

**OAK LODGE WATER SERVICES DISTRICT
&
OAK LODGE WATER SERVICES AUTHORITY**

BOARD OF DIRECTORS



SEPTEMBER 16, 2022

JOINT SPECIAL MEETING



**JOINT SPECIAL MEETING
OAK LODGE WATER SERVICES DISTRICT & OAK LODGE WATER SERVICES AUTHORITY
BOARD OF DIRECTORS
SEPTEMBER 16, 2022 at 9:00 a.m.**

1. Call to Order and Meeting Facilitation Protocols
2. Administration of Oaths of Office
3. Organizational Actions
 - a. Assignment of Director Positions and Terms
 - b. Appointment of Board Officers and Governance Policies
 - c. Establishment of Regular Authority Meetings
 - d. Appointment of Agents for the Authority
 - e. Consideration of Resolution No. 2022-0001 Adopting an Organizing Resolution for OLWSA; Establishing Board Positions, Terms, and Regular Meeting Time and Location; Adopting Board Governance Policies; Establishing a Registered Office; Appointing a Registered Agent; and Appointing an Attorney of Record.
4. Consideration of Resolution No. 2022-0002 Acknowledging and Accepting the Transfer and Assignment of Employees, Contracts, and Other Assets and Liabilities from the Oak Lodge Water Services District.
5. Consideration of Emergency Ordinance No. 2022-0001 Adopting Rules and Regulations for OLWSA
6. Consideration of Resolution No. 2022-0003 Designating the Local Contract Review Board and Adopting Public Contracting and Purchasing Rules for OLWSA
7. Consideration of Resolution No. 2022-0004 Adopting the OLWSA Budget for FY 2022-2023 and Making Appropriations
8. Consideration of Resolution No. 2022-0005 Adopting a Schedule of Rates, Fees, and Other Charges for OLWSA
9. Call for Public Comment

Members of the public are welcome to testify for a maximum of three minutes on agenda items.
10. Adjourn Regular Meeting



STAFF REPORT

To OLWSD Board of Directors and OLWSA Board of Directors
From Sarah Jo Chaplen, District General Manager
Title Action Items for the First Meeting of the OLWSA Board
Item No. 1-8
Date September 16, 2022

Summary

This is the first meeting of the Board of Directors of the Oak Lodge Water Services Authority (“Authority”). A five-member Board of Directors (“Authority Board”) was elected at the Special Election on August 23, 2022 to govern the Authority. With the Board now in place, the first meeting will serve as the organizational meeting for the Authority, and the Board should take several actions to officially begin the Authority’s operations. Because the Authority Board consists of the same individuals who comprise the Oak Lodge Water Services District (“District”) Board of Directors (“District Board”), this meeting will be held as a joint meeting of the Authority and the District. However, no District business is anticipated to take place during this meeting. This Staff Report was prepared by the District’s General Manager and her delegates (collectively, “Staff”) to serve as a guide for the initial meeting and to outline the action items needed.

Background

As proposed by the District Board, the County Order forming the Authority provides for a period of overlap between the date of formation of the Authority, and the date of dissolution of the District. The purpose for the overlap is to allow sufficient time for any needed transfers of assets and liabilities, and for the full winding up of the District’s affairs.

Although the District will not formally dissolve until the end of the year, the Authority should begin to assume the District’s functions now that the Authority Board is in place. The essential transfers of the District’s assets, liabilities, obligations, and functions take place by operation of law. But for certain aspects, such as the transfer of public employees, there are statutory requirements that must also be met, and should be memorialized by Board action.

1. Call to Order and Meeting Facilitation Protocols

The meeting will need to be called to order. Because the District Board already has a chair, Staff recommends that the President of the District Board preside over the first portion of the meeting, until the Authority Board Officers are formally chosen. If the person appointed as the

chair of the Authority Board is the same as the President of the District Board, that person may remain the chair for this and future joint meetings. If the person appointed to be the chair of the Authority Board is different than the chair of the District Board, the board members must decide the appropriate time at which the individuals should serve as the chair for the remainder of this meeting and for future joint meetings.

The chair should call the meeting to order and assist with the taking of attendance for both Boards. Staff also requests that the chair allow the District's General Manager to review the hybrid meeting format in the same manner that it is reviewed before District Board meetings.

Proposed Action Item: President of the District Board calls meeting to order and takes attendance; District General Manager reviews hybrid meeting instructions.

2. Administration of Oaths of Office

Staff recommends that each Authority Board member take an oath of office before conducting any formal business. The District's Recorder is prepared to administer the oath.

Proposed Action Item: All five Authority Board members take an oath of office to serve on the Authority Board.

Specific Actions to be Taken by the Authority Board

The following sections describe the various actions proposed for the Authority Board to successfully begin operations as the Authority. Some of the Authority Board's actions will need to be memorialized in a resolution, and other actions will result in the adoption of an ordinance.

3. Organizational Actions

The Authority should first take several actions for the purpose of completing its organizational structure. For each action requiring a decision, this Staff Report recommends that the Authority Board make an initial decision by motion during the meeting. At the appropriate time during the meeting, as outlined below, the Authority Board would then memorialize all of the organizational motions in the proposed resolutions. Proposed action items are identified below.

a. Assignment of Director Positions and Terms

Once all five Authority Board members have taken the oath of office, the Authority Board will need to determine which board member will serve in each position (positions 1, 2, 3, 4, or 5), which will determine the duration of each board member's term in office. Pursuant to ORS 450.600, when a joint authority is formed and becomes effective in an even-numbered year, three board members shall serve for a three-year term, and two board members shall serve for a one-year term. The terms of the members are to be chosen by lot. The District's Recorder will conduct a drawing for that purpose, overseen by the Authority Board members. Once selected,

the position numbers and terms will be memorialized in the “Organizing Resolution” described below.

Proposed Action Item: Determine Authority Board member terms of office, by lot.

b. Appointment of Board Officers and Governance Policies

The next action for the Authority Board to take is to determine which officer positions it would like to create for the Authority Board, and to choose a board member for each office. Because the Authority and the District will be meeting jointly until the District dissolves, Staff recommends that the Authority Board initially choose to have the same officer positions the District Board currently has: (1) President, (2) Secretary/Vice President, and (3) Treasurer – and that the individuals serving in those offices for the District also be selected to serve in those offices for the Authority Board, until the District dissolves on December 31, 2022. Using the same structure and makeup will not only avoid confusion during joint meetings, but will also serve to implement the District Board’s commitment to make the transition from the District to the Authority seamless, and for the Authority to “look like” the District as much as possible.

Beginning in January, after the District has dissolved, the Authority Board can re-visit this topic and determine whether the current structure for board officer positions is the appropriate one for the Authority Board. The Authority Board may also choose different individuals to assume the offices at that time, if desired. Please note that the statutes governing authorities state that the chair of the Authority Board should serve a two-year term. Unlike the District, the Authority has the option to select officers at the beginning of a fiscal year (which also matches up with the board members’ terms), rather than the beginning of the calendar year. Although the Authority Board can select new offices and officers at any time, it may want to take these differences into account if it reconsiders the officer positions.

The District Board currently operates under previously adopted Board “Governance Policies,” a copy of which is attached as Exhibit A to Resolution No. 2022-0001 discussed below. The Board Governance Policies define the roles, functions, and relationships of the Board, members of the Board, and employees of the Authority; establish procedures and a code of conduct for the Board; and govern the Board’s conduct and procedures. The Governance Policies currently in place were adopted by an interim District Board in 2016, during the consolidation process. Based on guidance from the Special Districts Association of Oregon, Staff plans to propose an updated version of the Governance Policies for consideration of the Authority Board at the October meeting, and adoption at a November meeting. In the interim, Staff recommends that the Authority Board adopt the current version of the Governance Policies, which is included as an exhibit to the proposed Organizing Resolution. Because the Governance Policies address the roles of Board officers, this is another reason to keep the current officer structure the same. The Authority Board’s discussion of the Governance Policies later this year can then inform any future discussion about which officer positions are appropriate and if any changes need to be made after the District dissolves.

Proposed Motion: “I move to establish the offices of a President, a Secretary/Vice President, and a Treasurer for the Authority Board; and to appoint the same individuals serving in those offices for the District Board, to serve in the same offices for the Authority Board.”

c. Establishment of Regular Authority Meetings

The Authority is required by statute to provide notice of the time and place for holding its regular meetings. Further, the Authority Board’s meetings must be held within the Authority’s geographic boundaries. Staff recommends that the Authority Board meetings be held at the same time and place as the District’s regular meetings – the third Tuesday of each month, beginning at 6:00 p.m., in the Board room located at 14496 SE River Road, Oak Grove, OR 97267. These details will be included in the Organizing Resolution.

Proposed Motion: “I move that the Board hold its regular meetings on the third Tuesday of each month, beginning at 6:00 p.m., in the Board room located at 14496 SE River Road, Oak Grove, OR 97267.”

d. Appointment of Agents for the Authority

The Authority is required by law to identify a registered agent. The District has traditionally named its General Manager as the registered agent, and Staff recommends the Authority take the same approach.

The Authority is not required by law to designate an attorney of record. However, Staff recommends that the Authority Board identify an attorney of record so that the Authority has an attorney in place that can act on behalf of the Authority where necessary to complete the Authority’s formation efforts and to assist with the transfer of District assets and liabilities to the Authority. Staff recommends that the Authority continue using Cable Huston, LLP as its general counsel.

Proposed Motion: “I move that the Authority designate its General Manager as its registered agent and that the Authority designate Cable Huston, LLP as its attorney of record.”

e. Consideration of Resolution No. 2022-0001

Each of the above actions should be memorialized in a formal Board resolution. Included with this Staff Report is the proposed Organizing Resolution – Resolution 2022-0001 – that serves this purpose. The resolution is based on Staff’s recommendations described above, and it also designates the District’s current administrative headquarters as the Authority’s registered office. If the Authority Board makes decisions that are different than what is set forth in Staff’s recommendations, the Organizing Resolution will need to be revised as part of its adoption. Please note that one section of the Organizing Resolution, relating to board members’ terms of office, cannot be filled in until the meeting and the terms are chosen.

Proposed Motion: “I move to adopt Resolution 2022-0001, and that the final version note the correct terms for each Authority Board member as determined by lot during this meeting.”

4. Consideration of Resolution No. 2022-0002

In June of this year, the District Board adopted Resolution 2022-05. The purpose of that resolution was to formally initiate the transfer of the District’s employees, contracts, and other assets and liabilities to the Authority. While such a transfer happens by operation of law, the resolution documents various statutory requirements that are necessary for the transfer. It also serves as evidence of the transfer if needed for use with various counterparties. The District Board’s resolution also authorized an intergovernmental agreement between the District and the Authority, which is a necessary component for completing the transfer of the District’s employees to the Authority.

Now that the Authority has been formed, the Authority Board can accept the transfer of all of the items listed in the District’s resolution. Included with this Staff Report is Resolution 2022-0002 – the “Transfer Acceptance Resolution.” The Transfer Acceptance Resolution will function as the Authority Board’s acceptance of the transfer of all District assets, liabilities, obligations, and functions. For certain vendor contracts, Staff determined that it was necessary to engage the vendors in the Authority’s name, rather than in the District’s name, and the resolution is intended to ratify those decisions so that those contracts will remain under the Authority’s name. Finally, the resolution will authorize the same intergovernmental agreement the District Board approved for the transfer of public employees.

Proposed Motion: “I move to adopt Resolution 2022-0002, as presented.”

5. Consideration of Ordinance No. 2022-0001

The District regulates its services and the use of its utility facilities through its Rules and Regulations (“Rules”), the most recent version of which was adopted through District Ordinance 2022-01. The Authority will need to have its own rules and regulations in place. Because the Authority will be taking ownership of the District’s facilities, Staff recommends that the Authority Board simply adopt the District’s Rules as its own. Included as an attachment to this Staff Report is proposed Ordinance 2022-0001 for that purpose.

The adoption of rules and regulations by ordinance typically requires two readings of the ordinance, and the ordinance becomes effective 30 days after its adoption. Under ORS Chapter 198, however, an ordinance can be adopted on an emergency basis, in which case the ordinance requires only one reading and is effective upon adoption. Staff believes that the current circumstances warrant adopting Ordinance 2022-0001 on an emergency basis. The Authority will be taking ownership of the utility facilities and must have regulations in place to govern the use of those facilities. The Authority will also be taking over permitting obligations relating to water quality, which permit will require the Authority to have rules in place relating to enforcement. If the Authority Board waits to adopt rules and regulations, it could face a

situation where it is not meeting its permitting obligations, or otherwise not be able to adequately regulate customers' use of its systems.

Because the ordinance is proposed for emergency adoption, Staff is not recommending any changes to the Rules at this time. Revisions to the Rules can occur during the normal course of business, with the Authority providing its customers with the typical notice and opportunity to comment on any proposed changes. This does mean that the Rules will continue to refer to the "District." However, Ordinance 2022-0001 clarifies that any references to the District will be deemed to be references to the Authority. The Authority Board can update those references when it next considers changes to the Rules.

Ordinance 2022-0001 can be introduced, read, and enacted during this meeting, and no hearing is required. However, given the length of the ordinance language, Staff recommends that the Board read the ordinance by title only. There are therefore two motions required.

Proposed Motion 1: "I move for Ordinance 2022-0001 to be read by title only."

Proposed Motion 2: "I move to adopt Ordinance 2022-0001, as presented."

6. Consideration of Resolution No. 2022-0003

As a public entity, the Authority is subject to the procurement regulations set forth in ORS Chapters 279a, 279b, and 279c and the administrative rules that implement those statutes ("Public Contracting Code"). Under the Public Contracting Code, the Authority has the option of establishing a separate Local Contract Review Board ("LCRB") or having the Board act as the LCRB. Because the District Board serves as the District's LCRB, Staff recommends that the Authority Board also serve as the Authority's LCRB.

As the LCRB, the Authority Board may enact local procurement rules that supplant or augment the Oregon Attorney General's model procurement rules. The District has a well-developed set of procurement rules that are tailored to the District's needs with respect to the utility services it provides. Because the Authority will be taking over the District's services and utility facilities, Staff recommends that the Authority Board adopt the District's procurement rules as its own. Included with this Staff Report is proposed Resolution 2022-0003, which designates the Authority Board as the LCRB and adopts the District's procurement rules as the Authority's procurement rules.

Staff is not recommending any changes to the procurement rules at this time. Revisions to the procurement rules may occur during the normal course of business, with the Authority providing the public with the typical notice and opportunity to comment on any proposed changes. This does mean that the procurement rules will continue to refer to the "District." However, Resolution 2022-0003 clarifies that any references to the District will be deemed to be references to the Authority. The Authority Board can update those references when it next considers changes to the procurement rules.

Proposed Motion: “I move to adopt Resolution 2022-0003, as presented.”

7. Consideration of Resolution No. 2022-0004

Every unit of local government is required to adopt a budget and make appropriations in accordance with the Local Budget Law set forth in ORS 294.305 to 294.565. That law, however, does not require a local government to go through the normal budget procedures for a newly formed entity. The Authority Board can therefore adopt any reasonable budget that will meet its needs for the first year of its existence. Because the District Board went through a full budgeting process for Fiscal Year 2022-23, Staff recommends that the Authority Board adopt the District’s budget as its own for the remainder of the current fiscal year. The Authority can then begin the new budgeting process for Fiscal Year 2023-24 this coming Spring.

Included with this Staff Report is proposed Resolution 2022-0004, which adopts the District’s budget as the Authority’s budget for the remainder of the current fiscal year, and makes appropriations in the amounts the District Board made appropriations for the District.

Proposed Motion: “I move to adopt Resolution 2022-0004, as presented.”

8. Consideration of Resolution No. 2022-0005

To support its adopted budget for Fiscal Year 2022-23, the District Board passed Resolution 2022-02 Adopting the Fiscal Year 2022-23 Schedule of Rates, Fees, and Other Charges (“Fee Resolution”). The Fee Resolution contains the utility rates, system development charges, and fees associated with the variety of services the District provides to customers. The Authority Board will need to adopt its own rates, fees, and charges. Because the Authority will be taking over the District’s utility systems and adopting the District’s budget, Staff recommends the District Board implement the exact rates, fees, and charges as those in the Fee Resolution. Included with this Staff Report is proposed Resolution 2022-0005 for that purpose. The Authority Board will update these rates, fees, and charges as necessary as part of the next fiscal year’s budgeting process.

Proposed Motion: “I move to adopt Resolution 2022-0005, as presented.”

Attachments

1. Oath of Office
2. Resolution No. 2022-0001
3. Board Governance Policy
4. Resolution No. 2022-0002
5. OLWSD Resolution No. 2022-05
6. Transfer IGA with OLWSD
7. Ordinance No. 2022-0001
8. Rules and Regulations
9. Resolution No. 2022-0003

10. Contracting and Purchasing Rules
11. Resolution No. 2022-0004
12. FY 2023 Budgetary Appropriations
13. Resolution No. 2022-0005
14. Schedule of Rates, Fees, and Other Charges



Board of Directors

Oath of Office

I, [First and Last Name], do solemnly swear or affirm to support the Constitution and the laws of the United States of America and of the State of Oregon, and the local rules and regulations of the Oak Lodge Water Services, and that I will faithfully and honorably perform the duties of the office to which I have been elected.

[Name]

Subscribed and sworn before me this 16 day of September, 2022.

Sarah Jo A. Chaplen, General Manager

Laural Casey, District Recorder

OAK LODGE WATER SERVICES

RESOLUTION NO. 2022-0001

A RESOLUTION ADOPTING AN ORGANIZING RESOLUTION FOR THE OAK LODGE WATER SERVICES AUTHORITY; ESTABLISHING BOARD POSITIONS, TERMS, AND REGULAR MEETING TIME AND LOCATION; ADOPTING BOARD GOVERNANCE POLICIES; ESTABLISHING A REGISTERED OFFICE; APPOINTING A REGISTERED AGENT; AND APPOINTING AN ATTORNEY OF RECORD

WHEREAS, the Clackamas County Board of Commissioners adopted Order 2022-36 on May 5, 2022, forming the Oak Lodge Water Services Authority (the “Authority”), organized under ORS Chapter 450 with a five-member governing body; and

WHEREAS, Clackamas County duly held a special election on August 23, 2022, at which voters elected the members of the first governing body of the Authority (the “Board”); and

WHEREAS, the Board first convened on September 16, 2022, and wishes to adopt this Resolution to take action concerning the initial organization, decisions, and procedures needed to commence operations of the Authority.

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

Section 1. Initial Board. The following individuals were duly elected at the August 23, 2022 Special Election and together as one body comprise the initial Authority Board:

Heidi Bullock

Paul Gornick

Susan D. Keil

Ginny Van Loo

Kevin Williams

Section 2. Board Terms. Pursuant to ORS 450.600(5), the terms of each Board member are determined by lot as follows:

Position 1: Three-year term _____ (expiring June 30, 2025).

Position 2: Three-year term _____ (expiring June 30, 2025).

Position 3: Three-year term _____ (expiring June 30, 2025).

Position 4: One-year term _____ (expiring June 30, 2023).

Position 5: One-year term _____ (expiring June 30, 2023).

Section 3. Board Positions. The following offices of the Board are created and shall be filled by majority vote of the Board:

President. The President shall preside over meetings as the Chair of the Board, and shall perform all of the duties prescribed by law to be undertaken by the presiding officer and chair of an authority.

Secretary/Vice President. The Secretary/Vice-Chair shall have all of the powers and duties of the President of the Board during any period of absence of the President of the Board, and shall perform all of the duties prescribed by law to be undertaken by the secretary of an authority.

Treasurer. The Treasurer shall have such powers and duties as may be prescribed by the Board.

There shall always exist a Chair of the Board and a Secretary of the Board. The Board may, from time to time, create, modify, or abolish any other Board position; and may, from time to time, modify or establish the powers and duties of any position on the Board. The creation, abolition, modification, or establishment of Board positions, powers, and duties shall be made by resolution.

Section 4. Board Meetings. The Board shall hold regular meetings on the third Tuesday of each month at 6pm at the Authority’s administrative offices, located at 14496 SE River Road, Oak Grove, OR 97267. Special meetings, executive sessions, and emergency meetings may be held as provided by law.

Section 5. Board Governance Policies. The Board hereby adopts the Board Governance Policies attached as **Exhibit A** and incorporated herein by this reference. All references to the “District” therein shall be deemed references to the Authority. All references to the “Board of Commissioners” therein shall be deemed references to the Board. The Board may, by resolution, modify the Board Governance Policies at any time.

Section 6. Registered Office. Pursuant to ORS 198.340, the registered office of the Authority shall be the address of the Authority’s administrative offices: 14496 SE River Road, Oak Grove, OR 97267.

Section 7. Registered Agent. Pursuant to ORS 198.340, the registered agent for the Authority, upon whom any process, notice, or demand required or permitted by law to be served upon the Authority may be served, shall be the Authority’s General Manager, whose address shall be identical with the Registered Office of the Authority.

Section 8. Attorney of Record. The attorney of record for the Authority shall be Cable Huston, LLP.

Section 9. Amendments. This Resolution is intended to facilitate the initial operations of the Authority. The Board may change or modify this Resolution by majority vote at any time. This Resolution shall continue in full force and effect until superseded or replaced, in whole or in part, by future action of the Board.

INTRODUCED AND ADOPTED THIS 16th DAY OF SEPTEMBER 2022.

OAK LODGE WATER SERVICES

By _____ By _____
NAME, President NAME, Secretary/Vice President

EXHIBIT A
BOARD GOVERNANCE POLICIES



Board of Commissioners Governance Policies

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Appendix 1 Oath of Office

1.0 Membership on the Board of Commissioners

Positions and Terms

- The Board of Commissioners of the District shall consist of five Members serving four-year staggered terms. No person shall be eligible to be a Board Member who is not at the time of election or appointment a resident or property owner in the district. Employees of the District are not eligible to be Board Members
- All Board Members shall serve at large.

Election of Board Members

The election of Board Members shall be conducted as provided by the ORS Chapter 255.

Qualifications

No person elected or appointed to the Board shall be sworn in unless such person meets the qualifications for office set forth in these policies. If questions exist regarding the eligibility of any candidate, the Board shall obtain an opinion from legal counsel prior to swearing in such person.

Oath of Office

Each newly elected or appointed Board Member shall take an oath of office at a Board meeting prior to assuming the duties of the position.

Term of Office-Starting Date

Except where the Board is filling a vacancy on the Board, terms of office shall start on the first available date in July.

Vacancies

Vacancies on the Board shall be filled by appointment by a majority of the remaining Members of the Board. If a majority of the membership of the Board is vacant, or if a majority cannot agree, the vacancies shall be filled promptly by the Clackamas County Commission.

2.0 Powers and Duties of the Board Policy

Meeting the Needs of the District

It is the policy of the Board of Commissioners to exercise those powers granted to it, and to carry out those duties assigned to it by law, in such a way as to best meet the needs of the District.

Formulation and Interpretation of District Policy

Board Members only have the right and responsibility to participate in Board meetings and vote on District matters as part of the Board. The most important activity of the Board in performing this responsibility is the formulation and interpretation of District policies. To this end, the Board shall establish policy, reserving to itself all authority and responsibility not directly assigned to other District officers and personnel.

- The written policies and rules of the District Board will be subject to amendment only upon a majority vote of the Members of the Board at a regularly scheduled monthly meeting of the Board in which the motion for the proposed amendment has been described by resolution.
- The policies of the Board will be subject to temporary suspension only upon a majority vote of the Board.

Management and Communication between Board and Staff

The primary responsibility of the Board is to make policy level decisions for the District. Management of the daily operations and staff is the responsibility of the General Manager. Unless otherwise authorized

by a quorum of the Board, no individual Board Member may direct or order a staff member on any matter that relates to the daily operations or administrative activities of the District. Moreover, unless otherwise authorized by the Board, no individual Board Member may order, direct, or conduct any review of personnel records of any staff member or any other record that is exempt under Public Records Law.

Board Members Authorized By Official Board Action Only

Board Members have no individual powers separate from the powers of the Board and have no authority to act individually without delegation of authority from a quorum of the Board. Likewise, no individual Board Member may speak for or on behalf of the Board or District, except as authorized to do so by official Board action as recorded in the official minutes, guidelines, or policies of the District.

Ethical Standards

Board Members act as representatives of the citizens of the District. Therefore, Board Members shall adhere to the highest ethical standards in the conduct of District business.

Conflicts of Interest: Board Members and public officials must publicly announce the nature of any conflict of interest before participating in any official action on the issue giving rise to the conflict of interest.

- Potential Conflict of Interest: Following the public announcement, the public official or Board Member may participate in official action on the issue that gave rise to the conflict of interest.
- Actual Conflict of Interest: Following the public announcement, the public official or Board Member must refrain from further participation in official action on the issue that gave rise to the conflict of interest.

Board Member Education

In order to effectively carry out their duties, Board Members must be adequately informed. Members are encouraged to attend such conferences and other training programs as the Board may authorize.

3.0 Board Responsibilities Policy

Communications

- Develop regular channels of communication with Board Members and staff.
- Encourage participation of staff members on appropriate committees.
- Develop procedures for bringing staff opinions and recommendations to the Board, as well as Board opinions, and decisions to the staff.
- Invite non-Board Members, other local governments, and groups to Board or committee meetings or other types of Board-sponsored assemblies to explore and develop approaches to common concerns.
- Recognize that certain information obtained at Board meetings may be non-public and confidential making disclosure a breach of trust.
- Respect the opinion of other Members and accept the principle of majority rule in Board decisions.

Financial

- Approve the annual budget.
- Participate on the Budget Committee.
- Regulate and approve the establishment of rates, charges, and contracts.
- Monitor District finances and the budget, setting policy or taking action to ensure the fiscal integrity of the organization.
- Accept the annual audit.

- Act as the Local Contract Review Board.

Policies, Objectives, and Plans

- Abide by and become familiar with all laws and policies governing the operation of the District.
- Approve the annual strategic plan.
- Approve policies for the organization.
- Recognize that the General Manager should have full administrative authority for properly discharging the duties of managing the operation within the limits of the established Board policy. The Board's basic function is policy making; not administrative.
- Develop and approve long-range plan of growth and development for the District.
- Consider and vote on specific important projects.
- Approve any significant departure from established plans or policy.
- Receive and pass on committee or other planning body recommendations.
- Ensure that program objectives are assigned to the proper planning or implementing subgroups.
- Where applicable, bring other local governments or community groups into the planning and decision-making process.
- Approve contracts binding the District.
- Approve major changes in the District's organization or structure.
- Approve Board plans of action.
- Consider and vote on District Motions, Resolutions, and Ordinances.

Management

- Select the District Chair and other officers.
- Hire the General Manager.
- Define the duties and responsibilities for the Chair, General Manager, Officers, and major Committee Chairpersons.
- Select legal counsel and consultants for the Board.
- Approve contracts for professional services required by and for the Board.
- Authorize Officers, or Board agents to enter into contracts or to sign other written instruments and to take financial actions.
- Approve the plan, form, and amount of management compensation, that is, salaries, bonuses, vacation, travel, and so on.
- Evaluate the performance of the General Manager annually.
- Approve the form and amount of reimbursement for Board Members.
- Approve programs for management development.
- Provide advice and consultation to management on matters within the purview of the Board's responsibilities.

Employee Relations

- Approve employee benefit plans.
- Insist that personnel complaints go through a proper chain of command. If not resolved, only then should the Board get involved.
- Approve contracts with and between any unions involved with the District.

Control

- Identify types of information needed by the Board to analyze effectively the District's directions and achievement. Create a process for collecting and analyzing information.
- Realize that the citizens within the boundaries of the district are the true "owners" of the district.
- Review and assess the organization's performance against objectives, resources, plans, policies, and services rendered.

- Analyze major shortfalls in achievement.
- Identify obstacles, sense changing needs, and propose new directions or goals.
- Ensure that the District is in compliance with all federal, state, and local laws.

Board of Commissioners

- Motivate Board Members to accept positions of leadership and responsibility.
- Appoint, change, or abolish committees of the Board.
- Define powers and responsibilities of committees of the Board.
- Recognize that an individual Board Member has no legal status to act for the entire Board unless so delegated by the Board.
- Realize that if a quorum of the Board meets to make a decision or to deliberate, then the meeting is considered a public meeting and must comply with all the requirements of the Oregon Public Meetings Laws.
- Discussions on matters of overall policy outside of regular Board meetings can violate the open meetings law.

Public Accountability

- Keep the public informed on all District matters.
- Make decisions based on the wishes and needs of the public.
- Spend the District’s money with prudence and trust.
- Place the needs of the public above the ambitions of the Board or the District.

4.0 Board Member Orientation Policy

Cooperation with Board Candidates

The Board, through its staff, shall cooperate impartially with candidates for the Board and provide them with information about Board policies, administrative regulations, and other aspects of the operation of the District.

Orienting New Board Members

The Board and its staff shall assist each new Member-elect and appointee to understand the Board’s functions, policies, and procedures before he/she takes office. The following methods shall be employed:

- New Members shall be invited to attend and participate in public Board meetings prior to being sworn in.
- The General Manager shall provide materials pertinent to district meetings and respond to questions regarding such material.
- New Members shall be invited to meet with the General Manager and other District personnel to discuss the services each performs for the District.

5.0 Reimbursement of Board Members Expenses Policy

Board Member Compensation and Reimbursement

Pursuant to ORS 198.190, Board Members may receive daily compensation not to exceed \$50.00 for their services on the Board. Such compensation shall be set by majority vote of the Board. Board compensation will be reported and the appropriate taxes will be withheld. Board Members shall also be reimbursed for their actual and reasonable travel and other expenses incurred in the performance of official District duties.

Reimbursement Documentation

Board Members incurring reimbursable expenses shall submit proper documentation of such expenses to the General Manager or such other designee for reimbursement by the District.

6.0 Board Officer Duties

Duties of the Chair

- Chair of the Board shall preside at meetings of the Board of Commissioners. The Chair shall perform all of the duties prescribed by the Oregon Revised Statutes.
- The Chair shall consult with the clerk of the Board regarding the preparation of each Board meeting agenda.
- The Chair shall have the same right as other Members of the Board to discuss and to vote on questions before the Board.
- The Chair may call special meetings of the Board as described by the Oregon Public Meetings Law.
- The Chair of the Board shall sign official District documents on behalf of the Board when authorized to do so by a majority of the Board.

Duties of Vice-Chair

In the Chair's absence, or during any disability of the Chair, the Vice-Chair shall have the powers and duties of the Chair of the Board as prescribed by District policy. The Vice-Chair shall have such other powers and duties as a majority of the Board may from time to time determine.

Duties of the Registered Agent

- The Registered Agent of the Board shall assure that accurate accounting and financial records are maintained by the District.
- The Registered Agent shall annually review the District's financial audit with District personnel prior to submitting the audit to the balance of the Board. The Registered Agent shall send copies of the audit to state or local agencies requiring its submission.

Duties of the Clerk

The Clerk of the Board shall be the General Manager or such other person as may be designated by the board. The duties of the Clerk of the Board are:

- Respond directly to routine correspondence.
- Handle correspondence of special interest to the Board as follows:
 - ♦ Draft replies in advance, when possible, for Board Members.
 - ♦ Seek instruction for reply when necessary.
 - ♦ Prepare correspondence as the Board directs.
- Prepare for Board meetings:
 - ♦ Prepare the agenda with the advice of the Chair.
 - ♦ Maintain a calendar for the Board's unfinished business.
 - ♦ Call to the Board's attention legal requirements and those matters for which the District is responsible.
 - ♦ Draft policy motions at the request of any Board Member.
- Board Meeting duties:
 - ♦ Attend all Board meetings or designate an alternate.
 - ♦ Make physical arrangements for Board meetings.
 - ♦ Provide notice of Board meetings in accordance with the Public Meetings Law.
- Maintain and update the District's policy and procedure manual.

7.0 Public Meeting Policy

Preparation for Board Meetings

- **Distribution of materials to Board Members**
The agenda, General Manager's report, Financial report, shall be given to each member of the Board of Commissioners at least (4) days prior to any regularly scheduled Board meeting. At the same time, the General Manager shall provide members detailed information relative to the agenda, including existing Board policy pertinent to agenda items.
- **Distribution of agenda to the public**
The proposed agenda will simultaneously be distributed to all District officers and other facilities, and posted at one or more convenient locations for review by District personnel and the public.

Board Meeting Agenda

The Clerk of the Board shall draft the agenda after conferring with the Chair of the Board. The Chair of the Board shall set the order of Agenda which will generally include but is not limited to the following items:

- Call to Order
- Roll Call by Registered Agent or designee
- Approval of the Minutes
- Financial Report
- Operations Report
- District Business
- General Manager's Report
- Adjournment

Notice and Location of Meetings

- **Application**
This policy applies to all meetings of the Board of Commissioners of the District and to any meetings of subcommittees or advisory groups appointed by the Board. If such subcommittees or advisory groups normally have a quorum requirement, take votes, and form recommendations as a body for presentation to the Board of Commissioners.
- **Compliance with Law**
All meetings shall be conducted in accordance with the Oregon Public Meetings Law, ORS 192.610-192.710 and 192.990.
- **Locations of Meetings**
All meetings shall be held within the geographic boundaries of the District, except for training sessions held without any deliberative action. No meeting shall be held in any place where discrimination on the basis of race, creed, color, sex, age, national origin, sexual preference, or disability is practiced. All meetings shall be held in public places meeting the Americans with Disabilities Act accessibility requirements.
- **Meetings Held by Telephone**
Meetings held by telephone or other electronic communication is subject to the Public Meetings Law if they otherwise qualify by virtue of their deliberative purpose and the presence of a quorum. ORS 192.670(1) Notice and opportunity for public access shall be provided when meetings are conducted by electronic means. At least one location shall be provided where meetings held by telephone or other electronic means may be listened to by Members of the public. ORS 192.670(2)

- **Regular Meetings**
The Board shall hold regular monthly meetings at the time listed on the Notice. Board meetings shall be held at Oak Lodge Water Services Board Room or at other locations and times as the Board may designate.
- **Special Meetings**
The Board shall hold special meetings at the request of the Chair or any three members of the Board. If the Chair is absent from the District, special Board meetings may be held at the request of the Vice-Chair. No special meeting shall be held upon less than 24 hours public notice.
- **Emergency Meetings**
Emergency meetings may be held at the request of persons entitled to call special meetings, upon less than 24 hours public notice in situations where a true emergency exists. An emergency exists where there are objective circumstances which, in the judgement of the person or persons calling the meeting, create a real and substantial risk of harm to the District which would be substantially increased if the Board were to delay in order to give 24 hours' notice before conducting the meeting. The convenience of Board members is not grounds for calling an emergency meeting. At the beginning of any emergency meeting, the Director or Commissioners calling such meeting shall recite the reasons for calling such meeting and the reasons the meeting could not have been delayed in order to give at least 24 hours' notice, which reasons shall be noted in the minutes. The Board shall then determine if the reasons are sufficient to hold an emergency meeting, and if not, shall immediately adjourn such meeting. Only business related directly to the emergency shall be conducted at an emergency meeting.
- **Notice of Meetings**
Notice of the time, place, and principal subjects to be considered shall be given for all meetings. For regular meetings, the notice shall be sent to all Board members, local media, and to all persons or other media representatives having requested notice in writing of every meeting. The Notice shall also be posted at the following locations with the District: Oak Lodge Water Services bill board, Oak Lodge Water Services website, Oak Lodge Library bill board, and a general circulation newspaper; as required by ORS 192.640. In the case of ordinances and consideration of the annual budget, they will be noticed per ORS 198.540. The Notice shall state to see website for agenda 48 hours in advance of meeting.

