

**BEFORE THE BOARD OF COMMISSIONERS  
OF THE METROPOLITAN WATER RECLAMATION DISTRICT  
OF GREATER CHICAGO**

<b>TAMPICO BEVERAGES</b>	)	
	)	
	)	
<b>Petitioner,</b>	)	<b>Board Appeal No. 10B-001</b>
	)	
<b>v.</b>	)	<b>Facility</b>
	)	<b>Address: 2425 West Barry Ave.</b>
	)	<b>Chicago, IL</b>
	)	
<b>METROPOLITAN WATER RECLAMATION</b>	)	<b>Hearing Officer:</b>
	)	
<b>DISTRICT OF GREATER CHICAGO</b>	)	<b>J. Paula Roderick, Esq.</b>
	)	
<b>Respondent.</b>	)	

**SETTLEMENT OF BOARD APPEAL NO. 10B-001  
ON APPEAL OF 2007 AND 2008 USER CHARGES**

The Metropolitan Water Reclamation District of Greater Chicago (“District”) and Tampico Beverages, Inc. (“Tampico”), by their undersigned representatives, hereby agree to the following facts, terms and conditions:

1. Tampico operates a concentrate manufacturing facility consisting of two buildings in Chicago, Illinois. One building has a common address of 3106 N. Campbell Avenue and will hereinafter be referred to as the “Corporate Office.” The other building has a common address of 2425 W. Barry Avenue and will hereinafter be referred to as the “Manufacturing Plant.”
2. On December 17, 2008, Tampico submitted its 2007 User Charge Annual Certified Statement (RD-925), reporting a Net User Charge (NUC) of \$13,647.00.

3. By letter dated February 11, 2009, the District informed Tampico that it had revised Tampico's 2007 NUC from the reported \$13,647.00 to \$45,083.67.
4. On July 2, 2009, Tampico submitted its 2008 RD-925 reporting a NUC of \$15,012.00.
5. By letter dated July 23, 2009, the District informed Tampico that it had revised Tampico's 2008 NUC from the reported \$15,012.00 to \$35,254.54.
6. By letter dated August 6, 2009, Tampico timely appealed the District's revisions of the 2007 and 2008 User Charge liabilities, as determined by the Director of Monitoring and Research ("Director").
7. On September 24, 2009, representatives of Tampico and the District had a meeting, wherein Tampico presented its appeal of its 2007 and 2008 User Charges.
8. By letter dated December 1, 2009, the District's Director informed Tampico that its 2007 NUC in the amount of \$45,083.67 and 2008 NUC in the amount of \$35,254.54, as recomputed by the District would stand.
9. By letter dated December 16, 2009, Tampico notified the District's Director that Tampico did not concur with the determinations of the Director and, in accordance with Section 9 of the District's User Charge Ordinance ("Ordinance"), timely petitioned the District's Board of Commissioners ("Board") for a hearing regarding the Director's determination on this matter.

10. On January 21, 2010, the Board of Commissioners granted Tampico's request for a Board Appeal in accordance with Section 9 of the Ordinance.
11. The User Charge liabilities for 2007 and 2008, as determined by the Director, have been paid in full.
12. On March 5, 2010, the District, by its General Counsel, filed a Notice of Pre-Hearing Conference on Appeal of 2007 and 2008 User Charges and served it on Tampico via Certified Mail/Return Receipt Requested.
13. On April 14, 2010, representatives of the District and Tampico conducted a Pre-Hearing Conference with J. Paula Roderick, the Hearing Officer appointed by the District's Board.
14. At the Pre-Hearing Conference the District and Tampico informed the Hearing Officer of their respective positions relative to the appeal of 2007 and 2008 User Charges.
15. As a follow-up to the April 14, 2010 Pre-Hearing Conference and by letter dated April 29, 2010, the District outlined specific information Tampico would provide to settle the Board Appeal.
16. By letter dated May 7, 2010, Tampico provided the District with the information requested in its April 29, 2010 letter.
17. On May 18, 2010, the District and Tampico participated in a Phone Status with the Hearing Officer, wherein the District acknowledged that it would accept Tampico's Updated Water to Product Loss Calculation Methodology, setting forth a 29.24% water-to-product loss for the 2007

and 2008 User Charge calculations. By agreement of the parties and the Hearing Officer, a court reporter was not present for the Phone Status.

