

# **BYLAWS**

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**FOR**

**WEB WATER DEVELOPMENT ASSOCIATION, INC**

**Member Approved 12-05-2015**

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# **WEB WATER DEVELOPMENT ASSOCIATION, INC.**

## **BYLAWS**

### **ARTICLE I - CORPORATE NAME**

1. 1. **Name.** The name of this Corporation is WEB Water Development Association, Inc. ("WEB Water"). Its principal office will be in Aberdeen, South Dakota, at such location as the Board of Directors deems appropriate.

### **ARTICLE II - CORPORATE SEAL**

2. 1. **Seal.** The Seal of WEB Water has inscribed thereon the name of WEB Water.
2. 2. **Custody.** The company office has custody of the seal.
2. 3. **Impression.** The impression of the seal must be made on all papers and documents requiring the signature of an officer of WEB Water.

### **ARTICLE III - AUTHORIZED ACTIVITIES**

3. 1. **Purposes.** WEB Water may engage in all activities permitted to be engaged in by nonprofit corporations according to the laws of the State of South Dakota and for any other purpose within the meaning of § 501(c)(12) of the Internal Revenue Code or the corresponding provision of any future law (the "Code"). These purposes include the making of distributions any § 501(c)(12) organization.

3. 2. **Mutual Benefit.** The Corporation must at all times be operated on a nonprofit basis for the mutual benefit of its Members. No interest or dividend may be paid or payable by the Corporation on any capital furnished by its Members.
3. 3. **Corporate Offices.** WEB Water will continuously maintain a registered office in the State of South Dakota. WEB Water may have other offices within or without the State of South Dakota as determined by the Board of Directors.
3. 4. **Corporate Dissolution.** Upon dissolution of WEB Water according to the South Dakota statute, including paying all Entity liabilities and returning, transferring, or conveying all Entity assets requiring such return, transfer or conveyance, the remaining assets will be distributed for one or more exempt purposes within the meaning of the Code or will be distributed to the federal government, or to a state or local government, for a public purpose, as determined by the Board of Directors.

#### **ARTICLE IV - MEMBERS**

- 4.1. **Membership.** A Member is any person or entity who meets the Member Definition below will be a Member of WEB Water. Members with bulk water supply contracts will be referred to as “Bulk Members” and Members with non-bulk water supply contracts will be referred to as “Rural Members.” Members will have the right to vote in Board of Directors and other elections as specified herein. The Board of Directors may at any time create additional membership classifications.
- 4.2. **Member Definition.**
  - a. **Definition.** A Member is an individual or entity that:
    - i. owns land upon which a meter is located;

- ii. is in compliance with WEB Water Rules and Regulations; and
  - iii. WEB Water has billed that account (each meter has a unique account number) within the 30 days immediately preceding the Membership Determination date in Section 4.11a.
- b. **Joint Tenants.** If the land upon which the meter is located is held in joint tenancy and the joint tenancy meets the definition in Paragraph 4.2.a., then each joint tenant is considered a Member; however, the joint tenants must appoint an Authorized Representative as provided herein to act on behalf of the joint tenancy.
- c. **Entity Ownership.** If the land upon which the meter is located is owned by an entity and the entity meets the definition in Paragraph 4.2.a., then the entity is a Member. The entity must appoint an Authorized Representative as provided herein to act on its behalf. Types of entities include, but are not limited to: corporations, limited liability companies, partnerships, trusts, estates, municipalities, associations and any other customer with a WEB Water bulk service contract.
- 4.3. **Authorized Representative.** Any Member may appoint an Authorized Representative to act on the Member's behalf in all WEB Water matters. To appoint an Authorized Representative, the Member must deliver to WEB Water a complete and fully executed WEB Water Authorized Representative Form. WEB Water will determine the signatures necessary for a valid Authorized Representative appointment. Signature requirements will vary depending upon the whether the appointing Member is an individual, joint tenancy or entity. WEB Water will approve or deny the requested appointment within 14 days after it receives the properly completed and executed form. Only after WEB Water has approved appointment may the appointee begin acting on behalf of the Member. WEB Water has the right to reject any

Authorized Representative appointment. WEB Water has the right to rescind its approval of any Authorized Representative appointment at any time by delivering notice of the rescission to the Member and appointee at the address, mail or electronic mail, specified in the form. The term “Member” will be deemed to include those Authorized Representatives who have received unrescinded approval as specified herein.

