

**BYLAWS  
OF  
GAMERCO TOWNSITE WATER AND  
SANITATION DISTRICT**

MCKINLEY COUNTY, NEW MEXICO

Amended and Restated \_\_\_\_\_, 2021

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**ARTICLE I**

**CREATION OF THE DISTRICT**

The Gamerco Townsite Water and Sanitation District is a governmental subdivision of the State of New Mexico created by a 1982 Court Decree to provide water, wastewater, and other services to Gamerco Townsite in McKinley County, New Mexico. The District was created and operates under the authority of the Water and Sanitation District Act, NMSA 1978, Sections 73-21-1 through 73-21-54.

**ARTICLE II**

**PURPOSE, AUTHORITY AND SCOPE OF BYLAWS**

**Section 1. Purpose**

The purpose of these Bylaws is to provide a framework for the governance and operations of the District for the District's Board of Directors and any other advisory for managerial bodies that may be created by the Board in accordance with these Bylaws.

## **Section 2. Authority and Scope**

These Bylaws are adopted by the Board under the authority of NMSA 1978, Section 73-21-16(M), and are subject to the limitations set forth therein. These Bylaws, in conjunction with the Water and Sanitation District Act and other applicable laws, regulations and ordinances and resolutions of the Board, shall govern the business, operations and other affairs of the Board and of the District. These Bylaws, first adopted as amended herein by the Board on the date stated above, supersede all Bylaws and amendments thereto previously adopted by the Board or the District.

## **ARTICLE III**

### **DEFINITIONS**

In these Bylaws, the following terms shall have the meanings stated herein:

**Section 1.** “District” means the Gamerco Townsite Water and Sanitation District.

**Section 2.** “Board” means the Board of Directors of the District.

**Section 3.** “Chair” means the Chairman or Chairwoman of the Board and the President of the District, who are one and the same. NMSA 1978, § 73-21-12.

**Section 4.** “Director” means any member of the Board of Directors of the District.

**Section 5.** “Officer” means the Chair/President, the Vice President, the Secretary, or the Treasurer of the District.

**Section 6.** “Qualified Elector” means any person qualified to vote in the District election pursuant to NMSA 1978, Section 1-1-4 and 1-1-5.

**Section 7.** “Fiscal Year” means the period from July 1 of one calendar year until June 30 of the next calendar year, unless a different period is established for public bodies of the State of New Mexico by law. See NMSA 1978, § 6-10-1.

**Section 8.** “Quorum” means the number of members of a body entitled to vote who must be present in order that business may be transacted by the body. A majority of members of the Board, or of any subcommittee or any advisory body thereof, shall constitute a quorum, unless otherwise provided by law.

**Section 9.** With regard to the Board, the following definitions shall apply:

(a) “Regular Meetings” means regularly scheduled meetings held once each month to conduct the regular business of the District, pursuant to NMSA 1978, Section 73-21-13.

(b) “Special Meetings” means meetings, other than regular meetings, called to conduct regular or unforeseen business of the District, which due to timing, or for any other reason, is not scheduled at a Regular Meeting. A Special Meeting may also be called for the specific purpose of seeking public input on major issues affecting the residents of the District.

(c) “Emergency Meetings” means meetings called to address an unforeseen emergency.

(d) "Public Hearings" means meetings formally announced for public attendance to present issues required by statute or issues deemed to be of significant import or consequence for the District prior to final decision being taken by the Board on such issues, wherein presentations of the issues are made by the Board or staff and public comments or testimony are solicited, which may or may not be adjudicatory in nature.

(e) "Informational Meetings" means meetings of the Board, or members thereof, for the purpose of gathering working information through discussions with other Board Members, governmental agencies, legislative representatives, consultants, or others with special knowledge and information that may be of value to the District.

(f) "Educational Meetings and Workshops" means meetings of the Board, or members thereof, at workshops, seminars, classes, training sessions, briefings, and similar events related to technical, managerial, operational, and public policy aspects of water supply, wastewater and collection and treatment, and other activities conducted by or authorized to be conducted by the Board.

## ARTICLE IV

### MEMBERS AND ORGANIZATION OF THE BOARD OF DIRECTORS

#### **Section 1. Number of Directors, Terms of Office, Special Election to add Director Positions**

(a) The affairs of the District shall be managed by a Board consisting of three elected directors.

(b) The directors shall be elected for staggered terms of four (4) years, such that two terms will expire during on odd-numbered year and one term will expire the next odd numbered year.

(c) The term of office of a candidate elected in a regular local election shall begin on January 1 following the candidate's election, and the candidate to whom a certificate of election has been issued shall take the oath of office before entering upon the duties of office.

(d) No director shall serve more than two consecutive terms.

