

**ADMINISTRATIVE PROCEDURES**

**For**

**WATER DEMAND OFFSET REQUIREMENTS**

**DEVELOPMENT WATER BUDGETS (Section 14-8.3 SFCC 1987)**

**CITY WATER BUDGET (Article 25-9 SFCC 1987)**

**CITY WATER BANK (Article 25-10 SFCC 1987)**

**WATER CONSERVATION CREDIT PROGRAM (Article 25-11 SFCC 1987)**

**WATER RIGHTS TRANSFER PROGRAM (Article 25-12 SFCC 1987)**

**(Ord. 2009- 38 Adopted on August 12, 2009 and Effective January 1, 2010)**

**EXHIBIT A  
RESOLUTION 2010-20  
Adopted March 31, 2010**

# Table of Contents

<b>Introduction</b> .....	iii
<b>Section 1, Water Budgets and Building Permit Requirements, SFCC 14-8.13</b>	
1.1 Summary of Water Development Offset Regulations .....	1
1.2 Determining Whether a Water Budget is Required, SFCC 14-8.13(C) .....	1
1.3 Creation and Approval of a Development Water Budget, SFCC 14-8.13(C) .....	2
1.4 Modification of a Development Water Budget, SFCC 14-8.13(B) .....	4
1.5 Dedication of Water to Development & Building Permit Processing, SFCC 14-8.13(E) ..	5
1.6 Variances and Appeals, SFCC 14-8.13(F) and (G) .....	7
1.7 Monitoring, Violations and Penalties, SFCC 14-8.13(D) .....	7
1.8 Disclosure, SFCC 14-8.13(D) .....	8
<b>Section 2, Water Conservation Credit Programs (SFCC 25-11)</b>	
2.1 Summary of Water Conservation Credit Programs .....	9
2.2 Water Conservation Contract Program, SFCC 25-11.3(C)(1) .....	9
2.3 Water Conservation Retrofit Rebate, SFCC 25-11.3(C)(2) and 11-4 .....	10
2.4 Previous Toilet Retrofit Program .....	11
<b>Section 3, Water Rights Transfer Program (SFCC 25-12)</b>	
3.1 Summary of the Water Rights Transfer Program .....	13
3.2 Designating Water Right Transfers, SFCC 25-12.3 .....	13
3.3 Tender of Water Rights, SFCC 25-12.4 .....	13
3.4 Due Diligence Review Procedure, SFCC 25-12.5 .....	15
3.5 Acceptance of Water Rights into Water Right Transfer Program, SFCC 25-12.6 .....	15
3.6 Water Right Transfer Application Procedure and Fees, SFCC 25-12.7 .....	16
3.7 Financial Guarantee Procedure, SFCC 25-12.8 .....	16
3.8 Office of State Engineer Transfer, Appeals and Conveyance to City, SFCC 25-12.9 .....	18
3.9 Issuance of City of Santa Fe Water Rights Transfer Certificate, SFCC 25-12.10 .....	18
3.10 Water Rights Dedication to Obtain a Building Permit, SFCC 25-12.11 .....	19
3.11 Sale of Water Rights, SFCC 25-12.12 .....	19
<b>Section 4, City Water Bank (SFCC 25-10)</b>	
4.1 Summary of the Water Bank .....	20
4.2 Water Bank Transactions, SFCC 25-10.3 .....	20
4.3 Water Bank Public Posting, SFCC 25-10.4 .....	21
<b>Section 5, City’s Water Budget (SFCC 25-9)</b>	
5.1 Summary of City Water Budget Requirements .....	22
5.2 Water Budget Report, SFCC 25-9.5 .....	22
5.3 Allocation of City’s Available Water, SFCC 25-9.6 .....	23

## **Table of Contents**

continued

### **Appendix I, Fee Chart**

### **Appendix II, Forms**

- A. Water Offset Memo (cover Memo for the Water Budget)
- B. Agreement to Construct and Dedicate (ACD)
- C. Agreement for Metered Service (AMS)
- D. Utility Service Application
- E. Water Offset Assessment and Dedication Form
- F. Water Conservation Contract Application Form and Instructions
- G. Retrofit Rebate Application Forms, Instructions and Verification Form
- H. Water Rights Transfer Certificate

Note; All forms referenced in this document will be available on the Water Division Engineering Section, Water Conservation Office and Water Budget Office (Land Use Department) websites. Hard copy will also be available at all three City offices.

### **Appendix III, Reference Documents**

- A. Standard Water Use Formulas, Resolution 2009-83
- B. SFCC 14-3.16, Land Development Code Variances
- C. SFCC 14-3.17, Land Development Code Appeals
- D. Rule No. 9, SFCC 25 Exhibit A
- E. List of Qualifying Rebates Types

## INTRODUCTION

These administrative procedures describe how City staff will implement Ordinance 2009-38. A Summary of each section of the Administrative Procedures is below.

### **Section 1; Development Water Budgets and Building Permit Requirements (SFCC 14-8.13)**

This Section explains how City staff approves annual water budgets for prospective developers requesting water service from the City. Based on the estimated demand in the water budget, the procedures describe how applicants are required to offset their demand to obtain a building permit, either through dedication of water conservation credit or transferred water rights.

### **Section 2; Conservation Credit Programs (SFCC 25-11)**

This Section describes how City staff manages the Water Conservation Contract Program and the Rebate Program. These are the two programs that generate conservation credit.

### **Section 3; Water Rights Transfer Program (SFCC 25-12)**

This Section describes how City staff manages the program for transferring water rights to the City. It also explains the steps that need to be followed by an applicant

### **Section 4; City Water Bank (SFCC 25-10)**

This Section explains that the City Water Bank holds water credit derived from conservation programs or from water rights transfers for future water demand offsets. The Section also describes how City staff manages the City Water Bank.

### **Section 5; City's Water Budget (SFCC 25-9)**

This Section explains the how City staff conducts an annual evaluation of the water system supply and projected demand. It also describes how the governing body allocates any available water to the City priorities.

The Public Utility Director and Land Use Department Director can approve up-dates and modifications to the Administrative Procedures consistent with the authorizing ordinance passed by the Governing Body. The Governing Body approves modification of fees associated with the implementation of ordinances.

Throughout this document, the term “City Limit” means the current City boundary plus the annexation areas, as defined in the Annexation Agreement with the County and SPAZZO.