- 4.4. **No Authorized Representative.** If any Member does not have an approved Authorized Representative, WEB Water has the right to treat the first person listed on the application for service as Authorized Representative for that Member and the Member will be bound by the votes and actions of that person.
- 4.5. **Annual Meetings.** The date, place, and time of the Annual Meetings will be established by board resolution. The Members will elect Directors at the Annual Meeting from the slate of qualified candidates presented at the Annual Meeting. Members will consider such other business as may properly be brought at the meeting. The Board of Directors by an affirmative 2/3 vote may reschedule the annual meeting. All Members must be given proper notice of the rescheduling.
- 4.6. **Special Meetings.** Special Meetings of the Members may be called by the WEB Water General Manager, an affirmative vote of 2/3 of the existing Board of Directors or upon petition of 51% of the Bulk Members or 10% of the Rural Members. The call must state the purpose of the meeting. True copies of the petitions must be mailed or delivered to the WEB Water office. WEB Water will verify the authenticity of the petitions. Within 30 days after receipt of the request for call, the Board will call a Special Meeting of Members to be held no later than 90 days after receipt of the request. If the purpose of the meeting is to reverse a decision of the Board, 75% of the Members attending the Special Meeting must vote in favor of the reversal

in order for it to take effect. Contracts or other obligations legally binding the Corporation may not be reversed by the Members.

- 4.7. **Notice.** The Board Secretary will, by mail or electronic communication, notify all Members not less than 10 days and not more than 50 days before the date of any meeting. The notice will state the time, place and, in the case of a Special Meeting, the purpose of the meeting. Notice by mail is given when deposited in the United States mail with sufficient postage. Notice by electronic communication may be given by facsimile, e-mail, text message or other electronic means, at a number or electronic address designated by the Member. Notice is considered received when it is given.
- 4.8. **Waiver of Notice.** Attendance by a Member at any Member meeting will constitute a waiver of notice by the Member, unless the Member announces at the commencement of the meeting that the Member is attending for the sole purpose of objecting to the meeting on the grounds of improper notice.
- 4.9. **Quorum.** The presence in person or by proxy of not less than 50 Members entitled to cast votes at that meeting will constitute a quorum.
- 4.10. **Proxy.** At any meeting, Members may vote in person or by proxy. Any proxy must be in writing and delivered to WEB Water office prior to the meeting or delivered to the WEB Water General Manager or Board Chair 2 hours prior to the scheduled time of the meeting of the Members. An Authorized Representative may name a proxy.
- 4.11. **Membership Determination Date.** For each matter upon which a Member is entitled to vote, the Member will have one vote for each meter located on land owned by the Member provided the requirement of Paragraphs 4.2. a. ii and iii. have been met by the date specified in Paragraph 4.11 a. below. Members are not entitled to cumulative voting. The Members may act by an

affirmative vote of a majority of the Members present at a duly held meeting. In the event of a tie vote, a decision will be determined by lot. Ballots will be retained for one year at the WEB Water office.

- a. **Membership Determination Date.** The 9<sup>th</sup> day of the month prior to the month of the Annual or Special Meeting will be the date WEB Water determines Membership for purposes of the upcoming meeting. If the 9<sup>th</sup> falls on a weekend or holiday, the date of fixing will be the last business day before the weekend or holiday.
  - b. **Ballot.** WEB Water will send ballots to each Member, specified in Article IV, at the address specified. Ballots delivered to the WEB Water General Manager or Board Chair 2 hours prior to the scheduled time of the meeting of the Members will be counted provided the ballot is not disputed.
  - c. **Ballot Counting.** WEB Water may, but is not obligated to, hire the Brown County Auditor or some other similarly qualified individual or entity to count the ballots.
  - d. **Ballot Disputes.** A Member may dispute a ballot any time prior to the announcement or publication of the vote results. To dispute a ballot, a Member must deliver a properly executed affidavit to the WEB Water General Manager or Board Chair 2 hours prior to the scheduled time of the meeting of the Members. The affidavit must state name of the Member making the dispute, the account number of the ballot being disputed and the reason for the dispute. The WEB Water Board will review the affidavit, disputed ballot and any other evidence it deems pertinent before determining whether or not to allow the ballot to be cast and counted. The decision of the Board will be final.
- 4.12. **Disciplinary Action.** The Board may suspend, terminate or otherwise discipline any Member by an affirmative vote of at least two-thirds of the Board for any reason the WEB Water Board

deems detrimental to the well-being of WEB Water. The Board may make Rules and Regulations regarding discipline, suspension and termination of a Member. A Member retains the right to appeal a board decision regarding any of the above.

