



Ordinance Listing 1992 to Present

- 1-92 AN ORDINANCE AMENDING DISTRICT'S RULES AND REGULATIONS REGARDING WATER CONSERVATION AND DECLARING AN EMERGENCY
- 2-92 AN ORDINANCE AMENDING DISTRICT'S RULES AND REGULATIONS REGARDING WATER CONSERVATION AND DECLARING AN EMERGENCY
- 1-95 AN ORDINANCE ADOPTING RULES AND REGULATIONS
- 1-96 AN ORDINANCE AMENDING ORDINANCES 2-76 AND 1-81 RELATING TO CONTROL OF BACKFLOW AND CROSS-CONNECTIONS
- 1-97 AN ORDINANCE AMENDING ORDINANCE NO. 1-96 REGARDING BACKFLOW PREVENTION DEVICES AND DECLARING AN EMERGENCY
- 1-99 AN ORDINANCE AMENDING RULES AND REGULATIONS
- 1-00 PROCEDURES FOR ORDINANCE ADOPTION
- 1-01 AN ORDINANCE REQUIRING VOTER APPROVAL PRIOR TO USE WITHIN THE DISTRICT OF THE WILLAMETTE RIVER DRINKING WATER PURPOSES
- 1-02 AN ORDINANCE AMENDING THE RULES AND REGULATIONS RELATING TO RESIDENTIAL FIRE SPRINKLER SYSTEMS
- 1-03 AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT CONTINUING THE JOINT WATER COMMISSION – HILLSBORO, FOREST GROVE, BEAVERTON AND TUALATIN VALLEY WATER DISTRICT
- 2-03 AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT CONTINUING THE, JOINT OWNERSHIP AGREEMENT BARNEY PROJECT
- 1-04 AN ORDINANCE AUTHORIZING A FIRST AMENDMENT TO WATER SERVICE AGREEMENT AND JOINDER AGREEMENT RELATING TO THE JOINT WATER COMMISSION
- 2-04 AN ORDINANCE ADOPTING AND AMENDING RULES AND REGULATIONS

- 1-05 AN ORDINANCE AMENDING THE RULES AND REGULATIONS RELATING TO WATER SUPPLY SHORTAGE
- 01-08 AN ORDINANCE ADOPTING AND AMENDING RULES AND REGULATIONS
- 01-12 AN ORDINANCE AMENDING AND RESTATING SYSTEM DEVELOPMENT CHARGES
- 01-13 AN ORDINANCE ESTABLISHING POLICIES AND DIRECTION IN ADDING THE MID-WILLAMETTE SUPPLY OPTION TO THE DISTRICT'S PORTFOLIO OF WATER SUPPLIES
- 01-14 AN ORDINANCE AMENDING AND ADOPTING RULES AND REGULATIONS FOR THE USE OF THE DISTRICT'S WATER SYSTEM
- 02-14 AN ORDINANCE AMENDING ORDINANCE 01-12 RELATING TO SYSTEM DEVELOPMENT CHARGES AND DECLARING AN EMERGENCY
- 01-15 AN ORDINANCE AMENDING AND ADOPTING RULES AND REGULATIONS FOR THE USE OF THE DISTRICT'S WATER SYSTEM
- 01-18 AN ORDINANCE APPROVING THE WILLAMETTE INTAKE FACILITIES INTERGOVERNMENTAL AGREEMENT TO FORM THE WILLAMETTE INTAKE FACILITIES COMMISSION, AN INTERGOVERNMENTAL ENTITY FORMED UNDER ORS CHAPTER 190 BETWEEN TUALATIN VALLEY WATER DISTRICT AND THE CITIES OF HILLSBORO, SHERWOOD, BEAVERTON, TIGARD AND WILSONVILLE
- 02-18 AN ORDINANCE AMENDING THE DISTRICT'S RULES AND REGULATIONS TO CLASSIFY DUPLEX CUSTOMERS AS CLASS CODE 2 – RESIDENTIAL MULTI-FAMILY AND REVISE CLASS CODE 1 – RESIDENTIAL TO EXCLUDE TWO DWELLING UNITS
- 01-19 AN ORDINANCE OF THE TUALATIN VALLEY WATER DISTRICT, OREGON, AUTHORIZING THE ISSUANCE OF WATER REVENUE BONDS
- 02-19 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT TO FORM THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION, AN INTERGOVERNMENTAL ENTITY FORMED UNDER ORS CHAPTER 190 BETWEEN TUALATIN VALLEY WATER DISTRICT AND THE CITIES OF HILLSBORO AND BEAVERTON

- 03-19 AN ORDINANCE APPROVING THE SECOND RESTATED INTERGOVERNMENTAL COOPERATIVE AGREEMENT CREATING THE WILLAMETTE RIVER WATER COALITION, AN INTERGOVERNMENTAL ENTITY FORMED UNDER ORS CHAPTER 190 BETWEEN TUALATIN VALLEY WATER DISTRICT AND THE CITIES OF SHERWOOD, TIGARD AND TUALATIN
- 01-20 AN ORDINANCE AMENDING AND RESTATING RULES AND REGULATIONS FOR THE USE OF THE DISTRICT'S WATER SYSTEM
- 01-21 AN ORDINANCE AMENDING AND RESTATING RULES AND REGULATIONS TO PROVIDE FOR CIVIL PENALTIES FOR UNAUTHORIZED WORK UPON OR TAMPERING WITH THE DISTRICT'S WATER SYSTEM
- 01-22 AN ORDINANCE OF THE TUALATIN VALLEY WATER DISTRICT, OREGON, AUTHORIZING THE ISSUANCE OF WATER REVENUE BONDS
- 01-23 AN ORDINANCE AMENDING AND RESTATING RULES AND REGULATIONS SECTION 7.0 LEAK ADJUSTMENT POLICY AMENDING AND RESTATING RULES AND REGULATIONS SECTION 7.0 LEAK ADJUSTMENT POLICY
- 02-23 AN ORDINANCE AMENDING ORDINANCE 01-12 REGARDING SYSTEM DEVELOPMENT CHARGES LEAK ADJUSTMENT POLICY

**ORDINANCE AMENDING DISTRICT'S RULES AND REGULATIONS
REGARDING WATER CONSERVATION AND
DECLARING AN EMERGENCY**

WHEREAS, on August 20, 1986, by Ordinance 3-86, the District adopted Rules and Regulations regarding use of its system; and

WHEREAS, on or about September 20, 1979, the District and the City of Portland (City) entered into a wholesale water supply contract whereby the District is obligated to adopt any water conservation, prohibition or use restrictions ("use restrictions") imposed by the City upon its wholesale users; and

WHEREAS, drought conditions have significantly impacted the supply sources of the City and other regional supplies and the City has adopted water use restrictions; and

WHEREAS, the District finds that there is an immediate need, in the interest of the public health, safety and welfare, to amend its Rules and Regulations to adopt use restrictions and penalties for violation thereof and that an emergency exists, and being fully advised,

NOW THEREFORE, THE DISTRICT HEREBY ORDAINS AS FOLLOWS:

Section 1. The following provisions of the Rules and Regulations section entitled "Definitions" shall be amended to read:

"DEFINITIONS

1. District - shall mean the Tualatin Valley Water District.

2. Board - shall mean the Board of Commissioners of the Tualatin Valley Water District.

* * *

5. Administrator - shall mean the administrator of the Tualatin Valley Water District employed by the Board of Commissioners.

* * * "

Section 2. The following provisions of the Rules and Regulations entitled "Use of Water" is hereby amended as follows:

"Use of Water.

* * *

3. In the event the Board of Commissioners shall by minute order, resolution or ordinance determine that conditions exist by which require the restriction and/or prohibition of use of water in order to protect the health, peace, safety and welfare of the customers of the District, 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. The schedule of prohibited and/or restricted uses shall be posted in three (3) public and conspicuous places within the District no more than ten (10) days after the adoption of said schedule by the Board. Any person, firm

or corporation using water in violation thereof shall be given notice in writing by the District of said violation, which notice shall advise the customer that if said unlawful use is not discontinued upon delivery of said notice that fines, penalties or other measures, including disconnection from the District system, may be imposed by the District. The notice of violation and any citation or complaint for violation shall be delivered to the occupant at the premises at which the unlawful use is occurring in accordance with Section 5.

4. Upon determination by the Board by minute order, resolution or ordinance of the need to conserve, prohibit or restrict uses of water and the period thereof, then this Section shall apply. Upon such action by the Board, water shall not be used within the boundaries of the District except for domestic uses of drinking, bathing and other household uses. It shall be expressly prohibited to:

(A) water, sprinkle or irrigate lawns, grass or turf unless

(i) it is new lawn, grass or turf that has been seeded or sodded by March 1 of the calendar year in which any restrictions are imposed, and in such cases it may be watered as necessary until established;

(ii) lawn, grass or turf that is

part of a commercial sod farm;
(iii) high use athletic fields that are used for organized play; and
(iv) golf tees and greens; and
(v) park and recreation areas deemed by the Board to be of a particular significance and value to the community that would allow exception to the prohibition.

(B) Washing, wetting down or sweeping with water, sidewalks, walkways, driveways, parking lots, open ground or other hard surfaced areas unless:

(i) in the opinion of the Board there is a demonstrable need in order to meet public health, safety requirements including but not limited to alleviation of immediate fire or sanitation hazards, or dust control to meet air quality requirements mandated by the Oregon Department of Environmental Quality;
(ii) power washing of buildings, roofs and homes prior to painting, repair, remodeling or reconstruction and not solely for aesthetic purposes.

(C) Washing cars, trucks, trailers, tractors or other land vehicles or boats or other water borne vehicles except by commercial establishments or fleet washing facilities which recycle or reuse the water in their washing processes or by bucket and hose with a shut-off mechanism unless the Board finds that the public health, safety and welfare is contingent upon frequent vehicle cleaning such as cleaning of solid waste transfer vehicles, vehicles that transport food and other perishables or otherwise required by law.

5. Any violation of these use restrictions shall be enforced by the District as follows:

(A) The District shall personally deliver a notice of violation to the occupant at the premises. If the occupant is not present, the District may post the same on the premises advising the user of the violation and warning that fines or penalties may result if the violations continue. The District shall also mail the notice of violation by regular mail to the occupant at the address of the subject premises where the violation has occurred. Each day of violation shall be a separate violation.

(B) If following the notice of violation there is a further violation, the District may assess a civil penalty of \$100.

(C) Upon the second violation, the District may assess a civil penalty of \$300.

(D) Upon the third violation, the District may assess a civil penalty of \$500.

(E) Nothing herein shall prevent the District from seeking, as part of the same civil penalty proceeding or otherwise, an injunction to prohibit violation of the District's Rules and Regulations which may include disconnection of water service.

(F) Notwithstanding the foregoing and in addition to any civil penalty or other judicial relief, the District shall have the right to disconnect and terminate water service at any time for violation of these Rules and Regulations upon notice as provided in ORS 264.306.

(G) The Administrator of the District shall have discretion to determine what remedy the District shall employ to achieve compliance with these Rules and Regulations. If civil penalties or judicial relief is sought, the District or Circuit Courts for the State of Oregon for the County of Washington shall have


sole and exclusive jurisdiction and venue of
any proceedings."

Section 3. The District hereby finds that circumstances now exist requiring compliance with the provisions of Section 2 above and the foregoing amendments to the Rules and Regulations are necessary for the immediate preservation of public health, safety and welfare and that an emergency is hereby declared to exist.

ADOPTED by the Board of Commissioners of the Tualatin Valley Water District this 15th day of July, 1992, after being read once.

TUALATIN VALLEY WATER DISTRICT

By 
President

By 
Secretary

ORDINANCE NO. 2-92

ORDINANCE AMENDING DISTRICT'S RULES AND REGULATIONS
REGARDING WATER CONSERVATION AND
DECLARING AN EMERGENCY

WHEREAS, on August 20, 1986, by Ordinance 3-86, the District adopted Rules and Regulations regarding use of its system; and

WHEREAS, on or about September 20, 1979, the District and the City of Portland (City) entered into a wholesale water supply contract whereby the District is obligated to adopt any water conservation, prohibition or use restrictions ("use restrictions") imposed by the City upon its wholesale users; and

WHEREAS, drought conditions have significantly impacted the supply sources of the City and other regional supplies and the City has adopted water use restrictions, and such water use restrictions were adopted by Ordinance 1-92 on July 15, 1992; and

WHEREAS, the District finds that further water use restrictions are necessary and there is an immediate need, in the interest of the public health, safety and welfare, to amend its Rules and Regulations to adopt further use restrictions and penalties for violation thereof and that an emergency exists, and being fully advised,

NOW THEREFORE, THE DISTRICT HEREBY ORDAINS AS FOLLOWS:

Section 1. The following provisions of the Rules and Regulations and Ordinance 1-92 approved on July 15, 1992 are amended as follows:

Section 2. The following provisions of the Rules and Regulations section entitled "Definitions" shall be amended to read:

"DEFINITIONS

1. District - shall mean the Tualatin Valley Water District.

2. Board - shall mean the Board of Commissioners of the Tualatin Valley Water District.

* * *

5. Administrator - shall mean the administrator of the Tualatin Valley Water District employed by the Board of Commissioners.

* * * "

Section 3. The following provisions of the Rules and Regulations entitled "Use of Water" are hereby amended as follows:

"Use of Water.

* * *

3. In the event the Board of Commissioners shall by minute order, resolution or ordinance determine that conditions exist by which require the restriction and/or prohibition of use of water in order to protect the health, peace, safety and welfare of the customers of the District, 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. The

schedule of prohibited and/or restricted uses shall be posted in three (3) public and conspicuous places within the District no more than ten (10) days after the adoption of said schedule by the Board. Any person, firm or corporation using water in violation thereof shall be given notice in writing by the District of said violation, which notice shall advise the customer that if said unlawful use is not discontinued upon delivery of said notice that fines, penalties or other measures, including disconnection from the District system, may be imposed by the District. The notice of violation and any citation or complaint for violation shall be delivered to the occupant at the premises at which the unlawful use is occurring in accordance with Section 5.

4. Upon determination by the Board by minute order, resolution or ordinance of the need to conserve, prohibit or restrict uses of water and the period thereof, then this Section shall apply. Upon such action by the Board, water shall not be used within the boundaries of the District except for domestic uses of drinking, bathing and other household uses. It shall be expressly prohibited to:

(A) water, sprinkle or irrigate lawns, grass or turf unless

(i) it is new lawn, grass or turf that has been seeded or sodded from bare ground after March 1 of the

calendar year in which any restrictions are imposed, and in such cases it may be watered as necessary until established;

(ii) one time application to lawns of treatment such as pesticides and fungicides where the application process requires watering and where the treatment cannot be deferred or delayed.

(iii) lawn, grass or turf that is part of a commercial sod farm;

(iv) high use athletic fields that are used for organized play; and

(v) golf tees and greens; and

(vi) park and recreation areas deemed by the Board to be of a particular significance and value to the community that would allow exception to the prohibition;

(vii) Daycare providers may use water to cool off children if the temperature is 80 degrees or higher, the children are actively involved in the water, the water activity is supervised by an adult, water waste by overspray and overflow is kept to

a minimum and water use occurs no more than one hour per day. The hour per day use may be divided into increments at the daycare provider's discretion.

(B) Water, sprinkle or irrigate flowers, plants, shrubbery, groundcover or trees may only occur between Sunday at 6:00 p.m. to Monday at 10:00 a.m. and between Wednesday 6:00 p.m. to Thursday at 10:00 a.m.

(i) Flowers, plants, shrubbery, groundcover and trees may be hand watered with "clear water" between 6:00 p.m. and 10:00 a.m. during any day of the week. "Clear water" is water that would usually not be used but would enter the waste water system. Examples would be water run first thing in the morning to flush pipes for lead or water that is run while waiting for shower water to heat.

(ii) Vegetable gardens may be watered as needed to insure food production.

(iii) Commercial nurseries may water bedding plants during the day

between 10:00 a.m. and 6:00 p.m. if the plant is in a container pot four inches or smaller, the temperature is 80 degrees or higher, the watering is done by hand, water waste by overspray and overflow is kept to a minimum and the watering constitutes the minimum needed to sustain plant life.

(C) Wash, wet down or sweep with water, sidewalks, walkways, driveways, parking lots, open ground or other hard surfaced areas unless:

- (i) in the opinion of the Board there is a demonstrable need in order to meet public health, safety requirements including but not limited to alleviation of immediate fire or sanitation hazards, or dust control to meet air quality requirements mandated by the Oregon Department of Environmental Quality;
- (ii) power washing of buildings, roofs and homes prior to painting, repair, remodeling or reconstruction and not solely for aesthetic purposes.

(D) Wash cars, trucks, trailers, tractors or other land vehicles or boats or other water borne vehicles except by commercial establishments or fleet washing facilities which recycle or reuse the water in their washing processes, unless the Board finds that the public health, safety and welfare is contingent upon frequent vehicle cleaning such as cleaning of solid waste transfer vehicles, vehicles that transport food and other perishables or otherwise required by law.

(E) Wash windows except with a bucket and a squeegee unless there is no other access off the roof, a ladder cannot be used and tucker poles are required.

(F) Failure to repair leaks in hoses, faucets and couplings.

(G) Fill any container, vessel or tank within the District's water distribution system for the purposes of irrigating lawn, grass or turf for a fee or other compensation is prohibited.

5. Any violation of these use restrictions shall be enforced by the District as follows:

(A) The District shall personally deliver a notice of violation to the occupant at the premises. If the occupant is not present, the District may post the same on the premises

advising the user of the violation and warning that fines or penalties may result if the violations continue. The District shall also mail the notice of violation by regular mail to the occupant at the address of the subject premises where the violation has occurred. Each day of violation shall be a separate violation.

(B) If following the notice of violation there is a further violation, the District may assess a civil penalty of \$100.

(C) Upon the second violation, the District may assess a civil penalty of \$300.

(D) Upon the third violation, the District may assess a civil penalty of \$500.

(E) Nothing herein shall prevent the District from seeking, as part of the same civil penalty proceeding or otherwise, an injunction to prohibit violation of the District's Rules and Regulations which may include disconnection of water service.

(F) Notwithstanding the foregoing and in addition to any civil penalty or other judicial relief, the District shall have the right to install flow restriction devices on the District side of the user's water meter, or disconnect and terminate water service at

any time for violation of these Rules and Regulations upon notice as provided in ORS 264.306.

(G) The Administrator of the District shall have discretion to determine what remedy the District shall employ to achieve compliance with these Rules and Regulations. If civil penalties or judicial relief is sought, the District or Circuit Courts for the State of Oregon for the County of Washington shall have sole and exclusive jurisdiction and venue of any proceedings."

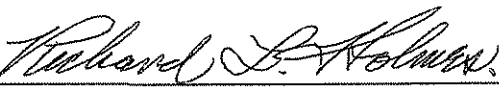
Section 4. The District hereby finds that circumstances now exist requiring compliance with the provisions set forth above and the foregoing amendments to the Rules and Regulations and Ordinance 1-92 are necessary for the immediate preservation of public health, safety and welfare and that an emergency is hereby declared to exist.

ADOPTED by the Board of Commissioners of the Tualatin Valley Water District this 23rd day of September, 1992, after being read once.

TUALATIN VALLEY WATER DISTRICT

By 

President

By 

Secretary

TUALATIN VALLEY WATER DISTRICT

ORDINANCE NO. 1-95

AN ORDINANCE ADOPTING RULES AND REGULATIONS

WHEREAS, the Board of Commissioners of Tualatin Valley Water District previously adopting Rules and Regulations regarding usage of the District's water system, and

WHEREAS, the Board finds, upon recommendation of staff and legal counsel, that is necessary to adopt revised Rules and Regulations, and being fully advised,

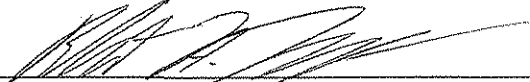
NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF TUALATIN VALLEY WATER DISTRICT:

Section 1: The Rules and Regulations, attached hereto as Exhibit 1 and incorporated by reference, as hereby approved and supersede all previous rules and regulations.

INTRODUCED, AND READ at a regular meeting of the Board of Commissioners on May 17, 1995, and read again at a regular meeting of the Board of Commissioners on June 15, 1995.

TUALATIN VALLEY WATER DISTRICT

By:



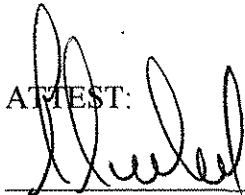
Robert Mitchell, Vice-President

By:



Lynn Putnam, Secretary

ATTEST:



Gene Seibel

TUALATIN VALLEY WATER DISTRICT
RULES AND REGULATIONS

PREFACE

1. The Tualatin Valley Water District ("District") is a municipal corporation organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of the District is to supply its customers with water for domestic purposes as provided by law and, in connection therewith, may supply, furnish and sell for any use any surplus water over and above the domestic needs of its customers to any persons, corporations, or associations, either within or without the District, or to other communities, water districts, or municipal corporations.
2. The District is governed by the authority vested in a Board of five Commissioners, elected by voters of the District. Commissioners may receive compensation as provided by statute. Regular monthly meetings are held by the Board of Commissioners and these meetings are open to the public.
3. Capital improvements to the system by the District are funded by the issuance of bonds, revenues, ad valorem taxes and other sources authorized by law.
4. Operations and debt service of the District are funded by revenues, ad valorem taxes and other sources authorized by law.

DEFINITIONS

1. **Board** - shall mean the Board of Commissioners of the Tualatin Valley Water District.
2. **Customer** - shall mean any person provided water service.
3. **Customer Service Line** - shall mean the pipe, valve and fittings from the water meter into the premises served.
4. **District** - shall mean the Tualatin Valley Water District.
5. **General Manager** - shall mean the General Manager of the Tualatin Valley Water District employed by the Board of Commissioners.
6. **Main-Water Main** - shall mean any pipe located in the street, alley or right-of-way; which pipe is owned and maintained by the District for the purpose of distributing water to customers and servicing fire hydrants.
7. **Owner or Person** - shall mean and include any person, or entity.
8. **Service Area** - shall be that area included within the corporate limits of the District, and such other territory as the Board shall determine to provide water service.
9. **Service Line-Service Connection** - shall mean the pipe, valves, stops and fittings from a main to and including the meter and meter box.
10. **System** - shall mean all or any part of the water system owned and operated by the District and shall include all meters and service lines thereto.
 11. **User** - shall mean any customer.

PURPOSE

1. The powers of the District are stated in ORS 264.210:
"A district formed under this chapter shall have the power to make contracts, hold and receive and dispose of real and personal property within and without its described boundaries and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of the District or exercising the powers conferred upon it by this chapter, sue and be sued, plead and be impleaded in all actions and suits or other proceedings brought by or against it."

OWNERSHIP

1. Unless otherwise agreed in writing between the District and the customer, ownership of the system, including, but not limited to, all mains, service connections, meters, meter boxes, reservoirs, pumping stations, fire hydrants, treatment plants, all facilities and appurtenances is vested in the District.
2. No person other than those authorized by the District shall construct, maintain, operate, repair, or alter, the system.
3. Unless authorized by the District, no person other than an employee, or representative of the District, shall make a service connection or disconnection.

4. All leakage in the customer line after the meter installation shall be at the expense of the user. The customer shall be responsible for the proper maintenance and repair of such line.
5. The District will suffer no waste of its water. Users will be responsible for all water lost because of leakage, frozen pipes and other causes.
6. Leaks in customer lines shall be repaired as soon as detected.

COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

1. By requesting and receiving water service from the District, every customer grants to the District, its agents and employees, the right at all reasonable times to enter upon the customer's premises to determine compliance with District rules and regulations.
2. Application for new water service shall be made at offices designated by the District. No meter installation or connection will be made until such application has been accepted by the District, filed, and payment made in full.
3. Except as otherwise provided by these rules and regulations, the District may refuse to supply water to any property or structure where the customer fails, after written notice, to comply with the rules and regulations of the District within the time specified in the written notice.

USE OF WATER

1. The District will furnish water for ordinary domestic, household, business, industrial and community use and for fire protection purposes as the system may reasonably supply, and as may be approved by the Board.
2. Resale of water purchased from the District will not be permitted. No user shall resell or permit resale of water directly to any person, or for any apartment building, office building, industrial park, motel, condominium, restaurant, or similar premises to distribute water to residents or customers and apply a direct charge for the water.
3. The District may enter into contracts to allow for wholesaling of water to other water districts organized under ORS 264 and to other public agencies. Said contracts must be approved by the Board of Commissioners.
4. In the event that the Board of Commissioners shall determine that conditions exist which require the restriction or prohibition of use of water in order to protect the health, peace, safety and welfare of the customers of the District, 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. The schedule of prohibited and restricted uses shall be posted in three (3) public and conspicuous places within the District no more than ten (10) days after the adoption of said schedule by the Board.

Any person, firm or corporation using water in violation of said adopted schedule shall be given notice in writing by the District of said violation, which notice shall advise the customer that if said unlawful use is not discontinued upon delivery of said notice, the water service to said premises shall be disconnected. The notice of violation and disconnection shall be delivered to the occupant of the premises at which the unlawful use is occurring. If the District is unable for any reason to serve said notice on the occupant personally, the then said notice shall be posted on the premises and said posting shall constitute delivery of notice.

MAIN EXTENSIONS

1. Extensions to furnish water to areas within the District not presently obtaining water from the system shall be made by the District, or by those expressly authorized by the District, **at the expense of those persons requesting service.**
2. The District shall not, **at its expense**, be obligated to extend the distribution system to furnish water for all property within the District.

SERVICE CONNECTION

1. Water service shall be provided only from District mains to property or structures abutting such mains. Service connections shall be located at such points as the District shall determine.
2. Unless authorized by the District, a service connection shall provide water to only one single family dwelling. Multifamily dwellings or multiple service uses such as commercial malls and the like will be served via a master meter. Submeters are not permitted.
3. A separate connection will be required for each dwelling, place of business, institution, and premises served. All accessory buildings and premises used as a part of such dwelling place, business, or institution, may be served from such connection; as well as all buildings on such premises operated under one management.
4. No user shall furnish water to any residence, business, institution, or premises on the same tax lot other than that occupied by himself. However, the Board may permit a user to supply others through his service connection and, in this event, such user will be charged an additional monthly minimum for each additional user so supplied. Such permit may be revoked, and separate service connections required, at any time.
5. Unless required by the District, removal or relocation of a service connection shall be at the expense of the customer. The customer shall bear responsibility for reconnection of the customer service line.

6. All service connections shall be made in accordance with District specifications relating to size, materials and methods of installation.
7. Customers shall apply to the District for all services desired - new service, discontinuance of service, restoration of service.
8. The service connection charge and system development charge shall be paid prior to installation.
9. No service connection extension can be made unless approved in writing by the District.

TEMPORARY SERVICE

1. For temporary water service, a customer shall make application to the District on forms provided by the District.
2. The District may grant temporary water service during construction and for special events approved for such service by the District. The length of time temporary water service is to be provided shall be determined by the District at the time of application.
3. All costs for installing and removing temporary services shall be paid by the customer in advance. Such costs shall be determined by the District and shall include, but not be limited to:
 - A. Labor
 - B. Material
 - C. Equipment Rental
 - D. Overhead

If the actual cost of providing the temporary service exceeds the estimated cost, the applicant shall pay the excess cost to the District within 30 days after billing by the District.

If the actual cost of providing the temporary service is less than the estimated cost, the District shall refund the difference to the applicant within 30 days after determination of actual cost.

3. The customer shall pay for water usage in accordance with the adopted Water Rate Schedule.

CUSTOMER LINES

1. The customer, at their cost, shall install the customer service line from the water meter to the structure to be served.
2. Customer service lines shall be installed in accordance with State of Oregon plumbing codes and other specialty codes as applicable.
3. No pump equipment shall be connected to a customer service line without prior written approval from the District.
4. The customer shall be responsible for maintenance and repair of the customer service line.
5. Leaks or other sources of water loss shall be promptly repaired by the customer. Water shall not be permitted to run to waste and the District reserves the right to terminate water service until the cause of the water loss is corrected.

6. A customer may qualify for a water loss adjustment. Where a leak exists in the customer service line on the private property side of the meter and it has been repaired within 30 days of notification, and the customer has complied with adjustment policy procedures, an adjustment may be made.

RATES AND CHARGES

1. By resolution, the District shall establish rates, charges and fees for use of water, services and property of the District. A copy of the resolution shall be on file in the District office for examination by the public during business hours.

PAYMENTS FOR SERVICE

1. Bills for use of water, services, and property of the District shall be due, payable, and delinquent, in accordance with the schedule of rates, charges and fees adopted by the District.
2. The District may turn off water supply to the premises for which payment is delinquent. The service may not be restored until all delinquent bills are paid, including charges established within the schedule of rates, charges and fees adopted by the Board for shut-off and restoration of charges.

3. All payments shall be made to the District, either by mail, at established pay stations, or in person at the District office, except that any time after a shut-off notice has been issued by the District, payments must be at the District office.
4. The District has contracted, and retains the right to establish contracts with, other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts shall be incorporated by reference upon approval by the Board.

METER READING AND BILLING

1. Meters shall be read as determined by the District.
2. The customer will insure safe and efficient access to the meter and shutoff valve at all times.
3. The meter area and access will remain clear. Whenever it is necessary to enter a building to read or work on the meter, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the building entrance to the meter. Shrubs and landscaping shall not obstruct the reading or maintenance of the meter.
4. Bills for use of water, service and property of the District shall be rendered in accordance with adopted rates, charges and fees.

5. If it is determined by the District that a meter fails to register accurately, or the District is unable to read a meter, billing shall be calculated in accordance with the following:
 - A. When the customer has been at the same premises for a 12-month period or more:

Water consumption during the same period the preceding year x current rate + current charges and fees.
 - B. When the customer has not been at the same premises for a 12-month period, or more:

Average water consumption for District water services of an equivalent meter size x current rate + current charges and fees.

MAINTENANCE, REPAIR AND TESTING METERS

1. A customer may request that his meter be tested by making an application for such testing to the District and depositing, in advance, a sum to cover the cost of the test.
2. If the test shows that the water meter registers more than 5% of the actual water volume flow, the meter shall be repaired, the deposit for the test returned to the user, and an adjustment of the charges paid for water service shall be made. Charge adjustments shall be made retroactive for a period not to exceed one year.

3. If the test shows the meter registering less than the actual flow, the deposit for the test shall be retained by the District and the District may charge a user for water delivered, not to exceed one year prior to the testing.
4. A customer may request that their meter be re-read if they feel their bill is in error.

RESPONSIBILITY FOR DAMAGES OR INJURIES

1. The customer is responsible for all damage or injury resulting from the customer's failure to maintain, repair, or correct conditions in the customer service line or plumbing within the premises.
2. The District will not be liable for any damage to the premises, injury to the customer, or customer's invitees, caused by interruption of service, reduction of water supply, reduced or excessive water pressure, or quality of water delivered to the premises.
3. The customer shall provide District employees with safe and reasonable access to the service line-service connection, meter and meter box.
4. The customer shall be liable for any damage to equipment owned by the District which is caused by an act of the customer, his tenants, agents, employees, contractors, licensees or permittees. Damage to equipment shall include but not be limited to breaking of seals and locks, tampering with meters, injury to meters, including but not limited to damage by hot water or steam, and

damaged meter boxes, curb stops, meter stops and other service appurtenances. The customer responsible for the damage or tampering may also be fined and/or have service to them terminated.

SERVICE INTERRUPTION

1. The District from time to time must interrupt service for repairing mains, making extensions, repairing valves, fire hydrants, control devices, and for cleaning, maintaining and reconditioning reservoirs and storage tanks. The District will not be responsible for damages caused by such interruptions of service or fluctuation of pressure but will, whenever feasible to do so, give customers advance notice whenever it is known that service is to be interrupted for any appreciable length of time.

CONNECTION TO ANOTHER WATER SUPPLY

1. No connections of any kind shall be made to any public or private water supply without the written consent and approval of the General Manager.
2. The District may require backflow devices or check valves in customer service lines when deemed appropriate to prevent contamination of the water system.

BACKFLOW

1. All structures served by the District shall be in compliance with backflow prevention programs adopted by the Board.
2. Violations of the backflow prevention program shall be cause for immediate termination of service, and service shall not be restored until such violations have been corrected.
3. District personnel may enter the structure at reasonable times to determine compliance with the backflow prevention program.
4. The installation, testing and maintenance of backflow prevention devices shall be by those who are State of Oregon certified to do such work, and at the expense of the customer.

MAIN EXTENSIONS BY PROPERTY OWNERS

1. The District may construct main extensions upon the request of, and at the expense of, the property owner. The cost of the extension shall be determined by the District. The provisions of ORS 264.320, providing for the reimbursement of main extension costs, may apply for the benefit of the applicant.
2. Application for main extension shall be in a form designated by the District.
3. Construction of the main extension shall be by the District, the District's contractor, or a contractor approved by the District.

4. The District shall approve all designs and construction plans for main extensions:
 - A. The size of mains required shall be not less than six (6) inches in diameter and designed to interconnect with existing and future mains. The District may require a main larger than six (6) inches in diameter when necessary for adequate service.
 - B. All components necessary for the main extension shall be included in the main extension, including but not limited to fittings, valves, valve boxes, blowoffs and fire hydrants.
 - C. Unless otherwise determined by the District, all main extensions shall be adjacent to the total frontage of the property serviced.
5. When the main extension is constructed by the District, or the District's contractor, advance payment for the main extension shall be made by the applicant in accordance with the following procedure:
 - A. The District shall prepare an estimate of cost including general and administrative expenses incurred by the District. The applicant shall make full payment of the estimated cost prior to any work being done on the main extension.
 - (1) If the actual cost of construction exceeds the

estimated cost, the applicant shall pay the excess cost to the District within 30 days after billing by the District.

- (2) If the actual cost of construction is less than the estimated cost, the District shall refund the difference to the applicant within 30 days after determination of actual cost.
6. In general, all water line extensions for new subdivisions shall extend the entire distance between opposite boundaries of the subdivisions and shall be located within public right-of-way unless the District determines it necessary to construct water lines on easements across private property.
7. The District may elect to install a larger main than planned in the applicant's request, and when it does so, the District will bear the additional cost of the pipe, fittings, valves and other materials and equipment used. In no case will a person requesting an extension be expected to pay an amount greater than that which would be incurred by the installation of a six (6) inch pipeline and appurtenances unless the development to be served, such as a subdivision, commercial development or industrial park be such as to require larger mains for either for normal use, fire protection, or both. All such cases shall be considered separately, and the requirements for

each such development shall be specified to the applicant for extension of service.

TERMINATION OF WATER SERVICE

1. **Termination at Request of User** - When a customer notifies the District that they wish service discontinued, the District will read the meter and render a bill.
2. **Termination of Service by District** - Water service shall be subject to termination upon the occurrence of:
 - A. Non-payment of charges established within the District's adopted Water Rate Schedule.
 - B. Non-compliance with the District's adopted Rules and Regulations relating to matters other than non-payment of charges.

STANDBY FIRE PROTECTION SERVICE CONNECTIONS

1. Standby fire protection service connections shall be installed in accordance with applicable regulations and only if adequate provisions are made to prevent the use of water from such services for purposes other than fire extinguishing.

2. Charges for standby fire protection service shall be established in the District's Water Rate Schedule.
3. As determined by the District, the customer shall pay the cost of installing the standby fire protection service connection, including, but not limited to, required backflow prevention devices, special water meters, or other devices installed solely for service to the standby connection.
4. When authorized by the District, a customer may connect a regular water service to a standby fire protection service. At the time of connection, the customer shall pay rates, charges and fees adopted by the District for such service.
5. Customers requesting standby fire protection service connections shall be required to pay that portion of the cost of mains needed to supply the required flow.
6. All water provided by the District through a standby fire protection service connection shall be provided subject to the supply and pressure existing in its water distribution system. The District shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
7. If water is used from a standby connection service in violation of these rules and regulations, an estimate of the amount used will be computed by the District. The customer shall pay for the water based on the estimated quantity used, at the regular rates, including the minimum charge based on the size of the service connection, and subsequent bills rendered shall be on the basis of

the regular rates for a standard service demand charge as adopted by the Board. If the practice continues, a system development charge will also be assessed on the service.

8. Persons requesting standby service connections for fire protection may be required by the Board to pay for an equitable portion of the cost of distribution system improvements needed to supply the required flow. Each such case shall be considered separately on its merits and the circumstances applying to the case. The Board may also enter into special contracts for service of this type in which higher minimum charges are established which are sufficient to cover the cost of the service rendered.

INSTALLATION AND USE OF FIRE HYDRANTS

1. Additional fire hydrants may be installed by the District upon application by the customer, and upon payment of the estimated cost of the hydrant, fittings, installation, plus overhead to be determined by the District.
 - A. When the actual cost of installation is determined, **and is more** than the original estimate, the applicant shall pay the difference to the District within 30 days after billing by the District.
 - B. When the actual cost of the installation is determined **and it is less** than the original estimate, the District shall

refund the difference to the applicant within 30 days after determination of actual cost.

2. No person except those authorized by the District shall operate, or attempt to operate, any fire hydrant.
3. The District may authorize use of a fire hydrant for a temporary water supply. The customer shall pay all rates, charges and fees adopted by the Board for such service.
4. Only the District may change or relocate a fire hydrant. If a customer requests hydrant change, or relocation, and the District approves, the customer shall pay all costs of such change.
5. Fire hydrants placed on private property are to be used for fire emergencies only.

PRIVATE POOL AND TANK

1. When water is to be used for filling a swimming pool, tank, or other uses which require abnormally large quantities of water, authorization must be obtained from the District prior to the taking of such water.

SERVICE OUTSIDE THE DISTRICT

1. Water shall not be provided outside the District boundary without approval of the Board except where such service is required to avoid a health hazard.
2. Service to other governmental units and to persons residing outside of the boundaries of the

District will be made only if the District has sufficient surplus water, and such services may be discontinued at any time if the best interest and the needs of the District so require. The rate schedule for service to persons outside of the District will be ____ percent of the rates charged for comparable customers within the District. The Board reserves the right to increase the rate to any customer outside the District without notice. The rate schedule for sale of water to other governmental units will be set by the Board but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the District system.

**REVISION AND MODIFICATION OF RULES,
REGULATIONS AND CHARGES**

1. The Board may, by Resolution, amend the Rules and Regulations.

CONSTITUTIONALITY, SAVING CLAUSE

1. If any clause, sentence, paragraph, section, or portion of these Rules and Regulations for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder of these Rules and Regulations.

ORDINANCE NO. 1-96

AN ORDINANCE AMENDING ORDINANCES 2-76 AND 1-81 RELATING TO
CONTROL OF BACKFLOW AND CROSS-CONNECTIONS

Recitals

WHEREAS, to protect the public potable water supply of Tualatin Valley Water District ("District") from the possible contamination or pollution by isolating within the consumer's internal distribution system or the consumer's private water system(s) such contaminants or pollutants which could backflow into the public water systems;

WHEREAS, to promote the elimination or control of existing cross-connections, actual or potential, between the consumer's in-plant potable water system(s) and non-potable water system plumbing fixtures and industrial piping systems;

WHEREAS, to provide for the maintenance of a continuing Program of Cross-Connection Control which will systematically and effectively prevent the contamination or pollution of the potable water systems;

WHEREAS, the Federal Government has authorized the State Health Division of the Department of Human Resources to administer the Federal Safe Drinking Water Act in this state, and the State in turn has authorized water purveyors to administer the Federal Safe Drinking Water Act within their boundaries, subject to certain minimum standards contained in the Oregon Administrative Rules;

WHEREAS, part of the Federal Safe Drinking Water Act and State Administrative Rules and Regulations require all water purveyors to undertake a program for controlling and eliminating cross-connections and an amendment to the Tualatin Valley Water District Ordinance is necessary to clarify the requirements of the Tualatin Valley Water Districts cross-connection control program and to make it consistent with the recent amendments to the State Administrative Rules.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Tualatin Valley Water District as follows:

Section 1. Definitions

- 1.1 "Water System" shall be considered as made up of two parts: the District's System and the User's System.

- 1.2 "District's System" shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the District, up to the point where the User's system begins.
- 1.3 "Source" shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
- 1.4 "Distribution System" shall include the network of conduits used for the delivery of water from the source to the User's system.
- 1.5 "User's System" shall include those parts of the facilities beyond the termination of the District's distribution system (domestic and irrigation systems start immediately behind the water meter; fire line system starts with the valve immediately off the main water system line), which are utilized in conveying potable water to points of use.
- 1.6 Definitions of Rules and Regulations. All definitions of the District's Rules and Regulations in the ordinances are adopted and incorporated by reference.

Section 2 Prohibitions and Conditions

- 2.1 No water service connection to any premise shall be installed or maintained by the District unless the water supply is protected as required by the Oregon Administrative Rules 333-61-070 and District Ordinance 2-76, 1-81 and amendments thereto ("Ordinance"). Service of water to any premise shall be discontinued by the District if a backflow prevention assembly required by OAR 333-61-070 and the District Ordinance (2-76 and amendments) is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premise. Service will not be restored until such conditions or defects are corrected.
- 2.2 User's facilities shall be open for inspection at all reasonable times to authorized representatives of the District to determine whether unprotected cross-connections or violations of this Ordinance exist. If such violation becomes known, the District shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the User has corrected the condition(s) in conformance with the Oregon State Administrative Rule 333-61-070 and this Ordinance.
- 2.3 User or the owner of any premises obtaining water from the District who treats the water in any way or adds any chemical or substance to the water shall notify the District.

- 2.4 An approved backflow prevention assembly shall be installed on each service line to User's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:
- 2.4.1 There is an auxiliary water supply which is, or can be, connected to potable water piping;
 - 2.4.2 There is piping for conveying liquids other than potable water, and where that piping is under pressure and installed in proximity to potable water piping;
 - 2.4.3 There is intricate plumbing which makes it impractical to ascertain whether or not a cross-connection exists;
 - 2.4.4 There is a pipeline larger than two inches (2") internal diameter supplying public water to the premises;
 - 2.4.5 There is a structure more than thirty feet (30') in height (as measured between the highest peak of that structure and the elevation of the service at the public water main to those premises) and the pipeline supplying water to that structure is two inches (2") or less internal diameter.
 - 2.4.6 There is a risk of back siphoning or back pressure;
 - 2.4.7 There is a cross-connection or a potential cross-connection;
 - 2.4.8 There is an irrigation/sprinkler system;
 - 2.4.9 The owner of a mobile apparatus to which the District supplies water shall provide for backflow prevention by installing a backflow prevention device assembly or provide an approved air gap separation on the mobile apparatus;
 - 2.4.10 When there is a standby fire line/sprinkler system using piping material that is not approved for potable water use and/or which does not provide for periodic flow through the line during each 24-hour period a double check detector assembly ("DCDA") will be the minimum protection required. In addition,
 - 2.4.10.1 Any system with provisions for adding foamite or toxic fire retardants whether directly connected or not will require a reduced pressure principle detector assembly ("RPDA") at the property line.

- 2.4.10.2 Any system connected to or with provisions for connecting to an unapproved auxiliary water supply will require a RPDA at the property line.
- 2.4.10.3 Any system that utilizes toxic antifreeze will require a RPDA on the anti-freeze loop or a RPDA at the property line.
- 2.4.10.4 Any system that utilizes a Federal Food and Drug Administration accepted antifreeze will require a RPDA on the antifreeze loop.
- 2.4.10.5 Any system with private fire hydrants will require DCDA at the property line.
- 2.4.11 The type of backflow prevention required under Section 3.4.4 shall be at least commensurate with the degree of hazard which exists:
 - 2.4.11.1 An approved air gap of at least twice the inside diameter, but not less than one inch, of the incoming supply line measured vertically above the top rim of the vessel, or an approved reduced pressure backflow device ("RPBD") assembly shall be installed when the substance which could backflow is hazardous to health, such as but not limited to, sewage treatment plants, sewage pumping stations, chemical manufacturing plants, plating plants, hospitals, mortuaries, car washes, and medical clinics;
 - 2.4.11.2 An approved double check valve assembly ("DCVA") shall be installed when the substance which could backflow is objectionable but does not pose an unreasonable risk to health.
 - 2.4.11.3 An approved pressure vacuum breaker or an atmospheric vacuum breaker shall be installed when the substance which could backflow is objectionable but does not pose an unreasonable risk to health and where there is no possibility of backpressure in the downstream piping. A shutoff valve may be installed on the line downstream of a pressure vacuum breaker but shall not be installed downstream of an atmospheric vacuum breaker.
- 2.4.12 All backflow prevention device assemblies required under this section shall be of a type and model approved by the Oregon State Health Division and

installed as per Oregon Administrative Rule 333-61-071 and District backflow standard as set forth in Ordinance 2-76 and 1-81.

