



# Albuquerque Bernalillo County Water Utility Authority

Albuquerque/Bernalillo  
County  
Government Center  
One Civic Plaza  
Albuquerque, NM 87102

## Agenda

*Councilor Trudy E. Jones, Chair*  
*Commissioner Debbie O'Malley, Vice-Chair*  
*Councilor Pat Davis*  
*Mayor Timothy M. Keller*  
*Councilor Klarissa J. Peña*  
*Commissioner Steven Michael Quezada*  
*Commissioner Lonnie C. Talbert*  
*Trustee Pablo Rael*

---

Wednesday, June 20, 2018

5:00 PM

Vincent E. Griego Chambers

---

1. **CALL TO ORDER**
2. **INVOCATION/PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF MINUTES - May 23, 2018**
4. **PROCLAMATIONS AND AWARDS**
  - A. **Partnership for Safe Water - 2017 Distribution System Operations Directors Award**
  - B. **2018 AWWA Exemplary Source Water Protection Award**
  - C. **Technical Customer Advisory Committee Appreciation Award**
5. **PUBLIC COMMENT**
6. **ANNOUNCEMENTS/COMMUNICATIONS**
  - A. **Next Scheduled Meeting - August 22, 2018 at 5:00 PM**
7. **INTRODUCTION (FIRST READING) OF LEGISLATION**
  - A. [R-18-17](#) Authorizing an Agreement for Water and Sewer Service for Anasazi Ridge Unit 3
8. **CONSENT AGENDA**

*(Any Board Member may request that a Consent Agenda item be placed under Approvals)*

- A. [R-18-18](#) Authorizing the Albuquerque Bernalillo County Water Utility Authority to

Submit an Application for Funding for a WaterSmart Grant to the Bureau of Reclamation for Water Reclamation and Water Reuse

- B. [R-18-19](#) Authorizing a Joint Funding Agreement With the United States Geological Survey for Monitoring and Analysis of Surface Water and Groundwater
- C. [C-18-18](#) Approval of Collective Bargaining Agreement with AFSCME Local 3022
- D. [C-18-19](#) Appointment to the Technical Customer Advisory Committee
- E. [C-18-20](#) Extension of Employment Agreement with Executive Director

**9. APPROVALS**

- A. [O-18-6](#) Amending the Cross Connection Prevention and Control Ordinance
- B. [C-18-21](#) Approval of First Amendment to Settlement Agreement the Albuquerque Bernalillo County Water Utility Authority, Rio Grande Silvery Minnow and with City of Albuquerque

**10. OTHER BUSINESS**

- A. [OB-18-10](#) 2018 Customer Opinion Survey
- B. [OB-18-11](#) Water Report

**11. ADJOURNMENT**

*Visit Our Website at [www.abcwua.org](http://www.abcwua.org)*

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Authority Office as soon as possible before the meeting date at 289-3100 or by the TTY at 1-800-659-8331.

---

Meeting Date: June 20, 2018  
Staff Contact: John Stomp, Chief Operating Officer

**TITLE: Partnership for Safe Water – 2017 Distribution System Operations Directors Award**

**ACTION: Information Only**

**SUMMARY:**

The Water Authority received recognition from the Partnership for Safe Water for distribution system operations in 2017. The Partnership for Safe Water provides self-assessment and optimization programs so that utilities have the tools to optimize water utility operation and help ensure public health protection. The Water Authority received this award for successfully maintaining good performance in the utility's commitment to resources (staffing, training, funding), documented application of operational control skills, and integrity in water quality, hydraulic system, and physical assets.

The Water Authority's long-term goal is to be a leader in system optimization and water quality ensuring the delivery of safe, high-quality water to its customers. The Water Authority's long-term goal is to implement the areas of continuous improvement identified in the self-assessment and work towards achieving Presidents Award status to demonstrate full system optimization.

The Partnership for Safe Water was founded in 1995 and is managed by the American Water Works Association. The Partnership program is a voluntary self-assessment and optimization program for water treatment plant and distribution system operation. More than 250 utility subscribers, collectively serving more than 100 million people, are committed to the Partnership program's goals of providing safe, high-quality drinking water through achieving operational excellence. Partnership program members participate in a rigorous four-phase self-assessment and peer review process, developed by industry experts, and are recognized broadly for their commitment to delivering safe water to their communities.

---

Meeting Date: June 20, 2018  
Staff Contact: Rick Shean, Water Quality Hydrologist

**TITLE: 2018 AWWA Exemplary Source Water Protection Award**

**SUMMARY:** Water Authority staff received the 2018 America Water Works Association Exemplary Source Water Protection Award at the AWWA's annual conference in Las Vegas. The AWWA distinguished the Water Authority from its peers for its innovative approach for protecting its source waters and the conjunctive management of its water resources to ensure long-term safety and resiliency of our water supply.

Source water protection activities highlighted by the AWWA in its selection included the Water Authority's providing of financial assistance to low-income families to connect to nearby sanitary sewer lines, the monitoring and mapping of potential and known groundwater contamination in the service area, and the comprehensive water planning efforts of Water 2120.

The Water Authority will be building on its success of its source water protection efforts with the update to the City, County and Water Authority's joint Water Quality Protection Policy and Action Plan that will be completed by this fall.

**FISCAL IMPACT:** None.

---

Meeting Date: June 20, 2018  
Staff Contact: Frank Roth, Senior Policy Manager

**TITLE:        Technical Customer Advisory Committee Appreciation Award**

**SUMMARY:**

This award recognizes Amy Ewing for her service on the Technical Customer Advisory Committee (TCAC) having fulfilled two full terms. Ms. Ewing served as both Chair and Vice-Chair providing her expertise and many hours of her time to help further the goals of the Water Authority and provide a direct conduit between the utility and those it serves. During her time on the committee, she was involved in reviewing several ordinances, studies, policies, and plans, including:

- Water Resources Management Strategy (Water 2120)
- Water Budget and Interactive Water Budget Model
- Water Conservation Plan and Education Program
- Water Waste Reduction Ordinance
- Cross Connection Ordinance
- Water and Sewer Rate Evaluations
- Operating & Capital Budgets, Goals, & Objectives
- Several facility tours
- Attending many Customer Conversation meetings

---

Meeting Date: June 20, 2018  
Staff Contact: Kristopher Cadena, Principal Engineer, Utility Development

**TITLE: R-18-17 – Authorizing an Agreement for Water and Sewer Service for Anasazi Ridge Unit 3**

**ACTION: Introduction June 20, 2018; Final Action August 22, 2018**

**SUMMARY:**

The development is located along the south side of McMahon Blvd., east of Universe Blvd. within the City Limits. The property is located outside of the Adopted Service Area. The project consists of 24 residential lots.

The property lies within Pressure Zone 4W in the Corrales Trunk.

Water and wastewater service is contingent on the Developer constructing internal distribution and collector lines that tie to the existing infrastructure proximate to the property.

All services provided within the development will be subject to current Utility Expansion and Water Supply Charges.

**FISCAL IMPACT:**

None.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-18-17

1 **RESOLUTION**

2 **AUTHORIZING AN AGREEMENT FOR WATER AND SEWER SERVICE FOR**  
3 **ANASAZI RIDGE UNIT 3.**

4 WHEREAS, Anasa West LLC is the developer and owner of real property to be  
5 developed as residential lots along the south side of McMahon Blvd., east of Universe  
6 Blvd. within the City Limits; and

7 WHEREAS, the property which is located outside the service area of the Water  
8 Authority will require a development agreement for the extension and/or connection of  
9 water and sewer lines to the Water Authority's water and sewer system; and

10 WHEREAS, the Water Authority's Water and Wastewater System Expansion  
11 Ordinance requires that new service developed outside the Water Authority's service  
12 area will incur no net expense to the Water Authority and be subject to provisions of  
13 relevant updated planning documents as approved by the City and/or County; and  
14 BE IT RESOLVED BY THE WATER AUTHORITY:

15 Section 1. Anasa West LLC will obtain all permits, assurances, and approvals  
16 from the Water Authority and the City of Albuquerque development/design review  
17 process. Construction of water and/or sewer lines shall be in conformance with the  
18 plans approved by the Water Authority and all applicable plans, specifications,  
19 requirements, and standards of the Water Authority.

20 Section 2. The expansion of the System shall incur no net expense to the Water  
21 Authority and be subject to current Utility Expansion and Water Supply Charges.

22 Section 3. Anasa West LLC will be responsible for close coordination of the  
23 project with the Water Authority during the design and construction phases, including  
24 the review of the design details during the design process, and the approval of  
25 specifications and contract documents.

26 Section 4. The Executive Director is authorized to enter into the agreement with  
27 Anasa West LLC for the provision of water and sewer service.

**DEVELOPMENT AGREEMENT**  
**Anasazi Ridge, Unit 3**

**Albuquerque Bernalillo County Water Utility Authority**, a New Mexico political subdivision, (“Water Authority”) and Anasa West, LLC, a New Mexico limited liability corporation, (“Developer”) (together, “Parties”), agree as follows:

**1. Recitals**

- A.** Anasa West, LLC is the “Developer” and owner of certain real property located in UNIT/SUBDIVISION (collectively, the “Property”). The Property is more particularly described and shown on **Exhibit A** attached hereto and incorporated herein by reference. The Property is located in the former New Mexico Utilities, Inc. ("NMUI") service area, outside the Water Authority’s currently adopted Water Service Area. The property will consist of 24 residential lots.
- B.** The Property is described as: Portion of Lot 3, All of Lots 4-9 Block 7, Lots 9 – 13 Block 8, Lot 12 Block 9, Lots 2-10 Block 14
- C.** The Property is located in Pressure Zone 4W of the Corrales Trunk.
- D.** The Parties desire to agree upon terms and conditions pursuant to which the Water Authority will provide water and sanitary sewer service to the Property. As a condition of such service, the Developer shall construct, or cause to be constructed, extensions of existing public water and sanitary sewer lines and other necessary infrastructure improvements (collectively, “Facility Improvements”) under all applicable plans, specifications, requirements, and standards of the Water Authority. The Serviceability Letter for the Property reflecting necessary Facility Improvements referred to in this Agreement is attached hereto as **Exhibit B** and incorporated herein by reference and made a term of this Agreement.
- E.** The Facility Improvements referenced in this Agreement are not considered Master Plan improvements by the Water Authority. As such, reimbursement of construction costs associated with their construction will not be available through water and sewer UEC (defined below in Section 3.B) reimbursements.

**2. Design and Construction of the Facility Improvements**

- A.** The Developer will cause definitive designs and plans of the Facility Improvements to be produced which will include estimates of all costs and expenses. The Developer will not connect the Facility Improvements to the existing water and sanitary sewer lines within the City of Albuquerque



(“City”) public right-of-way or within public easements until the Water Authority has approved the Facility Improvements. The Developer will obtain all necessary permits, assurances, and approvals from the Water Authority and City, and the Developer will deliver a copy of such permits, assurances, and approvals to the Water Authority prior to the start of construction. Construction will be handled through the City work order process.

- B.** The Developer will complete, or cause to be completed, construction of the Facility Improvements as approved by the City of Albuquerque Design Review Committee and the Water Authority, and in conformance with all applicable plans, specifications, and standards of the City and the Water Authority. The Water Authority shall provide service to the Property only after the Water Authority has accepted the Facility Improvements. The Water Authority shall accept, operate and maintain the Facility Improvements after the Developer conveys, at no expense to the Water Authority, all the Facility Improvements together with all real and personal property rights which the Water Authority deems reasonably necessary which shall be free and clear of all claims, encumbrances and liens for the construction, operation and maintenance. The provisions of this Agreement constitute covenants running with the referenced Property for the benefit of the Water Authority and its successors and assigns until terminated, and are binding on the Developer and their heirs, successors and assigns.
- C.** The contractor’s one (1) year warranty period shall commence upon final project acceptance by the City. The Developer shall be responsible for conducting an 11 month warranty inspection. Developer shall be responsible for correcting any deficiencies found during the inspection to the satisfaction of the Water Authority.
- D.** The Developer will be responsible for close coordination of the project with the Water Authority during the design and construction phases, including review of design details, during the design process, and the approval of specifications and contract documents. The Water Authority will review and approve in a timely manner the design plans for construction and estimated cost, to ensure the designs meet Water Authority standards and follow the guidance provided in the City’s Development Process Manual (“DPM”) and/or applicable Water Authority Design Manuals.
- E.** To the extent relevant and applicable and to the extent there is no conflict with the terms of this Agreement, the usual procedures and documentation, including the Procedure “B”, as defined in the Subdivision Ordinance and the DPM of the City, will be followed and used for the Facility Improvements.

### **3. Service**

- A. The Developer shall comply with the Water Authority's Water and Sewer System Expansion Ordinance, as amended from time to time. Connection for water service shall require the concurrent connection of sanitary sewer service to the Water Authority's wastewater system.
  - B. The Developer or its successor shall pay Utility Expansion Charges (UEC) and the Water Supply Charges (WSCs) at the rates that are imposed at the time of a service connection, as provided in the Water Authority's Water and Sewer Rate Ordinance, as amended from time to time.
  - C. Pursuant to Water Authority Resolution No. R-05-13, the Developer agrees that it will incorporate water conservation guidelines that will seek to achieve water usage of no more than 180 gallons per household which is equivalent to seventy-five (75) gallons per capita per day.
4. **Financial Guarantee** - For any Master Plan Infrastructure required to be constructed by Developer herein, the Developer shall provide a financial guarantee in the form of a property lien that is acceptable to the Water Authority as assurance that the Master Plan Infrastructure will be completed and placed in service.
5. **Termination.** If construction of the Facility Improvements by the Developer has not been completed and accepted by the Water Authority within seven years of the effective date of this Agreement, this Agreement shall automatically terminate, and the Water Authority and the Developer shall have no further rights, obligations, or liabilities with respect to this Agreement, unless otherwise agreed in writing.
6. **Water for Construction.** During the construction of the Facility Improvements, the Developer agrees to utilize alternative methods as approved by the City of Albuquerque's Air Quality Division for dust abatement and control including compost from the Water Authority, if economically feasible. The Developers may purchase water for construction from the Water Authority from the nearest approved fire hydrant in accordance with the Water Authority's Water and Sewer Rate Ordinance. Water purchased from the Water Authority shall be used only for construction.
7. **Indemnification.** Until final acceptance of the Facility Improvements by the Water Authority, the Developer shall be solely responsible for the condition and maintenance of the Facility Improvements and the premises upon which the Facility Improvements are constructed. The Developer agrees to indemnify and hold harmless the Water Authority and its officials, agents, and employees from and against all suits, actions or claims of any character brought because of any injury or damage arising out of the design or construction of the Facility Improvements, or by reason of any act or omission, or misconduct of the Developer, its agents, employees or the Engineer or Contractor or its agents or employees. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement. Nothing herein is intended to impair any right

or immunity under the laws of the State of New Mexico. The indemnification by the Developer herein does not extend to the negligent acts of the Water Authority.

**8. Representations and Warranties of Developer.** The Developer represents and warrants that:

- A. Developer is a validly existing limited liability company under the laws of the State of New Mexico.
- B. Developer has all the requisite power and authority to enter into this Agreement and bind the Developer under the terms of the Agreement; and
- C. The undersigned officer of the Developer is fully authorized to execute this Agreement on behalf of the Developer.

**9. Notices.** Any notice to be given under this Agreement will be in writing and will be deemed to have been given when deposited with the United States Postal Service, postage prepaid and addressed as follows:

If to the Water Authority:

Mark S. Sanchez  
Executive Director  
Albuquerque Bernalillo County  
Water Utility Authority  
One Civic Plaza, Room 5012  
Albuquerque, New Mexico 87102

If to Developer:

Anasa West, LLC  
Attention: W. Michael Fretz – Managing Member  
9600 Tennyson St. NE  
Albuquerque, NM 87122

**10. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and the Developer. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.

**11. Miscellaneous.** This Agreement will be governed by and interpreted in accordance with the laws of the State of New Mexico. The headings used in this Agreement are for convenience only and shall be disregarded in interpreting the substantive provisions of the Agreement. This Agreement binds and benefits the Water Authority and their successors, assigns, and transferees and the Developer and their successors, assigns and transferees. Time is of the essence for each term of this Agreement. If any provision of this Agreement is determined by a court of competent jurisdiction to

be void, invalid, illegal, or unenforceable, that portion will be severed from this Agreement and the remaining parts will remain in full force as though the invalid, illegal, or unenforceable portion had never been a part of this Agreement.

**12. Integration; Interpretation.** This Agreement contains or expressly incorporates by reference the entire agreement of the parties with respect to the matters contemplated by this Agreement and supersedes all prior negotiations. This Agreement may only be modified in writing executed by both parties.

**13. Approval.** This Agreement is subject to the approval of the Board of Directors of the Water Authority and will not become effective until approved by the Water Authority.

**14. Effective Date.** The effective date of this Agreement is the date last entered below.

In Witness Whereof, the parties hereto have executed this Agreement on the dates entered below.

**Developer**  
**Anasa West, LLC,**  
**a New Mexico limited liability**  
**corporation**

By: \_\_\_\_\_  
Mark S. Sanchez  
Executive Director

Date: \_\_\_\_\_

By: \_\_\_\_\_  
W. Michael Fretz  
Managing Member

Date: \_\_\_\_\_

## ACKNOWLEDGEMENTS

[illegible]

This instrument was acknowledged before me on, \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_ a \_\_\_\_\_, on behalf of said Company.

Notary Public

My Commission Expires:

---

[illegible]

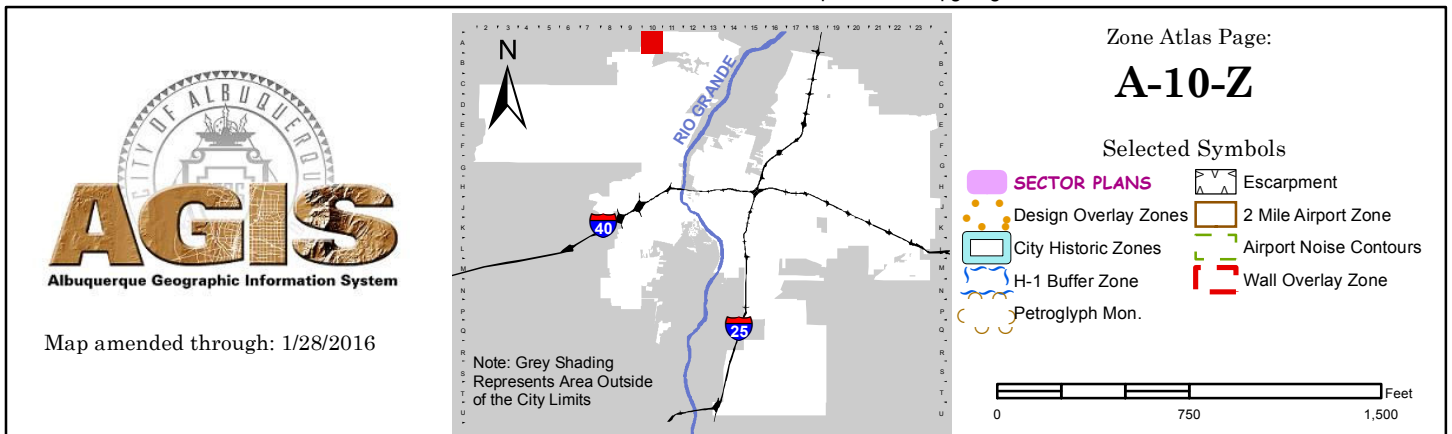
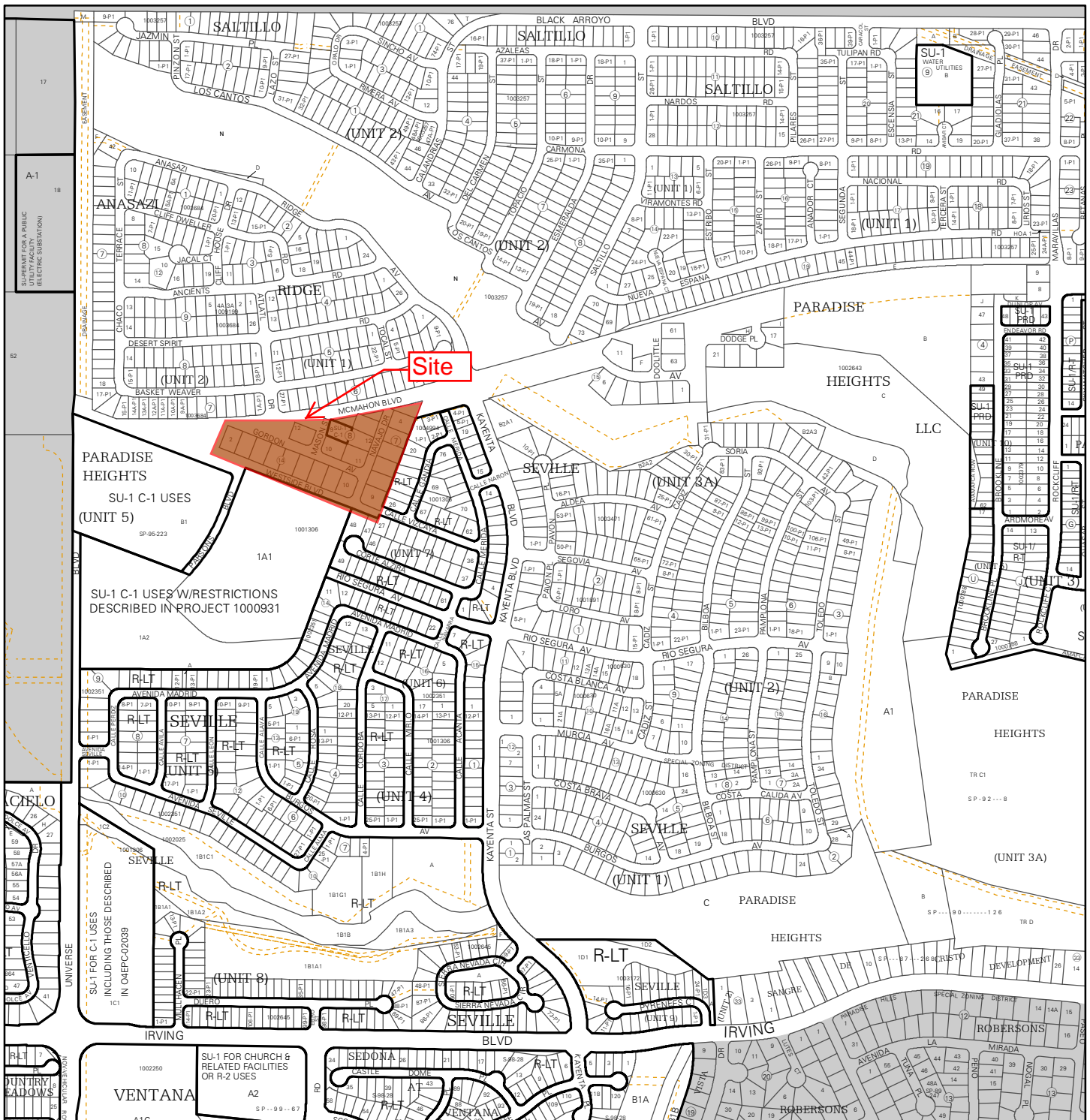
This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by Mark S. Sanchez, Executive Director of the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision.

Notary Public

My Commission Expires:

---

# Exhibit A



December 11, 2017

**Chair**

Klarissa J. Peña  
City of Albuquerque  
Councilor, District 3

**Vice Chair**

Debbie O'Malley  
County of Bernalillo  
Commissioner, District 1

Timothy M. Keller  
City of Albuquerque  
Mayor

Pat Davis  
City of Albuquerque  
Councilor, District 6

Maggie Hart Stebbins  
County of Bernalillo  
Commissioner, District 3

Wayne Johnson  
County of Bernalillo  
Commissioner, District 5

Trudy E. Jones  
City of Albuquerque  
Councilor, District 8

*Ex-Officio Member*  
Pablo R. Rael  
Village of Los Ranchos  
Board Trustee

*Executive Director*  
Mark S. Sanchez

*Website*  
[www.abcwua.org](http://www.abcwua.org)

Mark Goodwin  
Mark Goodwin & Associates, PA  
P.O. Box 90606  
Albuquerque, NM 87199

**RE: Water and Sanitary Sewer Serviceability Letter #171101  
Anasazi Ridge Unity 3  
McMahon between Keyenta and Westside**

Mr. Goodwin:

Service requirements were last addressed in a Serviceability Letter #160303 dated April 1, 2016 (attached). The information and conditions described in the previous Serviceability Letter are still applicable.

The attached letter, in conjunction with the statements presented in this document, is hereby renewed for a period of one year from the date of this correspondence. Please feel free to contact Mr. Kristopher Cadena in our Utility Development Section at (505) 289-3301 or email at [kcadena@abcwua.org](mailto:kcadena@abcwua.org) if you have questions regarding the information presented herein or need additional information.

Sincerely,



Mark S. Sanchez  
Executive Director

Encl: Serviceability Letter #171101  
f/ Serviceability Letter #160303



---

Meeting Date: June 20, 2018

Staff Contact: Katherine M. Yuhas, Water Resources Division Manager

**TITLE: R-18-18 - Authorizing the Albuquerque Bernalillo County Water Utility Authority to Submit an Application for Funding to the Bureau of Reclamation for a WaterSMART Grant for Water Reclamation and Water Reuse.**

**ACTION: Recommend Approval**

**SUMMARY:**

This resolution authorizes the Water Authority to submit an application for a WaterSMART grant from the Bureau of Reclamation (BOR) for water reuse projects related to WATER2120 such as connection of the north-side and south-side non-potable water systems or the Bosque treatment and reuse plant. These projects will provide for flexibility in reusing waste water to meet outdoor water use needs. These projects were selected alternatives for meeting future demand and preparing for climate change in WATER2120, the water resource management strategy that was adopted in September 2016.

**FISCAL IMPACT:**

Project design is projected to cost as much as \$4,000,000. For this grant the BOR will pay 25% of the cost and the Water Authority will be responsible for the other 75%. The Water Authority's share could be up to \$3,000,000. The fiscal impact would be up to \$3,000,000 to be paid from the Capital Improvement Program budget.



# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO.           R-18-18          

## RESOLUTION

**AUTHORIZING THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY  
AUTHORITY TO SUBMIT AN APPLICATION FOR FUNDING FOR A WATER SMART  
GRANT TO THE BUREAU OF RECLAMATION FOR WATER RECLAMATION AND  
WATER REUSE.**

WHEREAS, the Bureau of Reclamation is offering WaterSMART grants of up to  
\$20,000,000 for water reclamation and reuse projects; and

WHEREAS, the cost share on the grant must be 50% or more of the total project;  
and

WHEREAS, the water resources management plan, WATER2120 was approved  
in September of 2016 and identifies specific water reclamation and reuse projects; and

WHEREAS, connection of the north-side and south-side non-potable systems and  
the Bosque wastewater treatment and reuse plant were selected alternatives of  
WATER2120 to provide for flexibility of water reuse.

BE IT RESOLVED BY THE WATER AUTHORITY:

Section 1. That the Executive Director is authorized to submit an application to  
the Bureau of Reclamation requesting up to \$3,000,000 for water reclamation and reuse  
projects related to Water2120.



---

Meeting Date: June 20, 2018

Staff Contact: Katherine Yuhas, Water Resources Division Manager

**TITLE: R-18-19 - Authorizing a Joint Funding Agreement with the USGS for Monitoring and Analysis of Surface Water and Groundwater**

**ACTION: Recommend Approval**

**Summary:**

For over twenty years, the Water Authority has partnered with the USGS to study the quality and quantity of water resources in the Middle Rio Grande. This Joint Funding Agreement (JFA) extends that ongoing work for another five years and will include: streamflow monitoring, surface water quality monitoring, groundwater level monitoring, aquifer compaction and recovery monitoring, groundwater level change and groundwater level maps, groundwater level monitoring network optimization, microgravity monitoring of groundwater level changes and analysis of historic and current surface water quality data.

**FISCAL IMPACT:** \$237,491 annually and is budgeted in the Water Resources contractual services.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO.       R-18-19      

## RESOLUTION

### **AUTHORIZING A JOINT FUNDING AGREEMENT WITH THE UNITED STATES GEOLOGICAL SURVEY FOR MONITORING AND ANALYSIS OF SURFACE WATER AND GROUNDWATER.**

WHEREAS, the United State Geological Survey (USGS) Water Resources Mission is to provide reliable, impartial, timely information that is needed to understand the Nation's water resources; and

WHEREAS, the mission of the Water Authority is to provide a resilient, sustainable water supply to the customers in its service area; and

WHEREAS, the Water Authority Board adopted the update to the Water Resources Management Strategy: Water 2120 on September 21, 2016; and

WHEREAS, an understanding of our groundwater and surface water supplies both in terms of quality and quantity is critical to the implementation of Water 2120; and

WHEREAS, the Water Authority has been working with the USGS for several decades to develop a record and analysis of the quality and quantity of water resources in the Middle Rio Grande.

#### **BE IT RESOLVED BY THE WATER AUTHORITY:**

Section 1. The Water Authority is authorized to enter into a Joint Funding Agreement beginning July 1, 2018 with the United States Geological Survey whereby the Water Authority will provide up to \$1,187,459 and the USGS will provide up to \$971,554 over the next five years for streamflow monitoring, surface water quality monitoring, groundwater level monitoring, aquifer compaction and recovery monitoring, groundwater level change and groundwater level maps, groundwater level monitoring network optimization, microgravity monitoring of groundwater level changes and analysis of historic and current surface water quality data.

---

Meeting Date: June 20, 2018  
Staff Contact: Mark S. Sanchez, Executive Director

**TITLE: C-18-18 - Approval of Collective Bargaining Agreement with AFSCME Local 3022**

**ACTION: Recommend Approval**

**BACKGROUND:**

As a result of rulings from the Second Judicial District Court and subsequent appellate court proceedings, the Collective Bargaining Agreement (CBA) applicable to AFSCME Local 3022 Management Series, which was due to expire on June 30, 2019, was rendered to be of no effect. Accordingly, the Water Authority and Local 3022 initiated negotiations for a new CBA on May 17, 2018. On June 14, 2018, a tentative Collective Bargaining Agreement between the Water Authority and AFSCME Local 3022 Management Series was ratified by the Union Membership.

**SUMMARY:**

The CBA includes a four-year wage proposal from FY19 through FY22. Article 9 Wages includes a 2% base pay (1 Step) increase for employees at Step 19 or below and a one-time lump sum payment of \$750 for employees at Step 20 (top of the pay range) for FY19 and FY20. In addition, 14 employees at Step 19 or below will receive a 2% base pay (1 Step) increase in FY19 and FY20. This was negotiated to address some possible internal inequities in pay.

In FY21 and FY22, the salary schedule will be adjusted by four steps to align with other Salary Schedules within the Water Authority and includes a 2% base pay (1 Step) adjustment for all employees for two years. Shift differential for employees required to work swing and graveyard shifts was increased by 5% to compensate for possible impacts on quality of life and to attract more senior employees to bid for these shifts. Certification and training programs will be developed to better equip Management employees in using technology, enhance their writing skills, and emphasize supervisory/leadership development. The four-year contract will align with the two other bargaining units if respective three-year contracts are negotiated again in Spring of 2019.