4.13. **Transfer of Membership.** Membership is not transferable or assignable without Board consent as provided in WEB Water Rules and Regulations.

4.14. **Official Record.** An official record of the meetings will be made.

## **ARTICLE V - BOARD OF DIRECTORS**

5.1. **Governing Powers.** The business and affairs of WEB Water will be managed by or under the direction of a Board of Directors elected by the Members (“Board”). The Board will have all the powers and duties necessary or appropriate for the administration of the affairs of WEB Water consistent with the law, the Articles of Incorporation and these Bylaws. The Board may make rules, regulations, policies and directives necessary for the efficient operation of the system.

5.2. **Number.** The Board of Directors will be comprised of nine Members.

5.3. **Qualifications.** A Board Member candidate must be a Member or Authorized Representative and at least 18 years old. Directors must have their primary residence within the district they represent. Bulk Directors must reside within one of the Bulk Member municipalities within that district or be the Authorized Representative of one of the non-municipal Bulk Members within that district. The Board may establish other criteria that must be met in order for a candidate to be qualified to serve on the Board (“Board Criteria”). The Board will review all candidate nominations to determine that each candidate meets the Board Criteria. WEB Water employees may not serve on board. Former employees must wait one year before they are

eligible to run for a board position.

5.4. **Nomination**. Members may nominate qualified Board candidates in accordance with these Bylaws and procedures established by the Board. All nominations must be made on the form provided by WEB Water. To be nominated as a Bulk Director candidate, three Bulk Member Authorized Representatives located within that district must sign the candidate's nominating petition. To be nominated as a Rural Director candidate, 10 Rural Members of that district must sign the candidate's nominating petition. Nominating petitions must be filed with the WEB Water office not later on the 9<sup>th</sup> day of the month prior to the month of the Annual Meeting. If the 9<sup>th</sup> falls on a weekend or holiday, the filing deadline will be the last business day before the weekend or holiday. Any nominee meeting the Board Criteria will be added to the slate of eligible Board Member candidates presented to the Members at the Annual Meeting.

5.5. **Composition**. Three Directors will represent the Bulk Members by District (the "Bulk Directors"). Six Directors will represent Rural Members by District (hereinafter called "Rural Directors").

5.6. **District Elections**. Each Member is entitled to vote in the Board Member election in the District or Districts in which the Member qualifies as specified in Paragraph 4.11. The districts are as follows:

- a. **District 1** – Those that qualify as Rural Members of Walworth and Potter Counties, South Dakota.
- b. **District 2** – Those that qualify as Rural Members of Edmunds, Faulk and Hyde Counties, South Dakota.
- c. **District 3** – Those that qualify as Rural Members of Brown County, South Dakota.

- d. **District 4** – Those that qualify as Rural Members of Campbell and McPherson Counties, South Dakota and Emmons, Dickey and McIntosh Counties, North Dakota.
- e. **District 5** – Those that qualify as Rural Members of Spink, Beadle and Hand Counties, South Dakota.
- f. **District 6** – Those that qualify as Rural Members of Day, Clark and Marshall Counties, South Dakota.
- g. **District 7** – Those that qualify as Bulk Members of McPherson, Edmunds, Faulk, Campbell, Walworth, Potter and Hyde Counties, South Dakota and Emmons and McIntosh Counties, North Dakota.
- h. **District 8** – Those that qualify as Bulk Members of Brown County, South Dakota and Dickey County, North Dakota.
- i. **District 9** – Those that qualify as Bulk Members of Marshall, Day, Clark, Beadle, Spink and Hand Counties, South Dakota.

5.7. **Election Cycle.** Each District elects its Director every 3 years. District elections are staggered with the election cycle for each district being as follows:

- a. **Districts 3, 4 & 7:** 2015, 2018, 2021 and every third year thereafter.
- b. **Districts 2, 5 & 9:** 2016, 2019, 2022 and every third year thereafter.
- c. **Districts 1, 6 & 8:** 2017, 2020, 2023 and every third year thereafter.