2.4.13 Backflow prevention device assemblies installed before the effective date of this Ordinance shall be permitted to remain in service if:

2.4.13.1 They were approved at the time of installation but are not on the current list of approved devices;

2.4.13.2 They are properly maintained;

2.4.13.3 They are commensurate with the degree of hazard;

2.4.13.4 They are tested annually and perform satisfactorily.

When devices of this type are moved, or require more than minimum maintenance or are on services which have been modified, changed or remodeled, they shall be replaced by device assemblies which are on the Oregon State Health Division approved list.

Section 3 Testing

3.1 The User or owner of the premises where one or more backflow prevention devices are installed shall cause a test of the device(s) to be performed by an Oregon State Health Division certified tester:

3.1.1 At the time of installation or prior to water service being turned on;

3.1.2 If the device is moved or repaired, immediately thereafter.

Unless otherwise provided, the owner of a mobile apparatus on which a backflow prevention device 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:

3.1.3 Within the year before use in the District and annually thereafter.

3.2 District may require more frequent testing of backflow prevention assembly devices if the assembly is installed at a facility that poses an extreme health risk or if the device fails repeatedly.

- 3.3 All completed backflow test reports must be forwarded to the District within ten (10) working days from the date of the test:
- 3.3.1 If the test results indicate that the device is working properly the results shall be entered in the District's records as such.
 - 3.3.2 If the test results indicate that the device is not working properly the device must be repaired immediately and retested and the test results forwarded to the District within ten (10) working days.
 - 3.3.3 If, for some reason, a device fails a test and repair is not immediately possible, the District must be notified immediately of the failure, location of the failed device and estimated time of repairs.
 - 3.3.4 If the District has not received the results of a test required to be performed, it may order a test and add the cost of the test on to the User's water bill, or turn the water off to the premises.
 - 3.3.5 If the User or owner of a backflow device fails to make repairs on a failed backflow device within ten days of a test showing the device is not operating properly, the District may order the repair and retest and add the cost of the repair and retest to the User/Owner's water bill, or the District may turn the water off to the premises.
 - 3.3.6 The District may discontinue the water service of any person who refuses or fails to pay for charges added to the water bill per items 3.3.4 and 3.3.5 of this section.
- 3.4 Oregon State Health Division certified testers who wish to have their names listed on the District's partial list of State Certified Testers, which is mailed with Device Test Notices, must comply with the District's "Backflow Tester Standards."

Section 4 Violation/Remedies

Violation of this ordinance shall be punishable by a fine of \$500 per day for each day of violation. In addition said fine, the District may obtain injunctive or equitable relief to abate the violation, including termination of water service as a violation of the District's Rules and Regulations.

Section 5 Miscellaneous

5.1 Severability

If any portion of this Ordinance is found invalid by a court of competent jurisdiction, the remaining sections of said Ordinance shall be unaffected thereby.

5.2 Fees

By resolution, the District may adopt such fees as it deems appropriate for inspection, testing, shutoff, abatement, or other services provided under this Ordinance.

5.3 Policy and Procedures

By resolution the District may adopt and amend implementing policies for this Ordinance.

Section 6 Approval of Existing Ordinance

This Ordinance was adopted by the Board of Commissioners of the Tualatin Valley Water District, after being read and public hearing at the Board's regular meeting, on September 18, 1996, and after a second reading and public hearing at the Board's regular meeting on October 16, 1996.

TUALATIN VALLEY WATER DISTRICT



Rob Mitchell, President


James Duggan, Vice President

ORDINANCE NO. 1-97

In the Matter of an Ordinance Amending Ordinance)
No. 1-96 Regarding Backflow Prevention Devices)
and Declaring an Emergency)

Recitals

WHEREAS the District has adopted Ordinance Nos. 1-96, 2-76 and 1-81 relating to the control of backflow and cross-connections to protect the potable water supply of the Tualatin Valley Water District from the possible contamination or pollution by cross-connections, actual or potential, between the consumers' in-plant potable water systems and non-potable water system plumbing fixtures, irrigation systems and industrial piping system; and

WHEREAS, Ordinance No. 1-96 includes regulations regarding cross-connection control and backflow prevention devices; and

WHEREAS, the Board finds that Ordinance No. 1-96, Section 2, Prohibitions and Conditions, should be amended by adding provisions related to backflow prevention devices and irrigation only connections which are Class Code 6; and

WHEREAS, the Board finds that such amendments are immediately necessary for the health, safety and welfare of users of the District's systems and that an emergency exists.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Tualatin Valley Water District as follows:

Section 1 That Ordinance No. 1-96 is amended by addition of the following:

“Section 2.4.14.


All water meters which are for irrigation purposes only and are Class Code 6 shall be installed with an approved backflow prevention device


by the user at the user's expense. These meters shall be locked upon installation. The locks shall not be removed until the approved backflow device has been installed properly and the District's cross-connection control inspector has inspected and approved installation."

Section 2 That this Amendment is immediately necessary to assure the integrity of the District's system and to protect the health, safety and welfare of all users and that an emergency is declared to exist.

IN WITNESS WHEREOF, this Ordinance was adopted by the Board of Commissioners of the Tualatin Valley Water District after being read by title only in public hearing thereon at the Board's regular meeting on December 17, 1997, and affirmative vote thereon by the Board. This Ordinance takes effect upon passage.

TUALATIN VALLEY WATER DISTRICT

By: 
Rob Mitchell, President

By: 
Attest

TUALATIN VALLEY WATER DISTRICT

ORDINANCE NO. 1-99

AN ORDINANCE AMENDING RULES AND REGULATION

WHEREAS, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations by Ordinance No. 1-95, and 1-96 Control of Backflow and Cross-Connections regarding usage of the District's water system; and

WHEREAS, the Board finds, upon recommendation of staff and legal counsel, that it is necessary to adopt revised Rules and Regulations, and being fully advised,

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

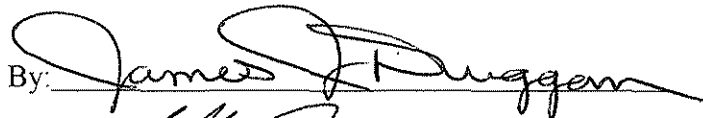
Section 1: The Rules and Regulations, attached hereto to Exhibit 1 and incorporated by reference, as hereby approved.

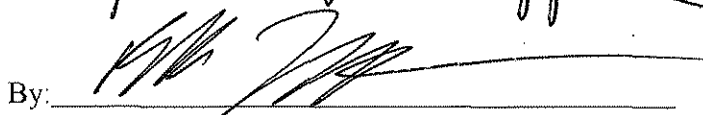
Section 2: Ordinance 1-95 and Ordinance 1-96 are hereby repealed and superceded as the effective date of this ordinance.

Section 3: The effective date of this ordinance is 12:01 a.m., on February 18th, 2000.

INTRODUCED AND READ at a regular meeting of the Board of Commissioners on December 15, 1999, and read again at a regular meeting of the Board of Commissioners on January 19, 2000, where it received an approving vote.

TUALATIN VALLEY WATER DISTRICT

By: 

By: 

Attest

TUALATIN VALLEY WATER DISTRICT

RULES AND REGULATIONS
SUMMARY OF 12/99 REVISIONS

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Major revisions include:

- Expanded Definitions section, page 2
- Purpose redefined, page 4
- Leak policy, page 9
- Backflow and Cross Connection section. This section was added to this Ordinance so that all District rules are in one place. Definitions moved to definition section in front of book. Violations/Remedies and Miscellaneous relocated to back of book, page 17.
- Extension of System, page 31, directs reader to District's Water System Standards for compliance.
- Use of Fire Hydrants section expanded, page 37
- Violation/Remedies section defines penalties of non-compliance with Rules and Regulations, page 40

**Various sections were moved to more applicable areas. Additions are italicized. Deletions are lined through.

RULES AND REGULATIONS

**Adopted By Ordinance No. 1-95
Under The Authority Of
Oregon State Statute 264.306**

1850 SW 170th Avenue
PO Box 745
Beaverton, Oregon 97075-0745

(503) 642-1511
www.tvwd.org

TUALATIN VALLEY WATER DISTRICT
RULES AND REGULATIONS

PREFACE

1. The Tualatin Valley Water District ("District") is a municipal corporation organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of the District is to supply its customers with water for domestic purposes as provided by law and, in connection therewith, may supply, furnish and sell for any-use any surplus water over and above the domestic needs of its customers to any persons, corporations, or associations, either within or without the District, or to other communities, water districts, or municipal corporations.
2. The District is governed by the authority vested in a Board of five Commissioners, elected by voters of the District. Commissioners may receive compensation as provided by statute. Regular monthly meetings are held by the Board of Commissioners and these meetings are open to the public.
3. Capital improvements to the system by the District are funded by the issuance of bonds, revenues, ad valorem taxes and other sources authorized by law.
4. Operations and debt service of the District are funded by revenues, ad valorem taxes and other sources authorized by law.

DEFINITIONS

1. **Board** - shall mean the Board of Commissioners of the Tualatin Valley Water District.
2. **Connection Charges** – shall be those charges as applicable: service connection charge, system development charge, meter installation charge.
3. **Customer** - shall mean any person provided water service.
4. **Customer Service Line** - shall mean the pipe, valve and fittings from the water meter assembly into the premises served.
5. **Definitions of Rules and Regulations** – shall mean all definitions of the District's Rules and Regulations are incorporated by reference.
5. **Distribution System** – shall include the network of conduits used for the delivery of water from the source to the User's delivery system.
4. **District** - shall mean the Tualatin Valley Water District.
5. **District Service Line-Service Connection** - shall mean the pipe, valves, stops and fittings from a main to and including the meter and meter box.
6. **District's System** – shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the District, up to the point where the User's system begins.
6. **General Manager** - shall mean the General Manager of the Tualatin Valley Water District employed by the Board of Commissioners or designee.
7. **Main-Water Main** - shall mean any pipe located in the street, alley, right-of-way or within an easement which pipe is owned and maintained by the District for the purpose of distributing water to customers and servicing fire hydrants.

8. **Meter Assembly** – is defined as meter, meter box and/or vault, valves, tail piece, by-pass, yoke, and other appurtenances to which the customer's service line is connected.
9. **Owner or Person** - shall mean and include any person, or entity.
10. **Service Area** - shall be that area included within the corporate limits of the District, and such other territory as the Board shall determine to provide water service.
10. **Source** – shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.
11. **Standards** – shall mean the latest revision of the District's Water System Standards.
12. **System** - shall mean all or any part of the water system owned and operated by the District and shall include all meters and service lines thereto.
13. **User** - shall mean any customer or occupant of the premises.
14. **User's System** – shall include those parts of the facilities beyond the termination of the District's distribution system which are utilized in conveying potable water to points of use. (Domestic and irrigation systems start immediately behind the water meter; fire line systems start with the valve immediately off the main water system line.
15. **Water Service** – the delivery of water to the customer.
16. **Water System** – shall be considered as made up of two parts: the District's System and the User's System.

PURPOSE

1. The powers of the District are stated in ORS 264.210:
~~"A district formed under this chapter shall have the power to make contracts, hold and receive and dispose of real and personal property within and without its described boundaries and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of the District or exercising the powers conferred upon it by this chapter, sue and be sued, plead and be impleaded in all actions and suits or other proceedings brought by or against it."~~

The purpose of these rules is to provide standards by which the District will serve its users and how users may lawfully receive service.

DISTRICT OWNERSHIP

1. Unless otherwise agreed in writing between the District and the customer, ownership of the system, including, but not limited to, all mains, service connections, ~~meters, meter boxes, meter assemblies,~~ reservoirs, pumping stations, fire hydrants, treatment plants, all facilities and appurtenances is vested in the District. *For 1" and smaller meters, District ownership extends through the meter assembly.*
2. No person other than those authorized by the District shall construct, maintain, operate, repair, or alter, the system.
3. Unless authorized by the District, no person other than ~~an employee, or representative of those authorized by~~ the District, shall make a service connection or disconnection.

4. All leakage in the customer line after the meter installation *assembly* shall be at the expense of the ~~user~~ *customer*. The customer shall be responsible for the proper maintenance and repair of such line.
5. The District ~~will suffer~~ *allows* no waste of its water. Users ~~Customers~~ will be responsible for all water lost ~~because of leakage, frozen pipes and other causes—~~ *on the customer side of the meter assembly*.
6. Leaks in customer lines shall be repaired ~~as soon as detected.~~ *within 30 days of detection*.

COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

1. By requesting and receiving water service from the District, every customer grants to the District, its agents and employees, the right at all reasonable times to enter upon the customer's premises to determine compliance with District Rules and Regulations.
2. ~~Application for new water service shall be made at offices designated by the District. No meter installation or connection will be made until such application has been accepted by the District, filed, and payment made in full. *all connection charges have been paid in full. (PARAGRAPH MOVED TO SERVICE CONNECTION SECTION)*~~
3. Except as otherwise provided by these Rules and Regulations, the District may refuse to supply water to any property or structure where the customer fails, after written notice *as specified hereafter*, to comply with the Rules and Regulations of the District within the time specified in the written notice.

USE OF WATER

1. The District will furnish water for ordinary domestic, household, business, industrial and community use and for fire protection purposes as the system may reasonably supply, and as may be approved by the Board.
2. ~~Resale of water purchased from the District will not be permitted. No user shall resell or permit resale of water directly to any person, or for any apartment building, office building, industrial park, motel, condominium, restaurant, or similar premises to distribute water to residents or customers and apply a direct charge for the water.~~
2. The District may enter into contracts to allow for wholesaling of water to other water districts organized under ORS 264 and to other public agencies. Said contracts must be approved by the Board of Commissioners.
3. In the event that the Board of Commissioners shall determine that conditions exist which require the restriction or prohibition of use of water in order to protect the health, ~~peace~~, safety and welfare of the customers of the District, 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. ~~The schedule of prohibited and restricted uses shall be posted in three (3) public and conspicuous places within the District no more than ten (10) days after the adoption of said schedule by the Board.~~ Any person, firm or corporation *customer* using water in violation of said adopted schedule shall be given notice in writing by the District of said violation, which

notice shall advise the customer that if said unlawful use is not discontinued upon delivery of said notice, the water service to said premises shall be ~~disconnected-~~*terminated*. The notice of violation and ~~disconnection~~*termination* shall be delivered to the ~~occupant~~*user* of the premises at which the unlawful use is occurring. If the District is unable for any reason to serve said notice on the ~~occupant~~*user* personally, the then said notice shall be posted on the premises and said posting shall constitute delivery of notice.

WATER LOSS ADJUSTMENT POLICY

Authorization for Water Loss Adjustments

1. No adjustments for water loss to the billing or billings for water consumption or use by a customer shall be made unless the adopted District Budget for the Fiscal Year in which the request for adjustment is filed includes an appropriation for water loss adjustments.
2. Adjustments for the billing or billings for water consumption based upon a water loss resulting from a leak or leaks in any portion of the water distribution system or plumbing on or within the customer's property may be made one time per calendar year.

Procedure for Requesting Water Loss Adjustments Caused by Leaks

1. Prior to filing a request for billing adjustment for water losses resulting from leaks in the customer's system or plumbing, the customer shall:
 - A. Cause all leaks to be repaired within 30 days of the date such leak or leaks are discovered, and
 - B. File a written request for billing adjustment in which the cause of the water loss is described and the repair or repairs made to the customer's system or plumbing, and
 - C. File a copy of the plumbing bill or cost of defective part(s) indicating that the leak or leaks causing the water loss have been repaired, and
 - D. Provide evidence that the repairs for leaks have been made on the premises receiving water service.

Calculation of Adjustment for Water Loss

1. If it is determined by the ~~District~~ *General Manager* or ~~their designee~~ that a water loss has occurred by reason of a leak or leaks in the customer's system or plumbing and the customer has complied with the procedures set forth in the preceding section, ~~above~~, then an adjustment shall be calculated in accordance with the following criteria and the authority granted in the *preceding Authorization for Water Loss Adjustments* Section: ~~above~~:
 - A. The ~~Administrator~~ *General Manager* shall determine the amount of water consumed by the customer during the period of the water loss in excess of the amount of water used for the same period in the calendar year next preceding the water loss. For purposes of calculating the water loss adjustment, it shall

be deemed that the amount of water consumed in the same period of the preceding calendar year shall be the ordinary and normal water usage by the customer.

- B. The cost of water for the *customer's* ordinary and normal usage shall be deducted from the billing or billings ~~of the customer~~ for water consumed during the period of loss, *or credited to their account.*

- C. *During the loss period, the peaking charges for consumption are excused..* The billing or billings to the customer shall be adjusted in an amount based ~~on current operation policy for the excess water used by the customer during the period of loss over the cost of water for the ordinary and normal usage by the customer.~~ *upon the commodity charges in effect for the loss period.*

THE ADJUSTMENT ALLOWANCE WILL BE APPLIED TO THE CALCULATED WATER LOSS AS SET FORTH AS FOLLOWS:

WATER USAGE LEAK ADJUSTMENTS

Complete Repairs (*Full replacement of customer service line within 30 days*) 50%

Partial Repairs (*Replacement of section of customer service line within 30 days*) 30%

Miscellaneous Repairs Broken pipes, (sprinkler-frozen pipes), faucets, leaking gaskets and other structural leaks:
(within 30 days) 30%

Toilet Leaks (within 30 days) 30%

**Irrigation Systems Complete or partial repairs
made on an underground irrigation
system within reasonable period 30%**

MAIN EXTENSIONS

~~1. Extensions to furnish water to areas within the District not presently obtaining water from the system shall be made by the District, or by those expressly authorized by the District, at the expense of those persons requesting service.~~

~~2. The District shall not, at its expense, be obligated to extend the distribution system to furnish water for all property within the District.~~

~~REMOVED FROM HERE~~

~~..COMBINE WITH "EXTENSION OF SYSTEM~~

SERVICE CONNECTION

1. Water service shall be provided only from District mains to property or structures abutting such mains. Service connections shall be located at such points as the District shall determine.
2. *Application for new water service shall be made at offices designated by the District. No meter installations or connection will be made until all connection charges have been paid in full.*
3. Unless authorized by the District, a service connection shall provide water to only one single-family dwelling. Multi-family dwellings or multiple service uses such as commercial malls and the like will be served via a master meter. ~~Submeters are not permitted.~~

4. A separate connection will be required for each dwelling, place of business, institution, and premises served. All accessory buildings and premises used as a part of such dwelling place, business, or institution, may be served from such connection; as well as all buildings on such premises operated under one management.
5. No user *customer* shall furnish water to any residence, business, institution, or premises on the same tax lot other than that occupied by himself. However, *in a case of extreme hardship*, the Board may permit a user to supply others through his service connection and, in this event, such user will be charged an additional monthly minimum for each additional user so supplied. Such permit may be revoked, and separate service connections required, at any time.
6. Unless required by the District, removal or relocation of a service connection shall be at the expense of the customer. The customer shall bear responsibility for reconnection of the customer service line.
7. All service connections shall be made in accordance with District specifications relating to size, materials and methods of installation.
8. Customers shall apply to the District for all services desired - new service, discontinuance of service, restoration of service.
- ~~9. The service connection charge and system development charge shall be paid prior to installation.~~
10. No service connection extension can be made unless approved in writing by the District.

TEMPORARY SERVICE

1. For temporary water service, a customer shall make application to the District on forms provided by the District.
2. The District may grant temporary water service during construction and for special events approved for such

service by the District. The length of time temporary water service is to be provided shall be determined by the District at the time of application.

3. All costs for installing and removing temporary services shall be paid by the customer in advance. Such costs shall be determined by the District and shall include, but not be limited to:
 - A. Labor
 - B. Material
 - C. Equipment Rental
 - D. Overhead

If the actual cost of providing the temporary service exceeds the estimated cost, the applicant shall pay the excess cost to the District within 30 days after billing by the District.

If the actual cost of providing the temporary service is less than the estimated cost, the District shall refund the difference to the applicant within 30 days after determination of actual cost.

4. The customer shall pay for water usage in accordance with the adopted Water Rate Schedule.

CUSTOMER LINES

1. The customer, ~~at their cost, shall~~ *is solely responsible to pay the cost to* install the customer service line from the water meter to the structure to be served.
2. Customer service lines shall be installed in accordance with State of Oregon plumbing codes and other specialty codes as applicable.
3. No pump equipment shall be connected to a customer service line without prior written approval from the District.
4. The customer shall be responsible for maintenance and repair of the customer service line.
5. ~~Leaks or other sources of water loss shall be promptly repaired by the customer. Water shall not be permitted to~~

~~run to waste and the District reserves the right to terminate water service until the cause of the water loss is corrected.~~

- ~~6. A customer may qualify for a water loss adjustment. Where a leak exists in the customer service line on the private property side of the meter and it has been repaired within 30 days of notification, and the customer has complied with adjustment policy procedures, an adjustment may be made.~~

RATES AND CHARGES

1. By resolution, the District shall establish rates, charges and fees for use of water, services and property of the District. A copy of the resolution shall be on file in the District office for examination by the public during business hours.

PAYMENTS FOR SERVICE

1. All payments shall be made to the District.
2. Bills for use of water, services, and property of the District shall be due, payable, and delinquent, in accordance with the schedule of rates, charges and fees adopted by the District.
- ~~3. The District may turn off water supply to the premises for which payment is delinquent. The service may not be restored until all delinquent bills are paid, including charges established within the schedule of rates, charges and fees adopted by the Board for shut-off and restoration of charges. either by mail, at established pay stations, in person at the District office, except that any time after a shut off notice has been issued by the District, payments must be at the District office.~~
4. The District has contracted, and retains the right to establish contracts with, other agencies for the purpose of billing for

said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts *or amendments to existing contracts* shall be incorporated by reference upon approval by the Board.

METER READING AND BILLING

1. Meters shall be read as determined by the District.
1. The customer will ensure safe and efficient access to the meter and shutoff valve at all times.
2. The meter area and access will remain clear. Whenever it is necessary to enter a building to read or work on the meter, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the building entrance to the meter. Shrubs and landscaping shall not obstruct the reading or maintenance of the meter.
4. ~~Bills for use of water, service and property of the District shall be rendered in accordance with adopted rates, charges and fees.~~
5. If it is determined by the District that a meter fails to register accurately, or the District is unable to read a meter, billing shall be calculated in accordance with the following:
 - A. When the customer has been at the same premises for a 12-month period or more:
Water consumption during the same period the preceding year times current rate plus current charges and fees.

- B. When the customer has not been at the same premises for a 12-month period, or more:
Average water consumption for District water services of an equivalent meter size times current rate plus current charges and fees.
6. *A customer may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.*

MAINTENANCE, REPAIR AND TESTING METERS

1. A customer may request that ~~his~~ *the* meter be tested by making an application for such testing to the District. ~~and depositing, in advance, a sum to cover the cost of the test.~~
2. If the test shows that the water meter registers more than 5% of the actual water volume flow, the meter shall be repaired, *or replaced at no cost to the customer for a new meter, parts or labor.* ~~the deposit for the test returned to the user, and an~~ An adjustment of the *commodity* charges paid for water service shall be made. Charge adjustments shall be made retroactive for a period not to exceed one year. *Should the test show that the water meter registers less than 5% of the actual water meter flow, the customer shall pay for the test.*
3. If the test shows the meter ~~registering~~ registers less than the actual flow, the ~~deposit cost~~ for the test shall be *retained billed* by the District and the District may charge a user for water delivered, not to exceed one year prior to the testing.
3. ~~A customer may request that their meter be reread if they feel their bill is in error.~~ (MOVED TO PREVIOUS SECTION.)

RESPONSIBILITY FOR DAMAGES OR INJURIES

1. The customer is responsible for all damage or injury resulting from the customer's failure to maintain, repair, or correct conditions in the customer service line or plumbing within the premises.
2. The District will not be liable for any damage to the premises, injury to the customer, or customer's invitees, caused by interruption of service, reduction of water supply, reduced or excessive water pressure, or quality of water delivered to the premises.
3. The customer shall provide District employees with safe and reasonable access to the service line-service connection, meter and meter box.
4. The customer shall be liable for any damage to equipment owned by the District which is caused by an act of the customer, his tenants, agents, employees, contractors, licensees or permittees. Damage to equipment shall include but not be limited to breaking of seals and locks, tampering with meters, *injury damage* to meters, including but not limited to damage by hot water or steam, and damaged meter boxes, curb stops, meter stops and other service appurtenances. The customer responsible for the damage or tampering may also be fined and/or have service to them terminated.

SERVICE INTERRUPTION

1. The District from time to time must interrupt service for repairing mains, making extensions, repairing valves, fire

hydrants, control devices, and for cleaning, maintaining and reconditioning reservoirs and storage tanks. The District will not be responsible for damages caused by such interruptions of service or fluctuation of pressure but will, whenever feasible *reasonable* to do so, give customers advance notice whenever it is known that service is to be interrupted. ~~for any appreciable length of time.~~

CONNECTION TO ANOTHER WATER SUPPLY

- ~~1. No connections of any kind shall be made to any public or private water supply without the written consent and approval of the General Manager.~~
1. *No private water supply shall be connected to the customer's service line without written consent and approval of the General Manager.*
2. The District shall require backflow devices or check valves in customer service lines when deemed appropriate to prevent contamination of the water system *as set forth below.*

BACKFLOW AND CROSS CONNECTION

- ~~1. All structures served by the District shall be in compliance with backflow prevention programs adopted by the Board.~~
- ~~2. Violations of the backflow prevention program shall be cause for immediate termination of service, and service shall not be restored until such violations have been corrected.~~
- ~~3. District personnel may enter the structure at reasonable times to determine compliance with the backflow prevention program.~~

4. ~~The installation, testing and maintenance of backflow prevention devices shall be by those who are State of Oregon certified to do such work, and at the expense of the customer.~~

~~ORDINANCE NO. 1-96~~

~~AN ORDINANCE AMENDING ORDINANCES 2-76 AND 1-81 RELATING TO CONTROL OF BACKFLOW AND CROSS CONNECTIONS~~

Recitals

~~_____ To protect the public potable water supply of Tualatin Valley Water District ("District") from the possible contamination or pollution by isolating within the consumer's internal distribution system or the consumer's private water system(s) such contaminants or pollutants which could backflow into the public water systems;~~

~~_____ To promote the elimination or control of existing cross-connections, actual or potential between the consumer's in-plant potable water system(s) and non-potable water system plumbing fixtures and industrial piping systems;~~

~~_____ To provide for the maintenance of a continuing Program of Cross-Connection Control which will systematically and effectively prevent the contamination or pollution of the potable water systems;~~

~~_____ The Federal Government has authorized the State Health Division of the Department of Human Resources to administer the Federal Safe Drinking Water Act in this state, and~~

the State in turn has authorized water purveyors to administer the Federal Safe Drinking Water Act within their boundaries, subject to certain minimum standards contained in the Oregon Administrative Rules;

Part of the Federal Safe Drinking Water Act and State Administrative Rules require all water purveyors to undertake a program for controlling and eliminating cross connections and, an amendment to the Tualatin Valley Water District Ordinance is necessary to clarify the requirements of the Tualatin Valley Water Districts cross connection control program and to make it consistent with the recent amendments to the State Administrative Rules.

NOW, BE IT ORDAINED by the Board of Commissioners of Tualatin Valley Water District as follows:

DEFINITIONS

NOTE: DEFINITIONS COMBINED WITH OTHERS AT BEGINNING OF DOCUMENT

1. **Water System** shall be considered as made up of two parts: the District's System and the User's System.
2. **District's System** shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the District, up to the point where the User's system begins.
3. **Source** shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
4. **Distribution System** shall include the network of conduits used for the delivery of water from the source to the User's system.

5. ~~User's System~~ shall include those parts of the facilities beyond the termination of the District's distribution system (domestic and irrigation systems start immediately behind the water meter; fire line system starts with the valve immediately off the main water system line) which are utilized in conveying potable water to points of use. ~~(Domestic and irrigation systems start immediately behind the water meter; fire line system starts with the valve immediately off the main water system line.)~~
6. ~~Definitions of Rules and Regulations~~ shall mean all definitions of the District's Rules and Regulations are incorporated by reference.

PROHIBITIONS AND CONDITIONS

1. No water service connection to any premise shall be installed or maintained by the District unless the water supply is protected as required by the Oregon Administrative Rules ~~333-61-070~~ 333-61-0070 and District Ordinance ~~2-76~~ and amendments thereto ("Ordinance") *these Rules and Regulations*. Service of water to any premise shall be discontinued by the District if a backflow prevention assembly required by OAR ~~333-61-070~~ 333-61-0070 and the District Ordinance ~~(2-76 and amendments)~~ *these Rules and Regulations* is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premise. Service will not be restored until such conditions or defects are corrected.

All backflow prevention device assemblies required under this section shall be of a type and model approved by the Oregon State Health Division and installed as per Oregon

Administrative Rule 333-61-0071 and these Rules and Regulations.

2. User's facilities shall be open for inspection at all reasonable times to authorized representatives of the District to determine whether unprotected cross-connections or violations of this Ordinance exist. If such violation becomes known, the District shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the User has corrected the condition(s.) ~~in conformance with the Oregon State Administrative Rule 333-61-070 333-61-0070 and this Ordinance.~~
3. User or the owner of any premises obtaining water from the District who treats the water in any way or adds any chemical or substance to the water shall notify the District.
4. An approved backflow prevention assembly shall be installed on each service line to User's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:
 - A. There is an auxiliary water supply which is, or can be, connected to potable water piping;
 - B. There is piping for conveying liquids other than potable water, and where that piping is under pressure and installed in proximity to potable water piping;
 - C. There is intricate plumbing which makes it impractical to ascertain whether or not a cross-connection exists;

- D. There is a ~~pipeline larger than one and a half (1-1/2")~~ ~~internal diameter~~ water meter 1½" or larger supplying public water to the premises;
- E. There is a structure more than thirty feet (30') in height (as measured between the highest peak of that structure and the elevation of the service at the public water main to those premises) and the ~~pipeline meter~~ supplying water to that structure is ~~two inches (2") or less internal diameter~~ 1½" or less.
- F. There is a risk of back siphoning or back pressure;
- G. There is a cross-connection or a potential cross-connection;
- H. There is an irrigation/sprinkler system *not protected by a properly functioning plumbing code backflow device*;
- I. The owner of a mobile apparatus to which the District supplies water shall provide for backflow prevention by installing a backflow prevention device assembly or provide an approved air gap separation on the mobile apparatus;
- ~~J.~~ When there is a standby fire line/sprinkler system using piping material that is not approved for potable water use and/or which does not provide for periodic flow through the line during each 24-hour period a double check detector assembly ("DCDA") will be the minimum protection required. *Notwithstanding the minimum standard,*

~~In addition,~~

- (1) Any system with provisions for adding foamite or toxic fire retardants whether directly connected or

not will require a reduced pressure principle detector assembly (RPDA) at the property line.

- (2) Any system connected to or with provisions for connecting to an unapproved auxiliary water supply will require a ~~RPDA~~- reduced pressure backflow assembly (RDBA) at the property line.
- (3) Any system that utilizes toxic antifreeze will require *an* ~~RPDA~~-RPBA on the antifreeze loop or *an* RPDA at the property line.
- (4) Any system that utilizes a Federal Food and Drug Administration accepted antifreeze will require *an* ~~RPDA~~ RDBA on the antifreeze loop.
- (5) Any system with private fire hydrants will require *a* DCDA at the property line.

K. The type of backflow prevention required under ~~Section 3.2.4~~ (*see Testing*) shall be at least commensurate with the degree of hazard which exists:

- (1) An approved air gap of at least twice the inside diameter, but not less than one inch, of the incoming supply line measured vertically above the top rim of the vessel, or an approved reduced pressure backflow assembly device ("~~RPBD~~") (RDBA) assembly shall be installed when the substance which could backflow is hazardous to health, such as but not limited to, sewage treatment plants, sewage pumping stations, chemical manufacturing plants, plating plants, hospitals, mortuaries, car washes, and medical clinics.
- (2) An approved double check valve assembly (DCVA) shall be installed when the substance which could

backflow is objectionable but does not pose an unreasonable risk to health.

- (3) An approved pressure vacuum breaker or an atmospheric vacuum breaker shall be installed when the substance which could backflow is objectionable but does not pose an unreasonable risk to health and where there is no possibility of backpressure in the downstream piping. A shutoff valve may be installed on the line downstream of a pressure vacuum breaker but shall not be installed downstream of an atmospheric vacuum breaker.

~~L. All backflow prevention device assemblies required under this section shall be of a type and model approved by the Oregon State Health Division and installed as per Oregon Administrative Rule 333-61-071 333-61-0071 and District backflow standards as set forth in Ordinance 2-76.~~

5. Backflow prevention device assemblies installed before the effective date of ~~this Ordinance~~ *these Rules and Regulations* shall be permitted to remain in service if:
 - (1) They were approved at the time of installation but are not on the current list of approved devices;
 - (2) They are properly maintained;
 - (3) They are commensurate with the degree of hazard;
 - (4) They are tested annually and perform satisfactorily.

When devices of this type are moved, or require more than minimum maintenance or are on services which have been modified, changed or remodeled, they shall

be replaced by device assemblies which are on the Oregon State Health Division approved list.

TESTING

1. The User or owner of the premises where one or more backflow prevention devices are installed shall cause a test of the device(s) to be performed by an Oregon State Health Division certified tester:
 - A. At the time of installation or prior to water service being turned on;
 - B. If the device is moved or repaired, immediately thereafter.
 - C. *Annually*
2. Unless otherwise provided, the owner of a mobile apparatus on which a backflow prevention device 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:
 - A. Within the year before use in the District and annually thereafter.
3. *The District may require more frequent testing of backflow prevention assembly devices if the assembly is installed at a facility that poses an extreme health risk or if the device fails. repeatedly.*
4. All completed backflow test reports must be forwarded to the District within ten (10) working days from the date of the test:

- A. If the test results indicate that the device is working properly, the results shall be entered in the District's records as such.
 - B. If the test results indicate that the device is not working properly, the device must be repaired immediately and re-tested and the test results forwarded to the District within ten (10) working days *from the date of notice*.
 - C. If, for some reason, a device fails a test and repair is not immediately possible, the District must be notified immediately of the failure, location of the failed device and estimated time of repairs.
 - D. If the District has not received the results of a test required to be performed, it may order a test and add the cost of the test on to the User's water bill, or turn the water off to the premises.
 - E. If the User or owner of a backflow device fails to make repairs on a failed backflow device within ten (10) days of a test *or notice* showing the device is not operating properly, the District may order the repair and retest and add the cost of the repair and retest to the User/Owner's water bill, or the District may turn the water off to the premises.
 - F. The District may discontinue the water service of any person who refuses or fails to pay for charges added to the water bill per items ~~3.3.4~~ and ~~3.3.5~~ *D and E* of this section *or for failure to perform or report test results*.
5. Oregon State Health Division certified testers who wish to have their names listed on the District's partial list of State Certified Testers, which is mailed with Device Test Notices, must comply with the District's "Backflow Tester Standards."

Section 1 — **Violation/Remedies**

Violation of this ordinance shall be punishable by a fine of \$500 per day for each day of violation. In addition said fine, the District may obtain injunctive or equitable relief to abate the violation, including termination of water service as a violation of the District's Rules and Regulations.

RELOCATED TO BACK OF BOOK

MISCELLANEOUS

1. Severability

If any portion of this Ordinance is found invalid by a court of competent jurisdiction, the remaining sections of said Ordinance shall be unaffected thereby.

2. Fees

By resolution, the District may adopt such fees as it deems appropriate for inspection, testing, shutoff, abatement, or other services provided under this Ordinance.

3. Policy and Procedures

By resolution, the District may adopt and amend implementing policies for this Ordinance.

RELOCATED TO BACK OF BOOK

Section 2 — **Approval of Existing Ordinance**

This Ordinance was adopted by the Board of Commissioners of the Tualatin Valley Water District, after being read and public hearing at

the Board's regular meeting, on _____
_____, 1996, and after a second reading
and public hearing at the Board's regular
meeting on _____, 1996.

TUALATIN VALLEY WATER DISTRICT

Rob Mitchell, President

James Duggan, Secretary

RESOLUTION NO. 11-97

In the Matter of a Resolution Establishing and)
Amending Fees and Charges _____)

I. Recitals

By Ordinance, the Board has provided for the protection of the public water supply from the possible contamination of pollution by elimination and control of cross-connections between the consumer's in-plant potable water systems and non-potable water system and plumbing fixtures irrigation and industrial piping systems; and

The Board has established fees and charges for services, including inspection services of cross-control connection devices; and

~~The Board wishes to establish a fee for inspection of backflow prevention devices in Class Code 6 Irrigation Only Meters, and being fully advised;~~

~~The Board wishes to amend the fee for flow testing of fire hydrants, and being fully advised;~~

~~NOW, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT AS FOLLOWS:~~

IRRIGATION METERS

6. All water meters which are for irrigation purposes only under Class Code 6 will be locked off upon installation and the locks not be removed until the approved backflow device has been installed properly and inspected and approved by the District's Cross Connection Control Inspector.
7. If the District shall do the first annual test of the backflow device *on an irrigation connection*, the cost ~~to the customer will be \$50, shall be borne by the customer,~~ representing the cost of connection and record keeping, and said fee shall *be in place* until further action of this Board.
8. ~~The District shall conduct flow testing of fire hydrants at a fee of \$100, and said fee shall remain in place until further action of this Board.~~
9. ~~Staff is directed to amend the District's public schedule of fees and charges to include these fees, effective immediately.~~

~~IN WITNESS WHEREOF, this Resolution was adopted by an affirmative vote thereon at the Board of Commissioners' regular meeting on December 17, 1997.~~

~~TUALATIN VALLEY WATER DISTRICT~~

By: _____
_____ Rob Mitchell, President

By: _____
_____ Attest

~~MAIN EXTENSIONS BY PROPERTY OWNERS~~

EXTENSION OF SYSTEM

1. *In general, all water line extensions shall extend the entire distance between opposite boundaries of the property to be served and shall be located within public right-of-way unless the District determines it is necessary to construct water lines on easements across private property. The District may elect to install a larger main than needed for the applicant's service requirements. When it does so, the District will bear the additional cost of the pipes, fittings, valves and other materials and equipment used. All cases shall be considered separately and the requirements for each development shall be specified to the applicant.*
2. *The District may construct ~~main-extensions~~ system improvements upon the request of, and at the expense of, the property owner. The cost of the extension shall be determined by the District. The provisions of ORS 264.320, providing for the reimbursement of main extension costs, may apply for the benefit of the applicant.*
3. *Application for ~~main-extension~~ system improvements shall be in a form designated by the District.*
4. *Construction of the ~~main-extension~~ system improvements shall be by the District, the District's contractor, or a contractor approved by the District. Property Owners using private funds for construction of water improvements shall select an engineer or contractor of their choice for the design of water system improvements, providing they meet the District's requirements, including qualifications of the engineer and contractor. In all cases, the Property Owner will be required to make advance payment for the estimated costs of plan review, administrative expenses and other applicable fees related to the proposed project. Property*

Owner shall adhere to District procedures for privately designed and constructed improvements.

5. ~~The District shall approve All designs and construction plans for main extensions water a system. The District shall approve all construction plans.~~
6. *All construction plans and system improvements shall be in accordance with the latest revision of the Standards adopted by the Board.*
 - A. *The size of mains required shall be not less than six (6) inches in diameter and designed to interconnect with existing and future mains. The District may require a main larger than six (6) inches in diameter when necessary for adequate service.*
 - B. *All components necessary for the main extension shall be included in the main extension, including but not limited to fittings, valves, valve boxes, blowoffs and fire hydrants.*
- ~~7. When the main extension is constructed by the District, or the District's contractor, advance payment for the main extension shall be made by the applicant in accordance with the following procedure:~~
7. *After acceptance by the District, the facilities shall be the sole property of the District and maintained and operated by District personnel exclusively. All connections for services thereto shall be made in the manner elsewhere set forth in the District's Rules and Regulations and the charges made for service connections and meters shall be as therein set forth.*

8. *Where an Owner, at his own cost and expense, extends a water line adjacent to property other than that person's own, so that water service is provided for such other property without further extension of the water line, the person may obtain partial reimbursement of the cost of extension subject to the following:*

A. ~~The District shall prepare an estimate of cost including general and administrative expenses incurred by the District. The applicant shall make full payment of the estimated cost prior to any work being done on the main extension.~~

~~(1) If the actual cost of construction exceeds the estimated cost, the applicant shall pay the excess cost to the District within 30 days after billing by the District.~~

~~(2) If the actual cost of construction is less than the estimated cost, the District shall refund the difference to the applicant within 30 days after determination of actual cost.~~

6. ~~In general, all water line extensions for new subdivisions shall extend the entire distance between opposite boundaries of the subdivisions and shall be located within public right-of-way unless the District determines it necessary to construct water lines on easements across private property.~~

- A. *The line must be designed and constructed according to District standards and specifications and be inspected and accepted by the District as part of the District's system.*
- B. *The request for partial reimbursement shall be made on a form supplied by the District at or prior to the time of acceptance of the facilities by the District.*
- C. *Upon receipt of the request, the General Manager shall study the matter and determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement and identification of properties that would be required to pay the reimbursement fee. If these criteria are met, the General Manager shall compute the amount of reimbursement for each potential lot that could connect to the extension, which includes the lots of the person or entity extending the line.*
- D. *If the General Manager finds that the reimbursement eligibility requirements are met, the General Manager shall consider an agreement that makes final determination as to reimbursement eligibility. In no event will the reimbursement obligation extend ten years from the date of acceptance of the constructed facilities.*
- E. *As the identified properties connect, all applicable fees and charges of the District and the reimbursement amount shall be collected by the District. On or before December 31st of each year, the District will remit to the Owner the reimbursement amount collected since the previous December 31st.*

7. The District may elect to install a larger main than planned in the applicants request, *than required to serve applicants request.* and when it does so, The District will bear the additional cost of the pipe, fittings *and valves.* and other materials and equipment used. In no case will a person requesting an extension be expected to pay an amount greater than that which would be incurred by the installation of a six (6) inch pipeline and appurtenances unless the development to be served, such as a subdivision, commercial development or industrial park be such as to require larger mains for either for normal use, fire protection, or both. All such cases shall be considered separately, and the requirements for each such development shall be specified to the applicant for extension of service.

8. ~~Additional fire hydrants may be~~ *When system improvements are* installed by the District upon application by the customer, and upon payment *a deposit* of the estimated cost of the hydrant, fittings, installation, ~~plus overhead to be determined by the District.~~ *Improvements including overhead shall be paid to the District.*

A. When the actual cost of installation is determined, and is more than the original estimate, the applicant shall pay the difference to the District within 30 days after billing by the District.

B. When the actual cost of the installation is determined and it is less than the original estimate, the District shall refund the difference to the applicant within 30 days after determination of actual cost.

MOVED FROM INSTALLATION AND USE OF FIRE HYDRANTS

MAIN EXTENSIONS

~~1. Extensions to furnish water to areas within the District
not presently obtaining water from the system shall be
made by the District, or by those expressly authorized
by the District, at the expense of those persons
requesting service.~~

~~E. The District shall not, at its expense, be obligated to
extend the distribution system to furnish water for all
property within the District.~~

DELETED MAIN EXTENSIONS – ORIGINALLY PAGE 6

TERMINATION OF WATER SERVICE

1. **Termination at Request of User** - When a customer notifies the District that they wish service discontinued, the District will read the meter and render a bill.
2. **Termination of Service by District** - Water service shall be subject to termination upon the occurrence of:
 - A. Non-payment of charges established within the District's adopted Water Rate Schedule.
 - B. Non-compliance with the District's adopted Rules and Regulations relating to matters other than non-payment of charges.
3. *Notice shall be in accordance with the District procedure manual.*

STANDBY FIRE PROTECTION SERVICE CONNECTIONS

1. Standby fire protection service connections shall be installed in accordance with applicable regulations and only if adequate provisions are made to prevent the use of water from such services for purposes other than fire extinguishing *or testing of fire protection system*.
2. Charges for standby fire protection service shall be established in the District's Water Rate Schedule.
3. As determined by the District, the customer shall pay the cost of installing the standby fire protection service connection, including, but not limited to, required backflow prevention devices, special water meters, or other devices installed solely for service to the standby connection.
4. When authorized by the District, a customer may connect a regular water service to a standby fire protection service. At the time of connection, the customer shall pay rates, charges and fees adopted by the District for such service.
5. Customers requesting standby fire protection service connections shall be required to pay that portion of the cost of mains needed to supply the required flow.
6. All water provided by the District through a standby fire protection service connection shall be provided subject to the supply and pressure existing in its water distribution system. The District shall not be responsible for loss or damage resulting from lack of water supply or water pressure.