Notice by email shall also be sent to any persons who the District knows may have a special interest in a particular action. For special meetings, email notice shall be issued or phone calls made to interested parties and the media. Interested persons shall be notified by mail, email, or telephone. For emergency meetings, the District shall attempt to contact local media and other interested persons by email to inform them of the meeting.
- **Executive Sessions**
Notice for meetings called only to hold executive sessions shall be given in the same manner as notice for regular, special, and emergency meetings as set forth above, except that the notice need only indicate the general subject matter to be considered at the executive session, but it shall also set forth the statutory basis for calling the executive session.
The Chair or other Presiding Officer shall announce the statutory authority for the executive session before going into closed session. Once the executive session has been convened, the Chair shall direct any representative of the news media who are present not to report certain specified information from the executive session. In general, the extent of the nondisclosure requirement should be no broader than the public interest requires, and the news media will ordinarily be allowed to report the general topic of discussion in the executive session. Board members, staff, and

other persons present shall not discuss or disclose executive session proceedings outside of the executive session without prior authorization of the Board as a whole.

- Interpreters for the Hearing Impaired
The District shall comply with ORS 192.630(5) regarding the provision of interpreters for the hearing impaired at Board meetings, in accordance with the following rules:
 - ◆ The District shall make a good faith effort to have an interpreter for hearing impaired persons provided at any regularly scheduled meeting if the person requesting the interpreter has given the District at least 48 hours' notice of the request, provided the name of the requester, the requester's sign language preference, and any other relevant information which the District may require. "Good faith efforts" shall include contacting the Oregon Disabilities Commission or other state or local agencies that maintain a list of qualified interpreters.
 - ◆ If a meeting is held upon less than 48 hours' notice, the District shall make reasonable efforts to have an interpreter present.
 - ◆ The requirement for an interpreter does not apply to emergency meetings.
 - ◆ The General Manager shall be responsible for developing and maintaining a list of qualified interpreters and shall have the responsibility for making the required good faith effort to arrange for attendance of an interpreter at any meeting for which an interpreter is requested.

Board Meeting Conduct

- Presiding Officer
The Chair shall preside at Board meetings. In the Chair's absence, the Vice-Chair shall preside. If both the Chair and Vice-Chair are absent, any other member of the Board may preside.
- Authority to Conduct Meetings
The Chair or other Presiding Officer at any Board meeting shall have full authority to conduct the meeting. Meetings shall be conducted in such a manner as to provide a full and fair opportunity for discussion of the issues in an efficient and timely manner. Any decision of the Chair or other Presiding Officer at the meeting may be overridden by a majority vote of the Board.
- Simple Rules of Voting Order
The Presiding Officer shall conduct the meeting using simplified rules of order unless the rules are suspended or modified. The Presiding Officer introduces agenda items and calls for discussion. After discussion, the Presiding Officer calls for a motion, then a second. Amendments can delete, substitute, or add words to a motion but cannot negate it. A motion can also be tabled, withdrawn, or referred back for further work. The Presiding Officer may then call for a vote. Three Votes passes the motion.
- Forms of Action
Actions by the Board are usually in the form of Motions, Ordinances, or Resolutions. The District Board may also adopt rules, regulations, establish codes, approve contracts, agreements, and establish rates and charges, and other actions, but would normally do so by adopting either an Ordinance or Resolution.
 - ◆ Ordinances are action taken by the District to adopt law or policy applying to district residents. They are subject to the statutory adoption process defined in Oregon Revised Statutes ORS 198.540.
 - ◆ Resolutions are adopted to express internal policy, opinions of the Board, or intent of the Board.
- Public Participation
If public participation is to be a part of the meeting, the Presiding Officer may regulate the order and length of appearances and limit appearances to presentations of relevant points. Persons failing to comply with the reasonable rules of conduct outlined by the Presiding Officer, or causing any

disturbance, may be asked or required to leave. Such persons become trespassers upon failure to do so.

- **Electronic Equipment**

The authority to control the meetings of the District Board extends to control over equipment such as cameras, tape recorders, and microphones. The Presiding Officer shall inform persons attending any meeting of the District Board of reasonable rules necessary to assure an orderly and safe meeting. The physical comfort and safety of members of the Board and the public attending the meeting shall be of primary concern in formulating such rules.

- **Recording Votes**

Votes shall be recorded. Any Member may request that his or her vote be changed if such request is made prior to consideration of the next order of business.

Appendix 1 Oath of Office

Sample Oath of Office

I (insert name of Board Member), do solemnly swear, that I will support the laws of the State of Oregon, and the policies of the Oak Lodge Water Services District, and that I will faithfully discharge the duties of Director according to the best of my ability.

_____ Board Member

Attest:

_____ Board Secretary

Attest:

OAK LODGE WATER SERVICES

RESOLUTION NO. 2022-0002

A RESOLUTION ACKNOWLEDGING AND ACCEPTING THE TRANSFER AND ASSIGNMENT OF EMPLOYEES, CONTRACTS, AND OTHER ASSETS AND LIABILITIES FROM THE OAK LODGE WATER SERVICES DISTRICT

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

WHEREAS, the governing body of the Authority is a five-member board of directors, the members of which were duly elected at the special election 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, on June 21, 2022, the District’s Board of Directors adopted District Resolution 2022-05, attached hereto as **Exhibit A**, specifically acknowledging and approving the transfer and assignment of all District employees, contracts, liabilities, obligations, assets, functions, and records to the Authority; and

WHEREAS, the governing body of the Authority now desires to acknowledge and accept the transfer and assignment of all District employees, contracts, liabilities, obligations, assets, functions, and records from the District to the Authority.

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 Authority hereby accepts the transfer of all of the District’s public employees (as defined by ORS 236.605(1)) pursuant to ORS 236.605 et seq. The Authority’s General Manager is hereby directed to take all actions necessary to effectuate the transfers, determine the practical date(s) for the transfers, and communicate the transfers to employees.
- B. Employment Contracts. The Authority hereby accepts the District’s assignment of 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"). The Authority's General Manager is hereby directed to take all actions necessary to effectuate the transfers, determine the practical date(s) for the transfers, and communicate the transfers to AFSCME and all affected employees.

- C. Limits. The Authority's acceptance of the transfer of all District employees is subject to the limits placed upon the transfer by the District as follows:
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 transfer to the Authority and are administered in accordance with applicable statute and the Collective Bargaining Agreement.
 3. All benefits plans shall transfer to the Authority.
 4. All accrued sick leave balances shall transfer to the Authority.
 5. All accrued vacation leave balances shall transfer to the Authority.
 6. The Authority accepts all employment records of all public employees furnished by the District.
 7. Any unfunded Public Employees Retirement System ("PERS") 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.

The Authority hereby accepts the transfer of all monetary assets held in the name of 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. The effective date of the acceptance of all monetary assets is the date of adoption of this Resolution. The Authority Board hereby authorizes and directs the Authority's General Manager to take all actions necessary to effect the transfers.

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

- A. The District has previously executed various borrowings as follows ("District Loans"):
1. \$1,320,000 Full Faith and Credit Financing Agreement (Water Meters) dated on or about February 11, 2019 with Zions Bank;
 2. \$15,173,000 Wastewater System Loan Agreement dated on or about December 20, 2017 with JPMorgan Chase Bank;
 3. \$5,000,000 Clean Water State Revolving Fund Loan Agreement No. R70030 dated on or about January 21, 2010 with Oregon DEQ;
 4. \$11,409,645 Clean Water State Revolving Fund Loan Agreement No. R70031 dated on or about December 27, 2010 with Oregon DEQ;
 5. \$3,684,197.37 Water Fund Loan Agreement No. W10001 dated on or about February 18, 2021 with Oregon Business Development Department;

6. \$398,543 Capital Lease with KS StateBank (Freightliner Vector Truck) dated on or about May 7, 2018.
- B. The District Board specifically transferred the District Loans to the Authority through Resolution 2022-05. The Authority Board hereby accepts the District Loans and the transfer and assignment of all rights and obligations under each of the District Loans. The Authority shall be substituted for the District as the District's successor-in-interest to each of the District Loans.
- C. The General Manager is directed to obtain any written consent from a lender as may be necessary to perfect a transfer and assignment of the District Loans. The General Manager is authorized and directed to execute any documents required by a lender to perfect a transfer and assignment of the District Loans including, but not limited to, an amendment or restatement of a District Loan agreement.
- D. The effective date of District Loans transfers is the date of adoption of this Resolution.

Section 4. Assignment of Other Contracts.

The Authority hereby accepts the assignment from the District of all of the District's rights and obligations under every other validly existing contract to which the District is a party, including any intergovernmental agreement. The Authority specifically accepts and ratifies the Parent License Agreement that was granted to the Authority by Springbrook Holding Company, LLC. The Authority shall be substituted for the District as the District's successor-in-interest to each assigned contract. The effective date of the assignment of each of the District's contracts is the date of adoption of this Resolution. The General Manager is hereby authorized and directed to execute any documents requested or required by a counterparty to any contract, to memorialize the transfer and assignment of the District contract.

Section 5. Assignment of Regulatory Permits.

The Authority hereby accepts all of the District's rights and obligations under all regulatory permits to which the District is a permittee or otherwise has any rights or obligations, and the Authority shall be replaced as the permittee for such permits. The effective date of the assignment of each of the District's permits shall be the date of adoption of this Resolution. The General Manager is hereby authorized and directed to execute any documents required by a regulatory entity to perfect a transfer and assignment of a District permit.

Section 6. Assignment of Service Obligations.

The Authority hereby accepts all of the District's service obligations within the District's territorial jurisdiction. The effective date of the assignment of the District's service obligations is the date of adoption of this Resolution.

Section 7. Assignment Relating to Claims and Potential Claims.

The Authority hereby accepts all rights and interests the District may have 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 and as of the date of the adoption of this Resolution.

Section 8. Evidence of Assignment and Assumption.

The Authority Board hereby authorizes the Authority Board President to execute the Intergovernmental Assignment and Assumption Agreement, attached hereto as **Exhibit B**, to evidence the agreements made by the Authority in this Resolution.

Section 9. Other Action.

The Authority Board hereby authorizes the Authority's General Manager, or the General Manager's designee, to take all other actions that may be necessary to implement and give effect to the assignments and transfers made in this Resolution, including the execution of any documents for that purpose. The Authority Board further authorizes the Authority's General Manager to take all actions necessary to assist the District with the winding up of its affairs as set forth in this Resolution.

Section 10. Effective Date.

The effective date of the enactments of each section of this Resolution is the date noted within that section; the effective date for all other enactments is the date of adoption of this Resolution as written below.

INTRODUCED AND ADOPTED THIS 16th DAY OF SEPTEMBER 2022.

OAK LODGE WATER SERVICES

By _____ By _____
NAME, President NAME, Secretary/Vice President

EXHIBIT A

OLWSD RESOLUTION NO. 2022-05

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

EXHIBIT B
INTERGOVERNMENTAL ASSIGNMENT AND ASSUMPTION AGREEMENT

Intergovernmental Assignment and Assumption Agreement

This Intergovernmental Assignment and Assumption Agreement (“Agreement”) is by and between the Oak Lodge Water Services District, a consolidated water and sanitary district organized under ORS Chapters 264 and 450 (“District”), and the Oak Lodge Water Services Authority, a joint water and sanitary authority organized under ORS Chapter 450 (“Authority”).

RECITALS

- A. 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
- B. 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
- C. 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
- D. 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
- E. The District desires to assign and transfer all District employees, contracts, liabilities, obligations, assets, functions, and records to the Authority and, to that end, adopted Resolution 2022-05 (“District’s Transfer Resolution”); and
- F. The Authority desires to accept all District employees, contracts, liabilities, obligations, assets, functions, and records from the District and to assume all obligations of the District related thereto.

AGREEMENT

1. Purpose and Date of Dissolution. The Parties acknowledge that Board Order 2022-36 orders the dissolution of the District, which dissolution is to be effective on December 31, 2022 (the “Dissolution Date”). Notwithstanding the foregoing, the Parties further acknowledge that the actual date of the District’s dissolution may depend on actions taken by other agencies, including Clackamas County, Metro, and the Oregon Department of Revenue. It is the intent of the Parties to ensure the full transfer of all District employees, contracts, liabilities, obligations, assets, functions, and records to the Authority regardless of the actual date of dissolution.
2. Transfer of District Employees.
 - a. The District hereby agrees to transfer all public employees (as defined by ORS 236.605(1)) to the Authority pursuant to ORS 236.605 *et seq.*
 - b. 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”).

- c. As part of this transfer of employees required by this section:
 - i. 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.
 - ii. All accrued compensatory time balances will transfer to the Authority and be administered in accordance with applicable statute and the Collective Bargaining Agreement.
 - iii. All benefits plans will transfer to the Authority.
 - iv. All accrued sick leave balances will transfer to the Authority.
 - v. All accrued vacation leave balances will transfer to the Authority.
 - vi. The District's General Manager shall furnish the employment records of all public employees to the Authority immediately upon the Effective Date (as defined below).
 - vii. Any unfunded Public Employees Retirement System ("PERS") liability or surplus of the District will be paid or credited as determined by the Authority, and as required by ORS 238.235.
 - viii. The Authority agrees to send the final executed version of this Agreement to PERS within 60 days of the Effective Date.
- 3. Transfer of District Funds. 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.
- 4. Transfer, Assignment, and Assumption of District Borrowings.
 - a. The District has previously executed various borrowings as follows ("District Borrowings"):
 - i. \$1,320,000 Full Faith and Credit Financing Agreement (Water Meters) dated on or about February 11, 2019 with Zions Bancorporation, National Association;
 - ii. \$15,173,000 Wastewater System Loan Agreement dated on or about December 20, 2017 with JPMorgan Chase Bank, NA;
 - iii. \$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");
 - iv. \$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;

Intergovernmental Assignment and Assumption Agreement

- v. \$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;
 - vi. \$398,543 Capital Lease with KS StateBank (Freightliner Vector 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.
 - c. The District agrees to use reasonable efforts 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.
 - d. By signing this Agreement, the Authority agrees to assume all liabilities and to be bound by all terms of the District Borrowings in the same manner as the District is bound immediately prior to the transfer and assignment of the specific borrowing.
5. Assignment and Assumption of Other Contracts.
- a. 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.
 - b. By signing this Agreement, the Authority accepts all rights, agrees to assume all liabilities, and agrees to be bound by all terms of the District's contracts in the same manner as the District is benefited or bound immediately prior to the transfer and assignment of the specific contract.
6. Assignment of Regulatory Permits.
- a. 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.
 - b. The District agrees to use reasonable efforts to obtain any written consent from a regulator necessary to perfect a transfer and assignment of the District's regulatory permits.
 - c. By signing this Agreement, the Authority accepts all rights, agrees to assume all liabilities, and agrees to be bound by all terms of the District's regulatory permits in the same manner as the District is benefited or bound immediately prior to the transfer and assignment of the specific contract.
7. Assignment Relating to Claims and Potential Claims. The District hereby assigns to the Authority, and the Authority hereby accepts, 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.

8. Assignment of Service Obligations. The District hereby assigns to the Authority, and the Authority hereby accepts, all of the District's service obligations within the District's territorial jurisdiction as it existed immediately prior to the dissolution of the District.

9. Other Transfers and Assignments. In addition to the specific assignments, transfers, and assumptions identified in this Agreement, it is the Parties' intent that this Agreement transfer and assign from the District to the Authority any and all rights and obligations of the District as they exist immediately prior to the dissolution of the District. Upon the Effective Date, the Authority agrees to accept and assume all such rights and obligations, whether or not such rights or obligations are identified in the District's Transfer Resolution or this Agreement.

10. The Effective Date of this Agreement shall be the date a duly authorized representative of the Authority executes this Agreement as evidenced by the date in the signature blocks below. The Parties acknowledge that the District is executing this Agreement prior to the Dissolution Date. It is the Parties' intent that, after the Effective Date, no further action by the District is required.

<p>Oak Lodge Water Services District</p> <p>By: <small>DocuSigned by:</small> <i>Susan Keil</i> <small>20795001E9F004FF...</small></p> <p>Name: <u>Susan Keil</u></p> <p>Title: <u>President</u></p> <p>Date: <u>9/9/2022</u></p>	<p>Oak Lodge Water Services Authority</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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OAK LODGE WATER SERVICES

ORDINANCE NO. 2022-0001

AN EMERGENCY ORDINANCE ADOPTING RULES AND REGULATIONS FOR THE OAK LODGE WATER SERVICES AUTHORITY

WHEREAS, the Oak Lodge Water Services Authority (the “Authority”) was formed on May 5, 2022, by order of the Clackamas County Board of Commissioners; and

WHEREAS, the Authority is a joint water and sanitary authority, organized under ORS Chapter 450, with a governing body (the “Board”) that has the authority to make and enforce all necessary and proper regulations for the Authority; and

WHEREAS, the Board first convened on September 16, 2022, and finds it necessary and proper to immediately adopt rules and regulations governing the Authority so that the Authority may commence operations.

NOW, THEREFORE, THE OAK LODGE WATER SERVICES BOARD OF DIRECTORS HEREBY ORDAINS THE FOLLOWING:

Section 1. Adoption of Rules and Regulations. The Rules and Regulations dated January 15, 2021, attached hereto as **Exhibit A** and incorporated herein by this reference, are hereby adopted and shall govern the Authority for all matters addressed therein. All references to the “Oak Lodge Water Services District” and to the “District” shall be deemed to reference the Oak Lodge Water Services Authority and the Authority.

Section 2. Emergency Findings. The Board finds that the procedure of ORS 198.550(3) have been met and that immediate action of the Board is required because: (i) the Authority has been formed; (ii) the initial Board has been established; (iii) the Authority is required to, and prepared to, assume the duties and service obligations of the Oak Lodge Water Services District; and (iv) the Rules and Regulations are required to be in place so that the Authority may commence operations and facilitate a smooth transition without interrupted service to customers.

Section 3. Effective Date. This Ordinance shall take effect immediately upon adoption.

INTRODUCED, READ, AND ADOPTED THIS 16th DAY OF SEPTEMBER 2022.

OAK LODGE WATER SERVICES

By _____ By _____
NAME, President NAME, Secretary/Vice President

EXHIBIT A
RULES AND REGULATIONS

Oak Lodge Water Services District
Rules and Regulations
April 15, 2022

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PREFACE

The Oak Lodge Water Services District (OLWSD or District) is a municipal corporation organized and operating under Oregon Revised Statutes Chapters 198, 264, and 450. The purpose of OLWSD is to supply Users in the District with sanitary sewage conveyance and treatment, watershed protection/surface water quality management, and domestic water supply. OLWSD also supplies, or can supply, water and sanitary sewer services to Users outside the District by agreement with municipalities, special districts, and private entities.

OLWSD is governed by the authority provided under state law and vested in a board of five directors residing within OLWSD's boundaries and elected by voters. The Board of Directors holds regular monthly meetings, which are open to the public.

No provision of these Rules and Regulations is intended to limit or alter any power granted to the District by state law, and this document should be interpreted to allow the District to exercise that authority to its fullest extent. At the time of adoption, these District Rules and Regulations contain references to other Local, State, and Federal regulations or documents. In the event changes to those regulations or documents necessitate a change to these District Rules and Regulations, the District will amend this document.

DEFINITIONS

The following words and phrases appearing in these Rules and Regulations shall have the meaning set forth in these Definitions unless the context determines otherwise. Defined words and phrases may or may not appear as capitalized terms. Other words and phrases may be defined in specific sections of the Rules and Regulations.

Accessory Dwelling Unit (ADU) means a secondary, subordinate dwelling unit as defined by Clackamas County or the Oregon State Building Code, whichever is prevailing. OLWSD defers to Clackamas County the determination of a structure or space to be an ADU.

Attorney means the attorney engaged by OLWSD to provide legal counsel.

Authorized or Duly Authorized Representative of the User means:

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager: is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions are taken to gather complete and accurate information for individual wastewater discharge permit requirements; and has authority to sign

documents as assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the District.

Best Management Practices (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices.

Board means the Board of Directors for the District, acting as the governing body for OLWSD.

Chemical Oxygen Demand (COD) means the total measurement of all chemicals in the water that can be oxidized.

Clean Water Act (CWA or the Act) means the Federal Water Pollution Control Act, also known as the Clean Water Act.

Compliance means meeting the requirements, standards, and other obligations provided for in the District's Rules and Regulations, permits, contracts, orders, or other authorities.

Confidential Information means information and data on a discharger including products used, industrial processes, or methods of production which the discharger can demonstrate, to the satisfaction of the General Manager, constitute trade secrets. Effluent constituents and characteristics shall not be considered confidential information.

Connection means the sections of any service line located on private property extending continuously to the Main and capable of conveying water, sewage, or stormwater.

Customer means the Owner or User receiving service from the District, as applicable.

Connection Charges means the current service installation charge and meter installation charge as adopted by the Board.

Day, unless stated otherwise in these Rules and Regulations, means a calendar day.

Development means any human induced change to improved or unimproved real estate including, but not limited to: construction; installation; expansion of a building site or other structure; land division; drilling; or site alteration such as that due to land surface mining, dredging, clearing, grading, excavation, filling, construction of earthen berms, paving, or improvements for use as parking or storage.

Disruption means a deleterious impact on the structure, function, operation, or maintenance of the Publicly Owned Treatment Works (including an increase in maintenance requirements or a risk of harm to persons) or on the ability to beneficially reuse biosolids, recycled water, or any product produced by the Publicly Owned Treatment Works caused by a discharge either alone or in combination with other discharges.

District means the Oak Lodge Water Services District, or OLWSD.

District Engineer means the lead Engineer for the District, acting either directly or through authorized representatives. The District Engineer is a registered professional engineer licensed to practice in the State of Oregon.

District Standards means the District's Design and Construction Standards, as may be amended from time to time.

Documented Violation means any violation that the District or other government agency verified through observation, investigation, or data collection.

Easement means a property interest granting the right to use a defined area of property for a specific purpose or purposes as set forth in the instrument granting the easement.

Enforcement means any documented action taken to address a violation of these Rules and Regulations or any other applicable law.

Fats, Oils and Grease (FOG) means any substance that turns or may turn viscous or solidify with a change in temperature or other conditions.

Federal Categorical Pretreatment Standards means any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with General Pretreatment Regulations for Existing and New Sources of Pollution of the Clean Water Act that applies to a specific category of industrial discharger.

Fire Service Line includes, but is not limited to, valves, backflow prevention assemblies, special water meters, pipes, and other devices installed solely for service to the standby connection dedicated for fire service only. The Fire Service Line shall be owned and maintained by the owner.

Flagrant means any documented violation where the respondent had actual knowledge of the law, standard, or other legal requirement and consciously took or omitted to take an action that resulted in the violation without regard to the consequences of such act or failure to act.

Food Service Establishment (FSE) means facilities maintained, used, or operated for storing, preparing, serving, manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members, residents, students, or employees, and that has any process or device that uses or produces FOG, grease, vapors, steam, fumes, smoke, or odors.

Formal Enforcement means an administrative action signed by the General Manager that is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame, and states consequences for

continued non-compliance.

Garbage means solid waste from the preparation, cooking, and dispensing of food; the handling, storage, and sale of produce; and from the packaging and canning of food. This definition also includes the disposal of pharmaceutical products.

General Manager means the District General Manager or designee.

Grease Interceptor means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oil, and greases (FOG) from a wastewater discharge.

Indirect Discharge or Discharge means the introduction of pollutants into the Publicly Owned Treatment Works from any non-domestic source regulated under the Act. The discharge into the Publicly Owned Treatment Works is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances.

Industrial Wastes means any liquid, gaseous, or water born wastes or combination thereof resulting from any process of business, industry, manufacturing, trade, or recovery of any natural resources, except garbage.

Inspector means the authorized representative of the District Engineer whose authority, instructions, and decisions shall be limited to the duties and responsibilities entrusted to them in making detailed inspections of any or all portions of the permitted or contracted work or materials.

Intentional means any documented violation where the respondent voluntarily took or omitted to take an action and knew or should have known that taking or omitting to take an action would be a Violation.

Interference means a discharge that, alone or in conjunction with the discharge or discharges from other sources, inhibits or disrupts the Publicly Owned Treatment Works, its treatment processes or operations, or its sludge processes, use, or disposal and therefore is a cause of either a violation of the District's NPDES permit or the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Main means the pipe in the street, alley, right-of-way, or easement, if the pipe is owned and maintained by the District.

Magnitude of Violation means the extent of a violator's deviation from the District's statutes, rules, permits, or orders considering such factors as, but not limited to, pollutant or concentration, turbidity, volume, duration, toxicity, or proximity to human or environmental receptors. Deviations shall be classified as major, moderate, or minor.

Mean High Water Line means the jurisdictional limit of the Corps of Engineers under the Rivers and Harbors Act.

Non-Contact Cooling Water means water discharged from any system of heat transfer, condensation, air conditioning, refrigeration, or other sources to which no pollutant is added other than heat.

Notice means a written communication delivered, by hand or by mail, to the authorized individual, member of the firm, or officer of the corporation for which it is intended. If delivered or sent by mail, Notice shall be addressed to the last known business address of the individual, firm, or corporation. In the case of a contract with two or more persons, firms, or corporations, Notice to one shall be deemed Notice to all.

Ordinary High-Water Mark is as defined in the Shoreline Management Act (SMA) and means a biological vegetation mark that can be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years.

Owner means the fee title owner of the property that receives services from the District.

Parcel means a tax lot, or multiple adjacent tax lots under identical ownership, to which the District may provide sewer or water service.

Pass Through means a discharge that exits the Publicly Owned Treatment Works without benefit of treatment or with inadequate treatment.

Permit means any authorization required pursuant to this or any other regulation of the District for connection and/or discharge to the sanitary sewer system.

Permittee means any individual, partnership, firm, association, corporation, or public agency applying for or receiving a permit.

Plans means construction plans, including system plans, water plans, sewer plans and profiles, cross section, detailed drawings, originals, or reproductions approved or to be approved by the District that show the location, character, dimensions, and details for the work to be done.

Premises means any building, structure, improvement, or parcel that may now, or at some time, receive water or sewer service from the District.

Pretreatment means the application of physical, chemical, and/or biological processes to reduce the amount of pollutants and/or alter the nature of the pollutant properties in wastewater prior to discharging such wastewater into the public sanitary sewer system.

Pretreatment Requirements means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standard means prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

Prior Significant Action means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment of a civil penalty.

Prohibited Discharges means that no person shall discharge or cause to be discharged, in any manner into the public sanitary sewer system any material, substances, or wastes listed under the General Discharge Prohibitions section of these Rules and Regulations.

Public Sewer means a sewer owned and operated by the District, or other local public agency, which is tributary to the District's sewer facilities.

Publicly Owned Treatment Works or POTW means a treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), that is owned by the District. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, that convey wastewater to a treatment plant.

Right-of-Way means a publicly-owned easement for utilities and to which the District has an established right to access.

Rates, Fees, and Other Charges means the current rates, fees, and charges, including permit fees, and system development charges as adopted by the Board.

Receiving Waters or Receiving Stream means the natural water course or body of water to which the District's wastewater treatment plant discharges.

Reimbursement Fee means the cost associated with capital improvements constructed or under construction on the effective date of these Rules and Regulations.

Respondent means the person to whom a formal enforcement action is issued.

Rules and Regulations means these Rules and Regulations as adopted by Ordinance by the Board.

Sanitary Sewer Lateral means the portion of pipe connecting private property structures to the main sewer system. The District accepts ownership of the lateral in the right-of-way.

Sanitary Sewer Overflow (SSO) means the discharge of partially treated or untreated sewage to waters of the state.

Service Charge means the periodic charges levied on all Users of the District's water and sewerage systems for operation and maintenance of the system and debt service as established by the District.

Service Class means groups of Users based on the type of sanitary sewer usage.

Service Connection (Sewer) means (for purposes of determining fees), a service connection is established when the side sewer lateral crosses from public property (right-of-way) into private property.

Service Connection Point (Sewer) means the point of connection between the Building Sewer and Sewer Lateral.

Service Line (Water) means the pipe and any associated fittings from the water main to, and including the meter, the meter box.

Sewage means the liquid and waterborne wastes derived from ordinary living processes free from industrial wastes and of such character as to permit satisfactory disposal without special treatment into the District sewerage system.

Sewer Lateral means the portions of the public sewer line that have the primary purpose of serving adjacent property. The sewer laterals are located within public rights-of-way, or within private easements where the District has expressly accepted ownership of the lateral, and connect sewer between the private property line or the boundary of an easement and the receiving line.

Significant Industrial User means:

1. A User subject to categorical pretreatment standards; or
2. A User that:
 - a. Discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process wastewater to the Publicly Owned Treatment Works (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the Publicly Owned Treatment Works treatment plant; or
 - c. Is designated as such by the District on the basis that it has a reasonable potential for adversely affecting the Publicly Owned Treatment Works' operation or for violating any pretreatment standard or requirement.
3. Upon a finding that a User meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the Publicly Owned Treatment Works' operation or for violating any applicable pretreatment standard or requirement, the District may, at any time, on its own initiative or in response to a petition received from a User and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a significant industrial User.
4. The District may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The Industrial User, prior to the District's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (b) The Industrial User annually submits the required certification statement, together with any additional information necessary to support the certification statement;

and

(c) The Industrial User never discharges any untreated concentrated wastewater.

Sludge means any solid, semi-solid, or liquid decant, subnate, or supernate from a manufacturing process, utility service, or pretreatment facility.

Slug Load or Slug Discharge means any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards as defined in these Rules and Regulations. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge that has a reasonable potential to cause Interference or Pass Through or in any other way violate the Publicly Owned Treatment Works' regulations, Local Limits, or Permit conditions.

Suspended Solids means solids that either float on the surface or are in suspension in liquids and which are removable by laboratory filtering in accordance with procedures set forth in the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

System means all or any part of the water, sewer, or stormwater system owned by the District, including without limitation all service lines, meters, structures, facilities, and appurtenances.

Systematic means any documented violation that occurs on a regular basis.

Systems Development Charge (SDC) means a reimbursement fee assessed or collected at the time of connection to the water or sanitary sewer system. It shall also include that portion of a water or sanitary sewer connection charge that is greater than the amount necessary to reimburse the District for its average cost of inspecting and installing connections with the water and sanitary sewer system. Systems Development Charge does not include:

1. Any fees assessed or collected as part of a local improvement district;
2. Any charges in lieu of a local improvement district or assessment; or
3. The cost of complying with requirements or conditions imposed upon a land use decision.

Trunk Sewer means any public sewer sized and located to serve general topographical areas and lateral sewers (normally twelve (12) inches in diameter or larger). Trunk sewers are located within public rights-of-way or located within private easements where the District has expressly accepted ownership of the Trunk Sewer.

User means any person or entity who receives or contributes flow to or from the publicly maintained system.

User's System means those parts of the facilities beyond the termination of the District's system that are utilized in conveying water to the point of use, including the Customer service line and fire service line, and/or the building sewer lateral from the point of use to the service connection point at the property line.

Utility means tracks, overhead or underground wires, pipelines, conduits, ducts, or structures owned, operated, or maintained in or across a ROW or easement.

Vault means an enclosure used to protect meters, valves, or similar devices.

Violation means a transgression of any federal, state, or District rule, regulation, permit, order, or other authority or any part thereof and includes both acts and omissions. Violations shall be classified as Class I, Class II, or Class III.

Waste means sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

Wastewater means the liquid and water-carried wastes of the community and all constituents thereof, whether treated or untreated, discharged into or permitted to enter a public sewer.

Water Billing Unit means 100 cubic feet (CCF) of water, which is equal to 748 gallons.

Water Meter means a device for recording the quantity of water to a water service.

Winter Average Period means the period beginning October 15 and ending March 15th or the water meter reading cycle dates of the User's potable water service most nearly corresponding to the October 15th through March 15th time period.