(e) The Board may, upon its own motion, or shall upon petition to the Board by 25 percent of the qualified electors of the District, call a special election for the purpose of deciding whether to increase the membership of the Board to five (5) members.

#### **Section 2. Designation of Directors by the Board.**

(a) If the qualified electors vote to add two director positions, then the Board may, by resolution, designate two board members to serve by appointment. A resolution adopted pursuant to this subscription shall not be rescinded until two regular local elections have passed after adoption of the resolution.

(b) The appointment of board members serving pursuant to a resolution adopted pursuant to the preceding subsection shall be for a term of two years beginning July 1 of each even-numbered year

and ending June 30 of the following even numbered year. Appointed members of the board are not required to be qualified electors nor residents of the district.

(c) Appointed board members are authorized to vote on all matters except for a tax or assessment of any kind proposed or approved pursuant to authority granted by Article 8, Section 9 of the Constitution of New Mexico, which is limited to a vote of the elected members only. See NMSA 1978, Section 73-21-15.

### **Section 3. Elections for Directors**

(a) NMSA, 1978, Section 73-21-15 requires that at least three directors New Mexico water and conservancy districts must be elected in accordance with the Local Election Act, NMSA 1978, Chapter 1, Article 22, by the Qualified Electors in a regular local election. All Qualified Electors of the District are eligible to vote in district elections. A regular local election is a nonpartisan election, and the names of all candidates are listed on the ballot with no party or slate designation. A regular election of directors must be held on the first Tuesday after the first Monday in November of each odd-numbered year.

(b) Between one hundred twenty and one hundred fifty days before the next regular local election, The Board or its designated officer shall notify the County Clerk of McKinley County of all director positions that are to be filled at the next regular local election.

(c) Any person who intends to run for a Director position that will be filled at a regular local election must file a declaration of candidacy with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the seventieth day before the date of the regular local election and otherwise comply with election statutes and procedures. The New Mexico Secretary of State provides guidance for filing for candidacy.

(d) No person shall become a candidate for director of the District unless; (i) the person physically resides within the boundaries of the District or districted area; (ii) the person's record of voter registration shows that the person is both a qualified elector of the state and was registered to vote in the area to be elected to represent on the date the proclamation calling a local election is filed in the office of the Secretary of State.

(e) Except as otherwise provided in the Local Election Act, local elections shall be called, conducted and canvassed as provided in the Election Code.

### **Section 4. Removal of Directors and Filling of Vacant Positions**

(a) Pursuant to NMSA 1978, Section 73-21-12, only the district court shall have the power to remove a director for cause shown, on petition, notice, and hearing. Any action to remove a director must follow the procedures of the New Mexico Recall Act, NMSA Chapter 1, Article 25.

(b) In the event of a vacancy on the Board for any reason, the remaining Board members or member shall promptly appoint a Qualified Elector to fill the vacancy until the next biennial election, at which time the position will be filled by election.

(c) "Promptly" shall be interpreted to mean that the Board shall make a reasonable effort to fill the vacant position at a Regular Meeting within 30 days of the date of any vacancy not caused by an election.

(d) The process for appointments to fill a vacancy on the Board shall normally consist of the following steps:

1. The Board shall publicly solicit candidates for the vacant position.
2. The candidates shall submit written resumes to the Board.
3. The Board shall interview the candidates at a public meeting of the Board.
4. The Board shall consider the merits of each candidate. The consideration and selection of a candidate must be made (not just announced) in open session. If no selection is made, the Board may adjourn and re-convene at a later time to make the selection, or may solicit additional candidates if necessary.

(e) A newly appointed Board member shall normally be sworn in at the meeting at which he or she is appointed or at the beginning of the first regular or Special Meeting of the Board following the appointment.

(f) Meetings between outgoing District Board members and incoming District Board members are encouraged. The purpose of these meetings is to brief the incoming Director on current activities, projects, outstanding work, committees, and other unfinished business for which the incoming Director may have to address to assume responsibility.

## **Section 5. Code of Conduct**

(a) To the extent not covered in these Bylaws, all members of the Board and employees of the District shall abide by the terms of the New Mexico Governmental Conduct Act (NMSA 1978, Sections 10-16-1 et seq.), and to that end shall maintain appropriate and professional internal and external relationships. Members found to be in violation of the New Mexico Governmental Conduct Act or any provision of these Bylaws may be subject to removal pursuant to Section 4 of this article.

(b) Members of the Board and employees of the District shall avoid any conflict of interest or any appearance of a conflict of interest. No member of the Board may take part in any deliberations, present testimony, or vote on any matter in which the Board member, or an immediate family member, has a pecuniary interest, either direct or indirect. However, this provision shall not be construed to prevent any Board member or District employee from participating in and voting on matters affecting generally the residents of the District or the customers of any utility operated by the District, even though the Board member, or District employee or members of his family, will be affected as residents of the District or as customers of the utility.