**FISCAL IMPACT:**

The CBA is within the 2% increase in the ten-year financial plan for the Water Authority and in line with the FY/19 Operating Budget recently approved. The equity adjustments will be absorbed with salary savings.

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**THE ALBUQUERQUE BERNALILLO COUNTY  
WATER UTILITY AUTHORITY**

**AND**

**AFSCME LOCAL 3022, COUNCIL 18**

Affiliated with the American Federation of  
State, County, and Municipal Employees  
(AFSCME Local 3022, AFL-CIO, CLC)

**THROUGH JUNE 30, 2022**

## Table of Contents

ARTICLE 1	PREAMBLE .....	4
ARTICLE 2	SCOPE OF AGREEMENT .....	4
ARTICLE 3	RECOGNITION .....	4
ARTICLE 4	FAIR SHARE .....	5
ARTICLE 5	DUES DEDUCTION.....	6
ARTICLE 6	UNION RIGHTS .....	7
ARTICLE 7	MANAGEMENT RIGHTS .....	8
ARTICLE 8	NON DISCRIMINATION.....	8
ARTICLE 9	WAGES .....	8
ARTICLE 10	OVERTIME.....	10
ARTICLE 11	COMPENSATORY TIME .....	10
ARTICLE 12	CALL-IN GUARANTEE .....	11
ARTICLE 13	STAND-BY PAY .....	11
ARTICLE 14	INSURANCE.....	11
ARTICLE 15	RETIREMENT .....	14
ARTICLE 16	LEAVE PROVISIONS .....	14
ARTICLE 17	HOURS OF WORK.....	15
ARTICLE 18	WORK SHIFTS/SHIFT PREFERENCE.....	15
ARTICLE 19	CLASSIFICATION AND REORGANIZATION .....	16
ARTICLE 20	SENIORITY .....	17
ARTICLE 21	VACANCIES.....	17
ARTICLE 22	INJURY TIME.....	18
ARTICLE 23	SAFETY PROVISIONS .....	18
ARTICLE 24	PERSONNEL FILE .....	19
ARTICLE 25	GLOBAL POSITIONING SYSTEMS .....	19
ARTICLE 26	AMBULANCE SERVICE.....	20
ARTICLE 27	CERTIFICATION AND TRAINING PROGRAMS .....	20
ARTICLE 28	LICENSES AND CERTIFICATION .....	20
ARTICLE 29	LOSS OF LICENSE .....	21
ARTICLE 30	UNIFORMS.....	21
ARTICLE 31	PERFORMANCE EVALUATION .....	22
ARTICLE 32	TEMPORARY UPGRADES.....	22
ARTICLE 33	WORK OUTSIDE CLASSIFICATION.....	22
ARTICLE 34	SUBSTANCE ABUSE .....	22
ARTICLE 35	DISCIPLINARY ACTION.....	22
ARTICLE 36	Grievance Procedure .....	24
ARTICLE 37	PER DIEM AND MILEAGE REIMBURSEMENT .....	27
ARTICLE 38	LAYOFF AND RECALL.....	28
ARTICLE 39	LABOR-MANAGEMENT COMMITTEE .....	28
ARTICLE 40	(Intentionally Left Blank) .....	28
ARTICLE 41	INCENTIVE PROGRAMS .....	28
ARTICLE 42	UNION ELECTIONS .....	28
ARTICLE 43	CONTRACTING FOR SERVICES .....	28
ARTICLE 44	STORAGE OF AUTHORITY EQUIPMENT.....	29
ARTICLE 45	PLACE KEEPER FOR DURATION OF AGREEMENT .....	29

ARTICLE 46	PLACE KEEPER FOR DURATION OF AGREEMENT .....	29
ARTICLE 47	CRITICAL INCIDENT STRESS DEBRIEFING .....	29
ARTICLE 48 – 58	PLACE KEEPER FOR DURATION OF AGREEMENT .....	29
ARTICLE 59	SAVINGS CLAUSE.....	29
ARTICLE 60	COMPLETE AND ENTIRE AGREEMENT .....	29
ARTICLE 61	TERM OF AGREEMENT .....	30
ARTICLE 62	SIGNATURES.....	30

## **ARTICLE 1            PREAMBLE**

- A.     THIS AGREEMENT has been made and entered into between Albuquerque Bernalillo County Water Utility Authority (hereinafter referred to as the “Employer” or the “Authority”) and the Union, of the American Federation of State, County, and Municipal Employees, AFL-CIO, Local 3022 (hereinafter referred to as “the Union” or “Union”).
- B.     The parties agree that their respective policies or activities will not discriminate against any employee covered by this Agreement because of race, age, sex, color, national origin, union or non-union affiliation/membership, ancestry, religion, disability, sexual orientation, Vietnam Era veteran status, spousal affiliation, sexual orientation, gender identity, physical and mental handicap, or serious medical condition. Sexual harassment will not be tolerated.
- C.     The general purpose of this Agreement is to provide for orderly and constructive employee relations in the public interest and in the interest of the employees herein covered and the Authority as Employer; to maintain harmony, cooperation, and understanding between the Employer and the employees in the bargaining unit as set forth in Recognition; to afford protection of the rights and privileges of all employees in the bargaining unit and the Employer; and to ensure the orderly and efficient delivery of quality services to the citizens served by the Authority.
- D.     The parties agree this Agreement will be administered in accordance with its terms and conditions.

## **ARTICLE 2            SCOPE OF AGREEMENT**

- A.     Agreement Control: This Agreement has been negotiated in accordance and compliance with the Employer’s Labor Relations Ordinance and the laws of the State of New Mexico. This Agreement shall control in the event of any conflict between this Agreement and the Employer’s standard operating procedures, policies or Personnel Rules and Regulations, or Merit System Ordinance, except as provided by Section 10-1-24. If there is any conflict between the Agreement and the Labor-Management Relations Ordinance, the Ordinance shall control.
- B.     Accretions to the bargaining unit shall be conducted as set forth through petition filed with the Authority’s Labor Management Relations Board.
- C.     The Union will be given prior notice of proposed changes in Authority-wide written policies that directly affect bargaining unit employee working conditions. The Union will be given fourteen (14) days from the time of notice to provide input. This input period may or may not delay implementation, but may require revision or cancellation of the originally proposed policy. The parties may agree to adjust time limits by written mutual consent.

## **ARTICLE 3            RECOGNITION**

The Employer recognizes the Union as the sole exclusive representative in all matters establishing and pertaining to wages, hours and all other terms and conditions of employment for all full time



and part time non-probationary classified M series employees as set forth in Appendix A and the stipulated-bargaining unit, as pursuant to the Labor Management Relations Ordinance.

#### **ARTICLE 4            FAIR SHARE**

- A.     The Employer shall, for the duration of this Agreement, deduct from any employee's pay for each pay period of each month Union dues provided the employee submits an authorization thereof. The deductions shall be made and transmitted to the Union in the manner set forth under Article 5 of this Agreement.
- B.     Payment of an agency fee by non-union bargaining unit employees has been authorized by Resolution of the Authority's Governing Board. The Resolution requires an adequate showing by the Union that at least 50% of the employees in the bargaining unit are members in good standing with the Union at the time the agency fee is implemented and the threshold percentage is maintained while the agency fee is in place.
- C.     The Resolution further requires that any agency fee provision negotiated pursuant to the Resolution comply with all state and federal legal requirements.
- D.     The parties agree to implement an agency fee for non-union employees subject to the provisions set forth in paragraphs A and B above and the following additional conditions:
  - 1.     The Union shall retain an independent auditor to audit its receipts and expenditures on an annual basis.
  - 2.     The Union will publish the results of the audit, including an adequate explanation of the agency fee, to bargaining unit employees and provide a copy to the Executive Director.
  - 3.     Bargaining unit employees shall have thirty (30) days to file a challenge to the apportionment of the agency fee.
  - 4.     An impartial decision maker shall hear any challenge.
  - 5.     The amount of the agency fee shall only include costs permitted under applicable federal and state case law. The determination of these costs shall be made from the most recently available audited financial reports cited in paragraph (1.) above. If a court of competent jurisdiction rules that certain costs included in the agency fee are prohibited from inclusion or that the Resolution's limitations legally prohibit the inclusion of certain costs, the agency fee amount shall be modified accordingly.
  - 6.     Under no circumstances shall non-union employees be required to contribute towards the Union's social, political or charitable activities; nor shall any non-union employee be subject to any retaliation for refusal to contribute to such activities.
  - 7.     The Union has the burden of proving before the impartial decision maker that its costs were properly apportioned to the agency fee.
  - 8.     Any portion of the agency fee that is specifically challenged shall be held in escrow until resolution of the challenge.
  - 9.     The Union shall indemnify and hold harmless, for any claim or challenge to this article or the imposition of an agency fee.
  - 10.    Once the appropriate amount of the agency fee for the most recent twelve (12) month audit has been determined, the Employer agrees to deduct that amount from the pay of non-union employees for the twelve (12) months subsequent to the determination.

11. The Employer shall make the agency fee payment deductions for employees in the bargaining unit who do not submit an authorization form for Union dues deduction or pay the Union dues by another method identified by the Union.
12. The Employer shall make employee payroll deductions for agency fee payments upon notification to the non-dues-paying employee of the amount and reason for such payment.
13. All money deducted from wages for agency fee payments shall be remitted to the Union after the payday covering the pay period of deduction in the same manner as dues are remitted under Article 5. If any employee has insufficient earnings for the pay period, no agency fee payroll deduction will be made for that employee for that pay period.
14. If, as a result of litigation, changes to this Article become necessary, the parties will meet to negotiate the issues.

## **ARTICLE 5                    DUES DEDUCTION**

- A. Upon receipt of a signed authorized membership dues deduction card, the Employer shall deduct membership dues levied by the Union in accordance with the Union's constitution and by-laws. The Union shall designate in writing to the Employer's Payroll Office the amount of the deduction. If the amount changes, the change shall be communicated in writing by the Union to the Employer. All deductions, including new deductions or changes in the amounts of the deductions, shall begin the first full pay period after the Employer receives the written notice of change. Deductions shall be made each bi-weekly pay period unless terminated in accordance with the provisions set forth herein.
- B. The Employer's Payroll Office shall forward to the Union all dues withheld pursuant to valid authorization cards. The Union shall inform the Payroll Office in writing where the dues should be sent. The transmission of the dues by the Employer to the Union shall take place no later than the end of the following pay period. The transmission shall include a roster of the employees for whom the deductions have been made.
- C. An employee may authorize payroll deduction amounts in excess of the dues levied by the Union. The employee shall sign a separate authorization form in order to initiate this deduction.
- D. An employee may terminate dues deduction by submitting a written request for termination of the deduction during the 1<sup>st</sup> two weeks of July to the Union President. The President shall forward the termination request to the Payroll Office within one (1) week after receipt of the termination notice. The deduction shall terminate the first full pay period after the Employer receives the termination request.
- E. The Employer shall terminate an employee's dues deduction if the employee leaves the bargaining unit for any reason. The deduction shall terminate the first full pay period after the employee leaves the bargaining unit. The Union shall receive notice of the termination on reports submitted by the Employer to the Union as required by this Agreement.
- F. The Union shall indemnify, defend and save the Employer harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or as a result of any conduct taken by the Employer for the purpose of complying with this Section.

## **ARTICLE 6                      UNION RIGHTS**

- A.     The Union President will notify the Authority's Human Resources Manager in writing no later than September 1<sup>st</sup> of each year of the Union's designates. The Union President will notify the Human Resources Manager within five (5) workdays of the appointment of a status change in new designates. If an employee chooses a representative other than the one identified on the list provided by the Union President, the Human Resources Manager will be given advance notice.
  
- B.     The employer agrees that Local 3022 Officers, staff representatives, and stewards shall have reasonable access to the premises of the Employer after giving appropriate notice and obtaining prior approval from the Manager of Human Resources. Such visitations shall be for the purpose of administering this Agreement. The Union agrees that such activities shall not interfere with the operational requirements of the Employer. The Employer will designate a meeting place or will provide a representative to accompany Union officials where significant security requirements exist. Union staff representatives or local Union representatives may request meetings as needed to prevent, clarify, or resolve a problem.
  
- C.     Local Union officers will continue to be granted time off without pay from their normal duties to attend conventions, conferences, and seminars previously identified by the parties and monthly Union meetings on the second Wednesday and last Wednesday of the month. Union officers may also be granted leave without pay for Union matters approved by the appropriate supervisor or the Human Resources Manager. For the purposes of this paragraph, "Union Officers" shall be limited to the elected officers and executive board members of the Union. Requests for this leave that exceed ten (10) days will be subject to the approval of the Executive Director. Identified Local Union stewards/representatives may be granted time off without pay from their normal duties to attend monthly Union meetings on the second Wednesday and last Wednesday of the month. Steward/representative leave without pay shall be subject to the prior approval of the steward/representative's supervisor. The supervisor shall determine whether or not to approve a steward/representative's request based solely on the operational needs of the Authority. The employee may utilize accumulated vacation time or leave without pay for purposes set forth in this Section C.
  
- D.     A Union officer, a steward, or a representative designated by the Union President shall be on paid time for the duration of a hearing or meeting occurring during the employee's normal work hours plus up to thirty (30) minutes travel time each way when that representative: 1) attends a meeting requested by the Authority with the Union representative in an attempt to resolve an issue; 2) a contemplated disciplinary action hearing involving a bargaining unit employee; or 3) a Step One or Two grievance meeting when requested by a bargaining unit employee when charges directly affecting Authority employees represented by the representative are being addressed. Only one (1) representative shall be granted leave with pay for any single hearing.

- E. The President/designee shall be granted reasonable time as approved in advance by the Manager of Human Resources to facilitate positive labor-management relations between the Authority and the employees represented by the Union, and to resolve issues at the lowest possible level. The President may designate an alternative employee for this leave.
- F. The President/designee and union stewards/representatives shall request this time in Kronos to the representative's immediate supervisor, which request shall include the specifics of what the leave will be utilized for in the note section in Kronos. Union time is subject to approval of the Human Resources Manager. The document shall be submitted prior to the activities and reconciled with an actual time entry before the end of the pay period in which the activity occurred.
- G. A locked bulletin board will be furnished by the Authority for the posting of official. Union notices and other information. Such notices shall not include religious, political, derogatory, inflammatory, or discriminatory notices. The bulletin board will not be used to criticize the Union, and any of the Union policies, any of the Union officials, management, any management policies, or any management employee.

## **ARTICLE 7                      MANAGEMENT RIGHTS**

Management shall have the rights as set forth in the Labor Management Relations Ordinance Section 10-2-5.

## **ARTICLE 8                      NON DISCRIMINATION**

The parties agree that neither the Union's nor the Authority's respective policies or activities will discriminate against any employee based upon race, age, sex, creed, color, national origin, religion, marital status, veteran status, sexual orientation, disability, or Union or non-Union affiliation/membership, or other protected classes set forth in the Authority's Labor Management Relations Ordinance.

## **ARTICLE 9                      WAGES**

- A. Bargaining unit employees will receive an increase to the employee's regular hourly rate of pay for Fiscal Years 2019, 2020, 2021 and 2022, as follows:
  - 1. Effective the first full pay period following ratification and signature of this Agreement or the pay period which includes July 1, 2018, bargaining unit employees will receive a two percent (2%) pay increase (one (1) step movement) to the employee's current hourly rate, up to the maximum rate of the level. Any employee whose placement is at the maximum of the pay plan or above will receive a one-time lump sum payment of \$750.00.

2. Effective the second pay period in July 2018 or the first full pay period following receipt of the list of employees from the Union, whichever is later, at the union's discretion, up to 14 employees below Step 20 will receive an additional two percent (2%) pay increase (one (1) step movement) to the employee's current hourly rate after the increase in Article 9(A)(1).
  3. Effective the first pay period of fiscal year 2020, employees will receive a two percent (2%) pay increase (one (1) step movement) to the employees' regular hourly rate up to the maximum rate of the level. Any employee whose hourly rate is at the maximum of the pay plan or above, will receive \$750.00 in a one-time lump sum payment.
  4. Effective the second pay period in July 2019 or the first full pay period following receipt of the list of employees from the Union, whichever is later, at the union's discretion, up to 14 employees below Step 20 will receive an additional two percent (2%) pay increase (one (1) step movement) to the employee's current hourly rate after the increase in Article 9(A)(3).
  5. Effective the first pay period of fiscal year 2021, employees will receive a two percent (2%) pay increase (one (1) step movement) to the employees' regular hourly rate up to the maximum rate of the level.
  6. Effective the first pay period of fiscal year 2022, employees will receive a two percent (2%) pay increase (one (1) step movement) to the employees' regular hourly rate up to the maximum rate of the level.
- B. No employee who enters the bargaining unit during the life of this Agreement shall be placed at a step within the level higher than the employee at the highest step in the position.
- C. The Union may request the Authority perform desk audits in accord with Personnel Rules and Regulations.
- D. The salary schedule for bargaining unit employees effective June 24, 2017, and effective June 27, 2020, is attached hereto as Appendix B.
- E. Longevity pay shall be frozen at current rates and eligibilities paid only to eligible employees receiving longevity as of July 1, 2010. No future movement in longevity steps nor additions of employees to the longevity will occur:
- F. Employees whose regular work assignments begin during the times designated below are eligible to receive shift differential for regular hours worked or hours on approved leave with pay:
1. Swing Shift start time between 11:59am and 6:59pm will receive a ten percent (10%) increase to the regular hourly rate of pay.

2. Graveyard Shift start time between 7:00pm and 3:59am will receive fifteen percent (15%) increase to the regular hourly rate of pay.

## **ARTICLE 10 OVERTIME**

- A. Overtime will be paid in accordance with law and the Authority's Personnel Rules and Regulations.
- B. For the purpose of computing overtime, actual time worked and paid holidays, vacation leave, bereavement leave, and compensatory time utilized and approved in accordance with Rules and Regulations will be considered time worked.
- C. Employees required to work on holidays will be paid regular holiday pay plus time and one-half (1-1/2) for hours actually worked.
- D. A meal period of thirty (30) minutes shall be offered to employees required to work more than two (2) hours beyond their regular shift.
- E. Scheduled Overtime: The employer shall prepare, maintain and post an up-to-date scheduled overtime list by classification and seniority within the work unit at least two times per year. Employees who have signed up for voluntary overtime shall be offered overtime in seniority order on a rotating basis. If the above procedure has been followed and no employee on the list is available for overtime work, overtime shall be assigned in reverse order of seniority on a rotating basis. The employee assigned will be required to work the overtime. Scheduled overtime is overtime that is anticipated and can be reasonably scheduled in advance.
- F. Unanticipated overtime is all overtime which cannot be anticipated and or reasonably scheduled in advance of the employees regularly scheduled shift. Unanticipated overtime work assignments, which immediately follow a regular shift, may first be assigned to the employees who are performing the work at the end of the regular shift.

*NOTE: MOU on SJWTP extended to June 30, 2019*

## **ARTICLE 11 COMPENSATORY TIME**

Prior to working an overtime assignment, the employee and management by written mutual agreement may provide for the overtime assignment to be worked for compensatory time off at one and one half (1 ½) the hours worked over forty (40) hours per week.

- A. The maximum accrual of compensatory time is eighty (80) hours. Compensatory time not taken within 180 days from the date of accrual will be paid to the employee.
- B. Employees who have accrued unused compensatory time at the time of termination of employment shall be paid for the unused compensatory time at the employee's current rate of pay if such time cannot be scheduled and taken prior to the termination date.
- C. An employee may choose to utilize accrued compensatory time or vacation, subject to approval.
- D. An employee may request to convert compensatory time to cash payment during the 180 days.

## **ARTICLE 12            CALL-IN GUARANTEE**

A bargaining unit employee in a non-exempt position who is called back to work, in addition to his/her normal work schedule, will be guaranteed for each such call-in a minimum of two (2) hours, which shall be considered time worked for purposes of calculating overtime. Call-in time shall commence at the time the employee arrives at the site, provided the employee arrives within one (1) hour of contact, and shall include thirty (30) minutes of time for travel. This provision will not apply if the time immediately precedes or immediately follows the regular work shift. This benefit may not require that call-in be paid again if additional call-ins occur within the two hours already guaranteed.

## **ARTICLE 13            STAND-BY PAY**

The Authority may place employees on standby and provide the employee a pager or cell phone while on standby. An employee on standby must remain available to report to work within thirty (30) minutes of being called. An employee serving on standby will be compensated at twenty-two percent (22%) of the employee's hourly rate for all authorized hours spent on standby. An employee called in to work while on standby will be paid their hourly rate for all time actually worked and will not receive compensation of standby pay for these same hours. Standby time is not time worked and will not be considered time worked for the purpose of computing overtime.

## **ARTICLE 14            INSURANCE**

### **A.        BENEFITS**

1.        The Employer shall assume insurance premium costs for employees in accordance with the following schedule:
  - a.        The Employer shall assume 80% of the group health and dental insurance programs.
  - b.        The Employer shall assume 100% of the group life insurance program.
  - c.        The employee shall assume 100% of the Optional Supplemental Life Insurance premium.
2.        Each employee may utilize one-half (1/2) day paid leave during the Fiscal Year for the purpose of undergoing a physical examination. The leave shall not be deducted from the employee's accumulated paid leave. Medical documentation by the employee will be required.

### **B.        INSURANCE**

1.        Group Life, Optional Supplemental Life, Health and Dental Insurances shall be offered to employees in accordance with the following:
  - a.        Group Life Insurance: Employees hired into classified or unclassified positions working twenty (20) hours or more per week, receive life insurance protection effective the date of hire at no cost to the employee. The amount of protection is determined according to the employee's basic annual earnings. Protection will be adjusted annually, if necessary, to

correspond to pay rate changes. Upon terminating the group life insurance will cease on the last day of employment. Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per week are not eligible to participate in the Group Life Insurance programs.

2. Supplemental Life Insurance: Employees working twenty (20) hours or more per week, their spouses and dependent children may participate in supplemental life insurance program offered by the Authority. Spouse, domestic partner and dependents are eligible to be included on the same date the employee becomes insured, within thirty-one (31) days of the date the employee acquires an eligible dependent, during the annual open enrollment period or upon a qualifying event. Other enrollments or changes may be made at any time. However they are subject to approval by the insurance company underwriter. The total premium cost is the responsibility of the employee with no contribution by the Employer.
  - a. Supplemental life insurance will continue through the end of the pay period in which the employee terminated. Conversion may be made to an individual policy when Authority employment ceases.
3. Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per week are not eligible to participate in the Supplemental Life Insurance programs.
4. Health and Dental Insurance
  - a. Employees in classified or unclassified positions working twenty (20) hours or more per week are eligible for health and dental insurance. Employees may enroll without a medical examination within thirty-one (31) days of the date on which employment begins or during the annual open enrollment period.
  - b. Coverage begins on the first day of the pay period immediately following submittal of enrollment documents when enrollment forms are submitted within the thirty-one (31) day eligibility period but after the first day at work. If new hires elect to submit the enrollment forms before their first day of work, coverage may then begin on the first day of work. Spouse, domestic partner and dependents are eligible to be included on the same date the employee becomes insured, within thirty-one (31) days of the date the employee acquires an eligible dependent, during the annual open enrollment period or upon a qualifying event. All information recorded by the insured on the Authority enrollment form is subject to verification. The Employer and the employee share the cost of contributory premiums. The Employer retains the right to modify the plan of benefits or premium structure during annual renewal negotiations.
  - c. Employees are required to notify the Employer's Insurance and Benefits Office of a divorce, legal separation, end of domestic partnership or changes in status of a dependent child within thirty (30) days after the date of the event. Failure to provide notification will result in cancellation of benefit coverage for dependents.



- d. Under the Health Insurance Portability and Accountability Act (HIPPA) an employee may enroll within thirty-one (31) days of the date the employee marries or acquires a child through birth or adoption.
- e. Employees categorized as temporary, seasonal, student, intern, or part-time working less than twenty (20) hours per week are not eligible to participate in the Group health or dental Insurance programs.
- 5. Reinstated Employees: Employees reinstated, as the result of an administrative or judicial action must contact the Employer's Insurance Office within thirty-one (31) days of reinstatement to arrange for health care benefits if there was participation prior to cancellation of benefits. Documentation authorizing the reinstatement must be provided to the Employer's Insurance Office at the time of enrollment.
- 6. Loss of Non-Authority Sponsored Health Care Coverage: Employees working twenty (20) hours or more per week and/or eligible dependents covered under a non-Employer sponsored health care plan that is terminated through no fault of the insured may enroll under a Employer health care plan within thirty-one (31) days of termination of prior coverage. Employees must submit proof of prior coverage and proof of termination of coverage.
- 7. Payment of Insurance During Leave Without Pay: Employees in an unpaid status for one (1) full pay period or longer must make arrangements for direct payment of contributory insurance benefits. Failure by employees to make direct payments will result in cancellation of optional contributory insurance coverage. Employees will not be allowed to re-enroll until the next open enrollment period.
- 8. Payment of Insurance While on Military Leave: The Employer will continue to contribute its share of insurance premiums for the first thirty (30) days of military leave without pay. After that, an employee may choose to continue Employer health insurance for up to eighteen (18) months by making direct payments of the entire premium. Upon reinstatement after tour of duty, employees are permitted to re-enroll.

#### C. CONTINUATION OF HEALTH INSURANCE

- 1. The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 provides for the continuation of health care coverage for a covered employee and covered dependents due to a qualifying event that causes loss of health coverage.
- 2. To be eligible for COBRA coverage, the qualified beneficiary must be enrolled in the Employer's group health plan on the day before the qualifying event takes place, or a child is born to or placed for adoption with a covered employee during the COBRA coverage period.
- 3. A qualifying event is defined as termination of employment (other than for gross misconduct) or reduction in hours of employment; death of a covered employee, a divorce or legal separation of a spouse from a covered employee; entitlement to Medicare of a covered employee; the child no longer satisfies the plan's definition of a dependent child.
- 4. COBRA continuation coverage may be available for eighteen (18) months in the event of termination or thirty-six (36) months in the event of death, divorce/legal separation, entitlement to Medicare or loss in dependent status.
- 5. The covered employee or dependent is required to notify the Employer's Human Resources Department, Insurance and Benefits Office of a divorce, legal separation,

or change in the status of a dependent child within sixty (60) days after the date of the event. If notification is not received within this time period, COBRA continuation coverage will not be provided.

## **ARTICLE 15            RETIREMENT**

- A. The Authority will continue to offer PERA Municipal Plan 3 to all bargaining unit employees as allowed by law and PERA regulations. The Authority will pay seventy-five percent (75%) of the employee's contribution rate as of June 1, 2013, and fifty percent (50%) of the one and one-half percent (1.5%) statutory increase to the employee's contribution, which is to take effect on July 1, 2013.
- B. Early Retirement: Immediately prior to retirement from active service with the Employer: an employee may take leave with pay equivalent to the amount of sick and vacation leave the employee has accumulated. Employees who are eligible for retirement and are under the provisions of this Agreement will be governed by the provisions of this Agreement. Employees should plan to begin processing for retirement at least six (6) months prior to the projected date of retirement. Any employee eligible to retire within five (5) years may attend the retirement counseling sessions conducted by the Employer. The Employer will disseminate information regarding the session to employees on a periodic basis.
- C. Employees in Early Retirement are not entitled to salary increases afforded other employees.
- D. Employees in Early Retirement are entitled to all benefits except vacation and sick leave accruals, donated leave and hardship leave.

## **ARTICLE 16            LEAVE PROVISIONS**

Except as outlined specifically in this Article, leave provisions will be handled in accordance with Authority Personnel Rules and Regulations,

- A. Leave with Pay: Section 401.
- B. Birthday Leave: Section 401.1.
- C. Vacation Leave: Section 401.2. Employees who have accumulated over one year of vacation may convert 50% of accumulation over one year to cash payment once per year at a time determined by the Authority.
- D. Holidays: Section 401.3. The Authority may add additional holidays or adjust the days observed but may not decrease the number of holidays.
- E. Sick Leave: Section 401.4. Current Language
- F. Donation of Sick/Vacation Leave: Section 401.5.
- G. Bereavement Leave: Section 401.6.
- H. Hardship Leave: Section 401.7.
- I. Work Offsite: Section 401.8.
- J. Educational Leave: Section 401.9, not to exceed four (4) hours per week for a full-time employee.
- K. Family and Medical Leave: Section 401.11.
- L. Leave to Vote: Section 402.1.

- M. Jury Duty: Section 402.3.
- N. Blood Donation Leave: Section 402.4.
- O. Unpaid Leave: Section 402.5.
- P. Administrative Leave: Section 402.6.
- Q. Managerial Leave: Section 402.7.
- R. Military Leave: Section 402.2 and Administrative Instruction.

## **ARTICLE 17                    HOURS OF WORK**

- A. Employees' work schedules and hours of work will be determined by the Authority and shall be governed by Fair Labor Standards Act (FLSA) and delivery of services. The normal workweek for full-time employees will consist of five (5) consecutive eight (8) hour days, four (4) consecutive ten (10) hour days, or twelve (12) hour shifts on a modified workweek. All Customer Service and Field Operations/Maintenance Supervisors on eight (8) and ten (10) hour schedules shall remain in effect, unless changed by written mutual agreement. In areas where the employees and management wish to implement flexed work schedules, the hours may be modified by written mutual agreement.
- B. Normally, full-time employees shall be provided a minimum of an eighty (80) hour bi-weekly work schedule. When temporary conditions are such that normal duties cannot be performed as a result of such factors as weather or lack of equipment, the Authority may assign alternate duties to the affected employees or the employees may utilize accrued vacation or leave without pay. Nothing in this Section shall be construed to preclude actions under a Reduction in Force/Layoff as provided for in this Agreement.
- C. The parties, by mutual agreement, may establish pilot programs to allow for non-consecutive days off.
- D. Changes in an employee's schedule or reporting facility require the employee be given at least five (5) working days' notice of the change, except in cases of emergency. Any temporary changes in work hours will not exceed thirty (30) calendar days. This language does not condone a pattern of repeated temporary changes.
- E. Employees who have their work schedules changed on a temporary basis or who have their work schedules changed due to a modified or light duty assignment shall be given reasonable notice.
- F. For purposes of this Section, flex time schedules shall be defined as requests from employees to their immediate supervisor for approval for a change to the employee's starting time, quitting time, or lunch time.
- G. For purposes of this Section, modified work schedules shall be defined as applicable only when an employee has returned from a work-related injury and is on light duty status.