ABBREVIATIONS

The following abbreviations are presented for the convenience of the reader:

<u>ASPP</u>	Accidental Spill Prevention Plan
<u>ADU</u>	Accessory Dwelling Unit
<u>BMP</u>	Best Management Practice
<u>BOD</u>	Biochemical Oxygen Demand
<u>BP</u>	Base Penalty
<u>CCSD#1</u>	Clackamas County Service District #1
<u>CFR</u>	Code of Federal Regulations
<u>DSL</u>	Oregon Department of State Lands
<u>EDU</u>	Equivalent Dwelling Unit
<u>EPA</u>	U.S. Environmental Protection Agency
<u>FOG</u>	Fats, Oils, and Greases
<u>FSE</u>	Food Service Establishment
<u>GIS</u>	Geographic Information System
<u>GRD</u>	Grease Removal Device
<u>l</u>	liter
<u>LEL</u>	Lower Explosive Limit
<u>MAO</u>	Memorandum of Agreement and Order
<u>mg</u>	milligrams
<u>mg/l</u>	milligrams per liter
<u>NON</u>	Notice of Non-compliance
<u>NOV</u>	Notice of Violation
<u>NPDES</u>	National Pollutant Discharge Elimination System
<u>OLWSD</u>	Oak Lodge Water Services District
<u>OPSC</u>	Oregon Plumbing Specialty Code
<u>O&M</u>	Operation and Maintenance
<u>PFU</u>	Plumbing Fixture Unit
<u>POTW</u>	Publicly Owned Treatment Works
<u>SIC</u>	Standard Industrial Classifications
<u>SIU</u>	Significant Industrial User
<u>SSO</u>	Sanitary Sewer Service Overflow
<u>TSS</u>	Total Suspended Solids
<u>USACE</u>	United States Army Corps of Engineers
<u>USC</u>	United States Code

§ 1 OVERVIEW

- § 1.1 Purpose. These rules and regulations establish the conditions by which the District will conduct its business and operations and how Customers may receive service.
- § 1.2 District Ownership.
- § 1.2.1 The District owns the District's Systems unless otherwise agreed to in writing.
 - § 1.2.2 No person other than those authorized by the District shall construct, maintain, operate, repair, or alter the District's System. No person other than those authorized by the District shall make a service connection or disconnect an existing service connection.
 - § 1.2.3 At all times, Customers shall provide the District with safe, reasonable, and efficient access to the District's System.
 - § 1.2.4 None of the properties of the District may be disposed of without approval of the Board.
- § 1.3 Statutory Authority. The District has the authority under ORS Chapters 264 and 450 to make and enforce necessary regulations within District's boundaries. The District exercises this authority through its governing body, the Board of Directors of the District. The Board will act at its discretion and in a manner consistent with the intent and purposes of ORS Chapters 264 and 450 and any other applicable law.
- § 1.4 Delegation and Administration. The Board delegates to the General Manager all duties necessary for the day-to-day operation of the District. The General Manager shall be the administrator of these Rules and Regulations.
- § 1.5 Jurisdiction. The District maintains jurisdiction of all activities associated with the System, surface water quality, and watershed protection. The System is operated only by authorized employees and agents of the District.
- § 1.6 Facilities Owned by Others. Clackamas County Department of Transportation and Development (CCDTD), Oregon Department of Transportation (ODOT), and other public and private entities own surface water conveyance facilities within the District's jurisdictional boundary. Unless otherwise agreed by the District, the District does not control or maintain these facilities associated with private roads, county roads, and state highways.
- § 1.7 Use of Water. The District will, as far as reasonable and practicable, and within its financial means, provide adequate sources of water supply, including necessary and primary feeder mains, storage facilities, and other improvements, to make water service generally available to all areas within the District. The Board may prescribe limitations on the use of water as to hours, purpose, or manner from time to time. The resale of

water purchased from the District by a Customer will be permitted only by special written contract with the District specifying the appropriate conditions therefore. The District will not be obligated to furnish or install system facilities for all properties within the District.

§ 2 CONTRACT FOR SERVICE

- § 2.1 Contract for Service. By applying for or receiving any service from the District, an Owner or User is entering a contract for such services and agrees to comply with these Rules and Regulations.
- § 2.2 Connection to The Water and Sanitary Sewer System. Any connection to the water, sanitary sewer, or storm sewer system must be requested by the Owner, at Owner's expense, to connect directly with the proper public utility in accordance with the provisions of these Rules and Regulations. Such request shall be made through a complete application to connect to the water, sanitary, or storm sewer system. A completed application results in a permit upon payment of all fees and submittal of all required documents. No person may materially increase the flow, the strength, or the character of the sewage or stormwater, or add any fixtures not covered by the original application, without first obtaining a permit from OLWSD and paying all required fees and charges as may be fixed by the Board.
- § 2.3 Individual Contracts. Whenever the applicant or User's requirements for service are unusual, large, or subject to great fluctuation or variation, the District may require a special contract, and may require reasonable security satisfactory to the District, sufficient to protect the District against loss and to guarantee performance under the terms thereof. Water for swimming pools, tanks, reservoirs, and like facilities will be considered under this section and will be dependent upon sufficient water supply and service for normal residential use. All special contracts will be in writing, signed by the Owner or User and the District.
- § 2.4 Changes to Rules and Regulations. All District rules, regulations, rates, and charges are subject to change or modification by the Board and will be adopted by ordinance.
- § 2.5 Responsibility of the District.
- § 2.5.1 The District will maintain and repair, to the extent practical and reasonable, all parts of the Systems.
 - § 2.5.2 The District will not be liable for any damages or injuries caused by termination or interruption of service, reduction of water supply, variations in water pressure, or quality of water. Owners and Users are encouraged to prevent damage to their personal water system in the event of service interruptions or pressure changes within the System, including by equipping personal water systems with backflow prevention devices or assemblies and pressure regulators.

§ 2.5.3 Leakage within premises and related damages.

§ 2.5.4 The District will not be liable for any damage or injury caused by leaking or the running of water or sewage on the premises from pipelines, plumbing fixtures, open faucets, valves, fixtures, or hoses located beyond the right-of-way or service meters (typically found at the edge of the right-of-way).

§ 2.5.4.1 An exception to this rule may exist if it can be proven that the District caused sewage to be pushed into the private sewer lateral as a result of regular maintenance.

§ 2.5.5 The District will not be liable for any damage or injury caused by the malfunction, improper maintenance, or improper installation of a User's system.

§ 2.5.5.1 Water service to any premises known or found to have such defects and hazards will be disconnected and not restored until such defects and hazards have been eliminated.

§ 2.5.6 No person other than an employee of the District may operate any District-owned equipment or infrastructure.

§ 2.6 Responsibility of Owner or User.

§ 2.6.1 The Owner or User is responsible for compliance with all local, state, and federal laws and requirements related to maintenance of their property and plumbing system.

§ 2.6.2 Owners and Users must comply with all applicable local regulations, state plumbing code, and Oregon Health Authority regulations regarding the installation, testing, and inspection of backflow devices, backflow assemblies, and pressure regulators on their personal water systems.

§ 2.6.3 The Owner or User is responsible for all damage or injury resulting from the failure to properly construct, maintain, repair, or correct conditions in the Owner's or User's system.

§ 2.6.4 The Owner shall be liable for any damage to the System that is caused by an act of the User, their tenants, agents, employees, contractors, licensees, or permittees. The Owner may be fined and/or have service terminated in response to such damage.

§ 2.7 District Operation of System. Only the District may operate, modify, or alter the District's Systems. Violators shall be responsible for any damage or adverse effects.

§ 2.8 Inspection. The District, through its authorized employees, shall have the right, at reasonable times and upon presentation of proper credentials, to enter any premises to ensure compliance with these Rules and Regulations, investigate complaints, or perform

any other duty required by law.

- § 2.9 Water Supply. The Board has the right in cases of inadequate water supply to determine how water from the system may be used and may establish regulations limiting water use. The Board may give preference to those uses determined to be in the best interests of the public health, well-being, or necessity, or provided by law, and will give highest priority to household use, not including irrigation of lawns or fields.

§ 3 RATES, FEES AND OTHER CHARGES

- § 3.1 Establishment of Rates and Fees. The District shall establish Rates, Fees, and other Charges (Fee Schedule) for use of water, sanitary sewer services, watershed protection, permitting, property, and other services of the District by Resolution. A copy of the Fee Schedule shall be found on the District's Website and on file in the District office for examination by the public during business hours. The Fee Schedule of the District presently in effect, as of the date of the adoption of these revised Rules and Regulations, will remain in full force and effect until revised by the District.

- § 3.2 Water Rates, Fees and Other Charges.

§ 3.2.1 Fee Schedule.

§ 3.2.1.1 The District's Fee Schedule for water furnished and services rendered will apply within and without the District. The Fee Schedule will be reviewed and amended from time to time as required. Rates charged may be fixed and classified according to the type of use and according to the amount of water used.

§ 3.2.1.2 The Fee Schedule will include charges for the installation of service pipe and meters from the water Main to the property line and various other materials furnished by the District for such projects.

§ 3.2.1.3 In the event a particular service is not specified in the Fee Schedule, a rate may be established upon request by the District Board.

§ 3.2.2 System Development Charge (SDC) For Water Connection.

§ 3.2.2.1 The District will impose an SDC for water system connections associated with new or increased development. The SDC shall apply to each application for a new meter and shall be due and payable at the time of application. The SDC imposed is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development, including other SDCs charged by the District.

- § 3.2.2.2 The SDC is a charge for service to be rendered or a service hookup charge and shall be established by the Board through a duly adopted resolution. The General Manager shall not allow connection for increased usage of the system until the SDC has been paid in full. Installment payments of SDC fees may be arranged pursuant to Section 3.9 of these Rules and Regulations.
- § 3.2.2.3 The existing system development charge reimbursement fees in effect upon adoption of these revised Rules and Regulations will remain in effect but may be modified by District resolution following public hearing.

§ 3.3 Sanitary Sewer Rates, Fees, And Other Charges.

§ 3.3.1 Charges for the discharge or availability for discharge of sewage into the sanitary sewer system shall be established annually and shall include: (i) a base rate fixed charge for each calendar month, for each unit; and (ii) a consumption-based variable charge for each one hundred (100) cubic feet of water consumption as measured during the previous winter average period. The measured water consumption for the previous winter average period shall form the basis for calculating the monthly sanitary sewer bill for each account for the succeeding twelve (12) month period beginning on July 1. Said calculation shall be performed annually to determine sanitary sewer service charge rates for each account.

§ 3.3.2 System Development Charge (SDC) For Sewer Connection.

- § 3.3.2.1 The District will impose an SDC for sanitary sewer system connections associated with new or increased development. There will be one SDC for each EDU as defined in Section 3.6 and Table 3.6. These charges shall be due and payable at the time of permit issuance for the increased improvements or new development, at the time of connection, at the time of any change of service that requires an SDC, or as otherwise required by law. The SDC imposed is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development.
- § 3.3.2.2 The SDC is a charge for service to be rendered or a service hookup charge and shall be established by the Board of Directors through a duly adopted resolution. The General Manager shall not issue a permit or allow connection for increased usage of the system until the SDC has been paid

in full, unless otherwise allowed by law pursuant to Section 3.3.2.1. Installment payments of SDC fees may be arranged pursuant to Section 3.9 of these Rules and Regulations.

§ 3.4 Sanitary Sewer Change of Class of Service. When a parcel that is connected to the District's sanitary sewer system undergoes development or redevelopment that changes the number of equivalent dwelling units (EDUs), the following shall occur:

§ 3.4.1 If the change results in a greater number of EDUs, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDUs times the current system development charge by EDU.

§ 3.4.2 If the change results in fewer EDUs pursuant to Table 3.6, there shall be no additional charge and no rebate. Any previously issued EDUs not being used or billed by the new Class of Service shall be automatically released to the public sanitary sewer system capacity. The property or account will be billed at the reduced number of EDUs to determine the base rate service charges. The Customer has the option to retain any number of the unused EDUs. All unused EDUs are billed pursuant to these Rules and Regulations. Only EDUs purchased through respective System Development Charges may be retained.

§ 3.5 Unoccupied Structures or Units. The District may charge for services for unoccupied structures or units according to these Rules and Regulations. Connection to the sanitary sewer system is a continuing request for service by the Owner or User, therefore charges will cease only when water service is discontinued or the property's sanitary sewer is physically disconnected from the System in accordance with these Rules and Regulations. Watershed protection management fees may continue to be billed regardless of the status of water service or condition of the sanitary sewer connection.

§ 3.6 Equivalent Dwelling Unit (EDU) Count Methodology. The District determines EDU counts using one of the two methods described below:

§ 3.6.1 Dwelling Unit Method: This method determines the EDU count based on the number of dwelling units proposed in the development.

§ 3.6.2 Plumbing Fixture Unit Method: This method determines the EDU count by dividing the number of plumbing fixture units (PFU) by the occupancy equivalency factor proposed in the development. EDUs will always be rounded up to the nearest whole number.

§ 3.6.2.1 Fixture Types. PFUs for given plumbing fixture types will be as shown in the Oregon Plumbing Specialty Code at the time of the permit application. PFU's are categorized generally in the Oregon Plumbing Specialty Code and are

consolidated into the Table below:

Fixture Type	Equivalency	Factor
Bathroom or combination bath/shower	4.0	
Clothes Washer	4.0	
Dental unit or cuspidor	1.0	
Dishwasher	1.5	
Drinking Fountain or water cooler (per head)	0.5	
Shower, Per Head	2.0	
Lavatory	2.0	1.0
Sink, bar		1.0
Sink, clinical Flushometer		8.0
Kitchen Sink, domestic		1.5
Laundry Sink		1.5
Service or Mop Basin		3.0
Wash each set of faucets		2.0
Urinal		2.0
Water closet low flow (<1.6 GPF), private		2.5
Water closet standard (>1.6 GPF), private		3.0
Other (use PFU values from Oregon Plumbing Specialty Code)		1.0-4.0

§ 3.6.2.2 Fixture Equivalencies for Use Classes. Conversion ratios are set by the District and reflect a City of Portland assessment of sanitary water usage per PFU, by business type.

Occupancy	Number of PFU's per EDU
Fire Station	16.0
Automotive Retailers	16.0
Repair Services	16.0
Education/Cultural	16.0
Churches/Clubs/Organizations	16.0
Rental/Storage Services	16.0
Construction Trade Services	16.0
Retail Sales & Businesses without food service	12.0
Public Use Facilities	12.0
Food Service	12.0
Beauty and Barber Salons	12.0
Clothing and Dry Good Stores	12.0
Warehouses Used for Storage	12.0
Commercial Kitchen, Catering, Cafeteria	7.0
Food Service, Fast Food	7.0

§ 3.6.2.3 Mixed Use. For mixed residential/nonresidential uses, the

EDUs will be determined by applying 1 EDU per dwelling unit for the residential portion and according to fixture counts for the nonresidential portion.

§ 3.6.3 The District may, at its discretion, make the determination as to which method shall be used to determine the EDU Count for non-residential uses.

§ 3.6.4 Table 3.6 further describes the methodology for EDU Counts for the purposes of determining SDC's and monthly service charges.

TABLE 3.6 (Service Type Charge Equivalency)

Use I.D.	Type of Service	System Development Charge Equivalency	Monthly Sewer Service Charge Equivalency
1	Single Family Dwelling	1	1
2	Recreation Vehicle Hookup	1	1
3	Accessory Dwelling Unit	1	1
4	Multi Family Dwelling	1 per dwelling unit	1 per dwelling unit
5	Mobile Home Parks	1 per mobile home space	1 per mobile home space
6	Group Homes, Adult Care & Residential Care Facilities	1 per every 3-person capacity*	1 per every 3-person capacity*
7	Day Care Facilities	1 per 10-person capacity*	1 per every 10-person capacity*
8	Motels	1 per motel unit	1 per motel unit
9	Elementary Schools	1 per 32.5 students*	1 per 32.5 students*
10	High Schools/ Junior High Schools	1 per 12.5 students*	1 per 12.5 students*
11	Hospitals	1 per 2.5 beds*	1 per 2.5 beds*
12	Churches	1 unit	1 unit
13	Offices	1 per 1500 square feet*	1 per 1500 square feet*
14	Gas Station	2	2
15	Auto or Equipment Repair	1	1
16	Restaurants, Taverns and Bars	1 per 10 seating spaces*	1 per 10 seating spaces*
17	Temporary Dwellings**	1	1
18	Laundry Facilities	1 per washing machine	1 per washing machine
19	Beauty Shops, Hair Salons 1 unit per 4 shampoo bowls	1 per 4 shampoo bowls*	1 per 4 shampoo bowls*
20	Commercial, Industrial, and all other buildings and establishments	See Section 3.6	

*	Fractions will be rounded up to the nearest whole number of SDCs and monthly billing units. Example: 5 shampoo bowls equals 2 SDC payments and 2 units of billing each month.
**	Temporary dwellings shall pay the regular connection charge at the time of connection to the system. If the temporary structure is disconnected prior to the expiration of the permit's three (3)-year term, a prorated refund based on the number of months remaining in the three-year term, less inspection fees, will be granted upon request. Such request must be made within ninety (90) days of disconnection.

§ 3.7 Watershed Protection Rates, Fees and Other Charges. A monthly watershed protection and management charge shall be paid by the Customer, calculated as follows:

§ 3.7.1 Monthly charges are based on the size and location of a Customer's site, as follows:

§ 3.7.1.1 An Equivalent Service Unit (ESU) is used as the base unit of measure in the District's rate structure. An ESU is currently 2,500 square feet, which represents the average amount of impervious surface on a single-family residence site within the District Boundary. The number of ESUs for a site are calculated by dividing the total impervious area on the site by 2,500 square feet. Single-family residential Customers are presumed to have one ESU.

§ 3.7.1.2 Each site's ESUs are multiplied by the watershed protection management service area charge listed in the Fee Schedule to determine the monthly fee for watershed protection.

§ 3.7.1.3 The service area charges are set annually in the Fee Schedule based on revenue requirements needed to meet planned workloads.

§ 3.7.2 Watershed Protection Facility Maintenance Surcharge. The District may add a surcharge to the monthly watershed protection charge for Customers who operate and maintain private detention of water quality facilities. The cost of such surcharge will be determined by the District's actual cost to provide services related to these facilities and by an equitable distribution of the cost to affected property owners. The surcharge will be established by an agreement between the District and the affected property owners, which will be a recorded deed restriction on the property.

§ 3.7.3 Watershed Protection System Development Charge. The District may, at a future date and pursuant to ORS 223.297 et seq., adopt system development charges for watershed protection to fund capital improvements such as additional system capacity and/or the installation, construction, and extension of the stormwater system. These charges shall be due and payable at the time a Customer is permitted to increase usage of the stormwater system. The SDCs are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development, including other SDCs charged by the District.

§ 3.8 Commencement of Monthly Service Charges.

§ 3.8.1 For new connections, monthly service charges shall commence on the date that water service is first provided.

§ 3.8.2 For existing connections changing water service class as described in Table 3.6, monthly service charges shall commence upon the date the District authorizes the change in service class. Charges occur regardless of occupancy, completion, or other status of the property, unless

disconnected. Charges may be pro-rated as follows:

§ 3.8.2.1 For single unit accounts the service charges may be pro-rated to the nearest one-half month in which the connection is approved.

§ 3.8.2.2 For multiple unit accounts the service charges may be pro-rated to the nearest week in which the connection is approved.

§ 3.9 Installment Payment for SDCs.

§ 3.9.1 The District may approve payment of SDCs in twenty (20) semi-annual installments secured by a lien on the property upon which the new or increased development is to occur, or to which connection is to occur, including interest on the unpaid balance.

§ 3.9.2 The District shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

§ 3.9.3 The District reserves the right to reject any application for installment payments.

§ 3.9.4 Requirements and procedures for installment payments of the SDC shall be in accordance with the following:

§ 3.9.4.1 A person requesting installment payments shall demonstrate the person's authority to allow imposition of a lien on the property and that the person's interest in the property is adequate to secure payment of the lien.

§ 3.9.4.2 Any eligible person requesting the installment plan shall at the time of the application for connection submit to the District an application for installment payments on a form provided by the District.

§ 3.9.4.3 The applicant, at the time of application and at applicant's expense, shall order and provide to the District a preliminary title report for the property that would be subject to the lien from a title insurance company doing business in Clackamas County, Oregon.

§ 3.9.4.4 The applicant, at applicant's expense, shall furnish the District with a current statement of any amount due to each lien holder disclosed by the preliminary title report, the tax assessor's statement of true cash value, and, for property proposed for improvement, information on which to base the estimated fair market value upon completion of the

proposed improvement. The applicant shall answer such questions as the District deems necessary to determine the applicant's ability to make the installment payments together with payments to any other lien holder. The applicant authorizes the District to contact other lien holders regarding applicant's payment history.

§ 3.9.4.5 The District will examine the title report for the property and other information to determine whether: (1)The total unpaid amount of all liens disclosed, together with the amount of the system development charge sought to be paid by installments, does not exceed (a) the appraised value of the property as determined by the current appraisal of the County Assessor or (b) if the District elects, based upon the appraisal or other evidence of value acceptable to the District, the amount does not exceed the estimated fair market value of the property; and (2) the District, in its discretion, upon review of the applicant's ability to make payments to the District, consents to execution of an agreement with the applicant to make the required payments.

§ 3.9.4.6 After the District is satisfied with the title report for the property, the applicant shall execute an installment promissory note, payable to the District in the form prescribed by the District for payment in installments not to exceed twenty (20) equal semi-annual installments due January 1 and July 1 of each year, together with interest on the deferred principal balance at the rate of interest established in the District's Fee Schedule. The promissory note shall be secured by a lien on the property. The cost of recording, preparation of security documents, title company report, and filing fees shall be borne by the applicant in addition to the connection charge. The applicant, by electing to pay in installments, agrees that as an additional remedy to recovery upon the promissory note and foreclosure of the lien, the District may after ten (10) days' notice of delinquent installments cause termination of service to the defaulting property.

§ 3.9.5 If the District determines that the amount of SDC, together with all unpaid liens, exceeds the appraised value of the property or that the applicant cannot execute a promissory note enforceable by a valid lien, or if the District determines that it will not have adequate security or that the

applicant cannot make the required payments, the District shall so advise the applicant and installment payments shall not be accepted.

§ 3.9.6 The District shall docket the lien in the lien docket. From that time, the District shall have a lien upon the described property for the amount of the SDC, together with interest on the unpaid balance at the rate established by the District. The lien shall be enforceable in the manner provided in ORS Chapter 223 and shall be superior to all other liens pursuant to ORS 223.230.

§ 4 BILLING, PAYMENT & TERMINATION

- § 4.1 Due Date; Delinquent Accounts. All charges for water and sewer services and watershed protection will be due and payable on the date of billing or as specified herein and become delinquent if unpaid as of the 15th of the billing month. Water and sewer services may be discontinued when a billing delinquency exists according to Oregon law and these Rules and Regulations. All delinquent payments will be charged a monthly fee, established in the Rate Schedule, from the date of delinquency until paid.
- § 4.2 Payments. All payments shall be made to the Oak Lodge Water Services District by automatic electronic payment, check, or credit/debit card delivered by mail, in person at the office of the District, or at other places the Board may designate.
- § 4.3 Account Setup. All accounts and/or requests for services are established and maintained in the name of the Owner. The District shall be entitled to collect information from the Owner sufficient to identify the individual or individuals who will be named on an account, including, but not limited to, driver license information, social security number, date of birth, and contact information. District shall keep such information solely for District purposes, including collections of delinquent accounts, and shall not disclose such information to the extent it is protected from disclosure by law.
- § 4.4 Property Owner Responsible. Connection to the water system and/or sanitary sewer system is a continuing request for service by the Owner, and the Owner is responsible for payment of all charges. The District will not recognize any attempt to transfer responsibility.
- § 4.5 Billing Address. Billing statements are mailed to the Owner, with a courtesy copy mailed to the service location if the Owner does not reside at the service address. If the Owner does not provide the District with an address for mailing of bills, the District may use the mailing address for tax statements shown on the records of the County Assessor and/or County Tax Collector.
- § 4.6 Notices for Non-Owner-Occupied Properties. The District will make all reasonable efforts to provide the property owner and User (landlord and tenant) with copies of all invoices, notices, and other information relating to fees and charges. This policy is intended to comply with ORS 91.255 and to provide notices to enable the landlord and

tenant a reasonable opportunity within the time set by the District to avoid delinquent charges and discontinuance of service.

§ 4.7 Collection of Charges.

§ 4.7.1 All District invoices or bills for fees and charges shall be sent to the Owner at the address in the District's records.

§ 4.7.2 The District may enter into a payment plan in its sole discretion to avoid hardship to the User if there is a dispute between landlord and tenant regarding the District's fees and charges.

§ 4.7.3 The District may deny or terminate service to a delinquent Owner at a new service location within the District based upon the outstanding fees and charges at a previous service location.

§ 4.7.4 The General Manager may enter into agreements regarding payment of delinquent fees and charges as are reasonable and necessary to obtain payment to the District and avoid hardship and inequities.

§ 4.7.5 Failure to make payment when due shall give the District the right to undertake such collection action as it deems appropriate under the circumstances including, but not limited to, letters, telephone calls (reasonable as to time and place), and legal proceedings.

§ 4.8 Termination of Water Service by the District.

§ 4.8.1 Water service shall be subject to termination upon the occurrence of:

§ 4.8.1.1 Non-payment of charges established within the District's Fee Schedule;

§ 4.8.1.2 Non-compliance with these Rules and Regulations relating to matters other than non-payment of charges;

§ 4.8.1.3 Lack of use of water service for a period indicating intent to terminate water service; or

§ 4.8.1.4 Threat to health, safety, or welfare determined at the sole discretion of the District. Under these circumstances, termination may be immediate and without notice.

§ 4.8.2 Notice of the District's intent to terminate service shall be sufficient if given by any of the following:

§ 4.8.2.1 U.S. mail sent to the Owner's address as shown in District records and to the User at the service address, or

§ 4.8.2.2 By hand delivery of a notice to the Owner and to the User. When the notice is sent by mail, the notice shall be deemed complete upon deposit in the mail. The period for

compliance shall be as set forth in the notice. When notice is hand delivered, the notice shall be deemed complete when delivered to the property owner's address and the period of compliance shall be as set forth in the notice.

§ 4.8.3 In all instances where a water service has been turned off because of a delinquent account or charges, the District will make a service charge for the restoration and discontinuance of water service according to the current District Fee Schedule.

§ 4.8.4 Water service that has been terminated or disconnected for lack of payment for bills due the District will not be restored until all past due bills and other charges are paid in full.

§ 4.8.5 The failure of the District to discontinue water service for any reason, including nonpayment of service charges due, will not relieve the property owner or the User from the obligation and duty to pay for all said service furnished, whether the property owner or User does, or does not, have knowledge of the delinquencies for water use or charges.

§ 4.9 Termination of Sewer Service Connection.

§ 4.9.1 Sewer service shall be subject to termination upon the occurrence of:

§ 4.9.1.1 Non-payment of charges established within the District's Fee Schedule;

§ 4.9.1.2 Non-compliance with these Rules and Regulations relating to matters other than non-payment of charges;

§ 4.9.1.3 Failure to cease discharging prohibited substances into the District sewerage system after notice from the District;

§ 4.9.1.4 Failure to install flow sampling or measuring devices after being notified by the District to do so; or

§ 4.9.1.5 Threat to health, safety, or welfare determined at the sole discretion of the District. Under these circumstances, termination may be immediate and without notice.

§ 4.9.2 The District will include the expense of such discontinuance as well as the expense of restoring service as part of the delinquent charges.

§ 4.9.3 Sanitary sewer service billing shall discontinue once the water meter is locked out by District Staff.

§ 4.9.4 Upon ten (10) days written notice, the District may undertake whatever steps are necessary to mitigate or terminate User's impact upon the District's or other public systems. The charges therefore shall be owed by Owner to the District. The notice period for this may be shortened if there

is an imminent threat to human health, the environment, or the System. Any costs incurred by the District to cease or mitigate the User's impact to the District's Systems shall be charged according to the District's Fee Schedule.

§ 4.10 Attorney Fees & Costs. In any action or suit to collect any delinquent User charges, the District shall be entitled to its reasonable attorney's fees, costs, and disbursements as may be awarded by the trial court, including any appeal.

§ 4.11 Temporary Discontinuance or Restrictions of Service.

§ 4.11.1 Temporary Discontinuance.

§ 4.11.1.1 A property owner or User may have the water and/or sewer service to the premises temporarily or indefinitely terminated by giving the District written notice as far in advance of the effective termination date as possible. Such property owner or User will, upon giving notice, pay all charges for services rendered to the date of such termination. Where water and/or sewer service has been discontinued at the request of a property owner or User, such service may be restored upon the request of that property owner or User.

§ 4.11.1.2 If, at the property owner or User's request, a service is shut off and turned on more than once in a thirty-day period, the District may charge for such services as established in the Fee Schedule.

§ 4.11.1.3 The District, in complying with a property owner's or User's request to discontinue service, will under no circumstances be responsible to the property owner or User, or any other party, for any damages resulting from such action, including civil damages.

§ 4.11.2 Restrictions on Service.

§ 4.11.2.1 If the District determines that conditions require the restriction or prohibition of use of water to protect the health, safety, or welfare of Customers, the Board shall establish a schedule of use restrictions and prohibitions. The schedule shall indicate the uses prohibited or restricted and the period or periods of prohibited and/or restricted use.

§ 4.11.2.2 Whenever the household supply of water within the District is being jeopardized by non-household use of water, the District may order the non-household use of water to be immediately discontinued. Non-household water includes

irrigation of lawns, gardens, or fields.

§ 4.12 Low Income Rate Relief.

§ 4.12.1 Charges for water and sanitary sewer service and the watershed protection charge may be reduced for Customers who qualify under the District's low-income rate relief policy. The service charge reduction shall be equivalent to one-half of the established base rate of each charge.

§ 4.12.2 Applicants for the low-income rate relief program must meet eligibility requirements established by the Board, show proof of income, and submit written applications on forms approved by the District. Eligible Customers who are approved for the low-income rate relief program must continue to meet eligibility requirements and submit written renewal applications for continued enrollment in the program.

§ 4.12.3 Financing Low Income Rate Relief. Water, sanitary, and watershed protection service charges shall be established at a level sufficient to cover revenue losses resulting from the reduced rates authorized under the low-income rate relief program. The District shall budget resources sufficient to fund the revenue losses due to the program at a rate of 0.5 percent of budgeted District rate revenues. This budgeted amount shall serve as a cap to the program's cost which will require Board of Director approval to exceed.

§ 4.13 Leak Adjustments.

§ 4.13.1 The District may issue partial credits to Owners for leaks that are repaired in a timely manner. To be eligible for a leak adjustment the Owner must repair the leak within thirty (30) days of notification. To obtain the adjustment the Owner must submit a completed "Leak Adjustment Request Application" along with receipts and/or invoices associated with the repair. Underground leaks from the back of the meter up to the foundation are eligible for adjustments. Leaking faucets, leaking toilets, sprinkler systems, or accidental over-watering are not eligible for adjustments.

§ 4.13.2 Application for a Leak Adjustment. When a Customer has a leak that qualifies for a leak adjustment, a credit is applied to the Customer's account for a portion of the excess water that was used. Oak Lodge Water Services District cannot refund the full amount of the excess water used as the District must cover the costs for the water and the costs to deliver the water to the Customer.

§ 4.13.3 Calculating a Leak Adjustment. To determine the adjustment amount, an average of water usage must be calculated. The average is calculated

using the last three (3) years water consumption for the same time period as the leak. This amount is considered the User's actual water use and the User is billed for this amount at the current retail rate. The remaining usage shall be calculated as follows:

§ 4.13.3.1 The billing shall reflect the North Clackamas County Water Commission wholesale water rate plus associated costs of delivering water to Customers.

§ 4.13.3.2 The Sanitary Sewer variable charges will be adjusted from the winter average calculation.

§ 4.14 Meter Reading and Billing. The District will read meters at regularly established intervals as determined by the District, and bills will be rendered based upon consumption to the nearest 100 cubic feet of water furnished. In the event the premises have multiple metered connections, the District will bill all meters serving the premises separately and will not combine readings unless such meters are installed in a battery at one location according to the requirements of the District. The District will provide one meter for each parcel unless otherwise specifically approved in writing by the District.

§ 4.15 Meter Accuracy and Testing. The District's meters comply with the standards established by the American Water Works Association (AWWA) Section C700.

§ 4.15.1 An Owner may request the meter be tested by making a request for such testing to the District:

§ 4.15.1.1 If the test shows the water meter registers outside the AWWA standard, the meter shall be repaired or replaced at no cost to the Owner for a new meter, parts, or labor.

§ 4.15.1.2 An adjustment of the volume (water unit) charge may be made if the meter registers in excess of the AWWA standard. Charge adjustments shall be made retroactive for a period not to exceed one year.

§ 4.15.1.3 If the test shows that the water meter registers within the AWWA standard, the Owner shall pay for the test in accordance with District's Rates, Fees, and Charges. The cost for the test shall be billed by the District and the District may charge the Owner for water delivered, not to exceed four (4) months (two billing cycles) prior to the testing.

§ 4.15.1.4 The District may audit, test, or replace the meter at any time at the District's discretion.

§ 4.15.2 If a meter cannot be read or has failed the District may prepare and submit to the owner an estimated bill based upon previous historical use.

§ 4.15.3 Owners will be liable for any damages to a meter or other equipment or to

any property owned by the District. Liability of the Owner includes, but is not limited to, breaking of seals and locks, tampering with meters, damage to meters caused by hot water or steam and damage to meter boxes, curb stops, meter stops, or other appliances or attachments. Any damage or charges incurred by the District will be collected by the District in any appropriate manner provided by law.

§ 5 PERMITS AND CONNECTIONS

- § 5.1 Permit Required. A permit or other District approval, and associated fees, is required prior to any work proposed for construction or modification of a service connection, line extension, or any other improvement. Failure to acquire permit(s) is a violation of these Rules and Regulations.
- § 5.2 Design and Construction Standards. All permitted work approved by the District shall be governed by the District's Design and Construction Standards.
- § 5.3 Outside User Service. Service to persons and property outside the boundaries of the District will be at the discretion of the Board. The District may only provide water to outside Users if it has sufficient surplus water beyond its requirements within the District boundaries and such service, if provided, may be discontinued any time if the interests and needs of the District so require. Any such service installation shall be required to meet and abide by all Rules and Regulations of the District.
- § 5.4 Utility Main Extension & Pro Rata Cost Refund. When the District requires a person to pay for extension of a Main to provide service to the person's property, and the Main extension makes service available for other property, the person paying for the Main extension is entitled to a pro rata refund of the cost of such Main extension for a period of ten years. The pro rata refund will apply after the date of the installation of, payment for, and connection to the Main extension. The amount to be refunded will be determined by the District, which determination will be final. The pro rata refund will be based upon total front footage of all property abutting on the street, road, right-of-way, or public easement within which the Main extension was made and that is benefited by the Main extension.
- § 5.5 Where the construction of a Main is required to be located on private property, or where an existing Main on private property is required to be altered, the District may condition approval of the construction or alteration of the Main or approval of the resulting service connection on the receipt by the District from the property owner of a recordable easement interest establishing the approved location of the Main, together with reasonable limits the District establishes to protect the Main once constructed.

§ 6 WATER SERVICE CONNECTIONS

- § 6.1 Individual Service Required. Each parcel must have its own water service connection and meter unless otherwise determined in writing by the District Engineer. No person

will furnish water to any premises without first obtaining written approval of the District. These connections will be governed by the specific terms and conditions of the District's authorization.