5.8. **Term.** Elected Directors hold office for a term of 3 years. The elected Director's term will begin at the close of the Annual Member Meeting in the year of election. Directors may be re-elected for no more than 3 consecutive terms. A Director appointed to the Board according to Paragraph 5.20 below may be re-elected for no more than 2 consecutive terms after the expiration of the appointed term. After serving 3 consecutive terms, or if the Director leaves the

Board for any reason, that person is not eligible for appointment or election to the Board for 1 year. After an absence of at least one year, that person is eligible to serve on the Board for a full set of terms provided that person meets the Board Criteria. Directors will hold office until their successor has been elected.

- 5.9. **Regular Meetings.** The Board will hold regular meetings according to a schedule and at the locations determined by the Board.
- 5.10. **Special Meetings.** The WEB Water General Manager, the Chair or any three Directors may call a Special Meeting of the Board. The call must state the purpose of the meeting.
- 5.11. **Notice.** The Board Secretary must, by mail or electronic communication, provide all Board Members at least 6 days notice of any regular meeting and 2 days' notice of any Special Meeting. The notice must state the time, place and, in the case of a Special Meeting, the purpose of the meeting. Notice by mail is given when deposited in the United States mail with sufficient postage. Notice by electronic communication may be given by facsimile, e-mail, text message or other electronic means, at a number or electronic address designated by the Director. Notice is considered received when it is given.
- 5.12. **Waiver of Notice.** A Director may waive the notice requirement for any meeting by executing a written waiver of notice before, at or after that meeting. The signed waiver will be equivalent to the Director having received proper notice. The Secretary will file the waiver and enter it upon the minutes or other records of that meeting. Attendance by a Director at any Board meeting will constitute a waiver of notice by that Director unless the Director announces at the beginning of the meeting that he or she is attending for the sole purpose of objecting to the meeting on the grounds of improper notice. If all the Directors are present at any Board meeting, notice is waived and any business may be transacted at such meeting.

- 5.13. **Quorum.** The presence of a majority of the Directors will constitute a quorum for the transaction of business at any Board meeting. The acts of the majority of the Directors present at a duly held meeting will be the acts of the Board, except when a larger number is required by law, the Articles or these Bylaws.
- 5.14. **Proxy.** Directors may vote in person or by proxy. A proxy must be in writing and delivered to the WEB Water office prior to the meeting or delivered to the WEB Water General Manager at the meeting.
- 5.15. **Voting.** Each Board Member is entitled to one vote on any matter properly presented to the Board.
- 5.16. **Action in Lieu of Meeting.** Any action the Board may take at a meeting may be taken by teleconference or by written action signed, or consented to by authenticated electronic communication, by a majority of the Board provided all Directors were notified of the written action in advance. An authenticated electronic communication is one that includes sufficient information for WEB Water to reasonably conclude that the communication was sent by the purported sender. The written action is effective when signed or consented to unless a different effective date is stated. When written action is signed or consented to by fewer than all the Directors, the Board will immediately provide all Directors with the text and effective date of the written action. Failure to provide such notice does not invalidate the written action.
- 5.17. **Per Diem.** By resolution of the Board, Directors will receive reimbursement for reasonable expenses incurred to attend each Board meeting and other meeting, authorized by the Board of Directors.
- 5.18. **Compensation.** Members of the Board of Directors shall receive a sum of \$200 per meeting as compensation for attendance at all regularly scheduled meetings of the Board of Directors

of the Corporation, and shall also receive a sum not to exceed \$200 per day as compensation for attendance at other meetings they attend on behalf of the Corporation; provided that attendance at such other meetings is authorized and approved by the WEB Board and that compensation shall be made in the amount of \$100 for a half day meeting and \$150 for a three-quarter day meeting (example: afternoon and evening). No director shall receive compensation for serving the Corporation in any other capacity. The compensation of Board Members shall be determined by resolution of the Board, which shall be presented to the Corporation for approval at any regular or special meeting of the Members, and which so determined shall continue until altered or amended in like manner. The Board resolution on compensation shall accompany the meeting notice.

