

**WATER RIGHTS POLICY
FOR DEVELOPMENTS IN ASHLEY VALLEY WATER AND SEWER
IMPROVEMENT DISTRICT**

DATE: September 19, 2023

RE: Water Rights dedication requirements for developments within Ashley Valley Water and Sewer Improvement District (“AVWSID” or “District”) boundaries.

PURPOSE: The purpose of this Policy is to control the acquisition, ownership and use of Water Rights or interests in Water Rights for culinary water within developments in Ashley Valley Water and Sewer Improvement District, to apply a uniform set of rules and regulations to all developers within the District regarding Water Rights, and to protect the water sources and supplies dedicated to developments within the District from alienation, degradation, or interference to the detriment of the District and its customers.

The Ashley Valley Water and Sewer Improvement District hereby adopts the following policy regarding the acquisition, ownership, and use of Water Rights within all developments in the District.

General Policy Statement: The Ashley Valley Water and Sewer Improvement District was created for the purpose of providing, among other things, water treatment, water delivery and wastewater collection service to the properties that are within the boundaries of the District. The District has acquired and will continue to acquire Water Rights for use within its boundaries. It is the policy of the District to ensure adequate Water Rights are available to serve existing and new customers as development happens within the District.

As a State-approved Public Water Supplier, the District has an obligation and an interest in protecting the water resources of the Ashley Valley and ensuring that adequate Water Rights are available and sufficient for any proposed development in the District. The District also desires to ensure that the Water Rights dedicated to any development are approved by the State Engineer for the proposed uses, that those Water Rights remain under the ownership and control of the District, and that each Water Right remains committed to the proposed development and is managed in such a way as to protect and maximize the use of the Water Rights.

1. Ashley Valley Water and Sewer Improvement District Staff to Review and Approve Water Rights for all Proposed Subdivisions in Ashley Valley Water and Sewer Improvement District.

- A. Developer Submittal of Water Rights Information to District Staff for Review and Approval. As part of the development process within the District, all applicants for development or culinary connections, are required to submit information regarding their proposed development to District Staff who shall review the information to determine the amount and type of Water Rights that will be required for the

proposed uses if proposed development is to be approved by the District. The District Staff shall review the number of lots proposed, the number of culinary connections, the amount and type of open space proposed, the amount of hard surface in the development, as well as all other relevant information to determine the total water requirements of the proposed development.

District Staff shall use historical use data, standard conversion rates, and minimum sizing requirements to determine the then applicable amount of Water Rights required to be provided for each proposed development.

Irrigation companies, if applicable, may be asked to participate in determining the amount of water to be made available by their respective shares; provided, however, any decision of the State Engineer applicable for the proposed development shall be the final determining factor in determining the actual amount of water available from each share of the irrigation company for use in the development. State Engineer approval of any proposed use of Water Rights is the responsibility of the developer, and is required before any water can be approved for use by a development in the District. The District may form a Water Rights Review Committee (the "Water Committee") consisting of some or all of the following: District Staff members, the District Attorney, the District Engineer, representatives of irrigation companies, representatives of the Uintah Water Conservancy District and County or City representatives at the District's sole discretion to provide input into the decision making process. The developer shall be responsible for any out-of-pocket costs incurred by the District during the review process, including but not limited to engineering costs, attorney costs, etc.

B. District Staff Preparation of Action Report Recommendations to District Planning Commission. Following its review of the proposed development, District Staff shall prepare an action report setting forth in detail the amount of Water Rights necessary for any proposed development. That action report shall be forwarded to the Uintah County, or Naples City Planning Commission, and shall become a requirement of the proposed development if, and when, the development is approved.

C. Conditions of the Action Report and Conditions of the Approval of the Development. The conditions, restrictions and limitations set forth in the action report shall be reported to the Uintah County or Naples City Planning Commission and shall become conditions, restrictions, and limitations of the proposed development.

2. **Dedication of Adequate Water Rights for Proposed Development.** It shall be the policy of the District as described herein below that no proposed development shall be approved prior to the dedication and acceptance of adequate Water Rights as set forth herein.

