

SECTION 3 – NON-STANDARD SERVICE REQUIREMENTS DEVELOPER, SUBDIVISION

Section 3.01 – Limitations, Purpose and Rules Application

Corporation's Limitations. All Applicants shall recognize that the Corporation must comply with local, state, and federal rules and regulations as promulgated from time to time, and with covenants of current indebtedness. The Corporation is not required to extend retail utility service to an Applicant in a subdivision where the responsible party (Applicant/Developer) of the applicable property (subdivision) has failed to comply with the terms of this policy. Section 13.2502 of the Texas Water Code requires that notice be given herein or by publication or by alternative means to the Developers/Applicants.

Purpose. It is the purpose of this Section to define the process by which the specific terms and conditions for service to subdivisions and other kinds of Non-Standard Service are determined, including the Non-Standard Service Applicant's and the Corporation's respective costs.

For purposes of the Section, the term "Applicant" shall refer to the individual or entity that desires to secure Non-Standard Service from the Corporation. The Applicant must be the same person or entity that is authorized to enter into a contract with the Corporation setting for the terms and conditions pursuant to which Non-Standard Service will be furnished to the property. In most cases, the Applicant shall be the owner of real property for which Non-Standard Service is sought. In the event that the Applicant is other than the owner of real property, the Applicant must furnish evidence to the Corporation that it is authorized to request Non-Standard Service on behalf of such owner, or that it otherwise has authority to request Non-Standard Service for the real property.

Application of Rules. This Section is applicable to subdivisions, additions to subdivisions, developments, or whenever additional service facilities are required for a single tract of property. This includes any person who subdivides land by dividing any lot, tract, or parcel of land, within the service area of Gum Creek Water Supply Corporation into two or more lots or sites for the purpose of sale or development, including RV parks and mobile home parks. Examples of non-standard services for a single tract of land can include, but are not limited to, road bores, extensions to the distribution system, service lines exceeding 1" diameter and service lines exceeding 100 feet. Non-residential service applications typically will be considered non-standard. For the purposes of this Tariff, Applications subject to this Section shall be defined as Non-Standard. This Section may be altered or suspended for planned facility expansions when the Corporation extends its indebtedness. The Board of Directors of the Corporation shall interpret on an individual basis whether or not the Applicant's service request shall be subject to all or part of the conditions of this Section.

This Section sets forth the general terms and conditions pursuant to which the Corporation will process Non-Standard Service Requests. The specific terms and conditions pursuant to which the Corporation will provide non-standard service in response to any request will depend upon the nature of such request and may be set forth in a legally enforceable, contractual agreement to be entered into by the Corporation and the service Applicant. The agreement may not contain any terms or conditions that conflict with this Section.

Section 3.02 – Non-Standard Service Application

The Applicant shall meet the following requirements prior to the initiation of a Non-Standard Service Contract by the Corporation:

1. The Applicant shall provide the Corporation a completed Service Application and Agreement giving special attention to the item(s) on SPECIAL SERVICE NEEDS OF THE APPLICANT.
2. A final plat approved by the Corporation must accompany the Application showing the Applicant's requested service area. The plat must be approved by all governmental authorities exercising jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities. Plans, specifications, and special requirements of such governmental authorities shall be submitted with the plat. Applicants for single taps involving extension or upsizing of facilities shall be required to submit maps or plans detailing the location of the requested extension and details of demand requirements.
3. A Non-Standard Service Investigation Fee shall be paid to the Corporation in accordance with the requirements of Section G for purposes of paying initial administrative, legal, and engineering fees. The Corporation shall refund any balance that remains after it has completed its service investigation, and has completed all legal and engineering services associated with processing a request. In the event such a fee is not sufficient to pay all expenses incurred by the Corporation, the Applicant shall pay to the Corporation all remaining expenses that have been, or will be incurred by the Corporation and Corporation shall have no obligation to complete processing of the request until all remaining expenses have been paid.
4. If after the service investigation has been completed, the Corporation determines that the Applicant's service request is for property located, in whole or in part, outside the area described in the Corporation's Certificate of Convenience and Necessity, service may be extended provided that:
 - The service location is not in an area receiving similar service from another retail utility;
 - The service location is not within another retail utility's Certificate of Convenience and Necessity; and
 - The Corporation's Certificate of Convenience and Necessity shall be amended to include the entirety of Applicant's property for which service is requested. Applicant shall pay all costs incurred by Corporation in amending its CCN, including but not limited to engineering and professional fees. If the service location is contiguous to or within one-fourth (1/4) mile of Corporation's Certificate of Convenience and Necessity, Corporation may extend service prior to completing the amendment to its CCN, but will do so only upon Applicant's legally enforceable agreement to fully support such amendment (including but not limited to payment of all professional fees, including legal, surveying and engineering fees incurred by Corporation in securing the amendment).