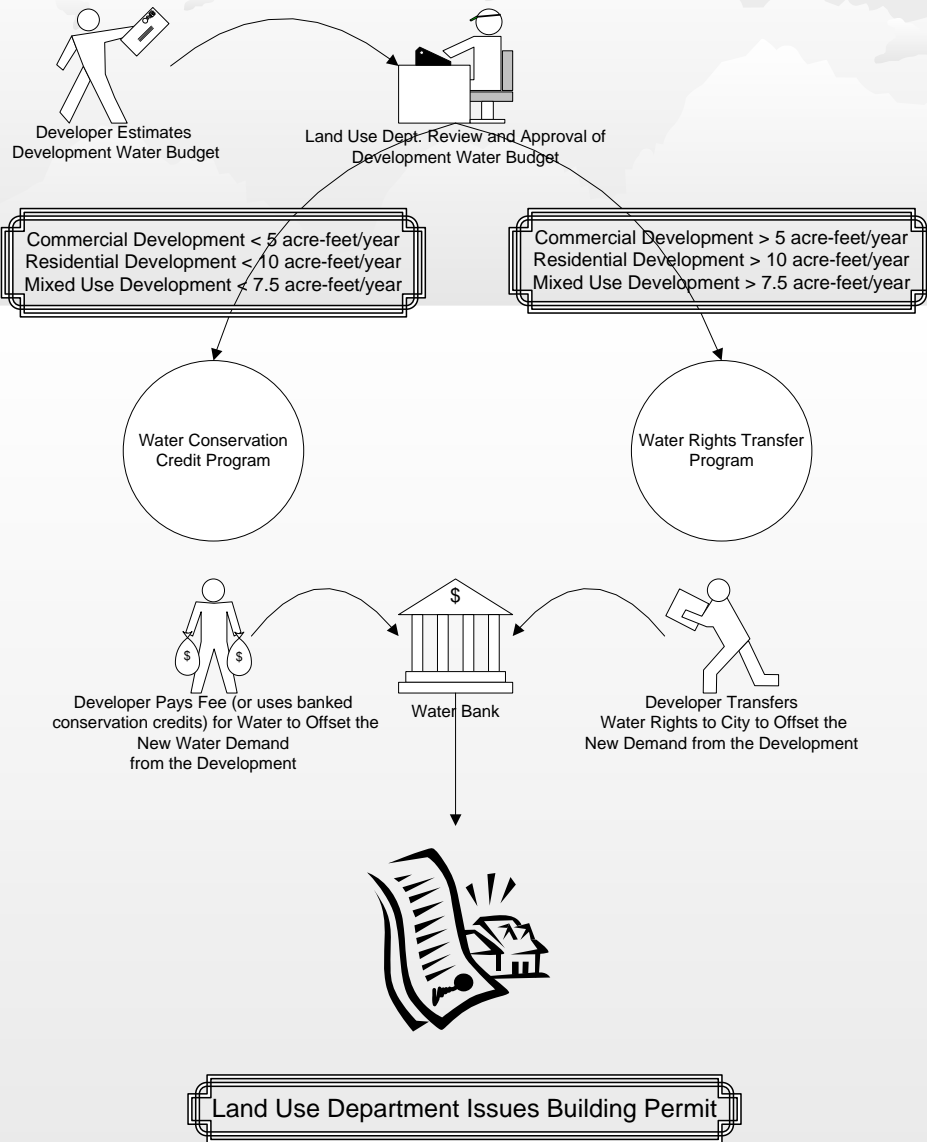
All forms referenced in this document will be available on the Water Division Engineering Section, Water Conservation Office and Water Budget Office (Land Use Department) websites. Hard copy will also be available at all three City offices. See links below.

Water Division Engineering Section; <http://www.santafenm.gov/index.aspx?NID=1150>

Water Conservation Office; <http://www.water2conserve.com/index.html>

Water Budget Office (Land Use Department); <http://www.santafenm.gov/index.aspx?NID=233>

# OVERVIEW OF ADMINISTRATIVE PROCEDURES FOR WATER REQUIREMENTS ORDINANCE



# **Section 1**

## **Development Water Budgets and Building Permit Requirements (SFCC 14-8.13)**

### **1.1 Summary of Water Development Offset Regulations**

The City requires that the impact of proposed new development be offset either through conservation in existing development or transfer of water rights to the City. In general, new development projects with lower water use may offset demand through transfer of water rights and/or through conservation achieved in existing development. New development projects with higher demand are only allowed to offset demand through transfer of water rights. Higher water use projects are commercial projects that require 5 acre feet per year or more, residential projects that require 10 acre feet per year or more or mixed use projects that require 7.5 acre feet per year or more.

To determine how much to offset for a proposed project, an applicant must first develop a water budget for their proposed project and submit it to the Water Budget Administrative Office (WBAO) for review and approval. However, if the project is required to go through the Development Review Team process, then WBAO staff will provide the water budget to the Water Division engineering staff for review and approval. Once the City approves the water budget, the developer must a) dedicate privately owned conservation credits to their project, b) pay a fee to the City for dedication of City owned conservation credits to their project, or c) dedicate water rights to their project. For projects with higher water demand, only water rights can be used to meet the off-set requirement. This applies to commercial projects that require 5 acre-feet per year (AFY) or more, residential projects that require 10 AFY or more and mixed use projects that require 7.5 AFY or more. If the applicant completes the dedication process and all other code requirements are met, the applicant can receive building permits for individual structures on the project site.

Representatives of a development project that have adopted an alternative development water budget and property owners that have agreed to a Conservation Contract shall provide disclosure statements to prospective buyers which shall be included on all recorded plats and development plans.

### **1.2 Determining Whether a Water Budget is Required, SFCC 14-8.13(C)**

#### **1.2.1 The type of new development projects that are required to develop a water budget are;**

- a) Final subdivision plats, except in the case of:
  - plats that create tracts of land according to an approved master plan where additional subdivision of land or a more detailed development plan is necessary before permitting of buildings and
  - plats where the proposed development is included in and consistent with an already approved development water budget and has complied with the Water Rights Transfer Program or the Water Conservation Credit Program

- b) Development plans
  - if phased, each phase of the Development Plan is subject to SFCC 25-12 (Section 3.11 of this document).
  - preliminary development plans are exempt.
- c) Major project plans in the Business Capital District
- d) Building permits, except in the case of:
  - when the proposed structure is included in and consistent with an already approved development water budget and has complied with the Water Rights Transfer Program (Section 3 of this document) or the Water Conservation Credit Program (Section 2 of this document);
  - when WBAO staff verify that the property has already met the requirements of the water demand off-set based on the requirements established in the standard water use category (Appendix III.A.) or based on the approved property specific Option B water budget. Verified toilet retrofit credits (previous program), conservation credit, water rights or payment to the City's Water Bank could be used to meet the requirement.
  - additions:
    - where there are no new fixture installations;
    - where there are up to three new water fixtures provided that the increased building area does not exceed 500 square feet
    - shell only permits which will later require tenant improvement permits and
    - replacement of 33% or less of an existing building.
- e) Secondary plumbing permits independent of a building permit which results in an increase of water use, except in the case of:
  - multiple installations in either commercial or multifamily residential uses;
  - spa not exceeding 500 gallons or oversized tub not exceeding 100 gallons;
  - swamp cooler;
  - recirculation fountain not exceeding 1000 gallons of containment area and
  - garden pond not exceeding 2000 gallons.
- f) Changes in permitted land use resulting in an increase in water use;
- g) Projects located outside the City Limits, prior to application for an Agreement to Construct and Dedicate water lines; and
- h) If no water demand off-set was ever brought to the City for a residential structure, and an addition is proposed that does not meet the exception criteria listed above, a pro-rated water off-set will be required. The pre-rated amount will be based on the percentage of the proposed square footage in comparison to the existing square footage. For example, a 1,000 square foot addition on an existing 2,000 square foot residential structure on a lot less than 6,000 square feet, would need to bring .075 acre feet of water for the addition (.15 for a full dwelling unit x 50% = .075).

**1.2.2** A development water budget also may be established for a single phase of a multi-phase development project only if the project is formally phased for infrastructure permits and financial guarantee established for the phase.

### **1.3 Creation and Approval of a Development Water Budget, SFCC 14-8.13(C)**

An approved development water budget is required to obtain a building permit for new structures and for all new uses, as described above.

- 1.3.1** In creating a development water budget, applicants may choose one of the following options. As described above, the applicant will submit the water budget to WBAO for review and approval. However, if the project is required to go through the Development Review Team process, then WBAO staff will provide the water budget to the Water Division engineering staff for review and approval.