## **ARTICLE V**

### **MEETINGS OF THE BOARD OF DIRECTORS**

## **Section 1. Open Meetings Policy and Notice of Meetings**

The Board shall annually adopt an Open Meetings Resolution in accordance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 through 10-15-4. The Open Meetings Resolution will generally be adopted at the first Regular Meeting of the calendar year but may, at the discretion of the Board, be adopted or amended at any other Regular Meeting. Notice of all Board meetings shall be published or posted in accordance with the Board's Open Meetings Resolution then in effect.

## **Section 2. Calling and Scheduling of Meetings**

(a) The Board of Directors of the District shall hold meetings the second Wednesday of every month at 6:00 p.m. at #3 Tom Komfala Road, Gamero, New Mexico 87317, in McKinley County. All Regular Meetings shall have an agenda, which shall be posted in accordance with the District's Open Meeting Resolution. Major issues affecting the taxpayers and ratepayers of the District should be presented and discussed in Regular or Special Meetings whenever possible, with significant advance notice to the public and opportunity for participation by the public.

(b) Special meetings may be called by the Chair, or by a majority of the members of the Board, with advance notice to all Board members as specified by the District's Open Meetings Resolution, and may take place at any time and place that is mutually convenient for the members of the Board. All Special Meetings shall have an agenda which shall be posted at least 72 hours in advance of the meeting.

(c) Emergency Meetings may be called by the Chair, or by a majority of the members of the Board, with such notice as is reasonable under the circumstances, to address an emergency that which could not have been anticipated and which, if not addressed immediately by the Board, will threaten the health, safety or property of members of the District, or likely result in substantial financial loss to the District. If possible, Emergency Meetings shall have an agenda, but posting of the agenda prior to the meeting is not required. (Refer to the District Open Meetings Resolution for details.)

(d) Public Hearings may be called by the Chair, or by a majority of the members of the Board, upon such notice to the Board members and to the public as is required by statute and by the Board's Open Meetings Resolution. Public Hearings may, but need not, be conducted in conjunction with Regular Meetings or Special Meetings of the Board. All Public Hearings held separately shall have an agenda, which shall be posted at least 24 hours in advance of the meeting. Public Hearings shall always be called for the setting of commodity rates, and for consideration of major changes in the District Fee Schedule. Public Hearings may be called for consideration of other major or controversial issues as deemed appropriate by the Board.

(e) Informational Meetings may be called by the Chair or by a majority of the members of the Board. The Board shall not take any formal action or make any policy decision at an Informational Meeting. Notice of the Informational Meeting shall be provided in accordance with the District's Open Meetings Resolution, but no agenda is required and no minutes need be recorded.

(f) Educational Meetings and Workshops may be scheduled by the Board, or in coordination with the District Manager. When it is anticipated that a quorum of the Board will be present at an Educational Meeting or Workshop, notice of that fact shall be provided in accordance

with the District's Open Meetings Resolution, but no agenda is required and no minutes need be recorded.

(g) Board Members who, for whatever the reason, are not able to attend any scheduled Regular, Special or Emergency meeting shall contact the Administrative Manager or the General Manager and the Board President as soon as practical before the noticed meeting.

### **Section 3. Conduct of Meetings**

(a) Conduct of Board meetings shall be generally in accordance with the current edition of Robert's Rules of Order, unless there is a conflict between Robert's Rules of Order and these Bylaws or the laws of the State of New Mexico or of the United States of America, in which case the latter shall prevail.

(b) All meetings shall be held in a location sufficiently large to accommodate reasonably and comfortably all persons who are expected to be present at the meeting, including members of the public.

(c) At the Chair's sole discretion, Board members may participate in Board meetings or committee meetings by means of a video conference, conferencing telephone, electronic video screen communication, or other similar communications equipment as long as all of the following apply:

1. Board members participating in the meeting, sufficient in number to constitute a quorum, can communicate with all the other Board members concurrently; and

2. Board members participating in the meeting, sufficient in number to constitute a quorum, are provided with the means of participating in all matters before the Board, including the capacity to propose or to interpose an objection to, a specific action to be taken by the Board.

(d) The public may be provided an opportunity to address the Board on any matter coming before the Board for discussion, consideration, or action. Such comments shall normally be permitted when the matter is being considered on the adopted agenda. Any person addressing the Board on any matter shall be required to state his or her name and address for the record. Any person testifying before the Board in a Public Hearing may be required to swear or affirm that the testimony presented is true. The Chair may limit the time allotted to each speaker and the number of times that any speaker is permitted to address the Board on any given topic in a Board meeting.