Section 3.03 – Design

The Corporation shall study the design requirements of the Applicant's required facilities prior to initiation of a Non-Standard Service Contract by adopting the following schedule:

1. The Corporation's Consulting Engineer shall design, or review and approve plans for, all on-site and off-site service facilities for the Applicant's requested service within the Corporation's specifications, incorporating any applicable municipal or other governmental codes and specifications.
2. The Consulting Engineer's fees shall be paid out of the Non-Standard Service Investigation Fee under Section 4.

Section 3.03 – Design Continued,

3. The Consulting Engineer shall submit to the Corporation a set of detailed plans, specifications, and cost estimates for the project.
4. The Corporation's Engineer shall ensure all facilities for any Applicant to meet the demand for service as platted and/or requested in the plans or plat submitted in application for service. The Corporation reserves the right to upgrade design of service facilities to meet future demands provided however, that the Corporation shall pay the expense of such upgrading in excess of the Applicant's facility requirements.

Section 3.04 – Non-Standard Service Contract

Applicants requesting or requiring Non-Standard Service may be required to execute a written contract, drawn up by the Corporation's Attorney, in addition to submitting the Corporation's Service Application and Agreement. Said contract shall define the terms of service prior to construction of required service facilities. The service contract may include, but is not limited to:

1. All costs associated with required administration, design, construction, and inspection of facilities for water/sewer service to the Applicant's service area and terms by which these costs are to be paid.
2. Procedures by which the Applicant shall accept or deny a contractor's bid, thereby committing to continue or discontinue the project.
3. Equity Buy-In Fee (Front-end Capital Contributions) required by the Corporation in addition to the other costs required under this Section.
4. Monthly Reserved Service Charges as applicable to the service request.
5. Terms by which service capacity shall be reserved for the Applicant and duration of reserved service with respect to the impact the Applicant's service demand will have upon the Corporation's system capability to meet other service requests.
6. Terms by which the Applicant shall be reimbursed or compensated for fees duplicated in assessments for monthly rates and Equity Buy-In Fees.
7. Terms by which the Corporation shall administer the Applicant's project with respect to:
 - Design of the Applicant's service facilities;
 - Securing and qualifying bids;
 - Execution of the Service Agreement;
 - Selection of a qualified bidder for construction;
 - Dispensing advanced funds for construction of facilities required for the Applicant's service;
 - Inspecting construction of facilities; and
 - Testing facilities and closing the project.
8. Terms by which the Applicant shall indemnify the Corporation from all third party claims or lawsuits in connection with the project.

Section 3.04 – Non-Standard Service Contract Continued,

9. Terms by which the Applicant shall dedicate, assign and convey to the Corporation all constructed facilities and related rights (including, contracts, easements, rights-of-way, deeds, warranties, and so forth) to the Corporation and by which the Corporation shall assume operation and maintenance responsibility for, including any enforcement of warranties in connection with construction of the Applicant's project. The Applicant shall also provide reproducible as-built drawings of all constructed facilities. The as-built drawings must verify that all facilities have been properly located within the easements conveyed to the Corporation.
10. Terms by which the Applicant shall grant title or easement for right of ways, constructed facilities, and facility sites and/or terms by which the Applicant shall provide for the securing of required right of ways and sites.
11. Terms by which the Board of Directors shall review and approve the Service Contract pursuant to current rules, regulations, and bylaws.

