City of Brownsville, Texas. The Facilities are located at _____, and are for the dedicated perpetual ownership and use of the public.

The undersigned hereby assigns to the Brownsville Public Utilities Board of the City of Brownsville, Texas, all rights, titles, interests, and warranties under all engineering contracts and construction contracts, relating to the Facilities, including but not limited to: (i) performance, payment, maintenance, and other bonds or financial guarantees required or issued to guarantee payment for and completion of the Facilities; (ii) all plans, models, drawings, specifications, surveys, architectural, engineering, soils, marketing, demographic reports, studies, certificates, and other technical descriptions; (iii) warranties, guaranties, indemnities, and any Grantor/Owner claims against third parties directly related to the Facilities; and (iv) licenses, permits, governmental approvals or other similar rights.

IN WITNESS WHEREOF, the undersigned caused these presents to be signed and attested to by the Grantor/Owner named below on this _____ day of _____, 20____.

Grantor/Owner

BY: _____

Mailing address of Grantee:
City of Brownsville
for the use and benefit of its Brownsville
Public Utilities Board of the City of
Brownsville, Texas, c/o Right-of-Way
Agent, P. O. Box 3270, Brownsville,
Texas 78520

**Form Continues with Standard Acknowledgments (BPUB Form No. 21) and accompanied
by Standard Lienholder's Consent (BPUB Form No. 22).**

**BPUB Form No. 12: CERTIFICATE OF CONVEYANCE AND PUBLIC DEDICATION
(CORPORATIONS)**

THE STATE OF TEXAS §

COUNTY OF CAMERON §

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, the Grantor/Owner of the water distribution and wastewater utility facilities described in Schedule A, attached hereto and made a part hereof (the "Facilities"), hereby conveys the personal property ownership to, and forever dedicates to, the public use, these water and wastewater Facilities to the City of Brownsville, Texas, a municipal corporation, for the use and benefit of the Brownsville Public Utilities Board of the City of Brownsville, Texas, and to their successors in office and which operates pursuant to its authority under the Charter of the City of Brownsville, Texas. The Facilities are located at _____ and are for the dedicated perpetual ownership and use of the public.

The undersigned hereby assigns to the Brownsville Public Utilities Board of the City of Brownsville, Texas, all rights, titles, interests, and warranties under all engineering contracts and construction contracts, relating to the Facilities, including but not limited to: (i) performance, payment, maintenance, and other bonds or financial guarantees required or issued to guarantee payment for and completion of the Facilities; (ii) all plans, models, drawings, specifications, surveys, architectural, engineering, soils, marketing, demographic reports, studies, certificates, and other technical descriptions; (iii) warranties, guaranties, indemnities, and any Grantor/Owner claims against third parties directly related to the Facilities; and (iv) licenses, permits, governmental approvals or other similar rights.

IN WITNESS WHEREOF, the undersigned caused these presents to be signed and attested to by the Grantor/Owner named below on this ____ day of _____, 20__.

Grantor/Owner

BY: _____

Mailing address of Grantee:
City of Brownsville
for the use and benefit of its
Brownsville Public Utilities Board of
the City of Brownsville, Texas, c/o
Right-of-Way Agent, P. O. Box 3270,
Brownsville, Texas 78520.

**Continues with Standard Acknowledgments (BPUB Form No. 21) and accompanied by
Standard Lienholder's Consent (BPUB Form No. 22).**

PUB Form No. 13: DEVELOPMENT RE-PAYMENT CHECKLIST

DEVELOPMENT RE-PAYMENT CHECKLIST

Project No. _____

Name of _____ Developer/Individual: _____

Name of _____ Development/Description: _____

I. Construction Documents: _____ Approved _____ Not Approved _____

Design Plans _____
Specifications _____
Calculations _____
Contracts _____

II. Rights-of-Way/Easements: _____ Recorded _____ Not Recorded _____

Rights-of-Way/Licenses _____
Easements _____
(Permanent/Temporary) _____
Plats _____

1. Name of S/D _____

Easements/R.O.W. with _____ Yes _____ No _____
the BPUB - Unrecorded

III. Title Commitment Report: _____ Yes _____ No _____

Presented to BPUB
Lien Holders
Multi-Owners
Trustee
Corporation
Individual
Developer Owns Land