Option A; Calculate a development water budget based on standard formulas using historical water use data for similar type of development. These standard formulas and supporting data are found on the Utility Service Application, available at the City's Land Use Department, Water Budget Administrative Office. The Utility Service Application shall be updated by Water Division staff as new data becomes available in periodic revisions of the Water Use in Santa Fe Report; or,

Option B; Develop a detailed alternative development water budget for the development project supported by reliable data that demonstrates that the anticipated annual water use will be less than if based on the Water Division's standard formulas (Appendix III A of this document). This is called an "Option B" water budget.

- 1.3.2** The City shall allow reduction in the consumptive water rights required to be transferred by the amount of consumptive water rights required for any Santa Fe Homes Program unit, which is a Housing Opportunity Program unit as per a valid Housing Opportunity Program Agreement or any dwelling unit meeting the definition of a low-priced dwelling unit as set forth in SFCC 26-2. The reduction is contingent upon the applicant entering into an agreement or other approved document with the City regarding the low-priced dwelling units.

- 1.3.3** The Utility Service Application will be reviewed the by WBAO with assistance from the Water Division engineering staff, if necessary. The Utility Service Application and the alternative development water budget shall contain the following information:

- a) A description of all proposed and existing structures on the subject parcel of land together with a complete description of all proposed and existing water fixtures and other water using devices and equipment to be installed or constructed on the subject parcel;
- b) A description of all proposed water uses for the subject parcel of land, separating such uses by indoor and outdoor categories and including the total area of proposed and existing landscaping, not including water to be used during and for construction; and
- c) A quantification in gallons and acre-feet of the total proposed water usage on the subject parcel of land on an annual basis. In the case of phased development, the quantification shall also include the proposed water usage by each phase of development.



- 1.3.4** The City's preliminary approval of the water budget shall be documented through issuance to the applicant of a Water Offset Memo, summarizing the total demand to the development project and signed by the WBAO official. For projects requiring Land Use Department development review and Governing Body approval, the preliminary water budget will be submitted as part of the subdivision, development plan or building permit application to the Land Use Department, whether preliminary or final. Once the proposed development is approved, the applicant will complete either the Agreement to Construct and Dedicate (ACD) or Agreement for Metered Service (AMS) forms. For smaller projects not requiring development review and approval, the preliminary water budget will be submitted to the Water Division along with the completed AMS form.
- 1.3.5** Completed AMS and ACD forms, and accompanying approved Utility Service Application will be reviewed by the Water Division engineering staff. Following review and approval, the Water Division will document approval through a memo addressed to the applicant and copied to WBAO. (Note; A template of the approval memo will be approved by the City Attorney's Office as to form). The final approved plat and/or development plan is recorded at the Santa Fe County Clerk's Office by the Land Use Department staff. If an Option B Water Budget is completed, that document must be recorded with the County by the applicant and a copy must be provided to WBAO.
- 1.3.6** For projects that can offset their demand through conservation, WBAO or the Water Division will issue an invoice to the applicant for the payment required. The offset fee is based on the City's cost for purchased water rights plus a \$1,000 administrative fee, as shown in Appendix I. The City's 2010 consumptive use water rights purchase price is \$15,000 per acre-foot. Applicants can also fulfill the demand offset through dedication of conservation credit derived from Conservation Contracts, as described in Section 2 of this document. As described in Section 2.4, credit will be applied for previous toilet retrofits verified by February 28, 2010.

#### **1.4 Modification of a Development Water Budget, SFCC 14-8.13(B)**

- 1.4.1** A development water budget may be modified when:
- a) A proposed new structure or use replaces and is similar to the existing structure or use, and when the prior structure was occupied or the use active no less than 12 months prior to water budget application. In this case the development water budget may be reduced to an amount equal to the average annual consumption in the previous 24 months, or some other time period approved by the Governing Body for a specific development. The credit shall only be given to the replacement of a similar land use category. If the prior use was a commercial use, then the credit can be applied if the proposed use is a commercial use. If the prior use was a residential use, then the credit can be applied if the proposed use is a residential use. These projects shall be required only to offset for difference in water use. Water demand offset payment is based on the City's current cost for purchasing water rights (\$15,000 per acre-foot) plus a \$1,000 administrative fee, as shown in Appendix I. Therefore, current rate is \$16,600 per acre foot.

- b) A development water budget may also be reduced by an amount equal to a specific approved annual water allocation made by the Governing Body for the development project as set forth in SFCC 25-9.6 (Section 5.3 of this document).

**1.4.2** Forms for modifying a water budget are available at WBAO and should be submitted to WBAO for review and approval by the Land Use Department, Water Division, and the City Attorney. Approved modifications to water budgets shall be recorded by the applicant with the Santa Fe County Clerk.

**1.5 Dedication of Water to Development and Building Permit Processing, SFCC 14-8.13(E)**

**1.5.1** A building permit application shall not be approved by the Land Use Department until the applicant has dedicated water to meet the approved development water budget for the development project plus a 9.8% contingency that covers water utility delivery requirements, as documented by the Water Offset Assessment and Dedication Form and complied with the conditions thereof.

(Note; The contingency water is comprised of water used for community health and safety purposes, such as fire fighting and fire hydrant testing, water used in production for flushing of water distribution and sewer lines, and also results from meter errors, line leaks, and losses from water main breaks.)

**1.5.2** Based on the approved water budget for a development project, the applicant shall obtain water through either the Water Conservation Credit Program (Section 2 of this document) or the Water Rights Transfer Program (Section 3 of this document) to meet the development water budget according to the following criteria:

- a) Applications for residential uses which have a development water budget equal to or greater than ten AFY shall obtain water through the Water Rights Transfer Program;
- b) Applications for residential uses which have a development water budget less than ten AFY, designated as small development projects, shall obtain water through the Water Rights Transfer Program or the Water Conservation Credit Program or through a combination of both;
- c) Applications for non-residential uses which have a development water budget equal to or greater than five AFY shall obtain water through the Water Rights Transfer Program;
- d) Applications for non-residential uses which have a development water budget less than five AFY, designated as small development projects, shall obtain water through the Water Rights Transfer Program or the Water Conservation Credit Program or through a combination of both;
- e) Applications with both residential and non-residential uses each in substantial amounts which have a development water budget equal to or greater than seven and one half (7½) AFY year shall obtain water through the Water Rights Transfer

Program. Substantial means having more than 33% of the square footage in residential use; and

- f) Applications with both residential and non-residential uses each in substantial amounts which have a development water budget less than seven and one half (7½) AFY shall either obtain water through the Water Rights Transfer Program or the Water Conservation Credit Program or through a combination of both.

### **1.5.3 Building Permit Processing**

- a) Stand alone structural permit

- i) Applicant will meet with WBAO staff prior to submittal of the building permit to assess the appropriate water use for the proposed project. WBAO staff will fill-out a Water Offset Assessment and Dedication Form which identifies the amount of water needed to offset the proposed development and the cost. The offset amount will be based on the standard formulas adopted by City Council 2009-83 (Appendix III A of this document). Staff will verify that the amount is available in the City's Water Bank. If the amount is not available in the City's Water Bank, staff will assist the applicant by providing contact names/numbers for conservation credit holders.