## **ARTICLE 18                    WORK SHIFTS/SHIFT PREFERENCE**

- A. Shift bids for shifts and/or days off will take place once a year, in January or February, within work units where shift work and/or options for days off exists. When a vacancy

- exists within a work unit, a shift bid will occur outside of the regular bid period. Employees will be awarded shifts/days off based on seniority within the work unit.
- B. The seniority definition used for a bid will be continuous full-time divisional, work unit service within the classification and operational unit affected by the bid. The Union, Chief Operating Officer, and/or the Executive Director may, through the execution of a memorandum of understanding, agree to alternative definitions. The Union will be allowed to conduct on-site elections to determine employee preference concerning seniority definitions, if needed, as determined by the Union President.
  - C. A “work unit” is defined as the functional area to which an employee is assigned based on the employee’s current shift selection.
  - D. The parties agree that work units are:
    - 1. Field - Distribution
    - 2. Field – Collections
    - 3. Field – Lift/Vacuum Stations
    - 4. Field – Area Operations
    - 5. Plant -Surface Water Production/Treatment
    - 6. Plant – Ground Water Production/Treatment
    - 7. Plant – Water Reclamation
    - 8. Customer Services
    - 9. Soil Amendment Facility
    - 10. Water Quality Lab
  - E. The parties agree that work units within other areas will be by mutual agreement of the parties.
  - F. Employees assigned shift work will not be scheduled on rotating shifts and/or days off (i.e. 1<sup>st</sup> quarter on days, 2<sup>nd</sup> quarter on swing, etc.).
  - G. Water Quality Lab Analysts will bid for shifts and days off every six (6) months.

## **ARTICLE 19                      CLASSIFICATION AND REORGANIZATION**

- A. The official job descriptions will be maintained by Human Resources and placed on the Authority’s website. It is recognized that job descriptions generally describe the duties performed but does not precisely define each specific task an employee may be required to perform. In the event an employee or the Union has concerns about job specifications, the employee or Union shall put such concerns in writing to the Human Resources Manager.
- B. It is recognized that the evaluation and classification of positions within the Authority are the responsibility of management. The authority to request a restructuring and/or re-evaluation of a position lies with the Division Manager.
- C. The Authority will provide the Union President with a copy of any changes to the job description which has the potential to affect the position’s level or is a change to the educational or licensure requirements. The Union President will be given the opportunity to provide written input within five (5) days of receipt of the changes prior to implementation through the Human Resources Manager regarding such changes.
- D. Prior to revising existing classifications or establishing new classifications, the Employer will notify the Union of its anticipated action and offer the Union the opportunity to provide input and recommendations related to whether or not the affected positions shall be

included in the Union's bargaining unit. Either party may bring this issue for discussion in the Union-Employer Committee (UEC) if it deems necessary. In the event of a dispute, either party may take the issue to the Labor Board for resolution.

- E. An employee may request a position reclassification through the employee's Division Manager and in accordance with the Employer's Rules and Regulations.

## **ARTICLE 20            SENIORITY**

- A. Seniority for the purpose of this Agreement, except in those sections containing alternative definitions, is defined as follows: The length of continuous service with the Authority as a full-time or part-time non-probationary classified employee within this bargaining unit. Continuous service shall not be considered to have been interrupted if the employee has been on an approved leave of absence. Seniority shall be applied as specifically provided for in this Agreement.
- B. All divisions will post a seniority roster by classification in the work unit. Seniority rosters will be updated at least semi-annually with a copy to the steward unless there has not been a change in the list.
- C. Ties in any seniority will be broken by drawing lots annually in January. This will be done with a representative of the Union present. The resolution will be reduced to writing, signed by the employees and the Union Representative and submitted to the Human Resource Manager.

## **ARTICLE 21            VACANCIES**

- A. Bargaining unit position vacancies shall be posted by the Employer for a minimum of ten (10) working days. The vacancy notice shall include the job code, job title, minimum qualifications, salary range, application instructions and the Employer representative that may be contacted for further information.
- B. An employee may apply for any advertised vacancy. An Employee shall inform the employee's supervisor when the employee will be attending a job interview. An employee will not be required to inform the employee's supervisor when the employee applies for a vacancy.
- C. Subject to preferences required by law, preference will be given in filling the same or lower grade to employees that meet the minimum qualifications and have the ability to perform the essential job functions with or without accommodation. Placement preference shall be provided in the following order:
  - 1. Employees reinstated as a result of administrative board or judicial order;
  - 2. Employees returning from active duty in the military;
  - 3. Employees transferred as the result of Executive Director action;
  - 4. Employees returning from a physical layoff;
  - 5. Employees returning from a layoff;
  - 6. Employees notified of layoff, and
  - 7. Employees returning from authorized absence from work without pay.

## **ARTICLE 22            INJURY TIME**

- H. Injury time will be handled in accordance with Authority Personnel Rules and Regulations Section 401.10, effective July 1, 2007, and will include the reinstatement of sick leave used for the first forty (40) hours once an employee has been off work because of an on-the-job injury for one hundred sixty (160) hours, including light duty. The forty (40) hour sick leave requirement for an on-the-job injury shall be applied once per body part as defined by the Authority's health clinic provider. Therefore, reoccurrences/re-injury of the same body part will have such time bridged with the first occurrence to satisfy the forty (40) hours requirement. In addition, the first day of injury will be considered as time worked whether the employee is sent directly back to work or home and will be paid by the Authority up to the employee's regular scheduled work hours for that day. An employee does not need to utilize sick leave for the first forty (40) hours if the employee returns to work on the day following the injury on full-time light duty status. The forty (40) hour sick leave requirement will be counted for the first forty (40) hours of off-duty injury time; light duty being considered as on-duty injury time. If any changes occur during the term of this Agreement, the Authority shall notify the Union President prior to implementation. Any concerns regarding the changes shall be addressed through the Labor-Management Committee.
- I. An employee who is injured on the job and returns to work on light/modified duty assignment shall be paid no less than the employee's last salary.
- J. Any modified work assignments will comply with applicable Federal, State, and local laws and regulations, including, but not limited to, the Americans with Disabilities Act, the Family and Medical Leave Act, and the State of New Workers' Compensation Act, and Water Authority Rules and Regulations effective July 1, 2007.

## **ARTICLE 23            SAFETY PROVISIONS**

- A. The Authority provides and will continue to provide working conditions that are in compliance with applicable state and federal laws. Employees shall observe all health and safety rules, regulations, directives, and policies. Employees shall perform their work in a safe and healthful manner and in such a way as to not endanger the health or well-being of the public, other employees, and themselves. Employees shall report in writing any work-related hazardous or unsafe conditions to their supervisor and Safety Office (Supervisor) immediately. If no action is taken or if the employee is concerned about addressing the issue with the supervisor, the employee or Union President shall report to the next level of supervision within the employee's chain of command, up to the Executive Director.
- B. The Authority and the Union will continue review of the Authority's Safety Program and to establish committees at the division level. Committees will have equal representation selected by the Authority and the Union with the Safety Supervisor serving as a chair and voting only in case of a tie vote.
- C. The Committees will have the ability to:
  - 1. Review and recommend changes to safety practices and policies;
  - 2. Review accidents and make recommendations to prevent their reoccurrence;

- provided, however, that committees will not initiate or recommend disciplinary actions;
3. Establish on-going communication with the Executive Director/Risk Management Division to provide employee awareness and specialized training to address hazards in specific work units.
- D. Safety equipment and devices as required will be furnished and maintained by the Authority.
  - E. Employees frequently exposed to communicable diseases in the course of their duties will be provided with appropriate immunization at the Authority's expense.
  - F. First-aid kits and fire extinguishers will be made available to all work sites and vehicles.
  - G. The Authority may establish incentive programs recognizing accomplishments in safety and productivity based on savings. The Union may provide recommendations in writing to the Executive Director on the content, structure, and timing of such programs. Incentive programs or the lack thereof is not a grievable item.
  - H. Dangerous Substances: Employees exposed to toxic substances will be monitored and treated as required by OSHA regulations.

## **ARTICLE 24            PERSONNEL FILE**

- A. A copy of any material pertaining to an employee's performance or to disciplinary actions to be placed in the employee's personnel file must be presented to the employee for signature and review. An employee may submit a written response to be attached to the performance or disciplinary action.
- B. All employees shall be allowed to review the contents of their personnel file during normal working hours (8:00 am to 5:00 pm) with the exception of medical files. Reasonable requests for copies or documents in the file shall be honored and reasonable charges made for such copies.
- C. Only the file kept in the Human Resources Department will be used for interdivisional interviews.
- D. Departmental working files will be viewed by employees upon request to their immediate supervisor at a time mutually agreeable to by both parties. Departmental working files may be purged once a year by the Division Manager or Executive Director. For the purposes of material to be placed in an employee's personnel file, documents will be signed by the employee as to receipt of that document. This will only signify that the employee has read and received a copy of that document.
- E. Human Resources Department files are a permanent record of an employee's performance with the Authority. Such files will not be purged without the authorization of the Executive Director or his designee.
- F. The Union President or designee shall have reasonable access to an employee's personnel file with written authorization from the employee participating in the grievance procedure. Conflicts over file access shall be addressed through the Human Resource Manager.

## **ARTICLE 25            GLOBAL POSITIONING SYSTEMS**

The parties recognize advancements in technology have greatly influenced the work environment. Global Positioning Systems are increasingly in use to benefit the delivery of services. The parties agree such technology will not be used without prior written notification to the employees that will be affected. The notice shall include the Employer's expectations and the consequences for failing to meet those expectations.

## **ARTICLE 26            AMBULANCE SERVICE**

The Authority will pay the cost of ambulance transport for an employee who suffers an on-the-job injury and requires transport to a medical facility.

## **ARTICLE 27            CERTIFICATION AND TRAINING PROGRAMS**

- A.    The Authority will develop and offer training and certification programs and career ladders to help improve the efficiency of the organization. Two (2) employee representatives in the affected classification(s), one (1) chosen by the Union and one (1) chosen by management, will be given an opportunity to provide input on such programs and career ladders prior to their implementation by serving on the Training Advisory Committee (TAC).
- B.    The Authority will continue to provide the current Certification Programs to bargaining unit employees. Any modifications to the Programs will be addressed through the TAC.
- C.    Disputes pertaining to the training and certification programs and career ladders will be addressed at the division level. If not resolved at the division level, the dispute will be addressed through the Standards Review Committee or Human Resources.
- D.    Employees who are displaced from their position as a result of the failure to enter or successfully complete certification/training programs will be subject to the Reduction in Force/Layoff procedures. The Union and the Executive Director will coordinate such actions. This provision will not apply to those employees who have signed other agreements as a condition of continued employment.
- E.    The Authority will work with the Union to develop and implement training and certification programs for O/M Supervisors, Water Quality Specialists, and Lab Analysts. The TAC will begin development of the program no later than October 2018.
- F.    For employees not in a training and certification program, the Authority will develop an overall management training program. The TAC will begin development of the program no later than October 2018.

## **ARTICLE 28            LICENSES AND CERTIFICATION**



- A. Employees shall be responsible for obtaining licenses and certifications required for their job positions. The Employer shall reimburse employees the fees for renewals and classes required for maintenance of such licenses and certifications. The employee shall be responsible for ensuring that the employee meets all requirements of certification, including pertinent application and training credits. In-house training for employee licenses and certifications required for the employee's job shall be continued during the term of this Agreement in departments where the training currently exists.
- B. Employees who are required to maintain or renew a license or certification required for their job shall receive per diem and mileage in accordance with Employer travel regulations to attend certification exams unless an Employer vehicle is made available. Should such examination take place during the employee's regular work hours, time required for testing and reasonable travel time to and from the site of the exam shall be considered hours worked for the first examination taken and any re-retake, if necessary.
- C. Employees will be allowed up to seven (7) calendar days from the date of loss of license to correct any clerical errors on the employee's own time. An employee will follow leave request procedures for any time taken during the employee's work time.

## **ARTICLE 29            LOSS OF LICENSE**

If a bargaining unit employee is required by the Authority to drive to perform the employee's job duties, the Authority will provide the employee an option of entering into counseling with a return to work agreement in lieu of termination for non-DUI loss of license and for a first conviction involving driving under the influence off duty. Accommodations will be made for the employee for loss or restricted license by assignment to non-driving duties with a corresponding loss in pay for a period of one (1) year or less, provided the employee's required license will be reinstated within one (1) year. All actions by the Authority providing employees an opportunity to maintain employment under this article shall not be subject to grievance or appeal.

## **ARTICLE 30            UNIFORMS**

- A. The Authority will continue to provide uniforms to bargaining unit employees who are required to wear a uniform and will provide five (5) new uniforms annually. The employee is responsible for the upkeep and maintenance of the uniform. An employee provided uniforms by the Authority must be in full uniform at all times during the workday. The Authority will provide vouchers for safety boots (if the Authority determines safety boots are required for the performance of the employee's duties). The Authority will authorize up to \$255.00 per year for safety footwear which meets or exceeds ANSI Z41 1991 standards. Upon use of a voucher, the employee will present the boots purchased and the receipt to the employee's immediate supervisor within five (5) days of purchase. Employees who receive reimbursement will be required to wear this safety footwear while on duty.
- B. Employees may choose a pair of insulated coveralls or insulated jacket annually.

## **ARTICLE 31                      PERFORMANCE EVALUATION**

- A. An employee may review a negative evaluation of his/her performance with the Division Manager.
- B. The employee may document his/her point of view on any performance evaluation. Such documentation will be made in writing and will be attached to his/her evaluation.

## **ARTICLE 32                      TEMPORARY UPGRADES**

The Authority may request an employee to upgrade to a higher level position during the absence of the employee in the higher level position or during a vacancy or from which the incumbent has been absent for a minimum of (1) full work day. The upgraded employee will receive an increase to the employee's regular hourly rate of pay while serving in the upgraded position of five percent ten percent (10%). Employees are responsible for completing the application form and updating the application as necessary. Qualified applicants will be upgraded before non-qualified applicants on a rotating seniority basis for vacant positions.

## **ARTICLE 33                      WORK OUTSIDE CLASSIFICATION**

Under normal circumstances, employees will not be required to perform duties outside their classification as a regular assignment. Employees performing duties of a higher classification will be treated as a temporary upgrade and will be compensated as provided for in Temporary Upgrades in this Agreement.

## **ARTICLE 34                      SUBSTANCE ABUSE**

The Authority's Substance Abuse Policy, Administrative Instruction #3, will apply to all bargaining unit employees.

## **ARTICLE 35                      DISCIPLINARY ACTION**

- A. A hearing shall be convened to allow the employee and his/her representative the opportunity to explain the reasons for the employee's actions or lack of action which may result in disciplinary action other than an oral reprimand.
- B. In notifying the employee of the measure of discipline to be imposed, it is recognized that the employee has the right to have union representation.
- C. Employee investigations and notices of contemplated disciplinary actions shall be implemented in the following manner:
  - 1. If an employee is not placed on investigation, disciplinary process shall be initiated against an employee no later than ten (10) work days after the employee's supervisor knew or reasonably should have known of the act that caused the

disciplinary action to be initiated. Such notification shall specify as to the charges against the employee and why discipline may be imposed.

2. For the purposes of this provision only, "initiated" shall mean the written communication of a notice of contemplated disciplinary action to the employee.
  3. If the employee's supervisor decides to conduct an investigation, the supervisor will request approval from the Human Resource Manager, or designee, to initiate the investigation. The supervisor shall submit a written notification of investigation to the affected employee no later than ten (10) workdays after the supervisor knew or reasonably should have known of the act that the investigation is being initiated.
  4. Throughout the investigation period, the Union may request a verbal progress report on the investigation from the Human Resource Manager. The Human Resource Manager or designee shall provide this report provided the report does not jeopardize the conduct of the investigation. An employee disciplinary investigation shall normally not exceed forty-five (45) days from the date an employee receives a notice of investigation as cited in paragraph 3 herein. If it is determined that the investigation needs to be extended beyond the forty-five (45) day limitation, the Human Resource Manager or designee shall submit a written notice of extension to the employee no later than forty-five (45) days after the employee received the initial notice of investigation. Extensions should be for good faith justifiable reasons. The affected employee or the Union, if designated by the employee, may request periodic verbal status reports on the investigation from the Human Resource Manager or designee. The requests will be granted provided the Human Resource Manager or designee shall not be required to provide information that might jeopardize the investigation process.
- 
- D. In the event disciplinary action is taken against an employee other than the issuance of an oral warning, the employer shall promptly furnish the employee with a clear and concise statement in writing of the reasons therefore.
  - E. Nothing in this Section shall prevent the employer from disciplining or discharging employees for just cause. Any such decision may be subject to the grievance procedure.
  - F. When discipline is to be imposed, progressive discipline will be considered when it appears that the merits of the case would lend itself to this procedure.
  - G. When possible, the employer agrees to criticize employees in private away from the public and other employees. Each party may have a witness present.
  - H. An employee may propose in writing to management a level of discipline he/she will accept for an offense prior to management imposing disciplinary action. If management accepts the discipline proposed by the employee, the issue will be considered settled and the action will not be grieved.
  - I. The parties acknowledge that investigations of disciplinary actions should be conducted in a manner which affords the employees involved an environment that is conducive to problem solving. Union concerns over investigations will be addressed through Human Resources.
  - J. Employees who are the subject of a disciplinary investigation shall be permitted to have union representation upon request. The employer shall not be required to delay the investigative interview more than ½ hour while the employee obtains Union representation.

- K. The Union representation shall not obstruct or otherwise interfere with the investigative interview.
- L. Disciplinary and supervision issues should be handled at the lowest level and through the chain of command. Unresolved issues of mutual concern may be discussed by the Human Resources Manager and the Union President.

## **ARTICLE 36                      Grievance Procedure**

- A. The purpose of this procedure is to promote harmonious relations among employees, the Union and the Water Authority, to encourage the settlement of discipline and Agreement disputes informally at the employee-supervisor level, to resolve grievances as quickly as possible, and to discourage the filing of unfounded grievances.
- B. A grievance is defined as a complaint that alleges violations of one or more expressed provisions of this Agreement or Authority Policy, Rules and Regulations, Administrative Directives, or a disciplinary action taken against a bargaining unit employee involving a written reprimand, suspension, demotion, or dismissal which the grievant alleges was taken without just cause, or complaints concerning "Prohibited Practices" of an alleged contract violation as defined in Labor-Management Relations Ordinance Section 10-2-9(A)(6) or 10-2-9(B)(5) and all other complaints concerning "grievances" as defined in Merit System Ordinance Section 10-1-21. This grievance procedure shall provide a means for reconciling said complaints.
- C. "Days", as used in this article, shall mean workdays (Monday through Friday) and shall not include holidays or time when the Authority Administration offices are closed.
- D. A "grievant" is a bargaining unit employee represented by the Union, group of employees represented by the Union, or the Authority making a claim.
- E. A written grievance must contain a statement of the grievance, the name of the employee(s), the circumstances and facts upon which it is based, the date the alleged violation occurred, the specific section of this Agreement or policy allegedly violated, the management employee allegedly committing the violation, and the specific remedy being sought. Remedy statement "to be made whole" are not sufficient.
- F. The term grievance and the procedure relevant thereto shall not be deemed applicable in the following instances:
  - 1. in matters where a method or review is mandated by law or by any rule, regulation, resolution, or Ordinance of the Authority; and
  - 2. in matters where the Authority is without authority to act.
- G. Grievances submitted on behalf of the Authority shall be initiated by the Executive Director or designee by filing the grievance with the Union President or designee.
- H. Bargaining unit employees may elect to individually (without representation of the Union) appeal a disciplinary action by using the appeal procedures set forth in the Authority's Merit System Ordinance. A bargaining unit employee may elect to individually file a grievance as outlined in this Article, up to mediation. A bargaining unit employee individually filing a grievance will file a copy of the grievance with the Union President at every step of the grievance procedure. However, an employee may only proceed under one (1) of the avenues, either the following grievance procedure or Merit System Ordinance. The Union may not assist the bargaining unit employee who has elected to process the issue

individually, without the representation of the union, at any stage of this procedure. Rather, the grievance will be the responsibility of the bargaining unit employee.

- I. Failure to submit a grievance within ten (10) days following the discovery of the act, or the condition which gave rise to the grievance, will constitute forfeiture of the right to file. Furthermore, any grievance determination not appealed to the succeeding level within the time limits expressed herein shall be considered as closed. When it is mutually agreed by the parties in writing, the time limits expressed herein may be extended. Either the Union or an employee who has entered a grievance on his/her own behalf, may drop the grievance at any Step.
- J. Should the Authority or the Union fail to respond to a grievance within the time limits expressed herein, the grievant may appeal to the next level of the grievance procedure within the time limits set forth as if the Respondent had timely responded.
- K. Nothing herein contained shall be considered as limiting the rights of an employee to discuss or process his/her grievance as an individual.
- L. Grievances shall be presented as outlined below:

Step One - A grievant who believes that he/she may have a grievance, shall file a written grievance with the Human Resources Director. A meeting with the Human Resources Director may be held within ten (10) days of the filing of the grievance. If the matter is not resolved to the satisfaction of the grievant within ten (10) days of the filing of the grievance with the Human Resources Director, the grievant may file a written grievance at Step Two.

Step Two - Within ten (10) days of the meeting with the Human Resources Director at Step One, the written grievance appeal must be filed with the Executive Director. The grievant shall schedule a meeting with the Executive Director or designee. This meeting should be held within ten (10) days following receipt of the grievance, to discuss the grievance and attempt a resolution. The Executive Director or designee will provide a written response to the grievant within ten (10) days following the meeting to discuss the grievance. If in the opinion of the employee or the Union Representative a satisfactory settlement is not obtained within ten (10) days of the date of the Executive Director or designee's response, the Union Representative or Authority may appeal to the Labor Management Relations Board (LMRB) for violations of this Agreement, or the Union Representative or Authority may appeal to an Arbitrator or to a Hearing Officer for violations of this Agreement or disciplinary actions. Once a process has been selected (e.g. LMRB, Arbitrator, or Hearing Officer), the grievant may only proceed through the selected process and may not file in another process. Written reprimands may only proceed through Step Two of the grievance procedure.

Mediation: Prior to proceeding to Step Three, the parties may mutually agree, in writing, to submit the grievance to mediation, provided the employee has timely requested an appeal to Step Three. Agreement to proceed to mediation must be reached within ten (10) days of the grievant's filing of the appeal. The parties will request a mediator from the Federal Mediation and Conciliation Services to be assigned. If mediation continues for thirty (30) calendar days or more from the date of the

Executive Director's response, either party may declare mediation unsuccessful and proceed to Step Three as provided in this Agreement.

Step Three- Within ten (10) days of the date of the Executive Director or designee's decision at Step Two, the employee or Union Representative shall file the written appeal to the Arbitrator (by filing with the Federal Mediation and Conciliation Service requesting a panel) or Hearing Officer (by filing a request for a Hearing Officer with the Executive Director), for violations of this Agreement or policy or disciplinary action involving suspension, demotion, or termination. A copy of the grievance shall be filed with the Executive Director on the same date of the filing to the Arbitrator or Hearing Officer. Prior to a grievance being filed to the Arbitrator or Hearing Officer acting as an Arbitrator, the grievance procedure (Steps One through Two, above) for the settlement of the grievance must have been exhausted.

Option One: Arbitrators will be selected from a list of seven (7) arbitrators requested from the Federal Mediation and Conciliation Service. The arbitrator's list shall consist of arbitrators from the region which includes New Mexico as defined by the F.M.C.S. The selection of the arbitrator shall be accomplished by the parties striking names until only one name remains. That person shall be the arbitrator. The party to strike the first name is determined by the flip of a coin. If either party refuses to strike an Arbitrator shall be assigned by FMCS. The FMCS will be notified of the arbitrator selected by the grievant within seventy-two (72) hours of the striking of the panel. The grievant will pursue the grievance to an arbitration hearing within six (6) months of the filing for an arbitration panel or the matter will be deemed closed. If the grievant chooses an arbitration date within the six (6) month time period which the Union or the Authority rejects or postpones, the six (6) month time limit will be extended three (3) months.

Option Two: A Hearing Officer acting as Arbitrator under the New Mexico Uniform Arbitration Act, will be chosen by the parties from the available hearing officer's list contracted with the Authority within ten (10) days of the date of the filing of the notice of appeal to a Hearing Officer with the Executive Director. If the parties are unable to agree on a Hearing Officer, the Hearing Officer will be selected by random lot from the list within fifteen (15) days of the date of the filing of the notice of appeal. The grievant will pursue the grievance to an arbitration hearing within six (6) months of the filing of the Notice of Appeal or the matter will be deemed closed. If the grievant chooses an arbitration date within the six (6) month time period which the Union or the Authority rejects or postpones, the six (6) month time limit will be extended three (3) months.

1. Appeals to the Arbitrator or Hearing Officer acting as Arbitrator:
  - a. Witnesses called during their normal scheduled shift will be paid for travel time up to thirty (30) minutes each way and time spent in the hearing.

- b. The Arbitrator or Hearing Officer shall decide issues of grievability, including but not limited to timeliness, prior to hearing the merits of the case. If the Arbitrator or Hearing Officer determines the case is grievable, then the Arbitrator or Hearing Officer shall consider the facts of the grievance and following the hearing shall prepare and submit to the parties, in writing, a report and decision within thirty (30) calendar days after the conclusion of the hearing.
- c. The Arbitrator or Hearing Officer shall have the authority to determine if a violation of the Agreement or policy as alleged has occurred. However, in no case shall the Arbitrator or Hearing Officer have the power to add to, nor subtract from, or modify this agreement or policy, nor shall the Arbitrator or Hearing Officer substitute its discretion for that of the employer where such discretion has been retained by the employer, nor shall the Arbitrator or Hearing Officer exercise any responsibility or function of the employer.
- d. The Arbitrator's, or Hearing Officer's decision may be appealed to District Court within thirty (30) calendar days of the date of the award. The appealing party will pursue the appeal to a District Court hearing within nine (9) months of the filing of the appeal. The Arbitrator's award may be set aside when the Arbitrator, or Hearing Officer:
  - 1) Exceeded its authority in making the award;
  - 2) Exceeded its jurisdiction under the terms of this agreement; or,
  - 3) The award is contrary to law.
- e. The cost of the Arbitrator will be shared by the parties.

#### General Provisions:

- a. The arbitrator shall have the authority to conduct the arbitration proceeding in accordance with the applicable FMCS policies and procedures.
- b. The Executive Director and the Union President have the authority to settle labor-management disputes.
- c. The parties may agree to a settlement at any time during the process.
- d. All settlements between the parties shall be reduced to writing and shall be signed and dated by the parties.
- e. The Union is the exclusive representative of the employees in this bargaining unit. No one else may represent employees in this process without express written approval of the Union President/designee.
- f. Grievances filed by the Union are the express property of the Union and cannot be withdrawn by bargaining unit members.
- g. An individual employee may not invoke the arbitration procedure of this Agreement.

## **ARTICLE 37            PER DIEM AND MILEAGE REIMBURSEMENT**

When an employee is required by the Authority to utilize his/her personal vehicle for work-related business, the employee will be reimbursed in accordance with State Law, provided the employee submits the proper documentation to the fiscal officer

## **ARTICLE 38            LAYOFF AND RECALL**

Reductions in force will be handled in accordance with Authority Personnel Rules and Regulations Section 307.6, effective July 1, 2007. If any changes occur during the term of this Agreement, the Authority shall notify the Union President prior to implementation. Any concerns regarding the changes shall be addressed through the Labor-Management Committee.

## **ARTICLE 39            LABOR-MANAGEMENT COMMITTEE**

- A.     Either the Authority or the Union may request meetings as needed to prevent, clarify, or resolve a problem. At the time of the request, the requesting party shall provide an agenda for the meeting in writing to the other party. Such meetings shall be for the purpose of administering this Agreement. The Union agrees that such activities may not interfere with the operational requirements of the division.
- B.     The Union and the Authority shall conduct Labor-Management meetings at an agreed upon time and place.
- C.     Labor-Management meetings will include two (2) Union representatives. Additional union attendees will be mutually agreed upon by the Authority and the Union. The parties' representatives shall have the power to settle grievances, sign MOUs, and resolve other issues.

## **ARTICLE 40            (Intentionally Left Blank)**

## **ARTICLE 41            INCENTIVE PROGRAMS**

The Union will be given the opportunity to provide written input on any incentive programs prior to implementation.

## **ARTICLE 42            UNION ELECTIONS**

Subject to staffing requirements, union members may be allowed to receive leave without pay to supervise elections. Requests must be submitted in writing at least two (2) working days in advance to the immediate supervisor.

## **ARTICLE 43            CONTRACTING FOR SERVICES**

- A.     If the Employer anticipates the contracting out of Employer services on a permanent basis that have historically been performed by bargaining unit employees, the Employer shall notify the Union President in writing of the Employer's intentions no later than thirty (30) days prior to implementing the anticipated action or when the issue is included in the Authority's annual budget request.



- B. The Union may request to meet and confer with the Employer to discuss the anticipated action prior to implementation. The request shall be granted.
- C. Upon request, the Employer shall provide data and other information in the Employer's possession that is related to the anticipated action and that will assist the Union in its development of a response to the Employer's action.
- D. The Union shall be allowed the opportunity to present arguments and data to the Employer to counter the Employer's anticipated action prior to the Employer's anticipated action.
- E. If the Employer decides to issue a request for proposals (RFP) for contracting out the services, the Union shall be provided with a copy at the same time other vendors are provided a copy.

#### **ARTICLE 44 STORAGE OF AUTHORITY EQUIPMENT**

The Authority will provide for the storage of Authority equipment.

#### **ARTICLE 45 PLACE KEEPER FOR DURATION OF AGREEMENT**

#### **ARTICLE 46 PLACE KEEPER FOR DURATION OF AGREEMENT**

#### **ARTICLE 47 CRITICAL INCIDENT STRESS DEBRIEFING**

Employees should seek support from the Employee Assistance Program.

#### **ARTICLE 48 – 58 PLACE KEEPER FOR DURATION OF AGREEMENT**

#### **ARTICLE 59 SAVINGS CLAUSE**

If any portion of this Agreement is invalidated by the passage of legislation or a decision of a court of competent jurisdiction, such invalidation shall apply only to those portions thus invalidated and the remaining portions of this Agreement not invalidated shall remain in full force and effect. If any provision or provisions are declared to be in conflict with a law, both parties shall meet immediately, if requested in writing by either party, for the purpose of renegotiating an agreement on provisions invalidated.

#### **ARTICLE 60 COMPLETE AND ENTIRE AGREEMENT**

- A. This Agreement specifically describes the entire agreement between the Authority and the Union. There are no other agreements, memoranda of understanding or any other express or implied agreements between the parties and the parties have had the opportunity to

negotiate on all items. Labor Board cases pending at the time of execution of this Agreement as signed in a Memorandum of Understanding are incorporated herein and are considered resolved. Any matters not addressed in this Agreement are subject to the Authority's policies, procedures, rules, and regulations. Should there exist any conflict between the terms of this Agreement and the Authority's policies, procedures, rules, or regulations, this Agreement shall control. All amendments to or modifications of this Agreement must be by written mutual agreement and shall be of no force or effect until ratified and approved by the Authority's Executive Director and the Union.

- B. Therefore, the Authority and the Union for the duration of this Agreement each voluntarily and unqualifiedly agree to waive the right to oblige the other party to bargain with respect to wages, hours, or any other terms and conditions of employment unless mutually agreed in writing otherwise, even though the specific subject or matter may not have been within the knowledge or contemplation of either or both parties at the time they negotiated or executed this Agreement.