The Corporation and the Applicant must execute a Non-Standard Service Contract prior to the initiation of construction of facilities by the Applicant. In the event that the Applicant commences construction of any such facilities prior to execution of a Contract with the Corporation, then the Corporation may refuse to provide service to the Applicant (or require full costs of replacing/repairing any facilities constructed without prior execution of a contract from any person buying a lot or home from Applicant), require that all facilities be uncovered by the Applicant for inspection by the Corporation, require that any facilities not approved by the Corporation be replaced, or take any other lawful action determined appropriate by the Board of Directors of the Corporation.

Section 3.05 – Property and Right-of-Way Acquisition

With regard to construction of facilities, the Corporation shall require private right-of-way easements or private property as per the following conditions:

1. If the Corporation determines that right-of-way easements or facility sites outside the Applicant's property are required, the Applicant shall secure easements or title to facility sites in behalf of the Corporation. All right-of-way easements and property titles shall be researched, validated, and filed by the Corporation at the expense of the Applicant. (See Sample Application Packet RUS Form 442-8 or 442-9.)
2. All costs associated with facilities that must be installed in public right-of-ways on behalf of the Applicant, due to the inability of the Applicant to secure private right-of-way easements, shall be paid by the Applicant. Alternatively, Applicant shall pay all costs, including legal and other professional fees, and the condemnation award in the event Corporation secures such private easements or facility sites through eminent domain proceedings.
3. The Corporation shall require an exclusive dedicated right-of-way on the Applicant's property (as required by the size of the planned facilities and as determined by the Corporation) and title to property required for other on-site facilities.
4. Easements and facilities sites shall be prepared for the construction of the Corporation's pipeline and facility installations in accordance with the Corporation's requirements and at the expense of the Applicant.

Section 3.06 – Bids for Construction

The Corporation's Consulting Engineer shall advertise for bids for the construction of the Applicant's proposed facilities in accordance with generally accepted practices. Plans and specifications shall be made available, with or without charge, to prospective bidders. Although the Corporation reserves the right to reject any bid or contractor, the Corporation shall generally award the contract to the lowest and best bidder in accordance with the following criteria:

1. The Applicant shall sign the Service Contract noting willingness to proceed with the project and shall pay all costs in advance of construction associated with the project;
2. The Contractor shall provide an adequate bid bond under terms acceptable to the Corporation;
3. The Contractor shall secure adequate performance and payment bonding for the project under terms acceptable to the Corporation;
4. The Contractor shall supply favorable references acceptable to the Corporation;
5. The Contractor shall qualify with the Corporation as competent to complete the work; and
6. The Contractor shall provide adequate certificates of insurance as required by the Corporation.

Section 3.07 – Pre-Payment for Construction and Service

After the Applicant has executed the Service Agreement, the Applicant shall pay to the Corporation all costs necessary for completion of the project prior to construction and in accordance with the terms of the Non-Standard Service Contract.

Section 3.08 – Construction

1. All roadwork pursuant to state, county and/or municipal standards (as applicable) shall be completed prior to facility construction to avoid future problems resulting from road right-of-way completion and excavation. Subject to approval of the requisite authority, road sleeves may be installed prior to road construction to avoid road damage during construction of Applicant's facilities.
2. The Corporation shall, at the expense of the Applicant, inspect the facilities to ensure compliance with Corporation standards.
3. Construction plans and specifications shall be strictly adhered to, but the Corporation reserves the right to change-order any specifications, due to unforeseen circumstances during the design phase, to better facilitate construction or operation of the Applicant's facility. All change-order amounts shall be charged to the Applicant.

Section 3.09 – Service Within Subdivisions

The Corporation's objective to provide service to any customer located within a subdivision governed by this section is strictly limited to the nonstandard service specified by the Applicant. The Applicant is responsible for paying for all costs necessary for non-standard service to a subdivision as determined by the Corporation under the provisions of this tariff and specifically the provisions of this Section; if the Applicant fails to pay these costs, the Corporation has the right to require payment of these costs by any one or more of the persons purchasing lots within such subdivision before the Corporation is obligated to provide water/sewer service. In addition, Corporation may elect to pursue any remedies provided by the Non-Standard Service Contract. Applicant is advised that purchasers of lots also may have legal recourse to the Applicant under Texas law.