- ii) The applicant will include the Water Offset Assessment and Dedication Form with their building permit submittal (with only the "Assessment Section" filled-out by staff). Prior to issuance of the building permit, the applicant will pay the appropriate fee and provide a copy of the receipt to WBAO staff. WBAO staff will then submit the Water Offset Assessment and Dedication Form (with the "Dedication Section" filled-out) to the Building Permit Division to authorize issuance of the permit.

- iii) A copy of the Water Offset Assessment and Dedication Form and the receipt for payment will also be sent to the Water Bank Administrator. They will deduct the amount of credit from the Water Bank in the name of the specific project.

- b) Multi-family, Commercial or Subdivision Projects

- i) WBAO staff will fill-out the "Assessment Section" of the Water Offset Assessment and Dedication Form which identifies the amount of water and the cost for this specific building permit application. The offset amount will be based on the standard formulas adopted by City Council 2009-83 (Appendix III A of this document). Staff will verify that the amount is available in the project's account in the Water Bank. If there is not adequate water in the project's account, WBAO staff will advise the applicant to obtain conservation credit (if allowed for the particular project-type), transfer water rights to the City Water Bank or establish a financial guarantee to cover the full amount needed.

- ii) The applicant will include the Water Offset Assessment and Dedication Form (only the "Assessment Section" is filled-out by WBAO staff) with their building permit submittal. Prior to issuance of the building permit, the applicant will provide proof of conservation credit, water rights or financial guarantee. WBAO staff will then submit the Water Offset Assessment and Dedication Form (with the "Dedication Section" filled-out) to the Building Permit Division to authorize issuance of the permit.

iii) A copy of the Water Offset Assessment and Dedication Form and the receipt for payment (if payment is required) will also be sent to the Water Bank Administrator. They will deduct the amount of credit from the appropriate account in the Water Bank.

## **1.6 Variances and Appeals, SFCC 14-8.13(F) and (G)**

Variances to the Development Water Budget requirements set forth in SFCC 14-8.13 are heard by the Governing Body according to the procedures set forth in SFCC 14-3.16 (Appendix III B of this document). Appeals of City staff decisions regarding implementation of the Development Water Budget requirements shall be heard according to the procedures set forth in SFCC 14-3.17 (Appendix III C of this document).

## **1.7 Monitoring, Violations and Penalties, SFCC 14-8.13(D)**

Beginning the first year that a customer's water service is subject to usage restrictions from an alternative development water budget or a contract for water conservation, the Water Division shall monitor water customer's water usage on an annual basis.

**1.7.1** If a water customer exceeds water usage allowable under the customer's alternative development water budget or Conservation Contract in any annual period, the Water Division shall monitor the customer's water usage on a monthly basis and compare current monthly use to the previous year's use in the same month to determine whether the customer has returned to compliance. The Water Division shall also notify the customer of the following;

- a) that the alternative development water budget or Conservation Contract has been exceeded,
- b) that the customer's usage will be monitored monthly to determine whether the customer has reduced water usage to the amount permitted under the alternative development water budget or the Conservation Contract, and
- c) of the consequences that will ensue if the customer does not return to compliance.

**1.7.2** Water customers shall be charged a 50% surcharge over the base rate of water on the excess water delivered over annual budgeted or contracted amount for that year.

**1.7.3** If, after four months of monitoring, the customer is in compliance with the alternative development water budget or Conservation Contract, the customer shall be so informed and shall then be returned to monitored on an annual basis.

**1.7.4** If, after four months of monitoring, the customer's water usage still exceeds the alternative development water budget or Conservation Contract by 10% or more on a monthly pro-rata basis, the Water Division shall immediately notify the customer that they have exceeded the agreement. The Water Division shall re-calculate the alternative development water budget or the Conservation Contract for the customer based on actual consumption over the period of noncompliance and shall notify the customer of the

additional water rights or conservation credit needed to meet the new budget or contract. If the customer does not transfer sufficient water rights or conservation credit to the City within 90 days to make up the difference, the Water Division shall transfer sufficient water conservation credit to the customer to offset the net difference and shall include in the customer's next billing the current cost of those water conservation credit. In addition, the City shall bill the customer the 50% surcharge for the water delivered during this second year over the budgeted or contracted amount.

**1.7.5** A customer may, at any time, transfer additional water rights or conservation credit to the City to increase the customer's alternative development water budget or Conservation Contract restriction in order to forestall the imposition of further surcharges for excess water usage.

**1.7.6** Customers that fail to provide sufficient water rights or conservation credit or to pay the cost of the water conservation credit and the imposed surcharges shall have water service disconnected in accordance with Rule No. 9, Exhibit A of SFCC 25 (Appendix III D of this document).

**1.8 Disclosure, SFCC 14-8.13(D)**

Representatives of a development project that have adopted an alternative development water budget and property owners that have agreed to a Conservation Contract shall provide disclosure statements to prospective buyers which shall be included on all recorded plats and development plans. The statements shall include the amount of water to which each lot, unit or other portion of the project is limited under the alternative development water budget or Conservation Contract and shall include a description of the penalties set forth in this paragraph.

## **Section 2**

### **Water Conservation Credit Programs**

#### **(SFCC 25-10)**

#### **2.1 Summary of Water Conservation Credit Programs**

This Section describes how City staff will manage the Water Conservation Contract Program and the Rebate Program. These are the two programs that generate conservation credit.

Water conservation used to offset new demand on the City's water system resulting from new development is partly generated through the Water Conservation Credit Program. Water conservation generated under this program is referred to as water conservation credit. A water conservation credit is accounted for in consumptive-use acre-feet per year (AFY), and represents an amount of water that the holder can be served by the City water system on an annual basis and is transferable within the City of Santa Fe for annual usage.

Upon the request of a water customer, the City may schedule and conduct an on-site water conservation audit to determine ways that the customer may reduce water usage and provide an estimate of the quantity of water that can be conserved. Contact the Water Conservation Office at 955-4225 to schedule an audit.

Water conservation credit may be created through either a Water Conservation Contract or Retrofit Rebate. A Conservation Contract allow water customers to commit to saving water in exchange for monetary savings. Retrofit Rebates partially compensate water customers for retrofitting older water fixtures and appliances with newer more efficient models.

#### **2.2 Water Conservation Contract Program, SFCC 25-11.3(C)(1)**

- 2.2.1** Water customers with a minimum current uninterrupted five year history of water usage and water customers subject to an alternative development water budget may agree to a Water Conservation Contract with the City Water Division. The customer agrees to reduce their annual water usage at their property from the past five year average or from the amount approved under the alternative development water budget. The amount is defined by a fixed quantity in AFY, with a minimum reduction of two one-hundredths (.02) of an AFY (equal to 6,517 gallons per year).
- 2.2.2** The applicant will fill-out the Water Conservation Contract Application Form (see Appendix 2). The Form will be available on the Water Division website.
- 2.2.3** The Water Division staff, in coordination with the Utility Billing staff, will retrieve the applicant's past five years water use records and calculate the average annual water use. The Water Division staff will draft, review and approve all Conservation Contracts. (Note; A template of the Conservation Contract will be approved by the City Attorney's Office as to form).
- 2.2.4** Water Division staff shall verify that conservation measures meet specific criteria for commercial or residential use. Changes from residential uses to commercial uses shall not be eligible for a water Conservation Contract.

- a) Conservation measures for commercial customers shall consist of the following;
  - i) a change in the nature of the business;
  - ii) a change in commercial process;
  - iii) retrofit of older commercial appliances or fixtures with newer, more water-efficient units; or
  - iv) installation of new water conservation technology.
- b) Conservation measures for residential customers shall consist of the following;
  - i) retrofit of older appliances of fixtures with newer more water-efficient units
  - ii) installation of new water conservation technology.