## **ARTICLE 61            TERM OF AGREEMENT**

This Agreement is effective upon ratification by the parties and signature of the Union President and Executive Director. The Agreement will remain in full force and effect through midnight, June 30, 2022. The parties may reopen negotiations for wages only if the Water Authority Governing Board fails to appropriate sufficient funding for the agreement in fiscal years 2020, 2021, and 2022. Either party may request negotiations for a successor agreement by submitting such request in writing to the other party no later than ninety (90) days and no earlier than one hundred twenty (120) days prior to the expiration date of this Agreement.

## **ARTICLE 62            SIGNATURES**

IN WITNESS WHEREOF, the parties have entered their names and affixed the signatures of their authorized representatives on the \_\_\_\_\_ day of June, 2018.

ABCWUA

AFSCME

---

Mark Sanchez, Executive Director

---

Patty French, President  
AFSCME Local 3022

---

Meeting Date: June 20, 2018  
Staff Contact: Frank Roth, Senior Policy Manager

**TITLE: C-18-19 - Appointment to the Technical Customer Advisory Committee**

**ACTION: Recommend Approval**

**SUMMARY:**

The Technical Customer Advisory Committee (TCAC) was established in 2006 to assist in and facilitate public review and discussion of Water Authority policies, plans and programs. The TCAC was established as a professional/ technical group of volunteers to represent the five core functional areas of operating a water and wastewater utility. This group is intended to provide outside expertise in best practices and private sector applications for continuous business improvement.

At the May 2018 meeting, the Chair announced that there was a vacancy on the committee and that an online application was posted for customers who may be interested in serving on this technical committee. Board members were informed that if they know of anyone interested that they should apply on the Water Authority's website. In addition, a notice was placed on the Water Authority website's front page. Also, there was an article in the Albuquerque Journal regarding the vacancy.

Qualified nominations were compiled and forwarded to the Chair, who through this communication is forwarding the nomination to the Board for confirmation. Ron Schwarzwaldner is recommended for confirmation. Below is a summary of the nominee's background.

Ron Schwarzwaldner

Mr. Schwarzwaldner is lifelong water professional with experience in all phases of water treatment, storage and delivery. He has lived in Albuquerque since 2008 after retiring as Assistant Commissioner in charge of over 600 million gallons per day treatment capacity for the City of Cleveland Water Division. He also developed a facilities master plan for all Cleveland treatment and pumping facilities. Throughout his career, he has advised in system optimization, asset management and operability tools to various water and wastewater utilities. He also served as International President of American Water Works Association and received several AWWA achievement awards. He would like to use his experience and knowledge of water systems to advise the Water Authority.

A total of five applicants were received through the online application. The other four applicants are listed below.

- David Jordan, professional hydrogeologist

- John Pietz, professional chemical engineer
- Paul van Gulick, professional engineer and surveyor
- Tom Lindley, environment and natural resources attorney

**CURRENT MEMBERS:**

<b>Member</b>	<b>Category</b>	<b>Term Expiration</b>
Ege Richardson	Water System Engineering	6/2019
Michael Hightower	Water Resource Planning	6/2019
Dave Hill	Financial/Business Management	3/2020
Scott Verhines	Water System Engineering	3/2020
Janie Chermak	Resource Economics	10/2018
Andrew Bernard	Landscape Architecture	12/2018
Melissa Armijo	Customer Service / Stakeholder Engagement	5/2019
Amy Miller	Non-profit Water Management Advocacy/Education	8/2019
Vacant	Water System Operations	

**FISCAL IMPACT:** None



---

Meeting Date: June 20, 2018  
Staff Contact: Nann Winter, Esq.

**TITLE: C-18-20 – Extension of Employment Agreement with Executive Director**

**ACTION: Recommend Approval**

**SUMMARY:**

The Employment Agreement with Executive Director Mark S. Sanchez is extended until June 30, 2021.

**FISCAL IMPACT:**

None. Budgeted position.

**COMMENTS:**

The intent is to have an agreement, which is for a period of three years. The primary purpose of this period is to provide for stability and continuity of leadership in the organization.

## **SUPPLEMENT TO EMPLOYMENT AGREEMENT**

THIS Supplement to the Employment Agreement dated June 20, 2007 (Employment Agreement) by and between the Albuquerque Bernalillo County Water Utility Authority (Water Authority) and Mark S. Sanchez (Mr. Sanchez), is entered into this 20th day of June 2018.

WHEREAS, the Water Authority and Mr. Sanchez desire to extend the term of Mr. Sanchez's employment with the Water Authority for two (2) additional years from June 30, 2019 to June 30, 2021.

IT IS THEREFORE AGREED between the Water Authority and Mr. Sanchez that:

1. Paragraph 1. **Term of Employment** of the Employment Agreement is amended as follows:

Mr. Sanchez's employment will continue through June 30, 2021, unless terminated. The term of this Agreement may be extended by mutual agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 20th day of June, 2018 in Bernalillo County, New Mexico.

---

Mark S. Sanchez

---

Date

**Albuquerque Bernalillo County Water Utility Authority**

---

Trudy E. Jones, Chair

---

Date



---

Meeting Date: June 20, 2018

Staff Contact: Mark Kelly, Compliance Division Manager

**TITLE: O-18-6 - Amendment to the Cross Connection Prevention and Control Ordinance of the Albuquerque Bernalillo County Water Utility Authority.**

**ACTION: Recommend Approval**

**BACKGROUND:**

The Water Authority last updated the Cross Connection Prevention and Control Ordinance in 2008. The ordinance protects the public water supply from actual or potential contamination hazards. The New Mexico Environment Department, which administers the Safe Drinking Water Act in New Mexico requires the prevention of cross connections in the drinking water regulations.

**SUMMARY:**

The Cross Connection Prevention and Control Ordinance is being changed to provide clarity and options for contractors and installers. The ordinance is now clear that backflow prevention devices may be installed inside of a building as long as there are no tees or branches between a device and the service connection. The ordinance is now in compliance with the Construction Industries Licensing Act and allows devices that are independently certified by organizations accredited by the American National Standards Institute (ANSI). Fees for late test reports and not having a backflow preventer were added for non-compliance with the ordinance. Previously the only recourse for the Water Authority was to terminate service.

**FISCAL IMPACT:**

A nominal increase in revenue may be seen from the collection of additional fees. It is the goal of the Cross Connection Program to work with customers to bring them into compliance before fees are needed.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. O-18-6

1 **ORDINANCE**  
2 **AMENDING THE CROSS CONNECTION PREVENTION AND CONTROL**  
3 **ORDINANCE.**

4 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD, THE GOVERNING  
5 BODY OF THE WATER AUTHORITY:

6 Section 1. Section 8 is amended as follows:

7 Section 8. Cross Connection Prevention and Control

8 8-1-~~1~~ 2. SHORT TITLE.

9 This Ordinance shall be known and may be cited as "The Cross Connection  
10 Prevention and Control Ordinance."

11 8-1-~~2~~ 3. APPLICABILITY.

12 Compliance with this Ordinance shall be a precondition to receiving or continuing  
13 to receive water service from the Water Authority ~~public water system~~.

14 8-1-~~3~~ 4. PURPOSE AND POLICY.

15 (A) This Ordinance sets forth uniform requirements for, and applies to all  
16 customers of the Water Authority.

17 (B) The purpose of this ordinance is to enable the Water Authority to comply  
18 with applicable state and federal laws, including the Safe Drinking Water Act of 1974.

19 (C) The objectives of this Ordinance are to:

20 (1) Protect the public potable water supply from the possibility of  
21 contamination or pollution by isolating--within the customer's internal distribution system  
22 or the customer's private water system--such contaminants or pollutants which could  
23 backflow into the public water system; and

24 (2) Establish and maintain a Cross Connection control program that  
25 will systematically and effectively prevent the contamination or pollution of all potable  
26 water systems under the jurisdiction of the Water Authority.

27 (D) This Ordinance provides for monitoring, compliance and enforcement  
28 activities; establishes administrative and judicial review procedures; requires



1 submission of test reports; and provides for the setting of fees for inspection and  
2 administration.

3 ~~The purpose of this ordinance is to protect the public health, safety and welfare through~~  
4 ~~the prevention and control of cross connections by:~~

5 ~~—— (A) — Protecting the public water system from contamination or pollution due to~~  
6 ~~cross connections by containing the hazards at the service connection;~~

7 ~~—— (B) — Providing for the maintenance of a continuing program of cross-~~  
8 ~~connection control that will systematically and effectively reduce the risk of the~~  
9 ~~contamination of the public water system.~~

10 8-1-4. DEFINITIONS.

11 For the purpose of this Ordinance, the following definitions shall apply unless the  
12 context clearly indicates or requires a different meaning.

13 APPROVED BACKFLOW PREVENTION ASSEMBLY. An assembly or other  
14 means designed to prevent backflow. The assembly shall either be listed by the  
15 Foundation for Cross Connection Control and Hydraulic Research of the University of  
16 Southern California, or listed ~~accepted by an ANSI Accredited Listing Agency.~~ All  
17 devices must be in compliance with the State of New Mexico Drinking Water  
18 Regulations. ~~The device the Water Authority and shall be limited to the following~~  
19 method and four (4) five types of assemblies unless otherwise stated:

20 (1) AIR-GAP. The unobstructed vertical distance through the free  
21 atmosphere between the lowest opening from any pipe or faucet conveying potable  
22 water into a tank, plumbing fixture, receptor and the flood level rim of the receptacle. An  
23 approved air gap shall be at least double the effective opening of the supply pipe or  
24 faucet and in no case, less than one (1) inch above the flood level. An Air-Gap is the  
25 only Backflow Prevention method approved between potable water and sewage, and  
26 between reclaimed water and sewage.

27 (2) PRESSURE VACUUM BREAKER. Shall consist ~~Consists~~ of one  
28 independently operating spring-loaded check valve and an independently operating  
29 spring-loaded air inlet valve located on the discharge side of the check valve, two (2)  
30 full-ported, resilient seated shut-off valves and equipped with two (2) properly located  
31 resilient seated test cocks.

32 (3) REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION  
33 ASSEMBLY. Shall consist ~~Consists~~ of two (2) independently acting check valves

1 together with a hydraulically operating, mechanically independent pressure differential  
2 relief valve located between the check valves, including two (2) full-ported, resilient  
3 seated shut-off valves at each end of the assembly, and equipped with four (4) properly  
4 located resilient seated test cocks. A reduced pressure principle backflow prevention  
5 assemble is approved for containment backflow prevention assembly.

6 (4) SPILL-RESISTANT PRESSURE VACUUM BREAKER. Shall consist  
7 ~~Consists~~ of one independently operating spring-loaded check valve and an  
8 independently operating spring-loaded air inlet valve located on the discharge side of  
9 the check valve, two (2) full-ported, resilient seated shut-off valves and equipped with  
10 properly located resilient seated test cock and vent valve.

11 (5) DOUBLE CHECK VALVE ASSEMBLY. Shall consist ~~Consists~~ of two (2)  
12 independently acting, approved check valves, including two (2) full-ported, resilient  
13 seated shut-off valves at each end of the assembly and equipped with four (4) properly  
14 located resilient seated test cocks. ~~Any existing double check valve assemblies are~~  
15 ~~approved to continue in service provided that the assemblies can be maintained, tested~~  
16 ~~and repair parts are available through the manufacturer.~~

17 ALTERNATE WATER SOURCE. Non-potable source of water that includes, but  
18 not limited to, gray water, on-site treated non-potable water, rainwater, and reclaimed  
19 (recycled) water.

20 AUXILIARY WATER SUPPLY. Any water source on or available to a premises  
21 other than the public water potable water from the Water Authority. Auxiliary water  
22 supply may include water from another purveyor's public potable water supply or any  
23 natural source such as a well.

24 BACKFLOW PREVENTION ASSEMBLY, CONTAINMENT. An approved  
25 assembly installed in a customer's water system to protect the public water system from  
26 an actual or potential threat of contamination or pollution of the public water system.

27 BACKFLOW PREVENTION ASSEMBLY, ISOLATION. An assembly installed  
28 within the customer's water system at the point of each cross connection to protect the  
29 customer's potable water system from other non-potable water sources within the  
30 customer's water system.

31 BACKFLOW. The undesirable reversal of water flow.

32 BUILDING SUPPLY. The pipe carrying water from the public system or other  
33 source of water supply to a building or other point of use or distribution on the premises.

1 CERTIFIED BACKFLOW PREVENTION ASSEMBLY TESTER. A person who is  
2 currently certified by the Water Authority to test backflow prevention assemblies.

3 CERTIFIED BACKFLOW PREVENTION ASSEMBLY REPAIRMAN. A person  
4 who is a certified backflow prevention assembly tester and licensed by the appropriate  
5 mechanical classification to repair or replace backflow prevention devices in accordance  
6 with the New Mexico Construction Industries Licensing Act, NMSA 1978, §§60-13-1  
7 through 60-13-59, NMSA 1978 and is holds a current certificate issued certified  
8 backflow prevention assembly tester by the Water Authority.

9 ~~HAZARD,~~ CONTAMINATION. Contamination is any a hazardous substance that  
10 may cause death, illness, injury, or the spread of disease if introduced into a potable  
11 water system. Contamination includes, but is not limited to, corrosion inhibitors; anti-  
12 freeze solutions; chemical water treatment for boilers and cooling systems; fertilizers,  
13 herbicides and pesticides used in irrigation systems; heavy metals and total coliform  
14 bacteria found in fire systems; and other hazardous substances.

15 CROSS CONNECTION. An actual or potential connection between a potable  
16 water system and a non-potable water source.

17 CROSS CONNECTION CONTROL CONTAINMENT. The protection of the  
18 public water system by the installation of an approved backflow prevention assembly at  
19 each service connection to a customer's water system from the public water system.  
20 No tees, branches or possible connection fittings or openings are allowed between the  
21 containment backflow prevention assembly and the service connection, unless  
22 protected by a Backflow Prevention Assembly, and accepted by the Water Authority.

23 ~~CROSS CONNECTION CONTROL ISOLATION. The protection of the~~  
24 ~~customer's water system by the installation of an approved backflow prevention~~  
25 ~~assembly within the customer's water system at the point of each and every cross-~~  
26 ~~connection.~~

27 ~~CROSS CONNECTION ADMINISTRATOR. The person designated by the~~  
28 ~~Water Authority to administer the cross connection control program and who is charged~~  
29 ~~with certain duties and responsibilities by this Ordinance.~~

30 CROSS CONNECTION ENGINEER. The person designated by the Executive  
31 Director of the Water Authority as a technical expert in cross connection matters  
32 responsible for enforcing the Cross Connection Control Ordinance, and to help the  
33 Cross Connection Program Manager enforce the cross connection control ordinance.

1 The Cross Connection Engineer shall be a registered professional engineer in  
2 accordance with the State of New Mexico Board of Licensure for Professional  
3 Engineers and Surveyors, pursuant to the Engineering and Surveying Practice Act,  
4 NMSA 1978, §§ 61-23-1 through 61-23-32, NMSA 1978 and meet all the requirements  
5 of the job description approved by the Executive Director and be a certified backflow  
6 prevention assembly tester.

7 CROSS CONNECTION OPERATIONS AND MAINTENANCE SUPERVISOR/  
8 INSPECTOR. The person(s) designated by the Water Authority to assist the Cross  
9 Connection ~~Program~~ Manager in the enforcement of the ~~cross connection control~~  
10 Ordinance and who is charged with certain duties and responsibilities by this Ordinance.  
11 The Cross Connection Operations and Maintenance Supervisor/Inspector shall be a  
12 certified Water Operator Level IV and be a certified backflow prevention assembly  
13 tester.

14 CROSS CONNECTION ~~PROGRAM~~ MANAGER. The person designated by the  
15 Water Authority to enforce the ~~cross connection control~~ Ordinance and who is charged  
16 with certain duties and responsibilities by this Ordinance. The Cross Connection  
17 ~~Program~~ Manager shall be a certified Water Operator Level IV and be a certified  
18 backflow prevention assembly tester.

19 CUSTOMER. Any person, association, corporation, or entity receiving Water  
20 Utility service, related products or services in the Service Area. Any ~~The person~~  
21 ~~responsible for payment of fees as determined pursuant to the Albuquerque Bernalillo~~  
22 ~~County Water Utility Authority Water and Sewer Rates Ordinance as it may be~~  
23 ~~amended.~~

24 CUSTOMER'S WATER SYSTEM. The water system on a customer's premises  
25 beginning at the service connection.

26 DOMESTIC SERVICE. Service line for potable drinking water.

27 EXECUTIVE DIRECTOR. The Executive Director of the Water Authority or  
28 his/her designee.

29 NON-RESIDENTIAL WATER CUSTOMER. Any water customer who is served  
30 by the public water system and is classified in the Albuquerque Bernalillo County Water  
31 Utility Authority Water and Sewer Rates Ordinance as follows:

32 (1) Commercial. Retail, offices, hotels, motels, shopping centers, none  
33 of which use process water in the conduct of business.

(2) Industrial. Manufacturing or process facility, which is engaged in producing a product.

(3) Institutional. Government buildings, hospitals, schools, and other facilities that provide public and quasi-public services.

(4) Multifamily dwelling of three (3) or more stories.

~~HAZARD~~, POLLUTION. A low hazard substance that will degrade the taste, color, odor or other aesthetic quality of the water if introduced into a potable water system, but will not cause death, injury or spread of disease. Pollution includes, but is not limited to, backflow of domestic water from tall buildings; backflow of domestic hot water from water heaters; and other similar low hazard substances.

PREMISES. A building, a tract of land with buildings, or parts of buildings thereon.

PRIVATE FIRE PROTECTION SYSTEM. A Private Fire Protection System begins at the property boundary or at the water utility easement boundary to a customer's premises. The Private Fire Protection System includes sprinkler, hose connections, hydrants, reservoirs, tanks, standpipes, pumps, distribution pipes, and other appurtenances within premises that are owned, operated and maintained by the customer for the purpose of fire suppression.

PUBLIC WATER SYSTEM. The potable water system that supplies water service to residential and non-residential water customers ~~users~~ within the service area of the Water Authority.

RESIDENTIAL WATER CUSTOMER. Any water customer who is served by the public water system and classified in the Albuquerque Bernalillo County Water Utility Authority Water and Sewer Rates Ordinance as follows:

- (1) single-family detached,
- (2) townhouses served by individual meters,
- (3) duplexes served by individual meters
- (4) condominiums served by individual meters.
- (5) ~~triplexes served by common or individual meters,~~
- (5) mobile homes served by individual meters or for the purpose of the

Cross Connection Ordinance

- (6) multi-family dwelling of less than three (3) stories

1        SERVICE AREA. Those parts of Bernalillo County and contiguous territory  
2 served by the Water Authority.

3        SERVICE CONNECTION. The terminal end of the water service from the public  
4 water system and point of delivery to the customer's water system, more particularly  
5 defined as follows:

6            (1)     The service connection for a metered water service is the  
7 downstream end of the water meter or meter setter;

8            (2)     The service connection for un-metered water services and ~~fire lines~~  
9 ~~which serve~~ private fire protection systems is located at the property boundary or at the  
10 water utility easement boundary to a customer's premises; or and

11           (3) The service connection for a fire hydrant and all other temporary or  
12 emergency water services that is located at the point of connection to the public water  
13 system.

14        SEWAGE. Wastewater and excrement conveyed in sewers.

15        WATER AUTHORITY. The Albuquerque Bernalillo County Water Utility  
16 Authority.

17        WATER, NONPOTABLE. Water that does not meet federal and state drinking  
18 water standards. Water that is not safe for human consumption or that is of  
19 questionable quality. Any water delivered by the non-potable water system and  
20 intended for irrigation, industrial or used for ~~or~~ other allowable non-potable applications.

21        WATER, POTABLE. Water delivered by the public water system intended for  
22 human consumption and meeting federal and state drinking water standards.

23        WATER, USED. Any water delivered by the public water system to a customer's  
24 water system after it has passed the service connection.

25        8-1-5. ADOPTION OF TECHNICAL SPECIFICATIONS.

26        The Water Authority ~~shall~~ may adopt technical specifications to define backflow  
27 prevention assembly installation standards from, but not limited to, the International  
28 Association of Plumbing and Mechanical Officials (IAPMO) Uniform Plumbing Code  
29 (UPC), and the University of Southern California Manual of Cross Connection Control.  
30 ~~guidelines and criteria.~~ The Water Authority shall update the ~~current Manual of~~  
31 ~~Procedures and the Water Authority's~~ portion of the City of Albuquerque's Standards  
32 and Specifications for Public Works Construction to incorporate the provisions of this  
33 Ordinance.

1 8-1-6. RESPONSIBILITY.

2 It shall be the responsibility of the Water Authority to administer and enforce the  
3 provisions of this Ordinance. This Ordinance also assigns responsibilities to customers,  
4 ~~and to~~ certified backflow prevention assembly testers and repairmen as described in  
5 this section.

6 (A) Water Authority. The Water Authority shall be responsible for the  
7 protection of the public water system from contamination or pollution due to the  
8 backflow of contaminants or pollutants through the water service connection. The  
9 Water Authority shall enforce all ~~the~~ provisions of this Ordinance that relate to cross  
10 connection control by containment; shall approve all cross connection control backflow  
11 prevention assemblies; shall administer a continuing cross connection containment  
12 control program; maintain a customer and current backflow prevention assembly data  
13 base; and shall not knowingly install, maintain or approve installation of a water service  
14 connection unless the public water system is protected as required by this Ordinance.

15 (B) Customer. All customers shall be responsible, without further notice, for  
16 the prevention of contaminants, pollutants, water from alternate sources, or water from  
17 auxiliary water supplies from entering the ~~customer's potable water system and the~~  
18 public water system. Customers shall provide approved backflow prevention  
19 assemblies as required by local plumbing codes and this Ordinance. Regardless of the  
20 location of the containment backflow prevention assembly, the customer's responsibility  
21 begins at the service connection and extends throughout the entire length of the water  
22 system within the premises. No tees, branches or possible connection fittings or  
23 openings are allowed between the containment backflow prevention assembly and the  
24 service connection. Customers shall install, have tested, and maintain, at their own  
25 expense, backflow prevention assemblies as directed by the Water Authority. ~~Test~~  
26 ~~reports shall be delivered to the Water Authority within seven (7) calendar days of~~  
27 ~~testing. Accurate records of all inspections, tests, repairs and replacement of backflow~~  
28 ~~prevention assemblies shall be maintained by the customer for a period of three (3)~~  
29 ~~years.~~

30 (C) Certified backflow prevention assembly tester. Only certified backflow  
31 prevention assembly testers are permitted to inspect and test backflow prevention  
32 assemblies. They shall complete and provide accurate test reports to the Cross  
33 Connection Manager and Customer. ~~They shall Water Authority within seven (7)~~

1 ~~calendar days of the test, submit test gauge reports to the customer and submit~~  
2 calibration test reports annually to the Cross Connection Manager ~~Water Authority.~~  
3 They shall report to the customer and the Cross Connection Manager ~~Water Authority~~  
4 any discovered discrepancies or violations that ~~which~~ the tester may have observed  
5 during the course of testing a backflow prevention assembly.

6 (D) Certified backflow prevention assembly repairman. Only certified backflow  
7 prevention assembly repairmen are permitted to inspect, repair, replace, and test  
8 backflow prevention assemblies. They shall complete and provide accurate test reports  
9 to the Cross Connection Manager and customer. They shall ~~Water Authority within~~  
10 ~~seven (7) calendar days of the test, submit test gauge calibration certification reports~~  
11 annually to the Cross Connection Manager. They shall report to the customer and the  
12 Cross Connection Manager ~~submit calibration test reports annually to the Water~~  
13 ~~Authority. Report to the customer and the Water Authority~~ any discovered discrepancies  
14 or violations which the repairman may have observed during the course of testing and  
15 or repairing a backflow prevention assembly. Such repairman shall not change the  
16 design, material or operational characteristics of a backflow prevention assembly  
17 without prior approval of the Cross Connection Manager ~~Water Authority.~~

#### 18 8-1-7. REQUIREMENTS.

19 (A) Mandatory cross connection control by containment:

20 (1) Effective February 15, 2009 all new non-residential premises ~~must~~  
21 shall have a containment reduced pressure principle backflow prevention assembly  
22 approved by the Water Authority installed after the ~~at each~~ domestic service connection  
23 ~~to the customer's water system or at a location approved by the Water Authority, as set~~  
24 forth in the UPC and this Ordinance. No tees, branches or possible connection fittings  
25 or openings are allowed between the containment backflow prevention assembly and  
26 the service connection unless protected by a Backflow Prevention Assembly Uniform  
27 Plumbing Code.

28 (2) Effective February 15, 2009 all remodeled non-residential  
29 premises, when the work area of the building undergoing repairs, alterations or  
30 rehabilitation, as defined in the International Existing Building Code, exceeds 50 percent  
31 of the aggregate area of the building regardless of the costs of repairs, alteration, or  
32 rehabilitation, ~~shall must~~ have a containment reduced pressure principle backflow  
33 prevention assembly approved by the Water Authority installed after the ~~at each~~



1 domestic service connection ~~to the customer's water system or at a location approved~~  
2 ~~by the Water Authority, as set forth in the UPC and this Ordinance.~~ No tees, branches  
3 or possible connection fittings or openings are allowed between the containment  
4 backflow prevention assembly and the service connection unless protected by a  
5 Backflow Prevention Assembly Uniform Plumbing Code.

6 (3) All construction premises with temporary service connection shall  
7 have a containment reduced pressure principle backflow prevention assembly approved  
8 by the Water Authority installed at each temporary service connection to the  
9 construction site, as set forth in the UPC and this Ordinance.

10 (43) All non-residential irrigation water systems connected to the public  
11 water system shall ~~must~~ have a pressure vacuum breaker, spill-resistant pressure  
12 vacuum breaker or a reduced pressure principle backflow prevention assembly installed  
13 after ~~at~~ the service connection ~~on the public water system.~~ Such devices shall be  
14 approved by the Water Authority. No tees, branches or possible connection fittings or  
15 openings are allowed between the containment backflow prevention assembly and the  
16 service connection.

17 ~~at the potable service connection.~~

18 (45) All non-residential customers connected via piping to an alternative  
19 ~~a non-potable water source or an auxiliary water supply system~~ and the public water  
20 system shall install a containment reduced pressure principle backflow prevention  
21 assembly approved by the Water Authority after the potable service connection.

22 (56) All fire hydrants used for drawing water for filling tanks and tank  
23 trucks and for temporary irrigation systems must have an air-gap or approved  
24 containment reduced pressure principle backflow prevention assembly ~~in accordance to~~  
25 ~~the Manual of Procedures and~~ approved by the Water Authority, as set forth in the UPC  
26 and this Ordinance.

27 (67) Any residential premises having existing private wells and who  
28 desire to connect to the public water system shall have two (2) options as follows:

29 (a) Customers shall permanently abandon the use of private  
30 wells by plugging the wells as accepted by the Water Authority prior to connecting to the  
31 public water system; or

32 (b) Customers who choose to maintain their private wells shall  
33 completely sever the private well from the premises' potable plumbing system. ~~and~~

1 ~~shall install a reduced pressure principle backflow prevention assembly approved by the~~  
2 ~~Water Authority at the terminal end of the water service from the public water system~~  
3 ~~(e.g., service connection)~~

4 (78) Effective February 15, 2009, all new ~~fire line~~ services to private  
5 fire protection systems shall be equipped with a containment reduced pressure principal  
6 backflow prevention assembly approved by the Water Authority and Fire Marshal having  
7 jurisdiction installed after the at each service connection. No tees, branches or possible  
8 connection fittings or openings are allowed between the containment backflow  
9 prevention assembly and the service connection. A double check valve assembly  
10 approved by the Water Authority and Fire Marshal having jurisdiction may be installed  
11 instead of a reduced pressure backflow prevention assembly provided the private fire  
12 protection system meets or exceed ~~contains~~ ANSI/NSF Standard 60 and or 61 ~~water~~  
13 ~~pipng~~ throughout the entire private fire protection system, the fire sprinkler drain  
14 discharges into atmosphere, and there are no reservoirs, fire department connections  
15 nor-connections from auxiliary water supplies, ~~antifreeze nor other additives.~~

16 (89) Premises with existing private fire protection systems containing  
17 double check valve assemblies installed and approved by the Water Authority prior to  
18 2009 are approved to continue in service as long as the device tests and functions  
19 properly.

20 (910) Effective February 15, 2009 all remodeled non-residential  
21 premises, when the work area of the building undergoing repairs, alterations or  
22 rehabilitation, as defined in the International Existing Building Code, exceeds 50 percent  
23 of the aggregate area of the building regardless of the costs of repairs, alteration, or  
24 rehabilitation with existing private fire protection systems without a containment ~~any~~  
25 backflow prevention assemblies shall must be retrofitted with an approved reduced  
26 pressure principle backflow prevention ~~double check valve~~ assembly approved by the  
27 Water Authority and Fire Marshal having jurisdiction. Assembly shall be installed at  
28 each private fire protection after the service connection to the customers water system.  
29 Approved reduced pressure principle backflow prevention assembly shall ~~double check~~  
30 ~~valve assemblies must~~ be installed by a person who is licensed by the appropriate  
31 mechanical classification in accordance with the New Mexico Construction Industries  
32 Licensing Act. Fire sprinkler system hydraulic performance shall must be verified by an  
33 engineer registered in accordance with the State of New Mexico Board of Licensure for

Professional Engineers and Surveyors, pursuant to the Engineering and Surveying Practice Act, NMSA 1978 §§ 61-23-1 through 61-23-32, ~~NMSA 1978~~.

~~(4011)~~ Once an approved backflow prevention assembly is ~~for~~ ~~containment has been~~ installed at a premises, as a cross connection control containment assembly, the assembly shall not be removed without prior approval from the Water Authority, customer, Containment the backflow prevention tester or the backflow prevention repairman shall not have the device removed. Permanent removal of a containment backflow prevention assembly will result in termination of water service and/or revocation of backflow certification. Backflow prevention assemblies that cannot be repaired must be replaced in-kind per the terms of this Ordinance.

~~(4412)~~ Once an approved backflow prevention assembly ~~assemblies may~~ be for containment has been properly installed the assembly shall not be modified ~~inside or outside the premise~~.

(B) Inspection of premises.

(1) Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, or whenever the Water Authority or its authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which may endanger the public water supply ~~makes such building or premises unsafe as defined in this Ordinance~~, the Water Authority or its authorized representative may enter such building or premises at reasonable times to inspect the same or to perform any duty imposed upon the Water Authority by this Ordinance; provided that if such building or premises be occupied, the Water Authority representative will ~~he/she shall~~ first present proper credentials and demand entry; and if such building or premises be unoccupied, the Water Authority representative will ~~shall~~ first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If entry and or inspection is refused, the Water Authority may ~~shall~~ immediately terminate water service to the premises.

(2) Inspection of premises. ~~The Water Authority shall schedule an inspection at a reasonable date and time and give the customer written notice prior to an inspection.~~ The purpose and authority to conduct such an inspection shall be disclosed to ~~in the~~ customer notice. If actual or potential cross connections, which could result in backflow of contaminants, pollutants, and water from auxiliary water supplies or

1 water from the non potable water systems ~~through the water service connection and~~  
2 ~~into the public water system~~, are determined to exist during the premises inspection, the  
3 Water Authority shall ~~evaluate the hazards and~~ proceed as follows:

4 (a) In the event a contamination of the public water supply  
5 ~~hazard~~ is determined to exist, the Water Authority shall immediately terminate water  
6 service to the premises. The Water Authority shall restore water service to the  
7 premises once the contamination hazard has been controlled or eliminated.