(e) The proceedings of all meetings (except meetings, or portions thereof, that are closed to the public in accordance with the Open Meetings Act and the Board's Open Meetings Resolution, Informational Meetings, or Educational Meetings and Workshops) shall be recorded by a recording secretary or by any reliable means. The proceedings of any Public Hearing (except for deliberations by the Board conducted in closed session, if any) should be recorded on audiotape or transcribed verbatim by a certified court reporter.

(f) The affirmative vote of a majority of the Board members present shall be sufficient for adoption of a motion.

(g) Public Hearings shall be conducted in accordance with the following guidelines.

1. The purpose of the Public Hearing is to receive public testimony, comments, or evidence prior to the Board's decision on the designated topic. Therefore, all Board Directors shall endeavor to withhold judgement until the Public Hearing is closed.

2. Public Hearings shall generally be conducted in a more formal manner than other District meetings or meeting items. All Public Hearings shall be announced by title, formally "opened," and when the business of the hearing has been conducted, they shall be formally "closed."

3. Board or staff presentation may be part of the hearing and shall precede public testimony or comment.

4. The Chair shall state the guidelines for the Public Hearing in advance of the Hearing. Such guidelines may include time limits for each person speaking, the order of presentations, the need to stay on topic, etc.

5. Each member of the public making comments shall identify himself or herself by name and address prior to commenting.

6. Public Hearings shall be recorded in such a way that all comments can be accurately reflected in the minutes.

7. The Board may ask clarifying questions or other questions as needed to understand more clearly the comments from the public. In general, Board members should refrain from taking a position until all testimony, comments and evidence have been received.

(h) Voting and abstentions.

1. Whether elected to appointed, Directors have a fundamental responsibility to take a position on all issues before them. It is, therefore, an obligation of all Directors to vote on all issues, with the following exceptions:

ii. When the Director has a conflict of interest that has been concurred in by District's counsel.

iii. When the Director has not attended a previous meeting when an issue was addressed and therefore does not have the information needed to make a decision. Even if absent, however, the Director should make a reasonable attempt to get the information needed to make a decision prior to the vote on the decision.

2. When a Director has a conflict of interested concurred in by District Counsel, the Director must so announce prior to consideration of the relevant item and absent himself or herself from that discussion. In these cases, it is preferable that the Director actually leave the room throughout discussion and voting on the item.

3. When a Director abstains for any reason, the Director must announce his/her abstention in advance of the vote and the reasons for that abstention.

4. When a Director abstains for reasons other than conflict of interest or absence, his/her abstention shall be counted as an affirmative vote for the motion on the floor.



## Section 4. Order of Business

In general, the order of business at a Regular Meeting or Special Meeting of the Board should be as follows; however, not every item shown need necessarily be on the agenda of any particular meeting:

(a) Call to Order.

(b) Roll Call.

(c) Approval of the Agenda. The Chair shall have authority to modify the proposed order of business for any particular meeting for good cause shown. The Board, prior to approving the agenda for any particular meeting, may amend the order of business reflected in the agenda; provided, however, that no business item requiring formal consideration or action by the Board may be added to the agenda without prior notice to the public in accordance with the Open Meetings Act and the Board's Open Meetings Resolution.

(d) Approval of the Minutes. This item is for Board approval of the minutes of any prior meetings, including notice of any closed meetings (as allowed in accordance with the Open Meetings Act) that may have been held since the last public meeting of the Board.

(e) Consent Agenda. The Consent Agenda includes routine action items that are not expected to be controversial or require discussion by the Board. The title of each item should be read by the Chair (or another person designated to do so), and the entire Consent Agenda voted on as a unit. Any Board member may request that an item on the Consent Agenda be removed therefrom and placed on the Regular Agenda of the same meeting, and such request shall thereupon take effect without further discussion.

(f) Reports. This item includes reports to the Board by District staff, contractors, consultants, special committees of the District, and individual Board members. Reports may be presented and accepted in written form, in which case copies of the report shall be made available to the public. No formal action may be taken on a report made under this heading. If the author desires action, the report should be placed under the Regular Agenda heading.

(g) Public Comment. In a Regular Meeting or in Special Meeting called to conduct regular business of the Board, this agenda item provides an opportunity for the public and members of other organizations to address the Board on informational matters or other items related to District business that are not listed on the agenda.

(h) Regular Agenda. All items for discussion, consideration, and possible action by the Board should be placed on the Regular Agenda. If the Regular Agenda includes both unfinished business carried forward from a previous meeting and new business coming before the Board for the first time, the unfinished business should in general be addressed before the new business.

(i) Board Comments. This provides an opportunity for Board members to comment on items not included in the agenda, for example, a request that an item be placed on the agenda for action at a future meeting. However, the Board may not take formal action on any matter raised under this item.