7. If water is used from a standby connection service in violation of these Rules and Regulations, an estimate of the amount used will be computed by the District. The customer shall pay for the water based on the estimated quantity used, at the regular rates, including the minimum charge based on the size of the service connection, and subsequent bills rendered shall be on the basis of the regular rates for a standard service demand charge as adopted by the Board. ~~If the practice continues, Upon the second use of unauthorized water use,~~ a system development charge will also be assessed on the service.

- ~~8. Persons requesting standby service connections for fire protection may be required by the Board to pay for an equitable portion of the cost of distribution system improvements needed to supply the required flow. Each such case shall be considered separately on its merits and the circumstances applying to the case. The Board may also enter into special contracts for service of this type in which higher minimum charges are established which are sufficient to cover the cost of the service rendered.~~

INSTALLATION AND USE OF FIRE HYDRANTS

USE OF FIRE HYDRANTS

1. Additional fire hydrants may be ~~WHEN SYSTEM IMPROVEMENTS ARE~~ installed by the District upon application by the customer, and upon payment ~~A DEPOSIT~~ of the estimated cost of the hydrant, fittings, installation, plus overhead to be determined by the District. ~~IMPROVEMENTS INCLUDING OVERHEAD SHALL BE PAID TO THE DISTRICT.~~
 - A. When the actual cost of installation is determined, ~~and is more~~ than the original estimate, the applicant shall pay the difference to the District within 30 days after billing by the District.
 - B. When the actual cost of the installation is determined ~~and it is less~~ than the original estimate, the District shall refund the difference to the applicant within 30 days after determination of actual cost.
MOVED TO "EXTENSION OF SYSTEM"

1. No person except those authorized by the District shall operate, or attempt to operate, any fire hydrant.
2. The District may authorize use of a fire hydrant for a temporary water supply. The customer shall pay all rates, charges and fees adopted by the Board for such service.
3. ~~The District shall conduct flow testing of fire hydrants at a fee of \$100, and said fee shall remain in place until further action of this Board. Users requesting flow testing of fire hydrants shall pay the cost of the test.~~

4. Only the District may change or relocate a fire hydrant. If a customer requests hydrant change, or relocation, and the District approves, the customer shall pay all costs of such change.
5. Fire hydrants placed on private property are to be used for fire emergencies only.
5. *Posts, fences, vehicles, growth, trash, storage and other materials or things shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately visible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or hydrants.*

Upon notice from the District, the owner or customer shall within fourteen (14) days, remove such obstruction. If obstruction is not removed within the time required, the District shall remove the obstruction and bill the customer for the removal.

6. *A three-foot clear space shall be maintained around the circumference of hydrants. Access from the street to the hydrant shall be kept clear if the travel distance is greater than three feet. Customers shall be responsible for pruning or removing landscaping, or other obstructions that restrict access to a fire hydrant.*
7. *Eighteen (18) inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed without approval of the District.*

8. *The District designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the District.*

OPERATION OF SYSTEM

1. *UNLESS AUTHORIZED BY THE DISTRICT, NO PERSON SHALL OPERATE ANY PORTION OF THE DISTRICT SYSTEM OR OPERATE A SYSTEM WITHIN THE DISTRICT USING DISTRICT WATER PROVIDING WATER SERVICE TO CUSTOMERS, USERS OR CONSUMERS.*

PRIVATE POOL AND TANK

1. When water is to be used for filling a swimming pool, tank, or other uses, which require abnormally large quantities of water, authorization must be obtained from the District prior to the taking of such water.

SERVICE OUTSIDE THE DISTRICT

1. Water shall not be provided outside the District boundary without approval of the Board except where such service is required to avoid a health hazard.
2. Service to other governmental units and to persons residing *users located* outside of the boundaries of the District will be made only if the District has sufficient surplus water, and such services may be discontinued at any time if the best

interest and the needs of the District so require. The Board reserves the right to increase the rate to any customer outside the District without notice. The rate schedule for sale of water to other governmental units will be set by the Board but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the District system.

MISCELLANEOUS

4. **Severability**

If any portion of this Ordinance is found invalid by a court of competent jurisdiction, the remaining sections of said Ordinance shall be unaffected thereby.

5. **Fees**

By resolution, the District may adopt such fees as it deems appropriate for inspection, testing, shutoff, abatement, or other services provided under this Ordinance.

6. **Policy and Procedures**

By resolution, the District may adopt and amend implementing policies for this Ordinance.

VIOLATIONS

Section 3

Violation/Remedies

Violation of this ordinance shall be punishable by a *fine civil penalty* of \$500 per day for each day of violation. In addition *to* said fine, the District may obtain injunctive or equitable relief to abate the violation,

including termination of water service as a violation of the District's Rules and Regulations.

Any appeals shall be made in writing to the General Manager.

(RELOCATED FROM BACKFLOW)

**REVISION AND MODIFICATION OF RULES,
REGULATIONS AND CHARGES**

1. The Board may, ~~by Resolution,~~ amend the Rules and Regulations.

CONSTITUTIONALITY, SAVING CLAUSE

1. If any clause, sentence, paragraph, section, or portion of these Rules and Regulations for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder of these Rules and Regulations.

ORDINANCE NO. 1-00
PROCEDURES FOR ORDINANCE ADOPTION

WHEREAS, the District adopts and enacts ordinances in accordance with ORS 198.510 through 198.590; and

WHEREAS, except in the case of emergency, the statute requires that proposed ordinances be read twice on two different meeting dates at least six days apart prior to adoption; and

WHEREAS, the Board may, upon duly adopted motion, dispense with reading of the entire text of the ordinance and read the matter by title only; and

WHEREAS, the Board finds that it is most efficient to adopt this ordinance to provide for reading by title only as the established method of ordinance adoption subject to certain exceptions, and being fully advised,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF TUALATIN VALLEY WATER DISTRICT, AS FOLLOWS:

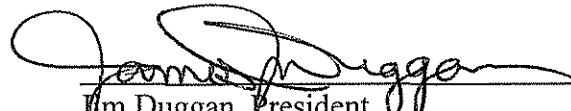
Section 1. All proposed ordinances, emergency or otherwise, shall be read by title only without necessity of motion or other consent of the Board, unless a member of the Board requests that the ordinance be read in full.


Section 2. This ordinance shall be effective for all ordinances adopted on or after April 13, 2000.

This Ordinance was duly adopted by affirmative vote of a majority of the Board of Commissioners after being read once at the Board's regular meeting on February 16, 2000, and for a second time at the Board's regular meeting on March 15, 2000.

DATED this 15th day of March, 2000.

ATTEST



Jim Duggan, President


Rob Mitchell, Secretary

ORDINANCE NO. 1-01

**AN ORDINANCE REQUIRING VOTER APPROVAL PRIOR
TO USE WITHIN THE DISTRICT OF THE WILLAMETTE RIVER
FOR DRINKING WATER PURPOSES**

WHEREAS, the District has various drinking water sources currently provided to users of the District's water distribution system within the District's boundaries; and

WHEREAS, the District holds a Water Appropriation Permit from the Willamette River issued by the Water Resources Department, State of Oregon; and

WHEREAS, the District has executed an agreement with the City of Wilsonville for construction of a water treatment plant, which is scheduled for completion in April, 2002; and

WHEREAS, the Board of Commissioners recognizes that use of the Willamette River for drinking water purposes by water users within the District is of public interest, which should have public debate and discussion; and being fully advised,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

Section 1. The District shall not provide drinking water from the Willamette River to users of the District's water distribution system within the District unless it has submitted the question to the District's voters at a duly called election and received approval of a majority of the electors voting thereon.

Section 2. This Ordinance is on file at the District's Administrative Offices where it may be examined.

Section 3. This Ordinance has been included in the published agenda of the adopting meeting. The published agenda did state the time, date, and place of the meeting and gave a brief description of the Ordinance to be considered at the meeting and that copies of the Ordinance are available at the office of the District. The presiding officer caused the agenda to be published not more than ten days or less than four days before the meeting in a newspaper of general circulation within the District.

Section 4. Pursuant to Oregon Revised Statutes Chapter 198, the Ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 16th day of May, 2001, and the 13th day of June, 2001.

Section 5. This Ordinance was adopted by at least the affirmative vote of a majority of the members of the District Board at its regular meeting on the 13th day of June, 2001, and was signed by the presiding officer and attested to by the secretary. The secretary of the District is instructed to cause this Ordinance to be filed in the Records of the District and file a certified copy of this Ordinance with the County Clerk.

Section 6. This Ordinance shall take effect on July 13, 2001, being at least 30 days from the date of its adoption.

TUALATIN VALLEY WATER DISTRICT

By: James Duggan By: Robert Mitchell
President Secretary
James Duggan Robert Mitchell

ORDINANCE NO. 1-02

AN ORDINANCE AMENDING THE RULES AND REGULATIONS RELATING TO RESIDENTIAL FIRE SPRINKLER SYSTEMS

WHEREAS, the District has adopted Rules and Regulations regarding terms and conditions of use of the District's water distribution system within the District's boundaries by Ordinance 1-99; and

WHEREAS, the District has circumstances where standby fire protection systems require large meters resulting in an increased system development charge; and

WHEREAS, the Board of Commissioners desires to amend the Rules and Regulations to provide conditions under which standby fire protection connections are allowed; and being fully advised,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

Section 1. That Section 21 of the District's Rules and Regulations adopted by Ordinance 1-99, entitled "Standby Fire Protection Service Connections" is repealed and replaced under the amended language on Exhibit 1, attached hereto and incorporated by reference. In all other respects, Ordinance 1-99 is in full force and effect.

Section 2. This Ordinance is on file at the District's Administrative Offices where it may be examined.

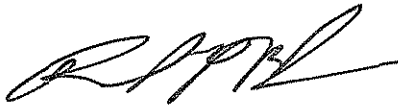
Section 3. This Ordinance has been included in the published agenda of the adopting meeting. The published agenda did state the time, date, and place of the meeting and gave a brief description of the Ordinance to be considered at the meeting and that copies of the Ordinance are available at the office of the District. The presiding officer caused the agenda to be published not more than ten days or less than four days before the meeting in a newspaper of general circulation within the District.

Section 4. Pursuant to Oregon Revised Statutes Chapter 198, the Ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 17th day of April, 2002, and the 15th day of May, 2002.

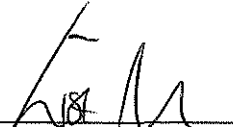
Section 5. This Ordinance was adopted by at least the affirmative vote of a majority of the members of the District Board at its regular meeting on the 15th day of May, 2002, and was signed by the presiding officer and attested to by the secretary. The secretary of the District is instructed to cause this Ordinance to be filed in the Records of the District and file a certified copy of this Ordinance with the County Clerk.

Section 6. This Ordinance shall take effect on June 15, 2002, being at least 30 days from the date of its adoption.

TUALATIN VALLEY WATER DISTRICT

By: 
Richard P. Burke, President

ATTEST:

By: 
Lisa Melyan, Secretary

STANDBY FIRE PROTECTION SERVICE CONNECTIONS

Residential uses that provide standby fire retention systems will be charged the applicable System Development Charge (SDC) depending upon whether the system is a separate fire line service or if the sprinkler system water flow is through the service for the structure (Combined Domestic/Fire Line Service).

1. Separate Fire Line Service. No SDC will be charged for fire line service only systems under it is found that any water was drawn through the meter during a non-fire event. The user shall purchase the appropriate meter and pay all other charges to connect to the system. If water is drawn for non-fire events, the applicable SDC shall be due and payable for that connection to the system.

A. Standby fire protection service connections shall be installed in accordance with applicable regulations and only if adequate provisions are made to prevent the use of water from such services for purposes other than fire extinguishing or testing of fire protection system.

B. Charges for standby fire protection service shall be established in the District's Water Rate Schedule. All charges shall be paid at the time of connection as occurring thereafter.

C. As determined by the District, the customer shall pay the cost of installing the standby fire protection service connection, including, but not limited to, required backflow prevention devices, special water meters, or other devices installed solely for service to the standby connection.

D. Customers requesting standby fire protection service connections shall be required to pay that portion of the cost of mains needed to supply the required flow.

E. All water provided by the District through a standby fire protection service connection shall be provided subject to the supply and pressure existing in its water distribution system. The District shall not be responsible for loss or damage resulting from lack of water supply or water pressure.

F. If water is used from a standby connection service in violation of these Rules and Regulations, the District will compute an estimate of the amount used. The customer shall pay for the water based on the estimated quantity used, at the regular rates, including the minimum charge based on the size of the service connection, and subsequent bills rendered shall be on the basis of the regular rates for a standard service demand charge as adopted by the Board. Upon the second use of unauthorized water use, the applicable system development charge will also be assessed on the service.

G. Failure to comply with the Rules and Regulations of the District, including failure to pay all monthly charges in the manner and time prescribed under TVWD ordinances, will result in termination of water service, which will result in loss of fire protection from sprinkler system. The District is not liable for loss of fire protection from sprinkler system for failure to pay all charges due.

2. Combined Domestic/Fire Line Service. Combined domestic/fire line services may occur only upon compliance with the provisions of these Rules and Regulations. The user shall pay the applicable system development charge for the required meter unless the provisions below are demonstrated by satisfactory evidence to the District.

A. Standby fire protection service connections shall be installed in accordance with applicable regulations and only if adequate provisions are made to prevent the use of water from such services for purposes other than fire extinguishing or testing of fire protection system.

B. Charges for standby fire protection service shall be established in the District's Water Rate Schedule. All charges shall be paid at the time of connection as occurring thereafter.

C. All water provided by the District through a standby fire protection service connection shall be provided subject to the supply and pressure existing in its water distribution system. The District shall not be responsible for loss or damage resulting from lack of water supply or water pressure.

D. If water is used from a standby connection service in violation of these Rules and Regulations, the District will compute an estimate of the amount used. The customer shall pay for the water based on the estimated quantity used, at the regular rates, including the minimum charge based on the size of the service connection, and subsequent bills rendered shall be on the basis of the regular rates for a standard service demand charge as adopted by the Board. Upon the second use of unauthorized water use, the applicable system development charge will also be assessed on the service.

E. The builder/homeowner will be required to provide District and the appropriate building department with satisfactory evidence that the larger meter is needed strictly due to the inclusion of the residential sprinkler system.

F. The District will provide a letter to the builder/homeowner that includes the following:

(1) Notification that the home qualifies for a reduced SDC since the reason for the metering being upsized is due only to the installation of a residential fire sprinkler system.

(2) Notification that any modifications to the water system will be made only after contacting the building department and the District.

(3) Notification that an additional system development charge will be charged if additional facilities are added (such as an irrigation system or swimming pool) which cause the domestic capacity to exceed the amount allowed under the original calculation.

(4) That the builder/homeowner shall sign a covenant running with the land for any recording in the real property records of the County so that future buyers are aware of this restriction.

G. If any changes or modifications to the structure or property use occur that result in water usage that requires a larger meter (without fire sprinklers), the additional SDC at the current rate in effect at the time the change is made to the system will be immediately due and payable.

H. A tag will be installed at the shut off on the meter (by the District) and at the shut off in the house (by the plumber). The purpose of the tag is to inform anyone that any changes to the water system should be implemented only after contacting the building department. The text included on the tag would be as shown below:

DO NOT REMOVE THIS TAG

This dwelling has a fire sprinkler system. Any modifications to the water system could compromise safety. Required approvals must be obtained before making modifications. Violations have penalties under ORS 463. Contact local building department before proceeding.

I. Execution of a covenant running with the land binding the builder/homeowner and all successors and assigns to these conditions and recording in the County real property records at the property owner's expense.

J. If a water service currently exists, the builder/homeowner will be responsible for any costs associated with the installation of a larger service.

K. Failure to comply with the Rules and Regulations of the District, including failure to pay all monthly charges in the manner and time prescribed under District Ordinances will result in termination of water service, which will result in the loss of fire protection from the sprinkler system. The District is not liable for loss of fire protection from the sprinkler system for failure to pay all charges due.



ORDINANCE NO. 1-03

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
CONTINUING THE JOINT WATER COMMISSION – HILLSBORO, FOREST GROVE,
BEAVERTON AND TUALATIN VALLEY WATER DISTRICT**

RECITALS

WHEREAS, Tualatin Valley Water District is a member of the Joint Water Commission, an intergovernmental entity formed pursuant to ORS Chapter 190, by agreement dated April 16, 1979, and since amended at various times, including the addition of new members; and

WHEREAS, the parties to the Joint Water Commission have agreed to amend and restate the terms and conditions of membership and system operation by entry into a Water Service Agreement effective July 1, 2003, incorporated by reference; and

WHEREAS, it appears in the best interest of the Tualatin Valley Water District to enter into the Water Service Agreement effective July 1, 2003, pursuant to ORS 190.003 through 190.265 by an intergovernmental agreement with the powers and authorities vested in the Joint Water Commission as provided therein; and

WHEREAS, it is necessary pursuant to ORS 190.085 that prior to the effective date of the intergovernmental agreement creating the entity, that each of the parties to the intergovernmental agreement shall enact an ordinance ratifying the creation and being fully advised,

NOW, THEREFORE, BE IT ORDAINED BY THE TUALATIN VALLEY WATER DISTRICT, AS FOLLOWS:

Section 1. Pursuant to ORS 190.085, it is the intent of the Tualatin Valley Water District to continue the Joint Water Commission – Hillsboro, Forest Grove, Beaverton and Tualatin Valley Water District (JWC), pursuant to ORS 190.003 through 190.265, by an intergovernmental agreement (Water Service Agreement) with the following parties: The City of Hillsboro; the City of Forest Grove; the City of Beaverton; and Tualatin Valley Water District (each of which referred to herein individually as a party and collectively as the “parties”). The agreement is incorporated by reference.

Section 2. The effective date of the agreement is on or about July 1, 2003.

Section 3. The public purpose for which JWC is created is to use any authority vested in the JWC Water Service Agreement to further the economy and efficiency of each party for the

operation, maintenance, construction, repair and replacement, and resource management of the System as set forth in the Water Service Agreement among the parties or with others.

Section 4. To carry out its public purposes, the JWC shall have the following powers, duties and functions in addition to those specified in ORS 190.003 through 190.265:

A. To provide operation, maintenance, construction, repair, and replacement and water resource management of the System as described in the JWC Water Service Agreement for water storage, treatment, pumping, finished water storage and transmission to the individual parties' distribution systems;

B. To otherwise manage the business and affairs of the System as set forth in the Water Service Agreement;


C. To retain such officers and employees as it deems necessary and to contract for the purchase of property and services;

D. To perform the administration and accounting of all payments and receipts related to operation of the System for the account of a party, parties, or the JWC;

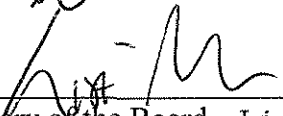
E. To adopt such bylaws, rules, regulations and policies as the parties deem necessary to further the purposes of the Water Service Agreement;

F. To exercise all powers pursuant to the applicable acts, charters, or laws of the individual parties, which are necessary or desirable to economically and efficiently develop and operate the JWC.

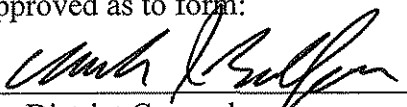
THIS ORDINANCE WAS PRESENTED AND READ for the first time at a regular meeting of the Board of Commissioners on the 19th day of February, 2003, and read for a second time and passed at a meeting of the Board of Commissioners on the 19th day of March, 2003.

By: 
President of the Board Richard P. Burke

Dated: March 19, 2003

By: 
Secretary of the Board Lisa Melyan

Dated: 4/8/03

Approved as to form:

District Counsel Clark Balfour



ORDINANCE NO. 2-03

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
CONTINUING THE, JOINT OWNERSHIP AGREEMENT BARNEY PROJECT**

RECITALS

WHEREAS, Tualatin Valley Water District is a member of the Joint Ownership Agreement Barney Project, an intergovernmental entity formed pursuant to ORS Chapter 190, by agreement dated June 8, 1994, and since amended at various times; and

WHEREAS, the parties to the Joint Ownership Agreement - Barney Project have agreed to amend and restate the terms and conditions of membership and system operation by entry into a Joint Ownership Agreement – Barney Project effective July 1, 2003, incorporated by reference; and

WHEREAS, it appears in the best interest of the Tualatin Valley Water District to enter into the Joint Ownership Agreement - Barney Project pursuant to ORS 190.003 through 190.265 by an intergovernmental agreement with the powers and authorities vested in the Joint Ownership Agreement - Barney Project as provided therein; and

WHEREAS, it is necessary pursuant to ORS 190.085 that prior to the effective date of the intergovernmental agreement creating the entity, that each of the parties to the intergovernmental agreement shall enact an ordinance ratifying the creation and being fully advised,

NOW, THEREFORE, BE IT ORDAINED BY THE TUALATIN VALLEY WATER DISTRICT, AS FOLLOWS:

Section 1. Pursuant to ORS 190.085, it is the intent of the Tualatin Valley Water District to continue the Joint Ownership Agreement - Barney Project pursuant to ORS 190.003 through 190.265, by an intergovernmental agreement with the following parties: The City of Hillsboro; the City of Forest Grove; the City of Beaverton; Clean Water Services (formerly Unified Sewerage Agency) and Tualatin Valley Water District (each of which referred to herein individually as a party and collectively as the “parties”). The agreement is incorporated by reference.

Section 2. The effective date of the agreement is on or about July 1, 2003.

Section 3. The public purpose for which Joint Ownership Agreement – Barney Project (hereinafter referred to as JOA-BP) is created is to use any authority vested in the JOA-BP to further the economy and efficiency of each party for the operation, maintenance, construction,

repair and replacement, and resource management of the System as set forth in the JOA-BP among the parties or with others.

Section 4. To carry out its public purposes, the JOA-BP shall have the following powers, duties and functions in addition to those specified in ORS 190.003 through 190.265:

A. To provide operation, maintenance, construction, repair, and replacement and water resource management of the System as described in the JOA-BP for water storage, treatment, pumping, finished water storage and transmission to the individual parties' distribution systems;

B. To otherwise manage the business and affairs of the System as set forth in the JOA-BP;


C. To retain such officers and employees as it deems necessary and to contract for the purchase of property and services;

D. To perform the administration and accounting of all payments and receipts related to operation of the System for the account of a party, parties, or the JOA-BP;

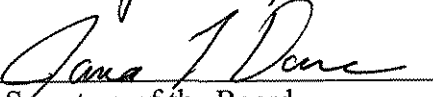
E. To adopt such bylaws, rules, regulations and policies as the parties deem necessary to further the purposes of the JOA-BP;

F. To exercise all powers pursuant to the applicable acts, charters, or laws of the individual parties, which are necessary or desirable to economically and efficiently develop and operate the JOA-BP.


THIS ORDINANCE WAS PRESENTED AND READ for the first time at a regular meeting of the Board of Commissioners on the 21st day of May, 2003, and read for a second time and passed at a meeting of the Board of Commissioners on the 11th day of June, 2003.

By: 
President of the Board

Dated: June 11, 2003

By: 
Secretary of the Board

Dated: June 11, 2003

Approved as to form:

District Counsel

ORDINANCE NO. 1-04

**AN ORDINANCE AUTHORIZING A FIRST
AMENDMENT TO WATER SERVICE
AGREEMENT AND JOINDER AGREEMENT
RELATING TO THE JOINT WATER COMMISSION**

WHEREAS, Tualatin Valley Water District is a member of the Joint Water Commission, an intergovernmental entity originally formed pursuant to ORS Chapter 190 by agreement dated April 16, 1979, and since amended at various times, including the addition of new members; and

WHEREAS, the Parties to the Joint Water Commission consist of the Cities of Hillsboro, Forest Grove and Beaverton and Tualatin Valley Water District and these entities previously amended and restated the terms and conditions of membership and system operation by entry into a Water Service Agreement effective October 23, 2003 and incorporated by reference; and

WHEREAS, the Tualatin Valley Water District approved the entry into the Water Service Agreement by Ordinance 1-03, adopted on March 19, 2003; and

WHEREAS, the City of Tigard ("Tigard") desires to become a member of the Joint Water Commission subject to all terms and conditions of the Water Service Agreement and the First Amendment to Water Service Agreement and Joinder Agreement ("First Amendment") attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, Tualatin Valley Water District is willing to consent to Tigard's membership in the Joint Water Commission upon the terms and conditions of the First Amendment and the Water Service Agreement; and

WHEREAS, the First Amendment provides various amendments to the Water Service Agreement to accommodate the joinder of Tigard and other adjustments, all as set forth therein, and being fully advised

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

Section 1. Pursuant to ORS 190.085, Tualatin Valley Water District hereby approves the First Amendment to Water Service Agreement and Joinder Agreement, attached hereto as Exhibit A and incorporated by reference, and consents to joinder by the City of Tigard as a member of the Joint Water Commission. The Water Service Agreement is hereby incorporated by reference and reaffirmed and ratified.

Section 2. The effective date of the First Amendment is on or about April 1, 2004.

Section 3. This Ordinance has been compiled and is on file at the District's office within the boundaries of the District where it may be examined.

Section 4. This Ordinance has been included in the published agenda of the adopting meeting. The published agenda did state the time, date, and place of the meeting, gave a brief description of the Ordinance to be considered at the meeting, and that copies of the Ordinance are available at the office of the District. The presiding officer caused the agenda to be published not more than ten days nor less than four days before the meeting in a newspaper of general circulation within the District.

Section 5. Pursuant to ORS Chapter 198, the Ordinance was read at two regular meetings of the Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to-wit: the 21st day of January, 2004, and the 18th day of February, 2004.

Section 6. This Ordinance was adopted by at least the affirmative vote of a majority of the members of the Board of Commissioners at its regular meeting on the 18th day of February 2004, and was signed by the presiding officer and attested to by the secretary. The secretary of the District is instructed to cause this Ordinance to be filed in the Records of the District and file a certified copy of this Ordinance with the County Clerk.

Section 7. This Ordinance shall take effect on the first day of April, 2004, being at least 30 days from the date of its adoption.

TUALATIN VALLEY WATER DISTRICT

BY



President, Richard P. Burke

BY



Secretary, Lisa Melyan

**FIRST AMENDMENT TO WATER SERVICE AGREEMENT
AND
JOINDER AGREEMENT**

This First Amendment to Water Service Agreement and Joinder Agreement (First Amendment) is made this first day of March, 2004, by and between the Joint Water Commission, consisting of the Cities of Hillsboro, Forest Grove, and Beaverton, and the Tualatin Valley Water District, a domestic water supply district organized pursuant to Chapter 264 (hereinafter "JWC") those parties individually (who also may be referred to as "Hillsboro," "Forest Grove," "Beaverton," and "TVWD") and the City of Tigard, a municipal corporation (hereinafter "Tigard").

RECITALS

On or about October 27, 2003, the individual members of JWC approved a Water Service Agreement, which replaced earlier agreements between these same parties creating the Joint Water Commission.

The Water Service Agreement provides a comprehensive agreement in all aspects of the System as defined therein, including among other things, operation, maintenance, repair, replacement, ownership and allocation of the System, including water rights, and mechanisms for governance and future capital improvements.

The City of Tigard desires to become a member of the JWC and the JWC is willing to grant Tigard membership'

All parties and Tigard wish to amend the Water Service Agreement, and being fully advised, now therefore the parties agree as follows:

1. **Covenant of Tigard.** In consideration of Tigard becoming a member of the JWC, Tigard agrees to be bound by all terms and conditions of the Water Service Agreement dated May 18, 2001 and this first Amendment.

2. **Acknowledgement of Tigard.** By execution hereof, Tigard acknowledges that it has no stored water rights or surface water rights in the Tualatin River, Hagg Lake, or Barney Reservoir and that any water it obtains from JWC as a member of JWC, until the projects described in Section 3 below are complete, shall be through leases of water and use of System components as approved by the JWC according to the Water Service Agreement. Tigard currently has a contract to purchase surplus water from JWC dated May 18, 2001.

3. **Capital Contributions and Future Capital Projects.** The JWC, by and through its individual partners, and Tigard, are presently involved in preliminary feasibility analysis to expand stored raw water capacity or to obtain additional stored raw water in Hagg Lake. The parties recognize that such expansion and the amount of stored raw water that may be available as a result of these efforts is speculative and subject to numerous factors that may result in no additional raw water or a completed project yielding less stored raw water than anticipated. The parties agree that Tigard's Capital Contribution to the System will be for these improvements

and to obtain additional stored raw water and that Tigard's proportionate ownership in the System will be calculated based upon the amount of stored raw water it obtains and Capital Contribution. The proportionate ownership of the other JWC members will also be adjusted as provided in the Water Service Agreement. Tigard acknowledges and agrees that if additional stored raw water is not obtained through these efforts then no water will ultimately be available to Tigard and Tigard will not be able to continue as a partner. Further, no party will be reimbursed for any expenditures to obtain permit approval by regulatory agencies if such efforts are unsuccessful. In such event, Tigard agrees that it will voluntarily terminate and withdraw from the System as provided in the Water Service Agreement. However, Tigard may continue as a surplus water purchaser under the existing agreement with JWC dated May 18, 2001.

4. Governance. The parties agree that Tigard will have three representatives as set forth in Article III, Section 3.1 of the Water Service Agreement. The parties agree to modify Article III of the Water Service Agreement as follows:

"3.1 The Commission. There is hereby continued pursuant to ORS 190 the Joint Water Commission-Hillsboro, Forest Grove, Beaverton, Tigard, and the Tualatin Valley Water District (the "Commission"). The members of the Commission shall be three (3) persons from each of the parties who are from time to time appointed by their respective bodies pursuant to the laws and regulations of the governing bodies. Members of the Commission shall serve at the pleasure of their respective appointing bodies. The name of the Commission shall be the "Joint Water Commission-Hillsboro, Forest Grove, Beaverton, Tigard, and the Tualatin Valley Water District." . . .

"3.4 Meetings; Manner of Acting. Meetings of the Commission shall be conducted in accordance with the provisions of the Oregon Public Meeting Law, ORS 192.610-192.710. The Commission shall hold meetings not less than quarterly. Such meeting may be cancelled by a vote of the Commission. Special meetings may be called by the Chairperson or by any Vice Chairperson. Eight (8) members of the Commission (including at least one (1) member appointed by each party) shall constitute a quorum for the transaction of the business of the Commission. An affirmative vote of a simple majority of the members of the Commission, provided that one (1) affirmative vote is received from each of the parties to this Agreement shall be necessary to decide any issue before this Commission, unless a different voting requirement for a specific action is specified or allowed in this Agreement." . . .

"3.8 Management Committee. Each party shall appoint its Chief Executive Officer or their designee to serve on the Management Committee. If the Commission elects to hire its own employees for management the Commission, as provided for this in Section 3.7 of this Agreement, then the General Manager of the Commission shall also be a member of the Management Committee. The Management Committee shall meet as required to review the business operations of the Commission, such as planning, operations, etc., to make recommendations to the General Manager."

5. **Lease of Water by JWC.** Until the projects referred to in Section 3 above regarding expansion or obtaining additional stored raw water are successfully completed, and at all times subject to the terms of the Water Service Agreement, JWC will lease water to Tigard as provided in the Water Service Agreement.

6. The Parties agree that Article V, Section 5.3 of the Water Service Agreement shall be amended as follows:

Section 5.3, Stored Raw Water.

“Each party shall have available to it or obtain Capacity in Stored Raw Water, such that sufficient raw water is available at the Water Treatment Plant Facilities to serve the Demand of the Party. The Capacity requirement for Stored Raw Water shall consist of the water used by the Party for the period of May 1st through October 31st. Such period may be adjusted from time to time based on the legal and operational availability of Surface Water Rights. Stored Raw Water Capacity may be obtained by purchase of existing Stored Raw Water, expansion of Stored Raw Water and/or leasing of Stored Raw Water from another Party.”

7. The Parties agree that Article VII, Sections 7.5 and 7.6 of the Water Service Agreement shall be amended as follows:

Section 7.5, Excess Use Payments.

“To the extent that a Party uses capacity in the System in excess of its owned or leased capacity but such use does not exceed the threshold for over use as defined in Section 5.8, the Parties shall be required to compensate the Party or Parties for the excess capacity used. The determination of when the terms of this Section apply and the price paid for use of Capacity will be determined by the Commission with the intent being that the Parties are treated equitably and fairly. If there is a lease in place, the lease price plus any other amount deemed reasonable by JWC shall apply to the excess. If there is no existing Lease for that lessee, the JWC shall consider other leases held by other members as a guide plus any other amount deemed reasonable by JWC. This provision shall not apply to those circumstances where the General Manager offers additional water to a Party because of operational needs or considerations.”

Section 7.6, Effective Dates of Leases

“The effective date for leases set forth in this Article 7 shall be on March 1, 2003 following the adoption of this Agreement and every March 1st thereafter.”

8. **Existing Agreement.** In all respects, and except as specifically modified by this First Amendment, all terms and conditions of the Water Service Agreement are in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date opposite their signatures.

CITY OF HILLSBORO, acting by and through its Utilities Commission

CITY OF FOREST GROVE

Lawrence A. Sobushkin Jr.

Chairman

Mayor

February 20, 2004

Dated

Dated

Paul Wabel

City Recorder

City Recorder

N/A

City Attorney

Dated

CITY OF HILLSBORO

City Attorney

Tom Hughes

Mayor

CITY OF BEAVERTON

2/17/04

Dated

Mayor

Paul Wabel

City Recorder

Dated

City Attorney

City Recorder

City Attorney

8. **Existing Agreement.** In all respects, and except as specifically modified by this First Amendment, all terms and conditions of the Water Service Agreement are in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date opposite their signatures.

CITY OF HILLSBORO, acting by and through its Utilities Commission

CITY OF FOREST GROVE

Chairman



Mayor

Dated

03/01/04

Dated

City Recorder



City Recorder

City Attorney

March, 2004

Dated

CITY OF HILLSBORO



City Attorney

Mayor

CITY OF BEAVERTON

Dated

Mayor

City Recorder

Dated

City Attorney

City Recorder

City Attorney

CITY OF HILLSBORO, acting by and through its Utilities Commission

Chairman

Dated

City Recorder

City Attorney

CITY OF HILLSBORO

Mayor

Dated

City Recorder

City Attorney

CITY OF FOREST GROVE

Mayor

Dated

Attest

City Recorder

Dated

City Attorney

CITY OF BEAVERTON

Mayor

Dated

City Recorder

City Attorney

TUALATIN VALLEY WATER DISTRICT

President

Dated

Secretary

Dated

District Counsel

Dated

CITY OF TIGARD



Mayor

3.12.04

Dated



City Recorder



City Attorney

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date opposite their signatures.

CITY OF HILLSBORO, acting by and through its Utilities Commission

CITY OF FOREST GROVE

Chairman

Mayor

Dated

Dated

City Recorder

City Recorder

City Attorney

Dated

CITY OF HILLSBORO

City Attorney

Mayor

CITY OF BEAVERTON

Dated

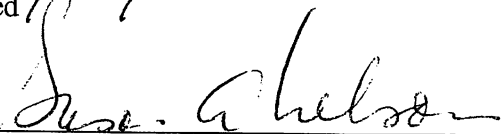


Mayor

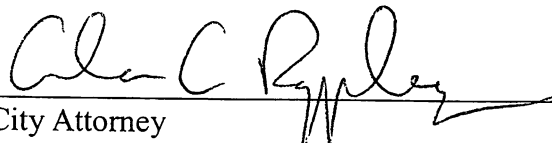
City Recorder

Dated 3/29/04

City Attorney



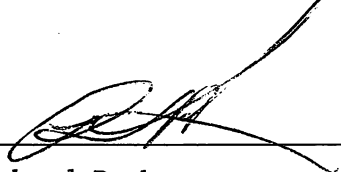
City Recorder



City Attorney

TUALATIN VALLEY WATER DISTRICT

CITY OF TIGARD




President Richard Burke

Mayor

3/17/04

Dated

Dated



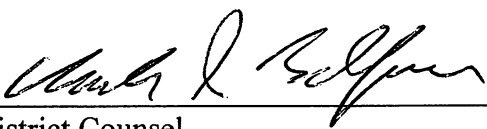
Secretary Gordon Martin, Acting Sec.

City Recorder

3/17/04

Dated

City Attorney



District Counsel

3/17/04

Dated

TUALATIN VALLEY WATER DISTRICT

ORDINANCE NO. 2-04

AN ORDINANCE ADOPTING AND AMENDING RULES AND REGULATIONS

WHEREAS, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations which provided for usage of the District's water system; and

WHEREAS, the Board of Commissioners find that it is necessary to adopt and amend those Rules and Regulations with those set forth on Exhibit 1, attached hereto and incorporated by reference, and being fully advised,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT as follows:


Section 1. The Rules and Regulations attached hereto as Exhibit 1 and incorporated by reference are hereby approved and adopted and supercede all previous Rules and Regulations as of the effective date.

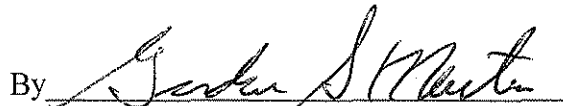
Section 2. The effective date for these Rules and Regulations is 12:01 a.m., October 16, 2004.

INTRODUCED AND READ at a regular meeting of the Board of Commissioners on August 18, 2004, followed by a public hearing, and read for a second time at a regular meeting of the Board of Commissioners on September 15, 2004, followed by a public hearing, and adopted by an affirmative vote of a majority of the Board of Commissioners.

Dated this 15 day of September 2004.

TUALATIN VALLEY WATER DISTRICT

By 
Jim Doane, President

By 
Gordon Martin, Secretary

TUALATIN VALLEY WATER DISTRICT RULES AND REGULATIONS

1.0 PREFACE

1. The Tualatin Valley Water District (District) is a municipal corporation organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of the District is to supply its users with water for domestic purposes as provided by law and, in connection therewith, may supply, furnish and sell any surplus water over and above the domestic needs of its users to any persons, corporations, or associations, either within or without the District, or to other communities, water districts, or municipal corporations.
2. TVWD is governed by the authority vested in a board of five Commissioners residing within the District's boundaries elected by voters. Commissioners may receive compensation as provided by statute. Regular monthly meetings are held by the Board of Commissioners. These meetings are open to the public.
3. Capital improvements to the system by TVWD are funded by rates, cash on hand, system development charges, the issuance of bonds, ad valorem taxes and other sources authorized by law.
4. Operating expenses of TVWD are funded by rate revenues. The District's debt service is funded by rates, system development charges, ad valorem taxes, and other sources authorized by law.

2.0 DEFINITIONS

1. **"Board"** shall mean the Board of Commissioners of the Tualatin Valley Water District.
2. **"Connection Charges"** shall be those charges as applicable: service connection charge, system development charge (SDC), and meter installation charge.
3. **"Customer"** shall mean any user provided water service.
4. **"Customer Service Line"** shall mean the pipe, valve, fittings, and appurtenances from the water meter assembly into the premises served.
5. **"Definitions of Rules and Regulations"** shall mean all definitions of TVWD's Rules and Regulations are incorporated by reference.
6. **"Distribution System"** shall include the network of conduits, reservoirs, pump stations, and other appurtenances necessary for the delivery of water from the source to the user's system.
7. **"District"** shall mean the Tualatin Valley Water District.
8. **"District Service Line-Service Connection"** shall mean the pipe, valves, stops, and fittings from a main through the meter, meter box, and appurtenances owned by TVWD.
9. **"District's System"** shall consist of the source facilities and the distribution system, and shall include all those facilities of the water system owned and operated by the District and shall include all meters and service lines thereto.

10. **“Fire Service Line System”** shall be dedicated for fire service only and shall start at the end of the right of way, or immediately behind the last domestic service tap, whichever is closer to the street.
11. **“General Manager”** shall mean the General Manager of the Tualatin Valley Water District employed by the Board of Commissioners; or the General Manager’s designee.
12. **“Main”** see Water Main
13. **“Meter Assembly”** is defined as meter, meter box and/or vault, valves, tailpiece, by-pass, yoke, and other appurtenances to which the user’s service line is connected.
14. **“Owner”** shall mean and include any person or entity.
15. **“Service Area”** shall be that area included within the corporate limits of the District, and such other territory as the Board shall determine to provide water service.
16. **“Source”** shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
17. **“Standards”** shall mean the latest revision of the District’s Water System Standards.
18. **TVWD** shall mean the Tualatin Valley Water District.
19. **“User”** shall mean any user or occupant of the premises receiving water service.
20. **“User’s System”** shall include those parts of the facilities beyond the termination of the District’s distribution system which are utilized in conveying potable water to points of use. (Domestic and irrigation systems start immediately on the user’s side of the water meter. Fire line systems are as previously defined
21. **“Water Main”** shall mean any pipe located in the street, alley, right-of-way, or within an easement; which pipe is owned or maintained by the District for the purpose of distributing water to users and servicing fire hydrants.
22. **“Water Service”** shall mean the delivery of water to the user.

3.0 PURPOSE

1. The purpose of these rules is to provide standards by which the District will serve its users and how users may lawfully receive service.

4.0 DISTRICT OWNERSHIP

1. Unless otherwise agreed in writing between the District and the user, ownership of the system, including, but not limited to, all mains, service connections, meter assemblies, reservoirs, pumping stations, fire hydrants, treatment plants, all facilities and appurtenances is vested in the District.
2. No person other than those authorized by the District shall construct, maintain, operate, repair, or alter the system.

3. No person, other than those authorized by the District, shall make a service connection or disconnection.
4. All leakage in the user service line after the meter assembly shall be the sole responsibility and expense of the user. The user shall be responsible for the proper maintenance and repair of such line.
5. Leaks in user service lines shall be repaired within 30 days of detection.

5.0 COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

1. By requesting and receiving water service from the District, every user grants to the District, its agents, and employees the right at all reasonable times to enter upon the user's premises to determine compliance with District Rules and Regulations.
2. Except as otherwise provided by these Rules and Regulations, the District may refuse to supply water to any property or structure where the user fails, after written notice, to comply with the Rules and Regulations of the District within the time specified in the written notice.
3. Notice shall be in sufficient if given by any one of the following:
 - A. Regular first-class U.S. mail, postage prepaid, sent to the user's address as shown in District records; or
 - B. Certified mail, return receipt requested, sent to the user's address as shown in District records; or
 - C. By hand delivery of a notice to the user's premises
 - D. When the notice is sent by mail, notice shall be deemed delivered when deposited in the mail. The period for compliance shall be as set forth in the notice.
 - E. When notice is hand delivered, the notice shall be deemed complete when delivered to the user's premises and the period of compliance shall be as set forth in the notice.

6.0 USE OF WATER

1. The District will furnish water for ordinary domestic, household, business, industrial, and community use and for fire protection purposes as the system may reasonably supply and as may be approved by the Board.
2. The District may enter into contracts to allow for sale or trade of water to other public agencies. Said contracts must be approved by the Board of Commissioners.
3. In the event that the Board of Commissioners shall determine that conditions exist which require the restriction or prohibition of use of water in order to protect the health, safety, and welfare of the users of the District, 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.

Any user using water in violation of the adopted schedule shall be given notice in writing by the District of said violation, which notice shall advise the user that if unlawful use is not discontinued upon delivery of notice, the water service to the premises shall be terminated. The notice of violation and termination shall be delivered to the user of the premises at which the unlawful use is occurring. If the District is unable for

any reason to serve a notice on the user personally, the notice shall be posted on the premises and the posting shall constitute delivery of notice.

4. The District allows no waste of its water. Users will be responsible for all water lost on the user side of the meter assembly.

7.0 WATER LOSS ADJUSTMENT POLICY

7.1 Authorization for Water Loss Adjustments

1. Adjustments for the billing or billings for water consumption based upon a water loss resulting from a leak or leaks in any portion of the water distribution system or plumbing on or within the user's property may be made one time per calendar year.
2. Prior to filing a request for billing adjustment for water losses resulting from leaks in the user's system or plumbing, the user shall:
 - A. Cause all leaks to be repaired within 30 days of the date such leak or leaks are discovered;
 - B. File a written request for billing adjustment in which the cause of the water loss is described and the repair or repairs made to the user's system or plumbing;
 - C. File a copy of the plumbing bill or cost of defective part(s) indicating that the leak or leaks causing the water loss have been repaired, and
 - D. Provide evidence that the repairs for leaks have been made on the premises receiving water service.