8 (b) In the event no contamination is ~~hazard or substantial~~  
9 ~~dangers are~~ determined to exist, but actual or potential cross connections require  
10 control by containment, the Water Authority shall give the customer written notice to  
11 install an approved ~~reduced pressure principle~~ backflow prevention assembly as a cross  
12 connection control containment assembly after ~~at~~ the service connection at the  
13 customer's own expense. The backflow assembly shall be installed, inspected and  
14 tested within ~~fifteen (15)~~ calendar days from the date of the notice. For good cause, the  
15 Water Authority may extend the time to comply with the requirements of this Ordinance.

16 (C) Re-inspection. Re-inspection of premises shall be conducted by the  
17 Water Authority to verify corrective action has been implemented as required by this  
18 Ordinance.

19 (D) Installation of backflow prevention assemblies. Any contractor licensed by  
20 the appropriate mechanical classification in accordance with the New Mexico  
21 Construction Industries Licensing Act may install backflow prevention assemblies in  
22 accordance with the UPC and this Ordinance ~~Manual of Procedures~~. The contractor  
23 shall be responsible for obtaining all required approvals, such as approved plans,  
24 permits and inspections. Such contractor shall not change the design, material or  
25 operational characteristics of a backflow prevention assembly without prior approval of  
26 the Water Authority.

27 (E) Tests and maintenance of backflow prevention assemblies. Customers  
28 shall have their existing containment and isolation backflow prevention assemblies  
29 tested at least once a year by a certified backflow prevention assembly tester.  
30 Assemblies that fail a test shall be repaired or replaced by a certified backflow  
31 prevention assembly repairman and immediately retested by a certified backflow  
32 prevention assembly tester ~~repairman~~. A test report shall be submitted to the customer  
33 and the Water Authority within seven (7) calendar days of test, or the test will be void,

1 and retesting will be required. Tests and repairs shall be at the expense of the  
2 customer.

3 All new installations of backflow prevention assemblies shall be tested  
4 immediately upon installation (if/when water service is available) and test reports  
5 submitted to the Water Authority within seven (7) calendar days or the tests will become  
6 void and retesting would be required. Once the backflow prevention assembly is tested  
7 and operating properly, water service to the premises may continue. Water Authority  
8 shall inspect all newly installed containment backflow prevention assemblies.

9 The repairman and tester shall use separate tools and gauges for testing  
10 backflow prevention assemblies on potable water systems, such tools and gauges are  
11 never to be used on non-potable water, including alternate water sources. They shall  
12 submit all test reports to the Water Authority and customer with seven (7) calendar days  
13 of the test, or the test becomes void, and retesting of assembly would be required. ~~The~~  
14 ~~customer shall submit all test reports to the Water Authority.~~ The Water Authority shall  
15 provide the test report form to customers, certified backflow prevention assembly  
16 testers, and repairmen upon request. They shall submit test gauge calibration test  
17 report annually to the Cross Connection Manager. Tests performed with a test gauge  
18 that has not had a yearly calibration certification are void. Accurate records of all  
19 inspections, tests, repairs, and replacement of backflow prevention assemblies shall be  
20 maintained by the customer for a period of three (3) years. ~~and repairmen.~~

21 (F) Existing previously approved backflow prevention assemblies. Any  
22 existing backflow prevention assemblies that were previously ~~are not on the current list~~  
23 ~~of approved backflow prevention assemblies~~ may be approved to continue in service  
24 provided that the assemblies test and function properly. When required, ~~can be~~  
25 ~~maintained, tested and repaired with parts available through the manufacturer.~~  
26 ~~Whenever~~ obsolete assemblies ~~are replaced,~~ they shall be replaced with current,  
27 approved backflow prevention assemblies.

28 (G) Certification of testers and repairmen. To be certified as a backflow  
29 prevention assembly tester, a person shall attend a training course that has been  
30 approved by the Water Authority and successfully complete the written and practical  
31 examinations administered as part of the approved training course. A person who is  
32 licensed by the appropriate mechanical classification in accordance with the New  
33 Mexico Construction Industries Licensing Act and attends and successfully completes

1 the approved training course may be certified as a backflow prevention assembly  
2 repairman.

3 (H) Re-certification of testers and repairmen. A certified tester or repairman  
4 who wishes ~~wants~~ to remain active as a backflow assembly tester or repairman shall  
5 renew their certification every three (3) years. To re-certify, prior to existing certification  
6 expiring, testers and repairmen must complete ~~have the following options:~~ (1) Complete  
7 ~~an approved 40-hour training course;~~ or (2) Complete an approved eight (8) hour  
8 training course and accrue ~~sixteen (16)~~ hours of approved continuing education credits.  
9 Otherwise, the certified tester or repairman must complete an approved 40-hour training  
10 course. Testers or repairmen with non-expired certifications shall provide proof of  
11 training credits earned and training course attended prior to re-certification.

12 (I) Approved training courses. The Water Authority shall approve training  
13 courses. The approved course shall be conducted by an instructor who is a certified  
14 tester and ~~or~~ repairman; duration of the course shall be at least ~~forty (40)~~ hours; and the  
15 minimum material covered shall either be based on the University of Southern  
16 California's Foundation for Cross Connection Control and Hydraulic Research training  
17 course or an ANSI accredited listing agency.

18 The approved re-certification training course shall be conducted by an instructor  
19 who is a certified tester and ~~or~~ repairman; duration of the course shall be at least eight  
20 (8) hours and the course shall include rules, regulations, the Cross Connection  
21 Ordinance, ~~and minimum of six (6) hours~~ practical training and practical examinations.

22 The instructor conducting the certification and re-certification courses shall  
23 administer the written and practical examinations. A performance of over 70% on the  
24 written examination and satisfactory completion of the practical examination constitutes  
25 successful completion of the course.

26 Administrator of the approved training course or approved recertification training  
27 course shall submit the course syllabus once a year, or upon any changes to the  
28 syllabus for approval by the Water Authority.

29 (J) ~~Revocation.~~ The Water Authority shall ~~revoke certification of any certified~~  
30 ~~backflow prevention assembly tester or repairman for any of the following reasons:~~

- 31 (1) ~~falsification of tests, records or reports;~~  
32 (2) ~~failure to properly maintain test equipment;~~  
33 (3) ~~failure to submit calibration test report annually;~~

1                   ~~(4) alterations of an existing backflow prevention assembly without the~~  
2 approval of the Water Authority; or

3                   ~~(5) failure to inform the Water Authority of an existing cross connection or~~  
4 ~~a fire protection system without an approved backflow prevention assembly.~~

5 8-1-8. FEES.

6           The Water Authority shall assess fees associated with the implementation of this  
7 Ordinance as determined and set by the Water Authority Water and Sewer Rate  
8 Ordinance. The fees imposed by this Ordinance are as follows:

9           (A)    Inspection fees. An inspection fee plus applicable gross receipts tax ~~may~~  
10 shall be assessed for an inspection conducted on the customer's premises. The fee  
11 shall be assessed only to those customers whose premises are not in compliance with  
12 this Ordinance at the time of inspection and to recover the expenses incurred by the  
13 Water Authority to inspect the premises.

14           (B)    Administrative fees. All customers shall be assessed an annual  
15 administrative fee plus applicable gross receipts tax for each backflow prevention  
16 assembly located at the premises. The fee shall recover the expenses incurred by the  
17 Water Authority to maintain records, process notices, enter test results and maintain the  
18 database.

19           (C)    Late report fees. If a passing test report is not submitted by the due date,  
20 a late report fee may be assessed, beginning 30 days after the due date. (Per the  
21 Requirement Section above, the test report is only valid for seven (7) days after testing.

22           (D)    Non-existent containment backflow preventer assembly fee. Non-exempt  
23 service connections, which do not have a containment backflow preventer assembly, or  
24 have an unapproved backflow preventer assembly, may be assessed a containment  
25 backflow preventer assembly fee when the second notice of violation is issued for lack  
26 of an approved containment backflow preventer assembly.

27           (E)    Unauthorized connection fee. Unauthorized tees, branches, connection  
28 fittings, or openings between the containment backflow prevention assembly and the  
29 service connection, may be assessed an unauthorized connection fee when the second  
30 notice of violation is issued for an unauthorized connection.

1       (F) Ordinance documents. Copies of this Ordinance may be obtained at the  
2 Water Authority website. ~~City Treasurer, Albuquerque/Bernalillo County Government~~  
3 ~~Center for a fee.~~

4       ~~Manual of Procedures. Copies of the Manual of Procedures may be obtained at~~  
5 ~~the City Treasurer, Albuquerque/Bernalillo County Government Center, and~~  
6 ~~Albuquerque, New Mexico for a fee.~~

7       (GE) Payment. All fees shall be payable to the office of the Water Authority  
8 Customer Services Division, Albuquerque/Bernalillo County Government Center,  
9 Albuquerque, New Mexico, and will become delinquent fifteen (15) days following the  
10 due date on the customer's statement.

11       (HF) Penalty. A penalty of 1.5% per month shall be imposed on all delinquent  
12 accounts.

13       (IG) Responsibility of payment, liens and deposit. The persons responsible for  
14 payment of the fees included in this Ordinance shall be the customer upon whom  
15 charges are imposed under with the Water Utility Authority Water and Sewer Rates  
16 Ordinance as it may be amended.

17 8-1-9. PENALTIES AND VIOLATIONS ~~ALTERNATE METHODS TO ACHIEVE~~  
18 ~~COMPLIANCE.~~

19       (A) Notice of Violation. When the Cross Connection Manager finds that  
20 a customer has violated, or continues to violate, any provision of this Ordinance or order  
21 issued by the Cross Connection Manager or Engineer, the Cross Connection Engineer  
22 may serve upon the customer a written notice of violation. Within fifteen (15) days after  
23 receipt of the notice of violation, the customer shall give the Cross Connection Engineer  
24 an explanation of the violation and a plan for correcting and preventing the violation,  
25 including the specific actions that may be required. Submission of a plan shall not  
26 relieve the customer of liability for any violations occurring before or after receipt of the  
27 notice of violation.

28       (B) Customers issued a third notice of violation may be required to relocate  
29 the containment backflow prevention assembly next to the water meter, property line or  
30 easement line.

31       (C) Revocation. The Water Authority may suspend or revoke a tester's  
32 certification for any of the following:

33       (1) falsification of tests, records or reports;



- 1                    (2) failure to properly maintain test equipment;  
2                    (3) failure to submit test gauge calibration test report annually;  
3                    (4) recurrent submittal of inaccurate or incomplete test reports;  
4                    (5) alterations or removal of an existing backflow prevention assembly  
5 without the approval of the Water Authority;  
6                    (6) failure to inform the Water Authority of an observed cross  
7 connection; or  
8                    (7) certified backflow prevention assembly tester/repairman is working  
9 outside of his/her certification.

10            ~~(A) Remote installations of containment backflow prevention assemblies. In~~  
11 ~~instances where the containment backflow prevention assembly(ies) cannot be installed~~  
12 ~~at the service connection, the customer may install the approved backflow prevention~~  
13 ~~assembly(ies) at a remote location with the approval of the Cross Connection Engineer~~  
14 ~~or the Cross Connection Program Manager.~~

15 8-1-10. GROUNDS FOR TERMINATION OF WATER SERVICE UNDER THIS  
16 ORDINANCE.

17            (A) Any person who willfully removes, modifies or bypasses any approved  
18 backflow prevention assembly without prior approval of the Water Authority, falsifies  
19 tests records or reports, obtains water from a fire hydrant in violation of cross  
20 connection control requirements, connects an alternate water source to potable water a  
21 building fire protection service, connects an auxiliary water supply to potable to a normal  
22 water service, or connects Water Authority reclaimed water to non-potable water without  
23 approved backflow protection, thus creating a cross connection, or otherwise violates  
24 any provision of this Ordinance may have water service terminated.

25            (B) In the event the Cross Connection Engineer or Cross Connection ~~Program~~  
26 Manager determines that a potential contamination exists and may be a threat to the  
27 public water system, water service to the premises shall be terminated immediately.  
28 The Water Authority shall restore water service to the premises once the customer has  
29 controlled or eliminated the contamination hazard.

30            (C) Failure to install required backflow prevention assemblies as directed by  
31 the Water Authority, failure to conduct required tests, failure to submit accurate test  
32 reports within seven (7) calendar days of the test, failure to perform testing and  
33 maintenance of backflow prevention assemblies, or failure to allow the Water Authority

1 entry into a premises shall constitute grounds for termination of water service to the  
2 premises. Service shall not be restored until such conditions or defects are corrected.  
3 If water service is terminated for any of these reasons, a turn-off and turn-on water  
4 service fee will be assessed to the customer as per the Albuquerque Bernalillo County  
5 Water Utility Authority Water and Sewer Rates Ordinance.

6 (D) The Water Authority may terminate water service for non-payment of the  
7 fees included in this Ordinance and in accordance with the Albuquerque Bernalillo  
8 County Water Utility Authority Water and Sewer Rates Ordinance as it may be  
9 amended.

10 8-1-11. TERMINATION OF WATER SERVICE; HEARING.

11 (A) The Cross Connection Engineer or the Cross Connection ~~Program~~  
12 Manager may terminate the water service to the property for failure on the part of the  
13 customer to comply with any provision of this Ordinance.

14 (B) In order to terminate service, a written notice shall be sent to the customer  
15 giving him/her at least ten (10) calendar days' notice of the proposed termination of  
16 water service and notice of his/her right to protest the Cross Connection Engineer's or  
17 Cross Connection ~~Program~~ Manager's action at a hearing.

18 (C) In the event a hearing is requested, the water service shall not be  
19 terminated until and in accordance with the decision of the hearing officer. However the  
20 Cross Connection Engineer or Cross Connection ~~Program~~ Manager shall immediately  
21 terminate water service to the premises in the event that contamination is determined to  
22 exist or entry for an inspection to a premises is denied.

23 (D) The customer must request that a hearing be held by delivering such  
24 request in writing to the Executive Director on or before the date the water services are  
25 to be terminated. In the case of immediate termination, such written request shall be  
26 delivered within ten (10) calendar days after the date of termination.

27 (E) At such hearing, the customer may present evidence as the Hearing  
28 Officer finds relevant. The Hearing Officer shall make findings, conclusions and  
29 recommendations to the Executive Director. The Executive Director may affirm, overrule  
30 or modify the decision to terminate the services. The decision shall be final.

31 (F) A non-refundable hearing fee of \$50.00 shall accompany each request for  
32 hearing pursuant to this Section.

1           Section 2.     SEVERABILITY CLAUSE.  If any section, paragraph, sentence,  
2 clause, work or phrase of this Ordinance is for any reason held to be invalid or  
3 unenforceable by any court of competent jurisdiction, such decision shall not affect the  
4 validity of the remaining provisions of this Ordinance.  The Authority hereby declares  
5 that it would have passed this Ordinance and each Section, paragraph, sentence,  
6 clause, word or phrase thereof irrespective of any provision being declared  
7 unconstitutional or otherwise invalid.

8           Section 3.     EFFECTIVE DATE AND PUBLICATION.  This Ordinance shall  
9 become effective August 1, 2018, after publication by title and general summary.

---

Meeting Date: June 20, 2018

Staff Contact: John M. Stomp, P.E., Chief Operating Officer

**TITLE: C-18-21- Approval of First Amendment to Settlement Agreement the Albuquerque Bernalillo County Water Utility Authority, Rio Grande Silvery Minnow and with City of Albuquerque**

**ACTION: Recommend Approval**

**SUMMARY:**

In 2005, the City and Water Authority jointly settled with the Plaintiffs in the Rio Grande Silvery Minnow v. Keys litigation. The purposes of the settlement agreement were to take steps to protect and restore the ecological integrity of the Rio Grande and to provide greater certainty for the Water Authority to develop and utilize San Juan-Chama as part of the Drinking Water Project. Under the terms of the settlement agreement, the Water Authority has successfully implemented the following items:

1. Set aside 30,000 acre-feet of space in Abiquiu Reservoir as an environmental pool for the storage of native or San Juan-Chama water acquired by others for use in the Middle Rio Grande to benefit endangered species. The environmental pool does not affect the ability for the Water Authority to utilize the space in the event that space is needed, but does provide important benefits for endangered species, the Bosque and other ecosystem restoration efforts.
2. The Living River Fund was established that allows for rate payers of the Water Authority to donate to a fund to acquire water rights for storage in the environmental pool.

We are seeking authorization for the Executive Director to enter into an agreement with the Plaintiffs to utilize existing funds with the goal of working to secure the legal and operational flexibilities to Rio Grande Basin Reservoirs. The settlement agreement amendment allows for funds that were set aside for pilot environmental leasing program to be utilized to hire staff whose job will be to promote reservoir flexibility in the Middle Rio Grande.

**FISCAL IMPACT:** None

FIRST AMENDMENT TO SETTLEMENT AGREEMENT  
BETWEEN  
*RIO GRANDE SILVERY MINNOW V. KEYS* PLAINTIFFS, THE CITY OF  
ALBUQUERQUE AND THE ALBUQUERQUE-BERNALILLO COUNTY WATER  
UTILITY AUTHORITY

THIS FIRST AMENDMENT TO Settlement Agreement (“First Amendment”) amends that certain Settlement Agreement Between *Rio Grande Silvery Minnow v. Keys* Plaintiffs, 99 CV 1320 JP/RHS (DNM) (“Plaintiffs”), the City of Albuquerque (“Albuquerque” or “the City”), and the Albuquerque-Bernalillo County Water Utility Authority (“Water Authority”) (collectively “the Parties”) executed in 2005 between the parties.

Whereas, WildEarth Guardians is the successor in interest and rights of plaintiff Forest Guardians pursuant to the Certificate of Amendment of WildEarth Guardians No. 3343423 dated February 12, 2008;

Whereas, the purposes of the 2005 Settlement Agreement were to take steps towards protecting and restoring the ecological integrity of the Rio Grande and to provide greater certainty for the Authority to develop and utilize a reliable water supply;

Whereas, the Parties have worked together over the past decade and continue to work collaboratively to implement the provisions of the 2005 Settlement Agreement;

Whereas, the Parties agreed to “support the establishment and implementation of a pilot water leasing program for the Middle Rio Grande area via agricultural forbearance to increase flows in the Rio Grande and protect federally-listed species dependent on the river;”

Whereas, the water leasing program was a means for acquiring and transferring water from existing uses to provide flows in the Rio Grande;

Whereas, the Water Authority contributed \$225,000 in funding for such a water leasing program;

Whereas, *Rio Grande Silvery Minnow v. Keys* Plaintiff, WildEarth Guardians, likewise contributed \$25,000 in funding for such a water leasing program;

Whereas, the Parties agreed to “work in good faith and in cooperation with the Collaborative Program to use the above-referenced funding to secure additional state and federal funding on a 75/25 matching basis in order to secure \$1 million for the water leasing program;”

Whereas, the Parties jointly worked collaboratively to encourage Senator Udall to support and request an increase in federal funding for the U.S. Bureau of Reclamation to develop

and implement a pilot water acquisition and leasing program in the Rio Grande Basin in New Mexico;

Whereas, in 2014 with the leadership of Senator Udall, Congress passed an appropriations bill including funding and direction for the U.S. Bureau of Reclamation to develop and implement a long-term pilot water acquisition program in the Rio Grande Basin in New Mexico;

Whereas, in 2015 again with the leadership of Senator Udall, Congress appropriated \$1 million directed to the establishment of a voluntary water leasing program in the Middle Rio Grande in New Mexico;

Whereas, due to the efforts of the Parties, Congress, and other stakeholders in the Basin, the establishment of a water acquisitions and leasing program is coming to fruition;

Whereas, based on the collective federal, state, and local support of such an environmental water leasing program and the dedicated federal funding, we believe that the 2005 Settlement Agreement needs to be amended to reflect these accomplishments and evolving landscapes;

Whereas, all of the original funds contributed to support the environmental water leasing program remain unspent in a joint Escrow Account;

Whereas, the Parties believe these funds should be leveraged in way that will accomplish the purposes of this agreement; and

Whereas, the Parties wish to amend the 2005 Settlement Agreement regarding how the contributed funds can be leveraged in order to guide the Parties cooperative efforts to meet the original purposes for which the agreement was entered.

NOW THEREFORE, the Parties agree as follows:

1. The Parties agree that due to the evolution of the landscape in the Rio Grande Basin there are important water management flexibilities—beyond a pilot environmental water leasing program—that are necessary to meet the purposes of the 2005 Settlement Agreement. In order to provide more options for how to leverage the funds contributed by the Water Authority and Guardians, the Parties agree to amend the 2005 Settlement Agreement as follows:

- a. Section III(1)(f) shall be amended to read: “To complement the Authority's appropriation of \$225,000 pursuant to paragraph III(3)(c), provide \$25,000 in funding through voluntary contributions from the Plaintiffs, exclusive of the Sierra Club, for the purposes described in that paragraph III(5)(a).

- b. Section III(3)(c) shall be amended to read: “Support the efforts in the Rio Grande Basin to increase flows in the Rio Grande and protect federally-listed species

dependent on the river. Subject to appropriations, the Authority shall provide \$225,000 in funding for such purposes described in paragraph III(5)(a).

c. Section III(5)(a) shall be amended to read: "Work in good faith to use the funding described in Paragraphs III(1)(f) and III(3)(c) to support the hiring of a full-time staff person within WildEarth Guardians' Wild Rivers Program with the goal of working to secure legal and operational flexibilities to Rio Grande Basin Reservoirs. The details of implementing this effort to increase the operational flexibilities to Rio Grande Basin Reservoirs will be determined in a future agreement, to which the Authority and the relevant Plaintiff, WildEarth Guardians, will be signatories.

d. Section III(5)(b) shall be deleted.

2. The Parties agree to continue to cooperate to fulfill its duties under the 2005 Settlement Agreement as amended by this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Settlement Agreement on the dates indicated below:

**ALBUQUERQUE-BERNALILLO  
COUNTY WATER UTILITY  
AUTHORITY**

By: \_\_\_\_\_  
Mark S. Sanchez

Date: \_\_\_\_\_

**WILDEARTH GUARDIANS**

By: \_\_\_\_\_  
John Horning

Date: \_\_\_\_\_

**DEFENDERS OF WILDLIFE**

By: \_\_\_\_\_  
Michael Senatore

Date: \_\_\_\_\_

**SIERRA CLUB**

By: \_\_\_\_\_  
Richard Barish

Date: \_\_\_\_\_

**NATIONAL AUDUBON SOCIETY**

By: \_\_\_\_\_  
David Henderson

Date: \_\_\_\_\_

**SOUTHWEST ENVIRONMENT  
CENTER**

By: \_\_\_\_\_  
Kevin Bixby

Date: \_\_\_\_\_

**NEW MEXICO AUDUBON**

By: \_\_\_\_\_  
Jonathan Hayes

Date: \_\_\_\_\_



**SETTLEMENT AGREEMENT BETWEEN  
RIO GRANDE SILVERY MINNOW v. KEYS PLAINTIFFS,  
THE CITY OF ALBUQUERQUE AND THE  
ALBUQUERQUE-BERNALILLO COUNTY WATER UTILITY AUTHORITY**

**Section I. Parties**

The Parties to this Settlement Agreement ("Agreement") are the Plaintiffs in *Rio Grande Silvery Minnow v. Keys*, 99 CV 1320 JP/RHS (DNM) ("Plaintiffs"), the City of Albuquerque ("Albuquerque" or "the City"), and the Albuquerque-Bernalillo County Water Utility Authority ("Authority") (collectively "the Parties").

**Section II. Purposes of the Agreement**

The purposes of this Agreement are to take steps towards protecting and restoring the ecological integrity of the Rio Grande and to provide greater certainty for the Authority to develop and utilize a reliable water supply. The City and Authority recognize that the health and vitality of the Rio Grande and the Bosque and fish and wildlife that depend on them, including the endangered Rio Grande silvery minnow and Southwestern willow flycatcher, contribute to the cultural, economic and environmental well-being of the City and the State of New Mexico. The Plaintiffs recognize that the Authority requires a reliable water supply to ensure the future vitality and economic viability of the City and the region.

In order to provide certainty to the Parties and to further these purposes, the Parties agree to work together to implement the provisions of this Agreement.

**Section III. Terms and Conditions**

1. Plaintiffs shall:
  - a. Not challenge in any way, through judicial or other means, Section 205(a), Title n, Division C of the Consolidated Appropriations Act, 2005, Pub. L. No. 108-447(2004).
  - b. Enter into a stipulation with the City pursuant to the terms of this Agreement and Rule 41 (a) in *Rio Grande Silvery Minnow v. Keys*, for dismissal of claims against the City and claims regarding consultation or discretion over San Juan-Chama water for federally-listed species, or any claim relating in any manner to San Juan Chama water and federally listed species, whether such claims are asserted as to the City or federal defendants, and seek the agreement of all other parties to *Rio Grande Silvery Minnow v. Keys* to such stipulation. If all parties do not agree to the stipulation, Plaintiffs, the City and any party joining the stipulation shall move under Rule 41(a)(2) for court approval of the stipulation dismissing such claims.

- c. Request that any final orders or judgment entered by the District Court in *Rio Grande Silvery Minnow v. Keys* reflect the dismissal of any and all claims regarding San Juan-Chama water.
  - d. Forego and refrain from bringing in any judicial or administrative forum, any future claims relating to or brought pursuant to the Endangered Species Act seeking use of San Juan-Chama Water without the consent of San Juan-Chama contractors for protection of federally-listed species in the Rio Grande Basin, and/or seeking federal consultation regarding use of San Juan-Chama water for protection of federally listed species in the Rio Grande Basin. Plaintiffs shall not bring any claims or lawsuits challenging the lawfulness or validity of the February 13, 2004 Biological Opinion for the Albuquerque Drinking Water Project (BiOp) or the June 1, 2004 Record of Decision for the Drinking Water Project. However, nothing in this Agreement shall be construed as prohibiting Plaintiffs from bringing any claims or lawsuits if there are violations of the BiOp and/or reinitiation of consultation over the Drinking Water Project or additional compliance with the National Environmental Policy Act is required due to changed circumstances or new information as allowed and provided by applicable law.
  - e. Acknowledge that the availability of storage space in Abiquiu Reservoir as contemplated by this Agreement is contingent upon completion and operation of the Authority's Drinking Water Project and subject to the conditions of Paragraph III (3)(a) of this Agreement.
  - f. To complement the Authority's appropriation of \$225,000 pursuant to paragraph III(3)(b), provide \$25,000 in funding through voluntary contributions from the Plaintiffs, exclusive of the Sierra Club, for the pilot environmental water leasing program described in that paragraph.
  - g. Recognize the City's water conservation program is a progressive and successful program with appropriate conservation goals.
2. Plaintiff Sierra Club shall:
- a. Move for an order of dismissal with prejudice in *Carangelo, et al. v. New Mexico State Engineer, Appellee and City of Albuquerque Public Works Department, Appellee-Applicant*, No. CV-2004-05036 dismissing Sierra Club as a Plaintiff from that action.
3. Albuquerque and the Authority shall:
- a. Within twelve (12) months or as otherwise agreed to by the Parties, after commencement of full diversions by the Authority for the Drinking Water Project, lease, at no charge, 30,000 acre-feet of storage space in Abiquiu Reservoir for use as a permanent Environmental Pool for the storage of native and/or San Juan-Chama water acquired by Plaintiffs or others through lease, purchase or donation. Such leases, purchases or donations shall be from willing participants ("Conservation Water"), including leases, purchases or

donations by or through the Middle Rio Grande Endangered Species Collaborative Program ("Collaborative Program"). The purpose of the lease of storage space between the Authority and the Plaintiffs shall be to benefit the Rio Grande or Bosque habitat and to benefit species listed on the federal threatened and endangered species list consistent with the goals of the Collaborative Program.

- b. Provide such storage space as governed by the following provisions:
  - i. The provision of storage space for the Environmental Pool shall be subject to any requisite regulatory approvals. The Parties shall enter into a sublease for the Environmental Pool.
  - ii. The Authority shall retain title to and jurisdiction over such storage space, and no rights are given to Plaintiffs as to such storage space or the Authority's operations other than as specifically set forth in this Agreement.
  - iii. The Authority shall not be obligated to provide space for the Environmental Pool during any time where space is unavailable for all or part of the Environmental Pool due to factors or conditions outside the control of the Authority, and nothing in this Agreement shall allow operation of Abiquiu Reservoir in a manner which would otherwise impair or impede the Authority's ability to store and release water for Authority purposes.
  - iv. Conservation Water shall be released from the Environmental Pool for the purpose of benefiting the Rio Grande or Bosque habitat and benefiting federally-listed species consistent with the goals of the Collaborative Program.
  - v. The Authority reserves the right to utilize for any purpose whatever space is available from the Environmental Pool that cannot be used in a given year. That space shall be computed as the difference between 30,000 acre-feet and that amount of Conservation Water from any source that is available to be stored in a given year. The Authority agrees that such temporary storage shall not be utilized so as to impair the ability to store 30,000 acre-feet of Conservation Water in subsequent years in the Environmental Pool.
  - vi. The Authority has the right to use any available space in the Environmental Pool for storage of Conservation Water it may hold or acquire or to make such space available to third parties other than Plaintiffs through leases for purposes of storing Conservation Water to be used in accordance with this Agreement.
  - vii. In the event additional storage space in other reservoirs is made available in the future for an Environmental Pool and the Parties agree that the Authority's space is no longer needed, the Parties agree that any sub-lease

regarding the conservation pool will terminate and the provisions of this Agreement obligating the Authority to provide space shall be null and void and of no force or effect.

- c. Support the establishment and implementation of a pilot water leasing program for the Middle Rio Grande area via agricultural forbearance to increase flows in the Rio Grande and protect federally-listed species dependent on the river. Subject to appropriations, the Authority shall provide \$225,000 in funding for such a water leasing program.
  - d. Institute a residential check-off program whereby residents may choose to pay an additional \$1.00/month on their monthly water bill provided that such additional sums are allocated exclusively to acquire water to increase flows in the Rio Grande. Such program shall commence only after the Drinking Water Project is fully operational. Specific provisions of the residential check-off program shall be developed and implemented by the Authority. The administrative costs for the program shall be paid for by the program funds derived from the \$1.00/per month check-off. Subject to any necessary regulatory approvals, the water made available by this program shall be placed in the Environmental Pool in Abiquiu Reservoir created by this Agreement to be used to increase flows in the Rio Grande and protect federally-listed species dependent on the river.
  - e. Incorporate restoration as a component of any fuel reduction program undertaken by the City in the Rio Grande Bosque, including leaving or restoring dense stands of native vegetation to the extent feasible and environmentally appropriate.
  - f. Fulfill any obligations the City or Authority may have with regard to the Biological Opinion for the Drinking Water Project.
4. The City and the Plaintiffs shall:
- a. Jointly request in the *Rio Grande Silvery Minnow v. Keys* litigation that the Court's final order or judgment include a statement that those portions of the Court's April 19, 2002, and September 23, 2002, Memorandum Opinions and/or Orders that relate to the use of San Juan Chama water for endangered species or the Bureau of Reclamation's discretion regarding the same are no longer in effect, in light of this Settlement Agreement, but that all other portions of the Opinions and Orders remain unaffected by this Agreement.
5. The Parties shall:
- a. Work in good faith and in cooperation with the Collaborative Program to use the funding described in Paragraphs 111(1)(f) and III(3)(c) to secure additional state and federal funding on a 75/25 matching basis in order to secure \$1 million for the water leasing program. The details of implementation of the water leasing program resulting from this Agreement will be determined in a

future agreement, to which the City, the Authority and Plaintiffs will be signatories.