IV. Guarantees/Warranties:

Equipment Warranties
Name of Equipment/Materials

Yes

No

Workmanship Guaranty
Name of Contractor

Yes

No

V. Parts List: _____

Name of Equipment: Yes

VI. Service Zone Map: Approved Not Approved

Map Zone No. _____

VII. BPUB Acceptance Certificate: Approved Not Approved

Line No. _____
Line No. _____

VIII. This Project has met the
Required Conditions for
Repayment of Utilities Approved Not Approved

BPUB: Water/Wastewater Engineering

DATE

BPUB Form No. 14: ACCEPTANCE CERTIFICATE

DATE:

TO: Customer/Developer

FROM: Marilyn D. Gilbert, MBA
General Manager & CEO
Brownsville Public
Utilities Board
P.O. Box 3270
Brownsville, Texas 78520

RE: Name of Project
Project No.

Dear Customer/Developer:

This will serve to inform you that your Project water and/or wastewater facilities have been inspected, tested, and accepted this date by the Brownsville Public Utilities Board of the City of Brownsville, Texas for public ownership (personalty and associated realty interests), service and maintenance. Under the Development Reimbursement Agreement, ownership of these Project facilities has been transferred to the BPUB in exchange for participation in the Reimbursement Agreement and/or meeting the construction standards of the BPUB.

Sincerely,

BPUB Water/Wastewater Engineering
Accepted

General Manager and C.E.O.

DATE: _____

BPUB Form No. 15: BPUB ENGINEER'S CERTIFICATE

(a.) Water and Wastewater Facilities Certificate

STATE OF TEXAS §

COUNTY OF CAMERON §

I, _____, P.E., the undersigned current Director of Water and Wastewater Engineering for the Brownsville Public Utilities Board of the City of Brownsville, Texas, hereby certify that this Subdivision Plat conforms to all water and wastewater requirements of the Subdivision Ordinances of the City of Brownsville, Texas as to which my approval is required.

EXECUTED on this _____ day of _____, 20____.

[signature of BPUB engineer]_____

Name: _____

Title: Director for Water and Wastewater
Engineering of the Brownsville Public
Utilities Board

(b.) Water Rights Certificate

STATE OF TEXAS §

COUNTY OF CAMERON §

This is to certify that _____, Developer, has complied with all requirements of the BPUB Electric, Water and Wastewater Service Policies prior to final Plat approval of _____ Subdivision for extension of, or connection to, potable water service to _____ Subdivision.

[OPTIONAL: Since _____ Subdivision has been severed from a larger parcel or tract of land, and the remaining parcel or tract of land will be reserved for development in the future, _____ will still have to comply with all requirements of the BPUB Electric Water and Wastewater Service Policies prior to final Plat approval of each unit, segment or phase of the remaining portion of the parcel or tract of land currently being reserved for future development.]

EXECUTED on this _____ day of _____, 20____.

[signature of BPUB engineer]_____

Name: _____

Title: Director for Water and Wastewater
Engineering of the Brownsville Public
Utilities Board

BPUB Form No. 16: 30-YEAR WATER SUPPLY AVAILABILITY AGREEMENT

STATE OF TEXAS §

COUNTY OF CAMERON §

30-YEAR WATER SUPPLY AVAILABILITY AGREEMENT

1. Parties. The parties to this 30-year Water Supply Availability Agreement ("Agreement") are _____ ("Developer") and the Brownsville Public Utilities Board of the City of Brownsville, Texas ("BPUB").
2. Effective Date. This Agreement is effective on the date the City of Brownsville, Texas approves the final Plat for the Subdivision described in Paragraph 3 of this Agreement by the Brownsville City Planning Commission's approval of the Plat in accordance with the Subdivision Ordinances of the City of Brownsville, Texas (the "Effective Date").

