

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 Vactor 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 
2079D01EF8844EE...
Susan Keil, President

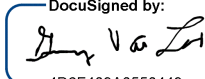
By 
4D6F403A0550443...
Ginny Van Loo, Secretary/Vice President

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 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.
 - 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> <u>Susan Keil</u> <small>2079501EF8044FF...</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: <small>DocuSigned by:</small> <u>Susan Keil</u> <small>2079501EF8044FF...</small></p> <p>Name: <u>Susan Keil</u></p> <p>Title: <u>President</u></p> <p>Date: <u>9/19/2022</u></p>
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