**2.2.5** Upon execution of the contract, the contract will be recorded with the County Clerk's Office and a copy will be filed with the City Clerk's Office.

**2.2.6** After the Conservation Contract is recorded, the Water Division shall:

- a) track the customer's usage annually to ensure that the promised water conservation savings are achieved and maintained; and
- b) issue to the customer, water conservation credit reflecting the volume of City-transferable water that the customer has committed to conserve. This credit shall be deposited in the Water Bank in the customer's name.
- c) monitor compliance with terms of Conservation Contract (Section 1.7 of this document)

**2.2.7** Water conservation credit realized through a Water Conservation Contract may be:

- a) held in a separate water bank account in the customer's name for use by the customer to offset the impact on the City's water system of new development projects (according to Section 1.5.2);
- b) donated to the City for a specified public purpose;
- c) transferred (sold) to the City; or
- d) transferred to another individual's water bank account if the City chooses not to purchase the conservation credit.

**2.3 Water Conservation Retrofit Rebate, SFCC 25-11.3(C)(2) and 11-4**

The City may obtain and deposit in the City's account in the Water Bank water conservation credit through direct payment to residential and commercial customers of a rebate. This would occur when a customer replaces a high-water-usage appliance, fixture or landscaping with a qualifying water-saving device. Conservation credit could also be added to the City's account in the Water Bank through the City's direct installation of water saving devices at City facilities. A current list of qualifying rebates, the rebate application form and participant instructions will be posted on the Water Division Engineering Section, Water Conservation Office and Water Budget Office (Land Use Department) websites. Hard copy will also be available at all three City offices.

**2.3.1** For the rebate to be paid to program participants and credit to be applied to the City's Water Bank account, the following must be met:

- a) The City shall require satisfactory proof from the program participant to confirm that the water customer meets all the requirements of the terms and conditions;
- b) Participating customers shall allow the City Water Conservation Office staff to conduct an inspection prior to, during and after the installation of any retrofits and to provide for collection and disposal of old appliances to ensure that the old appliances do not return to service; and
- c) Upon payment by the City of the Retrofit Rebate to a customer, the City shall deposit the appropriate amount of water conservation credit in the City's Water Bank account.

**2.3.2** Administratively, the Water Division engineering and water conservation staff shall establish minimum standards of water-use efficiency for qualifying Retrofit Rebates, as per SFCC 25-11.4. These standards for qualifying use will be posted on the Water Division Engineering Section, Water Conservation Office and Water Budget Office (Land Use Department) websites.

**2.3.3** The City shall also establish the quantity of water conserved by each retrofit and the price that it will pay for each water conservation Retrofit Rebate credit, as per SFCC 25-11.14. This information will be posted on the Water Division Engineering Section, Water Conservation Office and Water Budget Office (Land Use Department) websites.

**2.3.4** Water conservation credit realized through a Retrofit Rebate shall be held in the City's Water Bank account. This credit shall be used for the following purposes:

- a) for sale to new water customers to fulfill an applicant's approved development water budget; and
- b) for sale to water customers who exceed their allowed water usage under an alternative development water budget or a water Conservation Contract.

## **2.4 Previous Toilet Retrofit Program**

**2.4.1** Certified retrofit credits generated from the previous retrofit program (toilet retrofits), and held in the name of various persons or entities, shall be available for use to meet the water demand offset of new development. These certified retrofit credits will be applied based on .025 AFY per retrofit. The new Rebate Program does not allow participants to sell or market rebate generated conservation credit. See Section 2.3.1 (c) of this document.

**2.4.2** Certified retrofit credits may be used by the holder for any action identified in 2.3.2.a above. There is no expiration for toilet retrofit credits performed by December 31, 2009 and submitted by May 30, 2010. In addition, the retrofits must be verified by June 30, 2010.



- 2.4.3** Toilet retrofits not verified by June 30, 2010 will not be recognized for conservation credit. The new Rebate Program must be utilized for toilet retrofits performed after December 31, 2009.
- 2.4.4** When a fraction of a toilet retrofit is to be applied for water demand offset, the amount will be rounded up to the full .025 acre feet.

## **Section 3**

### **Water Rights Transfer Program**

#### **(SFCC 25-12)**

#### **3.1 Summary of the Water Rights Transfer Program**

As described in Section 1.5.2, proposed new development projects with larger impacts to the City's water system are required to offset their impact through the transfer of water rights to the City. The following describes the process that staff will use to oversee an applicant's submittal to tender water rights to the City. Review steps and fees are described. This section also describes how City staff will oversee an applicant's water rights transfer application. Sale of water rights and appeals to the New Mexico Office of the State Engineer (OSE) are also described.

#### **3.2 Designating Water Right Transfers, SFCC 25-12.3**

The applicant must notify the City, in writing, at the time of the initial tender of water rights for City review and possible acceptance, whether the water rights are to be dedicated to a development water budget or whether the water right is designated for the Water Bank. At any time after their tender, water rights initially designated for the Water Bank can be dedicated to a development by written notification provided by the applicant to the City.

#### **3.3 Tender of Water Rights, SFCC 25-12.4**

**3.3.1** Water rights proposed to be transferred to the Water Bank for dedication to a development shall be tendered to the City Attorney at whichever review stage is applicable and occurs first in the review of a particular development, according to the following requirements:

- a) Not later than 60 days after the final approval by the Land Use Department, the planning commission or the governing body of the final subdivision plat, except for parcels within a commercial subdivision for which actual use with attendant water budget has yet to be determined;
- b) Not later than 60 days after the final approval of the final development plan by the Land Use Department, the Planning Commission or the Governing Body; or
- c) For developments located outside the City Limits, prior to execution of an agreement with the City to construct and dedicate water lines.

**3.3.2** In the case of phased development, water rights tendered for the first development phase shall adhere to 3.3.1 above, and water rights for a subsequent phase of the development shall be tendered to the City Attorney at the time that the infrastructure financial guarantee is posted for that phase of development.

**3.3.3** For residential or commercial projects, the applicant has 60 days from recordation to tender the water rights for the whole project or by phase for a phased project. No individual structural permits will be issued until the proportionate amount of water rights

have been transferred to the City. If conservation credit is allowed for the specific project, then the proportionate amount of conservation credit will have to be verified prior to issuance of an individual structural permit.

**3.3.4** For a phased project that requires water rights, a combination of conservation credit and water rights can be accepted for building permit up to the first five acre feet for a commercial project, up to seven and one-half acre feet for a mixed use project and up to ten acre feet for a residential project. However, after those milestones have been met, all of the water for the entire project must be brought to the City as water rights. The entity responsible for exceeding the milestone must bring the entire project amount in water rights and would be reimbursed for the water credit previously obtained for the project.