§ 6.2 Spider Connections Prohibited. The District does not permit "spider connections" that would provide service from parcel to another. The District requires each parcel to have a separate service connection.

§ 6.3 Meters.

§ 6.3.1 Meters will be set at property lines, and the service pipe from the Main to the meter, as well as the meter and the meter box, will be the property of the District and not the Owner of the premises, regardless of whether the Owner pays for the installation.

§ 6.3.2 When meters are required to be installed under circumstances that, in the District's opinion, may cause unusual installation or maintenance problems, the District will have the right to require concrete meter vaults or other devices to be installed. The cost of such vaults or other protective devices will be borne by the Owner requesting the service installation

§ 6.4 Pressure Regulation.

§ 6.4.1 As far as is reasonably possible, feasible, and economical, the District will furnish water at desirable pressures. In locations in which service pressures are higher than needed or desired by Users, a pressure regulator may be installed behind the meter box location at the owner's expense. Such installation will be made according to any applicable legal requirements and will be consistent with District regulations and policy.

§ 6.4.2 Under no circumstances will the District be responsible or liable for any equipment malfunction or other damage caused by the installation of, failure to install, or maintenance of such a device. All such installation and maintenance shall be by the Owner at the Owner's sole expense.

§ 6.4.3 The District will not be responsible for damages or difficulties experienced because of variations in pressure within the system or service interruptions.

§ 6.5 Connection to Another Water Supply. No private water supply shall be connected to the Customer's service line without written consent and approval of the General Manager.

§ 6.6 Large Service Connections. The Board may require persons requesting large service connections for fire protection or other reasons to pay for an equitable portion of the cost of Main(s) needed to supply the required flow. Each such case will be considered separately on its own merits and the circumstances. The Board may also enter into special service contracts, in which higher minimum charges are established sufficient to cover the cost of the service rendered.

§ 6.7 Service Interruption.

§ 6.7.1 From time to time, the District must interrupt water service for maintenance, replacement, or repairs of the District's system. The District will not be responsible for damages caused by such interruptions of water service or fluctuation of pressure.

§ 6.7.2 The District will, whenever feasible to do so, give Customers advance notice whenever it is known that service is to be interrupted. However, failure to give such notice will in no manner cause the District to become liable for loss or damage including, but not limited to, bursting of boilers, the breakage of any pipes or fixtures, stoppage or interruptions of water supply, or other damage resulting from the shutting off of water.

§ 6.8 Backflow and Cross Connection.

§ 6.8.1 Water service connections shall protect against backflow into the District's System as required by state law and these Rules and Regulations. Service of water may be terminated if 1) backflow prevention assemblies or backflow prevention devices required by the District are not installed, tested, inspected, and maintained as provided by these Rules and Regulations, 2) it is found that a backflow prevention assembly or backflow prevention device has been removed or bypassed, or 3) an unprotected cross-connection exists. Service will not be restored until such conditions or defects are corrected.

§ 6.8.2 The User shall provide the District access for inspection at all reasonable times to the User's system to determine if an unprotected cross-connection or violation of the District's requirements exists and that compliance requirements are met.

§ 6.8.3 Properties required to install an approved backflow prevention device or backflow prevention assembly include those where there is:

§ 6.8.3.1 A commercial account or any service meter 1 ½ inch and larger;

§ 6.8.3.2 A situation included or defined in Appendix A to these rules, which shall be Table 42 of OAR 333-061-0070, as amended or revised. In the event DEQ revises that rule, Appendix A shall be replaced with the then-current version of the rule;

§ 6.8.3.3 Intricate or inaccessible piping, which makes it impractical to ascertain whether or not a cross-connection exists;

§ 6.8.3.4 An elevation difference between the service connection at the public water Main and the highest water outlet on the property that exceeds 30ft;

- § 6.8.3.5 An irrigation system on the property;
- § 6.8.3.6 A temporary water supply provided for construction use;
- § 6.8.3.7 A fire line, fire sprinkler system, or private fire hydrant on the premises;
- § 6.8.3.8 The presence of materials or chemicals on site which present a potential hazard or risk of contamination to the water supply;
- § 6.8.3.9 A boiler on the property; or
- § 6.8.3.10 An auxiliary water supply on the property, such as a well, cistern, or body of water.

§ 6.9 Backflow Testing.

- § 6.9.1 The User or Owner of the premises where one or more backflow prevention assemblies or devices are installed shall cause a test or inspection of each assembly or device to be performed by an Oregon State Health Division certified tester:
 - § 6.9.1.1 At the time of installation or prior to water service being turned on;
 - § 6.9.1.2 If the device is moved or repaired, immediately thereafter;
 - § 6.9.1.3 Annually;
 - § 6.9.1.4 More frequently than annually for approved backflow prevention assemblies or devices that repeatedly fail or are protecting health hazard cross connections, as determined by the water supplier;
 - § 6.9.1.5 After a backflow incident; or
 - § 6.9.1.6 After an approved air gap is replumbed.
- § 6.9.2 Unless otherwise provided, the owner of a mobile apparatus on which a backflow prevention assembly or air gap separation is required shall cause a test of the assembly or an inspection of the air gap separation to be performed within the year before use within the District and annually thereafter.
- § 6.9.3 The District may require more frequent testing of a backflow prevention assembly if the assembly is installed at a facility that poses an extreme health risk or if the assembly has failed a test.
- § 6.9.4 All completed backflow test reports must be forwarded to the District within ten (10) days from the date of the test. The User or Owner and the District shall take the following actions depending on the results of the test and inspection reports:

- § 6.9.4.1 If the results indicate that the backflow prevention assembly or device is working properly, the results shall be entered in the District's records as such.
- § 6.9.4.2 If the results indicate that the backflow prevention assembly or device is not working properly, the User or Owner shall cause the assembly or device to be repaired and retested immediately and shall forward the subsequent results to the District within ten (10) days from the date the User or Owner received the initial results.
- § 6.9.4.3 If a backflow prevention assembly or device fails a test and repair is not immediately possible, the User or Owner must notify the District immediately of the failure, the location of the failed assembly or device, and estimated time for completing repairs to the assembly or device.
- § 6.9.4.4 If the District has not timely received the results of a test or inspection that is required to be performed, it may order the required test or inspection ("Force test/inspection") and invoice the cost of the Force test/inspection to the User or Owner. If the results indicate that the assembly or device needs repair, the District may either complete those repairs at the time of the Force test/inspection and add those fees to the Customer's invoice, or the District may turn the water off to the premises and the User or Owner will be responsible for repair costs as well as any fees associated with resumption of service to the premises.
- § 6.9.4.5 If the User or Owner of a failed backflow prevention assembly or device fails to make repairs that result in acceptable test results within ten (10) days of receiving results from a test or inspection showing the assembly or device is not operating properly, the District may order the repair and retest and invoice the cost of the repair and retest to the User or Owner, or the District may turn the water off to the premises and the User or Owner will be responsible for repair and retesting as well as any fees associated with resumption of service to the premises.
- § 6.9.5 The District may discontinue the water service of any person Owner or User who refuses or fails to pay for charges invoiced related to backflow testing or inspection, or for failure to perform or report the required test or inspection results.
- § 6.9.6 All water meters used for irrigation purposes will be locked upon installation and the locks will not be removed until the approved backflow prevention

assembly or device has been installed properly and a passing test or inspection report is received by the District's assigned Cross Connection Specialist.

§ 6.9.7 If the District does the first annual test of the backflow device on an irrigation connection, the cost shall be borne by the User and shall include the cost of connection and record keeping.

§ 6.10 Installation and Use of Fire Hydrants.

§ 6.10.1 Fire hydrants must be installed by a licensed contractor. The District will establish the size, location, type, and method of installation. After installation, the hydrant will become the property of the District. Any application for change in the type, size, or location of an existing fire hydrant will likewise be made to the District, and, if such change is approved, the applicant will pay for all costs associated with such change.

§ 6.10.2 Use of fire hydrants is by permit only. Applications for permits are available at the District office. Proof of insurance and cross-connection protection is required for the permits. If granted, the permit must be available for inspection at all times while a hydrant is being utilized. Non-compliance of this rule is a violation subject to fines.

§ 6.11 Automatic Standby Fire Service. The District may provide water for automatic standby fire service connections, upon written application thereof, and upon payment in advance, of the estimated cost of such installation. Before the District will approve such application, the applicant must make adequate provisions to prevent the use of water from such service for any purpose, other than extinguishing fire upon the premises, wherein such standby fire service connection is located. Under no circumstances will such a connection allow a cross-connection with any other District service facility. Charges for standby fire protection service connection will be as stated in the District's Fee Schedule.

§ 7 SANITARY SEWER: DISCHARGE PROHIBITIONS

§ 7.1 General Prohibitions. No person shall discharge or cause or permit to be discharged, directly or indirectly, into any public sewer or tributary sewer thereto, any pollutant or wastewater which will cause pass through, interference, or disruption. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, local, or state pretreatment standards or requirements.

§ 7.2 Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

§ 7.2.1 Pollutants which create a fire or explosive hazard in the POTW, including,

but not limited to, waste streams with a closed-cup flash point of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR '261.21;

- § 7.2.2 Wastewater having a pH lower than 5.5 Standard Unit (“S.U.”) or higher than 11.5 S.U. or having any corrosive property capable of causing damage or hazard to structures, equipment, or persons. Facilities with continuous monitoring of pH shall not exceed the pH range of 5.5 S.U. to 11.5 S.U. more than a total of 15 minutes on any single day (cumulative duration of all excursions); provided that, at no time shall any discharge of a pH be lower than 5.0 S.U. or at/or above 12.5 S.U.;
- § 7.2.3 Any solid or viscous substances in quantities or size capable of causing obstruction to the flow of sewers or other interference with the proper operation of the sewage treatment plant;
- § 7.2.4 Pollutants, including oxygen-demanding pollutants (BOD, COD etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause pass through, interference, or disruptions with the POTW;
- § 7.2.5 Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the collection system to exceed 104°F (40°C) unless the District approves alternate temperature limits;
- § 7.2.6 Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- § 7.2.7 Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- § 7.2.8 Trucked or hauled pollutants, except at discharge points designated by the District;
- § 7.2.9 Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or health or to prevent entry into the sewers for maintenance or repair;
- § 7.2.10 Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the treatment plant's effluent, thereby violating the District's NPDES permit. Color (in combination with

turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;

- § 7.2.11 Wastewater containing any radioactive wastes or isotopes except as specifically approved by the General Manager in compliance with applicable State or Federal regulations;
- § 7.2.12 Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically approved by the District;
- § 7.2.13 Any sludge, screening, or other residue from the pretreatment of industrial wastes or from industrial processes;
- § 7.2.14 Medical wastes, except as specifically authorized by the District;
- § 7.2.15 Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- § 7.2.16 Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- § 7.2.17 Any liquid, solids, or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall either two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) percent or any single reading be over ten (10%) per cent of the lower explosive limit (LEL) of the meter;
- § 7.2.18 Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
- § 7.2.19 Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;
- § 7.2.20 Any wastewater that in the opinion of the District can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; otherwise endanger life, limb, public property; or constitute a nuisance, unless allowed under special agreement

by the District (except that no special waiver shall be given from categorical pretreatment standards);

§ 7.2.21 Any hazardous wastes as defined in rules published by the State of Oregon or in federal regulations;

§ 7.2.22 Persistent pesticides and/or pesticides regulated by the Federal Insecticide Rodenticide Act (FIFRA);

§ 7.2.23 Sewage sludge, except in accordance with the District's NPDES permit, providing that it specifically allows the discharge to surface waters of sewage sludge pollutants;

§ 7.2.24 Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW;

§ 7.2.25 Any septic tank wastes unless otherwise approved by DEQ; or

§ 7.2.26 Except as authorized by a discharge permit or in writing by the District, removed substances such as solids removed from liquid waste streams, sludges, filter backwash, or other residuals removed in the course of treatment or control of wastewater.

§ 7.3 Prohibition on Discharge of Other Waters. No person shall discharge or provide a connection for discharging or draining into any public sanitary sewer or tributary sewer thereto any stormwater, surface water, groundwater, roof runoff, surface drainage, non-contact cooling water or other unpolluted water or the drainage of any swimming pool, catch basin, lake, swamp, or pond.

§ 8 INDUSTRIAL WASTE

§ 8.1 Purpose and Policy. These Rules and Regulations set forth uniform requirements for Users of the POTW for OLWSD and enables the District to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations. The objectives of these Rules and Regulations are:

§ 8.1.1 To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

§ 8.1.2 To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

§ 8.1.3 To prevent the introduction of pollutants or contaminants that may cause a violation of any permit issued to the District, including its NPDES permit;

§ 8.1.4 To ensure that the quality of the wastewater treatment plant sludge is

maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;

§ 8.1.5 To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and

§ 8.1.6 To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.

§ 8.2 These Rules and Regulations shall apply to all Users of the POTW. These Rules and Regulations authorize the issuance of wastewater discharge permits; authorize monitoring, compliance, and enforcement activities; establish administrative review procedures; require User reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

§ 8.3 Prohibited Discharge Standards. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference, as defined in Section 7. This applies to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local Pretreatment Standards or Requirements.

§ 8.4 Federal Categorical Pretreatment Standards. National categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471, as promulgated by the Environmental Protection Agency (EPA) pursuant to the Federal Water Pollution Control Act, if more stringent than limitations imposed under these Rules and Regulations, shall be met by all Dischargers into the sewerage system who are subject to such standards.

§ 8.5 State Requirements. State requirements and limitations on discharges to the POTW shall be met by all Users that are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in these Rules and Regulations or in other applicable ordinances, rules, or laws.

§ 8.6 Local Limits. Pollutant limits have been established to protect against pass through and interference. No person shall discharge wastewater containing pollutant levels in excess of the limits described in the Local Limit Schedule. Additional pollutants or more restrictive maximum quantities may be required if the material discharged might cause interference with the operation of the wastewater treatment plant or violation of Federal, State, or local limits, standards, or laws.

Local Limit Schedule (Concentration, mg/l):

	Daily Maximum Concentration
Arsenic	0.39
Cadmium	0.27
Chromium, Total	1.71
Copper	1.92
Cyanide	0.23
Lead	0.43
Mercury	0.14
Molybdenum	0.42
Nickel	2.38
Selenium	0.90
Silver	0.24
Zinc	1.48

The local limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. The General Manager may impose mass limitations in addition to (or in place of) the concentration-based limitations above. Where a User is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

Effluent limits and/or action levels may be established for BOD, COD, and/or TSS based on treatment plant capacity.

§ 8.7 Dilution. No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The General Manager may impose mass limitations on Users that he/she believes may be using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

§ 8.8 Pretreatment Facilities. Users shall provide necessary wastewater treatment as required to comply with these Rules and Regulations and shall achieve compliance with all

applicable pretreatment standards and requirements set out in these Rules and Regulations within the time limitations specified by the EPA, the State, or the District, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the District shall be provided, operated, and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the District for review and shall be acceptable to the District before construction of the facility. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the District under the provisions of these Rules and Regulations.

§ 8.9 New Sources.

§ 8.9.1 Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

§ 8.9.1.1 The building, structure, facility, or installation is constructed at a site at which no other source is located;

§ 8.9.1.2 The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

§ 8.9.1.3 The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

§ 8.9.2 Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Sections 8.9.1.2 or § 8.9.1.3 above but otherwise alters, replaces, or adds to existing process or production equipment.

§ 8.9.3 Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

§ 8.9.3.1 Begun, or caused to begin as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment;

§ 8.9.3.2 Conducted significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities necessary for the placement, assembly, or installation of new source facilities or equipment; or

§ 8.9.3.3 Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

§ 8.10 Deadline for Compliance with Applicable Pretreatment Requirements. Compliance by existing sources covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard.

The District shall establish a final compliance deadline date for any existing User not covered by Categorical Pretreatment Standards or for any categorical User when the local limits for said User are more restrictive than the federal Categorical Pretreatment Standards.

New sources and new Users are required to comply with applicable pretreatment standards within the shortest feasible time, not to exceed ninety (90) days from the beginning of discharge. New Sources and new Users shall install, have in operating condition, and start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a categorical User shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing User or a categorical User that must comply with a more stringent local limit that is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to ensure compliance within the shortest time feasible.

§ 8.11 Additional Pretreatment Measures. Whenever deemed necessary, the General Manager may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and mandate such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of these Rules and Regulations.

§ 8.12 Accidental Spill Prevention Plans (ASPP). The General Manager may require any User to develop and implement an accidental spill prevention plan (ASPP) or slug control

plan. Where deemed necessary by the District, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the User's cost and expense. An accidental spill prevention plan or slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the District for review and approval before implementation. The District shall determine which User is required to develop a plan and require said plan to be submitted within fourteen (14) days after notification by the District. Each User shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the District, and Approval of such plans and operating procedures by the District shall not relieve the User from the responsibility to modify its facility as necessary to meet the requirements of these Rules and Regulations.

§ 8.12.1 ASPP Requirements. Any user required to develop and implement an accidental spill prevention plan shall submit a plan which addresses, at a minimum, the following:

§ 8.12.1.1 Description of discharge practices, including non-routine batch discharges;

§ 8.12.1.2 Description of stored chemicals;

§ 8.12.1.3 Procedures for immediately notifying the POTW of any accidental or slug discharges. Such notification must also be given for any discharge that would violate any of the standards of these Rules and Regulations; and

§ 8.12.1.4 Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic chemicals (including solvents), and/or measures and equipment for emergency response.

§ 8.13 Notification of Slug or Accidental Discharge. Users shall notify the District Wastewater Treatment Plant immediately after the occurrence of a slug or accidental discharge of substances regulated by these Rules and Regulations. The notification shall include the location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected User shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the District on account thereof under state or federal law.

Within five (5) days following an accidental discharge, the User shall submit to the General Manager a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of either any expense, loss, damage, or other liability that may

be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property, nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable law.

Signs shall be permanently posted in conspicuous places on the User's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

- § 8.14 Industrial Wastewater Discharge Permit Requirements. No significant industrial User shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from District; the permit must be enforceable and contain all the elements as required by 40 CFR 403.8(f)(1)(iii)(B). Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of these Rules and Regulations and will subject the wastewater discharge permittee to the sanctions set forth in these Rules and Regulations. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.
- § 8.15 Wastewater Discharge Permitting: Existing Significant Industrial User (SIU). Any SIU that was discharging wastewater into the POTW before the effective date of these Rules and Regulations, and wishes to continue discharging in the future, shall, within sixty (60) days after notification by the General Manager, submit a permit application to the District. The SIU shall not cause or allow discharges to the POTW to continue more than three hundred sixty-five (365) days after the effective date of these Rules and Regulations unless a wastewater discharge permit is issued by the District.
- § 8.16 Wastewater Discharge Permitting: New Source and New User. At least ninety (90) days before startup of a new source any new User considered by the District to be an SIU must apply for and obtain a Wastewater Discharge permit. A new source or new User cannot discharge without first receiving a wastewater discharge permit from the District. New sources and new Users shall also be required to include in their application information on the method of pretreatment they intend to use to meet applicable pretreatment standards. New Sources and new Users shall give estimates of the information requested in Section 8.18.
- § 8.17 Wastewater Discharge Permitting: Extra Jurisdictional Users. Existing and new sources that are located beyond the District limits (but flow to the District) and that are required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application to the District.
- § 8.18 Wastewater Discharge Permit Application Contents. All Users required to obtain an industrial wastewater discharge permit must submit, at a minimum, the following

information. The District shall approve a form to be used as a permit application. Categorical Users submitting the following information shall have complied with 40 CFR § 403.12(b).

§ 8.18.1 Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;

§ 8.18.2 Permits. The User shall submit a list of all environmental control permits held by or for the facility; and

§ 8.18.3 Description of operations. The User shall submit a brief description of: the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User, including a list of all raw materials and chemicals used or stored at the facility that are or could accidentally or intentionally be discharged to the POTW; the number and type of employees; its hours of operation; each product produced by type, amount, process or processes, and rate of production; the type and amount of raw materials processed (average and maximum per day); and the time and duration of discharges. This description should also include a schematic process diagram that indicates points of discharge to the POTW from the regulated or manufacturing processes; site plans; floor plans; mechanical and plumbing plans; and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location, and elevation.

§ 8.18.4 Flow Measurement.

Categorical Users. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: Regulated or manufacturing process streams and other streams as necessary to allow use of the combined waste stream formula.

Non-Categorical Users. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: Total process flow, wastewater treatment plant flow, total plant flow, or individual manufacturing process flow as required by the Operations Manager. The District may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

§ 8.18.5 Measurements of Pollutants.

Categorical Users. The User shall identify the applicable pretreatment standards for each regulated or manufacturing process. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the Categorical Pretreatment Standard or as required by the District) of regulated pollutants (including local limits, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum

and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in this section. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR § 403.6(e) for a categorical User, this adjusted limit along with supporting data shall be submitted as part of the application.

Non-Categorical User. The User shall identify the applicable pretreatment standards for its wastewater discharge. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration in the discharge (or mass where required by the District) of regulated pollutants, as appropriate. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in this section. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph. Where the District developed alternate concentration or mass limits because of dilution, this adjusted limit along with supporting data shall be submitted as part of the application.

§ 8.18.6 Certification. The User shall submit a statement, worded as specified in Section 8.19, that has been reviewed by an authorized representative of the User and certified by a qualified professional indicating whether the applicable Pretreatment Standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the User to meet the applicable Pretreatment Standards and Requirements.

§ 8.18.7 Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable Pretreatment Standards, the User shall submit the shortest schedule by which the User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established pursuant to Sections 8.15 or 8.16 of these Rules and Regulations.

§ 8.18.7.1 Where the User's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR § 403.7), the combined waste stream formula (40 CFR § 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR § 403.13) at the time the User submits the report required by this paragraph, the information required by Sections 8.18.4 and 8.18.5 shall pertain to the modified limits.

§ 8.18.7.2 If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined waste

stream formula (40 CFR § 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR § 403.13) after the User submits the report required by Sections 8.18.4 and 8.18.5, then a report containing modified information shall be submitted by the User within sixty (60) days after the new limit is approved.

§ 8.18.8 Other Information. The User shall submit any other information as may be deemed necessary by the General Manager to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

§ 8.19 Signatory and Certification Requirement. All wastewater discharge permit applications and User reports must be signed by a responsible officer or manager, sole proprietor or general partner, as applicable, or duly authorized representative.

§ 8.19.1 Industrial Pretreatment Responsible Officer/Manager. For the purpose of this section, a responsible officer or manager means:

§ 8.19.1.1 A president, vice-president, secretary, treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

§ 8.19.1.2 The manager of one or more manufacturing, production, or operating facilities, provided that the manager is authorized to make management decisions that govern the operation of the regulated facility including: having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; ensuring that the necessary systems are established or actions are taken to gather complete and accurate information for control mechanism requirements; and having the authority, assigned or delegated to the manager in accordance with corporate procedures, to sign documents. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submitted of the User and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather

and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

§ 8.19.2 Certification Statement for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User must annually submit the following signed certification statement signed in accordance with the signatory requirements in § 8.19.1. The certification must accompany an alternative annual report required by the District:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief, that during the period from _____, _____ to _____, _____ [months, days, year]: (a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User; (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based on the following information:

_____”

§ 8.20 Wastewater Discharge Permit Decisions. The General Manager will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the General Manager will determine whether to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within thirty (30) days of full evaluation and acceptance of the data furnished. The General Manager may deny any application for a wastewater discharge permit.

§ 8.21 Industrial Wastewater Discharge Permit Contents. Industrial Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the General Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, prevent violation of the District's NPDES permit, and protect against damage to the POTW.

§ 8.21.1 Required Conditions of Approval. Wastewater discharge permits must contain the following conditions:

- § 8.21.1.1 A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- § 8.21.1.2 A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the District and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- § 8.21.1.3 Applicable pretreatment standards and requirements, including any special State requirements;
- § 8.21.1.4 Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- § 8.21.1.5 Requirements for immediate notification to the District where self-monitoring results indicate non-compliance;
- § 8.21.1.6 Requirements to report a bypass or upset of a pretreatment facility;
- § 8.21.1.7 Requirements to report immediately to the District all discharges, including slug loadings, that could cause problems to the POTW;
- § 8.21.1.8 Requirements for the SIU that reports non-compliance to repeat the sampling and analysis and submit results to the District within thirty (30) days after becoming aware of the violation;
- § 8.21.1.9 A statement of applicable civil, criminal, and administrative penalties for violations of pretreatment standards and requirements and any applicable compliance schedule;
- § 8.21.1.10 Requirements to control Slug discharges, if determined by the POTW to be necessary; and
- § 8.21.1.11 Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.

§ 8.21.2 Optional Conditions of Approval. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- § 8.21.2.1 Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- § 8.21.2.2 Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate

containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

§ 8.21.2.3 Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

§ 8.21.2.4 Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

§ 8.21.2.5 The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

§ 8.21.2.6 Requirements for installation and maintenance of inspection and sampling facilities and equipment;

§ 8.21.2.7 A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;

§ 8.21.2.8 Any special agreements the General Manager chooses to continue or develop between the District and User; and

§ 8.21.2.9 Other conditions as deemed appropriate by the General Manager to ensure compliance with these Rules and Regulations and State and Federal laws, rules, and regulations.

§ 8.22 Wastewater Discharge Permit Appeals. Any person, including the User, may petition the District to reconsider the terms of a wastewater discharge permit within one hundred twenty (120) days of its issuance. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal. If the District fails to act within thirty (30) days after receiving an appeal petition, a petition for appeal will be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Clackamas County Circuit Court.

§ 8.23 Wastewater Discharge Permit Duration. Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the General Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

§ 8.24 Wastewater Discharge Permit Modification or Voluntary Termination. The General Manager may modify the wastewater discharge permit for good cause including, but not limited to, the following:

§ 8.24.1 To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

§ 8.24.2 To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

§ 8.24.3 To address a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

§ 8.24.4 To address information indicating that the permitted discharge poses a threat to the District's POTW, District personnel, or the receiving waters;

§ 8.24.5 To address a violation of any terms or conditions of the wastewater discharge permit;

§ 8.24.6 To address misrepresentations or failures to fully disclose all relevant facts in the wastewater discharge permit application or in any required report;

§ 8.24.7 To revise or grant a variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

§ 8.24.8 To correct typographical or other errors in the wastewater discharge permit;
or

§ 8.24.9 To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

§ 8.25 Wastewater Discharge Permit Transfer.

§ 8.25.1 Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least sixty (60) days advance notice to the General Manager and the General Manager approves the wastewater discharge permit transfer. The notice to the General Manager must include a written certification by the new owner and/or operator which:

§ 8.25.1.1 States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

§ 8.25.1.2 Identifies the specific date on which the transfer is to occur;
and

§ 8.25.1.3 Assumes full responsibility for complying with the existing
wastewater discharge permit beginning on the date of the
transfer.

§ 8.25.2 Failure to provide advance notice of a transfer renders the wastewater
discharge permit voidable as of the date of facility transfer. Provided that
the notice required above occurred and that there were no significant
changes to the manufacturing operation or wastewater discharge, the new
owner will be considered an existing User and will be covered by the
existing limits and requirements in the previous owner's permit.

§ 8.26 Wastewater Discharge Permit Revocation.

§ 8.26.1 Wastewater discharge permits may be revoked for, but not limited to, the
following reasons:

§ 8.26.1.1 Failure to notify the District of significant changes to the
wastewater prior to the changed discharge;

§ 8.26.1.2 Failure to provide prior notification to the District of changed
conditions;

§ 8.26.1.3 Misrepresentation or failure to fully disclose all relevant facts
in the wastewater discharge permit application;

§ 8.26.1.4 Falsifying self-monitoring reports;

§ 8.26.1.5 Tampering with monitoring equipment;

§ 8.26.1.6 Refusing to allow the District timely access to the premises
and records;

§ 8.26.1.7 Failure to meet discharge limitations;

§ 8.26.1.8 Failure to pay fines;

§ 8.26.1.9 Failure to pay sewer charges;

§ 8.26.1.10 Failure to meet compliance schedules;

§ 8.26.1.11 Failure to complete a wastewater survey or the wastewater
discharge permit application

§ 8.26.1.12 Failure to provide advance notice of the transfer of a
permitted facility;

§ 8.26.1.13 If the District must invoke its emergency provision; or

§ 8.26.1.14 Violation of any pretreatment standard or requirement, any
terms of the wastewater discharge permit, or these Rules
and Regulations.

§ 8.26.2 Wastewater discharge permits shall be voidable upon cessation of
operations or transfer of business ownership. All wastewater discharge

permits issued to a particular User are void upon the issuance of a new wastewater discharge permit to that User.

§ 8.27 Wastewater Discharge Permit Reissuance. A User who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application a minimum of sixty (60) days prior to the expiration of the User's existing wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the District issues or denies the new wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit.

§ 8.28 Reporting Requirements: Baseline Monitoring Reports. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR '403.6(a)(4) (whichever is later), existing categorical Users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the District a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical Users after the promulgation of an applicable categorical standard, shall be required to submit to the District a report which contains the information listed below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

Users described above shall submit the information set forth below for Baseline Monitoring Reports:

§ 8.28.1 Identifying Information. The name and address of the facility, including the name of the operator and owner;

§ 8.28.2 Environmental Permits. A list of any environmental control permits held by or for the facility;

§ 8.28.3 Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

§ 8.28.4 Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the

combined waste stream formula set out in 40 CFR 403.6(e);

§ 8.28.5 Measurement of Pollutants. Where the Standard requires compliance with a best management practice or pollution prevention alternative, documentation as required by the District or the applicable Standards to determine compliance with the Standard;

§ 8.28.6 Categorical Pretreatment Standards. The categorical pretreatment standards applicable to each regulated process;

§ 8.28.7 Sampling Results. The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the District) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall also be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with procedures set out in these Rules and Regulations;

§ 8.28.8 Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O and M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

§ 8.28.9 Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the pretreatment standards, the shortest schedule by which the User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in these Rules and Regulations.

§ 8.28.10 Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with these Rules and Regulations.

§ 8.29 Operational Compliance Report (Initial Compliance Report). After ninety (90) days of operation following the date for final compliance of an existing Significant Industrial User with applicable pretreatment standards and requirements set forth in these Rules and Regulations, in federal categorical standards, or in a wastewater discharge permit, or, in the case of a new source or a new User considered by the District to fit the definition of an SIU, within ninety (90) days following commencement of the introduction of wastewater into the POTW, the affected User shall submit to the District a report containing the information outlined in Section 8.31.

For User's subject to equivalent mass or concentration limits established by the District in accordance with procedures established in 40 CFR 403.6 (c), the report shall contain a reasonable measure of the User's long-term production rate. For all other User's subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report shall include the User's actual production during the appropriate sampling period.

§ 8.30 Semiannual Compliance Report. Any User that is required to have an industrial waste discharge permit and performs self-monitoring shall comply with all applicable requirements under 40 CFR 403.12 and submit to the District semiannually, during the months of June and December, unless required on other dates or more frequently by the District, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, Users shall sample their discharge at least twice per year.

The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by these Rules and Regulations or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a User sampled and analyzed more frequently than what was required by the District or by these Rules and Regulations, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

Any User subject to equivalent mass or concentration limits established by the District or by unit production limits specified in the applicable categorical standards shall report production data.

If the District calculated limits to factor out dilution flows or non-regulated flows, the User will be responsible for providing flows from the regulated process flows, dilution flows, and non-regulated flows.

Flows shall be reported on the basis of actual measurement, provided, however, that the District may accept reports of average and maximum flows estimated by verifiable techniques if the District determines that an actual measurement is not feasible.

Discharges sampled shall be representative of the User's daily operations and samples shall be taken in accordance with the requirements specified in these Rules and Regulations. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

In cases where the Pretreatment Standard requires compliance with a Best Management

Practice or pollution prevention alternative, the User must submit documentation required by District or the Pretreatment Standard necessary to determine the compliance status of the User.

The District may require reporting by Users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewer system.

The District may require self-monitoring by the User or, if requested by the User, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the District agrees to perform such periodic compliance monitoring, it may charge the User for such monitoring, based upon the costs incurred by the District for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The District is under no obligation to perform periodic compliance monitoring for a User.

The District may reduce the requirement for semiannual compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by state laws, where the Industrial User's total categorical wastewater flow does not exceed any of the following:

- (1) 350 gallons per day, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches; and
- (2) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits have been developed.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the General Manager, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

§ 8.31 Compliance Schedules for Meeting Applicable Pretreatment Standards. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.). No increment referred to in this section shall exceed nine (9) months.

Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the District including, at a minimum, whether or not it complied with the increment of progress to be met on such

date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

§ 8.32 Notification of Significant Production Changes. Any User operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the District within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

§ 8.33 Hazardous Waste Notification. Any User that is discharging more than 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one-time notification in writing to OLWSD, to the EPA Region 10 Office of Air, Waste, and Toxics Director, and to the State Department of Environmental Quality. Any existing User exempt from this notification shall comply with the requirements contained herein within thirty (30) days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or any discharge of acutely hazardous wastes to the District sewer system.

Such notification shall include:

§ 8.33.1 The name of the hazardous waste as set forth in 40 CFR Part 261;

§ 8.33.2 The EPA Hazardous waste number; and

§ 8.33.3 The type of discharge (continuous, batch, or other).

§ 8.33.4 If an industrial User discharges more than 100 kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial User:

§ 8.33.4.1 An identification of the hazardous constituents contained in the wastes;

§ 8.33.4.2 An estimation of the mass and concentration of such constituents in the waste streams discharged during that calendar month; and

§ 8.33.4.3 An estimation of the mass of constituents in the waste streams expected to be discharged during the following twelve (12) months.

These notification requirements do not apply to pollutants already reported under the

self-monitoring requirements. Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a User shall notify the District of the discharge of such a substance within ninety (90) days of the effective date of such regulations. In the case of any notification made under this paragraph, an industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

§ 8.34 Notice of Potential Problems, Including Accidental Spills, Slug Loads. Any User shall notify the District immediately of all discharges that could cause problems to the POTW, including any slug loads. The notification shall include the concentration and volume and corrective action. This initial notification shall be followed by a written summary report within five (5) days of the discharge. Steps being taken to reduce any adverse impact should also be noted during the notification. Any User who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the District under state or federal law.