RECITALS

3. Developer is the owner of the land included in the proposed final Subdivision Plat of the Subdivision, shown on a copy of the Plat as Exhibit A attached hereto and incorporated herein (the "Subdivision") and more specifically described by the metes and bounds description on Exhibit B attached hereto and incorporated herein (the "Property"); and
4. Developer seeks authorization from the City to subdivide the Property in accordance with the requirements imposed by Texas statutes, and the City's ordinances, the BPUB's Electric Water and Wastewater Service Policies ("Service Policies") and other applicable regulations, and any other requirements; and
5. Texas law and the City Subdivision Ordinances require that the Developer furnish evidence of an executed agreement between the Developer and the BPUB or other governing board of any entity or owner of a utility to the effect that necessary arrangements have been made by the Developer and the BPUB or other entity for the provision of a sufficient water supply to serve the ultimate needs of the Subdivision for a term of not less than thirty (30) years; and
6. This Agreement is authorized by and consistent with the State law and the City's ordinances, the BPUB's Service Policies, any other entity's policies, and any other applicable requirements governing the provision of water service and related facilities to a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

DEVELOPER'S OBLIGATIONS

7. Improvements. The Developer agrees to construct and install at Developer's expense, all subdivision related water facilities required to comply with (a) Section 2.2. of the City of Brownsville's Subdivision Ordinance No. 90-567-X and within the time required by the Subdivision Ordinance; (b) the BPUB's Service Policies and other applicable regulations; and (c) any other requirements.

8. Developer states that the total anticipated water demand from the ultimate development and occupancy of the Subdivision for a minimum of thirty (30) years is _____ gpd (gallons per day).

BPUB'S OBLIGATIONS

9. BPUB hereby agrees to provide a sufficient supply of water for domestic and fire protection service to serve the needs of the Subdivision as declared by the Developer in Paragraph 8 above for a term of thirty (30) years beginning on the date that the Developer's on-site and off-site water facilities (which have been constructed and installed by the Developer at his sole cost within the Subdivision, and outside the Subdivision up to the perimeter of the Subdivision) are accepted by the Brownsville Public Utilities Board of the City of Brownsville, Texas, and provided the Subdivision Plat is approved by the Brownsville City Planning Commission. BPUB does not guarantee continuous uninterrupted service and Developer agrees that BPUB shall not be responsible for any damages resulting from interruptions in service.

10. Developer understands and agrees for itself, its heirs, executors, administrators, other legal representatives, successors and assigns of property within the Subdivision that BPUB shall supply water to the Subdivision at its usual and customary rates, which may be amended from time to time.

Continues with Standard Conditions For Agreements (BPUB Form No. 19); Standard Signature Block (BPUB Form No. 20); Standard Acknowledgments (BPUB Form No. 21); and Standard Lienholder's Consent (BPUB Form No. 22).

**BPUB Form No. 17: 30-YEAR WASTEWATER TREATMENT CAPACITY
AVAILABILITY AGREEMENT**

STATE OF TEXAS §

COUNTY OF CAMERON §

30-YEAR WASTEWATER TREATMENT CAPACITY AVAILABILITY AGREEMENT

1. Parties. The parties to this 30-year Wastewater Treatment Capacity Availability Agreement ("Agreement") are _____
("Developer") and the Brownsville Public Utilities Board of the City of Brownsville, Texas ("BPUB").

2. Effective Date. This Agreement is effective on the date the City of Brownsville, Texas approves the final Plat for the Subdivision described in Paragraph 3 of this Agreement by the Brownsville City Planning Commission's approval of the Plat in accordance with the Subdivision Ordinances of the City of Brownsville, Texas (the "Effective Date").

RECITALS

3. Developer is the owner of the land included in the proposed final Subdivision Plat of the Subdivision, shown on a copy of the Plat as Exhibit A attached hereto and incorporated herein (the "Subdivision") and more specifically described by the metes and bounds description on Exhibit B attached hereto and incorporated herein (the "Property"); and

4. Developer seeks authorization from the City to subdivide the Property in accordance with the requirements imposed by Texas statutes, and the City's ordinances, the BPUB's Electric, Water and Wastewater Service Policies ("Service Policies") and other applicable regulations, and any other requirements; and

