

OAK LODGE WATER SERVICES

RESOLUTION NO. 2022-05

A RESOLUTION ACKNOWLEDGING AND APPROVING THE TRANSFER OF DISTRICT EMPLOYEES, CONTRACTS, AND OTHER ASSETS AND LIABILITIES TO THE OAK LODGE WATER SERVICES AUTHORITY

WHEREAS, the Clackamas County Board of Commissioners adopted Board Order 2022-36 on May 5, 2022 (“Order 2022-36”) forming the Oak Lodge Water Services Authority (“Authority”) and dissolving the Oak Lodge Water Services District (“District”); and

WHEREAS, Board Order 2022-36 establishes July 1, 2022 as the date the Authority is to be effective, and establishes December 31, 2022 as the date the District is to be dissolved; and

WHEREAS, the actual dates of formation and dissolution of the Authority and the District, respectively, will depend on certain administrative actions to be taken by Clackamas County, Metro, and the Oregon Department of Revenue; and

WHEREAS, the governing body of the Authority will be a five-member board of directors, the members of which will be elected at the special election to be held on August 23, 2022; and

WHEREAS, state statutes provide that when a county forms an authority organized under ORS Chapter 450 and dissolves a district in the same action, the authority will succeed to all of the assets and become charged with all of the liabilities, obligations, and functions of the district; and

WHEREAS, state statutes provide that, upon the effective date of an authority formation, district officers are to forthwith deliver to the authority the district assets and records; and

WHEREAS, the District’s Board of Directors (“District Board”) desires to ensure a smooth assignment, assumption, and transfer of all District employees, contracts, liabilities, obligations, assets, functions, and records to the Authority, and to ensure that adequate District resources are in place for the purpose of winding up the affairs of the District.

NOW, THEREFORE, BE IT RESOLVED BY THE OAK LODGE WATER SERVICES BOARD OF DIRECTORS:

Section 1. Transfer of Public Employees and Employee Contracts.

- A. Public Employees. The District’s public employees (as defined by ORS 236.605(1)) shall be transferred to the employment of the Authority pursuant to ORS 236.605 *et seq.* upon the date the Board of Directors of the Oak Lodge Water Services Authority (“Authority Board”) accepts such transfer, which date shall be no later than

December 31, 2022. Until such time, the District's public employees shall remain employees of the District.

- B. Employment Contracts. The District hereby assigns to the Authority all employment contracts to which the District is a party. Such contracts include, but are not limited to, all individual employee contracts and the collective bargaining agreement between the District and AFSCME (the "Collective Bargaining Agreement"). This assignment shall be effective upon the date the Authority Board accepts such assignment, which date shall be no later than December 31, 2022.
- C. Limits. The transfer of all District employees is subject to the District's agreement of the following:
 - 1. No transferred public employee shall have the employee's salary reduced as a result of the transfer to the Authority during the first 12 months of employment with the Authority.
 - 2. All accrued compensatory time balances will transfer to the Authority and be administered in accordance with applicable statute and the District's Collective Bargaining Agreement.
 - 3. All benefits plans will transfer to the Authority.
 - 4. All accrued sick leave balances will transfer to the Authority.
 - 5. All accrued vacation leave balances will transfer to the Authority.
 - 6. The District's General Manager shall furnish the employment records of all public employees to the Authority immediately upon the Effective Date.
 - 7. Any unfunded Public Employees Retirement System liability or surplus of the District will be paid or credited as determined by the Authority, and as required by ORS 238.235.

Section 2. Transfer of Monetary Assets.

- A. The District hereby agrees to transfer to the Authority all monetary assets held by the District. Such assets include, but are not limited to, the cash and investment accounts held by Wells Fargo, the Local Government Investment Pool, and PERS.
- B. The effective date of the transfer shall be upon the acceptance of the monetary assets by the Authority Board, which date shall be no later than December 31, 2022. Until such time, the District's monetary assets shall remain in the sole control of the District for District purposes.

Section 3. Transfer, Assignment, and Assumption of District Borrowings.