§ 8.35 Non-Compliance Reporting. If sampling performed by a user indicates a violation, the User shall notify the District within 24 hours of becoming aware of the violation. Within five (5) days following such discharge, the User shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to these Rules and Regulations. The User shall also repeat the sampling and submit the results of the repeat analysis to the District within thirty (30) days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

§ 8.35.1 The District performs sampling at the Industrial User at a frequency of at least once per month; or

§ 8.35.2 The District performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

§ 8.36 Notification of Changed Discharge. All Users shall promptly notify the District in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the User has submitted initial notification under 40 CFR 403.12 (p). Users shall notify the District immediately of any change that affects the potential for slug discharges to the POTW.

- § 8.37 Reports from Un-Permitted Users. All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the District as the General Manager may require.
- § 8.38 Record Keeping. Users subject to the reporting requirements of these Rules and Regulations shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by these Rules and Regulations and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses including documentation associated with Best Management Practices. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or POTW or where the User has been specifically notified of a longer retention period by the General Manager.
- § 8.39 Sampling Requirements for Users. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques; unless time-proportional composite sampling or grab sampling is authorized by the District, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during the 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory. Composite samples for other parameters unaffected by compositing procedures as documented in approved EPA methodologies may be authorized by the District, as appropriate.

For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfides, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the District may authorize a lower minimum. For the reports required by 40 CFR 403.12 (e) and (h), the District shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

Samples shall be taken immediately downstream from pretreatment facilities if such exist, immediately downstream from the regulated or manufacturing process if no pretreatment exists, or at a location determined by the District and specified in the User's wastewater discharge permit. For categorical Users, if other wastewaters are mixed with the

regulated wastewater prior to pretreatment, the User shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6 (e) in order to evaluate compliance with the Applicable Categorical Pretreatment Standards. For other SIUs, for which the District has adjusted its local limits to factor out dilution flows, the User shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

All sample results shall indicate the time, date, and place of sampling and methods of analysis and shall certify that the waste stream sampled is representative of normal work cycles and expected pollutant discharges from the User. If a User sampled and analyzed more frequently than what was required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

- § 8.40 Analytical Requirements. All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- § 8.41 District Monitoring of User's Wastewater. The District will follow the same procedures as outlined in Sections 8.42 and 8.43.
- § 8.42 Compliance Monitoring: OLWSD Inspection and Sampling. The District shall have the right to enter the facilities of any User to ascertain whether the purpose of these Rules and Regulations and any wastewater discharge permit or order issued hereunder is being met and whether the User is complying with all requirements thereof. Users shall allow the General Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the General Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

The General Manager shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the General Manager and shall not be replaced. The costs of clearing such access shall be borne by the User.

Unreasonable delays in allowing the General Manager access to the User's premises shall be a violation of these Rules and Regulations.

§ 8.43 Compliance Monitoring Facilities. Each User shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the District. Each monitoring facility shall be situated on the User's premises, except, where such a location would be impractical or cause undue hardship on the User, the District may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The General Manager, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or a wastewater treatment system).

There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, including the sampling and measuring equipment, shall be maintained at all times in a safe and proper operating condition at the expense of the User.

The General Manager may require the User to install monitoring equipment as necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

§ 8.44 Search Warrants. If the General Manager has been refused access to a building, structure or property, or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of these Rules and Regulations, or that there is a need to inspect as part of a routine inspection program of the District designed to verify compliance with these Rules and Regulations or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the General Manager shall seek issuance of a search and/or seizure warrant from the Clackamas County Circuit Court.

Such warrant shall be served at reasonable hours by the General Manager in the company of a uniformed police officer of Clackamas County.

§ 8.45 Vandalism. No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance, equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in these Rules and Regulations.

§ 8.46 Confidential Information. Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs, and from District inspection and sampling activities shall be available to the public without restriction, unless the User specifically requests and is able to demonstrate to the satisfaction of the District that the release of such information would

divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

§ 8.47 Publication of Users in Significant Non-Compliance. The District shall publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of the Users that, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. For the purposes of this provision, an industrial User is in significant noncompliance if its violation meets one or more of the following criteria:

§ 8.47.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter during a six- (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

§ 8.47.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the TRC [TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];

§ 8.47.3 Any other discharge violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, longer-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

§ 8.47.4 Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge;

§ 8.47.5 Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or

enforcement order for starting construction, completing construction, or attaining final compliance;

§ 8.47.6 Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

§ 8.47.7 Failure to accurately report non-compliance; or

§ 8.47.8 Any other violation or group of violations, which may include a violation of Best Management Practices, that the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

Administrative Enforcement Remedies – Pretreatment Rules.

The following procedures are intended solely for enforcement of the District's pretreatment rules.

- § 8.48 Notification of Violation. When the General Manager finds that a User has violated (or continues to violate) any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may serve upon that User a written Notice of Violation (via certified letter). Within fourteen (14) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the General Manager. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the District to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
- § 8.49 Consent Orders. The General Manager may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such documents will include specific action to be taken by the User to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this subsection and shall be judicially enforceable. Use of a consent Order shall not be a bar against, or prerequisite for, taking any other action against the User.
- § 8.50 Show Cause Hearing. The General Manager may order via a certified letter a User that has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the General Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action,

the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any authorized representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

- § 8.51 Compliance Orders. When the General Manager finds that a User has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may issue an order to the User responsible for the discharge directing that the User come into compliance within a time specified in the order. If the User does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- § 8.52 Cease and Desist Orders. When the General Manager finds that a User has violated (or continues to violate) any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the General Manager may issue an order to the User directing it to cease and desist all such violations and directing the User to immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- § 8.53 Administrative Fines. When the General Manager finds that a User has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may fine such User in an amount not to exceed the maximum fine allowed under state law. Such fines shall be assessed on a per violation, per day basis (see Section 11). In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.
- § 8.54 Emergency Suspensions. The General Manager may immediately suspend a User's discharge (after informal notice to the User) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause

an imminent or substantial endangerment to the health or welfare of persons. The General Manager may also immediately suspend a User's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW or which presents or may present an endangerment to the environment.

Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the General Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or any individuals. The General Manager shall allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the District that the period of endangerment has passed, unless the termination proceedings in these Rules and Regulations are initiated against the User.

A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the General Manager prior to the date of any show cause or termination hearing under these Rules and Regulations.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

§ 8.55 Termination of Discharge (Non-Emergency).

§ 8.55.1 In addition to the Administrative Enforcement provisions in these Rules and Regulations, any User that violates the following conditions is subject to discharge termination:

- § 8.55.1.1 Violation of wastewater discharge permit conditions;
- § 8.55.1.2 Failure to accurately report the wastewater constituents and characteristics of its discharge;
- § 8.55.1.3 Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- § 8.55.1.4 Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- § 8.55.1.5 Violation of the pretreatment standards of these Rules and Regulations.

§ 8.55.2 Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under these Rules and Regulations why the proposed action should not be taken. Exercise of this option by the District shall not be a bar to, or a prerequisite for, taking any other action against the User.

§ 8.56 Judicial Enforcement Remedies.

§ 8.56.1 Injunctive Relief. When the General Manager finds that a User has violated (or continues to violate) any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may petition the Clackamas County Circuit Court through the District's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by these Rules and Regulations on activities of the User. The District may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

§ 8.56.2 Civil Penalties. A User that has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the District for a maximum civil penalty allowed under State law but not less than \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

The General Manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the District.

In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

§ 8.57 Remedies Non-exclusive. The provisions in Section 8 of these Rules and Regulations are not exclusive remedies for violations of the District's pretreatment rules. The District reserves the right to take any, all, or any combination of these actions against a non-compliant User. Enforcement in response to pretreatment violations will generally be in accordance with the District's enforcement response plan. However, the District reserves the right to take other action against any User when the circumstances warrant. Further, the District is empowered to take more than one enforcement action against any

non-compliant User. These actions may be taken concurrently.

§ 8.58 Supplemental Enforcement Action.

§ 8.58.1 Performance Bonds. The General Manager may decline to issue or reissue a wastewater discharge permit to any User that has failed to comply with any provision of these Rules and Regulations, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such User first files a satisfactory bond, payable to the District, in a sum not to exceed a value determined by the General Manager to be necessary to achieve consistent compliance.

§ 8.58.2 Liability Insurance. The General Manager may decline to issue or reissue a wastewater discharge permit to any User that has failed to comply with any provision of these Rules and Regulations, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

§ 8.58.3 Public Nuisances. A violation of any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the General Manager. Any person(s) creating a public nuisance shall be subject to the provisions of these Rules and Regulations governing such nuisances, including reimbursing the District for any costs incurred in removing, abating, or remedying said nuisance.

§ 8.58.4 Contractor Listing. Users that have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the District. Existing contracts for the sale of goods or services to the District held by a User found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the District.

Affirmative Defenses to Discharge Violations.

§ 8.59 Upset. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the User.

An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of this section are met.

§ 8.59.1 A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

§ 8.59.1.1 An upset occurred and the User can identify the cause(s) of the upset; and

§ 8.59.1.2 The facility was at the time being operated in a prudent manner and in compliance with applicable operation and maintenance procedures.

Additionally, the User must submit the following information to the District and treatment plant superintendent within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

§ 8.59.1.3 A description of the indirect discharge and cause of non-compliance;

§ 8.59.1.4 The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

§ 8.59.1.5 Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards.

Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

§ 8.60 Prohibited Discharge Standards. A User shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in these Rules and Regulations if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during,

the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the District was regularly in compliance with its NPDES permit, and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

§ 8.61 Bypass. For the purposes of this section, "Bypass" means the intentional diversion of waste streams from any portion of a User's treatment facility.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

A User may allow any bypass to occur that does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of this section.

§ 8.61.1 Notice of Bypass. If a User knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least ten (10) days before the date of the bypass, if possible. A User shall submit oral notice to the District of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The District may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

§ 8.61.2 Bypass Conditions. Bypass is prohibited, and the District may take an enforcement action against a User unless:

§ 8.61.2.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

§ 8.61.2.2 There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or

preventive maintenance; and

§ 8.61.2.3 The User submitted notices as required under this section.

The General Manager may approve an anticipated bypass, after considering its adverse effects, if the General Manager determines that it will meet the three conditions listed in this section.

§ 8.62 Wastewater Pretreatment Fees. The District may adopt reasonable fees, as shown in the District's Fee Schedule, for reimbursement of costs of setting up and operating the District's Pretreatment Program, which may include:

§ 8.62.1 Fees for wastewater discharge permit applications, including the cost of processing such applications;

§ 8.62.2 Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a User's discharge and reviewing monitoring reports submitted by Users;

§ 8.62.3 Fees for reviewing and responding to accidental discharge procedures and construction;

§ 8.62.4 Fees for filing appeals; and

§ 8.62.5 Other fees as the District may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by these Rules and Regulations and are separate from all other fees, fines, and penalties chargeable by the District.

§ 9 FATS, OILS AND GREASE (FOG) PROGRAM

§ 9.1 Statement of Policy. The purpose of this chapter is to enhance beneficial public use of Oak Lodge Water Services District's sewer facilities by preventing blockages of sewer lines resulting from discharges of fats, oils and grease (FOG) and other constituents to the sewer facilities. These Rules and Regulations specify appropriate FOG requirements for Food Service Establishments (FSEs) and/or property owners where FSEs are located and support such entities in implementing a cost-effective FOG abatement program. These Rules and Regulations establish quantity and/or quality standards on all wastewater and/or waste discharges containing FOG as these cause or contribute to the occurrence of sanitary sewer services overflows (SSOs), affect treatment plant operations, and increase publicly owned treatment works costs.

Oak Lodge Water Services District has final authority in determining the compliance status of all FSE/property owners with respect to their discharge of FOG (either vegetable or animal origin) either directly or indirectly into the District's wastewater collection system.

The following regulations reflect requirements of the State and Federal government and the District's National Pollution Discharge Elimination System (NPDES) permit. The

purpose of the regulations is to set forth uniform requirements for Users of the District's wastewater collection and treatment system to enable the District to comply with all applicable State and Federal laws required by the Federal Water Pollution Control Act, as amended, and by requiring commercial and industrial Users to comply with the General Pretreatment Regulations in 40 CFR Part 403, as amended.

§ 9.2 Applicability and Pretreatment Standards. Food service establishments shall install grease interceptors when deemed necessary by the District for the proper handling of wastewater containing excessive amounts of fat, oil, or grease. These interceptors shall be maintained by the User at their expense in a manner which prevents fat, oil, and grease from being discharged into the District sanitary system. Materials removed from the interceptor must be disposed of at a facility approved to receive such wastes.

The additions of chemicals, enzymes, emulsifying agents, microorganisms, or similar compounds that are intended to decrease the maintenance performed on grease interceptors are prohibited.

§ 9.3 Surface Water Issues. No surface or stormwater is allowed in the sanitary sewer system. In no instance shall spilled grease and oils be washed to the stormwater drains or landscaped areas. Existing FSE are prohibited from engaging in any wash down activities in any outside area, including but not limited to uncovered garbage or waste oil storage areas. If instances of spilled grease or oil occur in the garbage or waste oil storage area the site will be required to install a roof over the area.

§ 9.4 Right of Access. Persons or premises where wastewater with the potential to contain FOG is created or discharged shall allow District personnel, or their alternate designees, reasonable and safe access to the entire facility in order to carry out inspections or other actions, including but not limited to sampling waste streams, authorized by these Rules and Regulations. It is the FSE's or property owner's responsibility to open all grease removal device (GRD) access points for District inspection activities. No person shall interfere with, delay, or refuse entrance to such personnel attempting to inspect or enforce upon any facility involved directly or indirectly with the discharge of wastewater to the District's sewer system. The District or its designees are authorized to collect samples of any waste stream, including the discharge from the facility and any GRD. Failure to grant access shall result in an additional inspection fee and may result in suspension of sewer services provided by the District or water turn off.

§ 9.5 Cost Recovery for Collection System Cleaning. In the event that an FSE discharges FOG from the FSE / Owner's premises and into the sewage collection system owned and operated by OLWSD, so that the FOG leaves behind visible deposits adhered to the pipes, OLWSD may at their discretion clean the pipe system to the extent that their crew deems necessary, and the FSE / property owner will be billed for the cost of the District's labor, equipment, and materials. In lieu of this, either the District or the FSE / property owner may hire a licensed contractor (with the District's approval) to clean the lines (to the extent directed by the District) and vacuum up / remove the grease and

dispose of it to a facility approved to receive such wastes. The contractor would then bill the FSE / property owner directly.

§ 10 SURFACE WATER MANAGEMENT

- § 10.1 Authority; MS4 Permit. Under the Clackamas County Co-Applicants' Municipal Separate Storm Sewer System (MS4) Permit, the District is charged with protecting water quality and satisfying requirements of the MS4 permit. Implementation of these regulations is through the MS4 Permit. As required by the MS4 Permit, the District's authority includes having the ability to control the discharge of pollutants by reducing the discharge of pollutant loads, to the maximum extent practicable, and to prohibit non-stormwater discharges into the storm sewer system.
- § 10.2 Conveyance System Subject to Jurisdictional Authority. The conveyance system components maintained and/or repaired by the District include storm sewers, culverts, inlets, ditches, and swales. The District's responsibility for these types of utility assets is limited to District-owned assets or those that the District operates under an intergovernmental agreement.
- § 10.3 Permits Required. The District issues Erosion Control/Surface Water Management Permits within its jurisdictional area. All construction activities affecting areas 500 square feet or greater within the District shall obtain an Erosion Control/Surface Water Management Permit. Construction activities affecting areas 250 square feet or greater within the undisturbed buffer, sensitive areas, or riparian areas must also obtain an Erosion Control/ Surface Water Management Permit. An Erosion Control/Surface Water Management Permit is also required to discharge to the District's surface water system as described in Sections 10.5 and 10.6 of these Rules and Regulations.
- § 10.4 Agency Coordination. The District coordinates with CCDTD on land use development proposals within the County. In the Clackamas County Comprehensive Plan Title 13, Chapter 7, Clackamas County recognizes that the District has responsibility for operating, planning, and regulating some surface water management systems. The County has a policy to coordinate the review of development applications with the District, for proposals within the District's jurisdiction, and to ensure that approval is not granted in the absence of adequate sanitary sewer facilities or a mechanism to provide them concurrently with development. Additionally, per Clackamas County Zoning and Development Ordinance Section 1006.08(C), approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority.

§ 10.4.1 Additionally, any construction activity disturbing five (5) or more acres of land currently requires an NPDES Construction Stormwater Discharge Permit issued by DEQ.

Permit Procedure. Review and Approval Process.

§ 10.5 Erosion Control/Surface Water Management Permits. An Erosion Control/Surface Water Management Permit is issued by the District through an administrative approval process. An Erosion Control/Surface Water Management Permit application shall be submitted upon a form provided by the District. A complete application shall consist of all materials required as listed in Section 0 of these Rules and Regulations.

§ 10.5.1 Determination of Completeness. After receiving a permit application, the General Manager shall inform the applicant of a determination either that (1) the application is complete or (2) the application is incomplete and what steps are necessary to make the application complete.

§ 10.5.2 Incomplete Application Procedure. If the applicant receives a determination from the General Manager that an application is not complete or that additional information is required, the applicant shall submit the necessary information to the District. After an applicant has submitted the requested additional information, the District shall make the determination as described in this section.

§ 10.6 Permit Approval. The District may approve, approve with conditions, or deny all Erosion Control/Stormwater Management Permit applications. In addition to the requirements listed in Section 0 of these Rules and Regulations, the District retains the right to require additional Erosion Control/Surface Water Management Permit conditions of approval. Inspection of erosion control measures is required prior to approval and prior to the start of any excavation work.

Application Requirements.

§ 10.7 Activities that Require a Permit. Construction activities that impact areas 500 square feet or greater must obtain an Erosion Control/Surface Water Management Permit. Construction activities affecting areas 250 square feet or greater within the undisturbed buffer, sensitive areas, or riparian areas must also obtain an Erosion Control/ Surface Water Management Permit.

§ 10.7.1 Erosion Control Plan. Submittal requirements include:

§ 10.7.1.1 All erosion control plans shall meet requirements of the current District Design and Construction Standards.

§ 10.7.1.2 One completed copy of Erosion Prevention/Sedimentation Control Information containing 1) Plans for Erosion Prevention/Sedimentation Control during wet weather period (November – April); and 2) The methods and/or facilities to be used to prevent erosion and pollution created from the development both during and after construction. Site specific considerations may be incorporated. The plan shall be consistent with the specific drainage basin or sub basin plan;

- § 10.7.1.3 An analysis of source controls as an alternative method to control stormwater runoff, such as detention and storage techniques;
 - § 10.7.1.4 Information regarding adjacent open space;
 - § 10.7.1.5 Information describing historic localized flooding problems resulting from surface water runoff;
 - § 10.7.1.6 If required by the District, information regarding the design and construction of a detention and drainage system that ensures offsite impacts caused by the development will be mitigated; and
 - § 10.7.1.7 Facilities developed onsite shall be constructed in a manner consistent with basin wide or sub basin drainage management plans.
- § 10.8 Bond. The District may request the applicant submit a Performance Bond, cashier's check, or other acceptable financial security in favor of the District to secure performance of the required obligation. The amount secured by the District shall be 100% of the improvements that will ultimately be owned by the District. Upon default, the District may perform the work or remedy violations and draw upon the posted security instrument.
- § 10.9 Additional Information. The District may also require the applicant to provide additional information as indicated in these Rules and Regulations.
- § 10.10 Plan Review. Site Plan, Storm Drainage, and Erosion Control Plan review and approval shall be required prior to the start of any excavation work.
- § 10.11 Inspections. The erosion control measures shall be installed and inspected prior to the start of any excavation work. The District retains the right to require that erosion control measures be adjusted or additional measures documents be implemented in accordance with guidance, as necessary, throughout construction.
- § 10.12 Exceptions. Exceptions to Erosion Control/Surface Water Management Permit application requirements must be documented and approved by the District. A variance to the requirements in Section 10.6 may be requested as allowed under Section 12 of these Rules and Regulations.
- § 10.13 Permit Fees. The District shall collect a fee for the review of plans, administration, enforcement, and field inspection(s) to carry out the rules contained herein. Fees are provided in the District's Fee Schedule.
- § 10.14 Permit Appeals. Any person aggrieved by a ruling or interpretation of the provisions of this Code in issuing a permit may submit a written appeal to the District and pay the permit appeal fee as allowed under Section 12 of these Rules and Regulations.

Discharge Regulations.

- § 10.15 Discharge to Sanitary Sewer System Prohibited. Discharge or contribution to the discharge of any stormwater or other unpolluted water is not allowed into the District's sanitary sewer system without specific approval from the District.
- § 10.16 Discharge to Public Stormwater System. Prohibited stormwater discharge activities include, but are not limited to, the following:
- § 10.16.1 Introduction of pollutants or waters to the public stormwater system containing pollutants or concentrations at levels equal to or in excess of those necessary to protect waters of the State;
 - § 10.16.2 Failure to abide by the terms of any Erosion Control/Surface Water Management Permit, MS4 permit, NPDES permit, statute, administrative rule, ordinance, stipulated and final order or decree, or other permit or contract;
 - § 10.16.3 Discharges of non-stormwater or spills or dumping of materials other than stormwater into the public storm system unless pursuant to a conditional Erosion Control/Surface Water Management Permit approved by the District and in compliance therewith;
 - § 10.16.4 Illegal or unpermitted connection or methods of conveyance to the public stormwater system; and
 - § 10.16.5 Any discharge that will violate federal, state, or local water quality standards.
- § 10.17 Discharge to Creeks or Drainageways. New storm drains and roof drains are not allowed to drain directly into creeks or drainageways or encroach into the buffer unless an Erosion Control/Surface Water Management Permit is obtained from the District. Encroachment into buffer areas must be approved by the District and will require mitigation. Existing and replacement storm drains shall be constructed according to current local, county, state, and federal regulations. Non-single-family development shall provide an approved water quality facility prior to any discharge from the site to a storm drain system, a creek, or drainageway, as approved by the District.
- § 10.17.1 State Discharge Limitations. State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those provided in this chapter.
 - § 10.17.2 Local Discharge Limitations. The District retains the right to establish by ordinance more stringent limitations or requirements on discharges if such limitations or requirements are deemed necessary to comply with this chapter.
- § 10.18 Pretreatment Facilities. The District may require that pretreatment facilities are necessary to comply with water quality standards. Before constructing or operating any

pretreatment facilities within the District, an Erosion Control/Surface Water Management Permit authorizing such connection shall first be secured in writing from the District and fees paid. A variance to these requirements may be requested as allowed under Section 12 of these Rules and Regulations.

§ 10.19 Plans, Specifications, and Construction.

§ 10.19.1 The District may require plans, specifications, and other information relating to the construction or installation of pretreatment facilities.

§ 10.19.2 Pretreatment facility construction and installation shall not commence until written approval of plans and specifications by the District is obtained.

§ 10.19.3 Every facility for the pretreatment and handling of surface water discharged from non-single family residential development sites shall be constructed in accordance with approved plans and specifications.

§ 10.19.4 The applicant shall notify the District when the facility is ready for final construction inspection. The inspector shall then inspect the facility construction. If such construction meets the previous permit requirements, a pretreatment facility approval shall be issued.

§ 10.20 Facility Operations and Maintenance Agreement. The District may require an Operations and Maintenance Agreement for pretreatment facilities. This agreement may set forth operations and maintenance, sampling, access, and other requirements. This agreement will provide for District access to inspect the facility. This agreement will be recorded in the County records against the affected property.

§ 10.21 Expense to Owner. Every facility for the pretreatment and handling of surface water discharged shall be installed, maintained, and repaired at the expense of the facility owner discharging the surface water. The owner shall be responsible for maintaining and repairing pretreatment facilities using BMPs, as determined by the District or authorized representative

§ 10.22 Sampling and Monitoring Facility. A person constructing a pretreatment facility, as required by the District, shall also install and maintain, at the expense of the facility, a suitable sampling access point for checking and investigating the discharge from the pretreatment facility to the public storm system. The sampling point shall be in accordance with specifications approved by the District.

§ 10.23 Sampling. Samples discharged into the public surface water system shall be representative of the use and shall be taken after treatment, if any, and before dilution by other water. The sampling method shall be one approved by the District and in accordance with best engineering practices. All sample analysis shall be performed in accordance with the procedures set forth in 40 CFR Part 136, as amended.

§ 10.24 Reporting Requirements. The District may require the permit holder to submit a

compliance report indicating the quantity and quality of surface water discharge, the need for pretreatment to comply with applicable standards, and the operation and maintenance schedule of the pretreatment facility.

§ 10.25 Inspection and Right-of-Entry. The District or authorized representatives may inspect the monitoring facilities of any permittee to determine the compliance with the requirements of these Rules and Regulations. The discharger shall allow the District or authorized representatives to enter upon the premises at any reasonable hour for the purpose of inspection, sampling, or records examination. The District shall also have the right to install on the User's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring, and/or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling surface water and storing records, reports, or other related documents.

§ 10.26 Discharge to Storm Drain Facility. An Erosion Control/Surface Water Management Permit is required to discharge or drain to any storm drain facility, including but not limited to pipes, streets, ditches, streams, pollution reduction manholes, and detention facilities, whether constructed or natural. Before discharging or draining to any storm drain facilities within the District, an Erosion Control/Surface Water Management Permit authorizing such discharge shall first be secured in writing from the District and fees paid.

§ 10.26.1 The District may require plans, specifications, and other information relating to the construction or installation of storm drain facility connections.

§ 10.26.2 Storm drain facility connections construction and installation shall not commence until a written permit and approval of plans and specifications by the District is obtained.

§ 10.26.3 Every storm drain facility connection shall be constructed in accordance with approved plans and specifications and shall be installed, maintained, and repaired at the expense of the facility owner connecting to a storm drainage facility.

§ 10.26.4 The applicant shall notify the District when the connection is ready for inspection.

§ 10.26.5 After the applicant has notified the District that the connection construction is ready for inspection, the inspector shall inspect the connection construction therein, and, if such construction meets the previous requirement as approved in the permit, a connection approval shall be issued.

Erosion Control and Environmental Protection

§ 10.27 Erosion Control and Environmental Protection. This Section provides for the regulation of erosion and pollution control to maintain and protect water quality and natural resources in accordance with federal, state, and local water quality standards. Nothing in this section shall relieve any person from obligation to comply with the regulations or permits of any federal, state, or local authority.

§ 10.28 General Policy.

§ 10.28.1 To comply with water quality standards set forth in OAR 340-041, it is the District's policy to prevent erosion and eliminate or reduce the amount of sediment and other pollutants reaching the public storm and surface water system.

§ 10.28.2 The provisions of this Section apply during construction and until permanent erosion and pollution control measures are in place following construction as described herein, unless otherwise noted.

§ 10.28.3 This Section is intended to regulate construction activities and other activities that accelerate erosion. It is the District's policy to require temporary and permanent measures for all construction projects to lessen the adverse effects of site alteration on the environment.

§ 10.29 Erosion Control Requirements.

§ 10.29.1 Where the District determines that erosion control facilities are necessary to comply with water quality standards, an Erosion Control/Surface Water Management Permit shall be required for construction and operation of such facilities. Before constructing any erosion control facilities within the District, an Erosion Control/Surface Water Management Permit authorizing such facilities shall first be secured in writing from the District and fees paid. Erosion control facilities and measures shall meet requirements of the current District's Design and Construction Standards.

§ 10.29.2 The permittee or owner is responsible for the cost of installation, maintenance, and repair of all erosion control facilities required by an Erosion Control/Surface Water Management Permit, including both temporary and permanent facilities, as applicable.

§ 10.29.3 The permittee or owner shall use BMPs, as determined by the District or Authorized designee.

§ 10.29.4 No visible or measurable erosion shall leave the property during any construction or other erosion accelerating activity. The permittee/owner, along with any person who causes such visible or measurable erosion, shall be responsible for cleanup, damages, and fines. Cleanup

responsibilities may involve, but are not limited to, public facilities, resources, and areas impacted by a project including, but not limited to, creeks, drainageways, wetlands, catch basins, storm drains, and sensitive areas.

§ 10.29.5 Plans, Specifications, and Construction. In addition to the requirements of Section 0, the District may require plans, specifications, and other information relating to the construction or installation of erosion control facilities or restoration plans. Erosion control facility construction and installation shall not commence until the permittee receives the District's written approval of erosion control plans and specifications. All erosion control facilities shall be constructed in accordance with approved plans and specifications.

§ 10.29.6 Inspection. The erosion control facilities and measures necessary to meet the requirements of this subsection shall be installed by the owner and shall be inspected by the District prior to the start of any construction activity. The owner shall notify the District when the erosion control facility is ready for final construction inspection. The District's inspector shall then inspect the facility construction prior to final approval.

§ 10.30 Maintenance.

§ 10.30.1 Maintenance of existing facilities shall be the responsibility of the property owner or applicant.

§ 10.30.2 The permittee or owner shall maintain the erosion control facilities and use BMPs in conformance with the approved erosion control plan.

§ 10.30.3 If adequate maintenance is not performed, the maintenance standards and schedule shall be reviewed and enforced by the District and the owner or permittee shall be responsible to the District for costs incurred.

§ 10.30.4 Where an erosion control plan is not effective or sufficient as determined by the District through a site inspection, the District may issue a stop work order and the permittee or owner shall be required to submit a revised plan to the District. Upon approval of the revised plan by the District, the permittee or owner shall immediately implement the additional facilities and techniques of the revised plan.

§ 10.30.5 In cases where erosion is occurring in violation of these Rules and Regulations, the District may require the owner/permittee to install interim control measures prior to submittal of the revised erosion control plan.

§ 10.31 Deposit of Sediment. No person shall drag, drop, track, or otherwise place or deposit, or permit to be deposited, mud, dirt, rock, or other such debris on a public street or into any

part of the public storm and surface water system or any part of a private storm and surface water system that drains or connects to the public stormwater and surface water system. Any such deposit or material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into any part of the storm and surface water system without erosion control measures installed to the satisfaction of the District. Failure to comply with this Section shall be a violation.

§ 10.32 Construction Stormwater Permitting; NPDES Permit. As discussed in subsection 10.4.1, any person conducting construction activity disturbing up to five (5) acres shall obtain a District permit. Any person conducting construction activity disturbing five (5) or more acres of land shall obtain an NPDES Stormwater Discharge Permit issued by DEQ.

§ 10.33 Dust Control. Dust and other particulate matters containing pollutants that settle on property or are carried to surface waters through rainfall or other means shall be minimized to the maximum extent practicable, utilizing all measures necessary, including but not limited to:

§ 10.33.1 Sprinkling with water haul and access roads and other exposed dust producing areas;

§ 10.33.2 Establishing temporary vegetative cover;

§ 10.33.3 Placing wood chips or other effective mulches on vehicle and pedestrian use areas;

§ 10.33.4 Maintaining the proper moisture conditions on all fill surfaces;

§ 10.33.5 Pre-wetting cut and borrow area surfaces; and

§ 10.33.6 Using of covered haul equipment.

Water Quality Maintenance.

§ 10.34 Construction of New Facilities. Construction of new water quality facilities between stream banks shall be pursuant to permits issued by jurisdictional state and federal agencies (i.e., the United States Army Corps of Engineers (USACE) and Oregon Department of State Lands (DSL)) and applicable regulations.

§ 10.35 Pollutants. Pollutants in the DEQ current toxics standards identified in OAR 340-041, such as, but not limited to, fuels, lubricants, asphalt, concrete, bitumens, raw sewage, other harmful materials, and trash or debris, shall not be discharged into rivers, streams, impoundments, wetlands, sensitive areas, undisturbed buffers, or any storm drainage system or at such proximity that the pollutants flow to these watercourses.

§ 10.36 Alterations. The withdrawal of water from a stream, impoundment, wetland, or sensitive area shall not result in the alteration or further degradation of the temperature or water quality of the waterbody in violation of OAR-340-041.

§ 10.37 Construction Activities. All sediment-laden water from construction activities shall be routed through sedimentation basins, filtered, or otherwise treated to remove the sediment load before the water is discharged into the surface water system.

Natural Resource Protection.

§ 10.38 Fish and Wildlife Habitat. Construction activities shall be done in a manner that minimizes adverse effects on wildlife and fishery resources pursuant to the requirements of local, state, and federal agencies charged with wildlife and fish protection.

§ 10.39 Sensitive Areas. An Erosion Control/Surface Water Management Permit is required for activities disturbing sensitive areas that would affect water quality by altering or affecting sensitive areas and associated buffers. These activities include, but are not limited to:

§ 10.39.1 Landscaping;

§ 10.39.2 Construction activities;

§ 10.39.3 Tree cutting;

§ 10.39.4 Vegetation removal; and

§ 10.39.5 Streambank restoration.

§ 10.40 Sensitive Areas include:

§ 10.40.1 Existing or created wetlands, including all mitigated wetlands; limits defined by wetlands reports approved by the USACE, DSL, and the District;

§ 10.40.2 Rivers, streams, springs, sloughs, swamps, creeks; limits defined by the top of the bank or first break in a slope measured upland from the mean high-water line;

§ 10.40.3 Impoundments (lakes and ponds); limits defined by the top of the bank or first break in slope measured upland from the mean high water line;

§ 10.40.4 Sensitive areas delineated on the map maintained by the District in its Geographic Information System (GIS).

§ 10.40.5 Sensitive areas, for the purposes of this chapter, do not include water quality facilities, such as constructed wetlands or the undisturbed buffers adjacent to sensitive areas.

§ 10.41 Study Requirements. An approved study may be required by the District to identify areas on the parcel that are, or may be, sensitive areas when, in the opinion of the District:

§ 10.41.1 An area or areas on a parcel may be classified as a sensitive area; or

§ 10.41.2 The parcel has been included in an inventory of sensitive areas adopted by the District and more site-specific identification of the boundaries is

needed.

§ 10.42 Maintenance of Undisturbed Buffer. Undisturbed buffers shall be protected, maintained, enhanced, or restored as follows:

§ 10.42.1 An Erosion Control/Surface Water Management Permit is required for all construction activities in the buffer greater than 250 square feet. The disturbance area is calculated by multiplying the width of undisturbed buffer area by the length of the parcel adjacent to the sensitive area shown above.

§ 10.42.2 Uncontained areas of hazardous materials as defined by DEQ are prohibited in the buffer.

§ 10.42.3 Vegetative cover native to the region shall be maintained, enhanced, or restored, if disturbed in the buffer.

§ 10.42.4 Only native vegetation shall be used to enhance or restore the buffer.

§ 10.42.5 Invasive non-native vegetation may be removed from the buffer and replaced with native vegetation.