5. Texas law and the City Subdivision Ordinances require that the Developer furnish evidence of an executed agreement between the Developer and the BPUB or other governing board of any entity or owner of a utility to the effect that necessary arrangements have been made by the Developer and the BPUB or other entity for the provision of sufficient wastewater treatment capacity to serve the ultimate full build-out needs of the Subdivision for a term of not less than thirty (30) years; and

6. This Agreement is authorized by and consistent with the State law and the City's ordinances, the BPUB's Service Policies, any other entity's policies, and any other applicable requirements governing the provision of wastewater service and related facilities to a subdivision; and

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Contract, the parties agree as follows:

DEVELOPER'S OBLIGATIONS

7. Improvements. The Developer agrees to construct and install at Developer's expense, all subdivision related wastewater facilities required to comply with (a) Section 2.3 of the City of Brownsville's Subdivision Ordinance No. 90-567-X and within the time required by the Subdivision Ordinance, (b) the BPUB's Service Policies and other applicable regulations, and (c) any other requirements.

8. Developer states that the total wastewater flow anticipated from the ultimate development and occupancy of the Subdivision for a minimum of thirty (30) years is _____ gpd (gallons per day).

BPUB'S OBLIGATIONS

9. BPUB hereby agrees to provide sufficient wastewater treatment capacity to serve the needs of the Subdivision as declared by the Developer in Paragraph 8 above for a term of thirty (30) years beginning on the date that the Developer's on-site and off-site wastewater facilities (which have been constructed and installed by the Developer at his sole cost within the Subdivision, and outside the Subdivision up to the perimeter of the Subdivision) are accepted by the Brownsville Public Utilities Board of the City of Brownsville, Texas, and provided the Subdivision Plat is approved by the Brownsville City Planning Commission. BPUB does not guarantee continuous uninterrupted service and Developer agrees that BPUB shall not be responsible for any damages resulting from interruptions in service.

10. Developer understands and agrees for itself, its heirs, executors, administrators, other legal representatives, successors and assigns of property within the Subdivision that BPUB shall collect and treat wastewater from the Subdivision at its usual and customary rates, which may be amended from time to time.

Continues with Standard Conditions For Agreements (BPUB Form No. 19); Standard Signature Block (BPUB Form No. 20); Standard Acknowledgments (BPUB Form No. 21); and Standard Lienholder's Consent (BPUB Form No. 22).

BPUB Form No. 18: IRREVOCABLE LETTER OF CREDIT
(Bank Letterhead)

IRREVOCABLE LETTER OF CREDIT

To: Brownsville Public Utility Board of the City of
Brownsville, or its successor (BPUB).
P.O. Box 911
Brownsville, Texas 78520

Date: _____, 20__

We hereby authorize you to draw at sight on [NAME AND LOCATION OF BANK], for the account of [NAME OF CUSTOMER] (the "Customer"), up to the aggregate amount of _____ DOLLARS (\$_____) (the "Stated Amount") available by our draft, accompanied by a certification by any one of the following: 1) the BPUB CEO and General Manager; 2) any Assistant BPUB General Manager; 3) the BPUB Director of Finance; 4) any BPUB Assistant Director of Finance; 5) the BPUB Director of Water and Wastewater Engineering; or 6) the BPUB Director of Electric Engineering, all of the BPUB, that the following condition exists:

"A Condition of Draw exists under the Extension and Performance Agreement for Subdivided Property (BPUB), dated _____, 20__, by and between Customer and the Brownsville Public Utilities Board (the "Agreement"). The BPUB is in substantial compliance with the terms of said Agreement and has calculated the amount of this draft in accordance with the terms of the Agreement."

Drafts must be drawn and presented by or on [EXPIRATION DATE] by the close of business of the Issuer of this credit and must specify the date and number of this credit. Drafts will be honored within five (5) calendar days of presentment. We hereby engage all drawers that drafts drawn and presented in accordance with this credit shall be duly honored. Partial draws are permitted and the letter of credit shall be reduced by the amount of such partial draws as well as by any reduction letters authorized by the BPUB. The sum of such partial draws shall on no account exceed the Stated Amount of this credit, and upon any draw or reduction letter which exhausts this credit, the original of this credit will be surrendered to us. Except as expressly stated, this credit shall be subject to the most recently amended Uniform Customs and Practices for Documentary Credits, International Chamber of Commerce (Publication No. UCP 500).