7.2 Calculation of Adjustment for Water Loss

1. If it is determined by the General Manager that a water loss has occurred by reason of a leak or leaks in the user's system or plumbing, and the user has complied with the procedures set forth in the preceding section, then an adjustment shall be calculated in accordance with the following criteria and the authority granted in the preceding "Authorization for Water Loss Adjustments" section:
 - A. The General Manager shall determine the amount of water consumed by the user during the period of the water loss in excess of the amount of water used for the same period in the calendar year next preceding the water loss. For purposes of calculating the water loss adjustment, it shall be deemed that the amount of water consumed in the same period of the preceding calendar year shall be the ordinary and normal water usage by the user.
 - B. The cost of water for the user's ordinary and normal usage shall be deducted from the billing or billings for water consumed during the period of loss, or credited to their account.
 - C. During the loss period, the peaking charges for consumption are excused. The billing or billings to the user shall be adjusted in an amount based upon the commodity charges in effect for the loss period.

The adjustment allowance will be applied to the calculated water loss as set forth as follows:

- Complete Repairs [full replacement of customer service line within 30 days]: 50%
- Partial Repairs [replacement of section of customer service line within 30 days]: 50%
- Miscellaneous Repairs [broken pipes (sprinkler-frozen pipes), faucets, leaking gaskets, and other structural leaks, within 30 days]: 50%
- Toilet Leaks [within 30 days]: 50%
- Irrigation Systems [complete or partial repairs made on an underground irrigation system within reasonable period]: 50%

8.0 SERVICE CONNECTION

1. Service connections shall be provided only from District mains and shall be located at such points as the District shall determine in its sole discretion.
2. Application for new water service shall be made at the District office. No meter installations or connection will be made until all connection charges have been paid in full.

Unless authorized by the District, a service connection shall provide water to only one single-family dwelling.

Unless authorized, multi-family dwellings or multiple service uses such as commercial malls and the like will be served via a master meter.

3. Each tax lot shall have its own water connection. All accessory buildings and premises used as a part of such dwelling, business, or institution may be served from such connection as approved by the General Manager. In the case of a commercial or industrial property with multiple users on a single tax lot, additional service connections may be provided upon approval by the District after payment of the appropriate fees. In addition, duplex units on a single tax lot also qualify for multiple meters.
4. No user shall extend their service line, without District approval, to furnish water to any residence, business, institution, or other premises on the same or neighboring tax lot(s) other than that occupied by the user.
5. All service connections shall be made in accordance with District specifications relating to size, materials, and methods of installation.
6. Users shall apply to the District for all services desired: new service, discontinuance of service, restoration of service.
7. No service connection extension can be made unless approved in writing by the District.
8. Unless required by the District, removal or relocation of a service connection shall be at the expense of the user. The user shall bear responsibility for reconnection of the user service line.

9.0 TEMPORARY SERVICE

1. A user shall make a request to the District for temporary water service.
2. The District may grant temporary water service during construction and for special events approved for such service by the District. The length of time and conditions of temporary water service shall be determined by the District at the time of application.
3. All costs for installing and removing temporary services shall be paid by the user in advance. Such costs shall be determined by the District and shall include, but not be limited to:
 - A. Labor
 - B. Material
 - C. Equipment Rental
 - D. Overhead
 - E. Monthly Fixed Charges (If Applicable)

If the actual cost of providing the temporary service exceeds the estimated cost, the applicant shall pay the excess cost to the District within 30 days after billing by the District of the actual cost. If the actual cost of providing the temporary service is less than the estimated cost, the District shall refund the difference to the applicant within 30 days after determination of actual cost.

4. The user shall pay for water usage in accordance with the adopted water rate schedule.

10.0 USER LINES

1. The user is solely responsible to pay the cost to install the user service line from the water meter to the structure to be served.
2. User service lines shall be installed in accordance with State of Oregon plumbing codes and other specialty codes as applicable.
3. No pump equipment shall be connected to a user service line without prior written approval from the District.
4. The user shall be responsible for maintenance and repair of the user service line.

11.0 RATES AND CHARGES

1. By resolution, the District shall establish rates, charges and fees for use of water, services, and property of the District. A copy of the resolution shall be on file in the District office for examination by the public during business hours.

12.0 PAYMENTS FOR SERVICE

1. All payments shall be made to the District at the place designated on the invoice provided the user or at the District office.
2. Bills for use of water, services, and property of the District shall be due, payable, and delinquent in accordance with the schedule of rates, charges, and fees adopted by the District.

3. The District may turn off water supply to the premises for which payment is delinquent. The service may not be restored until all delinquent bills are paid, including charges established within the schedule of rates, charges, and fees adopted by the Board for shutoff and restoration of charges.
4. The District has contracted, and retains the right to establish contracts with other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts or amendments to existing contracts shall be incorporated by reference upon approval by the Board.

13.0 METER READING AND BILLING

1. Meters shall be read at regular intervals as determined by the District.
2. The user will ensure safe and efficient access to the meter and shutoff valve at all times.
3. The meter assembly and access will remain clear. Whenever it is necessary to enter a building to read or work on the meter, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the building entrance to the meter. Structures, shrubs and landscaping shall not obstruct the reading or maintenance of the meter. By connection to the system, the user consents to the right of TVWD employees or agents to remove structures, shrubs and landscaping as necessary to maintain access to the meter.
4. If it is determined by the District that a meter fails to register accurately, or the District is unable to read a meter, billing shall be calculated in accordance with the following:
 - A. When the user has been at the same premises for a 12-month period or more: Water consumption during the same period the preceding year, times current rate, plus current charges and fees.
 - B. When the user has not been at the same premises for a 12-month period or more: Average water consumption for District water services of an equivalent meter size, times current rate, plus current charges and fees.
 - C. A true-up bill will be produced during the next billing cycle an accurate read can be obtained.

A user may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.

14.0 MAINTENANCE, REPAIR AND TESTING METERS

1. The District's meters shall be operating within the standards established by the American Water Works Association section C700.
2. A user may request that the meter be tested by making an application for such testing to the District.
3. If the test shows that the water meter registers outside the American Water Works Association standard, the meter shall be repaired or replaced at no cost to the user for a new meter, parts, or labor.

An adjustment of the commodity (water unit) charge may be made if the meter registers in excess of the American Water Works Association standard. Charge adjustments shall be made retroactive for a period not to exceed one year.

Should the test show that the water meter registers within or below the American Water Works Association Standards, the user shall pay for the test.

4. The cost for the test shall be billed by the District and the District may charge a user for water delivered, not to exceed one year prior to the testing.

15.0 RESPONSIBILITY FOR DAMAGES OR INJURIES

1. The user is responsible for all damage or injury resulting from the user's failure to properly construct, maintain, repair, or correct conditions in the user's system.
2. The District will not be liable for any damage to the premises, injury to the user, or others on the premises caused by interruption of service, reduction of water supply, reduced or excessive water pressure, or quality of water delivered to the premises.
3. The user shall provide the District with safe and reasonable access to the District's system and the District's service line.
4. The user shall be liable for any damage to the District's system which is caused by an act of the user, his tenants, agents, employees, contractors, licensees, or permittees. Damage to the District's system shall include but not be limited to breaking of seals and locks, tampering with meters or meter boxes, damage to meters or meter boxes, including but not limited to damage by heat, hot water or steam, and damaged curb stops, meter stops, and other service appurtenances. The user responsible for the damage or tampering may also be fined and/or have service terminated.
5. No modifications or alterations to the meter assembly shall be made. The user shall be responsible for any damage to meters or meter boxes due to the unlawful modification or alteration of the district's installation.

16.0 SERVICE INTERRUPTION

From time to time, the District must interrupt service for maintenance, replacement and repairs of the District's system. The District will not be responsible for damages caused by such interruptions of service or fluctuation of pressure but will, whenever reasonable to do so, give users advance notice whenever it is known that service is to be interrupted.

17.0 CONNECTION TO ANOTHER WATER SUPPLY

1. No other water supply shall be connected to the user's service line without written consent and approval of the General Manager.

18.0 BACKFLOW AND CROSS CONNECTION *(referred to OAR and District Ordinance)*

No water service connection to any premise shall be installed or maintained by the District unless the water supply is protected as required by OAR 333-61-0070 to OAR 333-61-0072 and District Ordinance 2-76, 1-81 and

amendments thereto ("Ordinance"). Service of water to any premise shall be discontinued by the District if a backflow prevention assembly required by OAR 333-61-0070 and the District Ordinance (2-76 and amendments) is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premise. Service will not be restored until such conditions or defects are corrected.

User's facilities shall be open for inspection at all reasonable times to the District to determine whether unprotected cross-connections or violations of Tualatin Valley Water District Cross-Connection Control Ordinance exist.

If such violation becomes known, the District shall deny or immediately discontinue service to the premises by providing for a physical disconnect in the service line until the User has corrected the condition(s) in conformance with OAR 333-61-0070 and Tualatin Valley Water District Ordinance 2-76 and amendments.

19.0 EXTENSION OF SYSTEM

1. In general, all water line extensions shall extend the entire distance between opposite boundaries of the property to be served and shall be located within public right-of-way unless the District determines it is necessary to construct water lines on easements across private property. The District may elect to install a larger main than needed for the applicant's service requirements. When it does so, the District will bear the additional cost of the pipes, fittings, valves, and other materials and equipment used. All cases shall be considered separately, and the requirements for each development shall be specified to the applicant.
2. In its sole discretion, the District may construct system improvements upon the request of, and at the expense of, the property owner, or user, or on its own, in accordance with the following. The cost and scheduling of the extension shall be determined by the District.
3. Construction of the system improvements shall be by the District, the District's contractor, or a contractor approved by the District. Property owners using private funds for construction of water improvements shall select an engineer or contractor of their choice for the design of water system improvements, providing they meet the District's requirements, including qualifications of the engineer and contractor. In all cases, the property owner will be required to make advance payment for the estimated costs of plan review, administrative expenses, and other applicable fees related to the proposed project. The property owner shall adhere to District procedures for privately designed and constructed improvements.
4. The District may extend its water system when, in the opinion of the District, the public convenience and welfare is best served by such construction.

At its sole discretion and where it appears equitable that the cost of such construction be apportioned, the District may apportion all, or any part, of the cost of the construction of such water system among such persons as may at any subsequent time apply for a service connection from said extension. The charge shall be at such a rate as the District may from time to time establish.

No service connection shall be made by the District, until the applicant has paid in advance to the District both the charge to them for the construction of the extended water system and the standard service connection charges, including the appropriate system development charge.

5. The District may extend its water system upon written request of the owners of abutting property. It may also extend the water system through property intended to be developed under the applicable zoning and development code. The District may require formation of a local improvement district or assessment district or such other security for payment as it deems appropriate.

Such installation or construction shall not commence until the applicant has paid in advance to the District a deposit of money in such amount as is estimated by the District to pay the cost of construction of such water system extensions. Upon the determination of the amount of such cost after the construction, the District shall refund to the applicant any part of the deposit which exceeds the total construction cost, including overhead, supervision and engineering; and, the applicant shall pay to the District such sum as the deposit is less than such construction cost.

6. In addition to the extensions described in Sections 19.4 and 19.5, private parties may extend the water system. Private parties using private funds for construction of water improvements shall select an engineer or contractor of their choice for the design of water system improvements, provided they meet the District's requirements, including qualifications of the engineer and contractor. In all cases, the private party will be required to make advance payment for the estimated costs of plan review, administrative expenses and other applicable fees related to the proposed project. Private parties shall adhere to District procedures for privately designed and constructed improvements. The improvements shall conform to the District's specifications and standards for water system improvements.
7. All water system extensions shall be constructed only by the District or by a reputable waterworks contractor approved by the District and in accordance with the latest standards adopted by the Board. The District shall approve all construction plans. The pipe, fittings, valves, hydrants and other materials for the construction of said extensions shall be of the size and quality, and shall be located, as the District specifies in its standards. Fire hydrants will be installed at the location designated by the District so as to afford the maximum fire protection coverage.
8. After acceptance by the District, the facilities shall be the sole property of the District and maintained and operated by District personnel exclusively. If the system extension is by a private owner, the property owner and their contractor shall be responsible for a warranty period of one year after acceptance for failures of materials or workmanship. All connections for services thereto shall be made in the manner elsewhere set forth in the District's Rules and Regulations. The charges shall be as set forth in the District's established schedule for rates and charges.
9. Where an owner, at his own cost and expense, extends a water line adjacent to property other than that person's own, so that water service is provided for such other property without further extension of the water line then pursuant to ORS 264.320, the person may obtain partial reimbursement of the cost of extension subject to the following:
 - A. The line must be designed and constructed according to District Standards and specifications and be inspected and accepted by the District as part of the District's system.
 - B. The request for partial reimbursement shall be made in a form acceptable to the District at or prior to the time of acceptance of the facilities by the District.
 - C. Upon receipt of the request, the General Manager shall study the matter and determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement, and identification of properties that would be required to pay the reimbursement fee. If these criteria are met, the General Manager shall compute the amount of reimbursement for each potential lot that could connect to the extension, which includes the lots of the person or entity extending the line, and notify the person seeking the agreement for reimbursement of the eligible amount.

- D. If the General Manager finds that the reimbursement eligibility requirements are met, the General Manager shall prepare an agreement that makes final determination as to reimbursement eligibility. If a person disputes in writing the decision of the General Manager within ten days of notification specifying the reason for the dispute, the Board of Commissioners will make a final decision on reimbursement eligibility. In no event will the reimbursement obligation extend longer than the minimum period provided by ORS 264.320.
- E. As the identified properties connect, all applicable fees and charges of the District and the reimbursement amount shall be collected by the District. The District will remit to the owner the reimbursement amount collected by June 30 of each year collected since the previous July 1st.

20.0 TERMINATION OF WATER SERVICE

- 1. Termination at Request of User: When a user notifies the District that they wish service discontinued, the District will read the meter and render a bill.
- 2. Termination of Service by District: Water service shall be subject to termination upon the occurrence of:
 - A. Non-payment of charges established within the District's adopted Water Rate Schedule.
 - B. Non-compliance with the District's Rules and Regulations relating to matters other than non-payment of charges.
- 3. Notice shall be in sufficient if given by any one of the following:
 - A. Regular first-class U.S. mail, postage prepaid, sent to the user's address as shown in District records; or
 - B. Certified mail, return receipt requested, sent to the user's address as shown in District records; or
 - C. By hand delivery of a notice to the user's premises
 - D. 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.
 - E. When notice is hand delivered, the notice shall be deemed complete when delivered to the user's premises and the period of compliance shall be as set forth in the notice.

21.0 STANDBY FIRE PROTECTION SERVICE CONNECTIONS

- 1. Standby fire protection service connections from a fire service line shall be installed in accordance with applicable regulations and only if adequate provisions are made to prevent the use of water from such services for purposes other than fire extinguishing or testing of fire protection system.
- 2. Charges for standby fire protection service shall be according to the schedule established by the District's Board.

3. As determined by the District, the user shall pay the cost of installing the standby fire protection service connection, including, but not limited to, required backflow prevention devices, special water meters, or other devices installed solely for service to the standby connection.
4. When authorized by the District, a user may temporarily connect a water service to a standby fire protection service. At the time of connection, the user shall pay rates, charges, and fees adopted by the District for such service.
5. Users requesting standby fire protection service connections shall be required to pay the cost of mains needed to supply the required flow.
6. All water provided by the District through a standby fire protection service connection shall be provided subject to the supply and pressure existing in its water distribution system. The District shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
6. If water is used from a standby connection service in violation of these Rules and Regulations, an estimate of the amount used will be computed by the District. The user shall pay for the water based on the estimated quantity used, at the regular rates, including the minimum charge based on the size of the service connection.

Upon the second use of unauthorized water use, a system development charge will also be assessed on the service. The District shall determine the system development charge.

22.0 USE OF FIRE HYDRANTS

1. No person except those authorized by the District shall operate, or attempt to operate, any fire hydrant.
2. The District may authorize use of a fire hydrant for a temporary water supply. The user shall pay all rates, charges, and fees adopted by the Board for such service.
3. Users requesting flow testing of fire hydrants shall pay the fee established by the District's Board.
4. Only the District may change or relocate a fire hydrant. If a user requests hydrant change or relocation and the District approves, the user shall pay all costs of such change.
5. Fire hydrants placed on private property are to be used for fire emergencies or other uses authorized by the district only.
6. Posts, fences, vehicles, growth, trash, storage, and other materials or things shall not be placed or kept near fire hydrants, fire department inlet connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately visible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or hydrants.
7. A 3-foot clear space shall be maintained around the circumference of hydrants. Access from the street to the hydrant shall be kept clear if the travel distance is greater than 3 feet. Users shall be responsible for pruning or removing landscaping or other obstructions that restrict access to a fire hydrant.
8. Eighteen (18) inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed without approval of the District.

9. The District designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the District.
10. Upon notice from the District, the owner or user shall within fourteen (14) days remove such obstruction or correct non-compliance. If the obstruction is not removed or compliance is not achieved within the time required, the District shall take corrective action and bill the user.

23.0 OPERATION OF SYSTEM

UNLESS AUTHORIZED BY THE DISTRICT, NO PERSON SHALL OPERATE ANY PORTION OF THE DISTRICT SYSTEM OR OPERATE A SYSTEM WITHIN THE DISTRICT USING DISTRICT WATER PROVIDING WATER SERVICE TO USERS OR CONSUMERS.

25.0 SERVICE OUTSIDE THE DISTRICT

1. Water shall not be provided outside the District boundary without approval of the Board, except where such service is temporarily required to avoid a health hazard.
2. Service to other governmental units and to users located outside of the boundaries of the District will be made only if the District has sufficient surplus water, and such services may be discontinued at any time if the best interest and the needs of the District so require. The Board reserves the right to increase the rate to any user outside the District without notice. The rate schedule for sale of water to other governmental units will be set by the Board, but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the District system. The District contract shall be executed prior to service.

26.0 MISCELLANEOUS

1. Severability: If any portion of this ordinance is found invalid by a court of competent jurisdiction, the remaining sections of said ordinance shall be unaffected thereby.
2. Fees: By resolution, the District may adopt such fees as it deems appropriate for inspection, testing, shutoff, abatement, or other services provided under this ordinance.
3. Policy and Procedures: By resolution, the District may adopt and amend implementing policies for this ordinance.

27.0 VIOLATIONS AND REMEDIES

(added appeal process to the Board)

1. Violation of this ordinance shall be punishable by a civil penalty of \$500 per day for each day of violation. In addition to said fine, the District may obtain injunctive or equitable relief to abate the violation, including termination of water service as a violation of the District's Rules and Regulations.
2. Any person aggrieved by a ruling or interpretation of the provisions of this ordinance may submit a written appeal to the General Manager. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant, together with any other reasons for appeal.

3. The General Manager shall study the matter, hear testimony if deemed necessary, and issue a written decision to the appellant affirming, denying or modifying the interpretation or ruling.
4. If the appellant considers that their grievance has not been handled satisfactorily, they may apply to the Board of Commissioners for review of the matter within thirty (30) days from the date of the written decision. The Board may make an independent review of the case and hear additional testimony on the matter if it deems necessary or restrict it to the record. Within sixty (60) days from receipt of the appeal, the Board will prepare a written decision on the matter, which shall be sent to the appellant. In lieu of a hearing by the Board, a hearing officer may be appointed.
5. Decisions of the Board shall be reviewable by the Circuit Court of the State of Oregon for Washington County, solely and exclusively under the provision of ORS 34.010 to 34.100.

28.0 REVISION AND MODIFICATION OF RULES, REGULATIONS AND CHARGES

Only the Board may amend the Rules and Regulations.

29.0 CONSTITUTIONALITY, SAVING CLAUSE

If any clause, sentence, paragraph, section, or portion of these Rules and Regulations for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder of these Rules and Regulations.

ORDINANCE NO. 01-05

**AN ORDINANCE AMENDING THE RULES AND
REGULATIONS RELATING TO WATER SUPPLY
SHORTAGE PLAN**

WHEREAS, Tualatin Valley Water District ("District") has adopted Rules and Regulations regarding terms and conditions of use of the District's water distribution system within the District's boundaries; and

WHEREAS, the District has adopted a Water Supply Shortage Plan as part of its Water Management and Conservation Plan under OAR 690-086; and

WHEREAS, the Board of Commissioners desires to amend the *Rules and Regulations* to provide conditions under which service can be limited or terminated and additional charges can be levied where the provisions of the Water Supply Shortage Plan are violated; and being fully advised,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF TUALATIN VALLEY WATER DISTRICT THAT:

Section 1. The attached new Section 27 to the District's Rules and Regulations is hereby adopted entitled "Water Supply Shortage Plan" as set forth on Exhibit 1, attached hereto and incorporated by reference. Current Section 27.0, "Revision & Modifications of Rules, Regulations and Charges" is renumbered to 28.0 and current Section 28.0, "Constitutionality, Savings Clause," is renumbered Section 29.0.

Section 2. This Ordinance is on file at the District's Administrative Offices where it may be examined.


Section 3. This Ordinance has been included in the published agenda of the adopting meeting. The published agenda did state the time, date, and place of the meeting and gave a brief description of the Ordinance to be considered at the meeting and that copies of the Ordinance are available at the office of the District. The presiding officer caused the agenda to be published not more than ten days or less than four days before the meeting in a newspaper of general circulation within the District.


Section 4. Pursuant to Oregon Revised Statutes Chapter 198, the Ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 17th day of August, 2005, and the 21st day of September, 2005.

Section 5. This Ordinance was adopted by at least the affirmative vote of a majority of the members of the District Board at its regular meeting on the 21st day of September, 2005, and was signed by the presiding officer and attested to by the secretary. The secretary of the District is instructed to cause this Ordinance to be filed in the Records of the District and file a certified copy of this Ordinance with the County Clerk.

Section 6. This Ordinance shall take effect on October 21, 2005, being at least 30 days from the date of its adoption.

TUALATIN VALLEY WATER DISTRICT

By: 
James Doane, President

By: 
James Duggan, Secretary

SECTION 27.0

WATER SUPPLY SHORTAGE PLAN

1. Water Supply Shortage Plan. The District has adopted a *Water Supply Shortage Plan* ("Plan") pursuant to Oregon Administrative Rules, Chapter 690, Division 86, the terms of which are hereby incorporated as if fully set forth and including the amendments thereto.
2. Moderate Water Supply Shortage. Upon determination by the General Manager that a moderate water supply shortage exists as set forth in the District's Plan, the District will seek voluntary reductions in the use of water for all purposes and voluntary reductions on using water during certain peak water demand periods based upon those actions outlined in the District's Plan.
3. Severe Water Supply Shortage. Upon determination by the General Manager that a severe water supply shortage exists based on the District's Plan, the District will impose mandatory restrictions on the use of water for all purposes and on the times when certain water usage is allowed. The District will take those actions set forth in the Plan and impose mandatory restrictions on the use of water as set forth therein.
4. Critical Water Supply Shortage. Upon determination by the General Manager that a critical water supply shortage exists based on the District's Plan, the District will take action as described in the Plan and impose additional mandatory restrictions on the use of water as set forth in the Plan.
5. Rationing. If the water supply shortage threatens the protection of public health and safety, the General Manager or his designee is hereby authorized to ration water.
6. Enforcement of Restrictions. If any customer of the District fails to comply with the mandatory water use restrictions of the Water Supply Shortage Plan, the user shall be given a written notice of such violation. The notice will be delivered to the premises at which the unlawful use is occurring. If the District is unable for any reason to serve said notice on the user personally, then the notice will be posted on the premises and said posting shall constitute delivery of the notice. The notice will indicate the time period of said violation, and the user will be assessed surcharges in addition to the amounts due for service in accordance with the following schedule:
 - First violation – Written notice of violation;
 - Second violation – \$100.00 fine;
 - Third violation – an additional \$300.00 fine;
 - Fourth violation – an additional \$500.00 fine;
 - Fifth violation – the user's water service will be terminated. Service will be restored only after:
 - A. The customer has paid all applicable fees, AND
 - B₁. The General Manager has declared the Water Supply Shortage over, OR

B₂. The customer has provided signed proof (satisfactory to TVWD at its sole discretion) that no improper use will occur in the future (e.g., disconnection of sprinklers, swimming pools, etc.) Without proof, TVWD will require a deposit of \$500, held until the General Manager has declared the water supply shortage over. Upon the next violation, the customer will forfeit the \$500 deposit and will have services terminated again. This process will continue with the amount of deposit doubling each time.

7. Variances. Users, who in their belief, are unable to comply with the District's mandatory water use restrictions, may petition for a variance from restrictions by filing a petition with the Tualatin Valley Water District within ten (10) working days after the issuance of the Proclamation requiring water use restrictions or within five (5) calendar days following notice of violation in Section 27.6 above. All petitions for variance shall contain the following information:

- A. Name and address of the petitioner;
- B. Amount and purpose of the water use;
- C. Economic, or health and safety value of the water use;
- D. Mandatory restriction from which the petitioner is requesting relief;
- E. Description as to how the compliance with the District's mandatory restrictions would adversely affect the petitioner;
- F. Description of the relief desired;
- G. Period of time for which the variance is sought;
- H. Any restrictions with which the petitioner does expect to comply, steps the petitioner is taking to come into compliance, and the compliance date; and
- I. Other information the petitioner believes relevant.

In order for the variance to be granted, the petitioner must demonstrate clearly that compliance with the mandatory restrictions would result in significant physical or economic damage.

Designated TVWD staff members are authorized to grant temporary variances for existing water uses otherwise prohibited under the Water Supply Shortage Plan if it is determined that failure to grant such variances could cause an emergency condition adversely affecting health, sanitation and fire protection for the public. No such variance shall be retroactive or otherwise justify any violation of this Water Supply Shortage Plan occurring prior to the issuance of the variance. Variances granted by the District shall include a timetable for compliance and shall expire when the water supply shortage no longer exists, unless the petitioner has failed to meet specified requirements.

During the period from the date of filing the variance until decision by the District, the petitioner may continue to use water in an amount not to exceed the petitioner's average daily winter usage.

Petitioners who disagree with the ruling by TVWD staff will be permitted to make one appeal to TVWD's General Manager or his designee.

TUALATIN VALLEY WATER DISTRICT

ORDINANCE NO. 01-08

AN ORDINANCE ADOPTING AND AMENDING RULES AND REGULATIONS

WHEREAS, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations which provided for usage of the District's water system; and

WHEREAS, the Board of Commissioners find that it is necessary to adopt and amend those Rules and Regulations with those set forth on Exhibit 1, attached hereto and incorporated by reference, and being fully advised,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT as follows:

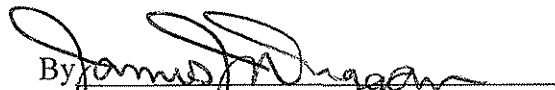
Section 1. The Rules and Regulations attached hereto as Exhibit 1 and incorporated by reference are hereby approved and adopted and supercede all previous Rules and Regulations as of the effective date.

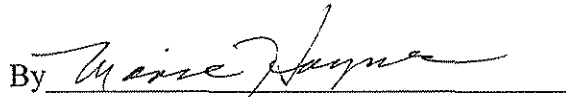
Section 2. The effective date for these Rules and Regulations is 12:01 a.m., October 17, 2008.

INTRODUCED AND READ at a regular meeting of the Board of Commissioners on August 20, 2008, followed by a public hearing, and read for a second time at a regular meeting of the Board of Commissioners on September 17, 2008, followed by a public hearing, and adopted by an affirmative vote of a majority of the Board of Commissioners.

Dated this 17th day of September 2008.

TUALATIN VALLEY WATER DISTRICT

By 
FOR Richard F. Burke, President

By 
Marie Haynes, Secretary

RULES AND REGULATIONS

**Adopted By Ordinance No. 01-08
Under The Authority Of
Oregon State Statute 264.306**

TUALATIN VALLEY WATER DISTRICT
1850 SW 170th Avenue
PO Box 745
Beaverton, Oregon 97075-0745

(503) 642-1511
www.tvwd.org

TUALATIN VALLEY WATER DISTRICT RULES AND REGULATIONS

1.0 PREFACE

1. The Tualatin Valley Water District (District) is a municipal corporation organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of the District is to supply its users with water for domestic (municipal and industrial) purposes as provided by law and, in connection therewith, may supply, furnish and sell water over and above the needs of its users to any persons, corporations, or associations, either within or outside the District, or to other communities, water districts, or municipal corporations.
2. TVWD is governed by the authority vested in a board of five commissioners residing within the District's boundaries elected by voters. Commissioners may receive compensation as provided by statute. Regular monthly meetings are held by the Board of Commissioners. These meetings are open to the public.
3. Capital improvements to the system by TVWD may be funded by rates, cash on hand, system development charges, the issuance of bonds, ad valorem taxes and other sources authorized by law.
4. Operating expenses of TVWD are funded by rate revenues.
5. The District's debt service may be funded by rates, system development charges, ad valorem taxes, and other sources authorized by law.

2.0 DEFINITIONS

1. **"Board"** shall mean the Board of Commissioners of the Tualatin Valley Water District.
2. **"Connection Charges"** shall be: service connection charge, system development charge (SDC), and meter installation charge.
3. **"Customer"** shall mean any user to whom water service is provided.
4. **"Customer Service Line"** shall mean the pipe, valve, fittings, and appurtenances from the outlet of the meter assembly into the premises served.
5. **"Definitions of Rules and Regulations"** shall mean all definitions of TVWD's Rules and Regulations as incorporated by reference.
6. **"Distribution System"** shall include the network of pipelines, reservoirs, pump stations, hydrants, and other appurtenances necessary for the delivery of water from the source to the user's system.
7. **"District"** shall mean the Tualatin Valley Water District.
8. **"District Service Line/Service Connection"** shall mean the pipe, valves, stops, and fittings from a main through the meter, meter box, and appurtenances owned by TVWD.
9. **"District's System"** shall consist of the source facilities and the distribution system, and shall include all meter assemblies and District service lines thereto.

10. **“Fire Service Line”** shall include, but is not limited to, valves, backflow prevention devices, special water meters, pipes from the property line to the premises or other devices installed solely for service to the standby connection dedicated for fire service only.
11. **“General Manager”** shall mean the General Manager of the Tualatin Valley Water District employed by the Board of Commissioners; or the General Manager’s designee.
12. **“Main”** see Water Main.
13. **“Meter Assembly”** is defined as meter, meter box and/or vault, valves, tailpiece, by-pass, yoke, and other appurtenances to which the user’s system is connected.
14. **“Owner”** shall mean and include any person or entity who owns the property served or to be served by the District.
15. **“Service Area”** shall be that area included within the corporate limits of the District, and such other territory as the Board shall determine to provide water service.
16. **“Source”** shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
17. **“Standards”** shall mean the latest revision of the District’s Water System Standards.
18. **“TVWD”** shall mean the Tualatin Valley Water District.
19. **“User”** shall mean any user or occupant of the premises receiving water service.
20. **“User’s System”** shall consist of those parts of the facilities beyond the termination of the District’s distribution system that are utilized in conveying potable water to points of use., including the customer service line and fire service line.
21. **“Water Main”** shall mean any pipe located in the street, alley, right-of-way, or within an easement; which pipe is owned or maintained by the District for the purpose of distributing water to users and servicing fire hydrants.
22. **“Water Service”** shall mean the delivery of water to the user.

3.0 PURPOSE

These Rules and Regulations establish the conditions by which the District will serve its users and how users may lawfully receive service.

4.0 DISTRICT OWNERSHIP

1. Unless otherwise agreed in writing between the District and the user, the District owns the District’s system.
2. No person other than those authorized by the District shall construct, maintain, operate, repair, or alter the District’s system.

3. No person other than those authorized by the District shall make a service connection or disconnect an existing service connection.
4. All leakage in the user's system shall be the sole responsibility and expense of the user. The user shall be responsible for the proper maintenance and repair of the user's system.
5. Leaks in user's system shall be repaired within 30 days of detection.
6. At all times, property owners and users shall provide the District with safe and reasonable access to the District's system and the District's service line.

5.0 COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

1. By requesting and receiving water service from the District, every user grants to the District, its agents, and employees the right at all reasonable times to enter upon the user's premises to determine compliance with District Rules and Regulations.
2. Except as otherwise provided by these Rules and Regulations, the District may refuse to supply water to any property or structure where the user fails, after written notice, to comply with the Rules and Regulations of the District within the time specified in the written notice.
3. Notice shall be sufficient if given by any one of the following:
 - A. Regular first-class U.S. mail, postage prepaid, sent to the user's address as shown in District records; or
 - B. Certified mail, return receipt requested, sent to the user's address as shown in District records; or
 - C. By hand delivery of a notice to the user's premises.
 - D. When the notice is sent by mail, notice shall be deemed delivered when deposited in the mail. The period for compliance shall be as set forth in the notice.
 - E. When notice is hand delivered, the notice shall be deemed complete when delivered to the user's premises and the period of compliance shall be as set forth in the notice.

6.0 USE OF WATER

1. The District will furnish water for ordinary domestic, household, business, industrial, irrigation, community use, and for fire protection purposes as the system may reasonably supply and as may be approved by the Board.
2. The District may enter into contracts to allow for sale or trade of water to other water providers. Said contracts must be approved by the Board of Commissioners or their designee.
3. No person shall use water supplied by the District to create or operate a public or private water system within the District service area unless approved by the District.

4. In the event that the Board of Commissioners or their designee shall determine that conditions exist which require the restriction or prohibition of use of water in order to protect the health, safety, or welfare of the users of the District, the Board or designee 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.

Any user using water in violation of the adopted schedule shall be given notice in writing by the District of said violation. The notice shall advise the user that if unlawful use is not discontinued upon delivery of notice, the water service to the premises shall be terminated. The notice of violation and termination shall be delivered to the user of the premises at which the unlawful use is occurring. If the District is unable for any reason to serve a notice on the user personally, the notice shall be posted on the premises and the posting shall constitute delivery of notice.

Water use may be terminated immediately without notice in the event of imminent threat to health, safety or welfare as determined in the sole discretion of the District.

5. The District allows no waste of water. Users will be responsible for all water use in the user's system.

7.0 WATER LOSS ADJUSTMENT POLICY

Adjustments for the billing or billings for water consumption based upon a water loss resulting from a leak or leaks in any portion of the user's system or plumbing on or within the user's property may be made one time per calendar year per meter.

1. Prior to filing a request for billing adjustment for water losses resulting from leaks in the user's system or plumbing, the user shall:
 - A. Repair leaks within 30 days of the date the leak or leaks are discovered or reasonably should have been discovered;
 - B. File a request for billing adjustment form describing the cause of the water loss and the repair or repairs made to the user's system or plumbing;
2. If it is determined by the General Manager that a water loss has occurred by reason of a leak or leaks in the user's system or plumbing, and the user has complied with the procedures set forth in the preceding sections, then an adjustment shall be calculated in accordance with the following:
 - A. For purposes of calculating the water loss adjustment, the General Manager shall consider the amount of water consumed in the same period of the previous year as ordinary and normal water usage by the user. Water consumption greater than the normal amount of the previous year shall be deemed excess water use.
 - B. An adjustment allowance will consist of 50% of the excess water use.
 - C. The billing or billings to the user shall be adjusted in an amount based upon the commodity rates in effect for the loss period multiplied by the adjustment allowance. This amount shall be credited to the user's account after repairs have been completed. During the loss period, the peaking charges for consumption are excused.
3. The Water Loss Adjustment Policy may be used in cases of unexplained water loss, vandalism or theft of water beyond the control of the customer.

8.0 SERVICE CONNECTION

1. Service connections shall be provided only from District mains and shall be located at such points as the District shall determine in its sole discretion.
2. Application for a new water service connection shall be submitted to the District office. No meter installations or connections will be made until all connection charges have been paid in full in accordance with the adopted water rates schedule.

Unless authorized by the District, a service connection shall provide water to only one single-family dwelling.

Unless authorized, multi-family dwellings or multiple service uses such as commercial malls or industrial users and the like will be served via a master meter. The District may require duplexes to be individually metered.

3. Each tax lot shall have its own water connection. All accessory buildings and premises used as a part of such dwelling, business, or institution may be served from such connection as approved by the General Manager. In the case of a commercial or industrial property with multiple users on a single tax lot, additional service connections may be provided upon approval by the District after payment of the appropriate fees. In addition, duplex units on a single tax lot also qualify for multiple meters.
4. No user shall extend the customer service line, without District approval, to furnish water to any residence, business, institution, or other premises on the same or neighboring tax lot(s) other than that occupied by the user.
5. All service connections shall be installed by the District unless otherwise authorized in accordance with District standards relating to size, materials, location and methods of installation. The charges shall be as set forth in the District's established schedule for rates and charges.
6. Users shall make a request to the District for all water services desired.
7. Removal or relocation of a service connection shall be at the expense of the party requesting the change. The District shall not bear responsibility for reconnection of the user service line. No service connection extension can be made unless approved in writing by the District.

9.0 TEMPORARY SERVICE

1. A user shall make a request to the District for temporary water service not to exceed two years.
2. The District may grant temporary water service during construction and for special events approved for such service by the District. The length of time and conditions of temporary water service shall be determined by the District at the time of application.
3. All costs for installing and removing temporary services shall be paid by the user in advance. Such costs shall be determined by the District and shall include, but are not limited to:
 - A. Labor
 - B. Material

- C. Equipment rental
- D. Overhead
- E. Monthly fixed charges (if applicable)

If the actual cost of providing the temporary service exceeds the estimated cost, the applicant shall pay the excess cost to the District within 30 days after billing by the District of the actual cost. If the actual cost of providing the temporary service is less than the estimated cost, the District shall refund the difference to the applicant within 30 days after determination of actual cost.

- 4. The user shall pay for water usage in accordance with the adopted water rate schedule.

10.0 CUSTOMER SERVICE LINES

- 1. The user is solely responsible to pay the cost to install the customer service line from the meter assembly to the structure to be served.
- 2. Customer service lines shall be installed in accordance with applicable plumbing codes and other specialty codes.
- 3. No pump equipment shall be connected to a customer service line without prior written approval from the District.
- 4. The user shall be responsible for maintenance and repair of the customer service line.

11.0 RATES AND CHARGES

By resolution, the District shall establish rates, charges and fees for use of water, services, and property of the District. A copy of the resolution shall be on file in the District office for examination by the public during business hours.

12.0 PAYMENTS FOR SERVICE

- 1. All payments shall be made to the District at the place designated on the most recent invoice provided to the user or at the District office.
- 2. Bills for use of water, services, and property of the District shall be due, payable, and delinquent in accordance with the terms set forth by the District.
- 3. The District may turn off water supply to the premises for which payment is delinquent. The service will be restored after acceptable terms of payment are arranged for all delinquent bills, including charges established within the schedule of rates, charges, and fees adopted by the Board.
- 4. The District has contracted, and retains the right to establish contracts with other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts or amendments to existing contracts shall be incorporated by reference upon approval by the Board.

13.0 METER READING AND BILLING

- 1. Meters shall be read at regular intervals as determined by the District.

2. The user is responsible for ensuring safe and efficient access to the meter and shutoff valve at all times.
3. Whenever it is necessary to enter a building to read or work on the meter, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions of any kind from the building entrance to the meter.
4. By connection to the system, the user consents to the right of TVWD employees or agents to remove obstructions as necessary to maintain access to the meter.
5. If it is determined by the District that a meter fails to register accurately or the District determines that it is unable to read a meter, billing shall be calculated in accordance with the following:
 - A. When the user has been at the same premises for a 12-month period or more: Estimates will be based on water consumption during the same period the preceding year, times current rate, plus current charges and fees.
 - B. When the user has not been at the same premises for a 12-month period or more: Estimates will be based on the average water consumption for District water services of an equivalent meter size, times current rate, plus current charges and fees.
 - C. A true-up bill will be produced during the next billing cycle when an actual read is obtained.
6. A user may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.

14.0 MAINTENANCE, REPAIR AND TESTING METERS

1. The District's meters shall operate within the standards established by the American Water Works Association Section C700
2. A user may request that the meter be tested by making an application for such testing to the District.
3. If the test shows that the water meter registers outside the American Water Works Association standard, the meter shall be repaired or replaced at no cost to the user for a new meter, parts, or labor.

An adjustment of the commodity (water unit) charge may be made if the meter registers in excess of the American Water Works Association standard. Charge adjustments shall be made retroactive for a period not to exceed one year.

4. If the test show that the water meter registers within or below the American Water Works Association standard, the user shall pay for the test in accordance with District rates and charges. The cost for the test shall be billed by the District and the District may charge a user for water delivered, not to exceed one year prior to the testing.

15.0 RESPONSIBILITY FOR DAMAGES OR INJURIES

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

2. The District will not be liable for any damage to the premises, injury to the user or others on the premises caused by termination or interruption of service, reduction of water supply, reduced or excessive water pressure, or quality of water delivered to the premises.
3. The user shall be liable for any damage to the District's system which is caused by an act of the user, his tenants, agents, employees, contractors, licensees, or permittees. Damage to the District's system shall include but not be limited to breaking of seals and locks, tampering with meters or meter boxes, damage to meters or meter boxes, including but not limited to damage by heat, hot water or steam, and damaged curb stops, meter stops, and other service appurtenances. The user responsible for the damage or tampering may also be fined and/or have service terminated.
4. Only the District may operate, modify or alter the District's system. Violators shall be responsible for any damage to the District's system due to unauthorized operation, modification or alteration.

16.0 SERVICE INTERRUPTION

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

17.0 CONNECTION TO ANOTHER WATER SUPPLY

No other water supply shall be connected to the user's service line without written approval of the General Manager.

18.0 BACKFLOW AND CROSS CONNECTION

Water service connections shall be protected as required by OAR 333-61-0070 to OAR 333-61-0071 and District Ordinance 1-96 and amendments thereto ("Ordinance"). Service of water shall be discontinued by the District if a backflow prevention assembly required by OAR 333-61-0070 and the District Ordinance (1-96 and amendments) is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists. Service will not be restored until such conditions or defects are corrected.

User's facilities shall be open for inspection at all reasonable times to the District to determine if an unprotected cross-connection or violation of the District's Cross-Connection Control Ordinance exists.

The user shall be responsible for any fees incurred in accordance with rates and charges adopted by the Board. In the event of an emergency affecting public health and safety, the District may discontinue service immediately.

19.0 EXTENSION OF SYSTEM

In general, all water line extensions shall extend the entire distance between opposite boundaries of the property to be served and shall be located within public right-of-way or, if necessary, within easements. The property owner will be required to make advance payment for the estimated costs of plan review, administrative expenses, and other applicable fees related to the proposed project. Unless authorized by the District's engineer, projects must be designed and constructed in accordance with District standards.

1. **Owner Request.** Upon request of the property owner, the District may, at its sole discretion, construct system improvements at the expense of the property owner. The cost and scheduling of the extension and improvements shall be determined by the District.
2. **District Extension.** District may extend its water system when, in the opinion of the District, the public convenience and welfare is best served by such construction.

At its sole discretion and where it appears equitable that the cost of such construction be apportioned, the District may apportion all or any part of the cost of the construction of such water system among such persons as may at any subsequent time apply for a service connection from said extension. The charge shall be at an amount established by the District.

No service connection shall be made by the District until the applicant has paid in advance to the District the apportioned charge for the construction of the extended water system, the standard service connection charges, and the appropriate system development charge.

3. **Local Improvement District or Equivalent.** The District may extend its water system upon written request of the owners of abutting property. It may also extend the water system through property intended to be developed under the applicable zoning and development code. The District may require formation of a local improvement district or assessment district or other such security for payment as it deems appropriate.

Installation or construction shall not commence until the applicant has paid a deposit in advance to the District in an amount estimated by the District to cover the cost of construction of the water system extension. Following completion of construction, the District shall determine the actual cost of the project, including overhead, supervision and engineering. The District shall refund to the applicant any part of the deposit which exceeds the actual project cost or the applicant shall pay to the District the actual project cost less the deposit already paid.

4. **Owner/Developer Extension.** Parties other than the District may extend the water system consistent with the District's Rules and Regulations. Parties using non-District funds for construction of water improvements shall select an engineer or contractor of their choice who meets the District's requirements, including qualifications of the engineer and contractor. Such parties shall adhere to District procedures for design and construction.

All water system extensions shall be constructed only by the District or by a reputable contractor. Contractors shall anticipate and allow for inspection by the District. All connections for services shall be made in the manner elsewhere set forth in the District's Rules and Regulations. Prior to final acceptance, the project must be demonstrated to operate and perform as intended.

5. After acceptance by the District, the facilities shall be the sole property of the District and maintained and operated by District personnel exclusively. If the system extension is by a party other than the District, the property owner and their contractor shall be responsible for a warranty period of one year after acceptance for failures of materials or workmanship.
6. **Upsizing of Facilities.** The District may elect to install a larger main or other system improvements other than needed for the applicant's service requirements. When it does so, the District is responsible for the incremental cost. All cases shall be considered separately and the requirements for each project shall be specified to the applicant. Design and construction shall be by the District, the District's contractor, or a contractor approved by the District.