(j) Adjournment.

## ARTICLE VI

### GENERAL POWERS OF THE BOARD OF DIRECTORS

(a) For and on behalf of the District, the Board shall have all powers vested in District Boards by the Water and Sanitation District Act, as amended from time to time by the legislature of the State of New Mexico, and including but not limited to those general powers enumerated at NMSA 1978, Section 73-21-16.

(b) For and on behalf of the District, the Board shall have the powers, as an owner of real estate in Gamarco Townsite Unit 1, to enforce the Protective Covenants for Gamarco Townsite Unit 1, McKinley County, New Mexico, filed for record in the Office of the County Clerk of McKinley County, New Mexico, on April 15, 1981, through the enforcement mechanisms prescribed within the Protective Covenants.

## ARTICLE VII

### OFFICERS; COMPENSATION; DUTIES

#### Section 1. Officers

The Officers of the District shall be a Chairman or Chairwoman (the "Chair") of the Board who shall also serve as President of the District, a Vice-President of the District, a Secretary of the Board and the District, and a Treasurer of the Board of the District. The Chair and the Vice-President shall be members of the Board. The Secretary and the Treasurer may, but need not be, members of the Board. The secretary and Treasurer may be one person. The Treasurer shall be qualified with knowledge of generally accepted accounting principles; financial statements; preparation of and auditing of financial statements; accounting for estimates, accrual and reserves; internal accounting controls; and audit committee functions.

#### Section 2. Election of Officers and Term of Office

The Board shall elect Officers of the District at the next Regular Meeting of the Board following each biennial election of Directors. Each Officer shall hold office until his or her successor has been duly elected or appointed and qualified. In the event of a vacancy due to resignation of an Officer or for any other reason, the Board shall elect a person to fill the vacancy until the next scheduled election of officers.

#### Section 3. Removal of Officer

Any Officer elected by the Board may be removed from office when it is in the best interest of the District by the majority vote of the remaining Board member or members.

#### **Section 4. Duties of the Chair of the Board and President of the District**

(a) The Chair and President of the District shall, when present, preside at all meetings of the Board and shall perform the duties of that office as set forth in the Water and Sanitation District Act. The President shall, subject to the control of the Board, have responsibility for general supervision, direction and control of the business and affairs of the District. The President may sign with the Secretary in the name of the District all contracts authorized by the Board. The President shall perform such other duties and shall have such additional powers as the Board may from time to time assign or delegate.

(b) The Chair shall establish the agenda for all meetings of the Board and shall provide the agenda to the Secretary sufficiently in advance of the meeting to provide for publishing or posting of the agenda as required by the Open Meetings Act and the Board's Open Meetings Resolution.

#### **Section 5. Duties of the Vice President**

The Vice President shall preside at all meetings in the absence of the Chair and President. The Vice President shall perform all duties of the President when the President is unable to perform such duties. In the event of the vacancy of the President, the Vice President shall assume the role of President with all of the duties and obligations of the office until such time that the Board elects a successor President.

#### **Section 6. Duties of the Secretary of the Board and of the District**

(a) The Secretary shall ensure that district staff maintain a record of all Board proceedings, including minutes of Board Meetings, original signed copies of the Board's resolutions. Bylaws, certificates, contracts, annual audit reports, and copies of all official correspondence and legal documents relating to the District's activities. The Secretary shall ensure that district staff keep such records in a secure place in well bound books and shall see to it that such records are made available for inspection and copying by residents of the District and any other interested parties, in accordance with the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 through 14-2-12.

(b) The Secretary shall ensure that district staff arrange a meeting place for the meetings of the Board, publish agendas and other pertinent materials, and post notices of Board Meetings in accordance with the Board's Open Meetings Resolution and these Bylaws.

(c) In keeping a record of the Board's meetings, the Secretary shall utilize the services of district staff.

(d) The Secretary shall ensure that district staff give notice of District elections and shall receive nominations of candidates for positions on the Board of Directors. The Secretary, utilizing district staff, shall effect any necessary correspondence and coordination with the County Clerk and any other officials with regard to all District elections, and shall provide for the conduct of such elections to the extent that function is not performed by the County Clerk or other appropriate county or state officials.

#### **Section 7. Duties of the Treasurer of the Board and of the District**

(a) The Treasurer shall receive and deposit in appropriate accounts all monies of the District and shall disburse such funds as directed by resolution of the Board. The Treasurer shall

maintain strict and accurate records of all monies of the District and of all income and disbursements of the District, and shall keep permanent records thereof, in the manner prescribed by the New Mexico Department of Finance and Administration.