Address of Issuer:

By:[signature] _____
Name: _____
Title: _____

BPUB Form No. 19: STANDARD PROVISIONS FOR AGREEMENTS

STANDARD PROVISIONS

Remedies. The remedies available to the BPUB and the Developer under this Agreement, the BPUB service policies, and the laws of Texas are cumulative in nature. The exercise of any one right or remedy shall be without prejudice to the enforcement *of any* other right or remedy allowed at law or in equity. The misrepresentation or failure to fully disclose all relevant facts regarding the Improvements or service to the Property shall be a breach of this Agreement.

Third Party Rights. No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the BPUB (including without limitation a trustee in bankruptcy) have any interest in or claim to the Performance Bond.

No Waiver. No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the BPUB, its successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

Attorney's Fees. Should either party be required to resort to litigation to enforce or interpret the terms of this Agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

Assignability. The benefits and burdens of this Agreement are personal obligations of the Developer and also are binding on the heirs, successors, and assigns of the Developer. The Developer's obligations under this Agreement may not be assigned without the express written approval of the BPUB. The BPUB's written approval may not be withheld if the Developer's assignee explicitly assumes all obligations of the Developer under this Agreement. The BPUB, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Developer.

Notice. Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed to the parties at their respective addresses set forth on the signature page of this Agreement.

The parties may, from time to time, change their respective addresses to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall

be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement, whether arising out of or relating to the Agreement, will be deemed to be proper only if such action is commenced in the Courts of Cameron County, Texas, or the United States District Court for the Southern District of Texas, Brownsville Division. **THE DEVELOPER EXPRESSLY WAIVES ANY RIGHT TO BRING SUCH AN ACTION IN, OR TO REMOVE SUCH AN ACTION TO, ANY OTHER COURT, WHETHER STATE OR FEDERAL.**

Captions Immaterial. The numbering, order, and captions or headings of the paragraphs of this Agreement are for convenience only and shall not be considered in construing this Agreement.

Entire Agreement. This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent written modification executed by both parties.

Authorization to Complete Blanks. By signing and delivering this Agreement to the appropriate official of the BPUB, the Developer authorizes completion of this Agreement by filling in the Effective Date below.

Binding Agreement. The execution and delivery of this Agreement and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate and governmental actions of the City of Brownsville, Texas, acting by and through the BPUB. This Agreement has been duly executed and delivered by each party, and constitutes a legal, valid, and binding obligation of each party enforceable in accordance with the terms as of the Effective Date.

Governing Law. This Agreement is governed by the laws of the State of Texas.

Survival. Any and all representations, conditions and warranties made by Developer under this Agreement are of the essence of this Agreement and shall survive the execution, delivery and termination of it and acceptance of the subject utility Improvement(s) by BPUB, and all statements contained in any document required by BPUB, whether delivered at the time of the execution, or at a later date, shall constitute representations and warranties hereunder.

Force Majeure. In the event that BPUB or Developer shall be prevented from completing performance of their obligations under this Agreement by an Act of God or other occurrence

whatsoever *which* is beyond the control of either party, then the impeded party shall, assuming it attempts to in good faith mitigate the impact of the Force Majeure, be excused from any further performance of its obligation and undertakings hereunder, until such Force Majeure is removed or resolved.

Applicable Service Policies. The Water and Wastewater portion of the BPUB's Service Policies in effect on the date of the execution of this Agreement are incorporated herein by reference as if fully set out in this Agreement. If a conflict occurs between the terms of this Agreement and the BPUB Service Policies, the terms of this Agreement shall control.

BPUB Form No. 20: STANDARD SIGNATURE BLOCK

EXECUTED this _____ day of _____, 20____

DEVELOPER

By: _____
Name: _____
Title: _____
Address: _____
Attention: _____

ATTEST:

Secretary

Accepted and executed on this _____ day of _____, 20____.

