

**TWIN CREEKS SPECIAL SERVICE DISTRICT
WATER DEDICATION POLICY
RESOLUTION NO. 2020-02**

RECITALS

WHEREAS, the Twin Creeks Special Service District (the "District") is a special service district established by the County Legislative Body of Wasatch County, Utah, pursuant to the provisions of Utah law, for the purpose of providing culinary and irrigation water delivery services within the boundaries of the District;

WHEREAS, pursuant to those goals and policies, the District is authorized to require the dedication of water rights to the District in an amount sufficient to serve new developments;

WHEREAS, the District has a Water Share Dedication Policy that governs the procedures for dedicating water shares to the District; and

WHEREAS, the District desires to amend the Water Share Dedication Policy to (i) reduce the number of Timpanogos Class D Shares the District can accept for culinary use, (ii) clarify the process for accepting Timpanogos Class D Shares, (iii) clarify the quantity of water required for indoor use, and (iv) clarify the Change Application process for water shares that are to be dedicated to the District.

NOW, THEREFORE, the Wasatch County Council, acting as the governing body of the District, hereby adopts the Water Share Dedication Policy attached hereto as Exhibit A.

Resolution 2020-02 Approved and adopted this 11th day of August, 2020.

By: 
District Board Chairman

Attest:

By: 
District Treasurer



TWIN CREEKS SPECIAL SERVICE DISTRICT

This Water Share Dedication Policy was adopted by Resolution No. 2020-02 by the Wasatch County Council acting as the governing board ("Board") of the Twin Creeks Special Service District ("District"), on August 11, 2020.

WATER SHARE DEDICATION POLICY

1. Water Share Dedications - Generally

- a. The District provides water services within its service area in Wasatch County, Utah. A party seeking water service for a proposed development ("Applicant") must dedicate shares of stock in a water company ("Water Shares") to the District in an amount sufficient to serve the proposed development, in accordance with this Water Share Dedication Policy ("Dedication Policy").
- b. The District's water treatment plant is located along Lake Creek and can only treat water diverted from Lake Creek. For that reason, the District has historically only accepted dedications of Lake Creek Irrigation Company Primary shares ("Lake Creek Primary Shares"). The District will continue to accept dedications of Lake Creek Primary Shares, in accordance with this Dedication Policy.
- c. Due to the extension of new water transmission infrastructure into areas served by the Timpanogos Irrigation Company, the District can now accept dedications of Timpanogos Irrigation Company Class D shares ("Timpanogos Class D Shares") for culinary use. Due to the constraints of the District's water treatment plant, the amount of development demand that can be served by Timpanogos Class D Shares is currently limited to 200 acre-feet. These dedications will be accepted on a first-come, first-served basis, to be determined based on when the District receives the written confirmation from the water company that the company transfer requirements as described in Section 4(a) of this Dedication Policy have been met and written confirmation that the shares have been approved for municipal use in the service area of the District as set forth in Section 3 of this Dedication Policy. The 200 acre-foot limit on Timpanogos Class D Shares is intended to be temporary. The District intends to eliminate the 200 acre-foot cap when the District acquires the right to treatment capacity in a new water treatment plant to be constructed by the Jordanelle Special Service District.
- d. Both the Lake Creek Irrigation Company and the Timpanogos Irrigation Company have shares of stock that represent Municipal and Industrial water provided through the Central Utah Project, including but not necessarily limited to: Timpanogos Class D Shares, and Lake Creek M&I Shares ("M&I Shares"). Because the annual assessment for M&I Shares is greater than the annual assessment for other water shares, the District will only accept dedication of M&I Shares if the Applicant pays the District a one-time fee to partially offset the higher ongoing cost to the District

of owning the M&I Shares (the “Equalization Payment”). Because the use of M&I Shares provides more reliable water delivery, and therefore benefits all users to some extent, the Equalization Payment is not intended to entirely offset the higher ongoing cost of M&I Shares.

- e. The Equalization Payment is set by the Board from time to time, based on an assessment of the benefits provided by M&I Shares compared with their higher cost, and reasonable assumptions about expected inflation, rates of return, and other factors affecting the net present value calculation. The Equalization Payment is currently set as follows:

	Timpanogos Class D Shares	Lake Creek M&I Shares
TCSSD Secondary System Use – Timpanogos Irrigation Service Area	\$0 per acre-foot	n/a
TCSSD Secondary System Use – Lake Creek Irrigation Service Area	n/a	\$6,185
TCSSD Culinary System Use	\$2,577	n/a

- f. The General Manager may adjust the Equalization Payment on a case-by-case basis as necessary to ensure that the Equalization Payment is roughly proportional to the additional cost of the M&I Shares. Any adjustment of the Equalization Payment by the General Manager must be based on substantial evidence. The General Manager’s decision regarding application or adjustment of the Equalization Payment may be appealed to the Board by the Applicant. The Board’s decision regarding application of the Equalization Payment will be final and binding.

