

NORTH VILLAGE SPECIAL SERVICE DISTRICT

This Water Right Dedication Policy was adopted by Resolution No. 2020-___ by the Wasatch County Council acting as the governing board (“Board”) of the North Village Special Service District (“District”), on April 14, 2020.

WATER RIGHT DEDICATION POLICY

1. Water Right 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 water rights to the District in an amount sufficient to serve the proposed development, in accordance with this Water Right Dedication Policy (“Dedication Policy”).¹
- b. When an Applicant proposes to supply water for a proposed development through the dedication of water rights to the District, the District will not provide a *draft* will-serve letter, as contemplated by Wasatch County Code § 16.15.24(G), until the State Engineer has issued an order approving a Change Application in conformance with this Policy. The District will not be required to provide a *final* will-serve letter (or approve a final subdivision plat) until (i) the State Engineer’s order has become final and non-appealable, and (ii) the Water Rights have either been conveyed to the District in a manner acceptable to the District, or placed into escrow as required by Wasatch County Code § 10.03.03.
- c. Some water companies 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.
- d. 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

¹ The District has an existing supply of District-owned water rights and interests. In lieu of dedicating water rights to the District under this Dedication Policy, the District allows property owners to reserve a portion of the District’s water supply for use in connection with future development. Any such reservation of District water supply is governed by the District’s Water Reservation Policy, and is available only on a first-come, first-served basis.

factors affecting the net present value calculation. The Equalization Payment is currently set as follows:

| | Timpanogos Class D Shares | Lake Creek M&I Shares |
|---------------------------------|----------------------------------|----------------------------------|
| NVSSD Culinary Water System Use | \$2,577 per acre-foot | n/a |

- e. 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-feet per equivalent residential unit for indoor use 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 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 right dedication requirement. Prior to the District accepting water rights for dedication the rights must be approved by the Utah Division of Water Rights for year-round municipal use.
- 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 right requirements identified by the District pursuant to Section 2(b), above, or (ii) the water right 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 rights or water company shares (“Water Rights”) that the Applicant proposes to dedicate to the District. If the proposed Water Rights are determined acceptable by the District, 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.” If the Water Rights consist of shares in a water company, the Change Application must be approved by the water company 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 Rights 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 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. ***The draft will-serve letter is not a binding commitment to provide water for the Applicant’s development.***

4. Escrow of Water Rights

- a. If the State Engineer’s order approving the Change Application is acceptable to the District, the Applicant shall submit proposed, unsigned instruments of conveyance (e.g. a water rights deed or transfer of shares) to the District for its review and approval.

- b. Upon the District’s approval of the instruments of conveyance, the Applicant, at its sole expense, shall open an escrow account with a licensed title company doing business in Wasatch County (the “Escrow Agent”). The Applicant shall provide proposed escrow instructions to the District for its review and approval. The instructions must direct the Escrow Agent to record the instruments of conveyance when, and only when, all of the following conditions have been satisfied: (i) receipt of written confirmation from the District that the State Engineer’s order approving the Change Application has become final and non-appealable, (ii) receipt of written confirmation from Wasatch County that the Applicant’s development has received final approval.
- c. The Applicant shall deliver a signed and notarized instrument of conveyance to the Escrow Agent, so that no further action is required by the Applicant to effectuate the transfer of the Water Rights. The instruments of conveyance must be delivered to the Escrow Agent before the County Council will grant preliminary development approval.
- d. The District will issue a final will-serve letter for the Applicant’s development when (i) the instruments of conveyance have been delivered to the Escrow Agent, and (ii) the State Engineer’s order approving the Change Application, on terms acceptable to the District, has become final and non-appealable, and (iii) if the Applicant is dedicating M&I Shares, the Applicant pays to the District the Equalization Payment.
- e. The Applicant shall direct the Escrow Agent to prepare a commitment to issue a policy of title insurance, naming the District as the insured party. The Applicant shall provide the title commitment to the District for its review and approval. The Applicant shall cure any exceptions to title shown on the title commitment, except such exceptions that the District expressly approves in writing (the “Permitted Exceptions”).
- f. Upon the satisfaction of the conditions set forth in this Section 4, above, the Escrow Agent shall (i) issue the title policy, and (ii) record the appropriate instruments of conveyance to convey the Water Rights to the District free and clear of all liens and encumbrances, except the Permitted Exceptions, if any.