- 5.19. **Appeal**. Except as specified otherwise in these Bylaws, actions of the Board of Directors may be reversed by the Members following the procedure set forth in Paragraph 4.6 above.
- 5.20. **Vacancies**. A Board Member vacancy, regardless of cause, including an increase in the number of Directors, will be filled by majority vote of the remaining Board Members. Any Director elected to fill a vacancy will serve the remainder of the vacating Director's term.
- 5.21. **Attendance**. Directors are expected to attend all Board meetings, Member meetings, committee meetings of which the Director is a Member and Entity functions. Directors may participate in any meeting by teleconference or similar communications equipment which allows all persons participating in the meeting to hear each other at the same time. Participation by teleconference constitutes presence in person at a meeting. Absence from a meeting will be excused if a Director notifies the General Manager or Board Chair before the meeting is called to order. The Board may excuse a Director's absence after the call to order if the Director can show good cause for failing to give pre-meeting notice. Any Director with

more than 3 unexcused absences from Board meetings or Member meetings may be deemed by the Board to have resigned as a Director.

5.22. **Resignation.** A Director may resign at any time by delivering a written resignation to the General Manager or Board Chair. The resignation is effective when received, unless a later date has been specified in the notice.

5.23. **Disciplinary Action.** The Board may suspend, remove or otherwise discipline any Director by an affirmative vote of 2/3 of the Board. The Board may take such action if a Director violates the Bylaws, Rules and Regulations, policies or procedures or whenever the Board deems such action is in the best interest of WEB Water. Prior to taking any action against a Director, the Board must give the Director an opportunity to be heard on the matter. The Board will give the Director at least 5 days written notice before conducting the hearing. The notice will state the reason for the hearing.

a. not less than of the disciplinary action, and the reasons for it; and

b. an opportunity for the Director to be heard, orally or in writing, not less than 5 days before the effective date of the disciplinary action.

## **ARTICLE VI - BOARD OFFICERS**

6.1. **Number.** The Board Officers will be Chair, Vice-Chair, Secretary and Treasurer (“Board Officers”). Only Directors may be Board Officers. No Director may hold two or more offices at the same time except that one person may hold the offices of Secretary and Treasurer.

6.2. **Election and Term.** Every year, at the Board meeting following the Annual Member Meeting, the Board will elect the Board Officers. Each officer will serve a one year term. There is no limit on the number of times a Director may be elected to any particular office.

6.3. **Duties.** The Board Officers' duties are as follows:

- a. **Chair.** The Chair will preside at all Board and Member meetings; will execute, with the Secretary, all Entity contracts and instruments as authorized by the Board of Directors; will appoint, subject to the approval of the Board, standing and ad hoc committees; will perform all duties, incident to the office of Chair and such other duties as may be assigned by the Board; and will be an ex-officio, non-voting Member of all committees except as specified otherwise herein. In the event the WEB Water General Manager is unable to perform the duties of that office, the Chair will serve as the WEB Water General Manager during the absence or until the Board appoints an interim replacement or hires a new person for the office.
- b. **Vice-Chair.** The Vice-Chair will perform such duties as may be assigned by the Board of Directors. In case of the death, disability or absence of the Chair, the Vice-Chair will perform and be vested with all the duties and powers of the Chair.
- c. **Secretary.** The Secretary will be responsible for the minutes of the Board meetings and Member meetings; will serve notice of all meetings; will execute, with the Chair, all Entity contracts and instruments as authorized by the Board of Directors; will have charge of the books, papers and records of the Board all of which will at all reasonable times be open to the examination of any Director; will authenticate Board records; will arrange for a complete copy of the Articles of Incorporation and Bylaws of the Corporation containing all amendments thereto to be maintained at the Corporation's principal office, will keep a register of the names and post office addresses of all Members to be kept up to date, and will perform all duties incident to the office of Secretary, subject to the control of the Board. The Secretary will submit reports as

requested by the Board. In the event the Treasurer's office is vacant, the Secretary will perform the Treasurer's duties until the Board elects a new Treasurer. The Secretary may appoint assistance or request the assistance of the WEB Water employees in carrying out the duties specified herein.

- d. **Treasurer.** The Treasurer will be responsible for all Entity funds and will keep proper accounts of them; will endorse, on behalf of WEB Water, all checks, notes and other obligations and will deposit the same to the credit of WEB Water in such bank or banks as the Board may designate; will regularly enter in WEB Water books a full and accurate account of all monies received and paid out on account of WEB Water, and will at all reasonable times and as required by law exhibit the books and accounts to any Director; will pay all bills submitted by the WEB Water General Manager and approved by the Board of Directors; will submit WEB Water books and records for an independent audit as specified by the Board; will submit a written financial report at each regular Board meeting; will submit an annual financial report to the Members at the Annual Member Meeting; and will perform all acts incident to the position of the Treasurer, subject to the control of the Board. The Treasurer may appoint assistance or request the assistance of the WEB Water employees in carrying out the duties specified herein.