§ 10.43 Undisturbed Buffer Measurements. Starting points for undisturbed buffer measurements from the sensitive area begin at:

§ 10.43.1 The edge of a DSL-approved wetland delineation area;

§ 10.43.2 The edge of the top of the bank or first break in slope measured upland from the Ordinary High Water Mark of rivers, streams, sloughs, swamps, and creeks; and

§ 10.43.3 The edge of the top of the bank or first break in slope measured upland from the mean high-water line of impoundments (lakes and ponds).

§ 10.43.4 The District maintains a map in its GIS that delineates the buffer areas applicable to the District based on the buffer area widths specified above.

§ 10.44 Encroachment Mitigation. Where no reasonable and feasible option exists for not encroaching within the minimum undisturbed buffer, such as at a road crossing or where topography limits options, then onsite mitigation on the intrusion of the buffer will be based on a ratio of 1.5 to 1. A variance to this requirement may be requested as allowed under Section 12 of these Rules and Regulations.

§ 10.44.1 All encroachments into the buffer, except those listed in Section 10.45, require written approval from the District.

§ 10.44.2 The District shall mail notice of its decision to grant or deny approval to the applicant and to owners of property within 250 feet of the affected property.

§ 10.45 Undisturbed Buffer – Exceptions. No construction activities or other activities shall be allowed that otherwise detract from the water quality protection provided by the buffer, as required by federal, state, and local regulations, except as allowed by the District in the following situations:

§ 10.45.1 A road crossing the undisturbed buffer to provide access to the sensitive area or across the sensitive area, provided any impacts to the buffer area, including conveyance and fish passage impacts, are addressed with a restoration plan or mitigation plan approved by the District.

§ 10.45.2 Utility construction or approved plans by a governmental agency or public utility subject to Public Utility Commission regulation, providing the buffer is restored and a restoration plan approved by the District.

§ 10.45.3 A walkway or bike path not exceeding eight (8) feet in width, only if it is part of a regional system of walkways and trails managed or adopted by a public agency.

§ 10.45.4 A pervious walkway or bike path, not exceeding eight (8) feet in width that does not provide access to the sensitive areas or across the sensitive areas. If the walkway or bike path is impervious, then the buffer must be widened by the width of the path. The average distance from the path to the sensitive area must be at least 60% of the total buffer width. At no point shall a path be constructed closer than ten feet from the boundary of the sensitive area, unless approved by the District.

§ 10.45.5 Measures to remove or abate hazards, nuisances, or fire and life safety violations.

§ 10.45.6 A homeowner that takes measures to protect property from erosion, such as protecting riverbanks from erosion, within limits allowed by federal, state, and local regulations. Permits may be required for these property protection activities.

§ 10.45.7 The undisturbed buffer shall be left in a natural state. Gardens, lawns, or other landscaping shall use vegetation identified in the Oak Lodge Water Services District Plant List, except with a plan approved by the District. The proposal shall include information to demonstrate that improvement and maintenance of improvements will not be detrimental to water quality. Existing landscaping/vegetation and activities to maintain existing landscaping within the undisturbed buffer is allowed, unless identified on the Required Eradication List contained in the Oak Lodge Water Services District Plant List.

§ 10.46 Tree Replacement within Undisturbed Buffer. Existing trees within the undisturbed buffer or riparian area are encouraged to remain in place. If a tree is removed from the buffer

area the following conditions apply.

§ 10.46.1 Any trees removed a diameter at breast height (DBH) of at least 3-inches shall be replaced at a ratio of 4:1 (four trees planted for every one removed) within a time frame, location(s), and species identified in the approved site restoration plan.

§ 10.46.2 An Erosion Control/Surface Water Management Permit shall first be secured from the District if the tree removal activity causes ground disturbance greater than 250 square feet.

§ 10.46.3 Trees removed by or requiring removal as a result of natural causes (e.g., windstorm, disease (requires report from Certified Arborist to validate and document disease), or wildlife activities) do not have to be replaced.

§ 10.46.4 Types of trees allowed for replacement are those identified in the Oak Lodge Water Services District Plant List, except as allowed in a plan approved by the District.

§ 10.46.5 A variance to the requirements of this subsection may be requested as allowed under Section 12 of these Rules and Regulations.

§ 10.47 Location of Undisturbed Buffer. The District may require that the buffer be fenced, signed, delineated, or otherwise physically set apart from other parcels or areas of parcels that will be developed. In any new development or redevelopment, the undisturbed buffer shall be contained in a tract and shall not be a part of any parcel to be used for the construction. The District reserves the right to require separate tracts for undisturbed buffers; however, conservation easements will be considered and allowed if the developer can demonstrate that restrictions for activities on the parcel will protect the resource associated with the buffer. Restrictions may include permanent signage, fencing, documentation with the title of the property, or other methods approved by the District.

§ 10.48 Plans, Specifications, and Construction.

§ 10.48.1 In addition to requirements in Section 0 the District may require additional plans, specifications, and other information relating to construction within, variances from, and restoration of buffers. Construction and restoration shall not commence until written approval of plans and specifications by the District is obtained and shall occur in accordance with approved plans and specifications.

§ 10.48.2 The applicant shall notify the District when the facility is ready for final construction inspection. The inspector shall then inspect the facility construction therein.

§ 10.49 Hazardous Chemicals, Pesticides, Fertilizers.

§ 10.49.1 The use of hazardous chemicals including, but not limited to, pesticides (including insecticides, herbicides, defoliants, and soil sterilants) and fertilizers must strictly adhere to federal, state, and local regulations.

§ 10.49.2 All hazardous chemicals that are delivered to or stored at the job site during construction, restoration, or maintenance activities shall be stored, covered, and protected from the weather. None of the materials shall be exposed during storage. Hazardous chemicals shall be disposed of in such a manner that pollution of soil, groundwater, surface water, or air does not occur. In no case shall hazardous materials be disposed of in drainageways.

Additional Surface Water Management Standards.

§ 10.50 Purpose. This Article provides for additional treatment design, water quality, water quantity, and natural resource protection standards.

§ 10.51 General Standards.

§ 10.51.1 All development shall be planned, designed, constructed, and maintained to:

§ 10.51.1.1 Protect and preserve existing streams, creeks, natural drainage channels and wetlands and to meet state and federal requirements;

§ 10.51.1.2 Protect property from flood hazards identified by the District; and

§ 10.51.1.3 Provide records or show on District stormwater studies a system by which storm/surface water within the development will be controlled without causing damage or harm to the natural environment, property, or persons.

§ 10.51.2 All stream crossings must be approved by USACE, DSL, Clackamas County, and other authorized federal, state, and local agencies.

§ 10.51.3 In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for purposes of surface water drainage maintenance shall be provided to the District. This does not imply a maintenance obligation by the District.

§ 10.51.4 Channel obstructions are not allowed except with District written approval.

§ 10.51.5 Facilities developed on site, including flow discharge from site, shall be constructed in a manner consistent with the *OLWSD Surface Water Master Plan*.

- § 10.51.6 All storm conveyance pipes, vaults, detention facilities, or other water quality or quantity facilities shall be built to specifications of the District.
- § 10.51.7 All surface water facilities shall be constructed per specifications of the District.
- § 10.51.8 Inspection of surface water facilities and approval of shop drawings shall be provided by the developer's engineer.
- § 10.51.9 Following completion of construction, the engineer shall submit a document, stamped by a professional engineer, indicating all surface water systems have been inspected and installed per approved plans and approved changes.
- § 10.51.10 Maintenance is required for all onsite surface water facilities. The maintenance program must be approved by the District. The District may require a recorded Operations and Maintenance Agreement for onsite facilities.
- § 10.51.11 As-built plans of facilities, easements for all facilities, and approved maintenance plans shall be provided to the District upon completion of construction. Record drawings may be substituted for as-built plans when determined appropriate by the District or authorized representative.
- § 10.51.12 Each surface water system shall have adequate easements and access for construction, operation, and maintenance. A commercial or industrial User having ownership or control of onsite detention facilities shall maintain such facilities in compliance with these Rules and Regulations and provide documentation of annual maintenance.
- § 10.51.13 All surface water facilities shall be maintained as needed and as approved by the District. Proof of maintenance shall be annually submitted in accordance with a schedule approved by the District. If the facility is not maintained, the District may perform the inspection, maintenance, and documentation and charge the owner of the facility.
- § 10.51.14 Site plans, grading plans, storm drainage plans, and associated calculations must be stamped and signed by a professional engineer licensed by the State of Oregon and meet the standards of the District. The District may waive this requirement upon request of a variance under Section 12.
- § 10.51.15 Permittees or owners shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. The amount of the performance bond shall be in

the amount of 100% of the permittee's engineer's cost estimate for all approved but uncompleted surface water and buffer improvements.

§ 10.51.16A maintenance bond shall be provided to the District prior to release of the performance bond. The maintenance bond shall be in favor of the District, in the amount of 25 percent of the actual construction cost, for a period of one year from the date of final District inspection and acceptance of all completed buffer mitigation and public surface water facilities. During construction and the guarantee period, the District may perform work if the owner fails to do so and charge the Bond. At the end of the one-year guarantee period, if no replacement work is required by the final inspection, the residual bond amount shall be released and remitted to the owner. If replacement work is required, the District may extend the bond term by one year. Nothing herein shall limit the owner's responsibility for repair and maintenance to the amount of the bond.

§ 10.51.17The permittee or owner is responsible for complying with federal, state, and local regulations.

§ 10.51.18All developments and redevelopments shall provide water quantity, water quality, and infiltration systems to meet requirements of Section 10.22.

§ 10.51.19Development projects shall not be phased or segmented in such a manner to avoid the requirements of these Rules and Regulations.

§ 10.52 Onsite Detention Design Criteria. All onsite detention facilities shall be constructed in accordance with the District's Design and Construction Standards.

Water Quality Standards.

§ 10.53 Required Water Quality Facilities. All new developments and re-developments shall provide on-site water quality facilities, as required by the District. Water quality facilities shall be designed to capture and treat the first 1-inch of stormwater runoff from a 24-hour storm event.

§ 10.54 Acceptable Systems. Accepted types of vegetated treatment facilities include vegetated swales, filter strips, constructed wetlands, wet ponds, and extended dry detention ponds. Alternative systems may be used with approval by the District and shall be designed to provide equivalent treatment as is provided with a vegetated system, as described in the District's Design and Construction Standards.

§ 11 ENFORCEMENT

§ 11.1 Purpose. This section provides procedures to enforce the District's Rules and Regulations including all applicable rules, regulations, permits, orders, and any other related or future requirements of water, sewer, and watershed protection management. Pretreatment and Discharge violations are governed by the Discharge Enforcement

Rules and Regulations.

- § 11.2 Violations and Civil Penalties. The District may impose civil penalties including, but not limited to, stop work orders, fines, or modification or revocation of a permit and/or cessation of services or seek an injunction or other relief provided by law when any User or person violates any condition or provision of these Rules and Regulations, any rule or regulation adopted thereunder, any permit or order issued or otherwise enforceable by the District, or any other federal or state regulations or administrative rules.
- § 11.3 Objectives. The goal of enforcement is to:
- § 11.3.1 Obtain and maintain compliance with applicable federal and state statutes or administrative rules and the District's NPDES permits, Rules and Regulations, and orders;
 - § 11.3.2 Protect the public health and the environment;
 - § 11.3.3 Deter future violators and violations; and
 - § 11.3.4 Ensure appropriate and consistent enforcement.
- § 11.4 Classes of Violation. The District shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary, taking into account the circumstances of each violation. The violators who do not comply with initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved. There are three levels of violation: Class I, Class II, and Class III.
- § 11.4.1 Class I. Any violation that poses a major risk of harm to public health or the environment or violation of any compliance schedule contained in a District permit or a District order, including but not limited to:
- § 11.4.1.1 Violation of these Rules and Regulations;
 - § 11.4.1.2 Violation of a District order or approved plan;
 - § 11.4.1.3 Intentional unauthorized discharges;
 - § 11.4.1.4 Negligent spills or discharges that pose a major risk of harm to public health or the environment;
 - § 11.4.1.5 Discharge of waste to surface waters without first obtaining a National Pollutant Discharge Elimination System Permit;
 - § 11.4.1.6 Failure to immediately notify the District of a spill or upset condition that results in an unpermitted discharge to public waters that poses a major risk of harm to public health or the environment;
 - § 11.4.1.7 Violation of a permit compliance schedule;
 - § 11.4.1.8 Failure to provide access to premises or records;
 - § 11.4.1.9 Any other violation related to water quality which poses a major risk of harm to public health or the environment; or

§ 11.4.1.10 Two Class II violations, or one Class II and two Class III violations, or three Class III violations.

§ 11.4.2 Class II. Any violation which poses a moderate risk of harm to public health or the environment, including but not limited to:

§ 11.4.2.1 Violation of these Rules and Regulations;

§ 11.4.2.2 Violation of a District order or approved plan;

§ 11.4.2.3 Waste discharge permit limitation violations that pose a moderate risk of harm to public health or the environment;

§ 11.4.2.4 Negligent spills that pose a moderate risk of harm to public health or the environment;

§ 11.4.2.5 Failure to submit a report or plan as required by permit or license; or

§ 11.4.2.6 Any other violation related to water quality that poses a moderate risk of harm to public health or the environment.

§ 11.4.3 Class III. Any violation that poses a minor risk of harm to public health or the environment, including but not limited to:

§ 11.4.3.1 Violation of these Rules and Regulations;

§ 11.4.3.2 Violation of a District order or an approved plan;

§ 11.4.3.3 Negligent spills or discharges that pose a minor risk of harm to public health or the environment;

§ 11.4.3.4 Violation of a waste discharge permit limitation that poses a minor risk of harm to public health or the environment;

§ 11.4.3.5 Any other violation related to water quality that poses a minor risk of harm to public health or the environment.

Procedure for Enforcement.

§ 11.5 Inspection, Entry, and Sampling.

§ 11.5.1 Authorized District representatives may inspect the property and facilities of any owner to determine compliance with the requirements of these Rules and Regulations. The person shall allow the District, or its authorized representatives, to enter upon the premises at all reasonable hours for the purpose of inspection, sampling, or records examination.

§ 11.5.2 The District shall also have the right to set up on the owner's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring and/or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise addressing sewage or stormwater and storing records, reports, or other related

documents.

§ 11.5.3 The District is authorized to conduct inspections and take such actions as required to enforce any provisions of these Rules and Regulations, or any permit issued pursuant to these Rules and Regulations, whenever the General Manager has reasonable cause to believe there exists any violation of these Rules and Regulations. If the premises are occupied, credentials shall be presented to the occupant and entry requested. If the premises are unoccupied and no permit has been issued, the District shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused in either case, the District shall have recourse to the remedies provided by law to secure entry.

§ 11.5.4 Where feasible, inspections shall occur at reasonable times of the day. If a permit has been issued and the owner or their representative is at the site when the inspection is occurring, the General Manager or authorized representative shall first present proper credentials to the owner or their representative. The owner or person having charge or control of the premises shall allow the General Manager or the General Manager's authorized representative, agents, and contractors to:

§ 11.5.4.1 Enter upon the property where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit;

§ 11.5.4.2 Have access to and copy any records that must be kept under the conditions of a permit;

§ 11.5.4.3 Inspect at reasonable times the property, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required by the Rules and Regulations or under a permit; and

§ 11.5.4.4 Sample or monitor at reasonable times, for the purpose of assuring permit compliance with the Rules and Regulations, or as otherwise authorized by local or state law, any substances or parameters at any location.

This subsection is subject to the abatement provision in Section 11.19.

§ 11.6 Notice of Non-Compliance (NON). After identifying a violation, the District may issue a Notice of Noncompliance that:

§ 11.6.1 Informs a person of the existence of a violation, the actions required to resolve the violations, and the consequences of continued non-compliance. The NON may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated

§ 11.6.2 Is issued under the direction of the General Manager;

§ 11.6.3 May be issued for all classes of documented violations; and

§ 11.6.4 Is consistent with the objectives in Section 11.3.

§ 11.6.5 The NON may be in the form of a phone call followed by a Compliance Telephone Memorandum. The NON will require the violator to provide a written report within five (5) business days that details the event, the steps taken to correct the problem, and the steps to prevent future events.

§ 11.7 Informal Resolution. The District shall attempt to resolve violations and solicit compliance with education and technical assistance, especially with parties who are unlikely to have knowledge of regulatory requirements. Generally, violators will be given an initial period to correct the violation based on the educational materials and technical assistance provided by District staff. Informal resolution shall include the following efforts:

§ 11.7.1 Education through a discussion of the violated regulation and the facility's need to come into compliance.

§ 11.7.2 Technical assistance that includes sharing of program materials, referrals to other agencies or contractors, and guidance on best management practices ("BMPs") that should be used. Technical assistance should seek to provide the violator with options, when options are available.

§ 11.7.3 Oral notice that explains the nature of the violation and a time frame for remedy. Resolution of the violation should always be verified by a submittal from the violator proving the violation is remedied, windshield surveys, site visits, or records checks.

§ 11.8 Oral Notices. All oral notices shall be given in person to the appropriate facility personnel. All instructions or requested remedies shall be oral, presented by phone or in person, to the appropriate facility manager and/or property owner to enhance conformance with the remediation instructions. Written documentation of these instructions shall be forwarded to the facility manager upon request. All oral notices of violation shall be recorded in the District's Work Order database.

§ 11.9 Notice of Violation (NOV); Exceptions.

§ 11.9.1 Except as otherwise provided, prior to the assessment of any civil penalty the District shall serve a notice of violation upon the owner (or Respondent) that:

§ 11.9.1.1 Is served, either personally, by office or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the

District will assess a civil penalty if a violation continues or occurs after five (5) days following receipt of the notice;

§ 11.9.1.2 Shall be issued for the first occurrence of a documented Class I violation, or the repeated or continued occurrence of documented Class II or III violations where NON has failed to achieve compliance or satisfactory progress toward compliance;

§ 11.9.1.3 Is issued under the direction of the General Manager;

§ 11.9.1.4 May include a time schedule by which compliance is to be achieved;

§ 11.9.1.5 May be issued for all classes of documented violations; and

§ 11.9.1.6 Is consistent with the objectives in Section 11.3.

§ 11.9.2 The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five (5) days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if:

§ 11.9.2.1 The act or omission constituting the violation is intentional;

§ 11.9.2.2 The violation would normally not be in existence for five (5) days;

§ 11.9.2.3 The water pollution might leave or be removed from the jurisdiction of the District;

§ 11.9.2.4 Respondent received written notice with respect to any violation of the permit or order within thirty-six (36) months of the alleged violation; or

§ 11.9.2.5 The requirement to provide written notice would disqualify a state program from federal approval or delegation.

§ 11.10 Notice of Civil Penalty Assessment. In addition to any liability, duty, or other penalty provided by law, the General Manager may assess a civil penalty for any violation of the District's statutes, regulations, permits, or orders as follows:

§ 11.10.1 The District shall issue the written notice of assessment of civil penalty upon the Respondent using the procedure set forth in Section 11.9.

§ 11.10.2 The amount of any civil penalty shall be determined through the use of the matrices and formula contained in Section 11.11.

§ 11.10.3 The Notice of Civil Penalty Assessment must comply with Oregon law related to notice and contested case hearings.

§ 11.10.4 The penalty may be assessed for the occurrence of any class of documented violation, for any class of repeated or continuing documented

violations, or where a person has failed to comply with a notice of violation and intent to assess a civil penalty or other order or Stipulated Final Order.

§ 11.11 Civil Penalty Procedures. No civil penalty issued by the General Manager pursuant to this matrix shall be less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) for each day of each violation. When determining the amount of civil penalty to be assessed for any violation the General Manager shall apply the following procedures:

§ 11.11.1 Determine the class of violation and the magnitude of violation.

§ 11.11.1.1 For each civil penalty assessed, the magnitude is moderate unless the violation is major or minor.

§ 11.11.1.2 The magnitude of the violation is major if the District finds that the violation had a significant adverse impact on human health or the environment. In making this finding, the District will consider all reasonably available information.

§ 11.11.1.3 The magnitude of the violation is minor if the District finds that the violation had no more than a de minimis adverse impact on human health or the environment and posed no more than a de minimis threat to human health or other environmental receptors. In making this finding, the District will consider all reasonably available information.

§ 11.11.1.4 Choose the appropriate base penalty (BP) based upon the above finding:

	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

§ 11.11.2.....

Starting with the base penalty (BP), determine the amount of penalty through the application of the formula $BP + [(.1 \times BP) (P + H + E + O + R + C)]$ where:

“P” is determined by whether the Respondent has any prior significant actions relating to statutes, rules, orders, and permits pertaining to environmental quality or pollution control.	
0	if no prior significant action or there is insufficient information on which to base a finding
1	if the prior significant action is one Class II or two Class III violations

2	if the prior significant action is one Class I or equivalent
3	if the prior significant actions are two Class I or equivalents
4	if the prior significant actions are three Class I or equivalents
5	if the prior significant actions are four Class I or equivalents
6	if the prior significant actions are five Class I or equivalents
7	if the prior significant actions are six Class I or equivalents
8	if the prior significant actions are seven Class I or equivalents
9	if the prior significant actions are eight Class I or equivalents
10	if the prior significant actions are nine Class I or equivalents determining the appropriate value for prior significant actions as listed above

In determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

2	if all prior significant actions are greater than three years old, but less than five years old
4	if all the prior actions are greater than five years old

In making the above reductions no finding shall be less than zero (0). Any prior significant action which is greater than ten (10) years old shall not be included in the above determination.

"H" is determined by the history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions.	
-2	if the Respondent took all feasible steps to correct any violation
0	if there is no prior history or insufficient information on which to base a finding
1	if the Respondent took some but not all feasible steps to correct a Class II or III violation
2	if the Respondent took some but not all feasible steps to correct a

	Class I violation
3	if no action to correct prior significant actions

“E” is the economic condition of the Respondent.	
-4 to -1	if economic condition is poor, subject to any significant economic benefit gained by Respondent through non-compliance
0	if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound
2	if the Respondent gained a minor to moderate economic benefit through noncompliance
4	if the Respondent gained a significant economic benefit through noncompliance

If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4, it may increase the penalty by the amount of economic gain, if the penalty does not exceed the maximum penalty allowed by rule and statute.

In any contested case proceeding or settlement in which Respondent has raised economic condition as an issue, Respondent has the burden of providing documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Hearings Officer or District may consider the causes and circumstances of Respondent’s economic condition.

“O” is determined by whether the violation was a single occurrence or if it was repeated or continuous during the period resulting in the civil penalty assessment.	
0	if a single occurrence
2	if repeated or continuous

“R” is determined by whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent.	
-2	if it was an unavoidable accident
0	if there is insufficient information to make any other finding
2	if negligent
4	if grossly negligent
6	if intentional
10	if flagrant

“C” is determined by the Respondent’s cooperativeness in correcting the violation.	
-2	if Respondent is cooperative
0	if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding
2	if violator is uncooperative

In addition to the factors listed in this Section of the Rules and Regulations, the General Manager may consider any other relevant rule or statute and shall state the effect the consideration had on the penalty. On review, the Hearings Officer shall consider the factors contained in this section of the Rules and Regulations and any other relevant rule or statute.

§ 11.11.3.....
 Petroleum Spills.

Persons causing oil spills to waters of the state within the jurisdiction of the District through intentional or negligent acts or omissions shall incur a civil penalty of not less than one hundred dollars (\$100) or more than twenty thousand dollars (\$20,000) per violation. The amount of the penalty shall be determined by doubling the values contained in the matrix in conjunction with the formula contained above. In determining whether to seek a civil penalty, the District shall consider the circumstances and enforcement efforts of other governmental agencies having jurisdiction.

§ 11.12 Memorandum of Agreement and Order (MAO). A Memorandum of Agreement and Order

(MAO) is a formal enforcement action that is in the form of an agreement or consent order issued by the Board or General Manager that:

§ 11.12.1.....
May be negotiated between the District and the subject party prior to or after any notice set forth above;

§ 11.12.2.....
Shall be signed by the General Manager on behalf of the District and the authorized representative of the subject party; and

§ 11.12.3.....
Shall set forth action to be taken and set civil penalties. This may be issued for any class of violations.

§ 11.12.4.....
Other Remedies. The formal enforcement action as described in these sections in no way limits the District from seeking other legal or equitable remedies in the proper court as provided by Oregon or federal law. The District is authorized to refer violations of District Rules and Regulations to the proper authorities for the investigation and enforcement of criminal matters. The name of the Respondent and the case file number or permit number;

§ 11.12.5.....
The name and signature of the Respondent and a statement that, if acting on behalf of a partnership or corporation, the person executing the Notice of Appeal is duly authorized to file such appeal and such person is the contact representative;

§ 11.12.6.....
The date that the Civil Penalty Assessment or other formal enforcement was received by the Respondent; and

§ 11.12.7.....
The nature of the decision and the specific grounds for appeal.

§ 11.13 Misdemeanor Classification. Pursuant to ORS 198.600, violation of District Rules and Regulations is a Class C misdemeanor.

§ 11.14 Right to Hearing. A civil penalty shall be due and payable twenty-one (21) days after Respondent is served with the penalty notice. The decision of the General Manager to assess a civil penalty or other enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be final unless the Respondent files a written Notice of Appeal and Request for Hearing with the District within twenty-one (21) days from the date of service of the notice on Respondent. The Notice of Appeal

and Request for Hearing shall contain the following:

§ 11.14.1.....

The appeal shall be limited to the issues raised in the Notice of Appeal. In the Notice of Appeal, the Respondent shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and reasons therefore.

§ 11.14.2.....

The hearing shall be conducted in accordance with ORS Chapter 183. The record of the hearing shall be considered by the District or Hearings Officer, who shall enter appropriate orders including the amount of civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 12.

§ 11.14.3.....

Notwithstanding the foregoing, nothing shall be construed to prevent the District from taking any other enforcement action or remedy available.

Stop Work Order; Right of Entry.

§ 11.15 Erosion Control Violations. In addition to civil penalties described in Section § 11.11, violations may be enforced by on-site control activities to mitigate existing violations and prevent future violations to the greatest extent possible, as follows:

§ 11.15.1.....

Initial violations will result in a written description of requirements for repair of the problem and a time period for compliance as included in the initial notice.

§ 11.15.2.....

If the repair is not performed or violations continue, the inspector will issue a stop work order on the project that will remain in effect until the violation is repaired to the requirements stated in these Rules and Regulations;

§ 11.15.3.....

If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation; or

§ 11.15.4.....

Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance.

§ 11.16 Emergency Action. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance.

§ 11.17 Costs to Remedy. Any costs incurred by the District to remedy a violation shall be paid by the owner.

§ 11.18 Additional Charges. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Section 11.11 will be assessed to the owner of the property.

§ 11.19 Abatement. Nothing herein shall prevent the District, following five (5) days written notice to the discharger and discharger's failure to act, from entering upon the property and disconnecting, sealing, or otherwise abating any unauthorized connection to the stormwater or system discharger violating any permit, these Rules and Regulations, or water quality standards. As part of this power, the District may perform tests upon the property to trace sources of water quantity or water quality violation.

§ 11.20 Compromise or Settlement of Civil Penalty. At any time, subsequent to service of a written notice of assessment of civil penalty, the General Manager may compromise or settle any unpaid civil penalty at any amount that the General Manager deems appropriate. Any compromise or settlement executed by the General Manager shall be final. In determining whether a penalty should be compromised or settled, the General Manager may consider the following:

§ 11.20.1.....
New information obtained through further investigation or provided by Respondent that relates to the penalty determination factors;

§ 11.20.2.....
The effect of compromise or settlement on deterrence;

§ 11.20.3.....
Whether Respondent has or is willing to employ adequate means to correct the violation or maintain compliance;

§ 11.20.4.....
Whether Respondent has had any previous penalties that have been compromised or settled;

§ 11.20.5.....
Whether the compromise or settlement would be consistent with the District's goal of protecting the public health and environment as set forth in Section 11.3; and

§ 11.20.6.....

The relative strengths or weaknesses of the District's case.

- § 11.21 Stipulated Penalties. Nothing in these Rules and Regulations shall affect the ability of the District to include stipulated penalties in an MAO or any other agreement.
- § 11.22 Appointment of Hearings Officer. For any contested case hearing, the District, through the General Manager, may appoint a hearings officer to determine all issues.
- § 11.23 Collection of Civil Penalty. Procedures for the enforcement of the civil penalty shall be as follows:
- § 11.24 Time Limit. Any civil penalty is final unless appealed pursuant to Section 12 and may be entered as a judgment in the Circuit Court. The penalty shall be paid in full within twenty-one (21) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.
- § 11.25 Relief in Circuit Court: If full payment is not made, the District may take further action for collection and/or cause service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court.
- § 11.26 Civil Action and Other Relief. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

§ 12 VARIANCES AND APPEALS

- § 12.1 Purpose. This Article provides processes for variances and appeals for meeting requirements under the Rules and Regulations.
- § 12.2 Variance Requests: Under the variance process, any person may request a variance to the requirements in these Rules and Regulations. The Board delegates to the General Manager decisions on requests for variance.

§ 12.2.1 The variance process includes a letter to the General Manager from the permittee that describes the following:

- § 12.2.1.1 A description of the project or action specific to the Rules and Regulations;
- § 12.2.1.2 A description or summary of what is required per the Rules and Regulations; and
- § 12.2.1.3 An alternate proposal that documents and describes the variance request and clearly describes the water quality and quantity equivalency to the Rules and Regulations.

§ 12.2.2 The District shall review and respond in writing to the Permittee within

fourteen (14) days the decision to approve or deny a Variance Request. Should the permittee choose to appeal this decision, the formal Appeal process shall occur.

§ 12.3 Exemption Requests.

§ 12.3.1 Under the Exemption process, any person may request an exemption to the requirements of the Rules and Regulations. The Board delegates to the General Manager decisions on requests for exemption from the District's requirements.

§ 12.3.2 The Exemption Request process includes a letter to the General Manager from the permittee that describes the following:

§ 12.3.2.1 A description of the project or action specific to the Rules and Regulations;

§ 12.3.2.2 A description or summary of what is required per the Rules and Regulations; and

§ 12.3.2.3 A clear and technical reason why an exemption would be appropriate and how providing an exemption would address water quality and quantity requirements of the Rules and Regulations.

§ 12.4 Appeals.

§ 12.4.1 Appeals to General Manager. Except for violations and enforcement matters, which are addressed in Section 11.14, any person aggrieved by a ruling or interpretation (decision) of the provisions of these Rules and Regulations may submit a written appeal to the General Manager. The appeal letter and associated fee (see District's Fee Schedule) must be submitted within fourteen (14) days after the decision is made. The appeal shall be in writing and shall set forth the events and circumstances leading to the appeal and the nature of the impact of the ruling on the appellant, together with any other reasons for the appeal. The General Manager shall make a written decision within thirty (30) days of written notification of appeal. If the appeal is broad in nature, the General Manager may refer the appeal to the Board. If the appellant chooses to appeal the decision of the General Manager or the Board, the General Manager shall appoint a hearings officer to decide the appeal.

§ 12.4.2 Hearings Officer. The hearings officer appointed pursuant to section 11.22 shall set a *de novo* hearing on the matter at which he or she will take testimony and hear arguments. The General Manager shall give notice of the time and place for the hearing to the appellant, the applicant, and all property owners within 250 feet of the subject property. The notice called

for in this section shall be given by First Class mail, postage prepaid, at least fourteen (14) days in advance of the time scheduled for the hearing. Only persons who have been aggrieved by the General Manager's decision shall have standing to participate in the hearing. The hearings officer shall issue written findings and a decision on the appeal within thirty (30) days after the *de novo* hearing, with copies to the Board, all persons who participated in the hearing, and those persons who have requested a copy.

§ 12.4.3 Circuit Court Review. Decisions of the General Manager or the Hearings Officer shall be reviewable by the Circuit Court of the State of Oregon for Clackamas County, solely and exclusively under the provisions of ORS 34.010 to 34.100.

§ 13 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

- § 13.1 New Rules and Amendments. The Board of Directors of Oak Lodge Water Services District may promulgate new or amended rules pertaining to these rules or regulations. Such rules and regulations shall be adopted in a meeting of the governing Board of Directors by ordinance.
- § 13.2 Fee Schedule Revision. The Fee Schedule for furnishing services, installation of meters, service pipes, main extensions, etc., may be revised in the interest of the District. Any revisions to the Fee Schedule shall be adopted by the Board in accordance with Oregon law.
- § 13.3 Adoption of Revised Appendices. The Board of Directors of Oak Lodge Water Services District may adopt revisions to the appendices of these Rules and Regulations by Ordinance in a legally called meeting of the governing Board of Directors by motion duly made, seconded, and passed.

§ 14 MISCELLANEOUS PROVISIONS

- § 14.1 Severability. If any provision of these Rules and Regulations is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.
- § 14.2 Titles Not Part of Text. Titles of chapters or sections of these Rules and Regulations are not a part of the text of the sections. The titles are for indexing and locating convenience only.

END OF DOCUMENT

OAK LODGE WATER SERVICES

RESOLUTION NO. 2022-0003

A RESOLUTION DESIGNATING THE LOCAL CONTRACT REVIEW BOARD AND ADOPTING PUBLIC CONTRACTING AND PURCHASING RULES FOR THE OAK LODGE WATER SERVICES AUTHORITY

WHEREAS, the Oak Lodge Water Services Authority (the “Authority”) is a public contracting agency, and pursuant to ORS 279A.060, the Authority Board of Directors (“Board”) serves as the local contract review board and exercises the Authority’s procurement authority in accordance with the state Public Contracting Code ORS 279A, 279B, and 279C; and

WHEREAS, pursuant to ORS 279A.065, the Board has chosen to adopt its own local rules of procedure for public contracts and purchases.

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

Section 1. Designation of Local Contract Review Board. The Board of Directors of the Oak Lodge Water Services Authority is hereby designated as the Local Contract Review Board for the Authority.

Section 2. Adoption of Procurement Rules. The Contracting and Purchasing Rules, dated November 2018, attached hereto as Exhibit A, and incorporated herein by reference (“OLWS Procurement Rules”) are hereby adopted as the Authority’s local rules of procedure under ORS 279A.065(6). All references to the Oak Lodge Water Services “District” shall be deemed references to the Oak Lodge Water Services Authority, and all references to the Oak Lodge Water Services District Board of Directors shall be deemed references to the Authority Board of Directors, wherever mentioned in the OLWS Procurement Rules.