**3.3.5** Water rights designated for the City's Water Bank may be tendered to the City Attorney at any time.

**3.3.6** The information contained in the tender shall include:

- a) The name and address of the current owner(s) and/or seller(s) of the water rights;
- b) A description of the development project(s) for which the water rights are designated, or direction that the water rights are designated for the City's Water Bank;
- c) Proof of ownership of the water rights in the form of: a declaration of water rights; the most recent change of ownership form for the water rights; and any deeds regarding the water rights in the county where the water rights are located;
- d) A title search or title report for the property to which the water rights are appurtenant;
- e) Any permits, licenses, or court orders for the water rights, together with a description of the place and purpose of use and point of diversion for the water rights;
- f) A copy of the agreement between the seller(s) and applicant under which the applicant intends to acquire the water rights; a copy that redacts the price may be acceptable; however, if the applicant uses a letter of credit or escrow pending application approval, however, the City may require an unredacted copy;
- g) An affidavit from the seller(s) to the effect that the water rights are free and clear of all encumbrances and liens, or that encumbrances shall be released before or at closing and furthermore an affidavit to the effect that no part of the water rights has not been lost through abandonment or forfeiture; and
- h) Such other documentation as the City may reasonably require related to the water rights.
- i) Upon tender of water rights for the City's review, the applicant, and not the applicant's representative, shall sign an agreement prepared by the City Attorney acknowledging that the applicant shall abide with the conditions of the regulations.

- j) Upon tender of water rights to the City for review, the applicant shall pay a deposit of \$1000 to be applied against the hydrologic due diligence review of the tendered water rights. The City Attorney shall issue an invoice for this amount and it shall be paid at a City cashier window.
- k) The cost for acquiring the water rights will be determined by the developer and the offerer. The cost is not the rate that is shown in Appendix I. The City is not a party to the developer water rights purchase.

### **3.4 Due Diligence Review Procedure and City Fee, SFCC 25-12.5**

- 3.4.1** The City Attorney shall review the documentation provided within a 60 day due diligence review period and determine in its sole discretion whether the water rights are acceptable to the City for its use in its system and whether the transfer of the rights to a point of diversion acceptable to the City is feasible.
- 3.4.2** During the review period, the City Attorney may request from the applicant additional documentation to aid in the City Attorney's determination. Upon such request, the review period shall be tolled until the additional documentation is provided to the City Attorney.
- 3.4.3** If the City Attorney determines that any or all of the water rights are acceptable for purposes of the transfer, the City Attorney shall notify the applicant in writing of the total amount of consumptive use acre-feet per year acceptable to the City.
- 3.4.4** If the City Attorney determines that the water rights are not acceptable, then the City Attorney shall notify the applicant in writing, specifying the reason(s) for the determination. Upon receipt of this notice, a new review period shall commence, and the applicant shall take steps to change the acceptability of the water rights as specified by the City Attorney in the written notice. If the City Attorney rejects the water rights outright, the applicant may tender other water rights for transfer and a new review period shall commence for the City. This process may be repeated until the City Attorney accepts tender of all water rights required by the City.
- 3.4.5** Applicant shall reimburse the City for its hydrologic due diligence review of the tendered water rights by paying the actual costs as evidenced by invoices from consultants prior to the City Attorney's final written acceptance of water rights into the Water Rights Transfer Program. The City Attorney shall issue an invoice for this amount, and it shall be paid at a City cashier window.

### **3.5 Acceptance of Water Rights into City Water Right Transfer Program, SFCC 25-12.6**

Upon payment of the fees due from the applicant for the City Attorney's due diligence review and determination that tendered water rights are acceptable to the City, the City Attorney shall issue to the applicant the final written acceptance of the water rights into the Water Rights Transfer Program, specifying the total amount of consumptive use in acre-feet per year that the City has approved.

### **3.6 Water Right Transfer Application and Fees, SFCC 25-12.7**

- 3.6.1** After City acceptance of water rights into the Water Rights Transfer Program, the applicant shall prepare a draft application to the OSE to transfer the water rights to the City's designated point of diversion. The draft application shall show the City as a co-applicant. The draft application shall include no less than the total number of consumptive use acre-feet accepted by the City. The application is found on the state engineer's website. The applicant shall publish all necessary legal notices in appropriate newspapers.
- 3.6.2** The content of the water rights transfer application shall be determined by the applicant and the City and completed in a manner acceptable to the OSE. The final water rights transfer application shall be executed by the seller, if applicable, the applicant, and the City. Following the execution and submittal of the transfer application to the OSE by the applicant, the applicant shall not file any subsequent OSE application with regard to those water rights without the written consent of the City.
- 3.6.3** The City and the applicant shall reach mutual agreement regarding the application. The City shall have the discretion to modify or withdraw the application and to discontinue the transfer process if proceeding threatens exercise of the City's water rights under Permit No. RG-20516 et al. The applicant may also withdraw the application, provided the applicant notifies the City in writing one week in advance of any such withdrawal.
- 3.6.4** The applicant shall pay applications fees required by the OSE and legal notice publication fees and costs incurred in any administrative hearing as well as subsequent appeals, if pursued. The City shall receive notice of any hearings and may participate in the hearings as it deems appropriate. The City has ultimate decision-making authority regarding any conditions of approval that any protestant or the OSE may offer that affect the City's existing permit, RG-20516 et al. The applicant has ultimate decision-making authority regarding any conditions of approval that any protestant or the OSE might offer that affect the validity and extent of the water rights being transferred.

### **3.7 Financial Guarantee Procedure for Issuance of a Building Permit Prior to Completion of Water Rights Transfer and Conveyance, SFCC 25-12.8**

- 3.7.1** These financial guarantee provisions shall apply to all water rights designated for development projects within the City Limits. These financial guarantee provisions may also apply to water rights designated for development projects connecting to the City water system outside the City Limits.
- 3.7.2** No building permit shall be issued before water rights transfer completion and conveyance to the City, as set forth in SFCC 25-12.10 (Section 3.9 of this document) and SFCC 25-12.11 (Section 3.10 of this document), except as provided in this section.
- 3.7.3** The applicant may apply for a building permit before water rights transfer completion and conveyance of water rights to the City if the City has accepted the water rights and a water right transfer application has been filed with the OSE. The applicant may obtain such a building permit only if escrow funds or an irrevocable letter of credit is provided

to the City in a manner acceptable to the City Attorney. The purpose of this provision is to secure the applicant's obligation to transfer water rights that can either be used for the City's water right permit compliance or diverted and delivered by the City water utility in such a manner that the development, based upon the approved development water budget, does not increase the demand on the City's water utility.

- 3.7.4** According to an agreement prepared by the City Attorney, the escrow funds or irrevocable letter of credit shall be in the amount of 100% of the current value of the water rights sought to be transferred by the applicant and shall be provided to the City Attorney at the time of building permit application. The City Attorney shall assure renewal of the letter of credit, if necessary.
- 3.7.5** The current value of the water rights shall be presumed to be the current fair market value of pre-1907 consumptive use water rights from the Middle Rio Grande Basin. The City shall have the sole discretion to determine the current value of the water rights, which determination shall be reasonably made based upon the known market for such rights and upon the purchase price of the water rights, as evidenced by the purchase agreement required in SFCC 25-12.4(D) (Section 3.3 of this document).
- 3.7.6** Upon completion of the water right transfer and issuance of the City's Water Rights Transfer Certificate as set forth in SFCC 25-12.10 (Section 3.9 of this document) for the full amount accepted by the City, the City shall release the irrevocable letter of credit. In the case of escrow, upon completion of the water right transfer of the full amount accepted by the City and issuance of the City's Water Rights Transfer Certificate as set forth in SFCC 25-12.10 (Section 3.9 of this document) the City shall return to the applicant the balance of escrow funds, as well as any accrued interest on this amount.
- 3.7.7** If the amount of water rights approved by the OSE for transfer is less than the amount of water rights accepted by the City, the applicant shall have 90 days from a final, non-appealable order within which to make up the difference by conveying to the City the balance of required water rights or water credit. If the applicant does not convey the required water rights or water credit within this time, the City shall transfer to the Water Division's operating budget a portion of the applicant's escrow fund or irrevocable letter of credit equal to the proportion of the water rights for which the OSE denied transfer. The transfer of the funds shall be in lieu of the requirement on the applicant to transfer any additional water rights. Upon such transfer of funds to the Water Division, the applicant will have fulfilled their requirement to transfer water rights and the City shall release the portion of the letter of credit or return to the applicant the portion of the escrow fund that represents the percentage of the accepted water rights required to be transferred for the development water budget as compared to the amount of water rights that were actually transferred to the City, less any unpaid transaction costs owed by the applicant, as well as any accrued interest on this amount. The Water Bank Administrator will then utilize the portion of the applicant's escrow fund or irrevocable letter of credit equal to the proportion of the water rights for which the OSE denied transfer to secure water credit in the City's Water Bank.