7. Reimbursement Agreement. Where a party other than the District, at their own expense, extends a water line adjacent to property other than that party's own, so that water service is provided for such other property without further extension of the water line then pursuant to ORS 264.320, the party may obtain partial reimbursement of the cost of extension subject to the following:
 - A. The line must be designed and constructed according to District Standards be inspected and accepted by the District as part of the District's system. The term of the reimbursement agreement shall not exceed 10 years from the date of acceptance.
 - B. The request for partial reimbursement shall be made in a form acceptable to the District at or prior to the time of acceptance of the facilities by the District.
 - C. Upon receipt of the request, the General Manager shall determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement, and identification of properties that would be required to pay the reimbursement fee. If these criteria are met, the General Manager shall compute the amount of reimbursement for each potential lot that could connect to the extension, which includes the lots of the person or entity extending the line, and notify the person seeking the agreement for reimbursement of the eligible amount.
 - D. If the General Manager finds that the reimbursement eligibility requirements are met, the General Manager shall prepare an agreement that makes final determination as to reimbursement eligibility. If a person disputes in writing the decision of the General Manager within ten days of notification specifying the reason for the dispute, the Board of Commissioners will make a final decision on reimbursement eligibility. In no event will the reimbursement obligation extend longer than the minimum period provided by ORS 264.320.
 - E. As the identified properties connect, all applicable fees and charges of the District and the reimbursement amount shall be collected by the District. The District will remit to the party the reimbursement amount collected by June 30 of each year collected since the previous July 1st.

20.0 TERMINATION OF WATER SERVICE

1. Termination at Request of User: When a user notifies the District that they wish service discontinued, the District will read the meter and issue a bill.
2. Termination of Service by District: Water service shall be subject to termination upon the occurrence of:
 - A. Non-payment of charges established within the District's adopted Water Rate Schedule.
 - B. Non-compliance with the District's Rules and Regulations relating to matters other than non-payment of charges.
 - C. Lack of use of a water service for a period indicating intent to abandon.
3. Notice of the District's intent to terminate service shall be sufficient if given by any one of the following:
 - A. U.S. mail sent to the user's address as shown in District records; or

- B. By hand delivery of a notice to the user's service premises
 - C. 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.
 - D. When notice is hand delivered, the notice shall be deemed complete when delivered to the user's service address and the period of compliance shall be as set forth in the notice.
4. Limitation of liability. The District shall not be liable or responsible for any consequential, indirect, punitive, incidental or special damages or damages of any kind regardless of the basis of the claim or in any way arising out of the District's termination of water service.

21.0 STANDBY FIRE PROTECTION SERVICE CONNECTIONS

- 1. Standby fire protection service systems connected to a fire service line shall be installed in accordance with applicable regulations. Adequate provisions shall be made to prevent the use of water from such services for purposes other than fire extinguishing or testing of fire protection system.
- 2. Charges for the fire service line shall be according to the District's schedule for rates, charges and fees.
- 3. As determined by the District, the user shall pay the cost of installing the fire service line, including the cost of mains and related improvements needed to supply the required flow.
- 4. All water provided by the District through a fire service line shall be provided subject to the supply and pressure existing in its water distribution system. The District shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
- 5. If water is used from a fire service line in violation of these Rules and Regulations, an estimate of the amount used will be computed by the District. The user shall pay for the water based on the estimated quantity used, at the regular rates, including the minimum charge based on the size of the service connection. Upon the second unauthorized water use, a system development charge will also be assessed on the service. The District shall determine the system development charge.

22.0 USE OF FIRE HYDRANTS

- 1. No person except those authorized by the District shall operate, or attempt to operate, any fire hydrant.
- 2. The District may authorize use of a fire hydrant for a temporary water supply. The user shall pay all rates, charges, and fees adopted by the Board for such service and shall conform with District Standards and Procedures for hydrant use including but not limited to compliance with applicable backflow prevention requirements.
- 3. Users requesting flow testing of fire hydrants shall pay the fee established by the District's Board.
- 4. Only the District may change or relocate a fire hydrant. If a user requests hydrant change or relocation and the District approves, the user shall pay all costs of such change.
- 5. Privately owned fire hydrants are to be used only for fire emergencies or other uses specifically authorized by the District.

6. The fire service agency shall not be deterred or hindered from gaining immediate access to fire protection equipment and hydrants. Access from the street to the fire hydrant, fire protection system and control valves shall be maintained in a manner such that the equipment or fire hydrants are immediately visible. A clear space shall be maintained within a 3 foot radius of fire hydrants, fire protection equipment, and control valves. Access from the street to the hydrant shall be kept clear if the travel distance is greater than 3 feet. Property owners shall be responsible for pruning or removing landscaping or other obstructions that restrict access to or visibility of a fire hydrant.
7. A minimum of eighteen (18) inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed within a 3 foot radius of the hydrant without approval of the District.
8. The District designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the District.
9. Upon notice from the District, the property owner shall within fourteen (14) days remove such obstruction or correct non-compliance. If the obstruction is not removed or compliance is not achieved within the required time, the District shall take corrective action. If the obstruction presents an urgent safety hazard, the District may take immediate corrective action. All charges associated with corrective actions, including those taken by the District, will be the responsibility of the property owner.

23.0 OPERATION OF SYSTEM

UNLESS AUTHORIZED BY THE DISTRICT, NO PERSON SHALL OPERATE ANY PORTION OF THE DISTRICT SYSTEM.

24.0 SERVICE OUTSIDE THE DISTRICT

1. Water shall not be provided outside the District boundary without approval of the Board, except where such service is temporarily required to avoid a health hazard.
2. Service to other water providers and to users located outside of the boundaries of the District will be made only if the District has sufficient surplus water. . Such services may be discontinued at any time if the best interest and the needs of the District so require. The Board reserves the right to increase the rate to any user outside the District without notice. The rate schedule for sale of water to other governmental units will be set by the Board, but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the District system.

25.0 MISCELLANEOUS

1. Severability: If any portion of this ordinance is found invalid by a court of competent jurisdiction, the remaining sections of said ordinance shall be unaffected thereby.
2. Fees: By resolution, the District may adopt such fees and charges as it deems appropriate for services provided under this ordinance.
3. Policy and Procedures: By resolution, the District may adopt and amend implementing policies for this ordinance.

26.0 VIOLATIONS AND REMEDIES

1. Violation of this ordinance is punishable by a civil penalty of \$500 per day for each day of violation. In addition to said fine, the District may obtain injunctive or equitable relief to abate the violation, including termination of water service as a violation of the District's Rules and Regulations.
2. Any person aggrieved by a ruling or interpretation of the provisions of this ordinance may submit a written appeal to the General Manager. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant, and any other reasons for appeal.
3. The General Manager shall study the matter, hear testimony if deemed necessary, and issue a written decision to the appellant affirming, denying or modifying the interpretation or ruling.
4. If the appellant considers that their grievance has not been handled satisfactorily, they may apply to the Board of Commissioners for review of the matter within thirty (30) days from the date of the written decision. The Board may make an independent review of the case and hear additional testimony on the matter if it deems necessary or restrict it to the record. Within sixty (60) days from receipt of the appeal, the Board will prepare a written decision on the matter which shall be sent to the appellant. In lieu of a hearing by the Board, a hearing officer may be appointed.
5. Decisions of the Board shall be reviewable by the Circuit Court of the State of Oregon for Washington County, solely and exclusively under the provision of ORS 43.010 to 34.100.

27.0 REVISION AND MODIFICATION OF RULES, REGULATIONS AND CHARGES

Only the Board may amend the Rules and Regulations.

28.0 CONSTITUTIONALITY, SAVING CLAUSE

If any clause, sentence, paragraph, section, or portion of these Rules and Regulations for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder of these Rules and Regulations.

Tualatin Valley Water District



ORDINANCE 01-12

AN ORDINANCE AMENDING AND RESTATING SYSTEM DEVELOPMENT CHARGES.

WHEREAS, through Resolution No. 1-91, the Board of Commissioners established a methodology to determine the amount of System Development Charges for the Tualatin Valley Water District pursuant to Oregon Revised Statutes (ORS) 223.297 to 223.314, and the charges therefore which have been amended from time to time by various Resolutions; and

WHEREAS, Oregon Revised Statutes 223.297 to 223.314 establish procedures to provide a uniform framework for the imposition of System Development Charges by governmental units for specified purposes and to establish that the charges may be used for Capital Improvements; and

WHEREAS, Oregon Revised Statutes, under 223.297 to 223.314 provides procedures for establishing a Methodology to determine System Development Charges; and

WHEREAS, by this Ordinance, the District intends to reconfirm the authorization for system development charges for capital improvements pursuant to ORS 223.297 to 223.314 for the purpose of creating a source of funds to pay for existing system capacity and/or the installation, construction and extension of capital improvements to accommodate new connections to the system; and

WHEREAS, this Ordinance is adopted to restate existing provisions of the previously adopted Resolution 1-91 as amended and to provide updated provisions consistent with the statutes, but without change to the methodology for calculations of charges; and

WHEREAS these charges shall be due and payable at the time of permitted increased usage of the capital improvements that generate a need for those facilities; and

WHEREAS, the system development charges imposed 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, and being fully advised

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

Section 1. Title

This Ordinance shall be known as "System Development Charge Ordinance" and may be so referred to.

Section 2. Definitions

- A. "Applicant" shall mean the owner or other person who applies for a residential, commercial, industrial or other connection to the District water system.
- B. "Board" means the Board of Commissioners of the Tualatin Valley Water District.
- C. "Building" shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons or property of any kind or for any public, commercial, industrial or other use. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.
- D. "Capital Improvements" shall mean public facilities or assets used for water supply, treatment and distribution.
- E. "Capital Improvement Plan" shall mean any Plan, Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains capital improvements upon which system development charges are calculated.
- F. "Citizen or Other Interested Person" shall mean any person whose legal residence is within the boundaries of the District, as evidenced by registration as a voter within the District or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within District boundaries or is otherwise subject to the imposition of system development charges, as outlined in Section 3 of this ordinance.
- G. "Connection" or "Connection Permit" shall mean connection to, or a permit to connect to, the capital improvements of the District.
- H. "District" shall mean the Tualatin Valley Water District, a unit of local government under ORS 174.116.
- I. "Development" shall mean a building or other construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of any capital improvements or which may contribute to the need for additional or enlarged capital improvements, as determined by the Board.
- J. "Dwelling Unit" shall mean a single building or a portion of a building designed for complete, independent residential occupancy, consisting of one or more rooms which are arranged, designed or used as quarters for living, sleeping, eating, cooking and sanitation by one or more persons.
- K. "Encumbered" shall mean monies committed by contract or purchase order in a manner that obligates the District to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of a real property provided by a vendor, supplier, contractor or owner.

- L. "Equivalent Residential Unit (ERU)" shall mean the base element of the formula by which system development charge rates are determined, for various buildings or developments.
- M. "Improvement Fee" shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance.
- N. "Lot" shall mean a unit of land created by subdivision or partition in compliance with state statutes and applicable planning and zoning codes and regulations.
- O. "Manufactured Housing" shall mean a dwelling unit which is constructed primarily at one location and is then transported to another location for either permanent or temporary siting.
- P. "Methodology" shall mean the system development charge methodology required by ORS 223.304(1) and (2).
- Q. "Owner" shall mean the person holding legal title to the parcel upon which development is to occur, or a contract purchaser of such parcel.
- R. "Parcel" shall mean any unit of land, lot or real property created by subdivision or partition in compliance with any state statute or the applicable planning and zoning codes and regulations; or by deed or land sale contract if not created by subdivision or partition.
- S. "Person" shall mean an individual, corporation, partnership, incorporated association, or any other similar entity.
- T. "Qualified Public Improvement" shall be defined as provided in ORS 223.304(3).
- U. "Reimbursement Fee" shall mean fee for costs associated with capital improvements already constructed or under construction when the fee is established and for which capacity exists.
- V. "Single-family housing" shall mean a detached dwelling unit, constructed on-site, and located on an individual parcel.
- W. "System Development Charge" or "SDC" shall mean a reimbursement fee and/or an improvement fee assessed or collected at the time of increased usage of, or connection to a capital improvement.

Section 3. Assessment of Charge

- A. A System Development Charge is hereby imposed upon all new development within the District, which connects to a capital improvement or which increases the usage of any capital improvements, or which contributes to the need for additional or enlarged capital improvements. The system development charge shall apply to new development and alteration, expansion or replacement of an existing building, structure or development if such alteration, expansion or replacement results in an increase in the number of equivalent residential units (ERUs) compared to the present number of ERUs. For alterations, expansions and replacements, the amount of the system development charge to be paid shall be the difference between the SDC amount for the proposed development less a credit for the SDCs attributable to the existing ERUs.
- B. System development charge rates per ERU shall be established, and may be revised from time to time, by resolution of the District.
- C. The system development charges imposed by this ordinance 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.
- D. For any meter larger than 1 1/2 inches, the owner shall execute a SDC Agreement to pay an SDC for that meter, subject to adjustment for actual usage. The SDC Agreement will have a term of five years (60 months). If actual usage is greater than 110% of anticipated daily usage during any 12-month period of time, during the 5-year (60 month) term from the date of the agreement, an additional SDC may be charged by calculating peak day and storage ERUs and multiplying the peak day SDC cost per ERU and the storage cost per ERU then in effect. If the District finds a violation of the SDC Agreement or exceedance of the volume limitation by the Owner, then it may extend the SDC Agreement for an additional five years along with the recalculation of the SDC rate.
- E. The SDC paid for a parcel shall be deemed to run with the land and is not transferrable to another parcel except as specified herein.
- F. Where an existing meter is located on a parcel that is partitioned or subdivided, the owner may apply to the District to assign the meter and any existing system development charge payment to a lot or apportioned among the lots that comprised the original parcel. The existing credit shall apply to the first lot to develop.
- G. Where contiguous parcels under the same ownership with existing connections wish to combine and seek a credit for the value of existing connections, such credit may be granted if:
 - (1) The ownership is the same or by closely related parties;
 - (2) The separate contiguous parcels are combined into one tax lot by the Assessor;
and

- (3) All services and connections for the previous parcels are abandoned so that there will only be one connection for the consolidated parcel.

H. When a request or requirement for a larger meter is made to the District by an owner for parcels within the District, SDC credit for the existing meter at the parcel will be granted.

- (1) The credit for meters 1.5 inches or less will be based on the current SDC rate in effect at the time of the requested or required upsizing. For meters 2 inches and larger, the credit will be calculated based on anticipated water use as agreed to by the parcel owner at the time the original service connection was installed, or the most recent subsequent agreements between the parcel owners and the District when the connection was resized. If no anticipated water use agreement exists for the parcel, the Chief Engineer will determine, by examining information the Chief Engineer deems pertinent, an equivalent anticipated water use for the existing connection. In cases where the Chief Engineer makes such determination, the credit will be based on the SDC for customers with the determined anticipated water use using the SDC rate in effect at the time of the requested or required upsizing.
- (2) Credit shall be given for inactive or previously removed meters that can be verified by District records. The credit will be determined as stated in Section H (1) above.
- (3) Credits as computed will be subtracted from the determined SDC amount based on the District's current adopted SDC schedule. If an available credit exceeds the SDC amount, the balance shall remain with the parcel previously receiving water service for no more than two years from the date the credit is first used. No cash refunds shall be provided for the amount of this credit.
- (4) SDC credits are non-transferrable to other parcels within the District unless contiguous parcels under the same ownership within the District's service area are combined to facilitate development.
- (5) SDC credits will only apply to parcels with accounts with the District that are in good standing and have no unpaid charges.

The SDC paid for a residential ¾-inch or 1-inch water meter, in the circumstance where a larger meter is required only for the purpose of meeting a residential multi-purpose fire sprinkler system requirement, will consist of the SDC for the appropriate size meter that would be required without the multi-purpose fire sprinkler system plus a percentage of the difference between the price of the SDC for the meter size meeting the domestic water requirements and the SDC for the meter size meeting the fire sprinkler requirement. The percentage adjustment factor will be determined annually by the District's Chief Engineer and represent the approximate storage cost component of the SDC. Should the customer regularly use the capacity of the ¾" or 1" meter to meet their domestic needs, they will be required to pay the remainder of the SDC at the current rate in effect.

- J. If the customer has been charged by the District for an illegal connection and requests a contract for payment of the SDC, the District may withhold the option of providing a contract for said payment of SDC.
- K. If the SDC is financed as permitted by ORS 223.028, the financing charge established by the District shall be the maximum legal rate of interest as authorized in ORS 82.010.

Section 4. System Development Charge Methodology

- A. The methodology used to establish the reimbursement fee portion of the system development charge shall take into account the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, generally accepted rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the District. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.
- B. The methodology used to establish the improvement fee portion of the system development charge shall take into account the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the Board.
- C. The methodology used to establish the improvement fee and the reimbursement fee was developed and previously adopted by the District. Amendments thereto or adoption of a new methodology may be adopted by ordinance or resolution of the District.

Section 5. System Development Charge Plan

- A. The Board has adopted the Capital Improvement Plan (CIP) which is periodically updated. This Plan
 - (1) Lists the planned capital improvements that may be funded with improvement fee revenues; and
 - (2) Lists the estimated cost and time of construction of each improvement.

In adopting this CIP, the Board may incorporate by reference all or a portion of any Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains the information required by this Section. The Board may modify the projects listed in that Plan at any time through the adoption of a resolution.

Section 6. Collection

- A. The System Development Charge shall be due and payable at the time of issuance of a permit or approval by the District to connect to the District system or upon such connection or upon increased usage of the District's system. This ordinance shall apply to any building or development for which connection approval has not been given prior to the adoption hereof.
- B. If development is commenced or connection is made to the system provided by the District without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required or increased usage occurred.
- C. The District shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless an exemption is granted pursuant to Section 6E.
- D. In addition, each person making an application for connection shall pay an inspection charge and all other applicable fees and costs imposed by the District. The fees and charges shall be immediately due and payable.
- E. Notwithstanding Section 3A, the following developments shall be exempt from payment of the System Development Charges:
 - (1) Alterations, expansion or replacement of a building or development where no additional equivalent residential unit is created or plumbing fixtures added.
 - (2) The construction of accessory buildings or structures which will not create additional equivalent residential units or plumbing fixtures and which do not create additional demands on the District's capital facilities.
 - (3) The issuance of a permit for a manufactured housing unit on which applicable system development charges have previously been paid.
 - (4) Development with vested rights, determined as follows:
 - a. Any owner of a parcel which was the subject of a building permit or development permit issued prior to the effective date of Ordinance No. 01-12 may petition the District for a vested rights determination which would exempt the owner from the provisions of this ordinance. Such petition shall be evaluated by the Board and a decision made based on *all three* of the following criteria being met:
 - (1) The existence of a valid, unexpired building or development permit authorizing the specific development for which a determination is sought, and;

- (2) Substantial expenditures or obligations made or incurred in reliance upon such permit, and;
- (3) Other factors that demonstrate it is inequitable to deny the owner the opportunity to complete the previously approved development under the prior conditions of approval by requiring the owner to comply with the requirements of this ordinance. For the purposes of this paragraph, the following factors shall be considered in determining whether it is inequitable to deny the owner the opportunity to complete the previously approved development:
 - (a) Whether the injury suffered by the owner outweighs the public cost of allowing the development to go forward without payment of the system development charges required by this ordinance; and
 - (b) Whether the expenses or obligations for the development were made or incurred prior to the effective date of this ordinance.
- b. The Chief Executive Officer shall make a written determination as to whether the owner has established a vested right in the development and, if so, whether the development would be exempt from the provisions of this ordinance.
- (5) Fire only service connections.
- (6) Temporary connections for Irrigation Purposes.

Section 7. Credits for Developer Contributions of Qualified Public Improvements

- A. The District may grant a credit against the improvement fee component of system development charges imposed pursuant to Section 3 for the donation of land for, or for the actual cost of construction of, any qualified public water improvements set forth in the CIP.
- B. Prior to issuance of a building permit or development permit, the applicant shall submit to the District a proposed plan and estimate of cost for contributions of qualified public water improvements. The proposed plan and estimate shall include:
 - (1.) A designation of the development for which the proposed plan is being submitted;
 - (2.) A legal description of any land or interest in land such as an easement or right-of-way proposed to be donated and a written appraisal prepared in conformity with Section 7(C)(1).;

- (3.) A list of the contemplated capital improvements contained within the plan;
 - (4.) An estimate of proposed construction costs certified by a professional engineer; and
 - (5.) A proposed time schedule for completion of the proposed plan.
- C. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit. The amount of credit to be applied shall be tentatively determined according to the following standards of valuation:
- (1.) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser acceptable to the District. The appraisal will be based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and
 - (2.) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional engineer and relevant District data as determined by the Chief Engineer.
- D. Upon completion of construction and placement of the improvement in service the actual credit shall be calculated based upon the land value, if any, and the actual cost of the qualified public improvement based on a verified accounting of costs provided to the Chief Executive Officer. The District may require such documentation as it deems necessary to evaluate actual costs.
- E. This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this Section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project and their oversizing provides capital usable by the District.
- F. If a donation or construction of a qualified public improvement gives rise to a credit amount greater than the amount of the system development charge that would otherwise be levied against the project receiving development approval, the excess credit may be applied against system development charges that accrue in subsequent phases of the original development project. Any excess credit must be used not later than ten years from the date it is given.
- G. The decision of the Chief Executive Officer as to whether to accept the proposed improvement and the value of such contribution shall be in writing and issued within fifteen (15) working days of the date all data is received for review. Notification shall be provided to the applicant via regular mail.
- H. After completion of a qualified public improvement, the applicant shall, within 30 days of completion, submit to the District an accounting of actual costs. Upon District verification of such costs, the credit shall be increased or reduced accordingly. If

reduced, the applicant shall pay to the District the amount of such reduction in cash within 20 days of notice of such reduction.

- I. Any applicant who submits a proposed plan pursuant to this Section and desires the immediate issuance of a building permit or development permit shall pay the applicable system development charges. Said payment shall not be construed as a waiver of any credit. Any difference between the amount paid and the amount due, as determined by the Board, shall be refunded to the applicant. In no event shall refund by the District under this subsection exceed the amount originally paid by the applicant.
- J. Credits shall be apportioned against the parcel, which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots constituting the entire parcel shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the District, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the entire parcel originally eligible for the credit.

Section 8. Appeals and Review Hearings

- A. An applicant who is required to pay system development charges shall have the right to request a hearing before the Board to review the denial by the Chief Executive Officer of any of the following:
 - (1.) A petition for vested rights pursuant to Section 6(E)(4).
 - (2.) A proposed credit for contribution of qualified public improvements pursuant to Section 7.
 - (3.) A decision of the Chief Executive Officer interpreting the provisions of this Ordinance.
- B. Such hearing shall be requested by the applicant within thirty (30) days of the date of the Chief Executive Officer's written decision. Failure to request a hearing within the time provided shall be deemed a waiver of such right.
- C. The request for hearing shall be filed with the Chief Executive Officer and shall contain the following:
 - (1.) The name and address of the applicant;
 - (2.) The legal description of the parcel in question;
 - (3.) If issued, the date the building permit or development permit was issued;

- (4.) A brief description of the nature of the development being undertaken pursuant to the building or development permit;
 - (5.) If paid, the date the system development charges were paid; and
 - (6.) A statement of the reasons why the applicant is requesting review.
- D. Upon receipt of such request, the Chief Executive Officer shall schedule a hearing before the Board of Commissioners at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.
- E. Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing as determined by the Board. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.
- F. Any applicant who requests a hearing pursuant to this Section and desires the immediate issuance of a connection permit or dwelling shall pay prior to or at the time the request for hearing is filed the applicable system development charges. Said payment shall not be construed as a waiver of any review rights.
- G. An applicant may request review under this Section without paying the applicable system development charges as long as no connection permit or approval has been issued and no connection has occurred.
- H. The decision of the Board shall be subject to writ of review under ORS 34.010 to 34.100.

Section 9. Review of Methodology and Rates

- A. This ordinance, the system development charge methodology, and the capital improvement plan required by ORS 223.309 shall be reviewed by the Board of Commissioners at intervals it deems appropriate. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the methodology. The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to ensure that they do not exceed the actual or reasonably anticipated costs of the District's capital improvements.
- B. Notwithstanding any adjustments made under Section 9.A. of this Ordinance, annually the District shall review the SDC methodology and rates in relation to the Engineering News Record (ENR) Construction Cost Index (CCI) for Seattle, Washington, or comparable index as adopted by the Board, for the geographical region for which such index is prepared that more appropriately reflects cost indexing for the Portland

Metropolitan Area. The Board may, by resolution, modify the District's SDC charges in keeping with such index. A change in an SDC under this subsection shall not be considered a modification to the SDC or methodology under ORS 223.297 through ORS 223.314.

- C. In the event the review of the ordinance or the methodology alters or changes the assumptions, conclusions and findings of the methodology, or alters or changes the amount of system development charges, the methodology shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews. If changes in the methodology are undertaken by the District, the District shall comply with the requirements of ORS 223.297 through ORS 223.314, and coordinate such changes with other affected jurisdictions as necessary.

Section 10. Receipt and Expenditure of System Development Charges

- A. The District shall establish separate accounts for each type of system development charge, which shall be maintained apart from all other accounts of the District. All system development charge payments shall be deposited in the appropriate account immediately upon receipt.
- B. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- C. Improvement fees shall be applied only to capacity-increasing capital improvements, including expenditures relating to repayment of debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees shall be related to demands created by development. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the Capital Improvement Plan, Master Plan or other plan adopted by the District pursuant to ORS 223.309.
- D. Notwithstanding subsections B and C of this Section, system development charge revenues may also be expended on the direct costs of complying with the provisions of this ordinance, including, but not limited to, the costs of developing system development charge methodologies and providing an annual accounting system for development charge expenditures.
- E. The monies deposited in the above accounts shall be used solely as allowed by ORS 223.307, including, but not limited to:
 - (1.) Design and construction plan preparation;
 - (2.) Permitting and fees;

- (3.) Land and materials acquisition, including any costs of acquisition or condemnation;
- (4.) Construction of capital improvements;
- (5.) Design and construction of new water facilities required by the construction of capital improvements and structures;
- (6.) Relocating utilities required by the construction of improvements;
- (7.) Landscaping;
- (8.) Construction management and inspection;
- (9.) Surveying, soils and material testing;
- (10.) Acquisition of capital equipment;
- (11.) Repayment of monies transferred or borrowed from any budgetary fund of the District which were used to fund any of the capital improvements as herein provided;
- (12.) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the District to fund capital improvements;
- (13.) Costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodology report, resolution/ordinance, and capital improvements plan; and the costs of collecting and accounting for system development charges expenditures.

F. Funds on deposit in system development charge accounts shall not be used for:

- (1.) Any expenditure that would be classified as a maintenance expense; or
- (2.) Costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

G. Any capital improvement being funded wholly or in part with improvement fee revenue shall be included in the District's capital improvement plan. The capital improvement plan may be modified at any time by the Board of Commissioners and shall:

- (1.) List the specific capital improvement projects that may be funded with improvement fee revenue;

- (2.) Provide the estimated cost of each capital improvement project,
 - (3.) Provide the estimated timing of each capital improvement project; and
- H. Any funds on deposit in system development charge accounts which are not immediately necessary for expenditure may be invested by the District. All income net of the cost of investment, derived from such investments shall be deposited in the system development charges accounts and used as provided herein.
- I. System development charges shall not be refunded.
- J. The District shall prepare an annual report accounting for system development charges, including the total amount of system development charge revenue collected in the accounts, and the capital improvement projects that were funded. The report shall be completed by January 1 of each year for projects that were funded in the previous fiscal year.
- K. Any citizen or other interested person may challenge an expenditure of system development charges revenues.
- (1.) Such challenge shall be submitted, in writing, to the Board for review within two years following the subject expenditure, and shall include the following information:
 - a. The name and address of the citizen or other interested person challenging the expenditures;
 - b. The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and
 - c. The reason why the expenditure is being challenged.
 - (2.) If the Board determines that the expenditure was not made in accordance with the purposes of this ordinance and other relevant laws, a reimbursement of system development charge account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.

- (3.) The Board shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review within ten (10) days of completion of the review.

Section 11. Severability

If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

Section 12. Implementing Regulations

The Board may adopt by Resolution any regulations or administrative procedures, to implement the provisions of this ordinance.

Section 13. ORS Chapter 198.

Pursuant to Oregon Revised Statutes, Chapter 198.540, the ordinance was read at two regular meetings of the Board of Commissioners on two different days, at least six (6) days apart and prior to the adoption thereof.

Section 14. Adoption.

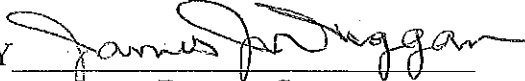
This ordinance was adopted by at least the affirmative vote of a majority of the members of the Board of Commissioners of Tualatin Valley Water District at a public meeting and was attested to by the Chief Executive Officer. The Secretary of the Tualatin Valley Water District is instructed to cause the ordinance to be filed in the records of Tualatin Valley Water District and file a certified copy of this ordinance with the County Clerk

Section 15.

Effective Date. This Ordinance shall take effect at 12:01 a.m., Pacific Daylight Time, on August 17, 2012, being at least thirty (30) days from the date of its adoption.

TUALATIN VALLEY WATER DISTRICT

BY 
Dick Schmidt, President

BY 
James Duggan, Secretary

Tualatin Valley Water District



ORDINANCE 01-13

AN ORDINANCE ESTABLISHING POLICIES AND DIRECTION IN ADDING THE MID-WILLAMETTE SUPPLY OPTION TO THE DISTRICT'S PORTFOLIO OF WATER SUPPLIES

WHEREAS, pursuant to policies adopted and discussed by the Board of Commissioners over multiple decades, Tualatin Valley Water District (TVWD) currently relies on multiple sources of water—a water supply portfolio—that includes water purchased from the City of Portland and the District's ownership in the Joint Water Commission; and

WHEREAS, on April 24, 2013, the TVWD Board of Commissioners (Board) adopted as their preferred alternative the "Mid-Willamette Supply Option" as an additional future water source for the District to be included in the water supply portfolio; and

WHEREAS, the Mid-Willamette supply has been a potential source of water for TVWD since 1973, when Wolf Creek Highway Water District (TVWD's predecessor agency) applied for and was granted a water right permit on the Willamette River. This water right has been maintained from 1973 to the present; and

WHEREAS, the Board finds that TVWD customers can benefit when TVWD pursues opportunities for cost-saving partnerships with municipal water providers and other agencies; and

WHEREAS, TVWD has been a member of the Willamette River Water Coalition (WRWC) and its predecessor, the Willamette Water Supply Agency, since 1997, through an intergovernmental agreement; and

WHEREAS, in June, 2001, the Board adopted Ordinance 1-01 establishing a policy that voter approval would be obtained prior to TVWD providing the Willamette River as a drinking water source to its customers even though there is no statutory requirement to conduct a vote and TVWD has not conducted votes prior to water supply decisions; and

WHEREAS, in 2002, the Willamette River Water Treatment Plant (Plant) in Wilsonville was completed through an Intergovernmental Agreement partnership between TVWD and the City of Wilsonville, and the Plant has been in operation for over eleven years providing a reliable supply of water with no water quality violations or service interruptions; and

WHEREAS, in 2007, the TVWD Board adopted Resolution 11-07 establishing the Tualatin Basin Water Supply Project (TBWSP) as TVWD's preferred water supply option to meet water demands through 2050 in reliance upon the local multi-jurisdictional effort to acquire ownership of Scoggins Dam from the Federal Government and double the capacity of Henry Hagg Lake; and

WHEREAS, because of necessary seismic improvements and other factors regarding Scoggins Dam, it is apparent that the ability to expand Henry Hagg Lake to accommodate the future demands of TVWD and other local government users is doubtful; and

WHEREAS, as a result of the uncertainty regarding the TBWSP, the TVWD Board conducted numerous public meetings related to water supply options during the last eleven months, including an extensive public outreach process; and

WHEREAS, the Board finds that public input received during the District's outreach efforts indicates that continued outreach and engagement of TVWD customers and the public during implementation of the Mid-Willamette Supply Option is the most effective method to address any remaining questions about the District's future supply options including the Willamette River; and

WHEREAS, the Board finds that public debate and discussion has occurred and being fully advised

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF TUALATIN VALLEY WATER DISTRICT:

Section 1. TVWD remains committed and shall continue to make use of multiple sources of supply to reliably meet TVWD's water demands.

Section 2. The Mid-Willamette Supply Option is adopted as the preferred additional future water source for the District with the goal of placing this new supply in service to meet the District's water demands by June 30, 2026.

Section 3. TVWD Resolution 11-07 adopting the Tualatin Basin Water Supply Plan as the District's preferred water supply strategy is hereby repealed and replaced by this Ordinance.

Section 4. The TVWD Board of Commissioners has determined and concludes that, based on the eleven years of operating experience of the Willamette River Water Treatment Plant and the public dialogue received as part of the TVWD's water supply outreach program, satisfactory public debate and discussion has occurred to meet the purpose and intent of Ordinance 1-01. Said ordinance is no longer essential to the implementation of the Mid-Willamette Supply Option and is hereby repealed and replaced by this Ordinance as of the effective date hereof.

Section 5. TVWD, either alone or in partnership with other local government water providers, shall:

- (a) conduct planning studies;
- (b) acquire properties, rights of way and easements;
- (c) proceed with design and construction of improvements needed to implement the Mid-Willamette supply option;
- (d) negotiate intergovernmental agreements, as needed, with agencies to form partnerships that will serve to expediently and cost-effectively implement the needed studies and improvements and maximize benefits of the improvements as a regional water supply resource; and
- (e) take such other actions necessary to place the Mid-Willamette Supply Option in operation by June 30, 2026.

Section 6. TVWD shall continue to conduct public outreach and provide information to inform its customers and the community regarding its future water supply sources including the suitability of the Mid-Willamette Supply Option as a quality, reliable water supply.

Section 7. This Ordinance is on file at the District's Administrative Offices where it may be examined.


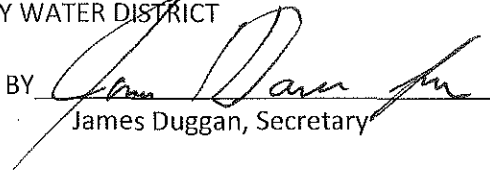
Section 8. This Ordinance has been included in the published agenda of the adopting meeting. The published agenda did state the time, date, and place of the meeting and gave a brief description of the Ordinance to be considered at the meeting and that copies of the Ordinance are available at the office of the District. The Presiding Officer caused the agenda to be published not more than ten days or less than four days before the meeting in a newspaper of general circulation.

Section 9. Pursuant to Oregon Revised Statutes Chapter 198, the Ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 17th day of July, 2013, and the 21st day of August, 2013.

Section 10. This Ordinance was adopted following a second reading by at least the affirmative vote of a majority of the members of the District Board at its regular meeting on the 21th day of August, 2013, and was signed by the Presiding Officer and attested to by the Secretary. The Secretary of the District is instructed to cause this Ordinance to be filed in the Records of the District and file a certified copy of this Ordinance with the County Clerk.

Section 11. This Ordinance 01-13 shall take effect on September 20, 2013 at 12:01 a.m., being at least 30 days from the date of its adoption. Ordinance 1-01 and Resolution 11-07 shall be repealed at 12:00 a.m. on September 20, 2013.

TUALATIN VALLEY WATER DISTRICT

BY  BY 

Richard Burke, President James Duggan, Secretary

Tualatin Valley Water District



ORDINANCE 01-14

**AN ORDINANCE AMENDING AND ADOPTING RULES AND REGULATIONS
FOR THE USE OF THE DISTRICT'S WATER SYSTEM**

WHEREAS, from time to time the Board of Commissioners (Board) of the Tualatin Valley Water District (District) has adopted Rules and Regulations for use of the District's water system; and

WHEREAS, the Board has reviewed the Rules and Regulations and determined that amendments are necessary, all as set forth in Exhibit 1, attached hereto and incorporated by reference; and

WHEREAS, the Board finds that the Rules and Regulations, attached hereto as Exhibit 1, are appropriate and necessary to protect the health, safety and welfare of the District's residents and water users, and being fully advised,

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF
COMMISSIONERS OF TUALATIN VALLEY WATER DISTRICT:

Section 1. The Rules and Regulations attached hereto as Exhibit 1, and incorporated by reference are hereby adopted as of the effective date below.

Section 2. This Ordinance is on file at the District's Administrative Offices where it may be examined.

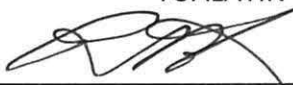
Section 3. This Ordinance has been included in the published agenda of the adopting meeting. The published agenda did state the time, date and place of the of the meeting and gave a brief description of the Ordinance to be considered at the meeting, and that copies of the Ordinance are available at the office of the District. The Presiding Officer caused the agenda to be published not more than ten days or less than four days before the meeting in a newspaper of general circulation.


Section 4. Pursuant to Oregon Revised Statutes Chapter 198, the Ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 18th day of December 2013, and the 15th day of January 2014

Section 5. This Ordinance was adopted following a second reading by at least the affirmative vote of a majority of the members of the District Board at its regular meeting on the 15th day of January 2014, and was signed by the Presiding Officer and attested to by the Secretary. The Secretary of the District is instructed to cause this Ordinance to be filed in the Records of the District and file a certified copy of this Ordinance with the County Clerk.

Section 6. This Ordinance 01-14 shall take effect on February 17, 2014 at 12:01 a.m., being at least 30 days from the date of its adoption.

TUALATIN VALLEY WATER DISTRICT

BY 
Richard Burke, President

BY 
James Duggan, Secretary
Doane, Acting Secretary

Tualatin Valley Water District



Delivering the Best Water ● Service ● Value

RULES AND REGULATIONS

**Adopted By Ordinance No. 1-14
Under The Authority Of
Oregon State Statute 264.306**



TABLE OF CONTENTS

1. Preface.....	2
2. Definitions	2
3. Purpose	4
4. District Ownership.....	4
5. Compliance With Rules And Regulations/Contract For Service.....	4
6. Use Of Water	5
7. Water Loss Adjustment Policy	5
8. Service Connection.....	7
9. Temporary Service	8
10. Customer Service Lines.....	9
11. Class Codes, Rates, Fees And Other Charges.....	9
12. Meter Reading And Billing.....	10
13. Payments For Service	11
14. Meter Accuracy And Testing.....	12
15. Responsibility For Damages Or Injuries.....	12
16. Water Service Interruption.....	13
17. Connection To Another Water Supply	13
18. Backflow And Cross Connection	13
19. Extension Of District's System	14
20. Termination Of Water Service	16
21. Standby Fire Protection Service Connections.....	17
22. Use Of Fire Hydrants.....	18
23. Operation Of System	19
24. Service Outside The District	19
25. Miscellaneous.....	19
26. Violations And Remedies.....	20
27. Revision And Modification Of Rules, Regulations And Charges.....	20
28. Constitutionality, Saving Clause.....	21

1.0 PREFACE

- 1.1. The Tualatin Valley Water District (TVWD) is a municipal corporation organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of TVWD is to supply its users with water for domestic (municipal and industrial) purposes as provided by law and, in connection therewith, may supply, furnish and sell water over and above the needs of its users to any persons, corporations, or associations, either within or outside the District, or to other communities, water districts, or municipal corporations.
- 1.2. TVWD is governed by the authority vested in a Board of five commissioners residing within TVWD's boundaries and elected by voters. Regular monthly meetings are held by the Board of Commissioners. These meetings are open to the public.

2.0 DEFINITIONS

- 2.1. **"Board"** shall mean the Board of Commissioners of the Tualatin Valley Water District.
- 2.2. **"CEO"** shall mean the Chief Executive Officer of the Tualatin Valley Water District or the Chief Executive Officer's designee.
- 2.3. **"Class Code"** shall mean the code assigned to each **Customer Connection** by the **District** to determine applicable **Rates, Fees and Other Charges** for that **Customer Connection**.
- 2.4. **"Connection Charges"** shall be the current service installation charge and meter installation charge as adopted by the **Board**.
- 2.5. **"Customer"** shall mean any citizen, business, or other entity who purchases water from **TVWD**.
- 2.6. **"Customer Connection"** shall mean the point at which the **District Service Line/Service Connection** connects to the **Customer Service Line** or **Fire Service Line**.
- 2.7. **"Customer Service Line"** shall mean any pipes, valves, fitting, or appurtenances beginning at the outlet of the **Meter Assembly** into the premises served excluding **Fire Service Lines**.

- 2.8. **“District”** shall mean the Tualatin Valley Water District.
- 2.9. **“District Service Line/Service Connection”** shall mean the pipe, valves, stops, and fittings from a main to the outlet of the **Meter Assembly**.
- 2.10. **“District Standards”** shall mean the latest revision of the **District’s** Water System Design and Construction Standards.
- 2.11. **“District’s System”** shall include the network of pipelines, reservoirs, pump stations, hydrants, and other appurtenances necessary for the delivery of water to the **User’s System** and shall include all **District Service Lines** thereto.
-
- 2.10. **“Fire Service Line”** shall include, 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** from the **District’s** valve where the Fire Service Line connects into the **District’s System** or from the downstream side of the last connection to a portion of the **District’s System** (such as a public fire hydrant, **District Service Line**, etc.)
- 2.11. **“Meter Assembly”** is defined as meter, meter box and/or vault, valves, tailpiece, by-pass, yoke, and other appurtenances to which the **User’s System** is connected.
- 2.12. **“Owner”** shall mean and include any person or entity who owns the property served or to be served by the **District**.
- 2.13. **“Rates, Fees and Other Charges”** shall mean the current rates, fees and charges as adopted by the **Board**.
- 2.14. **“Service Area”** shall be that area included within the corporate limits of the **District**, and such other territory as the **Board** shall determine to provide **Water Service**.
- 2.15. **“System Development Charges”** shall mean charges assessed as authorized by ordinance 01-12 and subsequent revisions.
- 2.16. **“TVWD”** shall mean the Tualatin Valley Water District.
- 2.17. **“User”** shall mean any user or occupant of the premises receiving **Water Service**.

- 2.18. **“User’s System”** shall consist of those parts of the facilities beyond the termination of the **District’s System** that are utilized in conveying water to points of use, including the **Customer Service Line** and **Fire Service Line**.
- 2.19. **“Water Main”** shall mean any pipe located in the street, alley, right-of-way, or within an easement; which is owned or maintained by the **District** for the purpose of distributing water to **Users** and servicing fire hydrants.
- 2.20. **“Water Service”** shall mean the delivery of water to the **User**.
- 2.21. **“Water Supply Shortage Plan”** shall mean the **District’s** approved Water Supply Shortage Plan incorporated by reference.

3.0 PURPOSE

These Rules and Regulations establish the conditions by which the **District** will conduct its business and operations, and how **Customers** may receive service.

4.0 DISTRICT OWNERSHIP

- 4.1. **District** owns the **District’s System** unless otherwise agreed in writing.
- 4.2. No person other than those authorized by the **District** shall construct, maintain, operate, repair, or alter the **District’s System**.
- 4.3. No person other than those authorized by the **District** shall make a **Service Connection** or disconnect an existing **Service Connection**.
- 4.4. At all times, **Owners, Customers** and **Users** shall provide the **District** with safe, reasonable and efficient access to the **District’s System** and the **District’s Service Line**.

5.0 COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

- 5.1. By requesting or receiving **Water Service** from the **District, Customers** and **Users** agree to abide by these **Rules and Regulations**.
- 5.2. Water shall not be used from a new or proposed service until authorized by the **District**.
- 5.3. Every **User** grants to the **District**, its agents, and employees the right at all reasonable times to enter upon the **User’s** premises to determine compliance with these **Rules and Regulations**.

6.0 USE OF WATER

- 6.1. The **District** will furnish water for domestic, household, business, industrial, irrigation, community use, and for fire protection purposes as the system may reasonably supply and as may be approved by the **Board**.
- 6.2. The **District** may enter into contracts to allow for sale or trade of water to other water providers. Said contracts must be approved by the **Board** or its designee.
- 6.3. No person shall use water supplied by the **District** to create or operate a public or private water system within the **District Service Area** unless approved by the **District** and any other required governmental approval.

In the event that the **Board** or its designee shall determine that conditions exist which require the restriction or prohibition of use of water in order to comply with the **District's Water Supply Shortage Plan** or to protect the health, safety, or welfare of **Users**, the **Board** or designee 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.