- b. Attempt to execute environmental water lease agreements with one or more Pueblos or other Middle Rio Grande water users to use the funding described in Paragraph III(3)(c) to forbear the use of a designated quantity of agricultural water rights for a future irrigation season in order to provide increased river flows to protect federally-listed species such as the Rio Grande silvery minnow.
- c. Work in good faith to complete a future agreement among the Plaintiffs, the Authority, and relevant governmental agencies and in cooperation with the Collaborative Program regarding the details of control and use of the water in the Environmental Pool. The agreement shall provide that the water shall be released for the purpose of benefiting the Rio Grande or Bosque habitat and for federally-listed species, consistent with the goals of the Collaborative Program.

#### **Section IV: Duration and Enforcement**

- a. The Parties intend for this agreement to be perpetual, as a permanent resolution of the issues in dispute between them as outlined in this Agreement. Any party may seek judicial enforcement for specific performances of the duties required hereunder, provided that prior to seeking judicial enforcement, the enforcing party shall provide the other party written notice of the alleged breach to allow the non-enforcing party thirty (30) days to correct the alleged breach. Notice shall be provided to:

For the City:

For the Plaintiffs:

Letty Belin  
Belin & Sugarman  
618 Paseo de Peralta  
Santa Fe, New Mexico 87501

And

Sierra Club Managing Attorney  
85 Second Street, 2<sup>nd</sup> Floor  
San Francisco, CA 94105-3441

In no event shall any party be entitled to monetary damages for breach.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on the dates indicated below:

**ALBUQUERQUE-BERNALILLO  
COUNTY WATER UTILITY  
AUTHORITY**

By: \_\_\_\_\_  
Mark Sanchez  
Executive Director

Date: \_\_\_\_\_  
**CITY OF ALBUQUERQUE**

By: \_\_\_\_\_  
James Lewis  
Chief Administrative Officer

Date: \_\_\_\_\_

**FOREST GUARDIANS**

By: \_\_\_\_\_  
Jofen Morning  
Date: 2.23.05

**NATIONAL AUDUBON SOCIETY**

By: \_\_\_\_\_  
David Henderson

Date: 2/23/05

**DEFENDERS OF WILDLIFE**

By: \_\_\_\_\_  
Kara Gillon  
Date: 2/23/05

**SIERRA CLUB**

By: \_\_\_\_\_  
Richard Barish  
Date: 2/23/05

**NEW MEXICO AUDUBON COUNCIL**

By: \_\_\_\_\_  
Tom Jervis  
Date: 2/23/05

**SOUTHWEST ENVIRONMENT  
CENTER**

By: \_\_\_\_\_  
Kevin Bixby  
Date: 2/25/05

---

Meeting Date: June 20, 2018  
Staff Contact: Frank Roth, Senior Policy Manager

**TITLE: OB-18-10 - 2018 Customer Opinion Survey**

**Background**

As a part of the Water Authority's strategic planning process, the utility conducts a biennial customer opinion survey in order to assess the Water Authority's performance from the customer's viewpoint. The Water Authority contracted with Research and Polling Inc. to conduct the survey, analyze the data and present the results to the Board. The purpose of the study was to measure customers' satisfaction with the services the utility provides and the importance of various services and programs.

**Survey Sample**

A random sample of 502 residential customers and 105 commercial customers was interviewed by telephone. Residential customers were selected through the use of randomly generated list of landline and cell phone numbers as well as a list of phone numbers provided by the Water Authority. Commercial customers were selected randomly from a list provided by the Water Authority. All interviews were conducted between January 23rd and February 13, 2018. A sample size of 502 at a 95% confidence level provides a maximum margin of error of approximately 4.4%.

**Results**

Similar to past studies, the vast majority of Water Authority residential (94%) and commercial (98%) customers are satisfied with the services they receive from the Water Authority overall. More specifically, over nine-in-ten residential and commercial customers are satisfied with the reliability of water to their homes and businesses and the reliability of wastewater drainage from their homes and businesses to the city sewer line.

**Reliability and Quality of Water and Sewer Services**

The vast majority of residential customers also express satisfaction with the condition of water (70%) and sewer (69%) lines; however, approximately one-fifth expresses dissatisfaction. Further, the vast majority (71%) of residential customers express satisfaction with the effectiveness of the Water Authority to respond to and repair leaks, as well as the effectiveness of the Water Authority to respond to overflows or backups and response time for restoration of service (66%). Few customers (less than 10%) are dissatisfied with the effectiveness of the utility to repair leaks or respond to overflows or backups.

Over three-quarters of residential customers (77%) say they are satisfied with the effectiveness of the Water Authority to control odors from sewer lines or treatment facilities, while 14% of residential customers are dissatisfied. When it comes to the

quality of drinking water, the majority (71%) of residential customers expresses satisfaction; however, 25% are dissatisfied with the quality of drinking water. It should be noted that since the 2016 study, there has been a decline in the percentage of residential customers who are satisfied with the quality of drinking water. The Water Authority does not know the reasons why customers appear to be dissatisfied with the quality of drinking water. These results are contrary to the actual water quality complaints received by the utility which have decreased by two-thirds since 2008. Compared to the U.S. median, the Water Authority's performance in the water quality complaint measure is significantly lower. Nonetheless, the Water Authority plans on exploring this matter in the Customer Conversation program this Fall.

Results are similar among commercial customers for each of the above mentioned reliability and quality attributes.

#### Water Education and Conservation Programs

The majority of residential (67%) and commercial (74%) customers express satisfaction with education on water issues. Similarly, 66% of residential and 72% of commercial customers express satisfaction with water conservation programs. Since the previous study, there has been a decline in the percentage of residents who are very or somewhat satisfied with education on water issues (67% currently compared to 73% in the 2016 study). When it comes to conservation, the vast majority of residential and commercial customers agree they follow the "Water by the Numbers" program, as well as agree that households would conserve more water if they had an easier way to monitor usage.

#### Water Rates

The vast majority of residential (77%) and commercial (87%) customers agree that water and sewer services are a good value for the amount of money they pay. Further, the vast majority of residential (75%) and commercial (75%) customers also agree that because water is a scarce resource, water rates should be designed to reflect the value of water in our daily lives. Customers are less likely to agree with statements that deal with increasing water rates to provide a reliable water supply for future generations and to cover the true costs to treat and deliver water to homes and businesses; however it should be noted that the majority of residential and commercial customers agree with these statements.

#### Importance of Water Related Programs And Services

Similar to previous studies, when asked to rate the importance of various water conservation and environmental issues, over nine-in-ten residential customers (93%) and commercial customers (96%) say providing a long-term water supply for future generations is important. Further, 89% of residential and commercial customers place a high priority on investing in the repair and replacement of old water and sewer lines.

Between approximately seven-in-ten and nine-in-ten residential customers also feel the following issues are important:

- The quality of the treated water returned back to the river (88%)
- Protecting and restoring upstream water sources or watersheds (87%)
- Balancing population and economic growth with our water availability (85%)
- Reusing treated wastewater to irrigate public spaces (83%)



- Balancing customer water demand with protection of habitat for wildlife and vegetation in the Rio Grande corridor (82%)
- Making water available to attract and keep high-tech industries that offer good paying jobs (72%)

Over seven-in-ten commercial customers also feel the following issues are important:

- Balancing population and economic growth with our water availability (84%)
- Protecting and restoring upstream water sources or watersheds (82%)
- The quality of the treated water returned back to the river (81%)
- Reusing treated wastewater to irrigate public spaces (81%)
- Balancing customer water demand with protection of habitat for wildlife and vegetation in the Rio Grande corridor (79%)
- Making water available to attract and keep high-tech industries that offer good paying jobs (72%)

### Billing Services

Consistent with previous studies, the vast majority of customers express satisfaction with bill payment options (89% residential, 93% commercial), understanding the bill format and water usage graph (87% residential, 90% commercial), and the accuracy of their water billing statements (87% residential, 87% commercial).

### Customer Service Representatives

Among the 16% of residential and 13% of commercial customers who have contacted the Water Authority, the vast majority say they have spoken with an employee on the phone or in person. Sixty-six percent of residential customers and 84% of commercial customers give a rating of good or excellent to the customer service representative they spoke to when contacting the Water Authority. Thirteen percent of the residential customers and none of the commercial customers rate the customer service representative poorly.

More specifically, when it comes to the courtesy of the customer service representative, 88% of residential customers express satisfaction, while 74% of residential customers express satisfaction with the knowledge and ability of the representative to answer their questions or resolve issues. Further, 74% of residential customers express satisfaction with the wait time to speak to a customer service representative.

---

# **ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY**

## **JUNE 2018**

**PRESENTED BY:  
BRIAN SANDEROFF, PRESIDENT**



# METHODOLOGY

## RESEARCH OBJECTIVES:

- CUSTOMER SATISFACTION WITH THE SERVICES PROVIDED BY THE WATER AUTHORITY
- IMPORTANCE OF VARIOUS SERVICES AND PROGRAMS

## RANDOM SAMPLE:

502 RESIDENTIAL CUSTOMERS

105 COMMERCIAL CUSTOMERS

## INTERVIEWS:

TELEPHONE SURVEYS USING LANDLINES AND CELLPHONES

## FIELD DATES:

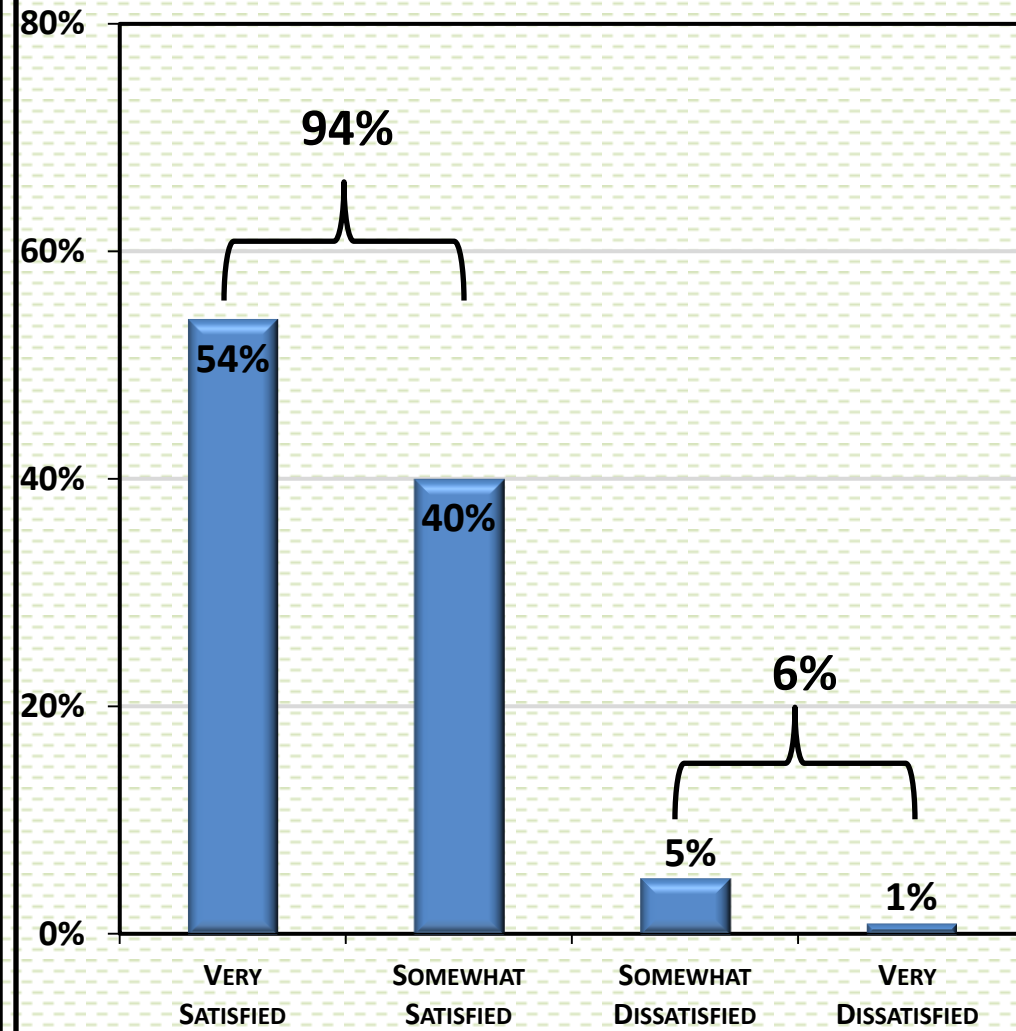
JANUARY 23, 2018 - FEBRUARY 13, 2018

## MARGIN OF ERROR:

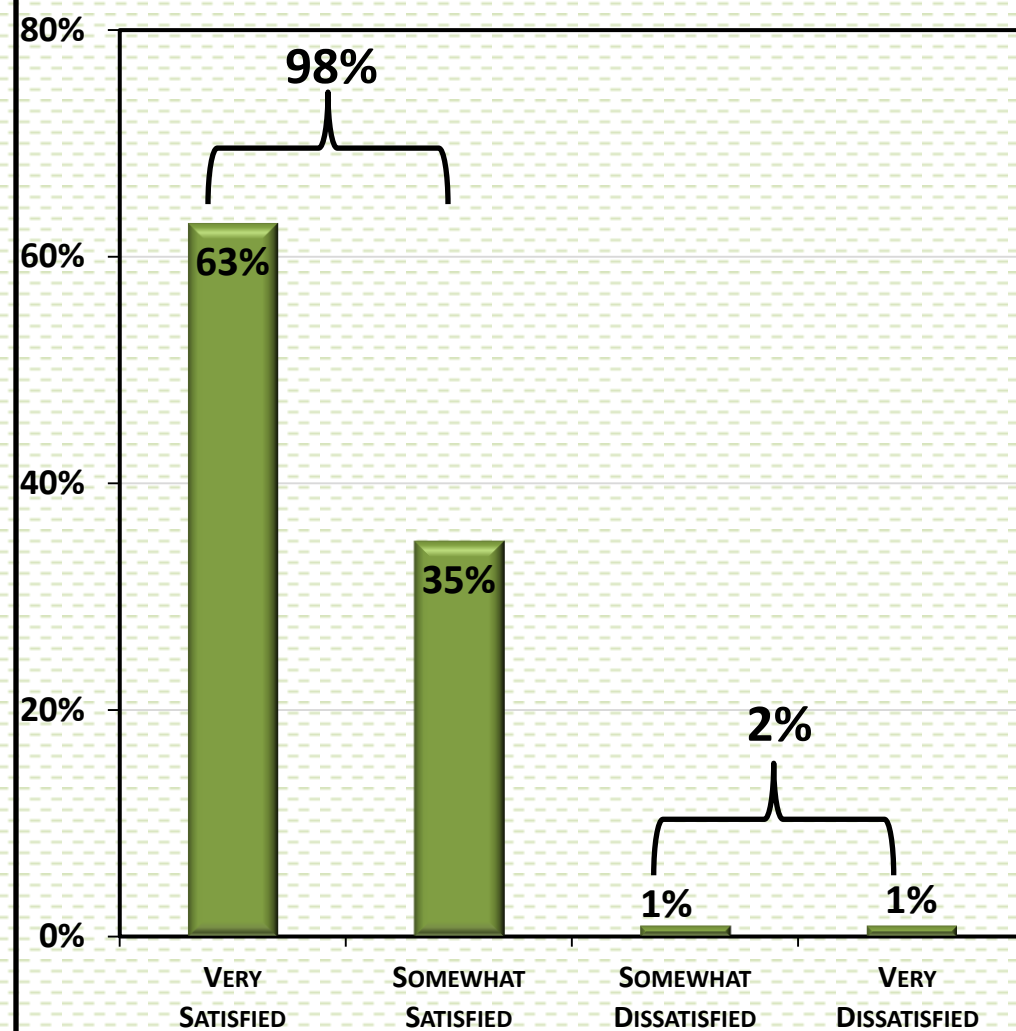
4.4% AT 95% CONFIDENCE LEVEL  
(RESIDENTIAL CUSTOMERS)

# OVERALL SATISFACTION WITH THE SERVICES PROVIDED BY THE WATER AUTHORITY

## RESIDENTIAL

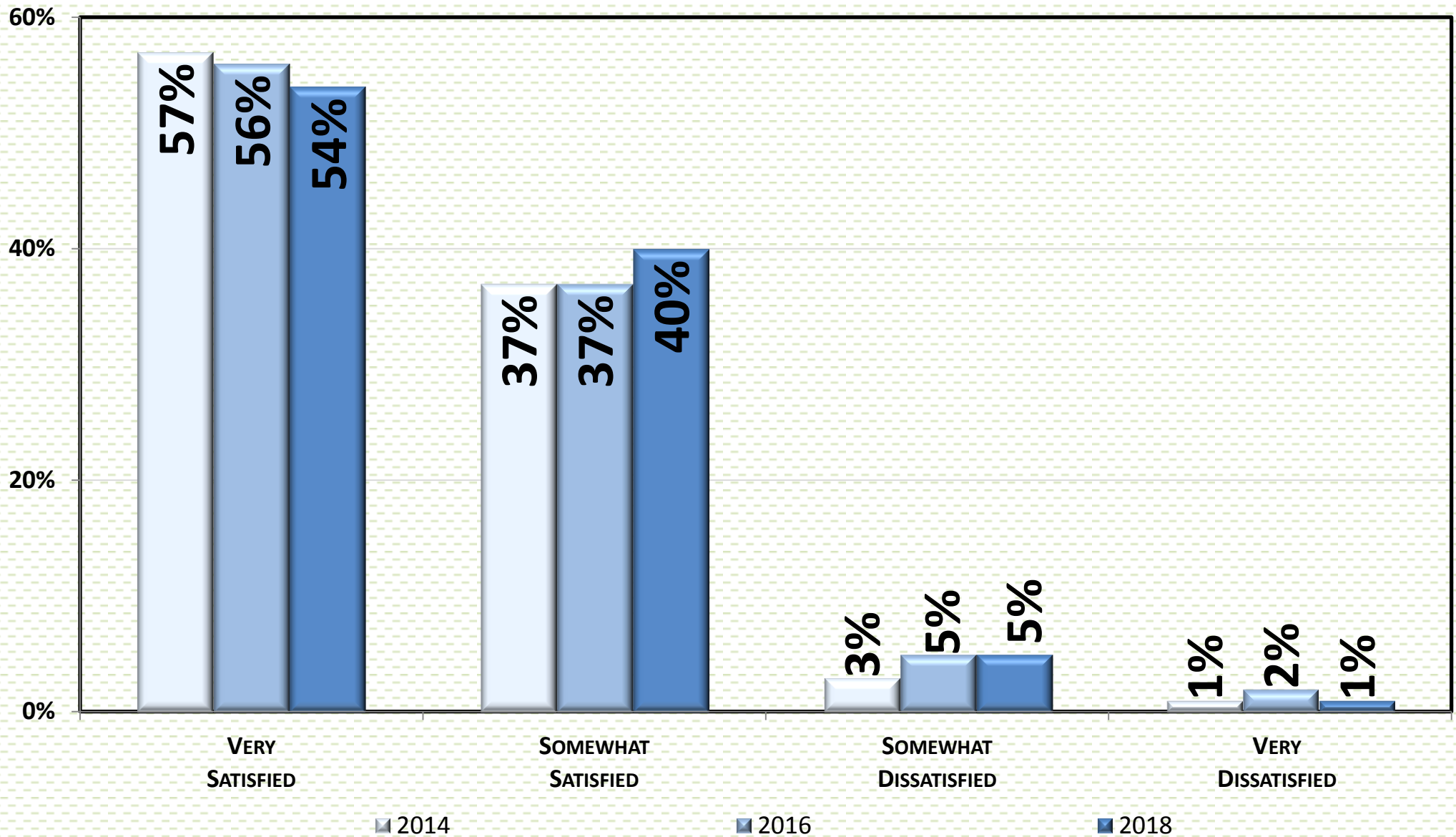


## COMMERCIAL



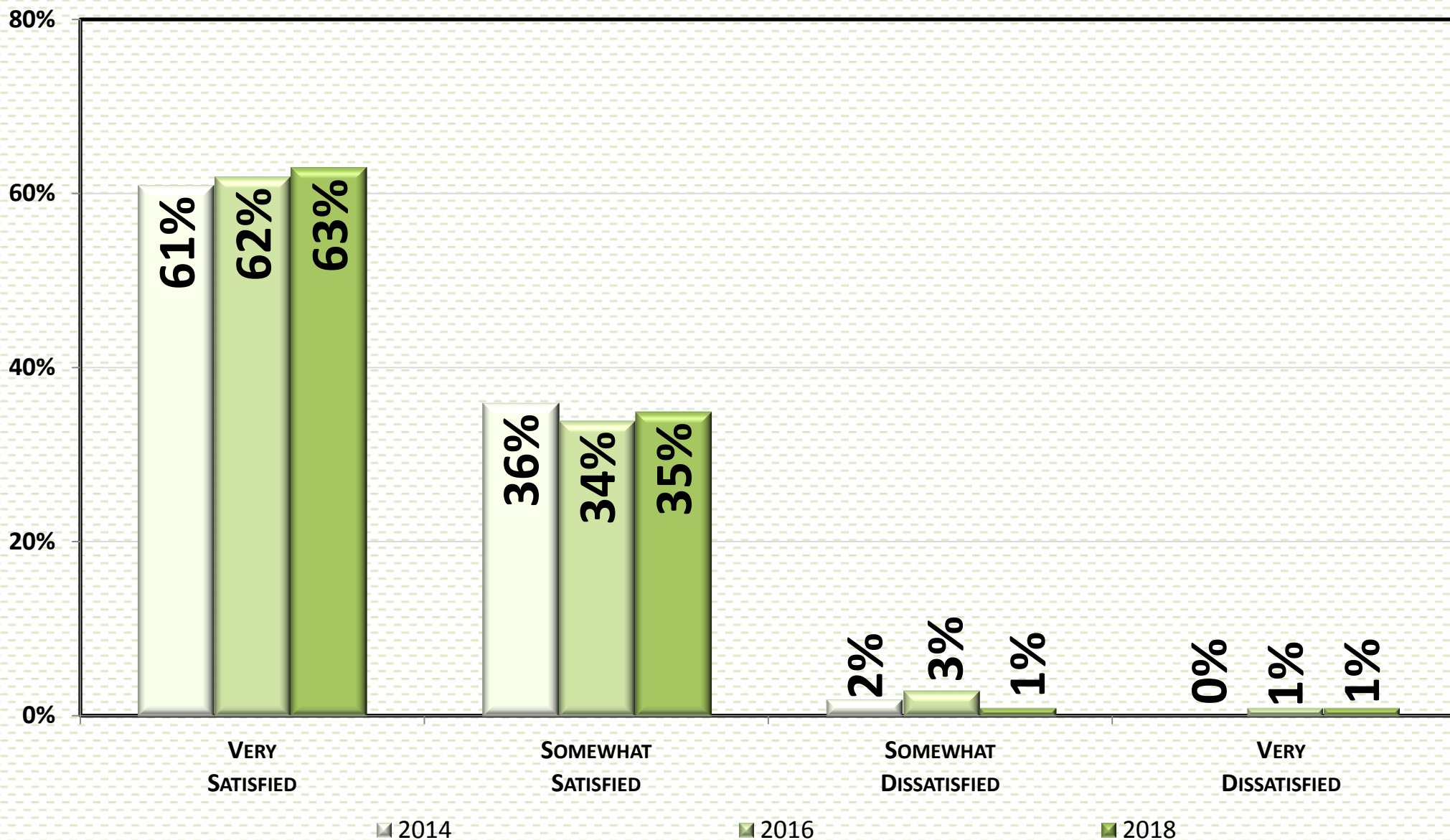
# OVERALL SATISFACTION WITH THE SERVICES PROVIDED BY THE WATER AUTHORITY

## RESIDENTIAL TRACKING



# OVERALL SATISFACTION WITH THE SERVICES PROVIDED BY THE WATER AUTHORITY

## COMMERCIAL TRACKING



# RESIDENTIAL SATISFACTION WITH RELIABILITY OF SERVICES AND CONDITION OF INFRASTRUCTURE

## RELIABILITY

RELIABILITY AND AVAILABILITY OF WATER  
TO YOUR HOME

SATISFIED

80%

17%

97%

DISSATISFIED

3%

RELIABILITY OF WASTEWATER DRAINAGE FROM  
YOUR HOME TO THE CITY SEWER LINE

SATISFIED

73%

21%

94%

DISSATISFIED

5%

NOTE: RESULTS ARE SIMILAR AMONG COMMERCIAL CUSTOMERS.

## INFRASTRUCTURE

CONDITION OF THE SEWER LINES THROUGHOUT  
THE CITY SUCH AS THE NUMBER OF  
OVERFLOWS/BACKUPS YOU OBSERVE  
AT THE CITY SEWER LINES OR MANHOLES

SATISFIED

33%

36%

69% ↑ 4 pts

DISSATISFIED

17%

CONDITION OF THE WATER LINES THROUGHOUT  
THE CITY SUCH AS THE NUMBER OF LEAKS  
YOU OBSERVE

SATISFIED

28%

42%

70% ↑ 10 pts

DISSATISFIED

22%

0%

20%

40%

60%

80%

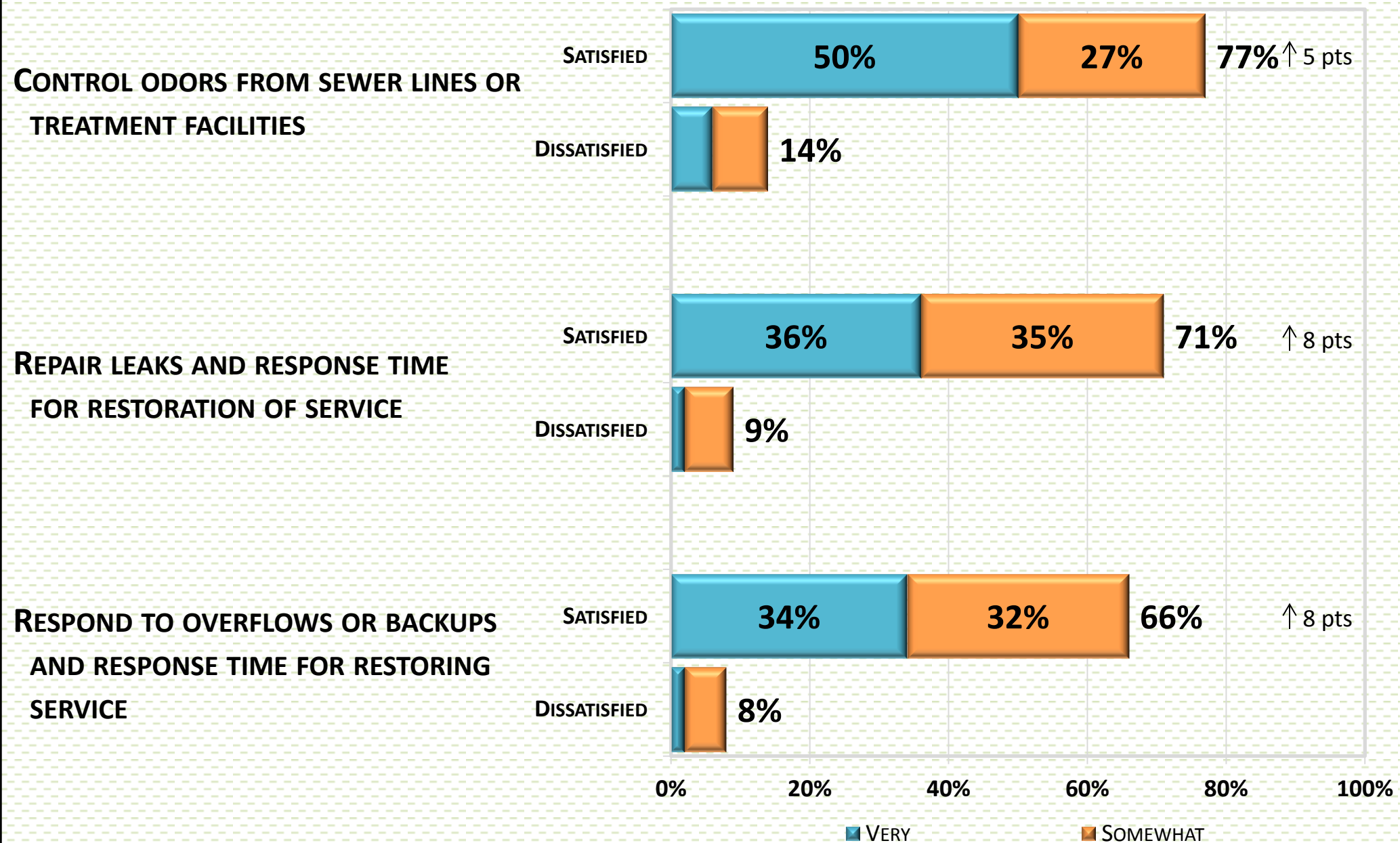
100%

■ VERY

■ SOMEWHAT

COMMERCIAL CUSTOMERS ARE SLIGHTLY MORE SATISFIED.