(b) The Treasurer shall annually prepare a budget for the upcoming Fiscal Year, which shall be timely submitted to the Board for its approval and subsequent submittal to the Department of Finance and Administration for review and approval in accordance with law. The proposed budget shall be submitted to the Department of Finance and Administration in accordance with its requirements. The Treasurer shall also provide regular reports to the Board on the state of the District's finances and shall submit a quarterly accounting thereof to the Department of Finance and Administration.

(c) Following the end of each Fiscal Year, the Treasurer shall oversee and direct the mandatory annual audit by a professional auditing or accounting firm approved for that purpose by the Office of the New Mexico State Auditor and retained by the Board. After submittal and approval by the Office of the New Mexico Auditor, the annual audit shall become a part of the District's permanent records.

(d) During any time that general obligation bonds or revenue bonds of the District are outstanding, the Treasurer shall provide for the timely payment of the interest on and principal of the bonds and shall ensure that all necessary notifications and other actions with regard to the bonds are made in a timely manner, as provided in the official Statement, transcript, or in any other documents related to the bonds.

(e) In performing the duties described herein, the Treasurer with the approval by the Board, may employ a bookkeeping service, an accountant, or other qualified persons or professionals to assist the Treasurer in performing the duties of that office.

(f) The Treasurer shall perform other duties incidental to the office and such other duties as may be assigned by the Board from time to time.

(g) The Treasurer shall file with the McKinley County Clerk, at the expense of the District, a corporate fidelity bond in and amount not less than five thousand (\$5,000) dollars, conditioned on the faithful performance all the duties incident to the office of Treasurer and such other duties as may be assigned to the Treasurer by the Board of Directors.

## **Section 8. Committees, Subcommittees, Advisory Committees**

(a) The Board may create committees, subcommittees, or advisory committees as it deems appropriate to assist in the administration of its responsibilities. The Board may designate one or more Board members to serve on any such committee, subcommittee or advisory committee. Other persons not members of the Board may also be designated by the board to serve on such committee, subcommittee or advisory committee.

(b) The Board may delegate such tasks, as it deems appropriate, to an individual member of the Board.

(c) The Board may appoint a committee, subcommittee, or advisory committee to perform fact-finding as necessary, and report its findings to the Board. Such tasks shall be clearly defined in a

resolution of the Board. Any committee, subcommittee, or advisory committee shall not have any decision-making authority or policy-making authority; those matters are reserved for the Board.

## **Section 9. Employment Positions**

(a) The Board may hire as many employees as it shall deem necessary. The paid employees are to report to the Board or such designee as the Board may direct. Each employee shall have a job description approved by the Board or the Board's designee. Each employee shall be evaluated in writing at least once a year by the Board or its designee.

(b) No Board member or employee shall be involved in the employment as clerk, deputy or assistant, in such office or position, whose compensation is to be paid out of public funds, any persons related by consanguinity or affinity within the third degree to the person giving such employment, unless the compensation of such clerk, deputy or assistant shall be at the rate of \$600 or less a year. Any employment in violation of this provision and the authorizing statutes shall be null and void, and the person or persons giving such employment, together with his or their bondsmen, shall be liable for any and all monies so unlawfully paid out.

## **ARTICLE VIII**

### **FINANCIAL MATTERS**

#### **Section 1. Budget Management**

(a) The District's annual budget must be presented at a Regular Meeting or Special Meeting of the Board, with appropriate time for public consideration of the proposed budget, before final action on it is taken by the Board.

(b) Final approval of the District's annual budget by the Department of Finance Administration generally is received by the first Monday in September. Following such approval, any amendment or adjustment of the budget requires a resolution of the Board and approval by the Department of Finance and Administration. The Board will periodically review the reports submitted to it by the Treasurer to ensure that expenditures during the Fiscal Year do not exceed budget authority and that any budget adjustments that may be necessary are timely made by the Board and approved by the Department of Finance and Administration.

#### **Section 2. Audit**

The Board of Directors, through the Treasurer, shall arrange for a yearly audit of the books of the District by an independent Certified Public Accountant following the close of the Fiscal Year. The auditor's report shall be presented to the Board upon completion.

#### **Section 3. Fiscal Year**

The fiscal year of the District shall be from July 1 of one calendar year until June 30 of the next calendar year.

## **Section 4. Levy and Collection of Taxes**

Annually as a part of the budget process, the Board shall determine the amount of money necessary to be raised for operations of the District through ad valorem taxes on property located within the District, taking into account the costs of construction, operation and maintenance of the works and equipment of the District and the interest on and principal of the District's bonds and any other obligations of the District, and shall with the assistance of the Department of Finance and Administration determine the rate of levy necessary to raise the amount of money needed, and on or before October 1 of each year, the Board shall certify the rate of levy so determined to the Board of County Commissioners of McKinley County, with instructions that the County should levy such taxes upon the taxable property located within the District, as provided in NMSA 1978, Section 73-21-18.