**BROWNSVILLE PUBLIC UTILITIES BOARD
OF THE CITY OF BROWNSVILLE, TEXAS**

By: _____
Name: Marilyn D. Gilbert, MBA
Title: General Manager & CEO
Address: P.O. Box 3270
Brownsville, TX 78520-3270

BPUB Form No. 21: STANDARD ACKNOWLEDGMENTS

For a natural person acting in his or her own right:

STATE OF TEXAS §

COUNTY OF CAMERON §

 This instrument was acknowledged before me on this ____ day of _____,
20____, by _____[name or names of person acknowledging].

Notary Public, State of Texas

My Commission Expires: _____

For a natural person as principal acting by attorney-in-fact:

STATE OF TEXAS §

COUNTY OF CAMERON §

 This instrument was acknowledged before me on this ____ day of _____, 20____
by _____ as attorney-in-fact on behalf of _____[name of principal].

Notary Public, State of Texas

My Commission Expires: _____

For a partnership acting by one or more partners:

STATE OF TEXAS §

COUNTY OF CAMERON §

 This instrument was acknowledged before me on this ____ day of _____, 20____
by _____, partner(s) on behalf of _____[name of partnership], a partnership.

Notary Public, State of Texas

My Commission Expires: _____

COUNTY OF CAMERON §

My Commission Expires: _____

COUNTY OF CAMERON §

My Commission Expires: _____

BPUB Form No. 22: STANDARD LIENHOLDER'S CONSENT

THE STATE OF TEXAS §

COUNTY OF CAMERON §

LIENHOLDER'S CONSENT

The undersigned hereby certifies that it is the holder of a security interest, mortgage, lien or other encumbrance on certain subdivision land (real property) properly known as and more specifically described on Exhibit A attached hereto and made a part hereof (the "Property"), and that the undersigned hereby joins in, ratifies and consents to the conveyance of personalty and public dedication of the water distribution and wastewater collection Facilities described on Exhibit B attached hereto and made a part hereof and located on or in the Property, and agrees that its security interest, mortgages, liens or other encumbrances held by it on the Property (real and/or personal), including without limitation, those recorded in Volume _____, at Page _____, of the Real Property Records of Cameron County, Texas shall be subordinated to this public dedication of ownership and operation.

SIGNED AND SEALED in the presence of:

BY: _____

ACKNOWLEDGMENT

STATE OF TEXAS §

COUNTY OF CAMERON §

The foregoing Lienholder's Consent was acknowledged before me this _____ day of _____, 20____, by _____.

Notary Public, State of Texas

My Commission Expires: _____

BPUB Form No. 23: RELEASE OF DELINQUENT UTILITY BILL LIEN

THE STATE OF TEXAS §

COUNTY OF CAMERON §

For and in consideration of the sum of (_____) Dollars, the receipt of which is hereby acknowledged and confessed, the City of Brownsville, acting by and through the Brownsville Public Utilities Board, its successors, and assigns, do hereby release, discharge, and relinquish from any and all claims, debts, demands, or causes of action that the undersigned has or may have as a result of furnishing municipal utility service to the following described real property located in Cameron County, Texas:

(legal description)

The undersigned, its, successors and assigns, do hereby release and relinquish the delinquent utility bill lien which appears at Volume _____, Page _____ of the Real Property Records, Cameron County, Texas against the real property described above and it is hereby discharged, satisfied, and relinquished.

Signed this _____ day of _____, 200__.

BROWNSVILLE PUBLIC UTILITIES
BOARD, an agency of
The City of Brownsville

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF CAMERON §

This instrument was acknowledged before me on the _____ day of _____,
200__ by (Name) _____, (Title) _____.

Notary Public, State of Texas

BPUB Form No. 24: DELINQUENT UTILITY BILL LIEN

Pursuant to the Tex. Const., Art. XI, § 5, and Tex. Loc. Gov't. Code, § 402.0025 (d)-(h), the Brownsville Public Utilities Board, an agency of the City of Brownsville, hereby imposes a lien in the below described amount against the described property owned by the below named person for delinquency in payment for water, sewer, or electric services provided to that property on the BPUB customer account number(s) listed.