**3.8 Office of State Engineer’s Approval of the Water Right Transfer, Appeals, and Conveyance of Water Rights Title to City, SFCC 25-12.9**

**3.8.1** A water right transfer shall be deemed complete once the OSE has approved a transfer of all or a portion of the water right to the new point of diversion(s) and the new place and purpose of use and has issued a final permit for the transfer that is not appealed, or the permit is appealed but the permit becomes a non-appealable, final order by the OSE.

**3.8.2** The City, as the lead applicant, shall have final decision-making authority regarding appealing any conditions of approval that affect Permit No. RG-20516 et al. unless the applicant or the City chooses to withdraw the application, and can do so in such a way that there will be no effect from the application process on Permit No. RG-20516 et al. The applicant shall have final decision-making authority regarding appealing any decisions affecting the validity and extent of the water rights being transferred. The party that decides to appeal shall pay the cost of the appeal.

**3.8.3** If the application is denied and not appealed, then a new tender period shall commence.

**3.8.4** When water rights are dedicated to a specific development water budget under SFCC 25-12.3(A) (Section 3.2 of this document), upon completion of the water right transfer, the applicant shall within 90 days, convey to the City all right, title and interest to the transferred water rights, at no additional cost, free and clear of all encumbrances and with special warranty covenants. Within this same 90 day period, the applicant shall execute and file all appropriate documentation with the Santa Fe County Clerk and with the OSE in order to effectuate timely issuance of the OSE final permit, pursuant to NMSA 1978, § 72-1-2.1. If the applicant fails to do so, the City shall disallow use of water from the City’s system for the applicant’s development unless the applicant has provided a letter of credit or escrow funds as set forth in SFCC 25-12.8 (Section 3.7 of this document) in which case the letter of credit or the escrow funds shall be retained by the City. The applicant shall reimburse the City for all water rights transfer application transaction costs borne under SFCC 25-12.6 (Section 3.5 of this document). Unpaid transaction costs shall be treated as utility charges as set forth in SFCC 15-1.4 and 15-1.5 (not included in this document).

**3.8.5** When water rights have not been designated for a specific development water budget, upon completion of the water right transfer, the water rights shall be held as undesignated water rights in the Water Bank in the applicant’s name. At such time as the water rights are designated for a specific development water budget, the applicant shall convey legal title to the City and file an appropriate change of ownership with the OSE and the Santa Fe County Clerk as required above.

**3.9 Issuance of City of Santa Fe Water Rights Transfer Certificate, SFCC 25-12.10**

Upon completion of the transfer of the water rights to the City’s permit as set forth in SFCC 25-12.9 (Section 3.8 of this document) and issuance of the OSE’s final permit, the Water Division shall deposit the water rights in the City Water Bank in the applicant’s name and issue to the applicant a Water Rights Transfer Certificate evidencing the deposit. If the water rights were tendered for application to a specific development under

SFCC 25-12.3(A) (Section 3.2 of this document), that shall be indicated on the Water Rights Transfer Certificate and the Water Bank's records. Upon issuance of the Water Rights Transfer Certificate, the water rights transfer applicant shall then be referred to as the water rights transferor.

### **3.10 Water Rights Dedication to Obtain a Building Permit, SFCC 25-12.11**

The water rights transferor or assigns may withdraw banked water rights from the Water Bank for dedication to a development water budget, as described in Section 1.5.3 of this document.

### **3.11 Sale of Water Rights, SFCC 25-12.12**

At any time before or during the approval and transfer process, the applicant may sell and assign any or all of the applicant's interest in tendered water rights to the City or any other party, based upon a fair market price to be negotiated between applicant and the purchaser, providing the applicant notifies the City in writing of such a change in ownership. Sale and change of ownership of a water right tendered to the City for a particular project shall not change the designation of the water right for dedication to that development water budget, as specified in SFCC 25-12.3(A) (Section 3.2 of this document), without written City approval. A water rights transferor may sell or assign to another any or all of the transferor's water rights on deposit in the Water Bank that are not designated for a particular project. The Water Bank shall transfer the water rights to the account of the assignee.



## **Section 4 City Water Bank (SFCC 25-10)**

### **4.1 Summary of the Water Bank**

The City Water Bank consists of various public and private accounts holding water credit derived from water rights transferred to the City and from water conservation. All water credit, accounted for in consumptive use acre-feet per year, represent the amount of water the account holder is allowed to be served on an annual basis by the City's water system. In order to be served by the City's water system, an applicant must first dedicate water credit to meet their project's water budget using a Water Offset Assessment and Dedication Form (Section 1.5.3 of this document).

### **4.2 Water Bank Transactions, SFCC 25-10.3**

**4.2.1** The City Water Bank will be administered by the Water Division, which will be responsible for keeping all records, providing all necessary forms, and producing all necessary reports and receipts.

**4.2.2** Consumptive use water rights, water credit and water conservation credit may be deposited into the City Water Bank by any of the following entities:

- a) The City, in order to hold consumptive use water rights derived from water rights purchases, leases and water conservation credit obtained from Retrofit Rebates and from donation from customers signing Conservation Contracts; and infrastructure projects allowing reuse of water and return flow credit;
- b) Water customers, in order to hold water conservation credit transferable within the City of Santa Fe's water system obtained through Water Conservation Contracts as set forth in the Water Conservation Credit Program (Section 2 of this document);
- c) Water Rights Transfer Program transferors, in order to hold water credit consisting of consumptive use water rights transferred to the City as set forth in SFCC 25-12 (Section 3 of this document) and pursuant to the OSE policies, guidelines and procedures which credit may be applied to new development projects requesting service from the City's water system.

**4.2.3** Water rights deposits into the City Water Bank will be documented by the Water Right Transfer Certificate.

**4.2.4** The deposit of water credit derived from a Conservation Contract into the Water Bank will be documented by the executed Conservation Contract.

**4.2.5** The deposit of water credit derived from the Rebate Program into the Water Bank will be documented by the completed Rebate Application and Rebate Installation Verification Form.

**4.2.6** All water rights, water credit and water conservation credit held in the City Water Bank shall be accounted for in units of acre feet per year.

**4.2.7** Upon request of an entity in whose name water rights, water credit or water conservation water credit are on deposit in the City Water Bank, the Water Bank Administrator shall:

- a) transfer the water rights, water credit or water conservation credit to another entity as directed. Banked water credit or water conservation credit may be sold or assigned at any time by the owner, providing the owner notifies the City in writing of such a change in ownership. If the owner's assign does not have a Water Bank account established, the City shall establish a Water Bank account in the assign's name for the purpose of water credit or water conservation credit assignment;
- b) issue a Water Offset Assessment and Dedication Form that applies those water rights, water credit or water conservation credit to a specific development water budget, or
- c) issue a Water Offset Assessment and Dedication Form that applies the water rights, water credit s or water conservation credit to the public purpose as directed.
- d) deduct water credit from a Water Bank account documented on the Water Dedication Form, stating the account balance after dedication.