Any **User** using water in violation of the adopted schedule shall be given notice in writing by the **District** of said violation. The notice shall advise the **User** that if unlawful use is not discontinued, the **Water Service** to the premises may be terminated. The notice of violation and termination shall be delivered to the **User** of the premises at which the unlawful use is occurring. If the **District** is unable for any reason to serve a written notice to the **User**, the written notice may be posted on the property and the posting shall constitute delivery of notice.

Water Service may be terminated immediately without notice if the use is a threat to health, safety or welfare as determined at the sole discretion of the **District**.

- 6.4. The **District** allows no waste of water. **Users** will be responsible for all water use in the **User's System**.

7.0 WATER LOSS ADJUSTMENT POLICY

Adjustments for the billing or billings for water consumption based on water loss resulting from a leak or leaks in any portion of the **User's System** or plumbing on or within the **User's** property may be made one time per calendar year per meter.

7.1. To request a billing adjustment to a Residential Account for water losses resulting from leaks in the **User's System** or plumbing, the **User** shall:

- A. Repair leaks within 30 days of the date the leak or leaks are discovered or reasonably should have been discovered;
- B. File a request for billing adjustment form within three months of the date of the leak repair describing the cause of the water loss, the repair or repairs made to the **User's System** or plumbing, and the dates the repairs were made;

7.2. If it is determined by the **CEO** that a water loss for a Residential Account has occurred by reason of a leak or leaks in the **User's System** or plumbing, and the **User** has complied with the procedures set forth in the preceding sections, then an adjustment shall be calculated in accordance with the following:

- A. For purposes of calculating the water loss adjustment, the **CEO** shall consider the amount of water consumed in the same period of the previous year as ordinary and normal water usage by the **User**. Water consumption greater than the normal amount of the previous year shall be deemed excess water use.
- B. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods (six months total).
- C. The billing or billings to the **User** shall be adjusted in an amount based on the water volume rate in effect for the loss period multiplied by the adjustment allowance. This amount shall be credited to the **User's** account after repairs have been completed. During the loss period, the peaking charges for consumption are excused, if in the prior year no peaking water charges were applied.

7.3. Method for calculation of Ordinary and Normal Water Usage for Non-Residential Accounts.

- A. Shall only be used for the purposes of calculating the water loss adjustment for a **User** on a non-residential account that has made repairs to a water loss condition which lasted longer than one calendar year.

B. User must complete requirements set forth by 7.1.B

- C. For purposes of establishing ordinary and normal water usage by the **User** following the completion of repairs, the **CEO** shall consider the amount of water consumed for the subsequent three complete billing periods if billed bi-monthly or six months if billed monthly.
 - D. For the purpose of calculating the water loss adjustment staff will compare the re-established ordinary and normal usage to the same period of the previous year. Water usage greater than the ordinary and normal usage shall be deemed excess water use.
 - E. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods or six months.
- 7.4. If multiple leak requests are submitted from the same **User**, the **CEO** shall determine the eligibility for the water loss request.
- 7.5. The Water Loss Adjustment Policy may be used in cases of unexplained water loss, fire protection, vandalism, or theft of water beyond the control of the **Customer**.

8.0 SERVICE CONNECTION

- 8.1. **Service Connections** shall be provided only from **District Water Mains** and shall be located at such points as the **District** shall determine in its sole discretion.
- 8.2. Request for a new water **Service Connection** shall be made to the **District**. No meter installations or connections will be made until all currently adopted **Connection Charges** and **System Development Charges** have been paid in full.
- 8.3. Unless authorized by the **District** in writing, a **Service Connection** shall provide water to only one single-family dwelling. Multi-family dwellings or multiple service uses such as office buildings, commercial malls or industrial **Users** and the like will be served via a master meter. The **District** may require duplexes to be individually metered.

Unless authorized by the **District** in writing, each tax lot or structure receiving service shall have its own water connection. All accessory buildings and premises used as a part of such dwelling, business, or institution may be served from such connection as approved by the **CEO**. In the case of a commercial or industrial property with multiple **Users** on a single tax lot, more than one **Service Connection** may be provided upon approval by the **District** after payment of the appropriate fees.

- 8.4. No **User** shall extend the **Customer Service Line**, without **District** approval, to furnish water to any residence, business, institution, or other premises on the same or neighboring tax lot(s) other than that occupied by the **User**.
- 8.5. All **Service Connections** shall be installed by the **District** unless specifically authorized in writing by the **District**. Work performed will be performed in accordance with **District Standards** relating to size, materials, location and methods of installation. The charges shall be as set forth in the **Rates, Fees and Other Charges**.
- 8.6. **Customer's** capacity from meter purchase shall be limited to that obtained during original purchase and subsequent upgrades regardless of other system improvements that allow greater capacity.
- 8.7. **Users** shall make a request to the **District** for all **Water Services** desired.
- 8.8. Removal or relocation of a **Service Connection** shall be at the expense of the party requesting the change. The **District** shall not bear responsibility for reconnection of the **Customer Service Line**. No **Service Connection** extension can be made unless approved in writing by the **District**.

9.0 TEMPORARY SERVICE

- 9.1. A **User** who is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits may make a request to the **District** for a temporary irrigation meter.

The **User** will be required to pay a Temporary Irrigation Meter Fee and Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

- 9.2. The **District** may grant temporary **Water Service** during construction and for special events approved for such service by the **District**. The length of time and conditions of temporary **Water Service** shall be determined by the **District** at the time of application.

All costs for installing and removing these temporary services shall be paid by the **User** in advance. Such costs shall be determined by the **District** and shall include, but are not limited to:

- A. Labor
- B. Material
- C. Equipment rental
- D. Overhead
- E. Monthly fixed charges (if applicable)

If the actual cost of installing and removing these temporary services exceeds the estimated cost, the applicant shall pay the excess cost to the **District** within 30 days after billing by the **District** of the actual cost. If the actual cost of providing the temporary service is less than the estimated cost, the **District** shall refund the difference to the applicant after determination of actual cost.

The **User** will be required to pay all applicable Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

10.0 CUSTOMER SERVICE LINES

- 10.1. The **User** is solely responsible to pay the cost to install the **Customer Service Line** from the **Meter Assembly** to the structure to be served.
- 10.2. **Customer Service Lines** shall be installed in accordance with applicable plumbing codes and other specialty codes.
- 10.3. No pump equipment shall be connected to a **Customer Service Line** without prior written approval from the **District**.
- 10.4. The **User** shall be responsible for maintenance and repair of the **Customer Service Line** and associated appurtenances.
- 10.5. The **District** is not responsible for improperly installed **Customer Service Lines** and will not issue refunds or adjustments.

11.0 CLASS CODES, RATES, FEES, AND OTHER CHARGES

The **District** will assign a **Class Code** for each **Customer Connection**. **Class codes** will be used to determine applicable **Rates, Fees and Other Charges**.

- 1. **Class Code 1 – Residential** shall consist of **Customer Connections** serving dwelling units, whether a shared structure or freestanding, where one **District** meter serves only one or two dwelling units.



2. **Class Code 2 – Residential Multi-Family** shall consist of **Customer Connections** serving three or more dwelling units.
3. **Class Code 3 - Non-Residential** shall consist of **Customer Connections** not serving one or more dwelling units. Class code 3 does not include **Customer Connections** classified in class code 4, class code 5, or class code 6.
4. **Class Code 4 - Production Processes** shall consist of **Customer Connections** that would otherwise be in class code 3 but where the water passing through a **District** meter is used in a production process.
5. **Class Code 5 - Fire Lines** shall consist of **Customer Connections** for **Fire Service Lines** on private property where water can only be used for fire suppression.
6. **Class Code 6 – Irrigation** shall consist of **Customer Connections** where water passing through a **District** meter can only be used for seasonal agricultural or landscaping purposes and not returned to a wastewater utility system.
7. **Class Code 7 - Temporary Irrigation** shall consist of **Customer Connections** that are for temporary irrigation where the **Customer** is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits.
8. **Class Code 8** shall consist of **Customer Connections** that are for local government water purveyors and **Customers** that have a wholesale rate approved by the **Board**.

The **District** shall establish **Rates, Fees and Other Charges** for use of water, services, and property of the **District** by resolution. A copy of the established **Rates, Fees and Other Charges** shall be on file in the **District** office for examination by the public during business hours.

12.0 METER READING AND BILLING

- 12.1. Meters shall be read at regular intervals as determined by the **District**.
- 12.2. The **User** is responsible for ensuring safe and efficient access to the **Meter Assembly** at all times. Access to the meter requires six feet vertical clearance above the meter box and two feet clearance around.

- 12.3. Whenever it is necessary to enter a building to access the **Meter Assembly**, a safe passageway must be maintained by the **User**, free and clear of obstructions of any kind from the building entrance to the **Meter Assembly**.
- 12.4. The **User** consents to the right of **TVWD** employees or agents to remove obstructions as necessary to maintain access to the **Meter Assembly**. Costs incurred by **TVWD** to gain access to the **Meter Assembly** may be billed to the **User**.
- 12.5. If the **District** determines that it is unable to read a meter, billing shall be calculated in accordance with the following:
- A. The **District** will estimate water consumption based on available historical data.
 - B. A true-up bill will be produced during the next billing cycle when an actual read is obtained.
- 12.6. If it is determined by the **District** that a meter fails to register accurately, the **District** will estimate water consumption based on available historical data.
- 12.7. A **User** may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.

13.0 PAYMENTS FOR SERVICE

- 13.1. Bills from the **District** shall be due, payable, and delinquent in accordance with the terms set forth by the **District**.
- 13.2. The **District** may turn off water supply to the premises for which payment is delinquent. The service will be restored after acceptable terms of payment are arranged for all delinquent bills, including charges established within the **Rates, Fees and Other Charges**.
- 13.3. The **District** has contracted, and retains the right to establish contracts with other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts or amendments to existing contracts shall be incorporated by reference upon approval by the **Board**.

13.4. Outstanding charges owed to the **District** may be transferred to a **Customer's** new account within the **District**.

The **District** may collect unpaid charges incurred by a **Customer** at previous service locations within the **District** as part of the **Customer's** current water bill. These unpaid charges are subject to current collection terms set forth by the **District**.

14.0 METER ACCURACY AND TESTING

14.1. The **District's** meters shall operate within the standards established by the American Water Works Association (AWWA) Section C700.

14.2. A **User** may request the meter be tested by making a request for such testing to the **District**:

- A. If the test shows the water meter registers outside the AWWA standard, the meter shall be repaired or replaced at no cost to the **User** for a new meter, parts, or labor.
- B. 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.

If the test shows that the water meter registers within the AWWA standard, the **User** shall pay for the test in accordance with **District's Rates, Fees and Other Charges**. The cost for the test shall be billed by the **District** and the **District** may charge a **User** for water delivered, not to exceed one year prior to the testing.

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

15.0 RESPONSIBILITY FOR DAMAGES OR INJURIES

15.1. The **User** is responsible for all damage or injury resulting from the failure to properly construct, maintain, repair, or correct conditions in the **User's System**.

15.2. 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.

15.3. The **User** shall be liable for any damage to the **District's System** which is caused by an act of the **User**, his tenants, agents, employees, contractors, licensees, or permittees. The **User** responsible for the damage or tampering may be fined and/or have service terminated.

15.4. Only the **District** may operate, modify, or alter the **District's System**. Violators shall be responsible for any damage, adverse effects to water quality or availability of water due to unauthorized operation, modification or alteration of the **District's System**.

15.5. The **User** is responsible for compliance with all city and county codes and requirements related to maintenance of their property and plumbing system.

16.0 WATER SERVICE INTERRUPTION

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.

17.0 CONNECTION TO ANOTHER WATER SUPPLY

No other water supply shall be connected to the **Customer Service Line** without written approval of the **CEO**.

18.0 BACKFLOW AND CROSS CONNECTION

Service Connections shall be protected against backflow into the **District's System** as required by the **District**. Service of water may be terminated if a backflow prevention assembly required by the **District** is not installed, tested and maintained; or if it is found that a backflow prevention assembly has been removed, bypassed; or if an unprotected cross-connection exists. Service will not be restored until such conditions or defects are corrected.

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** Cross-Connection Control requirements exists and that compliance requirements are met.

19.0 EXTENSION OF DISTRICT'S SYSTEM

In general, **Owners** shall extend all **Water Mains** the entire distance between opposite boundaries of the property to be served and shall be located within public right-of-way or, if necessary, within easements. Unless authorized by the **CEO**, projects must be designed and constructed in accordance with **District Standards** approved by the **CEO** or Chief Engineer. All extensions shall be constructed only by the **District** or by a contractor acceptable to the **District**. Contractors shall anticipate and allow for inspection by the **District** during construction. All connections for services shall be made in the manner elsewhere set forth in these Rules and Regulations. Prior to final acceptance, the project must be demonstrated to operate and perform as intended.

19.1. **Owner/Developer Extension**. Parties other than the **District** may extend the **District's System** consistent with these Rules and Regulations. Parties using non-**District** funds for construction of water improvements shall select an engineer or contractor of their choice who meets the **District's** requirements, including qualifications of the engineer and contractor. Such parties shall adhere to **District's Standards**.

19.2. All extensions of the **District's System** requires plan submission, review, and written **District** approval.

19.3. **Owner Request**. Upon request of the **Owner**, the **District** may, at its sole discretion, construct system improvements at the expense of the **Owner**. The cost and scheduling of the extension and improvements shall be determined by the **District**.

Installation or construction shall not commence until the applicant has paid a deposit in advance to the **District** in an amount estimated by the **District** to cover the cost of construction of the **District's System** extension. Following completion of construction, the **District** shall determine the actual cost of the project, including overhead, supervision and engineering. The **District** shall refund to the applicant any part of the deposit which exceeds the actual project cost or the applicant shall pay to the **District** the actual project cost less the deposit already paid.

19.4. **District Extension**. The **District** may extend its **District's System** when, in the opinion of the **District**, the public convenience and welfare is best served by such construction.

At its sole discretion and where it appears equitable that the cost of such construction be apportioned, the **District** may apportion all or any part of the cost of the construction of the **District's System** among the persons as may at any subsequent time apply for a **Service Connection** from said extension. The charge shall be at an amount established by the **District**.

No **Service Connection** or **Fire Service Line** shall be made by the **District** until the applicant has paid in advance to the **District** the apportioned charge for the construction of the extended **District's System, Connection Charges**, and the appropriate **System Development Charge**.

19.5. Local Improvement District or Equivalent. The **District** may extend its **District's System** upon written request of the **Owners** of abutting property. It may also extend the **District's System** through property intended to be developed under the applicable zoning and development code. The **District** may require formation of a local improvement district or assessment district or other such security for payment as it deems appropriate. Terms of payment shall be provided in the local improvement district or equivalent documents approved by the **Board**.

19.6. After acceptance by the **District**, the facilities shall be the sole property of the **District** and maintained and operated by **District** personnel exclusively. If the **District's System** extension is by a party other than the **District**, the property owner and its contractor shall be responsible for a warranty period of one year after acceptance for failures of materials or workmanship.

19.7. Upsizing of Facilities. The **District** may elect to install larger **Water Mains** or other system improvements other than needed for the applicant's service requirements. When it does so, the **District** is responsible for the incremental cost. All cases shall be considered separately and the requirements for each project shall be specified to the applicant. Design and construction shall be by the **District**, the **District's** contractor, or a contractor approved by the **District**.

19.8. Reimbursement Agreement. Pursuant to ORS 264.320, the **District** may establish reimbursement agreement subsequent to the following:

- A. The line must be designed and constructed according to **District Standards**, be inspected, and accepted by the **District** as part of the **District's System**. The term of the reimbursement agreement shall not exceed 10 years from the date of acceptance.
- B. The request for partial reimbursement shall be made in a form acceptable to the **District** prior to the time of acceptance of the facilities by the **District**.

- C. Upon receipt of the request, the **CEO** shall determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement, and identification of properties that would be required to pay the reimbursement fee. If these criteria are met, the **CEO** shall compute the amount of reimbursement for each potential lot that could connect to the extension, which includes the lots of the person or entity extending the line, and notify the person seeking the agreement for reimbursement of the eligible amount.
- D. If the **CEO** finds that the reimbursement eligibility requirements are met, the **CEO** shall prepare an agreement that makes final determination as to reimbursement eligibility. If a person disputes in writing the decision of the **CEO** within ten days of notification specifying the reason for the dispute, the **Board** will make a final decision on reimbursement eligibility. In no event will the reimbursement obligation extend longer than the minimum period provided by ORS 264.320.
- E. As the identified properties connect, all applicable **Rates, Fees and Other Charges** and the reimbursement amount shall be collected by the **District**. The **District** will remit to the person the reimbursement amount collected by June 30 of each year for reimbursement of charges collected since the previous July 1st.

20.0 TERMINATION OF WATER SERVICE

- 20.1. Termination at Request of **User**: When a **User** notifies the **District** that the **User** wishes service discontinued, the **District** will read the meter and issue a bill including applicable charges for termination.
- 20.2. Termination of Service by **District: Water Service** shall be subject to termination upon the occurrence of:
 - A. Non-payment of charges established within the **District's** adopted **Rates, Fees and Other Charges**.
 - B. Non-compliance with these Rules and Regulations relating to matters other than non-payment of charges.
 - C. Lack of use of a **Water Service** for a period indicating intent to terminate **Water Service**.
 - D. Threat to health, safety or welfare determined at the sole discretion of the **District**. Under these conditions, termination may be immediate and without notice.

20.3. Notice of the **District's** intent to terminate service shall be sufficient if given by any of the following:

- A. U.S. mail sent to the **User's** address as shown in **District** records; or
- B. By hand delivery of a notice to the **User's** service premises

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 **User's** service address and the period of compliance shall be as set forth in the notice.

20.4. Limitation of liability. The **District** shall not be liable or responsible for any consequential, indirect, punitive, incidental or special damages or damages of any kind regardless of the basis of the claim or in any way arising out of the **District's** termination of **Water Service**.

21.0 STANDBY FIRE PROTECTION SERVICE CONNECTIONS

- 21.1. Standby fire protection systems connected to a **Fire Service Line** shall be installed in accordance with applicable **District** regulations and **District Standards**. The **User** shall make adequate to prevent the use of water from such systems for purposes other than fire extinguishing or testing.
- 21.2. Charges for the **Fire Service Line** shall be according to the **District's Rates, Fees & Charges**.
- 21.3. The **User** shall pay the cost of installing the **Fire Service Line**, including the cost of **Water Mains** and related improvements in compliance with applicable **District Rates, Fees and Other Charges** and **System Development Charges**.
- 21.4. All water provided by the **District** through a **Fire Service Line** shall be provided subject to the supply and pressure existing in the water distribution system. The **District** shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
- 21.5. If water is used from a **Fire Service Line** in violation of these Rules and Regulations, the **User** shall pay for the water based on an estimate of the amount used as determined by the **District's Rates, Fees and Other Charges**. Upon the second unauthorized water use, fines may be assessed and a **System Development Charge** may also be assessed on the service. The **District** shall determine the amount of the **System Development Charge**.

21.6. The **District** is not responsible for the improperly installed **Fire Service Line** and will not issue refunds or adjustments.

22.0 USE OF FIRE HYDRANTS

22.1. No person except those authorized by the **District** shall operate, or attempt to operate, any fire hydrant.

22.2. The **District** may authorize use of a fire hydrant for a temporary water supply. The **User** shall pay all **Rates, Fees & Charges** for such service and shall conform with **District** permit requirement for hydrant use including but not limited to compliance with applicable backflow prevention requirements.

22.3. **Users** requesting flow testing of fire hydrants shall pay appropriate **Rates, Fees & Charges**.

22.4. Unless otherwise approved by the **CEO**, only the **District** may change or relocate a fire hydrant. If a **User** requests hydrant change or relocation and the **District** approves, the **User** shall pay all costs of such change.

22.5. Privately owned fire hydrants are to be used only for fire emergencies or other uses specifically authorized by the **District**.

22.6. The fire service agency shall not be deterred or hindered from gaining immediate access to fire protection equipment and hydrants. Access from the street to the fire hydrant, fire protection system and control valves shall be maintained in a manner such that the equipment or fire hydrants are immediately visible. A clear space shall be maintained within a 3 foot radius of fire hydrants, fire protection equipment, and control valves. Access from the street to the hydrant shall be kept clear if the travel distance is greater than 3 feet. **Owners** shall be responsible for pruning or removing landscaping or other obstructions that restrict access to or visibility of a fire hydrant.

22.7. A minimum of eighteen (18) inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed within a 3 foot radius of the hydrant without approval of the **District**.

22.8. The **District** designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the **District**.

22.9. Upon notice from the **District**, the property owner shall within fourteen (14) days remove such obstruction or correct non-compliance. If the obstruction is not removed or compliance is not achieved within the required time, the **District** shall take corrective action. If the obstruction presents an urgent safety hazard, the **District** may take immediate corrective action. All charges associated with corrective actions, including those taken by the **District**, will be the responsibility of the property owner.

23.0 OPERATION OF SYSTEM

Unless authorized by the **District**, no person shall operate any portion of the **District's System**.

24.0 SERVICE OUTSIDE THE DISTRICT

24.1. Water shall not be provided outside the **District** boundary without approval of the **Board**, except where such service is temporarily required to avoid a health, safety, or other emergency hazard.

24.2. Service to other water providers and to **User's** located outside of the boundaries of the **District** will be made only if the **District** has sufficient surplus water. Such services may be discontinued at any time if the best interest and the needs of the **District** so require.

24.3. The **Board** reserves the right to increase the rate to any **User** outside the **District** without notice. The rate schedule for sale of water to other governmental units will be set by the **Board**, but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the **District's System** unless otherwise established by agreement.

25.0 MISCELLANEOUS

25.4. Severability: If any portion of these Rules and Regulations is found invalid by a court of competent jurisdiction, the remaining sections of these Rules and Regulations shall be unaffected thereby.

25.5. Fees: The **District** may adopt fees and charges by Resolution as it deems appropriate for services provided under these Rules and Regulations.

25.6. **District** Approval: Unless otherwise specified, when **District** approval and/or authorization is required by these Rules and Regulations, approval shall be in writing and by the **CEO**.

26.0 VIOLATIONS AND REMEDIES

- 26.7. Violation of these Rules and Regulations is punishable by a civil penalty of \$500 per day for each day of violation. In addition to said fine, the **District** may obtain injunctive or equitable relief to abate the violation, including termination of **Water Service** as a violation of these Rules and Regulations.
- 26.8. If a violation of these Rules and Regulations exists and the **District** takes action to remedy the violation then the **User** shall be responsible for all costs incurred.
- 26.9. Any person aggrieved by a ruling or interpretation of the provisions of this ordinance may submit a written appeal to the **CEO** within 15 days of the decision. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant, and any other reasons for appeal.
- 26.10. The **CEO**, or the Chief Engineer as the **CEO** designee shall study the matter, hear testimony and provide for additional written argument if necessary, and issue a written decision to the appellant affirming, denying or modifying the interpretation or ruling.
- 26.11. If the appellant considers that their grievance has not been handled satisfactorily, they may apply to the **Board** for review of the matter within thirty (30) days from the date of the written decision. The **Board** may make an independent review of the case and hear additional testimony on the matter if it deems necessary or restrict it to the record. Within sixty (60) days from receipt of the appeal, the **Board** will prepare a written decision on the matter which shall be sent to the appellant. In lieu of a hearing by the **Board**, a hearing officer may be appointed.
- 26.12. Decisions of the **Board** shall be reviewable by the Circuit Court of the State of Oregon for Washington County, solely and exclusively under the provision of ORS 43.010 to 34.100.

27.0 REVISION AND MODIFICATION OF THESE RULES, REGULATIONS AND CHARGES

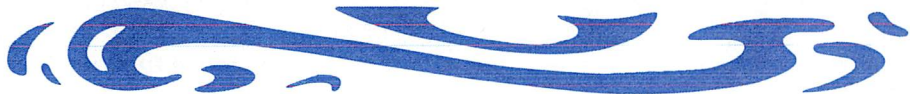
Only the **Board** may amend these Rules and Regulations. For these Rules and Regulations, the **District** may adopt implementing policies.

28.0 CONSTITUTIONALITY, SAVING CLAUSE

If any clause, sentence, paragraph, section, or portion of these Rules and Regulations for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of these Rules and Regulations.



Tualatin Valley Water District



Delivering the Best Water ● Service ● Value

TUALATIN VALLEY WATER DISTRICT
1850 SW 170th Avenue
Beaverton, Oregon 97006

(503) 642-1511

www.tvwd.org



TUALATIN VALLEY WATER DISTRICT

ORDINANCE 02-14

AN ORDINANCE AMENDING ORDINANCE 01-12 RELATING TO SYSTEM DEVELOPMENT CHARGES AND DECLARING AN EMERGENCY

WHEREAS, through Resolution No. 1-91, the Board of Commissioners established a methodology to determine the amount of System Development Charges (SDC) for the Tualatin Valley Water District pursuant to Oregon Revised Statutes (ORS) 223.297 to 223.314, and the charges therefore which have been amended from time to time by various Resolutions; and

WHEREAS, Oregon Revised Statutes 223.297 to 223.314 establish procedures to provide a uniform framework for the imposition of System Development Charges by governmental units for specified purposes and to establish that the charges may be used for Capital Improvements; and

WHEREAS, Oregon Revised Statutes, under 223.297 to 223.314 provides procedures for establishing a Methodology to determine System Development Charges; and

WHEREAS, by Ordinance 01-12, the District reconfirmed the authorization and methodology for system development charges for capital improvements pursuant to ORS 223.297 to 223.314 to create a source of funds to pay for existing system capacity and/or the installation, construction and extension of capital improvements to accommodate new connections to the system; and

WHEREAS, the Board of Commissioners finds it necessary to amend Ordinance 01-12 to allow for flexibility regarding the allocation and transfer of system development capacity to promote economic development; and

WHEREAS, amendments to Ordinance 01-12 are necessary for the public welfare of District ratepayers and that efficient and effective administration of the system development charges as proposed requires immediate adoption and therefore an emergency is declared to exist and being fully advised

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

Section 1. Amendment

Section 3E of Ordinance 01-12 is amended to read as follows:

“E. Unless otherwise approved by Resolution of the Board of Commissioners, the SDC paid for a parcel shall be deemed to run with the land and is not transferrable to another parcel except as specified herein.”

Section 2. ORS Chapter 198

Pursuant to Oregon Revised Statutes, Chapter 198.540, notice of this emergency ordinance was published as part of the regular meeting agenda. The ordinance was read at the regular meeting of the Board of Commissioners on May 21, 2014.


Section 3. Adoption.

This ordinance was adopted by the unanimous vote of the members of the Board of Commissioners of Tualatin Valley Water District present at the regular meeting on May 21, 2014 and was attested to by the Chief Executive Officer. The Secretary of the Tualatin Valley Water District is instructed to cause the ordinance to be filed in the records of Tualatin Valley Water District and file a certified copy of this ordinance with the County Clerk and to undertake other publication requirements.

Section 4.

Emergency and Effective Date. An emergency is hereby declared to exist and this Ordinance shall take effect immediately upon passage.

TUALATIN VALLEY WATER DISTRICT

BY 
Richard Burke, President

BY 
James Duggan, Secretary

Tualatin Valley Water District



ORDINANCE NO. 01-15

AN ORDINANCE ADOPTING AND AMENDING RULES AND REGULATIONS FOR THE USE OF THE DISTRICT'S WATER SYSTEM

WHEREAS, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations which provided for usage of the District's water system; and

WHEREAS, the Board of Commissioners find that it is necessary to adopt and amend those Rules and Regulations with those set forth on Exhibit 1, attached hereto and incorporated by reference,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. The Rules and Regulations attached hereto as Exhibit 1 and incorporated by reference are hereby approved and adopted and supersede all previous Rules and Regulations as of the effective date.

Section 2. The effective date for these Rules and Regulations is 12:01 A.M. on November 21, 2015.

Section 3. This Ordinance was introduced and read by title at a regular meeting of the Board of Commissioners on September 16, 2015, followed by a public hearing; and read for a second time at a regular meeting of the Board of Commissioners on October 21, 2015, followed by a public hearing, and adopted by an affirmative vote of a majority of the Board of Commissioners.

Section 4. Pursuant to Oregon Revised Statute 198.540, notice of this Ordinance was included in the published agenda of the meetings referenced in Section 3 and the agenda was published not more than 10 days or less than 4 days prior to said meetings in a newspaper of general circulation in Washington County, Oregon.

TUALATIN VALLEY WATER DISTRICT

BY: Marilyn McWilliams
Marilyn McWilliams, President

BY: James Duggan
James Duggan, Secretary

Date: Oct 21, 2015

Date: 21 OCT 2015

RULES AND REGULATIONS

**Adopted By Ordinance No. 01-15
Under The Authority Of
Oregon State Statute 264.306**

TUALATIN VALLEY WATER DISTRICT
1850 SW 170th Avenue
Beaverton, Oregon 97003

(503) 848-3000
www.tvwd.org

TUALATIN VALLEY WATER DISTRICT RULES AND REGULATIONS

1.0 PREFACE

- 1.1 The Tualatin Valley Water District (**TVWD**) is a municipal corporation organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of **TVWD** is to supply its **Users** with water for domestic (municipal and industrial) purposes as provided by law and, in connection therewith, may supply, furnish and sell water over and above the needs of its users to any persons, corporations, or associations, either within or outside the District, or to other communities, water districts, or municipal corporations.
- 1.2 **TVWD** is governed by the authority vested in a **Board** of five commissioners residing within **TVWD's** boundaries and elected by voters. Regular monthly meetings are held by the Board of Commissioners. These meetings are open to the public.

2.0 DEFINITIONS

- 2.1 "**Board**" shall mean the Board of Commissioners of the Tualatin Valley Water District.
- 2.2 "**CEO**" shall mean the Chief Executive Officer of the Tualatin Valley Water District or the Chief Executive Officer's designee.
- 2.3 "**Class Code**" shall mean the code assigned to each **Customer Connection** by the District to determine applicable **Rates, Fees and Other Charges** for that **Customer Connection**.
- 2.4 "**Connection Charges**" shall be the current service installation charge and meter installation charge as adopted by the **Board**.
- 2.5 "**Customer**" shall mean any citizen, business, or other entity who purchases water from **TVWD**.
- 2.6 "**Customer Connection**" shall mean the point at which the **District Service Line/Service Connection** connects to the **Customer Service Line** or **Fire Service Line**.
- 2.7 "**Customer Service Line**" shall mean any pipes, valves, fitting, or appurtenances beginning at the outlet of the **Meter Assembly** into the premises served excluding **Fire Service Lines**.
- 2.8 "**District**" shall mean the Tualatin Valley Water District.
- 2.9 "**District Service Line/Service Connection**" shall mean the pipe, valves, stops, and fittings from a main to the outlet of the **Meter Assembly**.
- 2.10 "**District Standards**" shall mean the latest revision of the **District's** Water System Design and Construction Standards.
- 2.11 "**District's System**" shall include the network of pipelines, reservoirs, pump stations, hydrants, and other appurtenances necessary for the delivery of water to the **User's System** and shall include all **District Service Lines** thereto.

- 2.12 “**Fire Service Line**” shall include, 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** from the District’s valve where the **Fire Service Line** connects into the **District’s System** or from the downstream side of the last connection to a portion of the District’s system (such as a public fire hydrant, **District Service Line**, etc.)
- 2.13 “**Meter Assembly**” is defined as meter, meter box and/or vault, valves, tailpiece, by-pass, yoke, and other appurtenances to which the **User’s System** is connected.
- 2.14 “**Owner**” shall mean and include any person or entity who owns the property served or to be served by the **District**.
- 2.15 “**Rates, Fees and Other Charges**” shall mean the current rates, fees and charges as adopted by the **Board**.
- 2.16 “**Rules and Regulations**” shall mean these **Rules and Regulations** as adopted by ordinance by the **Board**.
- 2.17 “**Service Area**” shall be that area included within the corporate limits of the **District**, and such other territory as the **Board** shall determine to provide **Water Service**.
- 2.18 “**System Development Charges**” shall mean charges assessed as authorized by ordinance 01-12 and subsequent revisions.
- 2.19 “**TVWD**” shall mean the Tualatin Valley Water District.
- 2.20 “**User**” shall mean any **User** or occupant of the premises receiving **Water Service**.
- 2.21 “**User’s System**” shall consist of those parts of the facilities beyond the termination of the **District’s** system that are utilized in conveying water to points of use, including the **Customer Service Line** and **Fire Service Line**.
- 2.22 “**Water Main**” shall mean any pipe located in the street, alley, right-of-way, or within an easement; which is owned or maintained by the **District** for the purpose of distributing water to users and servicing fire hydrants.
- 2.23 “**Water Service**” shall mean the delivery of water to the **User**.
- 2.24 “**Water Supply Shortage Plan**” shall mean the **District’s** approved **Water Supply Shortage Plan** incorporated by reference.

3.0 PURPOSE

These **Rules and Regulations** establish the conditions by which the **District** will conduct its business and operations, and how **Customers** may receive service.

4.0 DISTRICT OWNERSHIP

- 4.1 **District** owns the **District's System** unless otherwise agreed in writing.
- 4.2 No person other than those authorized by the **District** shall construct, maintain, operate, repair, or alter the **District's System**.
- 4.3 No person other than those authorized by the **District** shall make a service connection or disconnect an existing service connection.
- 4.4 At all times, **Owners, Customers** and **Users** shall provide the **District** with safe, reasonable and efficient access to the **District's System** and the **District's Service Line**.

5.0 COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

- 5.1 By requesting or receiving **Water Service** from the **District, Customers** and **Users** agree to abide by these **Rules and Regulations**.
- 5.2 Water shall not be used from a new or proposed service until authorized by the **District**.
- 5.3 Every **User** grants to the **District**, its agents, and employees the right at all reasonable times to enter upon the **User's** premises to determine compliance with these **Rules and Regulations**.

6.0 USE OF WATER

- 6.1 The **District** will furnish water for domestic, household, business, industrial, irrigation, community use, and for fire protection purposes as the system may reasonably supply and as may be approved by the **Board**.
- 6.2 The **District** may enter into contracts to allow for sale or trade of water to other water providers. Said contracts must be approved by the **Board** or its designee.
- 6.3 No person shall use water supplied by the **District** to create or operate a public or private water system within the **District Service Area** unless approved by the **District** and any other required governmental approval.
- 6.4 In the event that the **Board** or its designee shall determine that conditions exist which require the restriction or prohibition of use of water in order to comply with the **District's Water Supply Shortage Plan** or to protect the health, safety, or welfare of **Users**, the **Board** or designee 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.

Any **User** using water in violation of the adopted **Rules and Regulations** shall be given notice in writing by the **District** of said violation. The notice shall advise the **User** that if unlawful use is not discontinued, the **Water Service** to the premises may be terminated. The notice of violation and termination shall be delivered to the **User** of the premises at which the unlawful use is occurring. If the **District** is unable for any reason to serve a written notice to the **User**, the written notice may be posted on the property and the posting shall constitute delivery of notice.

Water Service may be terminated immediately without notice if the use is a threat to health, safety or welfare as determined at the sole discretion of the **District**.

6.5 The **District** allows no waste of water. **Users** will be responsible for all water use in the **User's System**.

7.0 WATER LOSS ADJUSTMENT POLICY

Adjustments for the billing or billings for water consumption based on water loss resulting from a leak or leaks in any portion of the **User's System** or plumbing on or within the **User's** property may be made one time per calendar year per meter.

7.1 To request a billing adjustment to a Residential Account for water losses resulting from leaks in the **User's System** or plumbing, the **User** shall:

- A. Repair leaks within 30 days of the date the leak or leaks are discovered or reasonably should have been discovered;
- B. File a request for billing adjustment form within three months of the date of the leak repair describing the cause of the water loss, the repair or repairs made to the **User's System** or plumbing, and the dates the repairs were made;

7.2 If it is determined by the **CEO** that a water loss for a Residential Account has occurred by reason of a leak or leaks in the **User's System** or plumbing, and the **User** has complied with the procedures set forth in the preceding sections, then an adjustment shall be calculated in accordance with the following:

- A. For purposes of calculating the water loss adjustment, the **CEO** shall consider the amount of water consumed in the same period of the previous year as ordinary and normal water usage by the **User**. Water consumption greater than the normal amount of the previous year shall be deemed excess water use.
- B. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods (six months total).
- C. The billing or billings to the **User** shall be adjusted in an amount based on the water volume rate in effect for the loss period multiplied by the adjustment allowance. This amount shall be credited to the **User's** account after repairs have been completed. During the loss period, the peaking charges for consumption are excused, if in the prior year no peaking water charges were applied.

7.3. Method for calculation of Ordinary and Normal Water Usage for Non-Residential Accounts.

- A. Shall only be used for the purposes of calculating the water loss adjustment for a **User** on a non-residential account that has made repairs to a water loss condition which lasted longer than one calendar year.
- B. **User** must complete requirements set forth by 7.1.B

- C. For purposes of establishing ordinary and normal water usage by the **User** following the completion of repairs, the **CEO** shall consider the amount of water consumed for the subsequent three complete billing periods if billed bi-monthly or six months if billed monthly.
 - D. For the purpose of calculating the water loss adjustment staff will compare the re-established ordinary and normal usage to the same period of the previous year. Water usage greater than the ordinary and normal usage shall be deemed excess water use.
 - E. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods or six months.
- 7.4 If multiple leak requests are submitted from the same **User**, the **CEO** shall determine the eligibility for the water loss request.
- 7.5 The Water Loss Adjustment Policy may be used in cases of unexplained water loss, fire protection, vandalism, or theft of water beyond the control of the **Customer**.

8.0 SERVICE CONNECTION

- 8.1 **Service Connections** shall be provided only from **District Water Mains** and shall be located at such points as the **District** shall determine in its sole discretion.
- 8.2 Request for a new water **Service Connection** shall be made to the **District**. No meter installations or connections will be made until all currently adopted **Connection Charges** and **System Development Charges** have been paid in full.
- 8.3 Unless authorized by the **District** in writing, a **Service Connection** shall provide water to only one single-family dwelling. Multi-family dwellings or multiple service uses such as office buildings, commercial malls or industrial **Users** and the like will be served via a master meter. The **District** may require duplexes to be individually metered.
- Unless authorized by the **District** in writing, each tax lot or structure receiving service shall have its own water connection. All accessory buildings and premises used as a part of such dwelling, business, or institution may be served from such connection as approved by the **CEO**. In the case of a commercial or industrial property with multiple **Users** on a single tax lot, more than one **Service Connection** may be provided upon approval by the **District** after payment of the appropriate fees.
- 8.4 No **User** shall extend the **Customer Service Line**, without **District** approval, to furnish water to any residence, business, institution, or other premises on the same or neighboring tax lot(s) other than that occupied by the **User**.
- 8.5 All **Service Connections** shall be installed by the **District** unless specifically authorized in writing by the **District**. Work performed will be performed in accordance with **District Standards** relating to size, materials, location and methods of installation. The charges shall be as set forth in the **Rates, Fees and Other Charges**.

- 8.6 **Customer's** capacity from meter purchase shall be limited to that obtained during original purchase and subsequent upgrades regardless of other system improvements that allow greater capacity.
- 8.7 **Users** shall make a request to the **District** for all **Water Services** desired.
- 8.8 Removal or relocation of a **Service Connection** shall be at the expense of the party requesting the change. The **District** shall not bear responsibility for reconnection of the **Customer Service Line**. No **Service Connection** extension can be made unless approved in writing by the **District**.

9.0 TEMPORARY SERVICE

- 9.1 A **User** who is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits may make a request to the **District** for a temporary irrigation meter.

The **User** will be required to pay a Temporary Irrigation Meter fee and Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

- 9.2 The **District** may grant temporary **Water Service** during construction and for special events approved for such service by the **District**. The length of time and conditions of temporary **Water Service** shall be determined by the **District** at the time of application.

All costs for installing and removing these temporary services shall be paid by the **User** in advance. Such costs shall be determined by the **District** and shall include, but are not limited to:

- A. Labor
- B. Material
- C. Equipment rental
- D. Overhead
- E. Monthly fixed charges (if applicable)

If the actual cost of installing and removing these temporary services exceeds the estimated cost, the applicant shall pay the excess cost to the **District** within 30 days after billing by the **District** of the actual cost. If the actual cost of providing the temporary service is less than the estimated cost, the **District** shall refund the difference to the applicant after determination of actual cost.

The **User** will be required to pay all applicable Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

10.0 CUSTOMER SERVICE LINES

- 10.1 The **User** is solely responsible to pay the cost to install the **Customer Service Line** from the **Meter Assembly** to the structure to be served.
- 10.2 **Customer Service Lines** shall be installed in accordance with applicable plumbing codes and other specialty codes.

- 10.3 No pump equipment shall be connected to a **Customer Service Line** without prior written approval from the **District**.
- 10.4 The **User** shall be responsible for maintenance and repair of the **Customer Service Line** and associated appurtenances.
- 10.5 The **District** is not responsible for **Customer Service Lines**.

11.0 CLASS CODES, RATES, FEES, AND OTHER CHARGES

The **District** will assign a **Class Code** for each **Customer Connection**. **Class Codes** will be used to determine applicable **Rates, Fees and Other Charges**.

1. **Class Code 1 – Residential** shall consist of **Customer Connections** serving dwelling units, whether a shared structure or freestanding, where one District meter serves only one or two dwelling units.
2. **Class Code 2 – Residential Multi-Family** shall consist of **Customer Connections** serving three or more dwelling units.
3. **Class Code 3 - Non-Residential** shall consist of **Customer Connections** not serving one or more dwelling units. Class code 3 does not include **customer** connections classified in class code 4, class code 5, or class code 6.
4. **Class Code 4 - Production Processes** shall consist of **Customer Connections** that would otherwise be in class code 3 but where the water passing through a District meter is used in a production process.
5. **Class Code 5 - Fire Lines** shall consist of **Customer Connections** for **Fire Service Lines** on private property where water can only be used for fire suppression.
6. **Class Code 6 – Irrigation** shall consist of **Customer Connections** where water passing through a District meter can only be used for seasonal agricultural or landscaping purposes and not returned to a wastewater utility system.
7. **Class Code 7 - Temporary Irrigation** shall consist of **Customer Connections** that are for Temporary Irrigation where the **Customer** is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits.
8. **Class Code 8 – Local Government/Water Provider** shall consist of **Customer Connections** that are for Local Government Water Purveyors and **Customers** that have a wholesale rate approved by the District **Board** of Commissioners.

The **District** shall establish **Rates, Fees and Other Charges** for use of water, services, and property of the **District by Resolution**. A copy of the established **Rates, Fees and Other Charges** shall be on file in the **District** office for examination by the public during business hours.

12.0 METER READING AND BILLING

- 12.1 Meters shall be read at regular intervals as determined by the **District**.

- 12.2 The **User** is responsible for ensuring safe and efficient access to the **Meter Assembly** at all times. Access to the meter requires six feet vertical clearance above the meter box and two feet clearance around.
- 12.3 Whenever it is necessary to enter a building to access the **Meter Assembly**, a safe passageway must be maintained by the **User**, free and clear of obstructions of any kind from the building entrance to the **Meter Assembly**.
- 12.4 The **User** consents to the right of **TVWD** employees or agents to remove obstructions as necessary to maintain access to the **Meter Assembly**. Costs incurred by **TVWD** to gain access to the **Meter Assembly** may be billed to the **User**.
- 12.5 If the **District** determines that it is unable to read a meter, billing shall be calculated in accordance with the following:
- A. The **District** will estimate water consumption based on available historical data.
 - B. A true-up bill will be produced during the next billing cycle when an actual read is obtained.
- 12.6 If it is determined by the **District** that a meter fails to register accurately, the **District** will estimate water consumption based on available historical data.
- 12.7 A **User** may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.

13.0 PAYMENTS FOR SERVICE

- 13.1 Bills from the **District** shall be due, payable, and delinquent in accordance with the terms set forth by the **District**.
- 13.2 The **District** may turn off water supply to the premises for which payment is delinquent. The service will be restored after acceptable terms of payment are arranged for all delinquent bills, including charges established within the **Rates, Fees and Other Charges**.
- 13.3 The **District** has contracted, and retains the right to establish contracts with other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts or amendments to existing contracts shall be incorporated by reference upon approval by the **Board**.
- 13.4 Outstanding charges owed to the **District** may be transferred to a **Customer's** new account within the **District**.

The **District** may collect unpaid charges incurred by a **Customer** at previous service locations within the **District** as part of the **Customer's** current water bill. These unpaid charges are subject to current collection terms set forth by the **District**.