OWNER: _____

PROPERTY: Address _____

Legal Description _____

ACCOUNT NUMBER: _____

AMOUNT OF DELINQUENT BILL: _____

PENALTIES: _____

COLLECTION COSTS: _____

TOTAL: _____

This lien shall be a priority lien and shall accrue 10% per annum interest from the date of filing hereof.

Executed this _____ day of _____, 200____.

BROWNSVILLE PUBLIC UTILITIES
BOARD, an agency of
The City of Brownsville

By: _____
Name: _____
Title: _____

APPENDIX B

UNITS OF PROPERTY FOR WATER AND WASTEWATER SYSTEMS

WATER DISTRIBUTION SYSTEM

ITEM	UNIT OF MEASURE
1. Pipe (by size and type)	Ft.
Fittings (by size and type)	Ea.
2. Valves (by size and type)	Ea.
Valve Boxes	Ea.
3. Fire Hydrants (by size)	Ea
Valve and Fittings	Per Ea.
4. Services – Main to meter box (by size and type)	Ea.
Fittings and Accessories	Per Ea.
5. Meters (by size)	Ea.
All accessories	Per Ea.

WASTEWATER COLLECTION SYSTEM

1. Pipe (by size and type)	Ft.
Fittings (by size and type)	Ea.
2. Valves – Force main (by size)	Ea.
Valve Boxes	Ea.
3. Air release valves – Force main	Ea
4. Manholes – gravity main	Ea.
5. Services (single or double size)	Ea.
Fittings and accessories	Per Ea.

APPENDIX C

SUMMARY OF WATER AND WASTEWATER SERVICE AND CONNECTION CHARGES

Brownsville Public Utilities Board
SUMMARY OF WATER AND WASTEWATER CONNECTION CHARGES

ZONE 1

Meter Size	ESU	Water Impact Fee	Wastewater Impact Fee	Combined Impact fee Total
5/8x3/4"	1	\$300.00	\$500.00	\$800.00
1"	2.5	\$750.00	\$1,250.00	\$2,000.00
1 1/2"	5	\$1,500.00	\$2,500.00	\$4,000.00
2"	8	\$2,400.00	\$4,000.00	\$6,400.00
3"	15	\$4,500.00	\$7,500.00	\$12,000.00
4"	25	\$7,500.00	\$12,500.00	\$20,000.00
6"	50	\$15,000.00	\$25,000.00	\$40,000.00
8"	80	\$24,000.00	\$40,000.00	\$64,000.00
10"	115	\$34,500.00	\$57,500.00	\$92,000.00
12"	INFORMATION WILL BE PROVIDED AT A LATER DATE			