18. During the May 18, 2010 Phone Status, Tampico agreed to provide the District with an updated site sketch of its facility and once the District received the site sketch, the District would re-calculate the 2007 and 2008 User Charges using the 29.24% proposed water-to-product loss methodology.
19. By letter dated June 1, 2010, Tampico submitted an updated site sketch and Complex Sewer Diagram, which were deemed acceptable by the District's technical staff.
20. Based on a review of all the documentation submitted by Tampico relative to this Board Appeal, the District conducted a review and has made the following determinations:
  - a. The Corporate Office is a small nonresidential commercial user and based on current use, will no longer have a reporting requirement with the District;
  - b. The Manufacturing Plant will continue to report to the District as more fully set forth in the Ordinance;
  - c. The District accepts the "Proposed New Methodology for Calculating User Charge," as more fully set forth in Tampico's May 7, 2010 correspondence (21 pages) to the District;
  - d. The District will revise the 2007 and 2008 User Charge as follows:
    - i. 2007 User Charge Original Calculation = \$45,083.67

2007 Revised User Charge Calculation	=	<u>\$30,671.41</u>
2007 Refund Owed to Tampico	=	\$14,412.26
ii. 2008 User Charge Original Calculation	=	\$35,254.54
2008 Revised User Charge Calculation	=	<u>\$23,962.06</u>
2008 Refund Owed to Tampico	=	\$11,292.48
<b>TOTAL REFUND DUE TO TAMPICO</b>	<b>=</b>	<b>\$25,704.74</b>

21. This settlement constitutes a full and final release by the District of any and all claims regarding Tampico's 2007 and 2008 User Charge liability.
22. This settlement constitutes a full and final release by Tampico of any and all claims against the District regarding Tampico's 2007 and 2008 User Charge liability.
23. The undersigned warrant that they are authorized to enter into this Settlement Agreement and declare and represent that this Settlement Agreement contains the entire agreement between the parties. No representations, warranties, undertakings, or promises, whether oral, implied or otherwise, can be made or have been made by either party to the Settlement Agreement unless expressly stated herein or unless mutually agreed to in writing by the parties. All amendments, supplements, or riders hereto, if any, must be in writing and executed by both parties. If any provision contained in this Settlement Agreement is



found to be invalid or otherwise unenforceable, by a court of law, the remaining provisions of the Settlement Agreement shall remain valid and enforceable. This Agreement shall be deemed to be made, and the covenants herein expressed are to be performed in all respects, in the State of Illinois, irrespective of the fact that any party has, is, or will later become a resident or domiciliary of another state. In the event of legal actions brought concerning the enforceability of this Settlement Agreement, the laws of the State of Illinois shall apply, and the parties consent to the jurisdiction of the Courts of the State of Illinois and further consent to proper venue in the County of Cook or the Northern District of Illinois.

24. This Settlement Agreement is acceptable to both parties, as indicated by the signatures of their authorized representatives. This Settlement Agreement is subject to approval by the Hearing Officer assigned to this matter and by the District's Board of Commissioners.
25. Upon the Approval of the District's Board of Commissioners, execution of this Settlement Agreement by Tampico, the District and the Hearing Officer and upon payment by the District to Tampico of the amounts referenced in this Settlement Agreement, this Board Appeal will be concluded and dismissed.

[Remainder of Page Intentionally Left Blank]

[Signature Page to Follow]

TAMPICO BEVERAGES, INC.

METROPOLITAN WATER  
RECLAMATION DISTRICT OF  
GREATER CHICAGO

By: *[Signature]*

Its: SVP & General Counsel

Date: 07/19/2010

By: \_\_\_\_\_

Fredrick M. Feldman  
Its: General Counsel

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

HEARING OFFICER

By: *[Signature]*  
J. Paula Roderick, Esq.

Date: July 27, 2010