- A. The District has previously executed various borrowings as follows ("District Borrowings"):

1. \$1,320,000 Full Faith and Credit Financing Agreement (Water Meters) dated on or about February 11, 2019 with Zions Bancorporation, National Association;
 2. \$15,173,000 Wastewater System Loan Agreement dated on or about December 20, 2017 with JPMorgan Chase Bank, NA;
 3. \$5,000,000 Clean Water State Revolving Fund Loan Agreement No. R70030 dated on or about January 21, 2010 with the State of Oregon, acting by and through its Department of Environmental Quality (“DEQ”);
 4. \$11,409,645 Clean Water State Revolving Fund Loan Agreement No. R70031 dated on or about December 27, 2010 with the State of Oregon, acting by and through DEQ;
 5. \$3,684,197.37 Water Fund Loan Agreement No. W10001 dated on or about August 10, 2010, as subsequently amended, with Oregon Business Development Department;
 6. \$398,543 Capital Lease with KS StateBank (Freightliner Vactor Truck) dated on or about May 7, 2018.
- B. The District hereby transfers and assigns to the Authority its rights and obligations under each of the District Borrowings, subject to any consent or other requirements in the legal documents related to the District Borrowings.
- C. The General Manager is hereby directed to obtain any written consent from a lender necessary to perfect a transfer and assignment of the District Borrowings and to amend the District Borrowings or take any other action necessary or desirable to accomplish the transfer and assignment.

Section 4. Assignment of Contracts. The District hereby assigns to the Authority all of its rights and obligations under any other validly-existing contract to which the District is a party, including any intergovernmental agreement. The effective date of the assignment of each of the District’s contracts shall be upon the acceptance of the assignment and the assumption of the contract by the Authority Board, which date shall be no later than December 31, 2022.

Section 5. Assignment of Regulatory Permits. The District hereby assigns to the Authority all of its rights and obligations under any regulatory permit to which the District is a permittee or otherwise has any rights or obligations. The effective date of the assignment of each of the District’s permits shall be upon the acceptance of the assignment and the assumption of the permit’s obligations by the Authority Board, which date shall be no later than December 31, 2022.

Section 6. Assignment of Service Obligations. The District hereby assigns to the Authority all of its service obligations within the District’s territorial jurisdiction. The effective date of the assignment of the District’s service obligations shall be upon the acceptance of those obligations by the Authority Board, which date shall be no later than December 31, 2022. Until

such time, all service obligations within the District’s territorial jurisdiction shall remain with the District.

Section 7. Assignment Relating to Claims and Potential Claims. The District hereby assigns to the Authority any right or interest the District has in any and all actions, claims, demands, damages, obligations, liabilities, and controversies, of any kind or nature whatsoever, whether known or unknown, whether suspected or not, which have arisen, or may have arisen prior to the dissolution of the District.

Section 8. Evidence of Assignment and Assumption. The District Board hereby authorizes the District Board President to execute the agreement in the attached Exhibit A to evidence the agreements made by the District in this Resolution and to be accepted by the Authority.

Section 9. Further Action. The District Board hereby authorizes the District Board President and the General Manager to take all action necessary to implement the assignments and transfers made in this Resolution, including the execution of any documents for that purpose.

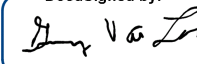
Section 10. Winding up District Business. The District Board hereby declares its intent to wind up all District business prior to the December 31, 2022 dissolution date of the District. Between the date the formation of the Authority is effective and the date the Authority Board executes the agreement in the attached Exhibit A, the District will continue to operate in a manner that ensures continuity of service for all customers entitled to receive service from the District. Between the date the Authority Board executes the agreement in the attached Exhibit A and December 31, 2022, the District Board will take only those actions that are necessary to complete the transfer of all District assets and liabilities to the Authority and to wind up the District’s business.

INTRODUCED AND ADOPTED THIS 21st DAY OF JUNE 2022.

OAK LODGE WATER SERVICES DISTRICT

DocuSigned by:

By 2079D01EF8844FF...
Susan Keil, President

DocuSigned by:

By 4D6F403A0550443...
Ginny Van Loo, Secretary/Vice President