14.0 METER ACCURACY AND TESTING

14.1 The **District's** meters shall operate within the standards established by the American Water Works Association (AWWA) Section C700.

14.2 A **User** may request the meter be tested by making a request for such testing to the **District**:

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

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.

B. If the test shows that the water meter registers within the AWWA standard, the **User** shall pay for the test in accordance with **District's Rates, Fees and Other Charges**. The cost for the test shall be billed by the **District** and the **District** may charge a **User** for water delivered, not to exceed one year prior to the testing.

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

15.0 RESPONSIBILITY FOR DAMAGES OR INJURIES

15.1 The **User** is responsible for all damage or injury resulting from the failure to properly construct, maintain, repair, or correct conditions in the **User's System**.

15.2 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.

15.3 The **User** shall be liable for any damage to the **District's System** which is caused by an act of the **User**, his tenants, agents, employees, contractors, licensees, or permittees. The **User** responsible for the damage or tampering may be fined and/or have service terminated.

15.4 Only the **District** may operate, modify, or alter the **District's System**. Violators shall be responsible for any damage, adverse effects to water quality or availability of water due to unauthorized operation, modification or alteration of the **District's System**.

15.5 The **User** is responsible for compliance with all city and county codes and requirements related to maintenance of their property and plumbing system.

16.0 WATER SERVICE INTERRUPTION

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.

17.0 CONNECTION TO ANOTHER WATER SUPPLY

No other water supply shall be connected to the **Customer Service Line** without written approval of the **CEO**.

18.0 BACKFLOW AND CROSS CONNECTION

Service Connections shall be protected against backflow into the **District's System** as required by the **District**. Service of water may be terminated if a backflow prevention assembly required by the **District** is not installed, tested and maintained; or if it is found that a backflow prevention assembly has been removed, bypassed; or if an unprotected cross-connection exists. Service will not be restored until such conditions or defects are corrected.

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** Cross-Connection Control requirements exists and that compliance requirements are met.

19.0 EXTENSION OF DISTRICT'S SYSTEM

In general, **Owners** shall extend all **Water Mains** the entire distance between opposite boundaries of the property to be served and shall be located within public right-of-way or, if necessary, within easements. Unless authorized by the **CEO**, projects must be designed and constructed in accordance with **District Standards** approved by the **CEO** and Chief Engineer. All extensions shall be constructed only by the **District** or by a contractor acceptable to the **District**. Contractors shall anticipate and allow for inspection by the **District** during construction. All connections for services shall be made in the manner elsewhere set forth in these **Rules and Regulations**. Prior to final acceptance, the project must be demonstrated to operate and perform as intended.

- 19.1 **Owner/Developer Extension.** Parties other than the **District** may extend the **District's System** consistent with these **Rules and Regulations**. Parties using non-**District** funds for construction of water improvements shall select an engineer or contractor of their choice who meets the **District's** requirements, including qualifications of the engineer and contractor. Such parties shall adhere to **District's Standards**.
- 19.2 All extensions of the **District's System** requires plan submission, review, and written **District** approval.
- 19.3 **Owner Request.** Upon request of the **Owner**, the **District** may, at its sole discretion, construct system improvements at the expense of the **Owner**. The cost and scheduling of the extension and improvements shall be determined by the **District**.

Installation or construction shall not commence until the applicant has paid a deposit in advance to the **District** in an amount estimated by the **District** to cover the cost of construction of the **District's System** extension. Following completion of construction, the **District** shall determine the actual cost of the project, including overhead, supervision and engineering. The **District** shall refund to the applicant any part of the deposit which exceeds the actual project cost or the applicant shall pay to the **District** the actual project cost less the deposit already paid.

- 19.4 **District Extension.** **District** may extend its **District's System** when, in the opinion of the **District**, the public convenience and welfare is best served by such construction.

At its sole discretion and where it appears equitable that the cost of such construction be apportioned, the **District** may apportion all or any part of the cost of the construction of the **District's System** among the persons as may at any subsequent time apply for a **Service Connection** from said extension. The charge shall be at an amount established by the **District**.

No **Service Connection** or **Fire Service Line** shall be made by the **District** until the applicant has paid in advance to the **District** the apportioned charge for the construction of the extended **District's System, Connection Charges**, and the appropriate **System Development Charge**.

- 19.5 Local Improvement District or Equivalent. The **District** may extend its **District's System** upon written request of the **Owners** of abutting property. It may also extend the **District's System** through property intended to be developed under the applicable zoning and development code. The **District** may require formation of a local improvement district or assessment district or other such security for payment as it deems appropriate. Terms of payment shall be provided in the local improvement district or equivalent documents approved by the **Board**.
- 19.6 After acceptance by the **District**, the facilities shall be the sole property of the **District** and maintained and operated by **District** personnel exclusively. If the **District's System** extension is by a party other than the **District**, the property **Owner** and its contractor shall be responsible for a warranty period of one year after acceptance for failures of materials or workmanship.
- 19.7 Upsizing of Facilities. The **District** may elect to install larger **Water Mains** or other system improvements other than needed for the applicant's service requirements. When it does so, the **District** is responsible for the incremental cost. All cases shall be considered separately and the requirements for each project shall be specified to the applicant. Design and construction shall be by the **District**, the **District's** contractor, or a contractor approved by the **District**.
- 19.8 Reimbursement Agreement. Pursuant to ORS 264.320, the **District** may establish reimbursement agreement subsequent to the following:
 - A. The line must be designed and constructed according to **District Standards**, be inspected, and accepted by the **District** as part of the **District's System**. The term of the reimbursement agreement shall not exceed 10 years from the date of acceptance.
 - B. The request for partial reimbursement shall be made in a form acceptable to the **District** prior to the time of acceptance of the facilities by the **District**.
 - C. Upon receipt of the request, the **CEO** shall determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement, and identification of properties that would be required to pay the reimbursement fee. If these criteria are met, the **CEO** shall compute the amount of reimbursement for each potential lot that could connect to the extension, which includes the lots of the person or entity extending the line, and notify the person seeking the agreement for reimbursement of the eligible amount.
 - D. If the **CEO** finds that the reimbursement eligibility requirements are met, the **CEO** shall prepare an agreement that makes final determination as to reimbursement eligibility. If a person disputes in writing the decision of the **CEO** within ten days of notification specifying the reason for the dispute, the **Board** will make a final decision on reimbursement eligibility. In no event will the reimbursement obligation extend longer than the minimum period provided by ORS 264.320.
 - E. As the identified properties connect, all applicable **Rates, Fees and Other Charges** and the reimbursement amount shall be collected by the **District**. The **District** will remit to the person

the reimbursement amount collected by June 30 of each year for reimbursement of charges collected since the previous July 1st.

20.0 TERMINATION OF WATER SERVICE

- 20.1 Termination at Request of **User**: When a **User** notifies the **District** that the **User** wishes service discontinued, the **District** will read the meter and issue a bill including applicable charges for termination.
- 20.2 Termination of Service by **District: Water Service** shall be subject to termination upon the occurrence of:
- A. Non-payment of charges established within the **District's** adopted **Rates, Fees and Other Charges**.
 - B. Non-compliance with these **Rules and Regulations** relating to matters other than non-payment of charges.
 - C. Lack of use of a **Water Service** for a period indicating intent to terminate **Water Service**.
 - D. Threat to health, safety or welfare determined at the sole discretion of the District. Under these conditions, termination may be immediate and without notice.
- 20.3 Notice of the **District's** intent to terminate service shall be sufficient if given by any of the following:
- A. U.S. mail sent to the **User's** address as shown in **District** records; or
 - B. By hand delivery of a notice to the **User's** service premises

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 **User's** service address and the period of compliance shall be as set forth in the notice.

- 20.4 Limitation of liability. The **District** shall not be liable or responsible for any consequential, indirect, punitive, incidental or special damages or damages of any kind regardless of the basis of the claim or in any way arising out of the **District's** termination of **Water Service**.

21.0 STANDBY FIRE PROTECTION SERVICE CONNECTIONS

- 21.1 Standby fire protection systems connected to a **Fire Service Line** shall be installed in accordance with applicable **District** regulations and **District Standards**. The **User** shall make adequate provision to prevent the use of water from such systems for purposes other than fire extinguishing or fire system testing.
- 21.2 Charges for the **Fire Service Line** shall be according to the **District's Rates, Fees & Charges**.
- 21.3 The **User** shall pay the cost of installing the **Fire Service Line**, including the cost of **Water Mains** and related improvements in compliance with applicable **District Rates, Fees and Other Charges** and **System Development Charges**.

- 21.4 All water provided by the **District** through a **Fire Service Line** shall be provided subject to the supply and pressure existing in the water distribution system. The **District** shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
- 21.5 If water is used from a **Fire Service Line** in violation of these **Rules and Regulations**, the **User** shall pay for the water based on an estimate of the amount used as determined by the **District's Rates, Fees and Other Charges**. Any unauthorized use during a subsequent billing period within twelve months of a prior notification of unauthorized use, shall be subject to the schedule of fines and penalties as established by the **District's Rates, Fees and Other Charges**.

Following the third occurrence of unauthorized fire line use, within 12 months of the first such use, the **User** is subject to **Final Remedies** as determined by the **CEO**, plus estimated water usage billed at the Block 1 rate. **CEO** shall determine Final Remedy on a case-by-case basis and may include one or more of the following:

- A. A Fine of \$5000 for the unauthorized use;
 - B. A Civil Penalty of \$500 per day (Section 26.1.A);
 - C. A **System Development Charge** may be assessed on the service. The **District** shall determine the amount of the **System Development Charge**. The **CEO** may thereafter treat the fire line as a standard service connection subject to all applicable provisions of these **Rules and Regulations**
 - D. Termination of **Water Service** (Section 20.2); or
 - E. Such other actions as the **CEO** determines appropriate under the circumstances.
- 21.6 **CEO** may waive or postpone invoking a final remedy, as described above, for **Customers** that work in good faith with the District to resolve illegal fire line use issues in a timely manner, as determined by the **CEO**.
- 21.7 The **District** is not responsible for **Fire Service Lines**.

22.0 USE OF FIRE HYDRANTS

- 22.1 No person except those authorized by the **District** shall operate, or attempt to operate, any fire hydrant.
- 22.2 The **District** may authorize use of a fire hydrant for a temporary water supply. The **User** shall pay all **Rates, Fees & Charges** for such service and shall conform to **District** permit requirement for hydrant use including but not limited to compliance with applicable backflow prevention requirements.
- 22.3 **Users** requesting flow testing of fire hydrants shall pay appropriate **Rates, Fees & Charges**.
- 22.4 Unless otherwise approved by the **CEO**, only the **District** may change or relocate a fire hydrant. If a **User** requests hydrant change or relocation and the **District** approves, the **User** shall pay all costs of such change.
- 22.5 Privately owned fire hydrants are to be used only for fire emergencies or other uses specifically authorized by the **District**.

- 22.6 The fire service agency shall not be deterred or hindered from gaining immediate access to fire protection equipment and hydrants. Access from the street to the fire hydrant, fire protection system and control valves shall be maintained in a manner such that the equipment or fire hydrants are immediately visible. A clear space shall be maintained within a 3 foot radius of fire hydrants, fire protection equipment, and control valves. Access from the street to the hydrant shall be kept clear if the travel distance is greater than 3 feet. **Owners** shall be responsible for pruning or removing landscaping or other obstructions that restrict access to or visibility of a fire hydrant.
- 22.7 A minimum of eighteen (18) inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed within a 3 foot radius of the hydrant without approval of the **District**.
- 22.8 The **District** designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the **District**.
- 22.9 Upon notice from the **District**, the property **Owner** shall within fourteen (14) days remove such obstruction or correct non-compliance. If the obstruction is not removed or compliance is not achieved within the required time, the **District** shall take corrective action. If the obstruction presents an urgent safety hazard, the **District** may take immediate corrective action. All charges associated with corrective actions, including those taken by the **District**, will be the responsibility of the property **Owner**.

23.0 OPERATION OF SYSTEM

Unless authorized by the **District**, no person shall operate any portion of the **District's System**.

24.0 SERVICE OUTSIDE THE DISTRICT

- 24.1 Water shall not be provided outside the **District** boundary without approval of the **Board**, except where such service is temporarily required to avoid a health, safety, or other emergency hazard.
- 24.2 Service to other water providers and to **User's** located outside of the boundaries of the **District** will be made only if the **District** has sufficient surplus water. Such services may be discontinued at any time if the best interest and the needs of the **District** so require.
- 24.3 The **Board** reserves the right to increase the rate to any **User** outside the **District** without notice. The rate schedule for sale of water to other governmental units will be set by the **Board**, but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the **District** system unless otherwise established by agreement.

25.0 MISCELLANEOUS

- 25.1 Severability: If any portion of these **Rules and Regulations** is found invalid by a court of competent jurisdiction, the remaining sections of these **Rules and Regulations** shall be unaffected thereby.
- 25.2 Fees: The **District** may adopt fees and charges by Resolution as it deems appropriate for services provided under these **Rules and Regulations**.

- 25.3 **District** Approval: Unless otherwise specified, when **District** approval and/or authorization is required by these **Rules and Regulations**, approval shall be in writing and by the **CEO**.

26.0 VIOLATIONS AND REMEDIES

- 26.1 Violation of these **Rules and Regulations** is punishable by a civil penalty of \$500 per day for each day of violation unless these Rules and Regulations provide for a larger amount, at the discretion of the CEO. Each day of violation shall be a separate violation. In addition to said fine, the **District** may obtain injunctive or equitable relief to abate the violation, including termination of **Water Service** as a violation of these **Rules and Regulations**.
- 26.1.1 Notice of violation shall be given to the User by first class US mail to the Users address as shown on the District's records.
 - 26.1.2 The notice shall specify the violation and the date the civil penalty will commence to accrue which shall be a date not less than 10 days from the date of the notice and also the daily accrual of civil penalty until remedied.
 - 26.1.3 The assessment of civil penalty shall provide that the penalty shall be final on the date stated unless the User requests a hearing in writing delivered to the District within 10 days of the notice.
 - 26.1.4 If a hearing is requested, the CEO or designee will set a schedule for submission of written documents or other relevant evidence and a time for hearing.
 - 26.1.5 The CEO or designee will make a decision within 30 days of the close of the hearing. The CEO or designee may; A. Deny the appeal and affirm the assessment of the civil penalty B. Affirm the appeal and remove the civil penalty assessment C. Make such other decision equitable under the circumstances.
 - 26.1.6 The CEO or designee's decision may be reviewed by writ of review in the Circuit Court of the State of Oregon for Washington County if the Petition for Writ is filed within 30 days of the decision.
 - 26.1.7 The District may pursue any other remedy at law or in equity in addition to this Civil Penalty process.
- 26.2 If a violation of these **Rules and Regulations** exists and the **District** takes action to remedy the violation then the **User** shall be responsible for all costs incurred.
- 26.3 Any person aggrieved by a ruling or interpretation of the provisions of this ordinance may submit a written appeal to the **CEO** within 15 days of the decision. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant, and any other reasons for appeal.
- 26.4 The **CEO** shall study the matter, hear testimony and provide for additional written argument if necessary, and issue a written decision to the appellant affirming, denying or modifying the interpretation or ruling.
- 26.5 If the appellant considers that their grievance has not been handled satisfactorily, they may apply to the **Board** for review of the matter within thirty (30) days from the date of the written decision. The **Board** may make an independent review of the case and hear additional testimony on the matter if it deems necessary or restrict it to the record. Within sixty (60) days from receipt of the appeal, the **Board** will prepare a written decision on the matter which shall be sent to the appellant. In lieu of a hearing by the **Board**, a hearing officer may be appointed.

26.6 Decisions of the **Board** shall be reviewable by the Circuit Court of the State of Oregon for Washington County, solely and exclusively under the provision of ORS 34.010 to 34.100.

27.0 REVISION AND MODIFICATION OF THESE RULES, REGULATIONS AND CHARGES

Only the **Board** may amend these **Rules and Regulations**. For these **Rules and Regulations**, the **District** may adopt implementing policies.

28.0 CONSTITUTIONALITY, SAVING CLAUSE

If any clause, sentence, paragraph, section, or portion of these **Rules and Regulations** for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of these **Rules and Regulations**.

Tualatin Valley Water District



Delivering the Best Water Service Value

ORDINANCE NO. 01-18

AN ORDINANCE APPROVING THE WILLAMETTE INTAKE FACILITIES INTERGOVERNMENTAL AGREEMENT TO FORM THE WILLAMETTE INTAKE FACILITIES COMMISSION, AN INTERGOVERNMENTAL ENTITY FORMED UNDER ORS CHAPTER 190 BETWEEN TUALATIN VALLEY WATER DISTRICT AND THE CITIES OF HILLSBORO, SHERWOOD, BEAVERTON, TIGARD AND WILSONVILLE.

WHEREAS, in 2000, Tualatin Valley Water District (District) and the City of Wilsonville (Wilsonville) entered into an Agreement Regarding the Water Treatment Plant Design, Construction, Operation and Property Ownership for the Willamette River Water Treatment Plant (WRWTP) located in Wilsonville; and

WHEREAS, the WRWTP was constructed by TVWD and Wilsonville, and those parties owned the real property and assets in varying percentages until TVWD sold part of its interest in the WRWTP facility but not the land to the City of Sherwood (Sherwood) so that these three entities now own various interests; and

WHEREAS, the District and the City of Hillsboro (Hillsboro) have entered into an agreement to design, construct, own, operate, maintain, repair and replace the Willamette Water Supply System (WWSS) which will consist of raw water transmission, pumps, water treatment plant, finished water pipelines and terminal storage to deliver water to their respective service boundaries, and it is anticipated that the City of Beaverton (Beaverton) will join the District and Hillsboro in the WWSS; and

WHEREAS, the District, Wilsonville, Sherwood, Hillsboro, Beaverton and Tigard have agreed that the existing Willamette Intake Facilities (WIF), located at the WRWTP property, should be upgraded and expanded from current capacity of 120 million gallons per day to 150 million gallons per day and that the WIF should be owned, operated and managed for the use and benefit of the WRWTP and the planned WWSS Water Treatment Plant (WWSS WTP) by an intergovernmental entity formed under ORS 190.003 to 190.265; and

WHEREAS, the District, Wilsonville, Sherwood, Hillsboro, Beaverton and Tigard have agreed to execute the Willamette Intake Facilities Intergovernmental Agreement (WIF IGA), effective April 1, 2018, to form the Willamette Intake Facilities Commission (WIF Commission), an intergovernmental entity under the authorities cited above, vested with the powers and authorities as set forth in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of District to enter into the WIF IGA and to become a member of the WIF Commission; and

WHEREAS, ORS 190.085 requires the District and the other parties to enact an ordinance approving the WIF IGA and creation of the WIF Commission, and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. Pursuant to ORS 190.085, Tualatin Valley Water District approves the Willamette Intake Facilities Intergovernmental Agreement and joins the Willamette Intake Facilities Commission with the following parties: the cities of Hillsboro, Beaverton, Sherwood, Wilsonville and

Tigard. The Willamette Intake Facilities Agreement is attached hereto as Exhibit A and incorporated by reference.

Section 2. The effective date of the agreement is on or about April 1, 2018.

Section 3. The public purpose for which the WIF Commission is created is to use any authority vested in the WIF IGA to further the economy and efficiency of each party for the operation, maintenance, construction, repair and replacement and resource management of the Willamette Intake Facility as set forth in the WIF IGA among the parties or with others.

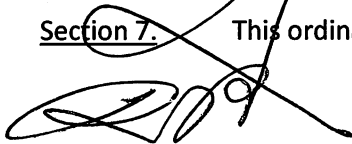
Section 4. To carry out its public purposes, the WIF Commission shall have the following powers, duties and functions in addition to those specified in ORS 190.003 through 190.265:

- A. To provide operation, maintenance, construction, repair and replacement and water resource management of the Willamette Intake Facility as described in the WIF IGA for water intake and transmission to the WRWTP or the WWSS WTP;
- B. To issue debt pursuant to ORS 190.080(1)(a) and the terms of the WIF IGA;
- C. To otherwise manage the business affairs of the Willamette Intake Facilities as set forth in the WIF IGA;
- D. To retain such offers and employees as it deems necessary and to contract for the purchase of property and services;
- E. To perform the administration and accounting of all payments and receipts related to operation of the Willamette Intake Facility for the account of a party, parties or the WIF Commission;
- F. To adopt such bylaws, rules, regulations and policies as the parties deem necessary to further the purposes of the WIF IGA;
- G. To exercise all powers pursuant to the applicable acts, charters, or laws of the individual parties, which are necessary or desirable to economically and efficiently develop and operate the WIF Commission.

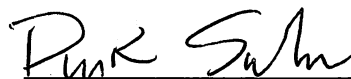
Section 5. This ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date and place of the of the meeting and gave a brief description of the ordinance to be considered at the meeting and that copies of the ordinance are available at the office of the District. The presiding officer caused the notice to be published not more than 10 days or less than four days before the meeting in a newspaper of general circulation.

Section 6. This ordinance was adopted following a second reading by the affirmative vote of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 21st day of February 2018, and was signed by the presiding officer and attested to by the secretary.

Section 7. This ordinance shall take effect 30 days from the date of its adoption.



Richard Burke, President



Dick Schmidt, Secretary

Willamette Intake Facilities Intergovernmental Agreement

_____, 2018

**BY AND AMONG
TUALATIN VALLEY WATER DISTRICT
CITY OF WILSONVILLE
CITY OF SHERWOOD
CITY OF HILLSBORO
CITY OF TIGARD AND
CITY OF BEAVERTON**

TABLE OF CONTENTS

EXHIBIT LIST	2
RECITALS	3
AGREEMENT	8
2. Definitions	8
3. Commission	13
4. Board of Commissioners	13
5. Managing Agency	16
6. Management, Operations, Finance, and Other Committees	20
7. Financial Management	21
8. Intake Facilities Ownership and Easement	26
9. Water Rights	26
11. Operations Plan	28
12. Curtailment Plan and Emergency Response and Management Plan	29
13. Right of First Offer	29
14. Leasing	30
15. Overuse	33
16. Remedies for Overuse	34
17. Expansion and Capital Improvements	35
18. Sale of Water to Non-Party	37
19. Withdrawal and Sale of Interest	37
20. Admission of New Municipal Parties	41
21. Indemnity	43
22. Default	44
23. Remedies	46
24. Default by the Managing Agency	48
25. Dispute Resolution	50
26. Dissolution	52
27. General Provisions	53

EXHIBIT LIST

Exhibit No.	Title
1	Willamette Intake Facilities Easement Agreement (“Easement”)
2	Willamette Intake Facilities Preliminary Design Drawings and Layout
3	Willamette Intake Facilities Capacity Ownership Allocations
4	Real Property
5	Water Rights Authorized for Use at the Willamette Intake Facilities (“Water Rights”)
6	Willamette Intake Facilities Organizational Structure
7	Willamette Intake Facilities Initial Management Plan
8	Willamette Intake Facilities Budget Calendar
9	Willamette Intake Facilities Interim Financials Procedures
10	Willamette Intake Facilities Lease Formulas and Sample Lease
11	Willamette Intake Facilities Improvements Cost Allocation Summary
12	Willamette Intake Facilities Insurance Requirements and Limits
13	Existing Agreements

Willamette Intake Facilities Intergovernmental Agreement

This Willamette Intake Facilities Intergovernmental Agreement (“Agreement”) for the ownership, management and operation of the Willamette Intake Facilities (“Intake Facilities”) is entered into between Tualatin Valley Water District (“TVWD”), a domestic water supply district organized under ORS Chapter 264; the City of Wilsonville (“Wilsonville”), a municipal corporation; the City of Sherwood (“Sherwood”), a municipal corporation; the City of Hillsboro (“Hillsboro”) a municipal corporation; the City of Tigard (“Tigard”), a municipal corporation; and the City of Beaverton (“Beaverton”), a municipal corporation; all of which are local governments authorized to own, operate and maintain municipal water supply systems. The cities and TVWD may be referred to herein individually as a “Party” or jointly as “Parties.”

RECITALS

WHEREAS, TVWD is a domestic water supply district under ORS 264, which distributes potable water to its respective water system Users;

WHEREAS, Wilsonville operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Sherwood operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Hillsboro operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Tigard operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Beaverton operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, TVWD and Wilsonville entered into the *Agreement Regarding Water Treatment Plant Design, Construction, Operation and Property Ownership*, dated July 6, 2000 (“2000 Master Agreement”), and *the Accord Agreement* dated June 19, 2001 (“Accord”), to construct and operate intake facilities, pumps, a water treatment plant, and certain transmission facilities upon jointly owned real property (“Willamette River Water Treatment Plant”) for the purpose of supplying potable water to Wilsonville and providing a future water supply for TVWD;

WHEREAS, TVWD and Wilsonville entered into the *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated _____, 2018, which modified the above agreement to reflect a change in direction and the rights and obligations between TVWD and Wilsonville;

WHEREAS, TVWD and Wilsonville have also entered into an Operation and Maintenance Contract with Veolia Water North America-West LLC, dated July 1, 2012, as amended, which pertains to the Willamette River Water Treatment Plant and the Intake Facilities;

WHEREAS, in April 2002, Wilsonville and TVWD completed construction of the intake and the Willamette River Water Treatment Plant facilities, including the fish screens, intake pipeline, a raw water pump station, raw water transmission line, the treatment plant and related appurtenances including electrical facilities;

WHEREAS, TVWD and Sherwood entered into an Agreement on December 27, 2006 (“Sherwood TVWD WRWTP Agreement”) for the purchase and sale of five million gallons per day (“MGD”) of capacity in the Intake Facilities, pump station, treatment plant, and certain transmission facilities for the purpose of supplying potable water to Sherwood;

WHEREAS, on October 15, 2008, TVWD Sherwood, Tigard, and Tualatin entered into the *First Restated Intergovernmental Cooperative Agreement Continuing the Willamette River Water*

Coalition” (“WRWC Agreement”) to jointly hold a water right permit for future use of Willamette River water and to plan for regional water supply facilities that would meet future needs;

WHEREAS, Hillsboro and TVWD entered into the *Agreement for Design and Construction of the Willamette Water Supply Program* (“WWSP Agreement”) on June 16, 2015 to permit, design, and construct a water supply system including intake and transmission facilities, a water treatment plant, and reservoir facilities (“Willamette Water Supply System”) to provide additional potable water to Hillsboro and TVWD and provide for system redundancy and reliability;

WHEREAS, TVWD, Hillsboro, and Wilsonville entered into a *Ground Lease for the Raw Water Pipeline*, dated _____, 2018, and an *Easement for Raw Water Pipe*, dated _____, 2018, that will allow the Intake Facilities to connect to a raw water pipeline located in and along Wilsonville right-of-way and lands owned or to be acquired by Wilsonville and TVWD;

WHEREAS, the Parties hold or may hold certain storage, release and surface water rights on the Willamette River and its tributaries (“Water Rights”) for the purpose of providing water to the Treatment Plant Facilities for ultimate delivery to their respective water system Users;

WHEREAS, the Intake Facilities provide a regional benefit and are the foundation of the other water system assets of the Parties.

WHEREAS, the Parties except Wilsonville are in the process of acquiring a portion of TVWD’s excess capacity ownership interest in the Intake Facilities from TVWD and, with respect to those transfers, Wilsonville has agreed to waive its First Right of Offer pursuant to the *Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated July 6, 2000 (“2000 Master Agreement”) the *Accord Agreement*, dated June 19,

2001 (“Accord”), and the *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated _____, 2018;

WHEREAS, Wilsonville already owns the Intake Facilities with TVWD, but is participating in expanding the screen to allow for additional 5 MGD capacity, among other rights, pursuant to the *City of Wilsonville and Tualatin Valley Water District Willamette Water Supply System Intake Facility Agreement*;

WHEREAS, the transfer, purchase and sale of a portion of TVWD’s excess capacity in the Intake Facilities to the Parties, except Wilsonville, are governed by the *Agreement(s) for Transfer, Purchase and Sale of Intake Facilities*, dated _____, 2018. TVWD’s transfer to Wilsonville is governed by the *City of Wilsonville and Tualatin Valley Water District Willamette Water Supply System Intake Facility Agreement*. A condition of any transfer by TVWD of existing Intake Facility capacity is the expansion of the Intake Facilities to an anticipated capacity of 150 MGD;

WHEREAS, the Parties each own and operate municipal water supply systems that provide essential service to their communities, including protection of public health, emergency fire suppression, and potable water supply to support viable community and economic activities, and the Intake Facilities are the foundation of those other water systems;

WHEREAS, the purpose of this Agreement is to set forth the terms for the joint ownership, operation and management of the Intake Facilities in a prudent, economic and efficient manner to provide water to the existing Willamette River Water Treatment Plant (“WRWTP”) and the anticipated Willamette Water Supply System Water Treatment Plant (“WSS WTP”), to preserve and protect the Parties’ Water Rights, to support the functioning of the Intake Facilities as the foundation of their water systems, and to support their commitment to watershed planning and management; and

WHEREAS, the Parties are authorized under ORS 190 to enter into an agreement for the performance of any or all functions and activities that the Parties, their officers, employees or agents have authority to perform, and to create this intergovernmental entity.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

AGREEMENT

Based on the foregoing Recitals and the mutual promises and obligations as set forth herein, and other good and fair consideration, the sufficiency of which is hereby acknowledged, the Parties agree to the following.

1. Effective Date

This Agreement is effective as of the _____ day of _____, _____.

2. Definitions

As used in this Agreement, the following terms when capitalized shall have the following meanings:

- 2.1. **Agreement** means this Willamette Intake Facilities Intergovernmental Agreement.
- 2.2. **Board** means the Board of Commissioners of the Willamette Intake Facilities Commission created by this Agreement, consisting of one elected or appointed official from each Party. Each Party will appoint one Board member and each Board member will have one equal vote.
- 2.3. **Capacity** means the instantaneous ability of various components of the Intake Facilities to deliver available water that does not exceed a Party's allocation, measured in million gallons per day, gallons per minute, cubic feet per second or other comparable measurement as set forth in the Operations Plan and consistent with generally accepted engineering and prudent utility operating practices.
- 2.4. **Capacity Expansion** means the expansion of the Intake Facilities through a capital improvement project.

- 2.5. **Commission** means the Willamette River Intake Facilities Commission, an ORS 190 entity formed under this Agreement whose Parties are TVWD, Wilsonville, Sherwood, Hillsboro, Tigard, and Beaverton.
- 2.6. **Curtailment Plan** means a plan developed and approved by the Board for curtailment of water service in accordance with OAR Chapter 690 Division 86 rules.
- 2.7. **Demand** means the amount of water used or projected to be used by a Party and imposed on the Intake Facilities to deliver water to be treated at a Water Treatment Plant where the Party owns capacity. The instantaneous measurement of Demand shall be defined in the Operations Plan as million gallons per day, gallons per minute, cubic feet per second, or other agreed measurement for the Intake Facilities.
- 2.8. **Easement** means the Intake Facilities Easement, attached as **Exhibit 1**.
- 2.9. **Emergency Response Plan** means a plan that outlines emergency procedures that are recommended for implementation by the Federal Emergency Management Agency and are consistent with the National Incident Management System in order to respond quickly and appropriately to an emergency event.
- 2.10. **Effective Date** means the date specified in Section 1.
- 2.11. **Facilities Modification** means a capital improvement to meet operational changes or upgrades in response to requirements of regulatory agencies, but that does not result in a Capacity Expansion.
- 2.12. **Finance Committee** means the committee with a representative appointed by each Party to act as provided in Section 6.3.
- 2.13. **Fiscal Year** means the time period July 1 through June 30.

- 2.14. **Intake Facilities** means existing, expanded, or upgraded Intake Facilities - used to withdraw and transmit water to the Parties at the agreed System Separation Point between the Willamette River Water Treatment Plant System and the Willamette Water Supply System Water Treatment Plant. The Intake Facilities include the fish screens, intake pipe, caisson, pump station building, and other jointly owned equipment leading up to the System Separation Point described in **Exhibit 2**, and the Intake Facilities Easement described in **Exhibit 1**.
- 2.15. **Lease** means the lease of Capacity in the Intake Facilities according to the terms and conditions of Section 14.
- 2.16. **Management Committee** means the committee with a representative appointed by each Party to act as provided in Section 6.1.
- 2.17. **Managing Agency** means the Party designated under Section 5 to manage the business affairs of the Commission and act in accordance with Section 5 and other provisions of this Agreement.
- 2.18. **Master Plan** means a plan that analyzes the performance, documents recommended upgrades, estimates water demand projections from the Parties, and updates the capital improvement plan of the Intake Facilities.
- 2.19. **Member** means a person appointed by a Party to serve on the Board.
- 2.20. **MGD** is an acronym for million gallons per day.
- 2.21. **Municipal Water Provider** means a city or special district, as defined by ORS 174.116, that supplies drinking water to the public.
- 2.22. **Non-Peak Season** means the period from November 1st through April 30th of any given year.

- 2.23. **Operations Committee** means the committee with a representative appointed by each Party to act as provided in Section 6.2.
- 2.24. **Operations Plan** means the plan that describes the operational protocols, communications, and coordination for the Intake Facilities with the Water Treatment Plants.
- 2.25. **Ownership** means the Capacity interest of a Party in the Intake Facilities, established following a financial investment in the Intake Facilities. The anticipated Capacity of each Party is set forth in **Exhibit 3**.
- 2.26. **Party or Parties** means the Municipal Water Providers that have Capacity ownership interest in the Intake Facilities and that comprise the Commission.
- 2.27. **Peak Season** means the period from May 1st through October 31st of any given year.
- 2.28. **Point of Diversion** means the geographic location from which water is diverted from the Willamette River using the Intake Facilities and put to beneficial use through the Water Treatment Plants and associated water systems.
- 2.29. **Real Property** means the real property upon which the Intake Facilities are located. The Real Property is described in **Exhibit 4** and is owned by TVWD and Wilsonville.
- 2.30. **Supermajority** means an affirmative vote from all except one of the Members of the Board eligible to vote.
- 2.31. **System Separation Point** means that point designated on **Exhibit 2** where the Intake Facilities terminate and the water from the caisson of the Intake Facilities is separated by the pumps into untreated water pipes conveying water to either the

WRWTP or WWSS WTP.

- 2.32. **Users** means any water system users or customers of a Party's water system including but not limited to residential, commercial and industrial uses as well as other units of local government with whom the Party has agreed to sell water.
- 2.33. **Water Rights** means those surface water registrations, permits (including storage and secondary), or certificates held by a Party, the WRWC, or the Commission as registered with the State of Oregon Water Resources Department, which allow for diversion of water from the Willamette River at the existing Intake Facilities Point of Diversion to deliver water to the Party's respective Water Treatment Plant. The Water Rights are more fully described in **Exhibit 5**.
- 2.34. **Water Treatment Plant** refers to either the WRWTP or the WWSS WTP.
- 2.35. **Willamette River Water Coalition ("WRWC")** means the ORS 190 entity currently consisting of TVWD and Sherwood, Tigard, and Tualatin.
- 2.36. **Willamette River Water Treatment Plant ("WRWTP")** means the Water Treatment Plant located near the Intake Facilities currently serving potable water to Wilsonville, Sherwood, and other potential Parties.
- 2.37. **Willamette Water Supply System ("WWSS")** means the water supply system infrastructure facilities including the raw water pipeline, water treatment plant, finished water pipeline(s), finished water storage, and related facilities that serve potable water to TVWD, Hillsboro, and other potential Parties.
- 2.38. **Willamette Water Supply System Water Treatment Plant ("WWSS WTP")** means the Water Treatment Plant to be located in Washington County outside of Wilsonville to be designed, constructed, and serve potable water to TVWD,

Hillsboro, and other potential Parties.

3. Commission

There is hereby created, pursuant to ORS 190, the Willamette Intake Facilities Commission (“Commission”) governed by the Board of Commissioners according to this Agreement and the laws of Oregon. The Commission is created under this Agreement to own and manage the Intake Facilities in order to enable the Parties to this Agreement to draw water through the Intake Facilities to the System Separation Point and convey water to each Water Treatment Plant. The Board is served by appointed Management and Operations Committees and the affairs of the Board are administered by an appointed Managing Agency with an organization structure illustrated in **Exhibit 6**.

4. Board of Commissioners

4.1. Appointment

The Commission shall be governed by a six-Member Board consisting of one person and one alternate person appointed by each Party pursuant to the laws and regulations of the Party’s governing body. A Member serves at the pleasure of the Member’s governing body. The name of the Board is the Willamette Intake Facilities Board (“Board”).

4.2. General Powers and Duties

The Board shall manage the business and affairs of the Commission for the mutual benefit of all of the Parties. The Board shall adopt such bylaws, rules, regulations and policies as it deems necessary in furtherance of the purposes of this Agreement. Subject to the approval of expenditures by the Parties, as set forth in Section 7, the Board shall have the power to hire employees as it deems necessary and to contract for the purchase of property and services. The Board shall perform such further duties as may be required by this Agreement and shall have all powers necessary and incidental to the execution of its specific duties. Except for the provision of

liability of debt obligations as provided for under ORS 190.080, the Board may perform its activities in any manner permitted under ORS 190.030 to 190.150.

4.3. **Duration**

Subject to the dissolution provisions in Section 26, this Agreement is perpetual.

4.4. **Meetings; Manner of Acting**

Board meetings shall be conducted in accordance with the provisions of the Oregon Public Meeting Law, ORS 192.610 to 192.710. The Board shall hold meetings as needed, generally on a quarterly basis, but in no event less than twice a year. Special meetings may be called by the Chair or by any two Members. The Board shall adopt rules governing the conduct of its proceedings.

4.5. **Quorum and Voting**

4.5.1. If a unanimous vote of all Members is required, then all Members must be present to constitute a quorum. In all other cases, five of six Members of the Board shall constitute a quorum for the conduct of business.

4.5.2. Except where a unanimous or Supermajority vote is required, an affirmative vote of five Members is required to decide any issue before the Board.

4.5.3. If the Member and the alternate attend the same meeting, the Member shall be the voting representative for the Party. The Member shall inform the Chair in advance of any meeting if he or she cannot attend and whether the alternate member will attend and will be authorized to vote.

4.6. **Officers**

The Board shall annually elect from its Members a chair and a vice chair, who shall be officers of the Board. The elections shall occur at the first meeting of the Board in each calendar year, unless otherwise agreed. The chair shall serve as the presiding officer. In the absence of the chair, the vice chair shall serve as presiding officer. Officers shall serve at the pleasure of the Board or until a successor is

appointed.

4.7. **Powers and Duties**

The Board shall, among other things:

- 4.7.1. Appoint a Managing Agency, as provided in Section 5, including approval and entry into any agreement(s) with the Managing Agency as described in Section 5.2.
- 4.7.2. Approve an operations and management contract(s) as needed.
- 4.7.3. Annually adopt a budget, as described in Section 7.4.
- 4.7.4. Annually adopt a work plan in association with the budget.
- 4.7.5. Annually approve a five year capital improvement plan that includes the current fiscal year.
- 4.7.6. Adopt contracting rules and serve as the local contract review board under ORS 279A.
- 4.7.7. Approve and periodically update a Master Plan and Operations Plan for the Intake Facilities.
- 4.7.8. Approve the addition of a new Party, as provided in Section 20, subject to unanimous approval of the Board.
- 4.7.9. Approve modifications or amendments to the Exhibits to this Agreement.
- 4.7.10. Approve and periodically update an emergency response and management plan, and related policies and practices, to govern the operation of the Assets in an emergency.
- 4.7.11. Approve and periodically update a Curtailment Plan based on a recommendation from the Management Committee.
- 4.7.12. Consider for approval any Lease that has a term less than one year or longer than five years, as provided in Section 14.
- 4.7.13. Approve and periodically update overuse plans developed under Section 15.

- 4.7.14. Cause an annual audit to be conducted.
- 4.7.15. Obtain appropriate insurance and fidelity coverages.
- 4.7.16. Oversee the management and operation of the Managing Agency.
- 4.7.17. Approve contracts; acquire real property by negotiation, sale or condemnation; and dispose of surplus personal property.
- 4.7.18. Take other actions necessary and proper to manage, operate and maintain the Intake Facilities.

5. Managing Agency

5.1. Initial Appointment of Managing Agency

TVWD is appointed the Managing Agency for an initial term beginning on the Effective Date through June 30, 2032 (“Initial Term”) with formal performance review in 2029 by the Board.

5.2. Subsequent Terms

Once the Initial Term expires or is terminated, the Board may continue with the initial Managing Agency or appoint a successor Managing Agency to manage the business affairs of the Commission. The Board may elect to enter into a written Managing Agency agreement between the designated Managing Agency and the Board. The designated Managing Agency’s subsequent term will be a six year term, effective on July 1, 2032, or other date as agreed to by the Parties. At the end of the fourth year of the term, the full Board shall either re-appoint the Managing Agency for an additional six year term to commence at the end of the current term or direct the Management Committee to obtain proposals for the selection of a Managing Agency. If the Board elects to obtain proposals rather than reappoint the Managing Agency, the Managing Agency may submit a proposal to continue on as Managing Agency. A proposal process will be required for selection of a Managing Agency at a minimum every twelve years. If the Board initiates a proposal process

for the selection of the Managing Agency, at the end of the fifth year of the term, the Management Committee shall submit to the Board a recommendation for a Managing Agency. A Party who submits a proposal to be Managing Agency cannot participate in the selection process. Upon designation of a new Managing Agency, the current and new Managing Agency will be required to create a one year transition plan unless a different period is approved by the Board. The components of the transition plan shall be reviewed and approved by the Management Committee prior to implementation.

5.3. **Contracted Services**

The Board may elect to contract the management of the business affairs of the Commission to a non-Party. In such case, the Board will direct the Management Committee to obtain proposals and provide a recommendation for the award of a contract by the Board. The Board will designate a Party to manage the contract and will adopt an annual work plan. Upon Board approval of the contract, the current Managing Agency will be required to create a one year transition plan unless a different period is approved by the Board. The components of the transition plan shall be reviewed and approved by the Management Committee prior to implementation. The Board may terminate the contract at its sole discretion and appoint a new Managing Agency.

5.4. **Annual Review**

The Management Committee will conduct an annual performance review of the Managing Agency and submit a report to the Board.

5.5. **Termination or Resignation**

The Managing Agency may be terminated at any time at the Board's discretion, or may withdraw at its own discretion. The Board will provide a reasonable notice to

the Managing Agency and Parties if the termination is for convenience and not due to a default. The Managing Agency will provide a notice to the Board if withdrawal is desired. A notice to terminate may specify an effective date for termination or withdrawal. A transition plan with a reasonable period for transfer of duties to the new Managing Agency will be developed by the Board. Termination related to default is covered in Section 24.

5.6. **Powers and Duties of Managing Agency**

TVWD's initial management of the Intake Facilities and Capacity Expansion projects are described in **Exhibit 7** and those terms are only applicable during TVWD's Initial Term. With respect to all other roles and responsibilities of the Managing Agency, the Board may delegate powers to the Managing Agency to provide the management functions required to administer the Commission. The Managing Agency is responsible for administering the business affairs of the Commission. This Section does not prevent the Board, upon a finding that it is in the best interest of the Commission, from modifying the duties of the Managing Agency. The Managing Agency shall act for the mutual benefit of all Parties at all times in the performance of all Managing Agency duties. The Managing Agency duties shall include but are not necessarily limited to the following:

- 5.6.1. Prepare an annual work plan in conjunction with the annual budget.
- 5.6.2. Perform such duties as established in an annual work plan and any other duties as directed by the Board.
- 5.6.3. Provide administration of the Board meetings and required public meeting notices and duties.

- 5.6.4. Maintain records consistent with public records laws.
- 5.6.5. Provide administration of the infrastructure operations and maintenance of the Intake Facilities and associated contract approvals.
- 5.6.6. Perform financial planning and management including payment of invoices, accounting, reporting, and budgeting in accordance with Oregon law.
- 5.6.7. Develop and coordinate capital improvements plans, including the timing of any improvements or expansions as relate to the Intake Facilities. Each Party will participate in planning projects, such as a Master Plan or facilities plan, and will provide good-faith estimates for future Demand.
- 5.6.8. Provide capital project management, unless otherwise directed by the Board.
- 5.6.9. Provide administration and staffing for the Board and committees such as the Management Committee, Operations Committee, and Finance Committee.
- 5.6.10. Prepare an Operations Plan in coordination with the Parties. The Operations Plan must be approved by the Operations Committee prior to submitting it to the Board for adoption.
- 5.6.11. Coordinate with WRWTP and WWSS to support and facilitate the orderly and effective operations, maintenance and construction activities of the Intake Facilities, WRWTP and WWSS.
- 5.6.12. Take prompt action, as necessary, in response to a Curtailment Plan or an Emergency Response Plan and report to the Parties and the Board as soon as reasonably possible. In the case of an emergency, an after-action report

including the nature of the emergency, the effect(s) on the Intake Facilities, and the steps taken by the Managing Agency in response will be provided to the Board.