5. Conveyance of Water Rights

- a. If both the District and the Applicant agree to proceed with conveyance without going through escrow, upon the District’s approval of the instruments of conveyance the Applicant shall execute and deliver the instruments of conveyance to the District free and clear of all liens and encumbrances. Otherwise, the conveyance of the Water Rights shall proceed through escrow as described above.
- b. The Applicant, at its sole cost and expense, shall prepare and file a Report of Water

Rights Conveyance or Deed Addendum and any other document required to be filed to properly document the transfer in the records of the Division of Water Rights.

- c. Upon transfer of title to the District, the Water Rights shall then be commingled and become a part of the total water supply of the District, and the water available for use thereunder shall 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.
6. **Segregation.** If, prior to conveyance of the Water Rights to the District, the Applicant changes its plan for the development, such that the development may be served by less water than originally approved, the District will cooperate to segregate any portion of the right not already conveyed to the District that is not required to serve the needs of the development as shown on the final plat.
7. **Costs.** All costs associated with the review of the Applicant's plans, quantification of necessary water rights, Change Application approval, the Escrow Agent, the title policy, the dedication process, and the segregation of unneeded rights (if any) shall be borne by the Applicant.
8. **Exceptions.** The District's General Manager may make exceptions to this Policy with the concurrence of the Board.

**NORTH VILLAGE SPECIAL SERVICE DISTRICT
WATER DEDICATION POLICY
RESOLUTION NO. 2020-01**

RECITALS

WHEREAS, the North Village 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 Right Dedication Policy that governs the procedures for dedicating water rights and water shares to the District, including water shares that represent Municipal and Industrial water provided through the Central Utah Project (“M&I Shares”);

WHEREAS, because M&I Shares have annual assessments that are more expensive than other water shares, the Water Right Dedication Policy requires developers who seek to dedicate M&I Shares to pay a one-time fee (the “Equalization Payment”) to offset that higher ongoing cost, and provides that the District will set the Equalization Payment on an annual basis;

WHEREAS, after the Board adopted the Equalization Payment for 2020, the District received information suggesting that the 2020 Equalization Payment failed to account for certain benefits, including reliability, provided by the use of M&I Shares in the District’s system;

WHEREAS, the District engaged Bowen Collins & Associates (“BC&A”) to re-examine the 2020 Equalization Payment, to compare the costs and benefits of the M&I Shares, to consider

appropriate rates of inflation and expected return on investment, and to recommend appropriate Equalization Payments;

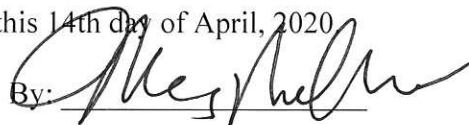
WHEREAS, the Board has reviewed and considered BC&A's recommendations as set forth in a Technical Memorandum dated April 3, 2020, and has determined that the Equalization Payments recommended by BC&A appropriately account for the benefits provided by M&I Shares, properly allocate the cost of service between existing users and new development, and that adopting those Equalization Payments is in the best interests of the District and its customers;

WHEREAS, the District has also been examining its water dedication requirements, specifically including the method of calculating outdoor water requirements; and

WHEREAS, the District desires to amend the Water Right Dedication Policy to (i) adopt new Equalization Payments based on BC&A's recommendations, and (ii) provide that outdoor water use will be calculated using the historic diversion and depletion factors associated with the underlying water right being dedicated.

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

Resolution 2020-01 Approved and adopted this 14th day of April, 2020

By: 

District Board Chairman

Attest:

By: 
District Treasurer