Section 3. Effect on Public Contracting Code. Except as otherwise provided herein, the Oregon Attorney General’s Model Public Contracting Rules promulgated under ORS 279A.065 and set forth in Oregon Administrative Rules Chapter 137, Divisions 46, 47, 48, and 49, do not apply to the Authority.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption, and shall continue in full force and effect until modified or superseded by future action of the Board.

INTRODUCED AND ADOPTED THIS 16th DAY OF SEPTEMBER 2022.

OAK LODGE WATER SERVICES

By _____ By _____
NAME, President NAME, Secretary/Vice President

EXHIBIT A
CONTRACTING AND PURCHASING RULES



Contracting & Purchasing Rules

November 2018

**Oak Lodge Water Services District
Contracting & Purchasing Rules**

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Contracting & Purchasing Rules

I. Introduction.

- A. Purpose of Rules.** These Contracting and Purchasing Rules (“Rules”) are adopted by the Oak Lodge Water Services District Board of Directors (“the OLWSD Board”), the governing body of the Oak Lodge Water Services District (“the District”), to establish the rules and procedures for contracts entered into and purchases made by the District. The District’s General Manager is responsible for ensuring that these Rules are followed. It is the policy of the District in adopting these Rules to utilize public contracting and purchasing practices and methods that maximize the efficient use of District resources and the purchasing power of District funds by:
1. Promoting impartial and open competition;
 2. Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
 3. Taking full advantage of evolving procurement methods that suit the purchasing needs of the District as they emerge within various industries.
- B. Interpretation of Rules.** Except as specifically provided in these Rules, public contracts and purchases shall be awarded, administered, and governed according to ORS Chapters 279A, 279B, and 279C (the “Public Contracting Code”) and the Attorney General’s Model Public Contract Rules (“AG Model Rules”), as may be amended from time to time.
1. It is the District’s intent that these Rules be interpreted to authorize the full use of all contracting and purchasing powers described in ORS Chapters 279A, 279B, and 279C.
 2. The AG Model Rules adopted under ORS 279A.065 shall apply to the contracts and purchases of the District to the extent that they do not conflict with these Rules or other rules and regulations adopted by the District.
 3. In the event of a conflict between any provisions of these Rules and the AG Model Rules, the provisions of these Rules shall prevail.
 4. In the event of a conflict between one or more provisions of these Rules, the General Manager shall have the authority to interpret these rules consistent with the purposes of the objective set forth above in subsection A to resolve the conflict.
- C. Specific Provisions’ Precedence over General Provisions.** In the event of a conflict between the provisions of these Rules, the more specific provision shall take precedence over the more general provision.
- D. Conflict with Federal Statutes and Regulations.** Except as otherwise expressly provided in ORS Chapters 279A, 279B, or 279C, applicable federal statutes and regulations shall govern when federal funds are involved.

- II. Definitions.** Unless a different definition is specifically provided herein, or the context clearly requires otherwise, the following terms have the meanings set forth herein. Additionally, any term defined in the singular includes the meaning of the plural, and vice versa.
- A. Administering agency.** A contracting agency other than the District that solicited and established the original contract in a cooperative procurement for goods, services, personal services, professional services, or public improvements.
 - B. Affected person.** A person whose ability to participate in a procurement is adversely impaired by a District decision.
 - C. Architectural, engineering, and land surveying services.** Professional services performed by an architect, engineer, or land surveyor that includes architectural, engineering, or land surveying services, separately or any combination thereof.
 - D. Award.** The decision to enter into a contract or purchase order with a specific offeror or proposer.
 - E. Bid.** A response to an invitation to bid.
 - F. Bidder.** A person who submits a bid in response to an invitation to bid.
 - G. Bid security.** A form of security submitted or posted by a bidder as a monetary guarantee that, if selected, the bidder will accept the award of the contract under the terms of the bid. Bid security is either returned, forfeited, or exchanged for a different form of guarantee. The form of bid security may be: a surety bond signed by the surety, a signed irrevocable letter of credit issued by an insured institution as the term is defined in ORS 706.008(11), a cashier's check, or other adequate form of security as determined by the General Manager.
 - H. Business with which a District employee is associated.** Any business in which a District employee is a director, officer, owner, or employee, or any corporation in which a District employee owns or has owned ten percent (10%) or more of any class of stock at any point in the preceding calendar year.
 - I. District.** The Oak Lodge Water Services District, a public water and sanitary district and a contracting and purchasing agency.
 - J. General Manager.** The District's General Manager or the person designated as the acting General Manager in the General Manager's absence.
 - K. Closing.** The date and time announced in a solicitation document as the deadline for submitting bids or offers.
 - L. Contract or Public Contract.** A purchase, lease, rental, or other acquisition, by the District of personal property, goods, or services, including personal services, professional services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. A public contract does not include grants.
 - M. Contractor.** The person who enters into a contract with the District.

- N. Contract price.** As the context requires:
1. The maximum payment that the District will make under a contract if the contractor fully performs under the contract, including bonuses, incentives and contingency amounts;
 2. The maximum not-to-exceed payment specified in the contract; or
 3. The unit prices set forth in the contract.
- O. Contracting agency.** A public body authorized by law to conduct a procurement.
- P. Cooperative procurement.** A procurement conducted by, or on behalf of, one or more contracting agencies.
- Q. Days.** Calendar days.
- R. Emergency.** Involves circumstances that:
1. Could not have been reasonably foreseen;
 2. Create a substantial risk of loss, damage, or interruption of services, or a substantial threat to property, public health, welfare, or safety; and
 3. Require prompt execution of a contract or amendment in order to remedy the substantial risks and threats.
- S. Findings.** The justification for a conclusion. If the justification relates to a public improvement contract, findings may be based on information that include, but is not limited to:
1. Operational, budget, and financial data;
 2. Public benefits;
 3. Value engineering;
 4. Specialized expertise;
 5. Market conditions;
 6. Technical complexity; and
 7. Funding sources.
- T. Goods or services.** Supplies, equipment, materials, and services, other than personal services, and any personal property, including any tangible, intangible, and intellectual property and rights and licenses in relation thereto. The term includes good or services, goods and services, and combinations of any of the items identified in this definition.
- U. Grant.** An agreement under which:
1. The District receives money, property, or other assistance, including but not limited to, federal assistance that is characterized as a grant by federal law or regulation, loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets;

- a. The assistance received by the District is from a grantor for the purpose of supporting or stimulating a program or activity of the District; and
 - b. No substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions; or
- 2. The District provides money, property, or other assistance, including but not limited to, federal assistance that is characterized as a grant by federal law or regulation, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;
 - a. The assistance is given to the recipient for the purpose of supporting or stimulating a program or activity of the recipient; and
 - b. No substantial involvement by the District is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions, unless otherwise provided for in an agreement related to the grant.
- V. Immediate family member.** An employee's: spouse, and parents thereof; children, and spouses thereof; parents, and spouses thereof; siblings, and spouses thereof; grandparents and grandchildren, and spouses thereof; and domestic partner, and parents thereof.
- W. Minority, Women, Service-Disabled Veteran, and Emerging Small Business Enterprise.** An enterprise or business that is certified by the State of Oregon's Certification Office for Business Inclusion and Diversity in the Oregon Business Development Department as a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns, and/or an emerging small business.
- X. Nonresident bidder.** A bidder that is not a resident bidder.
- Y. Offer.** A bid, proposal, quote, or other response to a solicitation document.
- Z. Offeror.** A person who submits an offer.
- AA. Opening.** The date, time, and place announced in the solicitation document for the public opening of written sealed offers.
- BB. Original contract.** The initial contract or price agreement solicited and awarded during a cooperative procurement by an administering agency.
- CC. Purchasing agency.** An agency that procures goods or services, personal services, or public improvements from a contractor based on the original contract established by an administering agency in a cooperative procurement.
- DD. Person.** An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public body, public corporation, or other legal or commercial entity, and any other person or entity with legal capacity to contract.
- EE. Personal services.** Services, other than professional services, that require

specialized skill, knowledge, and resources in the application of technical or scientific expertise or in the exercise of professional, artistic, or management discretion or judgment.

1. Qualifications and performance history, expertise and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a personal services contractor, with price being secondary.
2. Personal services contracts include, but are not limited to, the following classes of contracts:
 - a. Contracts for services performed in a professional capacity, including but not limited to, services of an accountant, attorney, auditor, court reporter, information technology consultant, physician, or broadcaster;
 - b. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the District is or may become interested;
 - c. Contracts for services as an artist in the performing or fine arts, including any person identified as a photographer, film maker, actor, director, painter, weaver, or sculptor;
 - d. Contracts for services that are specialized, creative, or research-oriented; and
 - e. Contracts for services as a consultant.

FF. Price agreement. A contract for the procurement of goods or services at a set price which has:

1. No guarantee of a minimum or maximum purchase; or
2. An initial order or minimum purchase combined with a continuing contractor obligation to provide goods or services with no guarantee of any minimum or maximum additional purchase.

GG. Procurement. The act of purchasing, leasing, renting, or otherwise acquiring goods or services, personal services, or professional services. It includes each function and procedure undertaken or required to be undertaken to enter into a contract, administer a contract and obtain the performance of a contract for goods or services, personal services, or professional services.

HH. Professional services. Architectural, engineering, land surveying, photogrammetric, transportation planning, or related services, or any combination of these services, provided by a consultant.

II. Proposal. A response to a request for proposals.

JJ. Proposer. A person that submits a proposal in response to a request for proposals.

KK. Proposer security. A form of security submitted or posted by a proposer as a monetary guarantee that, if selected, the proposer will accept the award of the

contract under the terms of the proposal. Proposer security is either returned, forfeited, or exchanged for a different form of guarantee. The form of proposer security may be: a surety bond signed by the surety, a signed irrevocable letter of credit issued by an insured institution as the term is defined in ORS 706.008(11), a cashier's check, or other adequate form of security as determined by the General Manager.

- LL. Provider.** As the context requires, a supplier of goods or services, personal services, or professional services.
- MM. Public contract.** See Contract.
- NN. Public contracting.** Procurement activities relating to obtaining, modifying, or administering contracts or price agreements.
- OO. Public improvement.** A project for construction, reconstruction, or major renovation on real property, by or for the District. A public improvement does not include projects for which no funds of the District are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or emergency work, minor alteration, or ordinary repair or maintenance necessary to preserve a public improvement.
- PP. Public improvement contract.** A contract for a public improvement. A public improvement contract does not include a contract for emergency work, minor alterations, or ordinary repair or maintenance necessary to maintain a public improvement.
- QQ. Recycled product.** All materials, goods and supplies, not less than fifty percent (50%) of the total weight of which consists of secondary and post-consumer waste with not less than ten percent (10%) of its total weight consisting of post-consumer waste. It includes any product that could have been disposed of as solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product's form.
- RR. Related services.** Personal services, other than architectural, engineering, and land survey services, that are related to the planning, design, engineering, or oversight of public improvement projects or components thereof, including but not limited to:
1. Landscape architectural services;
 2. Facilities planning services;
 3. Energy planning services;
 4. Space planning services;
 5. Environmental impact studies;
 6. Hazardous substances or hazardous waste or toxic substances testing services;
 7. Wetland delineation studies;
 8. Wetland mitigation services;

9. Native American studies;
10. Historical research services;
11. Endangered species studies;
12. Rare plant studies;
13. Biological services;
14. Archaeological services;
15. Cost estimating services;
16. Appraising services;
17. Material testing services;
18. Mechanical system balancing services;
19. Commissioning services;
20. Project management services;
21. Construction management services and owner's representatives service;
and/or
22. Land use planning services.

- SS. Request for proposals.** A solicitation document used for soliciting proposals.
- TT. Request for qualifications.** A written document issued by the District describing particular services to which potential contractors respond with a description of their experience and qualifications that results in a list of potential contractors who are qualified to perform those services, but which is not intended to create a contract between a potential contractor on the list and the District.
- UU. Resident bidder.** A bidder that has paid unemployment taxes or income taxes in Oregon during the 12 calendar months immediately preceding submission of the bid, has a business address in Oregon, and has stated in the bid that the bidder is a resident bidder.
- VV. Revenue generating agreements.** Contracts or agreements for services that generate revenue and that are typically awarded to the offeror proposing the most advantageous or highest monetary return.
- WW. Scope.** The range and attributes of the goods or services described in a procurement document.
- XX. Signed or signature.** Any mark, word, or symbol attached to or logically associated with a document and executed or adopted by a person with the authority and intent to be bound.
- YY. Solicitation.** As the context requires:
1. A request for the purpose of soliciting offers, including an invitation to bid, a request for proposal, a request for quotation, a request for qualifications, or

other similar documents;

2. The process of notifying prospective offerors of a request for offers; and/or
3. The solicitation document.

ZZ. Work. The furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item in a contract, and the successful completion of all duties and obligations imposed by the contract.

AAA. Written or in writing. Conventional paper documents, whether handwritten, typewritten, or printed, including electronic transmissions or facsimile documents when required by applicable law or permitted by a solicitation document or contract.

III. Authority.

A. OLWSD Board as Local Contract Review Board. The OLWSD Board is designated as the local contract review board of the District and has all of the rights, powers, and authority necessary to carry out the provisions of these Rules, the Public Contracting Code, and/or the AG Model Rules.

B. Application of Attorney General’s Model Rules of Procedure. Pursuant to ORS 279A.065(6), the District has elected to establish its own rules and policy for public contracting and purchasing. Except as provided herein, the AG Model Rules do not apply to the District.

C. Inapplicability of Contracting and Purchasing Rules. These Rules do not apply to the following:

1. Contracts or agreements to which the Public Contracting Code does not apply;
2. Contracts, intergovernmental, and interstate agreements entered into pursuant to ORS Chapter 190;
3. Grants;
4. Acquisitions or disposals of real property or interests in real property;
5. Procurements from an Oregon Corrections Enterprise program;
6. Contracts, agreements, or other documents entered into, issued, or established in connection with:
 - a. The incurring of debt, including any associated contracts, agreements, or other documents, regardless of whether the obligations that the contracts, agreements, or other documents establish are general, special, or limited;
 - b. The making of program loans and similar extensions or advance of funds, aid, or assistance by the District to a public or private person for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;
 - c. The investment of funds by the District as authorized by law; or

- d. Banking, money management, or other predominantly financial transactions that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the General Manager.
- 7. Contracts for employee benefit plans;
- 8. Contracts with newspapers and other publications for the placement of advertisements or public notices;
- 9. Contracts for items where the price is regulated and available from a single source or limited number of sources;
- 10. Insurance contracts;
- 11. Revenue-generating agreements;
- 12. Federal agreements where applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these Rules or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these Rules.

D. Authority of General Manager. For contracts, purchases, and proceedings covered by these Rules, the General Manager is authorized to:

- 1. Award contracts and amendments without specific authorization by the OLWSD Board whenever the proposed expenditure is included in the current fiscal year budget and where: (i) the contract price does not exceed \$50,000 when the contract term is one year or less; or (ii) the contract obligates the District to pay no more than \$50,000 on an annual basis when the contract term exceeds one year.
- 2. Execute contracts and amendments other than those that qualify under subsection (1) with specific authorization by the OLWSD Board.
- 3. As the purchasing agent for the District, the General Manager is authorized to:
 - a. Advertise for bids or proposals without specific authorization from the OLWSD Board, when the proposed purchase is included within the current fiscal year budget.
 - b. Advertise for bids or proposals when the proposed purchase is not included within the current fiscal year budget after the OLWSD Board approves the proposed budget transfer.
 - c. Establish the authority of District employees to make purchases of any goods or services within the General Manager's authority to purchase with limits deemed appropriate by the General Manager.
- 4. Delegate, in writing, the signature authority described in the above subsection (2) and the purchasing powers described in the above subsection (3). In the absence of a written delegation to the contrary, and in the absence of the General

Manager, the signature authority described in the above subsection (2) and the purchasing powers described in the above subsection (3) are delegated to the Acting General Manager.

5. Delegate, in writing, the General Manager's obligations under these rules to make any findings, conduct any proceedings, or retain any records to the appropriate District employee or consultant.
6. Adopt forms, procedures, computer software, and administrative rules for all District purchases regardless of the amount.
 - a. When adopting the forms, procedures, computer software, and/or administrative rules, the General Manager shall establish practices and policies that:
 - i. Do not encourage favoritism or substantially diminish competition; and
 - ii. Allow the District to take advantage of the cost-saving benefits of alternative contracting methods and practices;
 - b. The District shall use these forms, procedures, computer software and administrative rules unless they conflict with these Rules.

E. Favorable Terms. Contracts and purchases shall be negotiated on the most favorable terms for the District, in accordance with these Rules, other adopted ordinances, state and federal laws, policies, and procedures.

F. Unauthorized Contracts or Purchases. Unauthorized public contracts entered into or purchases made without valid authorization shall be voidable at the sole discretion of the District.

1. The District may take appropriate action in response to the execution of unauthorized contracts or purchases.
2. Such appropriate actions include, but are not limited to, providing educational guidance, imposing disciplinary measures, and/or holding individuals personally liable for such contracts or purchases.

G. Limit on Purchases from District Employees or Employees' Immediate Family. No contract shall be entered into with or purchase made from any District employee or employee's immediate family member, or any business with which the employee or employee's immediate family member is associated, unless:

1. The contract or purchase is expressly authorized and approved by the OLWSD Board; or
2. The need for the contract or purchase occurs during a state of emergency, and the General Manager finds, in writing, that the acquisition from the employee, employee's immediate family member, or business with which the employee or employee's immediate family member is associated is the most expeditious means to eliminate the threat to public health, safety, and welfare.

IV. Preferences.

- A. Tie Breaker Preference (mandatory resident preference).** If the District receives offers that are identical in price, fitness, availability, and quality, and the District chooses to award a contract, the preferences provided in ORS 279A.120 shall be applied prior to the contract award based on the following order of precedence:
1. The District shall award the contract to the offeror who is offering goods, services, personal services, or any combination thereof, that are manufactured, produced, or to be performed in Oregon.
 2. If two or more offers are for goods, services, or personal services that are manufactured, produced, or to be performed in Oregon, the District shall award the contract by drawing lots among the identical resident offers. The District shall provide such identical resident offerors notice of the date, time, and location of the drawing of lots, and an opportunity for those offerors to be present when the lots are drawn.
 3. If none of the offers are for goods, services, or personal services that are manufactured, produced, or to be performed in Oregon, the District shall award the contract by drawing lots among the identical non-resident offers. The District shall provide such identical non-resident offerors notice of the date, time, and location of the drawing of lots, and an opportunity for those offerors to be present when the lots are drawn.
 4. **Determining if offers are identical in price, fitness, availability, and quality for purposes of applying a Tie Breaker Preference.**
 - Bids are identical if the bids are responsive and offer the goods or services or personal services described in the Invitation to Bid at the same price.
 - Proposals are identical if the proposals are responsive and achieve equal scores when scored according to the evaluation criteria set forth in the Request for Proposals.
 - Offers received in response to a Special Procurement under ORS 279B.085 are identical if, after completing the contracting procedure, the District determines, in writing, that two or more offers are equally advantageous to the District.
 - Offers received in response to an Intermediate Procurement under ORS 279B.070 are identical if the offers equally best serve the interests of the District, taking into account considerations including but not limited to: price, experience, expertise, product functionality, suitability for a particular purpose, and contractor responsibility under ORS 279B.110.
- B. Reciprocal Preference (mandatory resident preference).** Reciprocal preferences under ORS 279A.120, if applicable, must be given when evaluating bids. The District shall add a percent increase to the bid of a nonresident bidder

equal to the percent of the preference given to the bidder in the state in which the bidder resides. In determining whether the nonresident bidder's state gives preference to in-state bidders, and the amount of preference that is given to in-state bidders, if any, the District may rely on the list of reciprocal preferences prepared and maintained by the Oregon Department of Administrative Services.

- C. Discretionary Local Preference (optional local preference).** If the solicitation is in writing and the procurement is not excluded under this Section IV (C)(3), the General Manager may provide a specified percentage preference of not more than ten percent (10%) for goods fabricated or processed entirely in Oregon or services performed entirely in Oregon. In the event the General Manager determines that such a preference will be applied, the application and amount of the preference must be identified in writing in the solicitation document.
1. When a preference is provided and more than one offeror qualifies for the preference, the General Manager may give further preference to a qualifying offeror that resides in or is headquartered in Oregon.
 2. The General Manager may establish a preference percentage of ten percent (10%) or higher if the General Manager makes a written determination that good cause exists to establish the higher percentage, explains the reasons, and provides evidence for finding good cause to establish a higher percentage.
 3. **Discretionary local preference unavailable for certain procurements.** The discretionary preference described in this Section IV (C) may not be applied to a contract for emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or to any other construction contract that is not defined as a public improvement under ORS 279A.010.
- D. Preference for Recycled Materials and Supplies.** Preferences for recycled goods shall be given when comparing goods, if applicable under ORS 279A.125. The General Manager shall make a written determination for whether the goods are manufactured from recycled materials and the criteria used in making such determination. Preference shall be given if:
1. The recycled product is available
 2. The recycled product meets applicable standards
 3. The recycled product can be substituted for a comparable nonrecycled product; and
 4. The costs of the recycled product do not exceed the costs of comparable nonrecycled products by more than five percent, or a higher percentage if the General Manager makes a written determination justifying a higher percentage.
- E. Opportunities for Minority, Women, Service-Disabled Veteran, and Emerging Small Business Enterprise.** The District aspires to provide opportunities for available contracts to Minority, Women, Service-Disabled Veteran ("MWSDV"), and Emerging Small Business ("ESB") Enterprises. To this end:

1. The District may consult with the State advocate for MWSDV and ESB Enterprise to determine the best means to make contracting opportunities available.
2. The District may, in solicitation documents, require that some portion of the work be performed, or some portion of the materials be provided, by a MWSDV or ESB Enterprise. The District may establish other contract requirements as authorized by ORS 279A.107.
3. The District may use the State of Oregon's Certification Office for Business Inclusion and Diversity Certification Management System Directory to authenticate certification of a business or enterprise as a MWSDV or ESB Enterprise.

V. General Provisions.

- A. **Public Notice.** Unless otherwise specifically provided by these Rules, any notice required to be published by these Rules may be published using any method the General Manager deems appropriate, including but not limited to: mailing notice to persons that have requested notice in writing, placing notice on the District's website, placing notice through an electronic procurement system, or publishing in statewide trade or local publications.
- B. **Procedure for Competitive Verbal Quotes and Proposals.** Where allowed by these Rules, solicitations by competitive quotes and proposals shall be based on a description of the quantity of goods or services to be provided, and may be solicited and received by phone, facsimile, or email, as authorized by the General Manager.
 1. A good faith effort shall be made to contact at least three (3) potential providers.
 2. If three (3) potential providers are not reasonably available, fewer shall suffice, but the General Manager shall keep a written record of the efforts made to obtain three potential providers as part of the procurement file.
- C. **Procedure for Informal Written Solicitation.** Where allowed by these Rules, informal written solicitations shall be made by a solicitation document sent to not fewer than three (3) prospective providers.
 1. The solicitation document shall request competitive price quotes or competitive proposals, and shall include:
 - a. The date, time, and place that price quotes or proposals are due;
 - b. A description or quantity of the good or service required;
 - c. A statement of the time period for which price quotes or proposals must remain firm, irrevocable, valid, and binding on the offeror. If no time is stated in the solicitation document, the period shall be thirty (30) days;
 - d. Any required contract terms or conditions; and
 - e. Any required bid form or proposed format.

2. Price quotes or proposals shall be received by the General Manager at the date, time, and place established in the solicitation document.
 - a. The General Manager shall keep a written record of the sources of the quotes or proposals.
 - b. If three (3) quotes or proposals are not reasonably available, fewer shall suffice, but the General Manager shall keep a written record of the efforts made to obtain quotes or proposals as part of the procurement file.

D. Procedure for Competitive Sealed Bidding.

1. The District shall issue an invitation to bid, which must include the following information:
 - a. Time and date by which the bids must be received, and a place where the bids must be submitted. The District may receive bids by electronic means or direct or permit a bidder to submit bids by electronic means.
 - b. Name and title of the person designated to receive bids and the contact person for the procurement, if different.
 - c. Description of the procurement, which must: identify the scope of work, outline the contractor's anticipated duties, set expectations for the contractor's performance, and include all contractual terms and conditions applicable to the procurement.
 - d. Time, date, and place for prequalification applications, if any, to be filed, and the classes of work, if any, for which bidders must be requalified under ORS 279B.120.
 - e. All criteria to be used in evaluating the bids.
 - f. Additional statements as required by ORS 279B.055.
2. The invitation to bid may additionally include the following information:
 - a. Criteria to determine minimum acceptability, such as inspection, testing, quality, and suitability for intended use or purpose.
 - b. Criteria that will affect the bid price and that will be considered in evaluating for award, including but not limited to: discounts, transportation costs. Total costs of ownership or operation of a product over the life of the product must be objectively measurable if included.
3. Bid security. The District may require bid security if the General Manager determines that bid security is reasonably necessary or prudent to protect the interests of the District.
4. Public notice. A public notice may be provided in any manner deemed reasonably prudent considering the nature of the procurement. Public notice may be published on the District's website, through an electronic procurement system, in a newspaper of general circulation in the area where the contract is to be performed, and/or in any other publications as the General

Manager may determine. Notwithstanding the foregoing, for construction contracts over \$125,000, the District shall publish at least once in a newspaper of general circulation in the area where the contract is to be performed, in addition to whatever other publications the General Manager may deem appropriate.

5. Evaluation of bids. The District shall evaluate all bids received before the time and date indicated for bid opening. The District may not consider for award any bids received after the time and date indicated for bid opening. All applicable preferences shall be applied in evaluating the bids. Bids shall be evaluated on the requirements and criteria set forth in the invitation to bid. No criteria may be used in the evaluation that were not set forth in the invitation to bid.
6. Notice of intent to award. At least 7 calendar days before the award, the District shall provide written notice of its intent to award a contract to all bidders. If the General Manager determines that circumstances justify prompt execution of the contract, a shorter notice period may be established, provided that the specific reasons for the shorter notice period are documented in the procurement file.
7. Finality. The District's award shall not be final until the later of either: the expiration of the protest period following the notice of intent to award pursuant to OAR 137-047-0740, or after the District provides written responses to all timely-filed protests denying the protests and affirming the award.

E. Procedure for Competitive Sealed Proposals.

1. The District shall solicit a request for proposals, which must include the following information:
 - a. Time and date by which sealed proposals must be received, and a place where the proposals must be submitted. The District may receive proposals by electronic means or may direct or permit proposers to submit proposals by hard copy.
 - b. Name and title of the person designated to receive proposals and the contact person for the procurement, if different.
 - c. Description of the procurement, which must: identify the scope of work, outline the contractor's anticipated duties, set expectations for the contractor's performance, and include all contractual terms and conditions applicable to the procurement.
 - d. Time, date, and place for prequalification applications, if any, to be filed, and the classes of work, if any, for which proposers must be requalified under ORS 279B.120.
 - e. Description of the methods by which the District will make the results of each tier of competitive evaluation available to the proposers who competed in that tier.
 - f. Description of the manner in which the proposers who are eliminated

from further competition may protest the District's decision.

g. Additional statements as required by ORS 279B.055.

2. The request for proposals may additionally include the following information:
 - a. Contractual terms or conditions that the District reserves for negotiation with proposers.
 - b. Request that proposers propose contractual terms and conditions that relate to the subject matter reasonably identified in the request for proposals.
 - c. The form or content of the written contract that the District will accept.
 - d. The method the District will use to select the contractor, which may include but is not limited to: negotiating with the highest ranked proposer, competitive negotiations, a multiple-tiered competition that is designed to identify a class of proposers that fall within a competitive range or to otherwise eliminate from consideration a class of lower ranked proposers.
 - e. The manner in which the District will evaluate proposals, identifying the relative important of price and other factors the District will use to evaluate and rate the proposals in the first tier of competition. If the District uses more than one tier of competitive evaluation, the request for proposals must describe the process the District will use to evaluate proposals in the subsequent tiers.
3. Proposer security. The District may require proposer security if the General Manager determines that proposer security is reasonably necessary or prudent to protect the interests of the District. The form of security shall be as determined by the General Manager.
4. Public notice. A public notice may be provided in any manner deemed reasonably prudent considering the nature of the procurement. Public notice may be published on the District's website, through an electronic procurement system, in a newspaper of general circulation in the area where the contract is to be performed, and/or in any other publications as the General Manager may determine. Notwithstanding the foregoing, for construction contracts over \$125,000, the District shall publish at least once in a newspaper of general circulation in the area where the contract is to be performed, in addition to whatever other publications the General Manager may deem appropriate.
5. Evaluation of proposals. The District may select the contractor using the method provided for in the request for proposals, including but not limited to: an award based solely on the rankings of proposals; discussions leading to best and final offers; serial negotiations beginning with the highest ranked proposer; competitive simultaneous negotiations; multiple-tiered competitions; multi-step requests for proposals beginning with first unpriced submittals; or a combination of methods or any other authorized method. All

applicable preferences shall be applied in evaluating proposals. If the District awards a contract, the District shall award the contract to the responsible proposer whose proposal the District determines in writing is the most advantageous to the District, based on the evaluation process and factors described in the request for proposals, applicable preferences, and the outcome of any negotiations where applicable. Other factors may not be used in the evaluation.

6. Application of public records to proposals. The District may open proposals in a manner to avoid disclosing contents to competing proposers during the process of negotiation, when applicable; however, the District shall record and make available the identity of all proposers as part of the District's public records after the proposals are opened. Proposals are not required to be open for public inspection until after the notice of intent to award is issued, even when opened at a public meeting.
7. Notice of intent to award. At least 7 calendar days before the award, the District shall provide written notice of its intent to award a contract to each proposer who was evaluated in the final competitive tier. If the General Manager determines that circumstances justify prompt execution of the contract, a shorter notice period may be established, provided that the specific reasons for the shorter notice period are documented in the procurement file.
8. Finality. The District's award shall not be final until the later of either: the expiration of the protest period pursuant to OAR 137-047-0740, or as set forth in the notice of intent to award if different, or after the District provides written responses to all timely-filed protests denying the protests and affirming the award.

F. Retroactive Approval. Retroactive approval of a contract means the award or execution of a contract where work was commenced without final award or execution. The General Manager may make a retroactive approval of a contract only if the responsible employee submits a copy of the proposed contract to the General Manager, along with a written request for contract retroactive approval, that contains:

1. An explanation of the reason the work was commenced before the contract was awarded or executed;
2. A description of steps being taken to prevent similar occurrences in the future;
3. Evidence that, but for the failure to award or execute the contract, the employee complied with all other steps required to properly select a contractor and negotiate the contract; and
4. A proposed form of contract.

VI. Source Selection Methods for Goods or Services, Other Than Personal or Professional Services.

A. Small Procurements. Contracts or purchases of goods or services with a contract price of \$10,000 or less are small procurements. Small procurements

are not subject to competitive bidding requirements and no public notice is required.

1. For small procurements of goods or services, the General Manager may use any procurement method the General Manager deems practical or convenient, including direct negotiation or direct award.
2. A small procurement contract awarded may be amended to exceed \$10,000 only in accordance with OAR 137-047-0800, provided that the cumulative amendments do not increase the total contract price to more than twenty-five percent (25%) of the original contract price.

B. Intermediate Procurements. Contracts for goods or services with a contract price greater than \$10,000 and less than or equal to \$150,000 are intermediate procurements.

1. Intermediate procurements may be by informal written solicitation.
2. Negotiations. The General Manager may negotiate with an offeror to clarify an informal written solicitation, or to make modifications that will make the quote, proposal, or solicitation acceptable or more advantageous to the District.
3. Award. If a contract is awarded, the award shall be made to the offeror whose competitive quote or proposal or informal written solicitation the General Manager determines will best serve the interests of the District, taking into account:
 - Price
 - Experience and expertise
 - Product functionality and suitability for a particular purpose
 - Contractor responsibility under ORS 279B.110 standards
 - Any other relevant considerations
4. An intermediate procurement contract may be amended to exceed \$150,000 only in accordance with OAR 137-047-0800, provided that the cumulative amendments do not increase the total contract price by more than twenty-five percent (25%) of the original contract price.
5. Public notice. Public notice is required for intermediate procurements with a contract price equal to or exceeding \$50,000.

C. Large Procurements. Contracts for goods or services with a contract price greater than \$150,000 are large procurements.

1. The General Manager may use competitive sealed bidding as set forth in ORS 279B.055 and these Rules, or competitive sealed proposals as set forth in ORS 279B.060 and these Rules.
2. The District shall apply the applicable procedure set out in the AG Model Rules for processing protests of large procurements.

VII. Personal Services Contracts.

- A. Classification of Services as Personal Services.** In addition to the classes of personal services contracts identified in the definition of personal services contracts, the General Manager may classify additional specific types of services as personal services. In determining whether a service is a personal service, the General Manager shall consider:
1. Whether the work requires specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment;
 2. Whether the District intends to rely on the contractor's specialized skills, knowledge, and expertise to accomplish the work; and
 3. Whether selecting a contractor primarily on the basis of qualifications, rather than price, would most likely meet the District's needs and result in obtaining satisfactory contract performance and optimal value.
 4. A service shall not be classified as personal services for the purposes of these Rules if:
 - a. The work has traditionally been performed by contractors selected primarily on the basis of price; or
 - b. The services do not require specialized skills, knowledge, and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment.
- B. Requests for Qualifications.** At the General Manager's discretion, a request for qualifications may be used to determine whether competition exists to perform the needed personal services or to establish a non-binding list of qualified contractors for individual negotiation, informal written solicitations, or requests for proposals.
1. A request for qualifications shall describe the particular type of personal services that will be sought, the qualifications the contractor must have to be considered, and the evaluation factors and their relative importance.
 2. A request for qualifications may require information including, but not limited to:
 - a. The contractor's particular capability to perform the required personal services;
 - b. The number of experienced personnel available to perform the required personal services;
 - c. The specific qualifications and experience of personnel;
 - d. A list of similar personal services the contractor has completed;
 - e. References concerning past performance; and

- f. Any other information the General Manager deems necessary to evaluate the contractor's qualifications.
- 3. A voluntary or mandatory qualifications pre-submission meeting may be held for all interested contractors to discuss the proposed personal services. The request for qualifications shall include the date, time, and location of the meeting.
- 4. Unless the responses to a request for qualifications establish that competition does not exist, the request for qualifications is canceled, or all responses to the request for qualifications are rejected, then all respondents who meet the qualifications set forth in the request for qualifications shall receive notice of any required personal services and have an opportunity to submit a proposal in response to request for proposals.