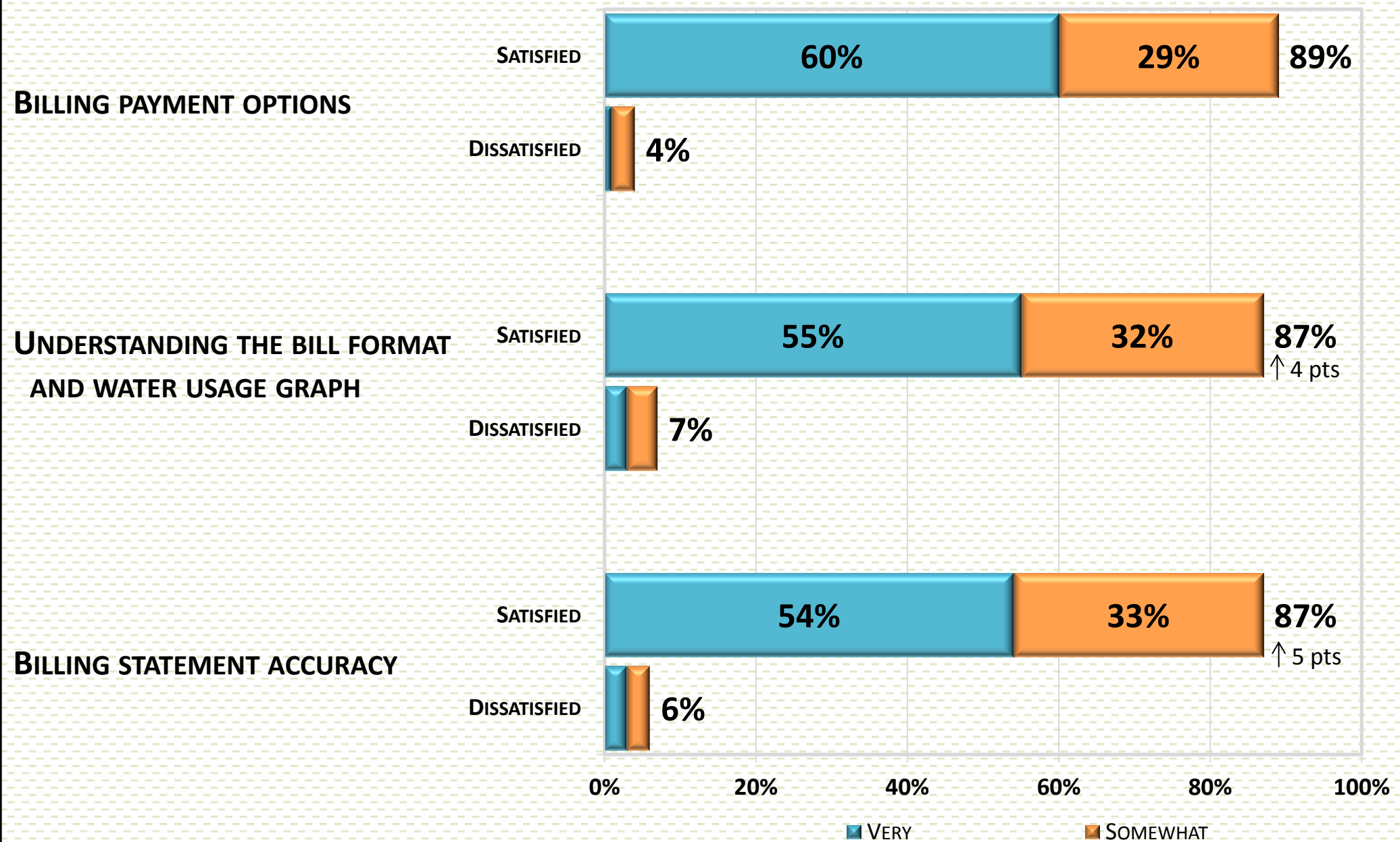
# RESIDENTIAL SATISFACTION WITH EFFECTIVENESS OF REPAIRS AND ODOR CONTROL



COMMERCIAL CUSTOMERS ARE SLIGHTLY MORE SATISFIED.



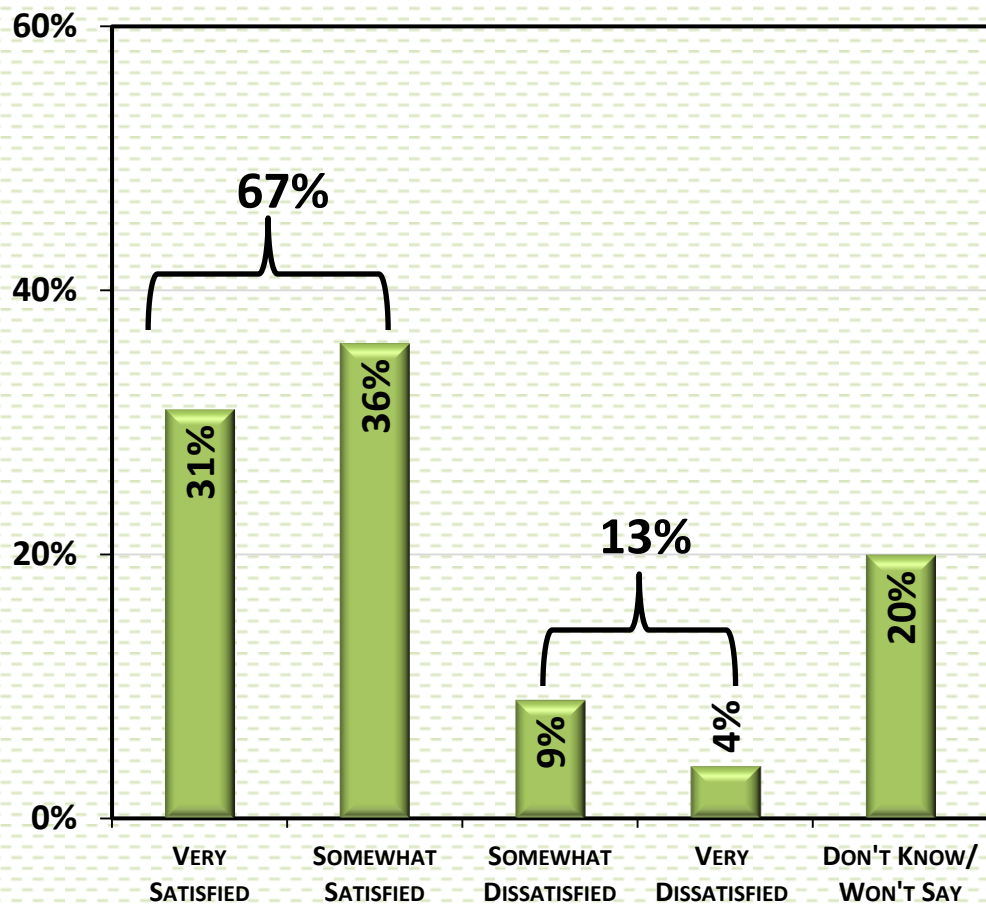
# RESIDENTIAL SATISFACTION WITH BILLING



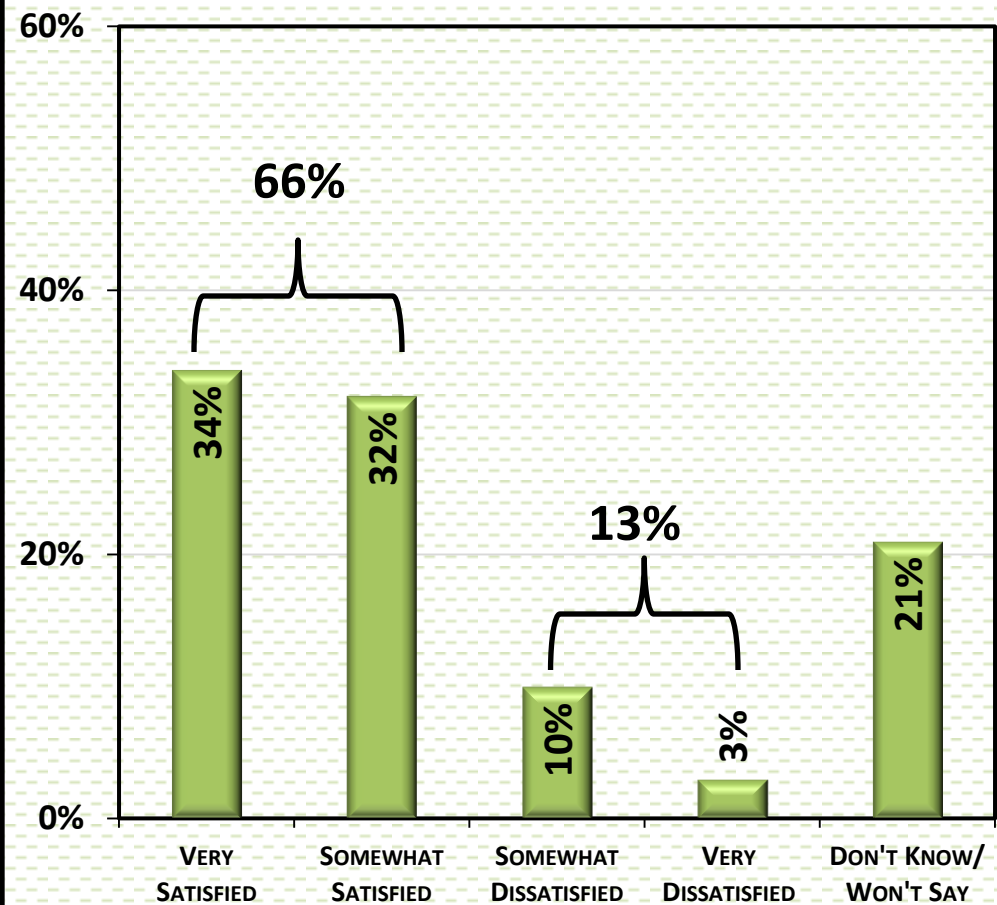
COMMERCIAL CUSTOMERS ARE SLIGHTLY MORE SATISFIED.

# RESIDENTIAL SATISFACTION WITH EDUCATION ON WATER ISSUES AND WATER CONSERVATION PROGRAMS

## EDUCATION ON WATER ISSUES




## WATER CONSERVATION PROGRAMS



NOTE: COMMERCIAL CUSTOMERS ARE SLIGHTLY MORE SATISFIED.

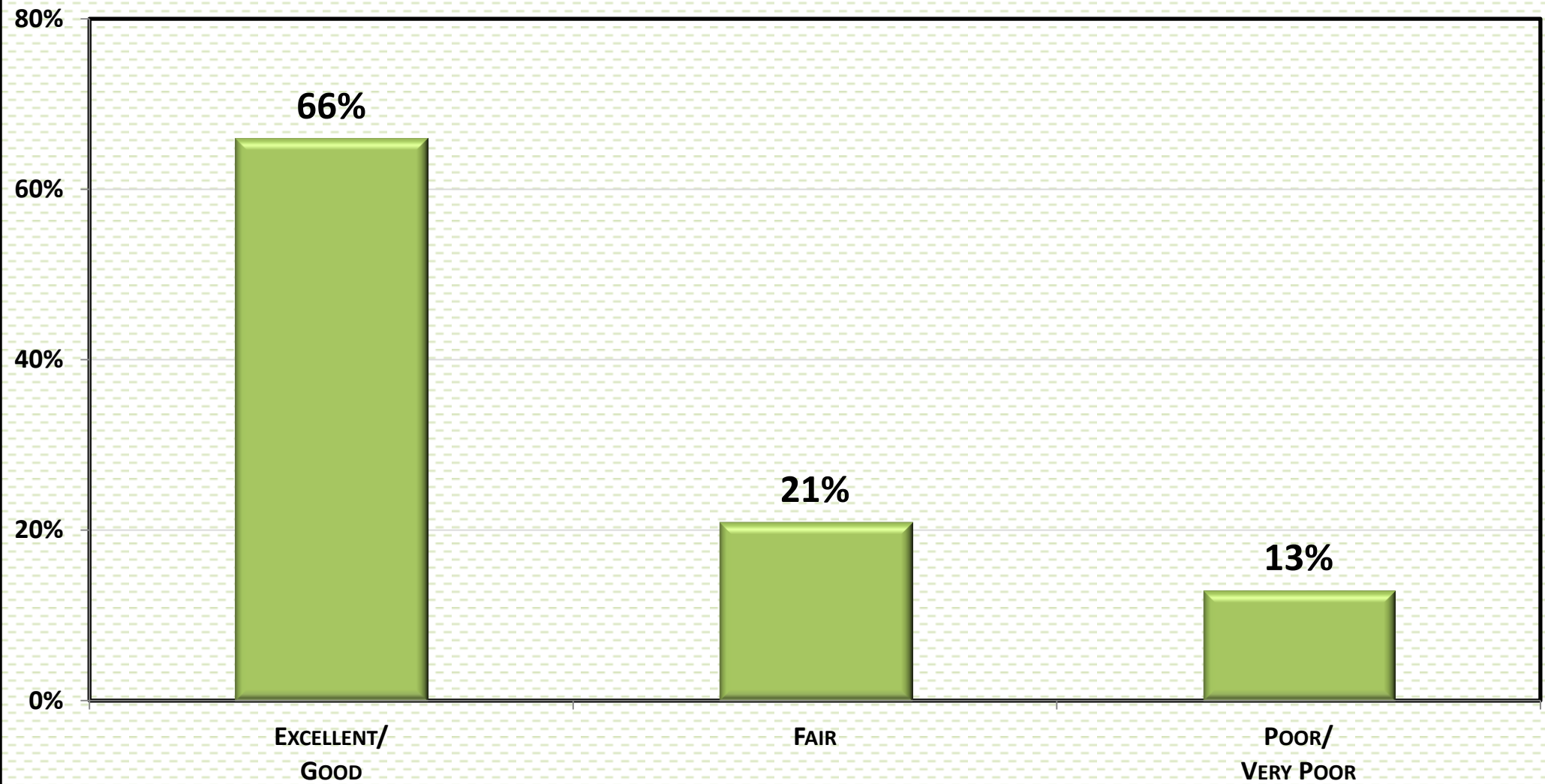
# CONTACTED THE WATER AUTHORITY

AMONG RESIDENTIAL CUSTOMERS WHO CONTACTED THE WATER AUTHORITY

CONTACTED THE WATER AUTHORITY ABOUT PROBLEMS OR QUESTIONS WITH A BILL IN THE PAST 2 YEARS		WAYS OF COMMUNICATING WITH THE WATER AUTHORITY	
<div>16%</div> 		TELEPHONE	73%
		IN-PERSON	27%
		E-MAIL	2%

# OVERALL RATING OF THE CUSTOMER SERVICE REPRESENTATIVE WHEN CONTACTING THE WATER AUTHORITY

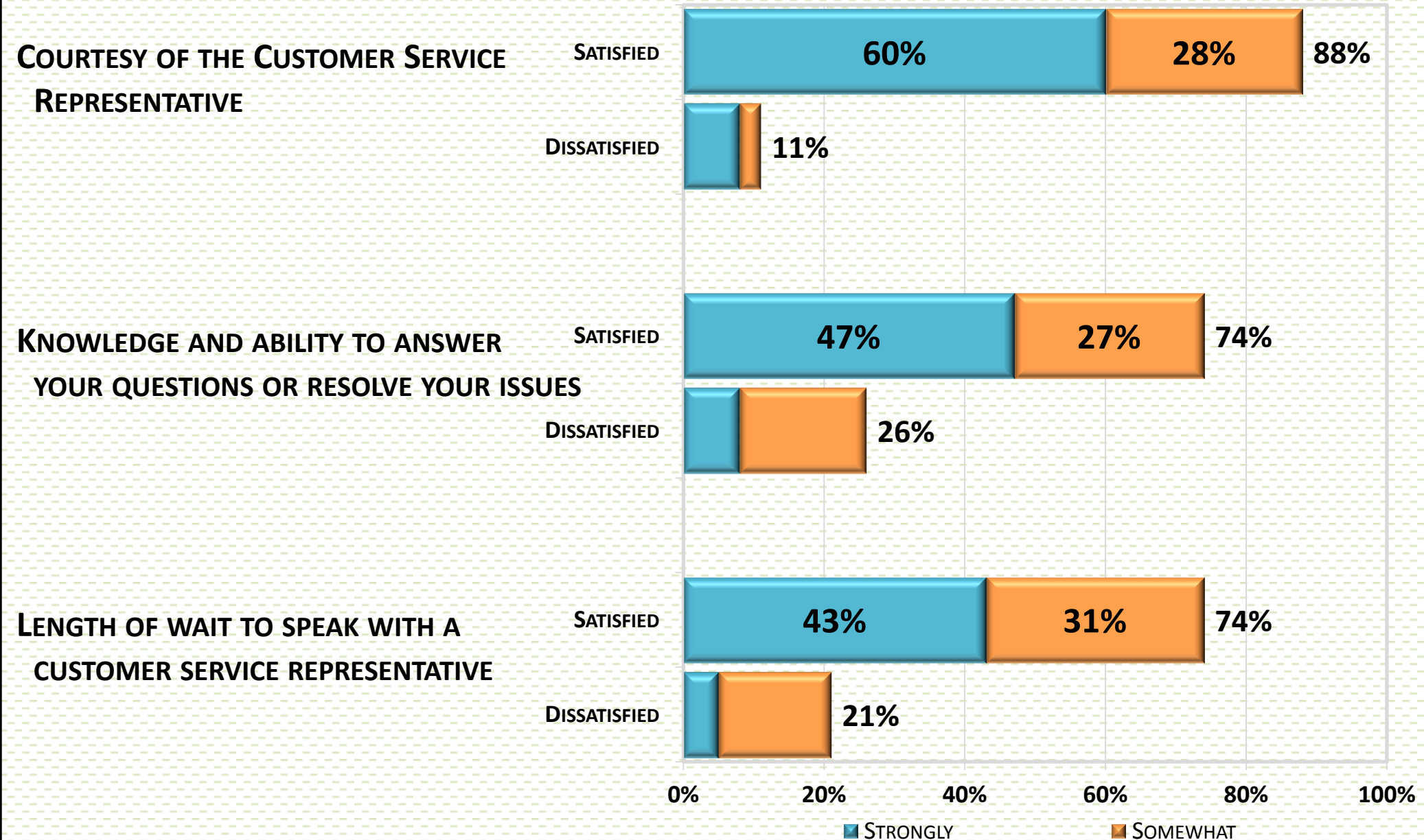
AMONG THOSE WHO CONTACTED THE WATER AUTHORITY  
RESIDENTIAL CUSTOMERS (N=64)



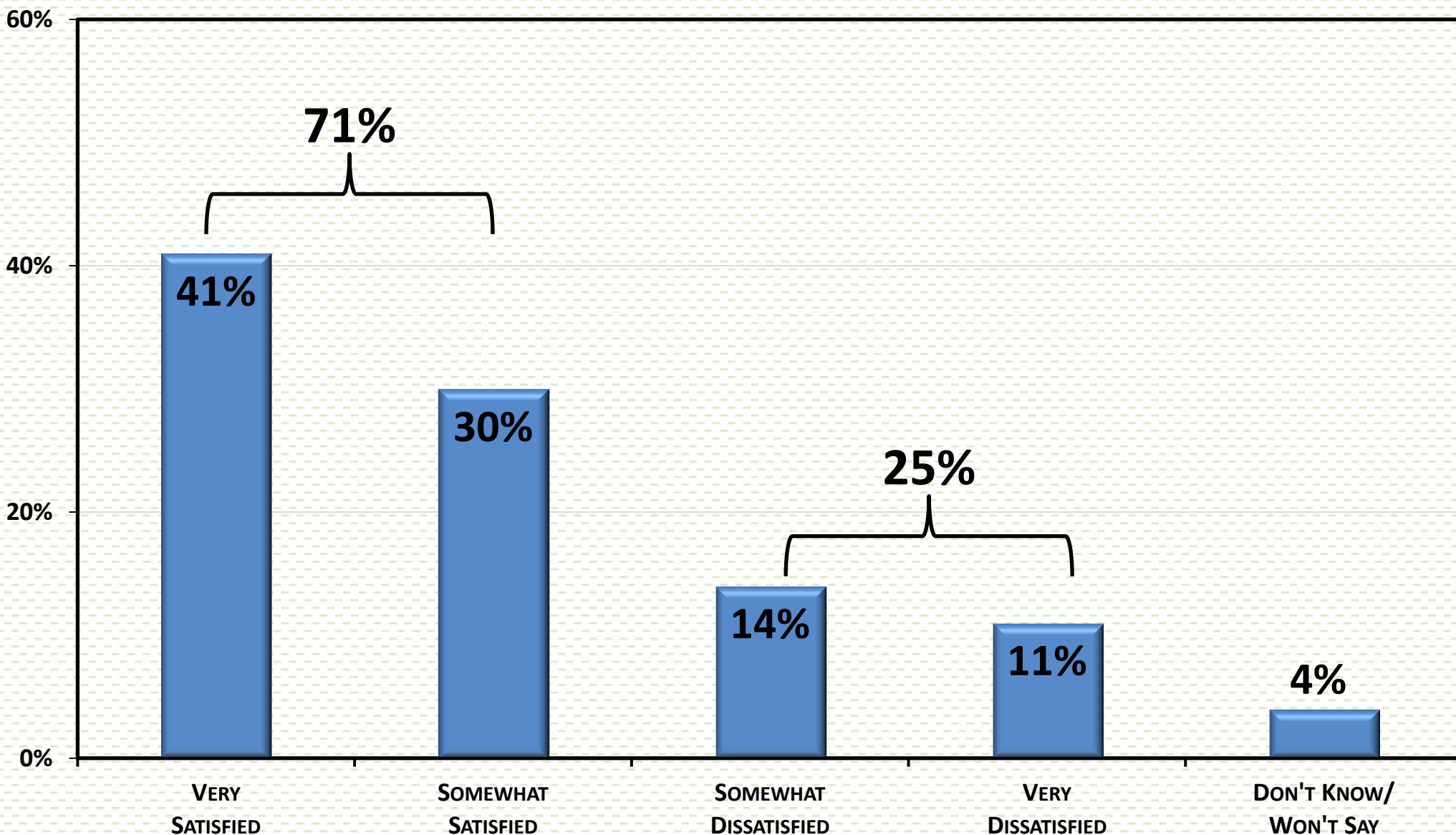
COMMERCIAL CUSTOMERS WERE MORE SATISFIED (84% EXCELLENT/GOOD).

# SATISFACTION WITH THE CUSTOMER SERVICE REPRESENTATIVE ON KEY ATTRIBUTES

AMONG THOSE WHO HAVE EXPERIENCE WITH A CUSTOMER SERVICE REPRESENTATIVE  
RESIDENTIAL CUSTOMERS (N=64)



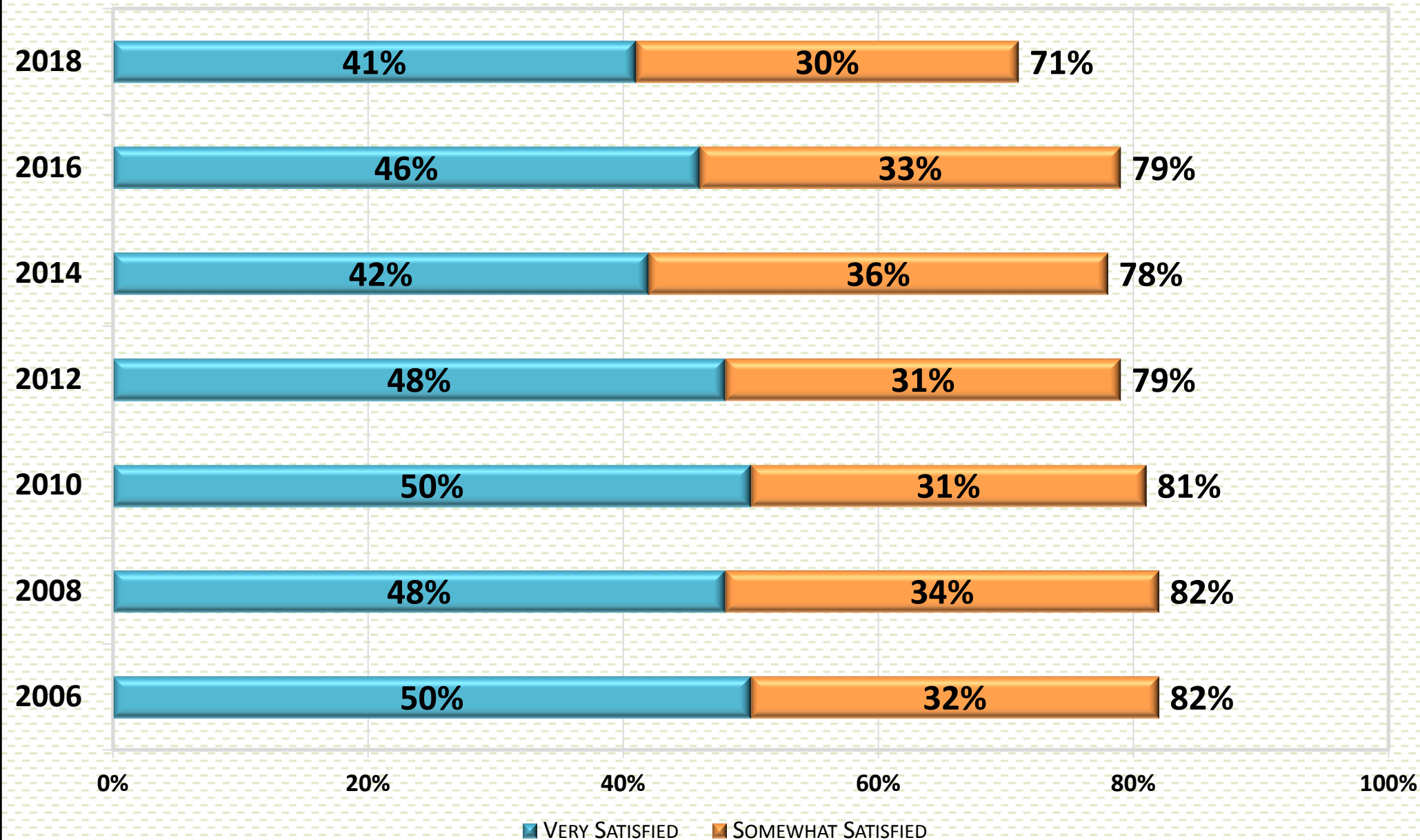
# RESIDENTIAL SATISFACTION WITH QUALITY OF DRINKING WATER



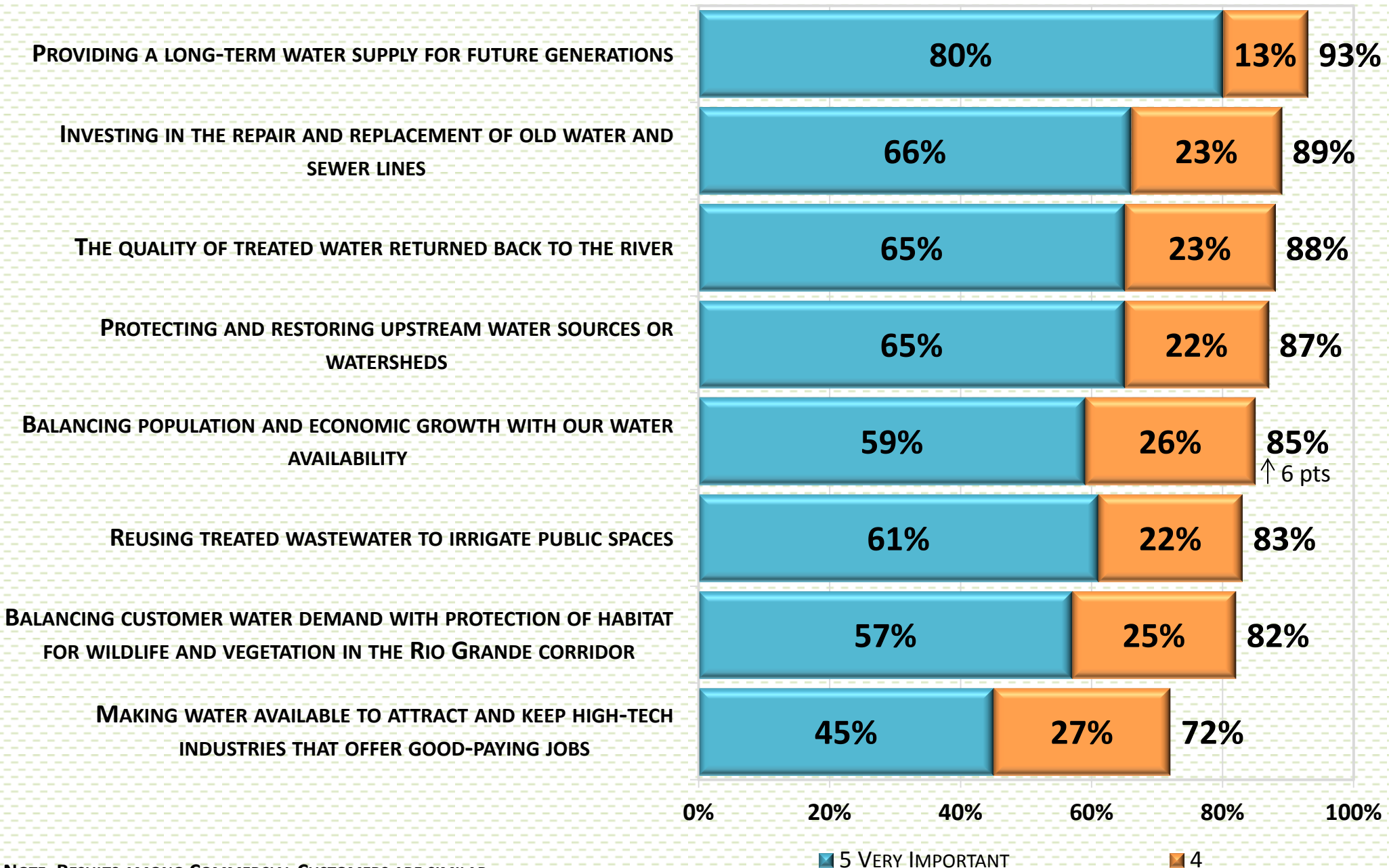
NOTE: RESULTS ARE SIMILAR AMONG COMMERCIAL CUSTOMERS.

# RESIDENTIAL SATISFACTION WITH QUALITY OF DRINKING WATER

RESIDENTIAL — TRACKING



# PERCEIVED IMPORTANCE OF WATER CONSERVATION AND ENVIRONMENTAL ISSUES

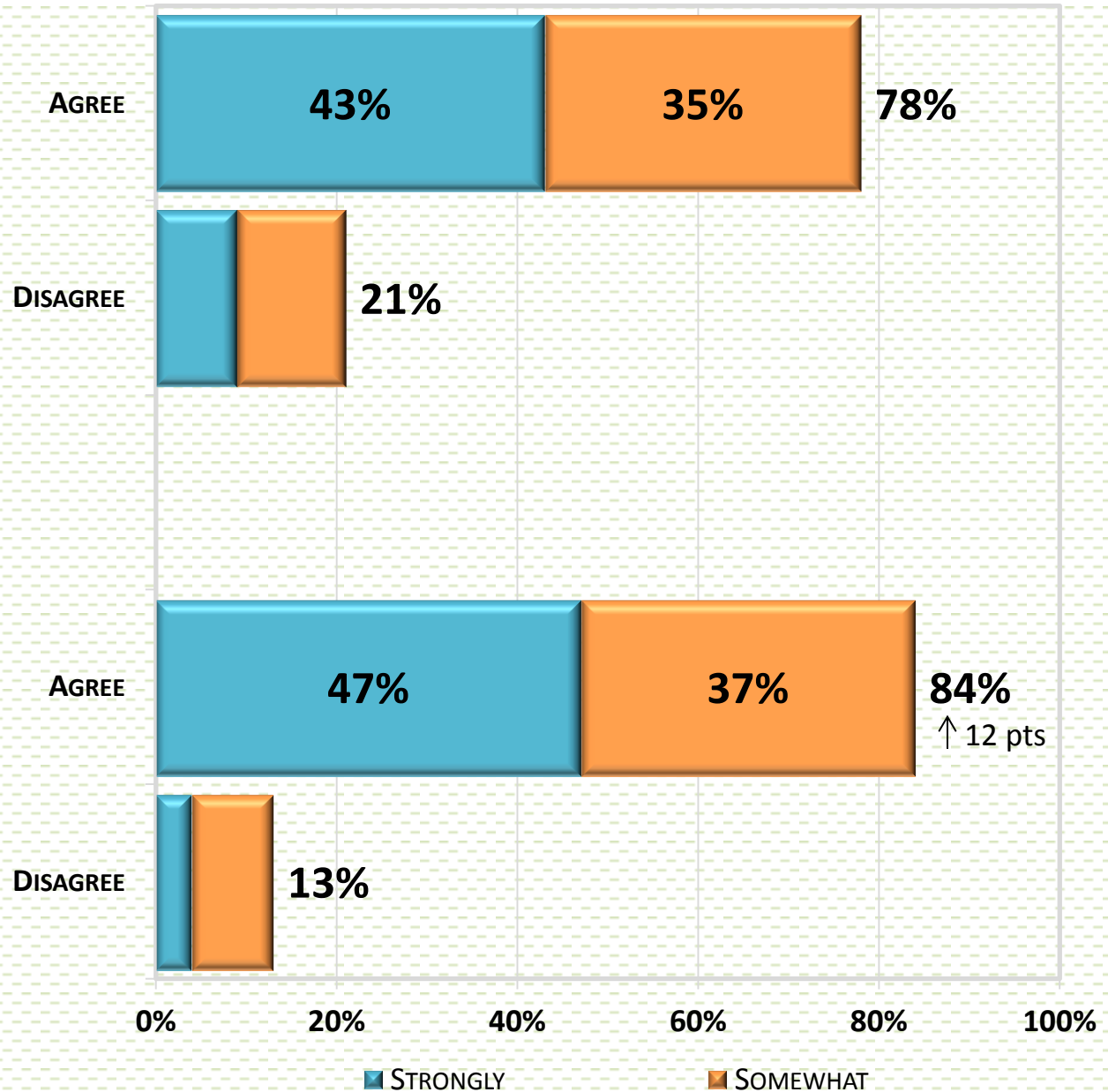


NOTE: RESULTS AMONG COMMERCIAL CUSTOMERS ARE SIMILAR.