## **Section 5. Procurement Procedures**

(a) All procurements of tangible personal property, services, and construction shall be made in accordance with the New Mexico Procurement Code, NMSA 1978, Sections 13-1-21 to 13-1-199, and any New Mexico state purchasing regulations then in effect.

(b) The Board shall, by resolution, designate the Office of the Treasurer as the District's Central Purchasing Office in accordance with the Procurement Code.

(c) The Board shall, by resolution, designate the District's Chief Procurement Officer. The District Chief Procurement Officer shall have the authority to perform the duties required by the New Mexico Procurement Code. The District Chief Procurement Officer shall report, as necessary, directly to the Board.

(d) The Treasurer, the Chief Procurement Officer, and such other officials or committees as the Board may from time to time designate, shall ensure that procurements of tangible personal property, services, and construction are conducted in accordance with the Procurement Code.

(e) The Board shall, by resolution, adopt procurement procedures promulgating regulations for the procurement of "services, construction or items of tangible personal property" in accordance with NMSA 1978, Section 13-1-125. All procurements of such services, construction or tangible personal property shall be made in accordance with the District's regulations as stated in its Procurement Procedures.

## **Section 6. Check Signing Authorization**

After the Board authorizes payment or transfer of funds, two (2) signatures shall be required for validity of a check. Any two (2) Board members or a Board member and the Secretary shall be authorized to sign District checks. The District's checking account should maintain only a maximum balance of Five Thousand and no/100 Dollars (\$5,000). Any amount over Five Thousand and no/100 Dollars (\$5,000) shall be deposited into an interest bearing account, CD or money market account. After the Treasurer has presented the financial reports at the regular monthly meeting and the amount in the checking account is over Five Thousand and no/100 Dollars (\$5,000), then the Board shall authorize the Treasurer to deposit the amount over Five Thousand and no/100 Dollars into the savings account within one week after the meeting.

## **Section 7. Compensation**

Neither Directors nor Officers shall receive compensation for their services to the District, Directors and Officers shall be allowed reimbursement for their actual and necessary expenses incurred in performance of their duties for the District as provided in Article VII, Section 4.

### **Section 8. Reimbursement for Travel Expenses, Mileage, or Per Diem**

(a) Directors, Officers and employees may receive reimbursement for actual and necessary travel expenses incurred in performing services for the District, or in the alternative may be eligible for per diem for official business requiring travel more than 35 miles from Gamerco Townsite, in accordance with applicable New Mexico laws and regulations, including the Per Diem and Mileage Act, NMSA 1978, Sections 10-8-1 through 10-8-8, and Section 2.42.2 of the New Mexico Administrative Code (NMAC) (formerly DFA Rule 95-1), as amended.

(b) Directors, Officers and employees may receive reimbursement for reasonable and necessary use of a privately owned automobile on District business in accordance with the mileage rates set forth in the Per Diem and Mileage Act and Section 2.42.2 NMAC. The District does not authorize reimbursement for use of a privately owned airplane.

(c) Directors, Officers and employees seeking reimbursement for travel expenses, per diem, mileage, or any other reasonable and necessary expenses incurred on behalf of the District, shall make application for such reimbursement to the Treasurer, including appropriate documentation of all expenses, travel and mileage in accordance with the provisions of Section 2.42.2 NMAC. If the Treasurer finds that the application and supporting documentation are complete and in compliance with Board adopted policy, the Treasurer shall provide for appropriate reimbursement in accordance with adopted procedures.

## **ARTICLE IX**

### **LIABILITY AND INSURANCE**

#### **Section 1. Liability Insurance**

The District shall carry adequate liability insurance coverage for the activities and actions of the District and its Directors, Officers and employees, taking into account the scope of District operations and the immunities granted to the District and its Directors, Officers and employees under the Tort Claims Act, NMSA 1978, Sections 41-4-1 through 41-4-27.

#### **Section 2. Other District Insurance**

The District shall carry appropriate insurance, as determined by the Board, to protect the District from major loss as a consequence of damage to or destruction of District property, including real property, personal property, District business and financial records, equipment, supplies, vehicles, leased and rented property, and all other District property of any nature.

#### **Section 3. Coverage of Privately Owned Automobiles Used on District Business**

Officers, Directors, and any other persons using a privately owned automobile on District business shall carry, as a minimum, automobile liability and property damage insurance as required by New

Mexico Law. It is the responsibility of the automobile owner to ensure that such coverage will provide protection while the automobile is used on District business. The board may require the automobile owner to provide proof of such insurance coverage to the Board.