ZONE 2 & 3

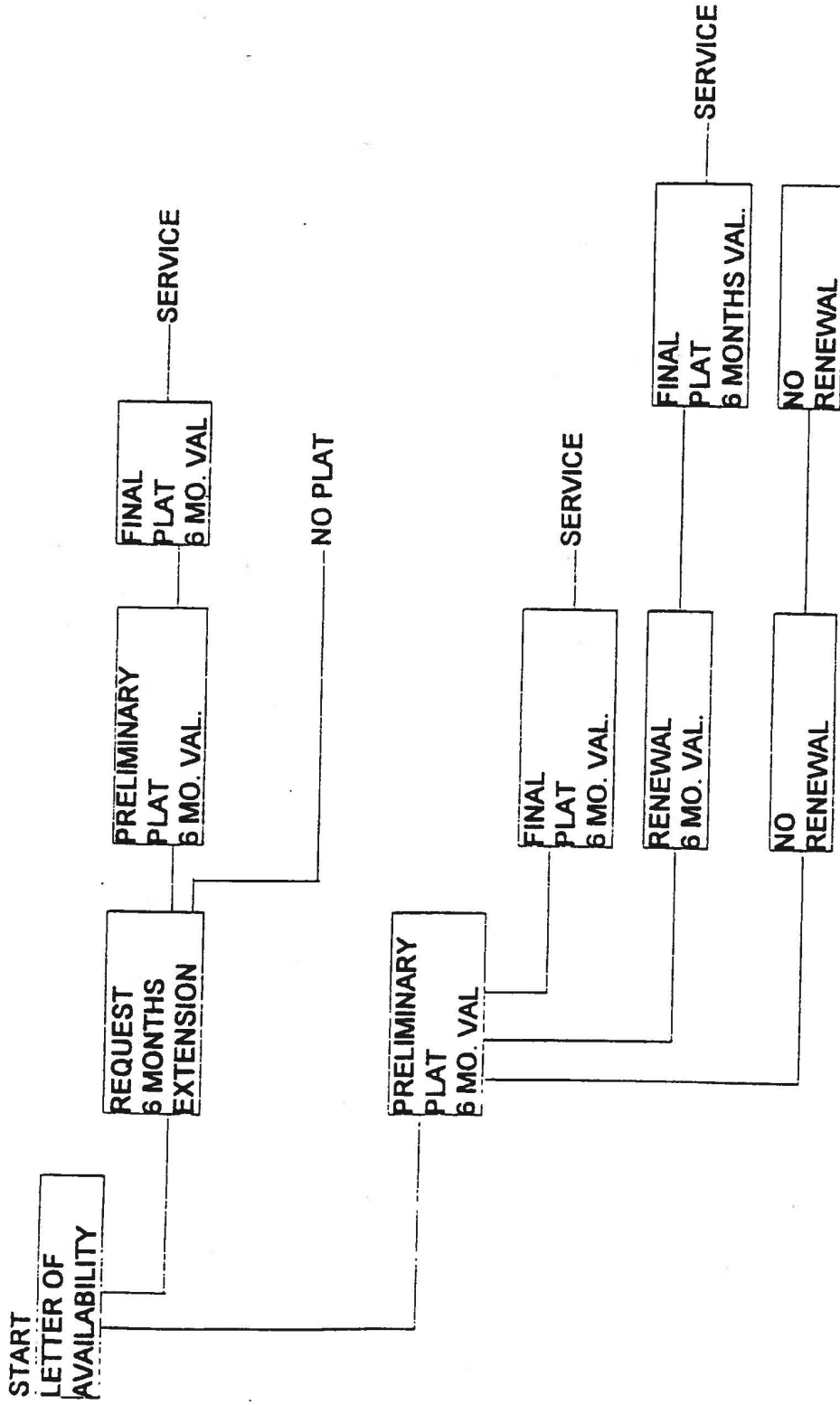
Meter Size	ESU	Water Impact Fee	Wastewater Impact Fee	Combined Impact Fee Total
5/8x3/4"	1	\$600.00	\$1,000.00	\$1,600.00
1"	2.5	\$1,500.00	\$2,500.00	\$4,000.00
1 1/2"	5	\$3,000.00	\$5,000.00	\$8,000.00
2"	8	\$4,800.00	\$8,000.00	\$12,800.00
3"	15	\$9,000.00	\$15,000.00	\$24,000.00
4"	25	\$15,000.00	\$25,000.00	\$40,000.00
6"	50	\$30,000.00	\$50,000.00	\$80,000.00
8"	80	\$48,000.00	\$80,000.00	\$128,000.00
10"	115	\$69,000.00	\$115,000.00	\$184,000.00
12"	INFORMATION WILL BE PROVIDED AT A LATER DATE			

APPENDIX D

UTILITIES AVAILABILITY

APPENDIX K

UTILITIES AVAILABILITY LETTER FLOW CHART



APPENDIX E

ACTUAL WATER AND WASTEWATER IMPACT FEES AS DETERMINED BY THE CITY COMMISSION

APPENDIX E

MAXIMUM ALLOWABLE SYSTEM WIDE WATER AND WASTEWATER IMPACT FEES AS DETERMINED BY THE CITY COMMISSION

Maximum Allowable Water and Wastewater Impact Fees applicable system wide to the Inside and Outside City Limits Zones, within the Certified Water and Wastewater Area of the Public Utilities Board of the City of Brownsville, Texas, as determined by the Brownsville City Commission Ordinance No. 2016-1217-D:

Adopted Impact Fee	Water	Wastewater
Area 1	\$300.00	\$500.00
Areas 2 & 3	\$600.00	\$1,000.00