C. Direct Appointment. Personal services may be procured through direct negotiations and award if:

- 1. The estimated contract price does not exceed \$100,000 and the work is within a budgetary appropriation or approved by the OLWSD Board; or
- 2. The confidential personal services, including special counsel, or professional or expert witnesses or consultants, are necessary to assist with pending or threatened litigation or other legal matters in which the District may have an interest; or
- 3. The nature of the personal service is not project-driven but requires an ongoing, long-term relationship of knowledge and trust.
- 4. Amendments. Personal services contracts procured by direct negotiation pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.
- 5. Public Notice. No public notice of personal services contracts procured by direct negotiations is required.

D. Solicitations. Personal Services that do not qualify for direct appointment under subsection (C) may be procured through the same process the District is authorized to use for the procurement of professional services.

VIII. Professional Services and Related Services

A. Direct Appointment. The District may enter into a contract directly with a consultant providing professional services without following the selection procedures set forth elsewhere in these Rules if:

- 1. The District finds that an Emergency exists; or

2. The total Estimated Fee to be paid under the Contract does not exceed \$100,000; or
3. Where a project is being continued, as more particularly described below, the professional services to be performed under the contract meet the following requirements:
 - a. The services consist of professional services that have been substantially described, planned or otherwise previously studied in an earlier contract with the same consultant and are rendered for the same project as the professional services rendered under the earlier contract;
 - b. The total estimated fee to be made under the Contract does not exceed \$250,000; and
 - c. The District used either a formal selection procedure at the time of original selection to select the consultant for the earlier contract; or
4. Where a Project is being continued, as more particularly described below, and where the total estimated fee is expected to exceed \$250,000, the professional services to be performed under the contract meet the following requirements:
 - a. The services consist of or are related to professional services that have been substantially described, planned or otherwise previously studied under an earlier contract with the same consultant and are rendered for the same project as the professional services rendered under the earlier contract;
 - b. The District used a formal selection procedure applicable to selection of the consultant at the time of original selection to select the consultant for the earlier contract; and
 - c. The District makes written findings that entering into a contract with the consultant, whether in the form of an amendment to an existing contract or a separate contract for the additional scope of services, will:
 - i. Promote efficient use of public funds and resources and result in substantial cost savings to the District; and,
 - ii. Protect the integrity of the public contracting process and the competitive nature of the procurement by not encouraging favoritism or substantially diminishing competition in the award of the contract.
5. The District may select a consultant for a contract under this section of the Rules from the following sources:
 - a. A list of consultants the District creates under OAR 137-048-0120 (List of Interested Consultants; Performance Record);
 - b. Another contracting agency's list of consultants that the contracting agency has created under OAR 137-048-0120 (List of Interested Consultants; Performance Record), with written consent of that contracting agency; or

- c. All consultants offering the required professional services that the District reasonably can identify under the circumstances.
6. The District shall direct negotiations with a consultant selected under this section of the Rules toward obtaining written agreement on:
 - a. The consultant's performance obligations and performance schedule;
 - b. Payment methodology and a maximum amount payable to the consultant for the professional services required under the contract that is fair and reasonable to the District as determined solely by the District, taking into account the value, scope, complexity and nature of the professional services; and
 - c. Any other provisions the District believes to be in the District's best interest to negotiate.

B. Informal Solicitations. An informal written solicitation process may be used for professional services when the contract price is less than \$250,000.

1. The District may use the informal selection procedure on the basis of qualifications alone, or, for related services, on the basis of price and qualifications, if the District:
 - a. Creates a request for proposals that includes at a minimum the following:
 - i. A description of the project for which a consultant's professional services or related services are needed and a description of the professional services or related services that will be required under the resulting contract;
 - ii. The anticipated contract performance schedule;
 - iii. Conditions or limitations, if any, that may constrain or prohibit the selected consultant's ability to provide additional services related to the project, including construction services;
 - iv. The date and time proposals are due and other directions for submitting proposals;
 - v. Criteria upon which the most qualified consultant will be selected. Selection criteria may include, but are not limited to, the following:
 - The amount and type of resources and number of experienced staff the consultant has committed to perform the professional services or related services described in the request for proposals within the applicable time limits, including the current and projected workloads of such staff and the proportion of time such staff would have available for the professional services or related services;
 - Proposed management techniques for the professional services or related services described in the request for proposals;

- A consultant's capability, experience and past performance history and record in providing similar professional services or related services, including but not limited to quality of work, ability to meet schedules, cost control methods and contract administration practices;
 - A consultant's approach to professional services or related services described in the request for proposals and design philosophy, if applicable;
 - A Consultant's geographic proximity to and familiarity with the physical location of the project;
 - Volume of work, if any, previously awarded to a consultant, with the objective of effecting equitable distribution of contracts among qualified consultants, provided such distribution does not violate the principle of selecting the most qualified consultant for the type of professional services required;
 - A consultant's ownership status and employment practices regarding women, minorities, service-disabled veterans, emerging small businesses, or historically underutilized businesses;
 - If the District is selecting a consultant to provide related services, pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead.
- vi. A statement that proposers do so solely at their expense, and District is not responsible for any proposer expenses associated with the request for proposals;
- vii. A statement directing proposers to the applicable protest procedures; and
- viii. A sample form of the contract.
- b. Provides a request for proposals to a minimum of five (5) prospective consultants. If fewer than five (5) prospective consultants are available, the District shall provide the request for proposals to all available prospective consultants and shall maintain a written record of the District's efforts to locate available prospective consultants for the request for proposals. The District shall draw prospective consultants from:
- i. The District's list of consultants that is created and maintained under OAR 137-048-0120 (List of Interested Consultants; Performance Record);
 - ii. Another contracting agency's list of consultants that is created and maintained under OAR 137-048-0120 (List of Interested Consultants;

- Performance Record); or
- iii. All consultants that the District reasonably can locate that offer the desired professional services or related services, or any combination of the foregoing.
 - c. Reviews and ranks all proposals received according to the criteria set forth in the request for proposals, and selects the three highest ranked proposers.
2. The District may use the informal selection procedure for related services on the basis of price proposals and other pricing information alone if the District:
- a. Creates a request for proposals that includes at a minimum the following:
 - i. A description of the project for which a consultant's Related services are needed and a description of the related services that will be required under the resulting contract;
 - ii. The anticipated contract performance schedule;
 - iii. Conditions or limitations, if any, that may constrain or prohibit the selected consultant's ability to provide additional services related to the project, including construction services;
 - iv. The date and time proposals are due and other directions for submitting proposals;
 - v. Any minimum or pass-fail qualifications that the proposers must meet, including but not limited to any such qualifications in the subject matter areas described in these Rules applicable to a request for proposals for professional services that are related to the related services described in the request for proposals;
 - vi. Pricing criteria upon which the highest ranked consultant will be selected. pricing criteria may include, but are not limited to, the total price for the related services described in the request for proposals, consultant pricing policies and other pricing information such as the consultant's estimated number of staff hours needed to perform the related services described in the request for proposals, expenses, hourly rates and overhead;
 - vii. A statement directing proposers to the applicable protest procedures; and
 - viii. A sample form of the Contract.
 - b. Provides the request for proposals to a minimum of five (5) prospective consultants. If fewer than five (5) prospective consultants are available, the District shall provide the request for proposals to all available prospective consultants and shall maintain a written record of the District's efforts to locate available prospective consultants for the request for proposals. The District shall draw prospective Consultants from sources similar to the sources authorized for requests for proposals for

professional services

- c. Reviews and ranks all responsive proposals received, according to the total price for the related services described in the request for proposals, consultant pricing policies and other pricing information requested in the request for proposals, including but not limited to the number of hours proposed for the related services required, expenses, hourly rates and overhead, and select the three highest-ranked proposers.
3. When the estimated fee in an informal selection procedure is expected not to exceed \$150,000, the District is only required to provide the request for proposals to three (3) prospective consultants. If fewer than three (3) prospective consultants are available, the District shall provide the request for proposals to all available prospective consultants and shall maintain a written record of the District's efforts to locate available prospective consultants for the request for proposals.
 4. If the District does not cancel a request for proposals after it reviews the proposals and ranks each proposer, the District will begin negotiating a contract with the highest ranked proposer. The District shall direct contract negotiations toward obtaining written agreement on the following:
 - a. The consultant's performance obligations and performance schedule;
 - b. Payment methodology and a maximum amount payable to the consultant for the professional services or related services required under the contract that is fair and reasonable to the District as determined solely by the District, taking into account the value, scope, complexity and nature of the professional service and related services; and
 - c. Any other provisions the District believes to be in the District's best interest to negotiate.
 5. The District shall, either orally or in writing, formally terminate negotiations with the highest ranked proposer, if the District and the proposer are unable for any reason to reach agreement on a contract within a reasonable amount of time. The District may thereafter negotiate with the second ranked proposer, and if necessary, with the third ranked proposer, in accordance with this section of the Rules, until negotiations result in a contract. If negotiations with any of the top three proposers do not result in a contract within a reasonable amount of time, the District may end the particular informal solicitation and thereafter may proceed with a new informal solicitation under this section or proceed with a formal solicitation.
 6. The District shall terminate the informal selection procedure and proceed with the formal selection procedure if the scope of the anticipated contract is revised during negotiations so that the estimated fee will exceed \$250,000.

C. Formal Selection Procedure. For contracts with consultants providing professional services that do not qualify for direct appointment or the informal selection procedure, the District shall enter into the contract through the formal selection procedure set forth in OAR 137-048-0220.

IX. Public Improvements.

The District shall follow the procedures set forth in the Public Contracting Code for all contracts relating to construction services for the development of a public improvement.

X. Alternative Source Selection Methods for Goods or Services & Personal Services.

A. Sole-Source Procurements. A contract may be awarded as a sole-source procurement without competition pursuant to this section.

1. Determination of Sole Source. Before a sole-source contract may be awarded, the General Manager shall make written findings that the goods or services, personal services, or professional services are available from only one source, based on one or more of the following criteria:
 - a. The efficient use of existing goods or services, personal services, or professional services requires the acquisition of compatible goods or services, personal services, or professional services that are available from only one source;
 - b. The goods or services, personal services, or professional services are available from only one source and required for the exchange of software or data with other public or private agencies;
 - c. The goods or services, personal services, or professional services are available from only one source, and are needed for use in a pilot or an experimental project; or
 - d. Other facts or circumstances exist that support the conclusion that the goods or services, personal services, or professional services are available from only one source.
2. Negotiations. To the extent reasonably practical, contract terms advantageous to the District shall be negotiated with the sole source provider.
3. Notice. The General Manager shall post notice of any determination that the sole source selection method will be used on the District's website not less than seven (7) days prior to the date a sole source contract will be awarded. The notice shall describe the goods or services, personal services, or professional services to be procured, identify the prospective contractor and include the date and time when, and place where, protests of the use of a sole source selection method must be filed.

B. Special Procurements. In its capacity as the local contract review board for the District, the OLWSD Board, upon its own initiative or upon request of the General Manager, may create special selection, evaluation, and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

1. Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the

OLWSD Board that contains the following:

- a. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
 - b. The estimated contract price or cost of the project, if relevant;
 - c. Findings to support the substantial cost savings, enhancement in quality or performance, or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
 - d. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;
 - e. A description of the proposed alternative contracting methods to be employed; and
2. In making a determination regarding a special selection method, the OLWSD Board may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
 3. Hearing. The District shall approve the special solicitation or exemption after a public hearing before the OLWSD Board.
 - a. At the public hearing, the District shall offer an opportunity for any interested party to appear and present comment.
 - b. The OLWSD Board shall consider the findings and may approve the exemption as proposed or as modified by the OLWSD Board after providing an opportunity for public comment.
- C. Contracts.** Subject to award at the General Manager’s discretion. The following classes of contracts may be awarded in any manner that the General Manager deems appropriate to the District’s needs, including by direct appointment or purchase. Except where otherwise provided, the General Manager shall make a record of the method of award.
1. Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with these Rules.
 2. Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.
 3. Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

4. Government-Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
5. Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the District.
6. Specialty Goods for Resale. Contracts for the purchase of specialty goods by the District for resale to consumers.
7. Sponsorship Agreements. Sponsorship agreements, under which the District receives a gift or donation in exchange for recognition of the donor.
8. Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.
9. Temporary Extensions or Renewals. Contracts for a single period of one (1) year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.
10. Temporary Use of District-Owned Property. The District may negotiate and enter into a license, permit or other contract for the temporary use of District-owned property without using a competitive selection process if:
 - a. The contract results from an unsolicited proposal to the District based on the unique attributes of the property or the unique needs of the proposer;
 - b. The proposed use of the property is consistent with the District's use of the property and the public interest; and
 - c. The District reserves the right to terminate the contract without penalty, in the event that the District determines that the contract is no longer consistent with the District's present or planned use of the property or the public interest.
11. Used Property. The General Manager may contract for the purchase of used property by negotiation if such property is suitable for the District's needs and can be purchased for a lower cost than substantially similar new property.
 - a. For this purpose, the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the District.
 - b. The General Manager shall record the findings that support the purchase.
12. Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.
13. Conference/Meeting Room Contracts. Contracts entered into for meeting room rental, hotel rooms, food and beverage, and incidental costs related to

conferences and District-sponsored workshops and trainings.

D. Emergency Procurements. When the General Manager determines that immediate execution of a contract within the General Manager's authority is necessary to prevent substantial damage or injury to persons or property, the General Manager may execute the contract without competitive selection and award or OLWSD Board approval, but, where time permits, competitive quotes should be sought from at least three (3) providers.

1. When the General Manager enters into an emergency contract, the General Manager shall, as soon as possible in light of the emergency circumstances, document the nature of the emergency, the method used for selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the District and the public.
2. The General Manager shall also notify the OLWSD Board of the facts and circumstances surrounding the emergency execution of the contract.

E. Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Public Contracting Code.

XI. Protest and Appeal Procedures.

A. Protests and Judicial Review of Special Procurements. An affected person may protest the request for approval of a special procurement as provided in this section.

1. Delivery; Late Protests. An affected person shall deliver a written protest to the General Manager within seven (7) days after the first date of public notice of a proposed special procurement, unless a different period is provided in the public notice. The protest period begins on the date the first notice was published in any form.
 - a. The written protest shall include a fee in an amount established in a schedule adopted by the General Manager to cover the costs of processing the protest.
 - b. A protest submitted after the timeframe established under this subsection is untimely and shall not be considered.
2. Content of Protest. The written protest shall include:
 - a. Identification of the requested special procurement;
 - b. A detailed statement of the legal and factual grounds for the protest;
 - c. Evidence or documentation supporting the grounds on which the protest is based;
 - d. A description of the resulting harm to the affected person; and
 - e. The relief requested.
3. Additional Information. The General Manager may allow any person to respond to the protest in any manner the General Manager deems appropriate,

by giving such persons written notice of the time and manner whereby any response shall be delivered.

4. District Response. The General Manager shall issue a written disposition of the protest in a timely manner.
 - a. If the General Manager upholds the protest, in whole or in part, the General Manager may, in the General Manager's sole discretion, implement the protest in the approval of the special procurement, deny the request for approval of the special procurement, or revoke any approval of the special procurement.
 - b. If the General Manager upholds the protest, in whole or in part, the District shall refund the fee required to be delivered with the protest.
5. Judicial Review. An affected person may not seek judicial review of a denial of a request for a special procurement.
 - a. Before seeking judicial review of the approval of a special procurement, an affected person shall exhaust all administrative remedies.
 - b. Judicial review shall be in accordance with ORS 279B.400.

B. Protests and Judicial Review of Sole-Source Procurements. An affected person may protest the determination that goods or services or a class of goods or services are available from only one source as provided in this section.

1. Delivery; Late Protests. An affected person shall deliver a written protest to the General Manager within seven (7) days after the first date of public notice of a proposed sole source procurement is placed on the District's website, unless a different period is provided in the public notice.
 - a. The written protest shall include a fee in an amount established in a schedule adopted by the General Manager to cover the costs of processing the protest.
 - b. A protest submitted after the timeframe established under this subsection is untimely and shall not be considered.
2. Content of Protest. The written protest shall include:
 - a. A detailed statement of the legal and factual grounds for the protest;
 - b. Evidence or documentation supporting the grounds on which the protest is based;
 - c. A description of the resulting harm to the affected person; and
 - d. The relief requested.
3. Additional Information. The General Manager may allow any person to respond to the protest in any manner the General Manager deems appropriate by giving such person written notice of the time and manner whereby any response shall be delivered.
4. General Manager Response. The General Manager shall issue a

written disposition of the protest in a timely manner.

- a. If the General Manager upholds the protest, in whole or in part, the proposed sole-source contract shall not be awarded.
 - b. If the General Manager upholds the protest, in whole or in part, the District shall refund the fee required to be delivered with the protest.
5. Judicial Review. An affected person may not seek judicial review of an election not to make a sole-source procurement.
- a. Before seeking judicial review of the approval of a sole-source procurement, an affected person shall exhaust all administrative remedies.
 - b. Judicial review shall be in accordance with ORS 279B.400.

C. Protests and Judicial Review of Personal Services Procurements. An affected person may protest the procurement of a personal services contract as provided in this section.

1. Delivery. Unless otherwise specified in the solicitation document, the protest shall be in writing and delivered to the General Manager.
 - a. The written protest shall include a fee in an amount established in a schedule adopted by the General Manager to cover the costs of processing the protest.
 - b. Protests of the procurement of a specific contract as a personal services contract shall be made prior to closing.
 - c. Protests to the award or an intent to award a personal services contract shall be made within seven (7) days after issuance of the intent to award, or if no notice of intent to award is given, within forty-eight (48) hours after award.
 - d. Protests submitted after the timeframe established under this subsection are untimely and shall not be considered.
2. Contents of Protest. The written protest shall:
 - a. Specify all legal or factual grounds for the protest as follows:
 - i. A person may protest the solicitation on the grounds that the contract is not a personal services contract or was otherwise in violation of these Rules or applicable law. The protest shall identify the specific provision of these Rules or applicable law that was violated.
 - ii. A person may protest award or intent to award for the reason that:
 - All proposals ranked higher than the affected persons are nonresponsive;
 - The District failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation document;

- The District abused its discretion in rejecting the affected person’s proposal as nonresponsive; or
 - The evaluation of proposals or the subsequent determination of award is otherwise in violation of these Rules or applicable law.
- iii. The protest shall identify the specific provision of these Rules or applicable law that was violated by the District’s evaluation or award;
 - b. Include evidence or supporting documentation that supports the grounds on which the protest is based;
 - c. A description of the resulting harm to the affected person; and
 - d. The relief requested.
3. Additional Information. The General Manager may allow any person to respond to the protest in any manner the General Manager deems appropriate by giving such person written notice of the time and manner whereby any response shall be delivered.
 4. General Manager Response. The General Manager shall issue a written disposition of the protest in a timely manner.
 - a. If the General Manager upholds the protest, in whole or in part, the proposed personal services contract procurement shall be cancelled, or the contract shall not be awarded, as the case may be.
 - b. If the General Manager upholds the protest, in whole or in part, the District shall refund the fee required to be delivered with the protest.
 5. Judicial Review. Before seeking judicial review, an affected person shall exhaust all administrative remedies. Judicial review shall be in accordance with ORS 279B.420.

D. Protests of Cooperative Procurements. Protests of the cooperative procurement process, contents of a solicitation document, or award may be filed with the District only if the District is the administering agency and under the applicable procedure described herein.

OAK LODGE WATER SERVICES

RESOLUTION NO. 2022-0004

A RESOLUTION ADOPTING THE OAK LODGE WATER SERVICES AUTHORITY BUDGET FOR FISCAL YEAR 2022-23 AND MAKING APPROPRIATIONS

WHEREAS, under the direction of a duly appointed Budget Officer for the Oak Lodge Water Services District (the “District”), a budget for Fiscal Year 2022-23 was prepared for the District’s annual fiscal year commencing July 1, 2022; and

WHEREAS, the Oak Lodge Water Services Authority (the “Authority”) was formed during Fiscal Year 2022-23 and has assumed all assets, liabilities, obligations, and functions of the District, including the District’s service obligations; and

WHEREAS, pursuant to ORS 294.338(10), Oregon Local Budget Law does not apply to a newly formed municipal corporation during the fiscal year in which it was formed; and

WHEREAS, the Authority Board of Directors (the “Board”) nonetheless desires to adopt a budget and make appropriations for Fiscal Year 2022-23 to provide for a smooth transition in undertaking the District’s obligations, and transparency in the handling of public funds.

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

Section 1. The budget for the Oak Lodge Water Services Authority for the fiscal year beginning July 1, 2022 and ending June 30, 2023 is hereby adopted in the total amount of \$40,396,775, along with all of the plans, schedules, and bases that informed the budget amounts. The budget is and shall remain on file at the Authority’s Administration Building, and shall be made available online on the Oak Lodge Water Services website.

Section 2. The amounts set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, are hereby appropriated for the purposes stated, for the fiscal year that began on July 1, 2022.

INTRODUCED AND ADOPTED THIS 16th DAY OF SEPTEMBER 2022.

OAK LODGE WATER SERVICES

By _____ By _____
NAME, President NAME, Secretary/Vice President

EXHIBIT A
BUDGETARY APPROPRIATIONS

Schedule A

Administrative Services Fund

Personal Services	\$	2,228,000	
Material & Services		2,112,403	
Capital Outlay		-	
Special Payments		-	
Contingency		834,112	
Total			\$ 5,174,515

Drinking Water Fund

Personal Services	\$	1,107,000	
Material & Services		1,676,600	
Debt Service		209,062	
Transfers		1,936,000	
Contingency		711,109	
Total			\$ 5,639,771

Wastewater Reclamation

Personal Services	\$	1,857,000	
Material & Services		1,271,750	
Transfers		6,855,000	
Contingency		543,112	
Total			\$ 10,526,862

Watershed Protection

Personal Services	\$	160,000	
Material & Services		243,800	
Debt Service		120,000	
Transfers		1,258,000	
Contingency		306,095	
Total			\$ 2,087,895

Wastewater GO Debt Service

Debt Service	\$	-	
Transfers	\$	-	
Total			\$ -
Reserve For Future	\$	-	

Wastewater Revenue Bond Debt Service

Debt Service	\$	3,434,144	
Total			\$ 3,434,144
Reserve For Future	\$	594,522	

Drinking Water Capital Fund

Capital Outlay	\$	2,839,000	
Contingency		288,000	
Total			\$ 3,127,000
Reserve For Future	\$	1,842,900	

Wastewater Reclamation Capital Fund

Capital Outlay	\$	4,023,340	
Contingency		481,834	
Total			\$ 4,505,174
Reserve For Future	\$	1,030,934	

Watershed Protection Capital Fund

Capital Outlay	\$	300,000	
Contingency		50,000	
Total			\$ 350,000
Reserve For Future	\$	2,083,058	

Total Appropriations (All Funds) \$ 34,845,361

Total Unappropriated and Reserve Amounts (All Funds) \$ 5,551,414

Total Adopted Budget \$ 40,396,775

OAK LODGE WATER SERVICES

RESOLUTION NO. 2022-0005

A RESOLUTION ADOPTING A SCHEDULE OF RATES, FEES, AND OTHER CHARGES FOR THE OAK LODGE WATER SERVICES AUTHORITY

WHEREAS, the Oak Lodge Water Services Authority (the “Authority”) Board of Directors (the “Board”) has the authority to establish rates, fees, and other charges for the Authority; and

WHEREAS, the Authority has assumed all assets, liabilities, obligations, and functions of the Oak Lodge Water Services District (the “District”), including the District’s service obligations; and

WHEREAS, the District’s Board of Directors duly adopted rates, fees, and other charges for use of the water distribution system, sanitary sewer system, surface water management, and other services provided; and

WHEREAS, the Board wishes to adopt a master schedule of the rates, fees, and other charges so that customers and staff have the updated rates, fees, and other charges readily available; and

WHEREAS, the Board finds it prudent to adopt the District’s schedule of rates, fees, and other charges concerning the same services.

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

Section 1. Adoption of Fee Schedule. The Schedule of Rates, Fees, and Other Charges as set forth in **Exhibit A**, attached hereto and by this reference incorporated herein, is hereby adopted, along with all of the findings, plans, and bases that informed the amounts indicated.

Section 2. Effective Date. This Resolution shall take effect immediately upon adoption, and shall continue in full force and effect unless and until superseded by further action of the Board.

INTRODUCED AND ADOPTED THIS 16th DAY OF SEPTEMBER 2022.

OAK LODGE WATER SERVICES

By _____
NAME, President

By _____
NAME, Secretary/Vice President

EXHIBIT A
SCHEDULE OF RATES, FEES, AND OTHER CHARGES

Oak Lodge Water Services

Schedule of Rates, Fees and Other Charges

A. Rates, Fees and Charges

1. Water Service

a. Residential Service

i. Consumption Rate per hundred cubic feet of water (CCF) per billing cycle (2 months)	Usage Bracket	Rate
Tier 1 (Lifeline)	1-10 CCF	\$ 1.24
Tier 2 (Main)	11-50 CCF	\$ 1.66
Tier 3 (Conservation)	51+ CCF	\$ 1.96
ii. Fixed rate per meter size per	Meter Size	Rate
20 gallons per minute (GPM) - per month	5/8" x 3/4"	\$ 18.68
or per billing cycle		\$ 37.36
30 gallons per minute (GPM) - per month	Full 3/4"	\$ 28.02
or per billing cycle		\$ 56.04

b. Large Residential, Commercial, and Industrial Service

i. Rate per hundred cubic feet of water (CCF) per month	Usage Bracket	Rate
All services	All usage	\$ 1.73
ii. Fixed rate per meter size per month	Meter Size	Rate
	1"	\$ 32.87
	1.5"	\$ 56.63
	2"	\$ 83.83
	3"	\$ 158.60
	4"	\$ 249.23
	6"	\$ 475.80
	8"	\$ 770.32
	10"	\$ 1,087.48

c. Fire Line Service

i. Fixed rate per meter size per month	Meter Size	Rate
	1"	\$ 26.05
	1.5"	\$ 37.37
	2"	\$ 52.08
	3"	\$ 89.51
	4"	\$ 135.95
	6"	\$ 253.71
	8"	\$ 385.17
	10"	\$ 552.81
ii. Rate per hundred cubic feet of water (CCF)	Usage Bracket	Rate
Tier 1	1 CCF	1.c.i. Fixed rate per meter
Tier 2	2+ CCF	\$ 1.73

d. Water Service Voluntary Backflow Assembly Testing Program

i. Fixed rate per device per year	Device Size	Rate
	0.5" - 2.0"	\$ 22.00
	2.5" - 4.0"	\$ 32.00
	6.0" - 12.0"	\$ 42.00
ii. Administrative Late Fee		\$ 25.00
iii. Confined Space Entry Charge per Vault (applies to devices in vaults)		\$ 25.00
iv. Confined Space Pumping Charge per Minute (applies to vaults filled with water)		\$ 0.84
v. Repairs and/or Replacements performed by District's Contractor		
Contracted parts and labor		Actual cost

Oak Lodge Water Services

Schedule of Rates, Fees and Other Charges

2. Wastewater Collection and Treatment

a. Fixed rate per Equivalent Dwelling Unit (EDU) per month	\$	43.54
b. Rate per hundred cubic feet (CCF) of average winter water consumption per month	\$	2.47

3. Watershed Protection

a. Fixed rate per Equivalent Service Unit (ESU) per month	\$	9.65
b. Stormwater Facility Maintenance Surcharge per ESU per month	\$	4.82

4. Administration

a. Interest penalty on delinquent utility billing service charges		12%
b. NSF check/payment fee	\$	25.00
c. Water service disconnect notification (Red Tag) fee	\$	7.00
d. Water service disconnect fee (for nonpayment)	\$	50.00
e. After Hours turn on fee	\$	180.00
f. Hydrant meter deposit	\$	3,000.00
Water usage will be charged against the meter deposit and any remaining balance will be returned to the contractor		
g. Hydrant use permit	\$	50.00
h. Title search fee	\$	32.00
i. Lock Cut Fee - Off and Locked is cut by other than District	\$	125.00
j. Third-party collection agency		Actual Cost
k. Public Record Requests		
i. Photocopies per page/side	Various	
Letter (8.5x11)		
- Black and White Copies	\$	0.25
- Color Copies	\$	0.50
Legal (8.5x14)		
- Black and White Copies	\$	0.35
- Color Copies	\$	1.00
Tabloid (11x17)		
- Black and White Copies	\$	0.50
- Color Copies	\$	1.50
Large Format (Larger than 11x17)		Based on Size and Complexity
ii. Electronic Copies		
Flash Drive (up to 32 GB)	\$	10.00
iii. Archive Retrieval Fees		
Base Charge per Trip	\$	75.00
Charge per Box	\$	5.00
iv. Record Research & Processing		
Staff time up to 30 minutes		No Cost
Staff time over 30 minutes in hour increments	\$	25.00
l. Other - Staff Time		Actual Cost

B. Fats, Oils, Grease Program Fees

1. Wastewater Collection System Line Maintenance Fees

a. Utility Worker Labor Rate per Hour	\$	98.00
b. Utility Truck Rate per Truck per Hour	\$	30.00
c. Hydro Cleaner Rate per Truck per Hour	\$	85.00
d. Vactor Rate per Truck per Hour	\$	120.00
e. CCTV Van Rate per Truck per Hour	\$	200.00

Oak Lodge Water Services

Schedule of Rates, Fees and Other Charges

C. Industrial Wastewater Pretreatment Program Fees

1.	Wastewater Discharge Permit Application and Review Fee		
	a. Upon issuance	\$	1,500.00
	b. Upon each anniversary date of permit issuance	\$	1,500.00
2.	Significant Industrial User Fee (DEQ Pass-through)		
	a. Upon issuance		Actual Cost
	b. Upon each anniversary date of permit issuance		Actual Cost
3.	Monitoring and Inspection Fee	\$	150.00
	a. Laboratory costs		Actual Cost
4.	Accidental Discharge Fee	\$	850.00
5.	Industrial Pretreatment Permit Appeal Fee	\$	2,000.00

D. Permit and Development Review Fees

1.	Utility Connection Permit		
	a. Plan Review (per EDU or ESU)	\$	200.00
	b. Initial Inspection - water and sewer only	\$	310.00
	c. Additional Inspections - water and sewer only		Per Section E
2.	Site Development Permit		
	a. Plan Review - greater of		
	i.	\$	955.00
	ii. or		2.5% of Engineer's Estimate
	iii. or		\$200 per EDU or ESU
	b. Initial Inspection - Water and Wastewater - greater of	\$	500.00
	or		2.5% of Engineer's Estimate
	c. Additional Inspections - Water and Wastewater		Per Section E
	d. Initial Inspection - Surface Water	\$	500.00
	or		2.5% of Engineer's Estimate
	e. Additional Inspections - Surface Water		Per Section E
3.	Post-Approval Plan Review and/or Design Review (Modifications to Approved Plans)		
	a. Plan Review (minimum)		50% of original plan review fee
4.	Erosion Prevention and Sediment Control (less than one acre)		
	a. Plan Review	\$	200.00
	b. Surface Water Inspection (one initial, one monthly, and one final)		
	i. 1200 CN (lots or projects with disturbance areas 1-5 acres)	\$	310.00
	ii. Plan Review Minimum Base Fee for 1 acre	\$	460.00
	iii. Additional fee per acre	\$	310.00
	c. Initial Inspection - other	\$	310.00
	d. Additional Inspection - other		Per Section E

E. Additional and After-Hours Inspections

1.	Additional Inspection Fee Rate per Hour		
	Minimum two hour charge	\$	142.50
		\$	285.00
2.	Additional Inspection Fee Rate per Hour - After Hours	\$	176.00
	Minimum two hour charge	\$	352.00

Oak Lodge Water Services

Schedule of Rates, Fees and Other Charges

F. Connection/Hook-up/Meter Set Fees

1. Wastewater Connection Fee/Hook-up Fee (Municipal Customers Only)	\$	5,165.00
2. Water Service Installation Fee		
Includes tapping, service line and fittings from tap to meter, water meter, meter box and installation. Excludes excavation.	Meter Size	Fee
	5/8" x 3/4"	\$ 1,611.00
	Full 3/4"	\$ 1,633.00
	1"	\$ 1,711.00
	1.5"	\$ 4,820.00
	2"	\$ 4,915.00
3. Water Meter Set Fee		
Only for meter size changes when there is an existing installed connection.	Meter Size	Fee
	5/8" x 3/4"	\$ 513.00
	Full 3/4"	\$ 535.00
	1"	\$ 613.00
	1.5"	\$ 1,160.00
	2"	\$ 1,255.00
Approved Contractor	3" to 10"	Actual Cost
4. Water Meter Relocation Fee		Actual Cost
5. Water Meter Testing Request Fee - per Rules and Regulations §4.15.1.3		Actual Cost

G. System Development Charges (SDC)

1. Watershed Protection SDC per ESU	\$	-
2. Wastewater SDC per EDU	\$	5,165.00
3. Water Distribution SDC per water meter size		
	Meter Size	SDC
	5/8" x 3/4"	\$ 11,329.00
	Full 3/4"	\$ 16,994.00
	1"	\$ 28,324.00
	1.5"	\$ 56,649.00
	2"	\$ 90,638.00
	3"	\$ 181,275.00
	4"	\$ 283,242.00
	6"	\$ 566,484.00
	8"	\$ 906,375.00
	10"	\$ 1,302,915.00
4. Water Meter Size Upgrades (SDC)		Diff in SDC's as listed

Equivalent Service Unit (ESU) = 2,500 square feet of impervious surface area
 Engineer's Estimate includes cost of public infrastructure and all installation costs
 Fractions of an acre count as full acre
 One and two lot partitions are assessed minimum charge unless public infrastructure is installed



AGENDA ITEM

Title	Call for Public Comment
Item No.	9
Date	September 16, 2022

Summary

The Board of Directors welcomes comment from members of the public.

Written comments may not be read out loud or addressed during the meeting, but all public comments will be entered into the record.

The Board of Directors may elect to limit the total time available for public comment or for any single speaker depending on meeting length.