- 6.4. **Bond.** The Treasurer and any other officer or agent of the Corporation charged with the responsibility for the custody of any of its funds or property may give bonds in such sum, with a surety, as the Board of Directors determines. The Board of Directors in its discretion may require any other officer, agent or employee of the Corporation to give bond in such amount, and with a surety, as it determines. The expense of such bond will be legal obligation of the

Corporation.

- 6.5. **Vacancies.** A vacancy in the office of Vice-Chair, Secretary or Treasurer, regardless of cause, will be filled by majority vote of the remaining Board Members. Any Director elected to fill a vacancy will serve the remainder of the vacating Board Officer's term. If the office of Chair is vacated, the Vice-Chair will become Chair.
- 6.6. **Disciplinary Action.** The Board may remove or otherwise discipline any Board Officer in the same manner as set forth in Paragraph 5.23 above.

## **ARTICLE VII - BOARD COMMITTEES**

- 7.1. **Number.** The Board may establish one or more standing and ad hoc committees having the authority of the Board in carrying out the business of WEB Water to the extent determined by the Board. WEB Water will compensate committee members at the same rate as the WEB Water Board of Directors as set forth in Paragraph 5.18 above.
- 7.2. **Membership.** Each committee may be comprised of Directors and Non-Directors. A Non-Member may serve on any committee. The Board will determine the initial size of each committee.
- a. **Director Members.** The Chair will appoint one Director to chair each committee and report committee activities to the Board. The committee chair will be a voting Member of the committee. The Chair may remove or replace the committee chair at any time. The Chair may appoint additional Directors to serve on a committee if the work of the committee demands such additional Directors. Those Directors will be designated as voting or non-voting Members at the time of appointment. The Chair will appoint a replacement Director Member to fill any committee vacancy. The Board may over-ride

any decision of the Chair regarding committee appointments by an affirmative vote of two-thirds of all Board Members.

- b. **Non-Director Members.** WEB Water General Manager may recommend to the Chair Non-Directors for committee membership. When making the recommendation, the WEB Water General Manager will state the name, qualifications and proposed committee. The Board may over-ride the Chair's appointment of any Non-Director Member to a committee by an affirmative 2/3 vote of the Board. A former Director may be appointed as a Non-Director Member immediately after expiration of his or her term as Director. The Chair will appoint a replacement for any Non-Director Member vacancy resulting from the death, resignation or removal of the Member.
  - c. **Non-committee Member Directors.** A Director may attend any committee meeting to observe, but not participate in the committee's activities. This attendance privilege does not apply to any committee designated by the Board as a "Members Only" committee.
- 7.3. **Term.** All committee members will serve three year terms. There is no limit on the number of terms; however, the committee membership of any Director Member will terminate immediately if the Director ceases to be a Director, no matter the cause.
- 7.4. **Quorum.** The Quorum for any committee meeting will be a majority of the Members of the committee.
- 7.5. **Operations.** The Board will establish operating rules and procedures for each committee.
- 7.6. **Reporting.** All actions taken and recommendations made by a committee must be reported to the Board at each regular meeting. Other than Executive Committee actions, all committee actions and recommendations are advisory and have no effect until they are formally approved

by the Board.

- 7.7. **Ex-officio Member.** The WEB Water General Manager will be an ex-officio, non-voting Member of all committees except a Nominating Committee.
- 7.8. **Disciplinary Action.** The Chair may remove any committee Member from a committee at any time, except the Executive Committee. Any Director Member so removed will remain a Board Member unless the Board takes disciplinary action as specified in these Bylaws.

### **ARTICLE VIII - ENTITY OFFICERS**

- 8.1. **Number.** The sole WEB Water Officer will be the General Manager. The Board may, upon majority vote, create the offices of Secretary and any other office it deems necessary to properly operate WEB Water (“Entity Officers”).
- 8.2. **Hiring.** The Board will perform the acts necessary to locate and hire the WEB Water General Manager.
- 8.3. **Duties.** The WEB Water General Manager is the chief executive officer of WEB Water and is the official representative of WEB Water. The WEB Water General Manager will have general charge and control of Entity affairs subject to direction of the Board and these Bylaws. The WEB Water General Manager may call special meetings of the Board, as provided for in these Bylaws. The WEB Water General Manager will oversee the long-term goals and purposes of WEB Water. In addition, the WEB Water General Manager will have the power to approve bills for payment, subject to limits prescribed by the Board. The WEB Water General Manager will, subject to limits prescribed by the Board, have the power to sign and execute all contracts and instruments of conveyance in WEB Water’s name; to sign checks, drafts, and notes; and to perform all other duties usually incident to the office of corporate president. The WEB Water