## **ARTICLE X**

### **SERVICE AREA AND CHANGES IN DISTRICT BOUNDARIES**

The boundaries of the District may be changed by action of the Board in accordance with the procedures set forth in the Water and Sanitation District Act. Upon receipt of a complete petition for inclusion of real property in the District, or for exclusion of real property from the District, the Board will schedule a Public Hearing on the matter and the Secretary shall provide notice of the petition and the Public Hearing as required by law. The petitioner will be required to reimburse the District for the District's costs incurred in processing the petition before the Board renders a decision whether to grant the petition. If the Board determines that the petition should be granted and that the costs have been paid, the Board will enter an order granting the petition and will file a copy of the order in the McKinley County District Court.

## **ARTICLE XI**

### **PROVISIONS RELATING TO SYSTEM USAGES**

#### **Section 1. Rate Setting and Usage Charges**

(a) **Setting Rates.** The Board of Directors shall set the rates of water usage and sewage discharge to pay adequately the costs of maintenance and operation of the District. Rates will be set on a regular monthly rate.

(b) **Initial Fee.** The initial hookup fee shall be Two Hundred Fifty and no/100 Dollars (\$250.00) for the first connection. All users shall also be charged a membership fee of Fifty and no/100 Dollars (\$50.00)

(c) **Initial Pledge.** The initial pledge by members of the District in the amount of Three hundred and no/100 Dollars (\$300.00) shall satisfy the initial hookup fee and membership fee for all people who so pledge.

(d) **Monthly fees.** The monthly fee at this time for sewer service shall be Fifteen and no/100 Dollars (\$15.00) a month for each dwelling, apartment, and mobile home. The Board may adjust the monthly fee at any time it deems necessary.

(e) **Commercial Use Limitations.** The Board may limit the number of connections to commercial use based upon the limits of the current water and sewer systems and health and safety of the members of the District.

(f) **Payment of Fees.** All property owners are liable for payment of the monthly fees provided in this Article regardless of whether they live there or not. This monthly fees are due and payable on the first (1<sup>st</sup>) of each month.



(g) Renters. The owners of the property shall be responsible for payment of the sewer fees. Any owner who rents the owner's property shall deposit One Hundred and no/100 dollars (\$100.00) as a security deposit for the renter. The renter will be billed and is also responsible for payment of such fees. No account will be set up for any renter. The property owner will be liable for the payment of monthly fees regardless of whether the dwelling is rented.

(h) Hookup Specifications. All construction and connections to the sewer system shall have the express written consent and approval of the Board prior to such construction and connections. All connections to the main sewer system shall be made by a licensed plumber, shall comply with all state and local permits, codes and regulations and shall pass inspection by the responsible local or state inspector.

(i) Each individual property owner shall have an individual service line to the main sewer line of the District.

(j) The Board shall shut off or discontinue service for delinquencies in the payment of the rates, tolls or charges or in the payment of taxes levied pursuant to the Water and Sanitation District Act and prescribe and enforce rules and regulations for the connection with and the disconnection from properties of the facilities of the District.

## **Section 2. Subdivision Regulations**

Users of the water and sewer of those proposing connection to it, shall comply with all relevant state and local land use controls, including McKinley County Subdivision Regulations.

## **Section 3. Discharge Treatment**

No user may discharge no sewage products which contains substances harmful to the sewer system. No septic tanks shall be allowed in Gamerco, New Mexico.

## **Section 4. Compulsory Connection to Sewage System**

In accordance with NMSA 1978, Section 73-21-16, for health and sanitary purposes, the Board shall compel the owners of inhabited property within the District to connect their property with the sewer system of the District, and, upon a failure so to connect within sixty days after written notice by the Board, the Board may cause the connection to be made and a lien to be filed against the property for the expense incurred in making the connection; provided, however, that no owner shall be compelled to connect his property with such system unless a service line is brought by the District to a point within four hundred feet of his dwelling place.

**ARTICLE XII**


**AMENDMENT OF THE BYLAWS**

These Bylaws may be amended by a majority vote of the Board.

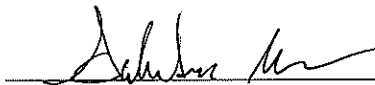
In witness whereof, we have hereunto set our hands this 9<sup>th</sup> day of June, 2021.

GAMERCO TOWNSITE WATER AND SANITATION DISTRICT, McKinley County, New Mexico.

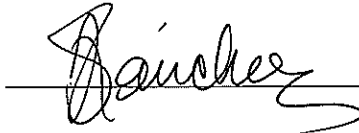
By: Kenny Carabajal, Sr.

 \_\_\_\_\_, President

By: Salvador Nava

 \_\_\_\_\_, Vice-President

By: Jason Sanchez

 \_\_\_\_\_, Treasurer