**4.2.8** Water rights or water conservation credit in the Water Bank in the City's name account may be designated for specific purposes pursuant to resolution of the governing body adopted under the City water budget process and applied to that purpose by a Water Dedication Form.

**4.2.9** If in the event the City no longer requires developers to offset the anticipated demand of their development project, water credit held by Water Rights Transfer Program transferor and water conservation credit held by water customers under the Water Conservation Credit Program in the City Water Bank can be sold to the City at current market value.

**4.2.10** The Water Division Water Bank Administrator will manage the electronic software that records and processes all Water Bank transactions.

### **4.3 Water Bank Public Posting, SFCC 25-10.4**

The Water Division shall post on the City's website a current public listing of the identity of each person or entity that holds water rights on deposit in the Water Bank that requests listing and the amount of water rights held by that person or entity.

## **Section 5**

### **City Water Budget**

#### **(SFCC 25-9)**

#### **5.1 Summary of City Water Budget Requirements**

This Article describes the annual process which City water managers undertake to account for current and projected water supplies and demands. This Article also describe the process by which the governing body allocates available water made available from City water rights purchases, leases, and City conservation measures to meet its priorities, including affordable housing.

#### **5.2 Water Budget Report, SFCC 25-9.5**

On an annual basis, the Water Division will evaluate the City's total water system supply and total water system demand, effective for the twelve month period from April 1 to March 31. The Water Division will summarize this evaluation in the Water Budget Report and present the report to the Public Utility Committee at the regularly scheduled April meeting and to the Governing Body at the regularly scheduled May meeting. The report shall include:

- a) The City's current total water supplies, under the present water resource management policies, including:
  - i) Water rights available to the City;
  - ii) Long-term sustainable yield from those water rights;
  - iii) Effect that a range of drought conditions would have on that sustainable yield; and
  - iv) Wet water available that year;
  
- b) The total water demand including:
  - i) Actual demands upon the City's water service itemized into amounts to serve current customers, City uses, line loss and other actual current demands;
  - ii) Utility reserve;
  - iii) Anticipated demands upon the City's water service from future customers with valid written agreements that will require water service within the twelve month period;
  - iv) Special contractual demands (e.g. Las Campanas, County of Santa Fe); and
  - v) Non-revenue water demands including total system losses set out by categories of loss;
  
- c) Water system annual operating plan estimating water production from the City's various supplies to meet projected annual demand;
  
- d) Water resource annual management plan describing the impacts on the City's water resources resulting from the annual operating plan, as well as any planned actions to mitigate those impacts;

- e) 20-year supply-demand projection, including near- and long-term anticipated demands upon the City's water service based on current growth projections and anticipated demands of future customers with valid written agreements;
- f) The quantity of water, if any, by which the sustainable water supply exceeds committed demand;
- g) Status of the City's Water Conservation Credit Program and Water Rights Transfer Program; and
- h) Quantification of all water credit held in the City Water Bank, including water rights belonging to the City resulting from water rights purchases and leases, water conservation credit, water held for affordable housing, and water held to meet the anticipated long-range surface water supply gap resulting from water right permit offset requirements.

### **5.3 Allocation of City's Available Water, SFCC 25-9.6**

**5.3.1** Upon review of the Annual Water Budget, the Governing Body shall determine if water is available for allocation. Water available for allocation shall be derived only from the following sources:

- a) The portion of surplus sustainable water supply in excess of committed demand that the Governing Body has transferred to the City Water Bank;
- b) City's water rights purchases and leases deposited in the City Water Bank;
- c) Retrofit Rebate conservation credit deposited in the City Water Bank under the Water Conservation Credit Program as described in Section 2 of this document;
- d) Conservation credit donated to the City rebates under the Water Conservation Credit Program as described in Section 2 of this document;
- e) Infrastructure projects allowing reuse of water or return flow credit.

**5.3.2** The water available for allocation by the City shall be held in the Water Bank in the City's name established as described in Section 4 of this document.

**5.3.3** The Governing Body may allocate by resolution some or all of the water available for allocation to both City and other uses and projects that meet the City's priorities. In making allocations, the Governing Body shall give priority to the following uses:

- a) Affordable housing. Annual allocations of water to affordable housing shall be made for at least three consecutive future years, and each year's allocation shall be set aside in a separate affordable housing account in the City Water Bank. When a specific development receives final approval, the Water Division shall debit the appropriate year's affordable housing account in the City Water Bank for the water necessary to serve the affordable housing in the development and issue water allocation approval

for that project in the form of a memo signed by the City Attorney, which will be submitted the City Water Bank. At the time of each annual allocation, the Governing Body shall adjust allocations made in previous years to account for changes that may have occurred in previously identified affordable housing projects in the intervening year and return to the City's pool of available water any water that is not being used as a result of proposed affordable housing project's being withdrawn or a reduction in its anticipated water demand.

- b) Water from Retrofit Rebate conservation credit and water bank reserve in the City's name shall be allocated for sale to developers of small development projects. The City shall maintain in its Water Bank account a reserve of 25 AFY from Retrofit Rebate conservation credit for sale to water customers to remedy violations of restrictions under alternative development water budgets or Conservation Contracts.
- c) Water right permit offset requirements, accounted for in the long-range surface water supply gap account held in the City's Water Bank account;
- d) City projects including, but not limited to, parks and open space, affordable housing, water for the Santa Fe River, City buildings and other City facilities;
- e) Other projects in which the City is a partner; and
- f) Private or non-City public uses and projects which recognize other City priorities such as economic development and stability, energy efficiency, job growth and community health.

**5.3.4** After the Governing Body has approved an annual water allocation for a specific project, as documented by the memo from the City Attorney, the Water Division shall debit the City's account in the Water Bank and credit a special account for that specific project. When the specific project is ready to obtain building permits, the developer shall withdraw the water credit from the special account, dedicate them to meet all or part of the approved development water budget for the development, as documented by a Water Offset Assessment and Dedication Form, and provide that Form to WBAO. That dedicated water shall become a permanent portion of total water system demand calculations unless it expires or is relinquished. Section 1.5.3 of this document describes the building permit process.

**5.3.5** A water allocation by the Governing Body only satisfies a development water budget; it creates no other land use approvals or right to approval of the requested number of lots, units or commercial development, or commercial buildings, building permits or water meters for a proposed development project. The actual number of lots or units, or the amount and type of commercial development or the number of building permits or water meters that may be approved shall be determined by the appropriate development, permit or meter application review process.

**5.3.6** A water allocation is issued for specific developments, building permits or water hook-ups and specific geographic sites and they shall not be moved, sold, traded, transferred or exchanged in any way for different developments, building permits or water hookups.

**5.3.7** If not dedicated to an approved development plan or building permit within two years of the allocation approval, a water allocation shall revert back to the City's credit in the Water Bank. An applicant may reapply for the previously allocated water credit when the previously designated development project is ready to proceed to the appropriate stage in the development permitting process. An applicant may also relinquish allocated water credit at any time and the water credit shall revert back the City's credit held in the City's Water Bank.