General Manager will establish policies to ensure proper functioning of WEB Water. The WEB Water General Manager will hire, supervise and, if necessary, terminate all Entity employees. The WEB Water General Manager will deliver a written report to the Board at each regular Board meeting and to the Members at their Annual Meeting. In the event the WEB Water General Manager is unable to perform the duties of the office, the Chair will serve as the WEB Water General Manager during the absence of the General Manager or until the Board appoints an interim replacement or hires a new person for the office.

- 8.4 **Employees.** Except as stated otherwise in these Bylaws or by separate contract, all Entity Officers are at-will employees of WEB Water.
- 8.5 **Salaries.** The Board will determine the WEB Water General Manager's salary and benefits. The WEB Water General Manager will determine the salary and benefits for all other Entity employees subject to Board approval.
- 8.6 **Resignation.** An Entity Officer may resign by delivering written notice to the WEB Water General Manager, or if the resigning officer is the WEB Water General Manager, to the Chair.
- 8.7 **Removal.** The Board may remove any Entity Officer at any time, with or without cause, by an affirmative vote of a majority of the Directors.

## **ARTICLE IX - FISCAL OPERATIONS**

- 9.1 **Fiscal Year.** The fiscal year of WEB Water will begin the 1<sup>st</sup> day of October in each year and end on the 30<sup>th</sup> day of September in each year.
- 9.2 **Execution of Corporate Documents.** The Board may authorize any Entity Officer or WEB Water employee to enter into any contract or execute and deliver any instrument in WEB Water's name. Such authority may be general or confined to specific matters.

- 9.3 **Loans.** No loans will be taken out in WEB Water's name and no evidences of indebtedness may be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances. No loan may be granted to a Board Officer, Director or Entity Officer.
- 9.4 **Checks, Drafts and Accounts.** All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of WEB Water must be signed by those individuals authorized by the Board to do so as specified by resolution of the Board. All Entity funds will be deposited in such banks, trust companies, or other depositories as the Board may select.
- 9.5 **Budget.** The annual Entity budget must be approved by the Board of Directors.
- 9.6 **Property.** Title to all Entity property will be held in its name or in the name of a company owned or controlled by WEB Water.

## **ARTICLE X - CONFLICTS OF INTEREST**

- 10.1 **Policy Basis.** It is the responsibility of each Entity Officer and Director to discharge his or her duties in those respective capacities in good faith, in a manner the person reasonably believes to be in the best interests of WEB Water, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A conflict of interest is defined as referring only to personal, proprietary interests of the persons covered by this policy and their immediate families and not to philosophical or professional differences of opinion. Real and apparent conflicts of interest with Entity affairs may sometimes occur because the many persons associated with WEB Water have multiple interests and affiliations and various positions of responsibility within the community. It is likely that a person covered by this

policy will owe identical duties to two or more organizations having similar activities. Conflicts of interest must be avoided because they place, or apparently place, the interests of others ahead of WEB Water's obligations to its corporate purposes and to the public interest. Conflicts of interest reflect adversely upon the persons involved and upon the institutions with which they are affiliated, regardless of the actual facts or motivations of the parties. However, it is decidedly not in the long-range best interests of WEB Water to terminate or cease all association with persons who may have real or apparent conflicts or dualities of interest if there is a prescribed and effective method of rendering such conflicts harmless to all concerned.

- 10.2. **Policy Statement.** Recognizing the underlying basis, it is the policy of WEB Water not to preclude dealings with those having actual or apparent conflicts or dualities of interest so long as the same are promptly and fully disclosed whenever they occur and the Board determines that the conflict or duality of interest is harmless to WEB Water.
- 10.3. **Policy Coverage.** This policy applies to all Board Members, Members of Board committees, agents, WEB Water General Manager and all other Entity employees and all of their immediate family members, it also includes independent contractors providing services or materials to WEB Water, collectively all such individuals will be referred to as "Covered Persons." It is the obligation of the Board and WEB Water General Manager to publicize this policy to all Covered Persons on a recurring basis.
- 10.4. **Full Disclosure.** All Covered Persons must disclose all real or apparent conflicts or dualities of interest with WEB Water's activities. Additionally, Covered Persons must annually complete a conflict of interest disclosure form as specified by the Board. "Disclosure" as used in these Bylaws is defined as providing a written description of the facts comprising the real or apparent conflict or duality of interest to the WEB Water General Manager or a Board Officer.