A. Water Rights in Escrow. Prior to receiving preliminary approval by the District of any development in Ashley Valley Water and Sewer Improvement District, all of the Water Rights required for the proposed development shall be placed in escrow

with AVWSID by the developer. All signatures, deeds, transfers, or other documents necessary to effectuate the irrevocable transfer of the Water Rights to the District shall be prepared, signed and delivered to the Escrow Agent of AVWSID so that no further action related to water dedication is required by the developer. As described in this policy, irrigation Water Rights that are intended to be transferred to the District for culinary or indoor residential purposes must receive State Engineer approval before they can be actually used to meet the requirements of a proposed development. Securing an approved Change Application shall be the sole responsibility of the developer.

B. Water Rights Transfer Condition for Final Approval of Proposed Development. Immediately following final approval of any proposed development in the District, and as a condition thereof, all Water Rights necessary for the proposed development shall be transferred by the Escrow Agent to the District. All Water Rights shall be transferred to the Escrow Agent prior to the signing and or recording of any plat, the selling of any lots, or the commencement of any construction activity.

C. Restrictions on Water Rights that will be accepted by the District for Proposed Development. As a Public Water Supplier, it is in the best interest of the District, its current and future customers, and the public in general, that the District own or otherwise control all Water Rights necessary to provide culinary and secondary water to its customers. The following restrictions shall apply to all Water Rights proposed to be dedicated to the District:

1. The District will not accept any irrigation shares that have not been approved by the State Engineer for municipal use within the boundaries of the District. The obligation to secure an approved change application lies solely with the Developer.

2. The District will not accept any irrigation shares that are restricted in any way, including but not limited to restrictions on voting, unusual assessments, etc.

3. The District will not accept any irrigation shares unless accompanied by a signed letter from the relevant irrigation company clearly stating that the irrigation company has taken official action to approve the conversion of the irrigation shares into municipal use, that it has approved the transfer of the shares to the District, that it will cooperate in securing an approved change application from the State Engineer, and that the irrigation company will not seek to impose any unusual restrictions, assessments, fees or charges against the shares transferred to and owned by the District.

3. **Water Requirements for Development on Property within the District Boundaries (all areas serviced by the District).** It is the policy of the District that all property developed within the District Boundaries, or which are serviced by the District, as defined by Uintah County or Naples City, shall be treated equally with respect to the amount of Water Rights required for the proposed development.

- A. Culinary Water Rights: For any development, subdivision or lot approved by the District, the developer is required to provide a fully consumptive (100% depletion) fifty-four hundredths (.54) of an acre foot of primary Water Rights per Equivalent Residential Unit "ERU" as defined in the policies of the District, for culinary use. It shall be the responsibility of the Water Committee, to determine which Water Rights are sufficient for the proposed culinary use within the water delivery system that will provides said culinary water service. Only Water Rights that are available and usable within the District's system shall be accepted. It is the responsibility of the developer to provide sufficient approved Water Rights to meet the culinary requirements of the proposed development.
- B. Irrigation Water Rights:
- 1) As AVWSID does not own or operate a secondary irrigation system. If the developer does not install a secondary water system, adequate Water Rights shall be dedicated to the District by the developer to allow for outside irrigation (if any) through the District's culinary system. Water rights for irrigation use shall be calculated at 3.7 acre feet of fully consumptive water rights per acre of irrigation. If the developer decides to install a secondary water system, it will be the responsibility of the developer to provide sufficient approved Water Rights to the lot owners to meet the irrigation requirements of the proposed development. The District will not provide or allow outdoor irrigation through its culinary system in any development, subdivision or on any lot unless:
 - a) The developer has dedicated adequate Water Rights to the District to allow for the proposed outdoor irrigation; and
 - b) Approved backflow prevention devices have been installed and are adequately maintained by the property owner. No unapproved connections to the District's culinary system are allowed. It is strictly against the law to tamper with, modify or connect to the District's culinary water system without express, written consent, approval, metering and inspection by the District.
 - 2) Developer shall cause a written specification to be placed on any plat clearly stating the amount of culinary water demand allowed on each individual lot, and on any other irrigated property within the proposed development that will be serviced by the District. The water uses by the property owner shall be limited to those amounts stated on the Plat.
 - 3) Developer shall cause a written specification to be placed on any plat clearly stating the amount of irrigation allowed on each individual lot, and on any other irrigated property within the proposed development that will not be serviced by the District.