2. **Water Rights Review**

- a. The District will review plans for proposed developments to determine the quantity of water required to serve the development. The District will quantify the water dedication requirement using a standard quantification of 0.45 acre-foot fully consumptive use per equivalent residential unit for indoor use¹ and 3 acre-feet per irrigated acre for outdoor use. The indoor use will be calculated on a fully consumptive basis. Outdoor use will be calculated using the historic diversion and depletion factors associated with the underlying water right. The District, at its

¹ To obtain 0.45 acre-foot of fully consumptive municipal use, a greater quantity of irrigation water will need to be acquired and retired. The amount required will depend upon the rules and regulations of the relevant water company and the historic source of supply and may be as much as 1.0 acre-foot. Applicant should consult with the water company.

sole discretion, will determine the number of equivalent residential units and irrigated acres associated with a development based on the Applicant's plans for the development. If the Applicant changes its plans for the development, the Applicant must resubmit those plans to the District for re-quantification of the required water dedication.

- b. The District will provide the Applicant and the Wasatch County Water Committee (the "Water Board") with a report detailing the water dedication requirement.
- c. As part of the Wasatch County land use approval process, the Applicant must obtain an Action Report from the Water Board.
- d. The quantification of the water rights that must be dedicated for the development will be the greater of: (i) the water share requirements identified by the District pursuant to Section 2(a), above, or (ii) the water share requirements identified by the Water Board in the Action Report.

3. **Change Application**

- a. Following receipt of the Action Report, the Applicant must present to the District, for preliminary review and approval, the Water Shares that the Applicant proposes to dedicate to the District and, if applicable, provide the District written notice from the water company that the Water Shares are subject to an existing Order of the Utah State Engineer approving the use of the Water Shares for fully consumptive municipal use within the service area of the District ("Order"). If the proposed Water Shares are determined acceptable by the District but are not subject to an existing Order, the Applicant shall file with the Utah Division of Water Rights an Application for Permanent Change of Water ("Change Application").
- b. The Change Application must identify the District as an "Interested Party" and the Change Application must be approved by the water company issuing the Water Shares in accordance with Utah Code Ann. § 73-3-3.5.
- c. The Change Application must identify the "hereafter" nature, period, and place of use of the water to be year-round municipal use within the service area of the District.
- d. The Change Application must identify the "hereafter" points of diversion to be existing or future District sources of supply, as determined by the District, taking into account any applicable State Engineer's groundwater management policy.
- e. Upon issuance of the State Engineer's Order approving the Change Application, the Applicant shall submit a copy of the Order to the District. The District may review and approve the terms of the Order as a condition to the District's final approval and acceptance of the water rights.

- f. The District will not approve or accept the Water Shares unless the State Engineer's Order will allow the diversion and depletion of water in amounts necessary to serve the development, as determined in Section 2, above. Alternatively, the Applicant may revise its plan for the development as necessary to reduce the water demand to conform to the limitations of the State Engineer's order. Any such revised plans must be re-submitted to the District for re-quantification.
- g. If the State Engineer's Order approving the Change Application is acceptable to the District, the Applicant may commence the transfer of the Water Shares to the District as described below.

4. Transfer of Water Shares; Will-Serve Letters

- a. An Applicant will be deemed to have commenced the transfer of Water Shares to the District when: the Applicant has (i) surrendered to the applicable water company stock certificates evidencing the Water Shares, properly endorsed to the District, (ii) paid all applicable transfer fees, and (iii) otherwise done everything necessary pursuant to the water company's bylaws in order to transfer the Water Shares to the District.
- b. The District will, upon request, provide the Applicant with a ***draft*** will-serve letter to submit to Wasatch County as part of the Applicant's application for preliminary development approval, when: (i) the Applicant has demonstrated that the Water Shares are subject to an Order, (ii) the Application has commenced the transfer of Water Shares as described above, and (iii) the District receives written confirmation from the water company that the Water Shares are held in the name of the Applicant, that assessments on the Applicant's Water Shares are paid in full, and that the Applicant is otherwise in good standing with the Water Company. ***The draft will-serve letter is not a binding commitment to provide water for the Applicant's development.***
- c. The District will not provide the Applicant with a ***final*** will-serve letter (or approve a final subdivision plat) until (i) the Water Shares are subject to an Order, (ii) the water company issues new stock certificates to the Water Shares in the name of the District, (iii) the Applicant pays to the District an amount of money equal to one year of water company assessments on the Water Shares, and (iv) if the Applicant is dedicating M&I Shares, the Applicant pays to the District the Equalization Payment.
- d. Once the water company issues new stock certificates to the Water Shares in the name of the District, the transfer of Water Shares to the District as described herein will be final and irrevocable. The Water Shares will be commingled and become a part of the total water supply of the District, and the water available for use thereunder will become a part of the total water supply of the District, through which all of its customers, including the Applicant's development, will be served

on an equal priority basis.

5. **Share Return.** If the Applicant changes its plan for the development before the water company issues new stock certificates in the name of the District, such that the development may be served by less water than originally contemplated, the District will reasonably cooperate to transfer back to the Applicant any Water Shares that are not required to serve the needs of the development as shown on the final plat. This provision can be invoked only for changes in development plans that reduce demand; it cannot be used by the Applicant for the purpose of substituting Water Shares from one water company with Water Shares from another water company.
6. **Costs.** All costs associated with the review of the Applicant's plans, quantification of necessary Water Rights, the dedication process, and the return of unneeded Water Shares (if any), shall be borne by the Applicant.
7. **Exceptions.** The District's General Manager may make exceptions to this Policy with the concurrence of the Board.