

La Plata West Water Authority
Transfer and Refund Policy
Policy Number 13-2 As Amended

Whereas: La Plata West Water Authority (LPWWA) received both Water User Commitment and Tap Commitment Fee Deposit (Deposit) in May of 2010 from property owners in LPWWA's proposed domestic water delivery system (System), as a show of support for the System and funding application(s). The Deposits are held in trust only to be used by LPWWA when funding for the System is obtained. The following policy is adopted on this 20 day of November, 2013, by the Board of Directors in order to facilitate the transfer and refund of Deposits.

BACKGROUND

In May of 2010, LPWWA asked their supporters to pay a minimum deposit of \$500 per tap and sign a Water User Commitment (WUC) to assist LPWWA in developing the preliminary engineering design for the System and to demonstrate community interest for funding agencies. LPWWA used the information provided by the property owner (Holder), which included the La Plata County Assessor parcel number(s) for the property that would be served by the tap and the number of requested commitment, to generate an initial design of the System that was incorporated in applications for funding. The funding applications were submitted to funding agencies, such as USDA Rural Development, Colorado Department of Public Health and Environment, Federal funding agencies and/or other private funding groups.

Many of the funding agencies require a demonstration of community interest. The demonstration of interest in the System was accomplished by the WUCs and the Deposits. LPWWA holds the Deposits in trust to demonstrate continued interest in the System. The Deposits are maintained in a separate bank account and are not spent by LPWWA in pursuit of project funding or other operating expenses unless and until LPWWA has obtained sufficient funding to make the System feasible.

PURPOSE OF POLICY

The purpose of this policy is to facilitate transfers and refunds of WUC and the corresponding Deposits that are held by LPWWA. This policy outlines the procedure to maintain, transfer, and refund Deposits and their associated commitments.

POLICY

- A. The Deposits are held in trust within local FDIC bank institute accounts. The Deposits shall remain in these accounts until LPWWA exhausts all its endeavors to acquire funding for the System in its entirety or in the individual phases and the Board of Directors determines that the System cannot be constructed. If the Board of Directors, by resolution, determines that the System or any portion thereof will not be constructed, the affected Deposits will be refunded. Prior to such a determination by the Board, a property owner that has executed a WUC and tendered a Deposit can obtain a refund of the Deposit only by complying with this policy.

- B. A refund may only be obtained prior to confirmation of funding of any proposed construction phase, and prior to a property owner's signature on the "Water Users Agreement or Contract". The bank earned interest from these accounts is not refundable and will be used by LPWWA at its sole discretion.
- C. Once funding for the System or a portion thereof has been approved and the property owner signs a Water User Agreement/Contract (WUA), which specifies the terms for the cost of the water tap, the applicable water service fees, and LPWWA's rules and regulations, the Deposit is considered a down payment and becomes nonrefundable.
- D. Holders have the responsibility to maintain addresses, telephone numbers and/or email contact information with LPWWA and to safeguard WUC documentation.
- E. A Holder may transfer the WUC and associated Deposit to another property owner within the System with the LPWWA Board of Director's approval. Approval will be determined by the LPWWA Board of Directors. When a WUC is transferred, the original Holder is divested of all benefits and obligations associated with the WUC and the new Holder assumes those benefits and obligations.

PROCEDURE FOR REFUND AND TRANSFER

1. Requests for refunds or transfers must be submitted in writing to the LPWWA Board of Directors. (LPWWA, P.O. Box 631, Durango, Colorado 81326). The request will be noted on the agenda for consideration of the Board of Directors at the next regular Board meeting.
 2. The written request for a transfer or a refund must be accompanied by the following:
 - a) The original WUC or a replacement WUC (An additional fee may be applied for the cost of replacing the lost WUC.), which will be surrendered to LPWWA.
 - b) \$15.00 for 'Administrative Fee' for LPWWA's administrative costs to process the request. There is no fee for refund requests.
 - c) The name(s) of the proposed new owners and their contact information, addresses, and the Assessor's parcel number of the property that will be appurtenant to the WUC, not applicable for refunds
 - d) A notarized bill of sale or assignment conveying the WUC and Deposit (LPWWA can provide one if necessary), not applicable for refunds
 3. Upon receipt of the foregoing, the Board of Directors will consider the request for a transfer or a refund at its next regularly scheduled meeting. The Board of Directors will promptly notify the Holder of its determination. If the Board of Directors approves the request, it will either refund the Deposit or prepare a new WUC for the new Holder. LPWWA will return all documentation, except the original WUC or a replacement WUC, to the new Holder.
 4. If the verification of the Founding Member's WUC cannot be established, LPWWA reserves the right to deny the Founding Member's status, privileges and obligations associated with the WUC.
 5. No transfer will be recognized by LPWWA until the Board approves the request and the new Holder executes a WUC.
- F. In the event of death of a Holder, the surviving spouse, other person named on the Water User Commitment, or the personal representative of the estate may maintain, transfer or obtain a refund of the Deposit. LPWWA requires notification and proof of a change of

ownership by appropriate legal documentation. If the original WUC cannot be located, a replacement WUC will be issued by LPWWA at no charge.

G. LPWWA has the right to purchase any WUCs that are offered for sale. Upon purchase of a WUC, LPWWA may dissolve the WUC, regardless of the manner by which it was acquired.

H. LPWWA reserves the right to develop a new Water User Agreement and/or Contract for Water Tap to replace a Holder's WUC.

I. When a Holder sells the Property associated with a WUC and fails to transfer the WUC in accordance with this Policy, LPWWA may declare the WUC and associated Deposit abandoned. Prior to making a declaration of abandonment, LPWWA shall send, by certified or registered mail, a written Notice of Abandonment to the Holder at the last known address on file. Said Notice of Abandonment shall identify the Holder's name and the property associated with the WUC and shall inform the Holder that the WUC and Deposit will be deemed abandoned if a written request for transfer or refund is not tendered to LPWWA within sixty (60) days of the abandonment notice. In the event of abandonment of the WUC, the WUC and Deposit will become the property of LPWWA.

Subject to revision by the LPWWA Board of Directors.

DEFINITIONS

WUC: Water User Commitment (WUC) is the document that was signed by a property owner in May of 2010 in show of support for the original application to USDA Rural Development for opportunity to receive Stimulus Funds.

Deposits: The amount paid to La Plata West Water Authority that is associated with the Water User Commitment. This amount was a minimum of \$500 per tap for residential purposes and \$750 per commercial tap purposes.

Holders: The person(s) or entity that is named on the WUC or transfer documentation.

Founding Member: An original signer of the WUC in May of 2010 through December 31, 2010

La Plata County Assessor parcel numbers: The twelve digit number that the Assessor assigns to a property owner's parcel of land and can be found on the property owner's County Tax Assessment.

Preliminary Engineering Design: The system design, maps, and estimated cost analysis for the water delivery system.

Water Tap: Service connection into the La Plata West Water Authority system by means of a tap connection into the Authority's mainline and meter pit.

ADOPTED this 20th day of November, 2013
La Plata West Water Authority

ATTEST:

By: Frank Smith
Secretary

By: Roy E. Howald
President