4. **Ownership of Water Rights.** It is the policy of the undersigned that the Water Rights necessary to service a proposed development in Ashley Valley Water and Sewer Improvement District shall be owned as follows:

A. Culinary Water Rights.

1) Culinary Water Rights for developments that lie within the boundaries of AVWSID, which was created for the purpose of providing culinary water service shall be dedicated to and owned by AVWSID. The District shall acquire, hold, and manage the Water Rights in such a way as to protect, preserve and maximize the Water Rights for use within the development for which the Water Rights were dedicated.

B. Secondary Irrigation Water Rights. It is the policy of the District that the applicable irrigation companies organized for the purpose of providing irrigation water service, shall be the secondary irrigation water provider within the boundaries of their company and the District. Irrigation water shares or rights that are required to be dedicated for proposed developments shall also be transferred to the District, who shall own the shares.

5. **Developer's Responsibility Regarding Water Source.** In addition to providing sufficient Water Rights for the proposed development, the developer is also responsible for providing adequate water sources for the proposed development. The applicable special service District(s) shall determine surplus capacity in existing sources, the need and desirability of developing new sources, and the best method for doing so. If uncommitted capacity exists in existing sources, the developer shall pay a connection fee in an amount sufficient to offset the cost of its proportionate share of the existing source and related facilities. If additional sources need to be developed in order to service the proposed development, developer shall pay all costs necessary to develop the new source and related facilities. Those costs may be shared by two or more developers as determined by the District.

6. **General Provisions.**

A. Private Reservoirs, Springs or Wells. In the event the proposed development desires to use Water Rights from private reservoirs, springs or wells to satisfy the water requirement for their development, the developer and/or property owners shall be required to deed the Water Rights proposed to be used to the District, and the developer and/or property owners shall be responsible for the costs of maintenance of private reservoirs, springs or other water sources. Prior to accepting such sources for the proposed development, the applicable District and the developer shall enter into an ownership, maintenance and operation agreement. It is the general policy of Ashley Valley Water and Sewer Improvement District that the water sources, water storage facilities and water treatment and delivery infrastructure for proposed developments be owned and operated by the entity providing water service.

- B. Irrigation District Assessments. Nothing in this policy shall affect the right of irrigation companies to levy assessments against the stock issued by their company as determined by their Articles of Incorporation and current bylaws.
- C. Licenses, Easements and Other Ownership of Facilities. It is the policy of the District that developers shall provide necessary licenses, easements and property necessary to construct, repair and maintain water lines, pump stations, tanks and other facilities. Pipelines, pump stations and other facilities necessary for delivery of culinary water to developments within Ashley Valley Water and Sewer Improvement District shall be dedicated to and owned by the entities providing the culinary and/or secondary water service.
- D. Prior State Engineer Approval for Culinary Water Rights. It is the responsibility of the developer to provide adequate Water Rights to meet the needs of the proposed development. The developer, in cooperation with the culinary water service provider, shall receive State Engineer approval prior to placing Water Rights in escrow as required in Section 2A above. No Water Rights shall be accepted as meeting the culinary or irrigation requirements for the proposed development unless they are approved for the intended use by the State Engineer. This Section D shall apply to all applications for development filed with Ashley Valley Water and Sewer Improvement District subsequent to the date of this policy, unless the Water Rights are already owned by the service provider and has been previously reserved by developer for use on the proposed project, or is a right commonly used by the service provider.

This policy shall take effect immediately upon signature.

DATED this 19th day of September, 2023.

ASHLEY VALLEY WATER AND SEWER IMPROVEMENT DISTRICT

Robert R. Folley
CHAIRMAN

Date Approved by the Board: September 19, 2023