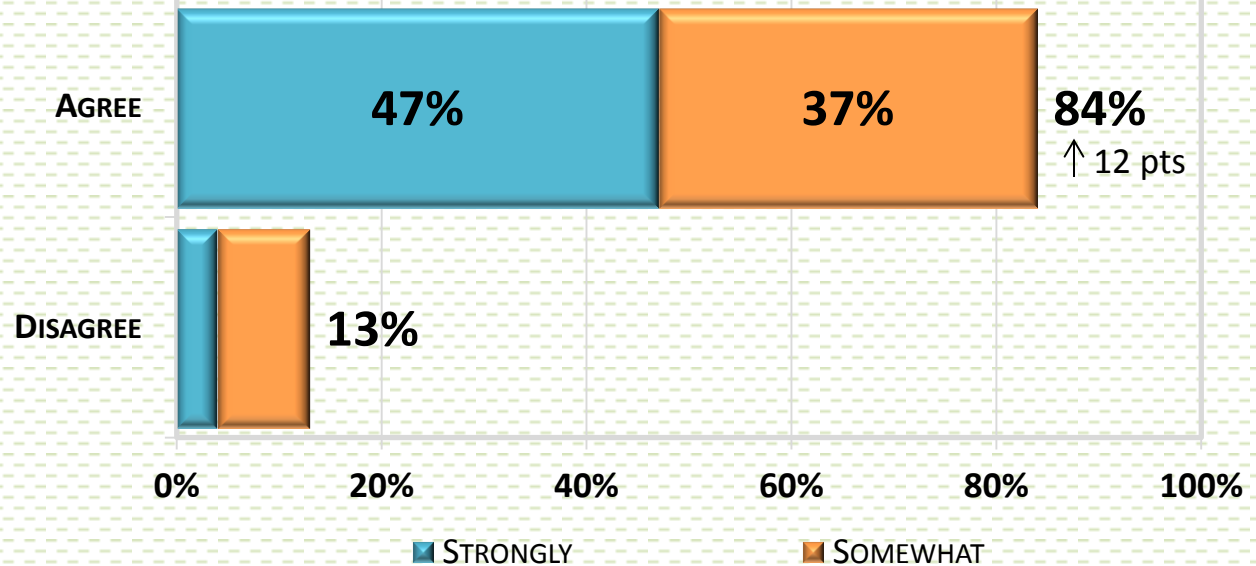


# WATER CONSERVATION MANAGEMENT

**THE COST OF WATER IS AN IMPORTANT FACTOR FOR ME WHEN DECIDING HOW MUCH WATER TO USE.**

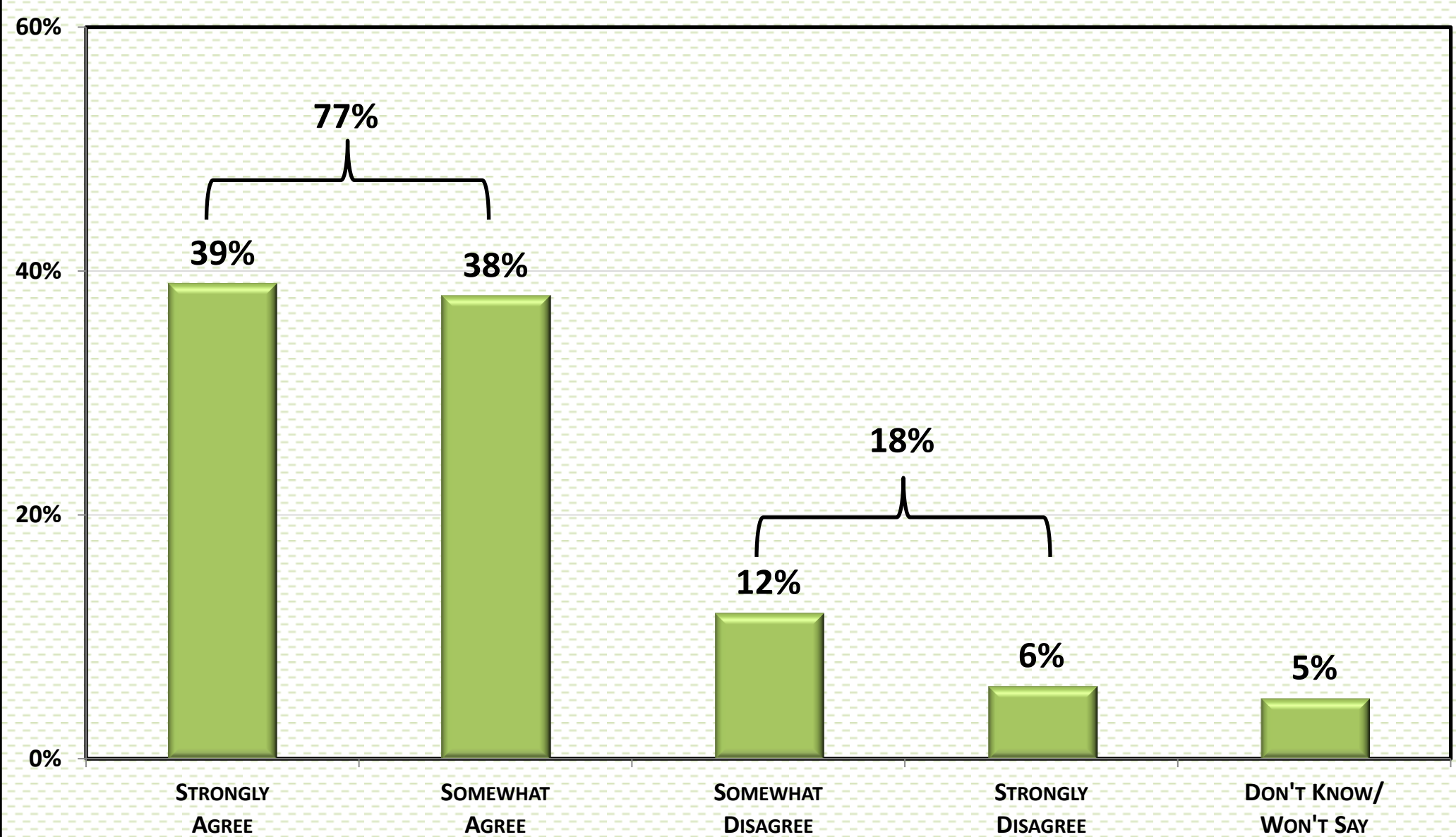


**HOUSEHOLDS WOULD CONSERVE MORE WATER IF THEY HAD AN EASIER WAY TO MONITOR THEIR WATER USE.**



NOTE: RESULTS AMONG COMMERCIAL CUSTOMERS ARE SIMILAR.

# AGREE/DISAGREE: “WATER AND SEWER SERVICES ARE A GOOD VALUE FOR THE AMOUNT OF MONEY I PAY”



COMMERCIAL CUSTOMERS ARE SLIGHTLY MORE LIKELY TO AGREE.

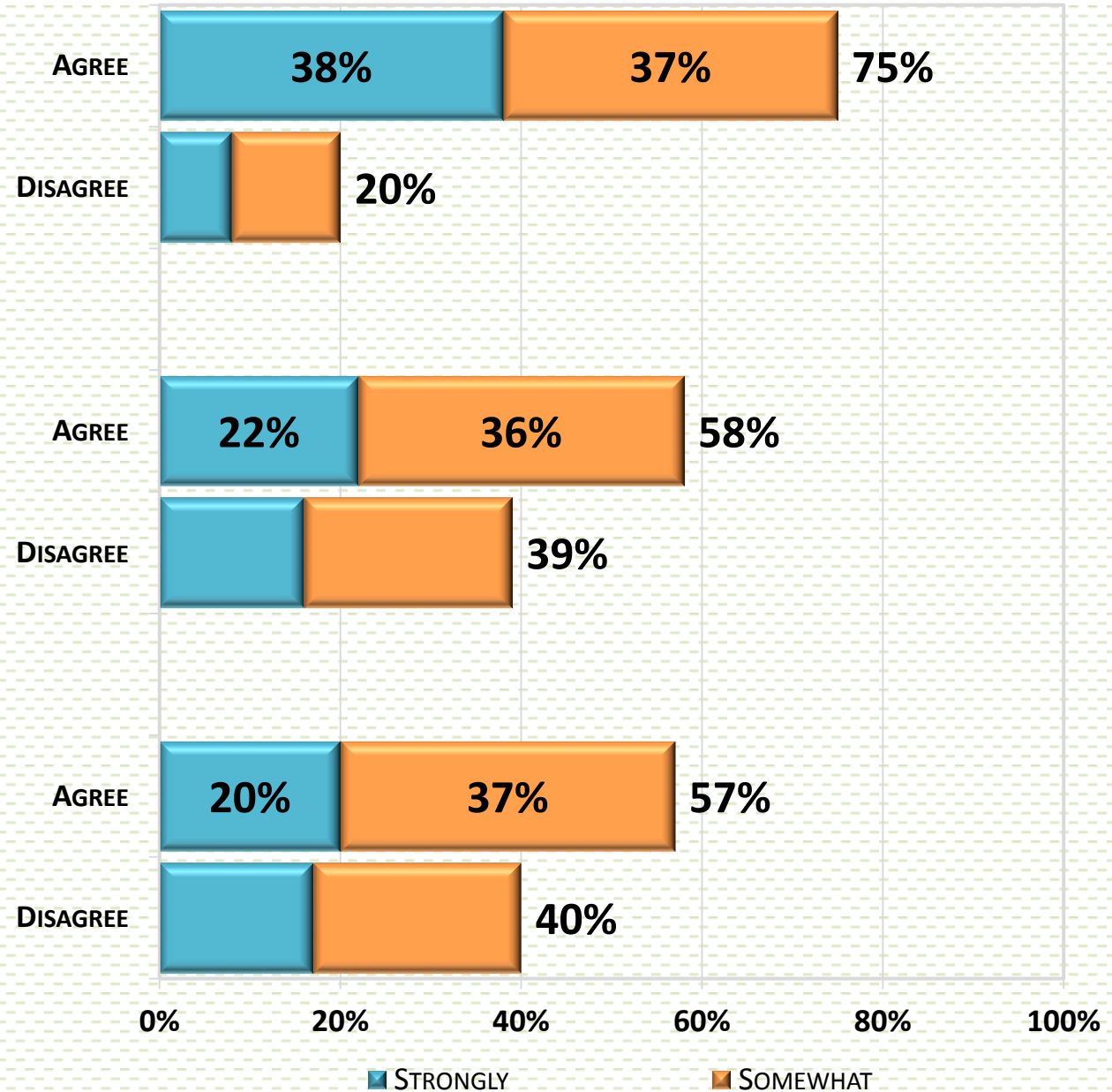
# ATTITUDES TOWARD WATER RATE INCREASES

**BECAUSE WATER IS A SCARCE RESOURCE, WATER RATES SHOULD BE DESIGNED TO REFLECT THE VALUE OF WATER IN OUR DAILY LIVES.**

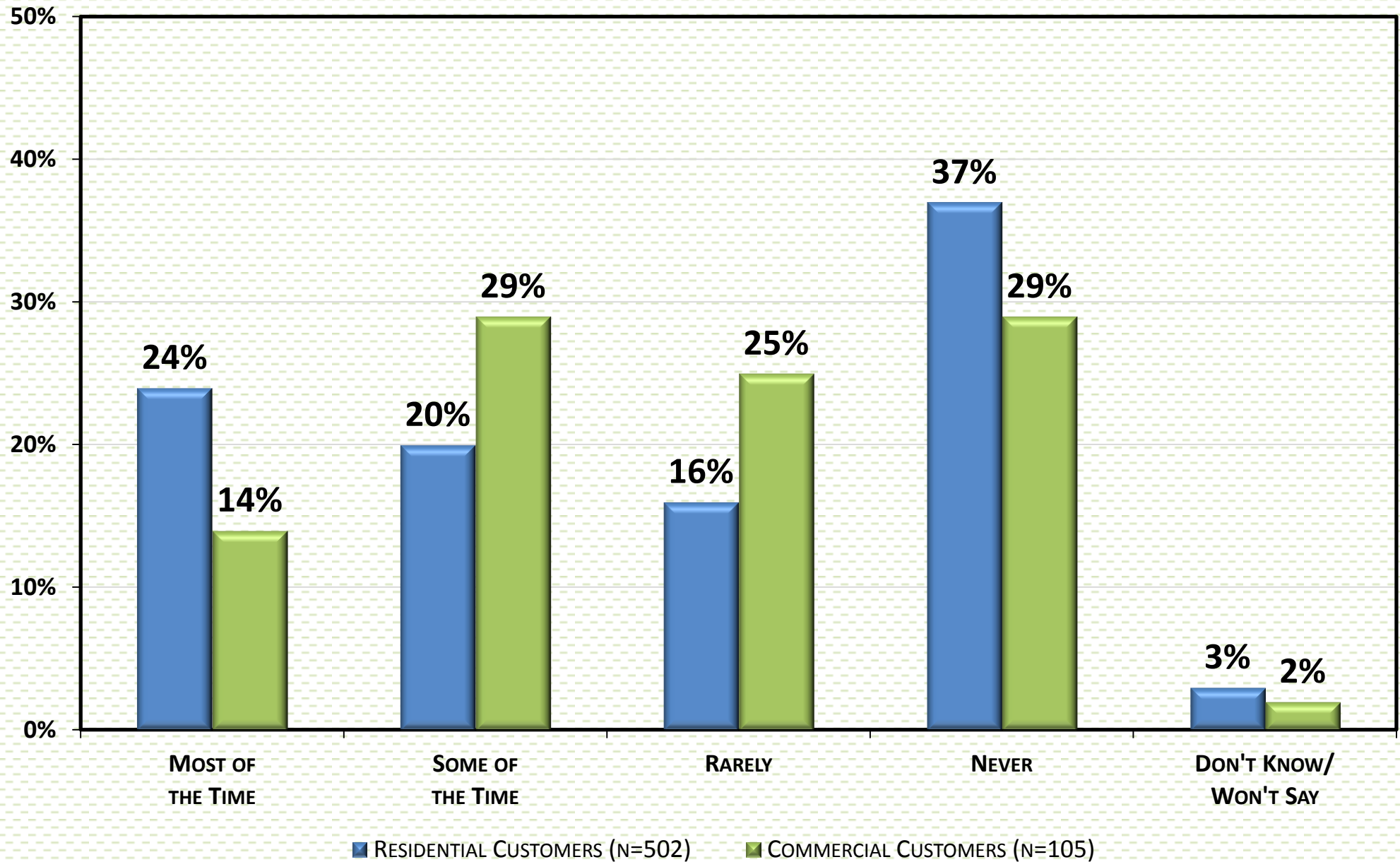
**WATER RATES SHOULD BE INCREASED TO COVER THE COST OF PROVIDING A RELIABLE WATER SUPPLY FOR FUTURE GENERATIONS.**

**WATER RATES SHOULD BE INCREASED TO COVER THE TRUE COSTS TO TREAT AND DELIVER WATER TO OUR HOMES AND BUSINESSES.**

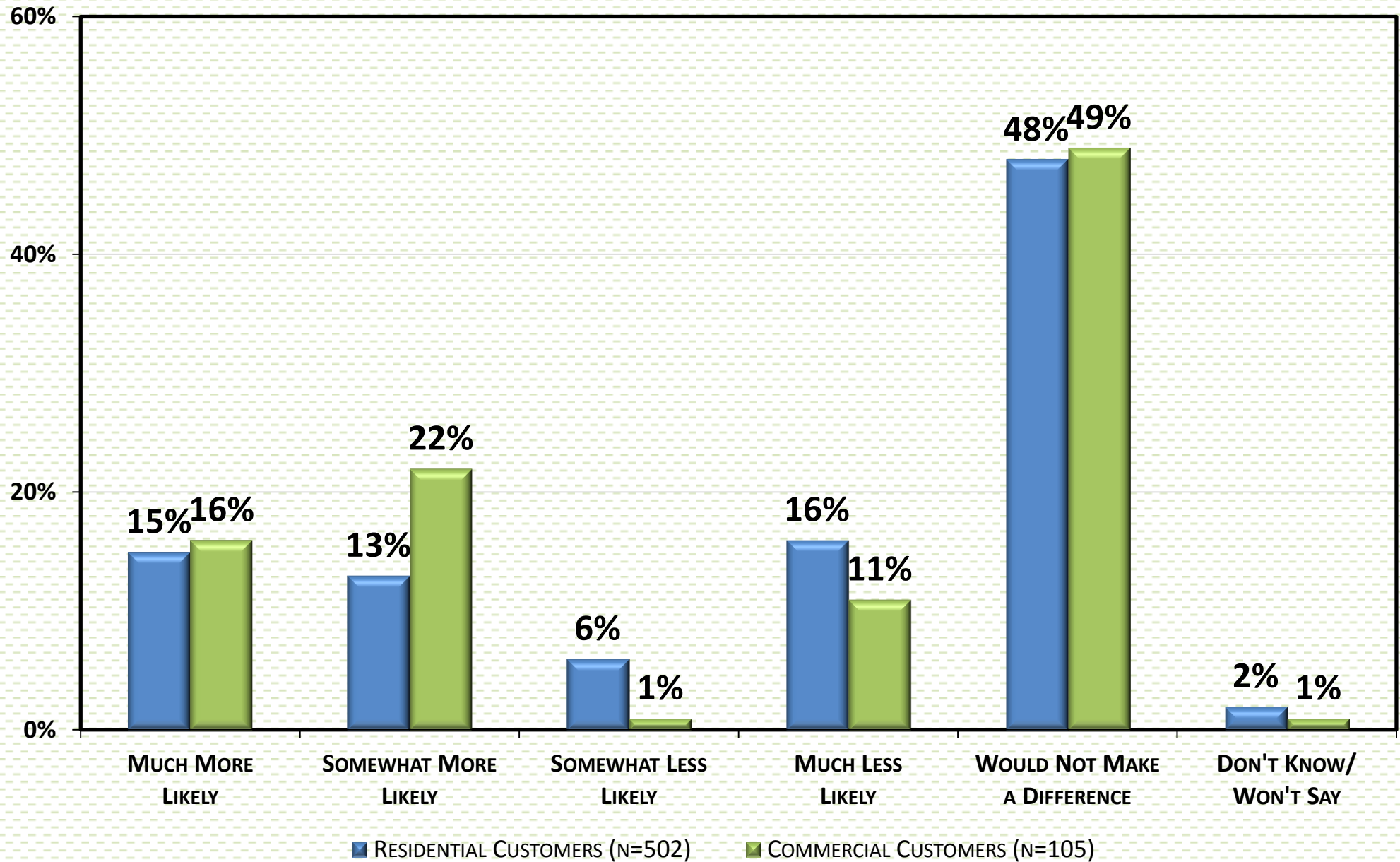
COMMERCIAL CUSTOMERS ARE SLIGHTLY MORE LIKELY TO AGREE.



# FREQUENCY OF READING THE ANNUAL WATER QUALITY REPORT MAILED EVERY SPRING

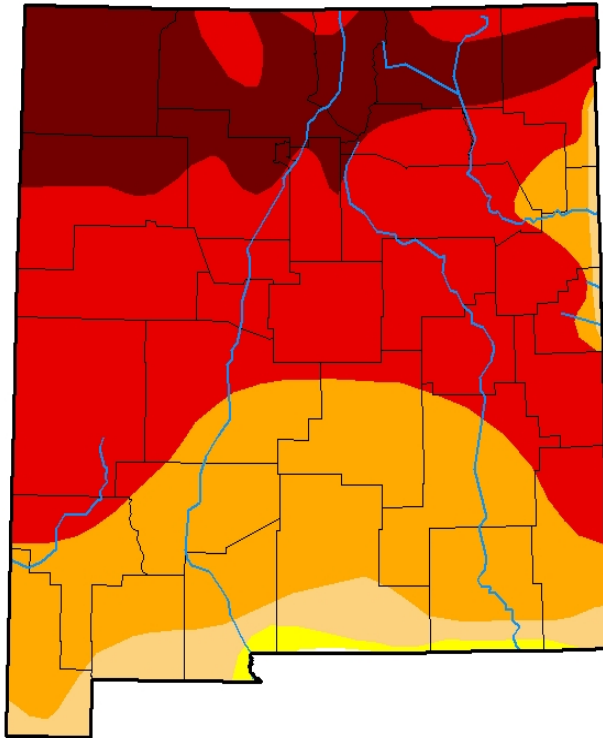


# LIKELIHOOD OF READING THE WATER QUALITY REPORT IF IT WAS AVAILABLE ONLINE INSTEAD OF BEING MAILED



# NM Drought

## U.S. Drought Monitor New Mexico



**June 12, 2018**

(Released Thursday, Jun. 14, 2018)

Valid 8 a.m. EDT

Drought Conditions (Percent Area)

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	0.10	99.90	98.65	92.39	62.97	18.17
Last Week 06-05-2018	0.10	99.90	99.04	88.42	61.99	18.17
3 Months Ago 03-13-2018	0.08	99.92	99.51	77.89	25.50	0.00
Start of Calendar Year 01-02-2018	7.01	92.99	45.97	4.76	0.00	0.00
Start of Water Year 09-26-2017	85.16	14.84	0.00	0.00	0.00	0.00
One Year Ago 06-13-2017	78.55	21.45	6.56	0.00	0.00	0.00

### Intensity:

■ D0 Abnormally Dry    ■ D3 Extreme Drought  
■ D1 Moderate Drought    ■ D4 Exceptional Drought  
■ D2 Severe Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. See accompanying text summary for forecast statements.

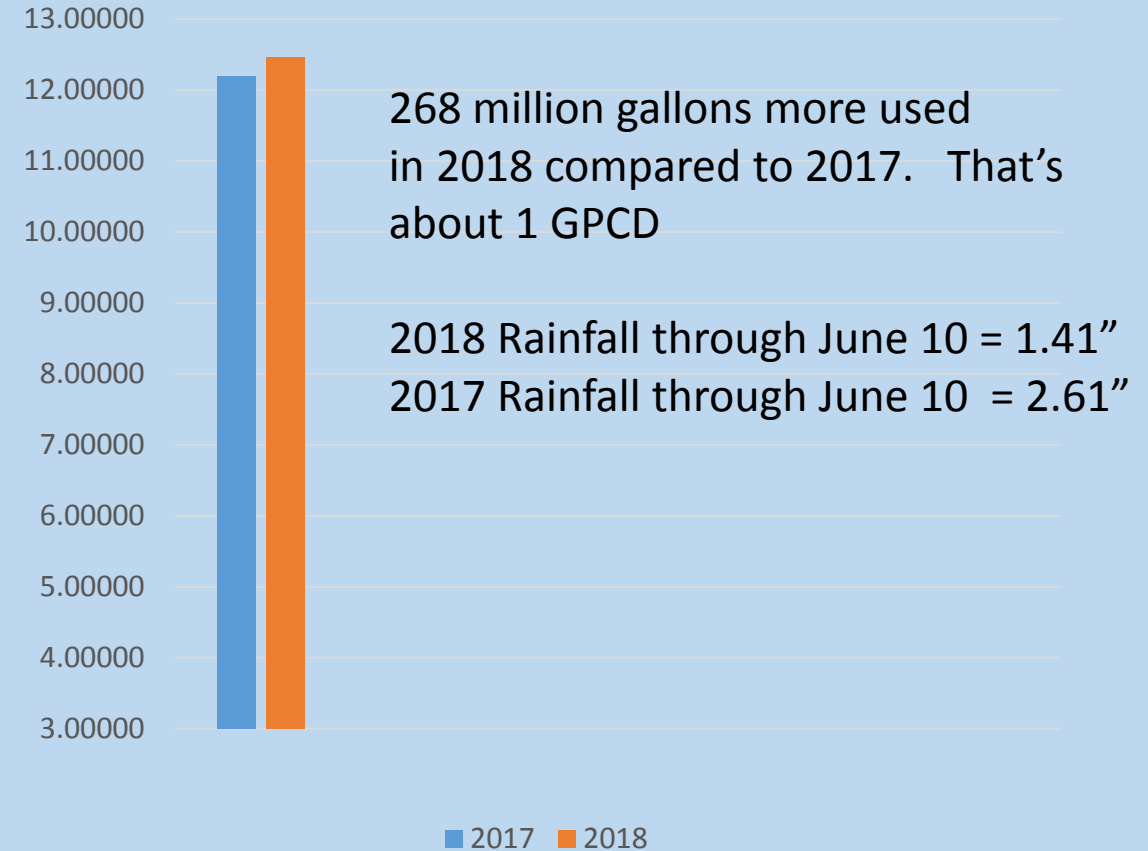
### Author:

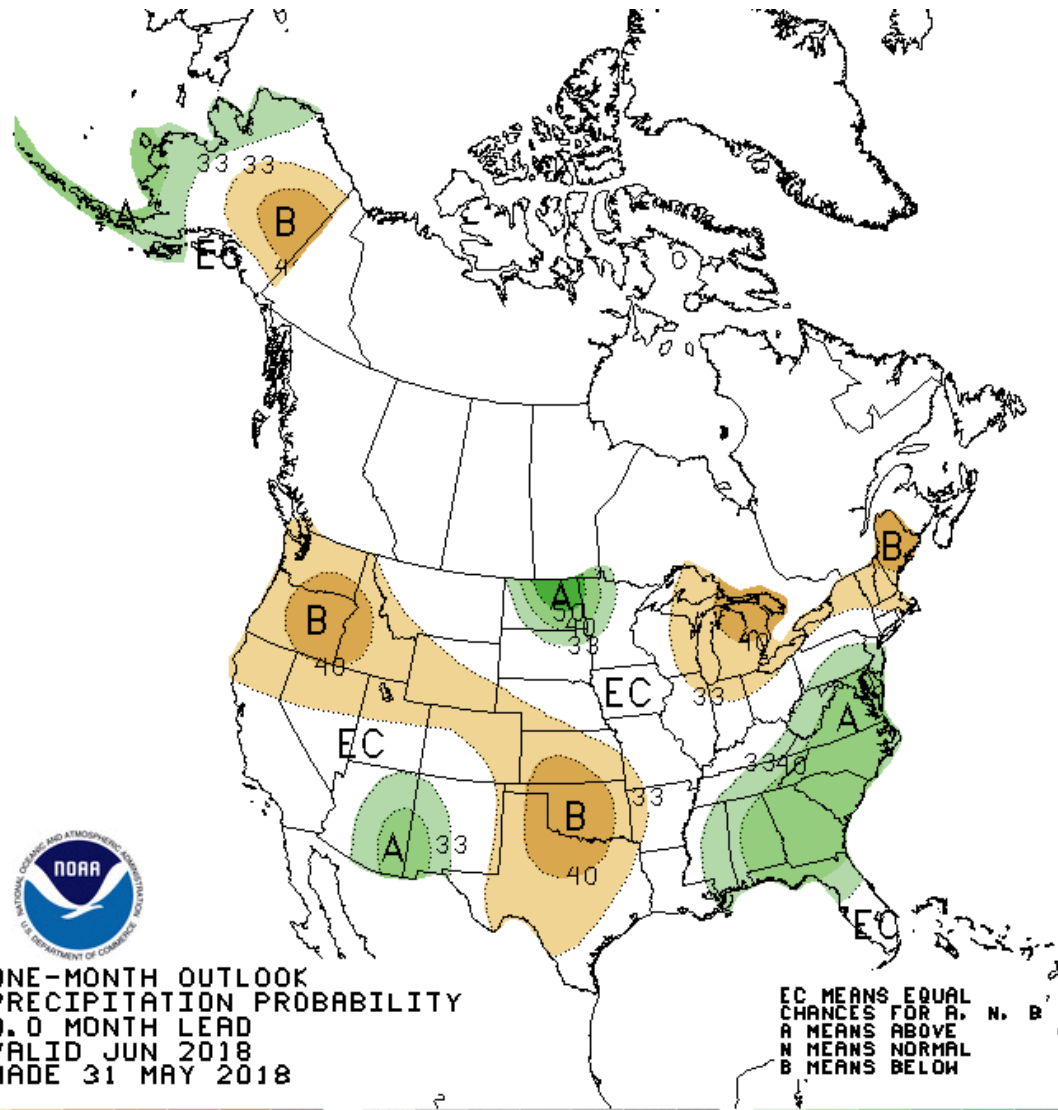
Brian Fuchs  
National Drought Mitigation Center



<http://droughtmonitor.unl.edu/>

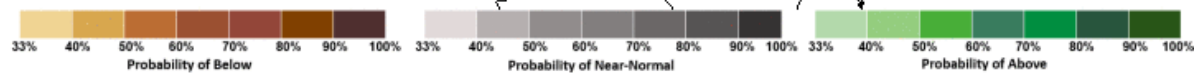
## Water Use January 1 – June 10





ONE-MONTH OUTLOOK  
PRECIPITATION PROBABILITY  
0.0 MONTH LEAD  
VALID JUN 2018  
MADE 31 MAY 2018

EC MEANS EQUAL  
CHANCES FOR A. N. B  
A MEANS ABOVE  
N MEANS NORMAL  
B MEANS BELOW



Albuquerque Bernalillo County  
Water Utility Authority