10.5 **Proscribed Activity.** Where a Covered Person believes there may exist a real or apparent conflict or duality of interest, that person must, in addition to filing the notice of disclosure required under Section 10.4, abstain from making motions, participating in relevant deliberations, voting, executing agreements, attempting to influence others' votes, or taking any other similar direct action on behalf of WEB Water where the conflict or duality of interest might pertain.

### **ARTICLE XI - INDEMNIFICATION**

11.1. **Coverage.** Any person who at any time serves or has served as a Board Member or Entity employee, or in a capacity benefitting WEB Water has a right to be indemnified by WEB Water to the fullest extent permitted by the South Dakota law against (a) reasonable expenses, including reasonable attorneys' fees, actually incurred by him or her in connection with any threatened, pending or completed action, suit or proceedings and any appeal thereof, whether civil, criminal, administrative or investigative, seeking to hold him or her liable by reason of the fact that he or she is or was acting in such capacity, and (b) reasonable payments made by him or her in satisfaction of any judgment, money decree, fine, penalty or settlement for which he or she may have become liable in any such action, suit or proceeding.

11.2. **Payment.** Expenses incurred by such person may be paid in advance of the final disposition of such investigation, action, suit or proceeding upon receipt of any undertaking by or on behalf of such person to repay such amount unless it is ultimately determined that he or she is entitled to be indemnified by the Board under the laws of the State of South Dakota.

11.3. **Evaluation.** WEB Water Board will take all such action as may be necessary and appropriate to pay the indemnification required by this Article XI, including without limitation, to the

extent needed, making a good faith evaluation of the manner in which the claimant for indemnity acted and of the amount of indemnity due him or her and giving notice to, and obtaining approval.

- 11.4. **Consideration.** Any person who at any time after the adoption of this Article XI serves or has served in any of the aforesaid capacities for or on behalf of WEB Water will be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right will inure to the benefit of the legal representatives of any such person and is not exclusive of any other rights to which such person may be entitled apart from the provision of this Article XI. Any repeal or modification of these indemnification provisions will not affect any rights or obligations existing at the time of such repeal or modification.
- 11.5. **Insurance for Indemnification.** WEB Water has the power, by resolution of the Board, to purchase and maintain insurance to indemnify on behalf of any person who is or was a Director, Officer, employee or agent of WEB Water.
- 11.6. **Non-Exclusivity of Rights.** The right of indemnification hereinabove provided is in addition to other rights of indemnification permitted by applicable law, and is not exclusive of any rights to which any such Director, Officer, employee or agent may otherwise be entitled under the Bylaws, agreement, vote of the Board, or otherwise with respect to any liability or litigation expenses arising out of his or her activities in such capacity.

## **ARTICLE XII - PARLIAMENTARY AUTHORITY**

The rules contained in the current edition of *Robert's Rules of Order Newly Revised* will govern WEB Water in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order WEB Water may adopt.

### **ARTICLE XIII - AMENDMENT OF BYLAWS**

These Bylaws may be altered, amended, or repealed by a sixty percent (60%) favorable vote of the Members at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal. If five percent (5%) of the membership or more desire to offer an amendment of any said articles or sections, they shall deposit a copy of said proposed amendment with the Secretary of the Board of Directors at least thirty (30) days before the meeting in which such amendment is to be considered and the Secretary shall cause a copy of said proposed amendment to be included in the notice of the meeting. At noticed meeting, a sixty percent (60%) favorable vote of those Members voting is required to ratify and adopt proposed amendment. Changes in the Bylaws may be proposed by the Board of Directors, subject to review and approval of the membership at any Annual or Special Meeting. Proposed changes by the Board of Directors must be included in the notice of the meeting.

**CERTIFICATION**

I certify that these Proposed Bylaws were adopted by the Members at the Annual Meeting held on the \_\_\_\_\_ day of December, 2015.

\_\_\_\_\_

**Board Secretary**

**ATTEST:**

\_\_\_\_\_

**Board Chair**