5.6.13. Procure and manage appropriate insurance coverages and fidelity coverages, in accordance with the insurance requirements set forth in Section 27.3, or as the Board may otherwise direct.

5.6.14. Approve and execute contracts, subject to the contracting rules and direction of the Board.

5.6.15. Other duties as may be assigned by the Board.

6. Management, Operations, Finance, and Other Committees

6.1. Management Committee

Each Party shall appoint its Chief Executive Officer, City Manager, or its designee to serve on the Management Committee. The Managing Agency shall meet with the Management Committee to receive recommendations on policies, planning, operations, capital projects, contract awards, etc., to be forwarded to the Board. The Management Committee members will also serve as the liaison to each of their respective governing bodies and shall be charged with authority to act on behalf of the Party's governing body, except as otherwise provided herein.

6.2. Operations Committee

Each Party shall appoint one person technically knowledgeable in water system operations or engineering to the Operations Committee. A Party may allow other attendees, but in no event will a Party have more than one vote in making a recommendation to the Management Committee. The Managing Agency will advise and consult with the Operations Committee on matters including but not

limited to Intake Facilities operations, capital improvements and planning, and contract management. The Operations Committee shall, as required by this Agreement or requested by the Management Committee, report on or provide recommendations to the Management Committee on any such matter.

6.3. **Finance Committee**

Each Party shall appoint one person, knowledgeable in municipal finance laws and practices, to the Finance Committee. A Party may allow other attendees, but in no event will a Party have more than one vote in making a recommendation to the Management Committee. The Finance Committee shall provide recommendations to the Management Committee on the proposed annual budget, capital improvement plan including resource availability and timing, and other financial policies. The Finance Committee will also provide comment and recommendations on the financial procedures to be developed and implemented by the Managing Agency.

6.4. **Other Committees**

Other Committees may be formed as needed to support and provide guidance to the Commission.

7. Financial Management

7.1. **Budget Process and Calendar**

The Board shall adopt a budget for its operations and capital improvements for each Fiscal Year. The Managing Agency shall annually prepare a budget for administration, operations, and capital improvements in coordination with the appropriate committees representing the Parties as described in this Section. The budget review process shall follow the schedule described in **Exhibit 8** unless a

modified schedule is approved by the Board.

7.2. **Operations and Finance Committees Budget Review**

An initial draft budget shall be prepared and distributed by the Managing Agency to the Operations and Finance Committees. The initial draft budget shall include estimates for full-time equivalents, associated benefits, materials and services, a listing of contracts in effect and contemplated for future periods, capital outlay, and any other necessary expenditures. The initial draft budget shall also include supporting detail and assumptions for the Committee's consideration. Joint meeting(s) of the Operations and Finance Committees will be held as needed to refine the initial draft budget. The Operations and Finance Committees will review the initial draft budget, and will provide its recommendation, after any requested revisions are incorporated by the Managing Agency, to the Management Committee. The Managing Agency will incorporate such revisions and prepare a revised draft budget for consideration by the Management Committee.

7.3. **Management Committee Budget Review**

The revised draft budget shall be distributed to the Management Committee as described in **Exhibit 8**, but not later than March 15th of each year. The Management Committee will review the revised draft budget, and will either provide a recommendation to the Board for adoption or provide requested revision(s) to the Managing Agency. Following Management Committee review and revisions, the Managing Agency shall prepare a proposed budget and distribute it to the Board.

7.4. **Budget Adoption**

The Board will consider the proposed budget consistent with the schedule presented in **Exhibit 8**. Furthermore, the Board will strive to adopt the budget by resolution in April of each year to enable the Parties to adequately reflect necessary commitments in their own respective budgets, but in no case will the Board adopt

the annual budget later than June 1st of each year. The adopted budget shall include estimated subtotals for the categories of personnel services, materials and services, capital outlay, and all other appropriation categories used in the adopted budget. The adopted budget shall also include a narrative describing the supporting detail and assumptions summarized for the Board's consideration, including personnel counts stated as full-time equivalents. Each Party's proportionate share of expenses of operations and maintenance of the Intake Facilities, including reserves and replacements, debt services, payments to the Managing Agency, and all other expenses as may be incurred by the Commission, shall be estimated by the Managing Agency and set forth in the Commission's adopted budget.

7.5. **Capital Improvement Plan Budget**

The Managing Agency shall maintain capital improvement plan budget projections for at least the subsequent four Fiscal Years following the fiscal year budgeted, which shall be updated annually and submitted with the initial draft budget and the proposed budget. The Operations and Finance Committees will review the proposed capital improvement plan, and will provide a recommendation to the Management Committee for review or provide requested revision(s) to the Managing Agency for incorporation. The Management Committee will review the proposed capital improvement plan, as may have been revised by the two committees, and will provide a recommendation to the Board for adoption or provide requested revision(s) to the Managing Agency for incorporation. The Managing Agency will include the capital improvement plan budget, as reviewed and revised by the Management Committee, in the proposed budget and submit it to the Board. The Board will consider the capital improvement plan for adoption on an annual basis on the same timeline as the annual budget. The capital outlay category includes routine purchases as well as major improvements or expansions

as may be outlined under the provisions of Section 17.

7.6. **Accounting**

The Managing Agency shall comply with government accounting standards, maintain independent budget and accounting control procedures, and provide budget financial status reports at least quarterly to the Board and to each of the Parties not later than 30 days after the end of each quarter. The report shall show expenditures and receipts consistent with the requirements of the financial procedures described in Section 7.9. The Managing Agency shall maintain all fiscal records relating to the Intake Facilities and associated capital improvement projects in accordance with generally accepted accounting principles. In addition, the Managing Agency shall maintain any other records pertinent to the Intake Facilities and associated capital improvement projects in such a manner as to clearly document the Managing Agency's performance hereunder. All such fiscal records, books, documents, papers, plans, and writings shall be retained by the Managing Agency and kept accessible as required by law. The Managing Agency agrees that the other Parties and their authorized representatives shall have access to all books, documents, papers and records of the Managing Agency which are directly related to the Intake Facilities and associated capital improvement projects for the purpose of making any audit, examination, copies, excerpts and transcripts.

7.7. **Audit**

The Board shall cause an independent audit of the financial affairs of the Commission to be performed by a certified public accountant licensed and certified to do municipal auditing in the State of Oregon. The audit shall be performed in accordance with the provisions of the Oregon Municipal Audit Law, ORS Section 297.405 – 297.555. The audit shall be completed annually within six months following the end of each Fiscal Year. The Board shall review, accept the annual

audit, and direct the Managing Agency to complete correction actions as needed. A copy of the annual audit shall be provided to each Party upon acceptance by the Board.

7.8. **Issuance of Debt**

When authorized by a unanimous vote of the Board and an affirmative vote by the governing body of each Party, the Board may issue debt under ORS 287A, as allowed under ORS 190.080, as the Board deems necessary to finance capital improvements. Upon receipt of an affirmative vote of each of the governing bodies, the Board shall approve the order or resolution authorizing the issuance of debt, which shall specify the joint and severable liabilities and obligations of the Parties as set forth in ORS 190.080 (3).

7.9. **Financial Procedures**

Interim financial procedures are included as **Exhibit 9**, and will be used until the long-term financial procedures are developed and approved by the Board. The Managing Agency shall propose financial procedures consistent with the requirements of this Section. The Finance Committee will review the proposed financial procedures, and will provide a recommendation to the Management Committee for review or provide requested revision(s) to the Managing Agency to incorporate and forward to the Management Committee. The Management Committee will review the proposed financial procedures, and will provide a recommendation to the Board for adoption or provide requested revision(s) to the Managing Agency to incorporate and forward to the Board. The Board will consider the recommended financial procedures for adoption or send back to the Management Committee for modification. The financial procedures will be reviewed and updated on at least a ten-year basis or as requested by the Finance Committee, Managing Agency, or the Board. The Board approved long-term

financial procedures will be included as an amended **Exhibit 9** to this Agreement subsequent to the effective date of this Agreement.

8. Intake Facilities Ownership and Easement

8.1. Capacity Ownership

The Parties each own various shares of Capacity in the Intake Facilities. The ownership of each Party is a percentage share of the Intake Facilities that is equal to the Party's Capacity in MGD compared to the total Capacity of the Intake Facilities. The Parties' respective shares of the anticipated design Capacity of the Intake Facilities are set forth in **Exhibit 3**. Upon completion of construction, the Board shall determine ownership of Capacity based on actual Capacity achieved of the Intake Facilities to the System Separation Point. If the actual Capacity achieved is more or less than the design Capacity anticipated in **Exhibit 3**, the **Exhibit** will be revised to reflect the ownership based on the actual Capacity achieved. The Capacity shares shall be proportionately increased or reduced. If the actual Capacity achieved is less than the design Capacity anticipated, in no event will the Capacities of TVWD, Wilsonville and Sherwood be less than 56.5 MGD, 20 MGD and 5 MGD, respectively.

8.2. Easement

The Intake Facilities have been granted an Easement described in **Exhibit 1** and are located on the Real Property described in **Exhibit 4**.

9. Water Rights

9.1. Existing Water Rights

A Party shall continue to hold its Water Rights in its individual name, except that TVWD, Sherwood, Tigard and Tualatin jointly hold their Water Right through the WRWC. **Exhibit 5** identifies the Water Rights held by each Party and the WRWC for use at the Intake Facilities Point of Diversion and as described in this Section.

9.2. **Restriction on Use**

If surface water withdrawal rights are partially or fully restricted and unavailable, then each Party will be subjected to the restrictions and conditions applicable to its own Water Rights. The available Water Rights will be used for the benefit of the Party(ies) that own(s) the Water Rights. To the extent that the non-restricted or partially restricted Water Rights are greater than that required by the Party owning the Water Rights, then the unused portion of the Water Rights may be leased to the other Parties, as set forth in the leasing provisions. In times of emergency or curtailment, the Board may allow Parties to use the Water Rights of other Parties without a leasing requirement, subject to the agreement of those Parties. Those Water Rights held jointly through WRWC shall be allocated for use by the WRWC Parties as described in the WRWC agreement.

9.3. **Supplemental Water Rights**

A Party or the Commission may obtain additional Water Rights from the Oregon Water Resources Department or a federal agency that initiates a municipal contracting program in the United States Army Corps of Engineers storage facilities in the Willamette Basin (“Willamette Basin Project”) as the Demand and need is identified. The Board will establish Capacity ownerships of any jointly held Water Right by the Commission at the time of application. **Exhibit 5** identifies the Water Rights authorized for use at the Intake Facilities Point of Diversion held by individual Parties and those jointly held by the WRWC or by the Commission. **Exhibit 5** will be updated by the Board as additional Water Right transactions occur.

9.4. **Obligations of Each Party**

Each Party is responsible for obtaining its own Water Rights with a point of diversion at the Intake Facilities sufficient to meet its Capacity.

9.5. **Perfection and Certification**

A Party's certification or perfection of its individual Water Right through the Intake Facilities cannot exceed the Party's owned Intake Facilities Capacity unless the Board approves otherwise and such approval is not to the detriment to the other Parties' Water Rights.

10. Use of the Intake Facilities by the Parties

Each Party shall use the Intake Facilities in a manner consistent with prudent water utility operating practices and in a manner that minimizes the impact of use on the other Parties. The Managing Agency shall manage the Intake Facilities for the mutual benefit of all Parties. Each Party shall obtain sufficient Capacity in the Intake Facilities to serve the Demand imposed on the Intake Facilities by the Party.

11. Operations Plan

Prior to the date the Willamette Water Supply System commences delivery of potable water to its respective Users, an Operations Plan shall be developed by the Operations Committee with support from the Managing Agency, and submitted to the Management Committee. The Management Committee will review the proposed Operations Plan, will work with the Managing Agency on modifications, and will provide a recommendation to the Board for adoption or will send back to the Operations Committee for modification. The Operations Plan for the Intake Facilities will include, but is not limited to, agreed protocols and a methodology to provide for the equitable, effective and efficient operation of the Intake Facilities in accordance with generally accepted utility practices regarding the operation, management, capital improvements, and expansion of all aspects of the Intake Facilities. The Operations Plan will provide that the Parties will use best efforts and good faith in the operation of the Intake Facilities for the mutual benefit of all Parties. The Operations Plan will be updated as needed. The agency responsible for operating the Intake Facilities shall follow the Board-

adopted Operations Plan.

12. Curtailment Plan and Emergency Response and Management Plan

12.1. Curtailment Plan

The Board shall adopt a Curtailment Plan that establishes policies and procedures for when and how reductions in Demand shall be made. The Managing Agency shall develop a proposed Curtailment Plan for review by the Operations Committee. The Operations Committee will review the proposed Curtailment Plan, and will provide any requested revision(s) to the Managing Agency before presentation to the Management Committee. The Management Committee will review the proposed Curtailment Plan, and will either provide a recommendation to the Board for adoption or will send back to the Operations Committee for further review and modification. The Management Committee will provide a recommendation to the Board for its consideration and adoption. When reductions in Demand become necessary, the reduction shall be in accordance with the Curtailment Plan. Any Curtailment Plan must treat all Parties fairly and equitably.

12.2. Emergency Response Plan

The Managing Agency shall prepare an Emergency Response Plan to be reviewed by the Operations Committee and the Management Committee. Procedures and protocols will be included in the proposed Emergency Response Plan. The Operations Committee and Management Committee will review the proposed Emergency Response Plan, and will either provide a recommendation to the Board for adoption or will provide requested revision(s) to the Managing Agency.

13. Right of First Offer

Wilsonville and TVWD entered into the 2000 Master Agreement, Accord, First Amendment and the Willamette Intake Facilities Agreement regarding the construction, joint ownership, and continuing operations of the WRWTP, which all remain and will remain in full force and

effect, except as otherwise amended, in writing, by TVWD and Wilsonville. The Accord Agreement, dated June 19, 2001, expressly provides a Right of First Offer be made between Wilsonville and TVWD with respect to any sale, transfer, exchange, grant of option to purchase, lease, or other disposal of their respective interests in the Property, or any part of, or interest in, or ownership interest in the Supply Facilities (which include the Intake Facilities). Wilsonville has been offered and declined the first right to purchase the Intake Facility capacity held by TVWD and consented to sale, purchase and transfer of 62.3 MGD of existing and expanded capacity between TVWD and the other Parties to this Agreement and waived further application of the Accord Agreement thereto. In accordance with the Accord Agreement, the reciprocal Right of First Offer with respect to Intake Facilities remains in full force and effect with respect to 56.5 MGD of TVWD's retained interest in the Intake Facilities and Wilsonville's 25.0 MGD retained interest in the Intake Facilities, notwithstanding anything to be construed to the contrary in this Agreement. Additional terms with respect to the Right of First Offer continue to apply and are detailed in the Accord Agreement. If TVWD or Wilsonville declines to lease or purchase all or a portion of the amount offered, then the declined amount may be offered to the Parties for lease or for purchase, as provided in Sections 14 and 19. Notwithstanding the terms of the Right of First Offer, Wilsonville and TVWD do hereby agree to waive their Right of First Offer for leases of five years or shorter duration offered by Wilsonville or TVWD to the other Parties ("Short Term Waiver"). A lease to which this Short Term Waiver applies may be renewed for one additional term and the Short Term Waiver is applicable for that one time renewal.

14. Leasing

14.1. Leasing

The Parties recognize that options for leasing Capacity in the Intake Facilities or Water Rights are important to maintain the cost effective and efficient use of the Intake Facilities and associated infrastructure. Only Parties to this Agreement are

eligible to engage in leasing. Leasing options will include firm, interruptible, and surplus water pool. A Party will not be forced to lease its Capacity in the Intake Facilities or Water Rights to other Parties. Each Party retains sole discretion as to how much, if any, Capacity of the Intake Facilities or Water Rights to make available for leasing. Prior to expanding or adding new infrastructure to the Intake Facilities above 150 MGD, the Parties will determine if leasing options are a reasonable approach as a method to defer capital expansion. The following provisions regarding Leasing are subject to the Right of First Offer, including the Short Term Waiver between TVWD and Wilsonville, as set forth in Section 13.

14.2. **Leasing Procedures**

The Managing Agency will coordinate and manage the annual leasing process, including associated agreements and approval requirements, on a schedule that accommodates the Commission and the Parties' budget processes. The Managing Agency will request available Capacity or Water Rights for leasing options from all Parties who are interested in leasing on an annual Fiscal Year basis prior to the Peak Season. Each interested Party will estimate the amount of Capacity, duration, and type of Lease (interruptible or firm) or Water Rights it wishes to make available to lease to, or the amount of Capacity, duration, and type of Lease (interruptible or firm) it seeks to lease from, the other Parties. The Managing Agency will develop forms and protocols for managing the leasing process including the leasing requests and annual surplus Capacity designated by each Party. A rate methodology for each of the leasing options will be developed by the Managing Agency, reviewed and recommended by the Management Committee and the Finance Committee, and adopted by the Board. A sample Lease form and methodology are attached in **Exhibit 10**, which may be modified and/or updated by the Board. In those years when Water Rights are limited and if requested by the Parties, the Board may adopt

an equitable methodology for leasing of the Water Rights.

14.3. **Firm and Interruptible Lease Terms**

The length of time for firm and interruptible leases will be a minimum of one year and a maximum of five years, unless otherwise approved by the Board and subject to the Right of First Offer provisions. The Capacity acquired from a firm Lease will be considered transferred Capacity from the lessor to the lessee for the quantity and the duration of the Lease agreement for use and overuse purposes. The Capacity acquired from an interruptible Lease will be considered the lessee's Capacity for use and overuse purposes until the lessor calls back the Capacity from the lessee pursuant to the terms of the Lease. The Managing Agency will develop recommended protocols and the terms to be approved by the Board for firm and interruptible Leases, the latter of which will include the terms under which a lessor may call back the "interruptible" leased Capacity, such as when curtailment or loss of Capacity occurs.

14.4. **Surplus Capacity Pool Terms**

When excess Capacity is made available for leasing that is not dedicated to a firm or interruptible Lease, that excess Capacity shall be included in the Surplus Capacity Pool to be made available for a period not to exceed one year from the date of placement in the Surplus for lease for less than one year by the Parties in coordination with the Managing Agency. The premium short term lease rate is included in **Exhibit 10**, and may be amended by the Board. The Managing Agency will develop for approval by the Board the terms, costs, and protocols for the management and use of the Surplus Capacity Pool, taking into account the best interests of the Parties while maintaining the integrity of the system.

14.5. **Lease Approval**

A Lease that is within the terms of this Section will be reviewed and approved by

the Management Committee and administered by the Managing Agency. Status reports regarding the Lease agreements will be provided to the Board by the Managing Agency. A Lease that is not consistent with the terms of this Section must be approved by the Board.

14.6. Lease Distribution and Payments

Lease requests and associated Lease revenues will be divided among the lessors based on the percent of Capacity or Water Rights leased, if more than one lessor and one lessee are involved unless otherwise approved by the Board. A Lease approved between two Parties may provide for payment made directly from the lessee to the lessor. When Lease requests exceed the amount of Capacity or Water Rights made available, available Lease Capacity or Water Rights will be divided amongst the lessees based on the percent of Capacity or Water Rights requested unless otherwise approved by the Board.

15. Overuse

15.1. Notification

A Party will manage its Demand on the Intake Facilities within the Party's respective ownership and Capacity share of the Intake Facilities as may be augmented by firm, interruptible or surplus Capacity pool Lease sources. Overuse terms are included in the Agreement in order to discourage use that may result in adverse impacts to the operational integrity of the Intake Facilities and to promote prudent planning of needed expansions. The Managing Agency shall notify a Party when the Party's instantaneous Demand has exceeded its Capacity ownership as augmented by any leased Capacity, including any short term lease from the Surplus Capacity Pool of the Intake Facilities. A Party should notify the Managing Agency if the Party exceeds or anticipates exceeding its Capacity share as augmented by any leased Capacity and short term lease from the Surplus Capacity

Pool. A Party will be required to take appropriate corrective action to decrease the Party's Demand on the Intake Facilities to be within its Capacity ownership as augmented by any leased Capacity and the surplus Capacity pool. A Party shall be deemed to have overused the Intake Facilities if the Party's Demand on the Intake Facilities exceeds the Party's Capacity as described in Sections 8 and 10. Overuse is subject to remedies described in Section 16.

15.2. Overuse Terms

If a Party has been notified by the Managing Agency that their instantaneous Demand on the Intake Facilities has exceeded their ownership Capacity as augmented by any leased Capacity and the surplus Capacity pool, and corrective action was not taken to decrease the Demand within their ownership Capacity as augmented by any leased Capacity and the surplus Capacity pool, then the following Overuse Terms shall apply. A Party shall be deemed to have overused the Intake Facilities if the Party's Demand on the Intake Facilities exceeds the Party's Capacity as augmented by any leased Capacity and the surplus Capacity pool by 5% continuously over a 12 hour period for: i) three consecutive days in two consecutive years or ii) three consecutive days in any three years out of a five year period. Overuse also includes a Party's use exceeding its Water Right ownership regardless of the extent of overuse during times of regulation or curtailment per Section 12, unless otherwise approved by the Board. If overuse occurs, then the Party shall be subject to the remedies for overuse terms set forth in Section 16.

16. Remedies for Overuse

16.1. Remedies Considered by the Board

To the extent that a Party overuses the Capacity or Water Rights of the Intake Facilities as defined in Section 15 of this Agreement, the Party shall compensate the other Parties as set forth in Section 16.2. When overuse occurs, the Board may

require the Party to lease Capacity or Water Rights in the Intake Facilities, reduce Demand on the Intake Facilities, or purchase Capacity in the Intake Facilities, if made available by another Party such that the overuse will cease to occur. Compensation for overuse is described in Section 16.2. The Party that overused the Intake Facilities shall deliver to the Management Committee and the Board a plan to avoid overuse in the future. The plan must include a proposal for a Lease agreement, a Capacity purchase agreement, and/or other measures to eliminate overuse of the Intake Facilities. Nothing herein shall compel a Party to lease or sell Capacity or Water Rights to an overusing Party. The Board shall approve a plan to eliminate overuse by the Party, and the Managing Agency shall monitor the implementation of the plan and report back to the Board. Penalties for overuse may only be waived by the Board. A request for a waiver may be given to the Managing Agency, along with justification for the waiver, to be presented to the Board.

16.2. Compensation

To the extent that a Party overuses the Capacity or Water Rights of the Intake Facilities as defined in Section 15 of this Agreement, the Party shall compensate the other Parties. Unless modified by the Board, compensation for overuse shall be five times the firm Lease rate for Capacity, which would have been in effect in the last period described above in which the overuse occurred for the entire period of the overuse (i.e. two consecutive or three out of five years). The amount of Capacity overused for the determination of retroactive compensation shall be equal to the difference between the Party's Capacity as augmented by any leased Capacity or surplus Capacity pool and the Demand imposed by the Party during the overuse period. The compensation for overuse shall be distributed to the other Parties by their ownership Capacity percentage.

17. Expansion and Capital Improvements

17.1. **Current Expansion**

As described in the Recitals, the Parties have or will enter into separate agreements to design and construct upgrades for a Capacity Expansion of the Intake Facilities to achieve a design Capacity of 150 MGD. The preliminary concept and layout for the Intake Facilities improvements are shown in **Exhibit 2**. The preliminary cost allocations for the Intake Facilities improvements are described in **Exhibit 11**. The process set forth in Sections 17.2 and 17.3 shall not apply to this current Capacity Expansion.

17.2. **Future Expansion or Improvement**

Capacity Expansion of the Intake Facilities refers to any capital improvement project not part of Section 17.1 that results in increased Intake Facilities Capacity. Capacity Expansion or Facilities Modification of the Intake Facilities, to the extent possible, shall be planned for through a Master Plan to be updated not less than every five years. The Managing Agency will lead and facilitate the development of the Master Plan, which will be reviewed and recommended for adoption by the Operations and Finance Committees to the Board. The Managing Agency will conduct the planning and implementation of the Intake Facilities Capacity Expansion, including provision for minimum operational impacts and cost impacts, to the other Parties using the Intake Facilities. A Party will notify the Managing Agency of any proposed Capacity Expansion outside the planned Capacity Expansions including the proposed Capacity and schedule.

17.3. **Determination of Future Expansion**

The Managing Agency will provide notice to the Parties of any proposed Capacity Expansions to determine participation. Parties shall have 120 days from the date they receive notice, with an option for an additional 60 days if requested, in which to respond to the Managing Agency whether they wish to participate in the

proposed Capacity Expansion and any proposed conditions for participation. Once participation in the proposed Capacity Expansion is fixed and the scope, budget, and schedule are established, then the non-participating Parties shall have no further opportunity to participate unless all participating Parties approve. Participating Parties will include their proportionate share of the estimated costs in their respective annual budgets. In the case of any proposed Capacity Expansion, a Supermajority of the Board must agree to the proposed Capacity Expansion. If the Board agrees to allow the Capacity Expansion, each Party will have the option to participate in the Capacity Expansion. If not all Parties agree to participate in the Capacity Expansion, then only those Parties electing to participate in the Capacity Expansion will be responsible for all costs related to the Capacity Expansion. The Managing Agency will strive to resolve objections to proposed Expansion prior to a final decision being made with respect to the Capacity Expansion.

18. Sale of Water to Non-Party

The Parties agree that sale of water to a non-party shall occur only through the associated Water Treatment Plant agreements. Parties that require Capacity for such sales shall lease Capacity from other Parties to this Agreement pursuant to Section 14 or purchase Capacity from other Parties pursuant to Section 19.

19. Withdrawal and Sale of Interest

19.1. Notification

Subject to the notification requirements of the Right of First Offer described in Section 13, one or more Parties (“Selling Parties”) may sell all or a portion of their ownership Capacity in the Intake Facilities by providing written notice to the Managing Agency and the other Parties. Within 60 days of receipt of the notice, each Party with an interest in acquiring additional Capacity in the Intake Facilities shall respond in writing to the Managing Agency and the Selling Party indicating

whether it wishes to purchase all or a portion of the interest in the Intake Facilities, the offer price, and the proposed terms and conditions of the purchase and sale (“Purchase Nomination”).

19.2. **Purchase Nomination Recommendation**

The Managing Agency will review each Purchase Nomination and make a preliminary determination as to whether all Parties submitting a Purchase Nomination (“Purchasing Parties”) and Selling Parties can be accommodated in full. If the Managing Agency is a purchaser or seller, then the Management Committee will perform the tasks outlined in this Section. If all Purchasing and Selling Parties can be accommodated in full, the Managing Agency shall notify the Selling Parties and Purchasing Parties of how the reallocation of ownership will be calculated. If all Purchasing and Selling Parties cannot be satisfied in full, then the Managing Agency will confer with the Purchasing and Selling Parties individually or collectively and make a recommendation as to how the total interest designated for sale should be allocated among the Purchasing and Selling Parties. The Managing Agency shall allocate proportionately in order to achieve an equitable and fair solution for the Purchasing and Selling Parties. The Managing Agency will make the recommendation to the Management Committee with respect to the proposed allocation within 30 days after receipt of Purchase Nominations.

19.3. **Purchase Negotiations**

Within 30 days after the Managing Agency makes the recommendation and provides written notice of the proposed allocation (as approved by the Management Committee), the Managing Agency will convene a meeting of the Selling Party and the Purchasing Party to reach final agreement on the allocation of Capacity, the purchase price to be paid and other terms of sale. The Purchasing Party and Selling Party will each designate a representative for negotiations. As a result of the

negotiations, one price will be set that will apply to all Selling and Purchasing Parties.

19.4. Purchase Term Sheet

All Purchasing Parties and Selling Parties, with the Managing Agency as the facilitator, will have 60 days to negotiate a fair and equitable transaction through a process so that all Purchasing and Selling Parties are privy to all discussions of price and terms resulting in a mutually agreed final reallocation of Intake Facilities ownership and the terms of purchase and sale. The final terms will be reduced to a term sheet for tentative approval by the designated representatives of the Purchasing and Selling Parties. If the Managing Agency is a Purchasing Party or a Selling Party, the Management Committee will assume the facilitator role throughout the purchase and sale process.

19.5. Acceptance or Rejection

Within 45 days of approval of a term sheet, each Purchasing and Selling Party will conduct such internal review as it deems necessary and provide written notice of intent to proceed with or decline the transaction to the other Parties and the Managing Agency. If any Purchasing or Selling Party declines, then the Managing Agency will convene the remaining Purchasing and Selling Parties who will then determine how to reallocate the Capacity and adjust their respective purchase price or terms. If there is excess Capacity available, the Managing Agency may also offer the excess Capacity to those Parties who had earlier declined to be a Purchasing Party. Those declining Parties shall have 15 days from notice by the Managing Agency to accept or decline the term sheet as is and without opportunity to vary its terms unless the Purchasing Party and Selling Party mutually agree.

19.6. Purchase and Sale Agreement

Once the terms of purchase and sale are determined, the Managing Agency shall

notify all Parties of the pending transaction. Purchasing and Selling Parties will prepare the necessary documents for final approval by the governing bodies of the Selling and Purchasing Parties and the transaction will close within 30 days after approval, unless a longer period is agreed to by the Selling and Purchasing Parties. Upon closing of the transaction the Managing Agency will undertake to gather or prepare amended Exhibits and other documents necessary to memorialize the transaction and will enter the revised Capacity allocation and resulting equity interest on the books and records of the Commission. Board approval of the transaction is not required, but the Board will approve the amended Exhibits that reflect the revised Capacity allocations.

19.7. **Commission's Purchase Rights**

If all or a portion of the offered Capacity remains unsold after the exhaustion of the procedure in Sections 19.1 through 19.6 above, the Board will have the right to consider whether to purchase a Selling Party's interest on terms and conditions agreed upon by the Board and the Selling Party. If so acquired, the Commission will hold the Capacity in trust for the benefit of all of the Parties.

19.8. **Sale to Municipal Non-Party**

If all or a portion of the offered Capacity remains unsold after the exhaustion of the procedure in Sections 19.1 through 19.7, then the Selling Parties may seek and obtain offer(s) from a non-Party so long as the non-Party is a Municipal Water Provider and becomes a Party to the Commission and this Agreement. Such offers will be reviewed in accordance with Section 20.

19.9. **Party Status**

If the interests of the Selling Party remain unsold, then the Selling Party will continue as a Party. Upon sale of all ownership interests, the Selling Party will cease

to be a Party.

19.10. **Water Rights**

The process described in this Section does not govern the sale or purchase of Water Rights.

19.11. **Schedule**

Participating Parties in any proposed transaction may adjust the schedule provided in this Section as mutually agreed.

20. Admission of New Municipal Parties

20.1. **Eligibility**

Only a Municipal Water Provider is eligible to apply to become a Party and must make a written request to become a Party (“Applicant”).

20.2. **Applicant Request**

The Applicant’s written request shall state the proposed date of joinder, Demand and Capacity sought to be purchased, identify the quantity and status of Water Rights the Applicant would provide, identify the existing Capacity necessary to serve the Applicant, identify any improvement(s) that would need to be built or expanded to accommodate the Applicant, and other supply sources available to Applicant.

20.3. **Consideration by Managing Agency and Board**

The Applicant shall deliver its request to the Managing Agency who shall then distribute it to the Board and the Management Committee. Each Party’s representative of the Management Committee will be responsible for presenting the application to their respective governing bodies for a recommendation to approve or deny. Once the Management Committee reports back the results from each of the Party’s respective governing bodies, at the next regularly scheduled Board

meeting, the Board will consider the request. A decision to consider an application for admission will require a unanimous affirmative vote of the Board. If the Board determines that the application will not be considered, the Managing Agency will inform the Applicant the request is denied and the matter will be deemed concluded.

20.4. **Provision of Additional Information**

If the Board unanimously votes to consider the admission, the Board, through the Managing Agency, shall request that Applicant provide all information as the Board deems necessary, in its sole discretion, to adequately consider the matter. This may include a request for oral presentation by Applicant's staff and/or elected officials.

20.5. **Term Sheet**

Based on the information submitted, the Board shall determine if there is unanimous interest to continue to consider the request. If so, then the Managing Agency shall deliver a term sheet to the Applicant defining the terms and conditions for joinder, including but not limited to the date of joinder, the method of payment for existing Capacity and Applicant's obligations for construction of new Intake Facilities or expansion of existing Intake Facilities.

20.6. **Applicant Review of Term Sheet and Negotiation**

The Applicant shall have 30 days from the receipt of the term sheet to accept or decline the term sheet, or propose modified terms. If the term sheet is acceptable to the Applicant and the Board, or if the Applicant and the Board negotiate and reach agreement within 30 days on the proposed modified terms, the Managing Agency shall cause a joinder agreement to be prepared for approval by the Applicant and the Board. If declined, the matter will be deemed terminated without any further action.

20.7. **Sale or Transfer to Applicant**

In accordance with Section 19, if an existing Party wishes to sell or transfer Capacity ownership to an Applicant, the Party seeking to sell shall give notice to the Managing Agency as provided in Section 19, Sale of Interest. The Party shall also include a written statement of its intent to sell. Thereafter, the evaluation of the Applicant and terms and conditions of joinder shall follow the process of Applicant request under this Section concurrent with the Sale of Interest provisions of Section 19 for the Selling Party and remaining Parties.

21. Indemnity

21.1. Indemnification of Board, Officers and Employees

Except as may otherwise be provided by contractual agreement between the Commission or Board and any agent of the Commission, including but not limited to the Managing Agency, the Commission shall defend and indemnify any Board member, officer, committee member, employee or agent of the Commission who was or is a party, or is threatened to be a party, to any threatened or actual action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the collective Parties under this Agreement), by reason of the fact that such person is or was a Board member, officer, committee member, employee, or agent of the Commission, against all reasonable expenses, attorney fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if such person acted in good faith and such person reasonably believed his or her conduct to be lawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or with a plea of nolo contendere or its equivalent shall not in and of itself create a presumption that the person did not act in good faith or did not reasonably believe his or her conduct to be lawful. Payment under this clause may be made during the pendency of such claim, action suit or proceeding

as and when incurred, subject to the right of the Commission to recover such payment from such person, should it be proven at a later time that such person had no right to such payments. Any person who is ultimately held liable for his/her good faith and reasonably believed to be lawful actions on behalf of the Commission as a Board Member, officer, committee member, employee, or agent of the Commission shall be fully covered by this indemnity. Any person who is ultimately held liable but is determined by the Board to have acted in bad faith or without reasonably believing his or her conduct to be lawful shall not be indemnified by the Commission but may have a right of contribution over and against any other Board Members, officers, committee member, employees, agent of the Commission, or Parties who, in bad faith or without reasonably believing his or her conduct to be lawful, participated in the action that created said liability. As used herein, “person” refers to an individual or an entity.

22. Default

22.1. Generally

A Party is deemed in Default of this Agreement if the Party violates any provision of this Agreement or fails to perform an obligation required to be performed or otherwise breaches this Agreement. An Event of Default shall be deemed to have occurred if the Defaulting Party fails to cure the Default within the cure period designated in this Section.

22.2. Notice of Default and Cure

A written notice of Default (“Notice of Default”) shall be delivered to the Party in Default (“Defaulting Party”) by the Managing Agency, acting at the direction of the Board. The Notice must specify the nature of the Default and provide a specified period to cure the Default or otherwise reasonably commence to cure the Default in a diligent manner. A reasonable cure period (“Cure Period”) shall be

deemed to be 30 days unless another time for cure is set by the Board and contained in the Notice of Default. The Notice of Default may also include a requirement to engage in the Dispute Resolution process. A copy of the Notice of Default shall be delivered to all other Parties. Specific provisions relating to Default by the Managing Agency are found in Section 24.

22.3. Response by Defaulting Party

22.3.1. Nonpayment Default

The alleged Defaulting Party shall either: (1) make payment in full by the date set in the Default notice; (2) submit a plan for repayment that the Board must approve; or (3) request Dispute Resolution. The Cure Period for non-payment is a 30 day period, but the Board may, in its sole discretion, approve a payment plan in extraordinary circumstances.

22.3.2. Other Defaults

The Defaulting Party must: (1) cure the Default by the Cure Period set forth in the Notice of Default; (2) state why the Default cannot be cured within the Cure Period, what efforts the Defaulting Party has made to Cure the Default and provide a reasonable plan to cure the Default; or (3) request Dispute Resolution. The Board must approve the plan for cure and if not approved, an Event of Default will be declared. If Dispute Resolution is requested by the Defaulting Party of the Board, then that process will be followed.

22.3.3. Failure to Cure

Failure to cure the Default within the allowed Cure Period will result in the Declaration of an Event of Default, and a Final Notice to Cure will be delivered to the Defaulting Party by the Managing Agency. The Final Notice to Cure will contain one final allowed Cure Period. Failure to cure

the Event of Default within Final Notice of Default Cure Period will result in a Declaration of Default and the Remedies for Default will apply.

23. Remedies

23.1. Determination of Remedy

Upon Declaration of an Event of Default, the Board will determine an appropriate remedy. The Defaulting Party will not have voting privileges regarding the appropriate remedy and a Supermajority vote of the remaining Board Members shall be required to determine the remedy. The imposition and scope of remedies by the Board is subject to Dispute Resolution. In making a determination of remedy for the Default, the remaining Board Members shall consider:

23.1.1. The nature of and severity of the Event of Default and resulting impact on the other Parties;

23.1.2. Whether the factors leading to the Event of Default were beyond the reasonable control of the Defaulting Party;

23.1.3. The Defaulting Party's history of performance and satisfaction of obligations and duties under this Agreement;

23.1.4. The Defaulting Party's responsiveness and cooperation to cure the Event of Default, including consideration of how proactive the Defaulting Party was in revealing the Default.

23.1.5. Other factors that the Board deems relevant.

23.2. Potential Remedies for Consideration by the Board

The Board may consider all remedies available at law, or in equity, for breach of this Agreement as provided in this Section and Section 24. The purpose of the remedy is to make all non-Defaulting Parties whole and to bring the Defaulting

Party into compliance, if possible. The remedies, until the Event of Default is cured, may include, but not be limited to, the following:

23.2.1. Loss of Voting Privileges

The loss of voting privileges such that a Supermajority of the remaining Members of the Board may conduct business without the Defaulting Party until the Defaulting Party fully cures the Event of Default.

23.2.2. Money Damages

The Board may recover money damages for additional costs of service, costs of capital and other actual costs incurred by the other Parties resulting from the Default, plus interest at the statutory judgement rate of interest from the date of Default.

23.2.3. Termination of Service

The Board may elect: (1) to terminate water deliveries to the Defaulting Party until the Event of Default is cured, if the Defaulting Party has other sources of water sufficient to meet Non-peak Season average daily demands, or (2) reduce water deliveries so that the Intake Facilities provides only enough water to meet Non-peak Season average daily demands when combined with the Defaulting Party's other sources.

23.2.4. Expulsion

In cases of repeated Defaults by the Defaulting Party, the Board may expel the Defaulting Party from the Commission and require the Defaulting Party to sell their Capacity ownership in the Intake Facilities. The removed Defaulting Party may ask to be a wholesale finished water supply purchaser from either Water Treatment Plant.

23.2.5. Litigation

Subject to Section 22 and 23, if the Event of Default is not cured or the

Board imposed Remedies are not complied with and the Dispute Resolution process has been waived or unsuccessful, any Party may file a lawsuit and seek available remedies under Oregon law.

23.3. Suspension of Legal Remedies Imposed by the Board

A Default may be addressed using the Dispute Resolution process described in Section 25. If Dispute Resolution has been requested, then the Remedy provisions of Section 23 will be suspended until the Dispute Resolution process is exhausted. Notwithstanding the foregoing, if the Default is of a nature that it poses a health risk to any user of the Intake Facilities or could cause damage to the Intake Facilities, Water Treatment Plants, or the Real Property, then the Board or any aggrieved Party may seek immediate equitable relief without waiting for initiation or completion of any Dispute Resolution.

24. Default by the Managing Agency

24.1. Generally

This Agreement obligates the Managing Agency to manage the business affairs of the Commission for the mutual benefit of all Parties to consistently deliver water from the Intake Facilities to their respective Water Treatment Plants. If the Managing Agency is also a Party and is alleged to be a Defaulting Party, a Supermajority of the remaining Board Members shall designate another Party to act as the facilitator for the Default. Based on the nature of the Default, the Board may also remove the Managing Agency from some or all Managing Agency duties pending Dispute Resolution, mediation, arbitration, or litigation, as the case may be. The following provisions shall apply to a Default by the Managing Agency, unless other Default provisions are contained in a separate Managing Agency contract, with the Managing Agency and are stated to control and supersede over these provisions.

24.2. **Notice of Default and Cure**

A written Notice of Default shall be delivered to the Managing Agency by the Board following a Supermajority vote of the remaining Members of the Board. The Managing Agency serves at the will of the Board. Therefore, the Notice may include a Notice of Termination of the Managing Agency, which termination may be immediate for acts or omissions such as gross negligence, malfeasance or dishonesty in financial practices, or at the end of a specified period of time set by the Board in the Notice. The Board must consider and provide a plan of transition if the Notice includes termination. If a Notice of Default with an opportunity to cure the Default is given, the Notice must specify the nature of the Default and provide a specified period in which to cure the Default or otherwise reasonably commence to cure the Default in a diligent manner. A reasonable cure period (“Cure Period”) shall be deemed to be 30 days unless another time for cure is set by the Board and contained in the Notice of Default. The Notice of Default may also include a requirement by the Board for the Managing Agency to engage in the Dispute Resolution process. A copy of the Notice of Default shall be delivered to all Parties. If the Managing Agency is a Party and the Board does not elect to terminate the Managing Agency, the Board may vote to temporarily remove the Managing Agency from some or all of its duties pending a cure of the Default.

24.3. **Event of Default**

The Managing Agency shall be deemed in Default of this Agreement if it fails to perform any obligation required to be performed by the Managing Agency under this Agreement or through a separate Managing Agency contract. An Event of Default shall be deemed to have occurred if the Managing Agency fails to cure the Default within the Cure Period designated in this Section 24.2, if any Cure Period

is allowed. If no Cure Period is given, then the Default shall be deemed to be an immediate Event of Default.

24.4. Remedies

If the Managing Agency commits an Event of Default, the Commission may seek any remedy available to it, at law or in equity. Such remedies include but are not limited to money damages, including restitution; specific performance; injunctive relief; and termination of the Managing Agency's contract. The Board, at its sole discretion, may enter into the Dispute Resolution process described in Section 25 if requested by the Managing Agency.

25. Dispute Resolution

This Agreement obligates the Parties to cooperate in the ownership and operation of the Intake Facilities for the mutual benefit of all Parties to consistently deliver water to their respective Water Treatment Plants. The Intake Facilities are the foundation of the other water system assets and Water Treatment Plants of the Parties. To that end, the Parties agree that each Party should bring forward issues regarding past performance or anticipated performance of obligations and duties at the earliest reasonable opportunity so that all Parties can proactively work toward solutions in an attempt to avoid a formal declaration of default. This Dispute Resolution process is provided to encourage informal resolution through negotiation among the Parties' staff, executives or elected officials before resorting to a formal process using mediation, arbitration, or litigation.

25.1. Notice of Dispute

Except in the case of a Default, any dispute shall be submitted in writing to the Management Committee. The Management Committee has 30 days from the date of notice to meet with the affected Parties to resolve the dispute. If the Management Committee does not resolve the dispute within the 30 day period, it shall be referred to mediation. In the case of a Default, either the Defaulting Party or the Board may

demand Dispute Resolution at any time during the Default process or within 10 days following imposition of any of the Remedies by the Board or the court, as set forth above. If Dispute Resolution is not requested during that time period, it shall be deemed waived and any aggrieved Party may proceed to litigation.

25.2. **Mediation**

A Party desiring mediation shall provide the other Parties with a written notice (“Request to Mediate”), which shall set forth the nature of the dispute. The Parties will thereafter cooperate in good faith to select the mediator within 14 days of either Party requesting mediation, and may adopt any procedural format that seems appropriate for the particular dispute. Mediation should be scheduled within 14 days of selection of the mediator, or as soon as possible, based on availability. In the event the Parties cannot agree on a mediator, the Parties will ask the Presiding Judge of Clackamas County Circuit Court to appoint a mediator. The mediator will then set the ground rules for the mediation. The Parties will share the mediation costs as agreed upon with the mediator. If a written settlement agreement is not reached by the Parties within 60 days from the date of the Request to Mediate, or such longer time frame as may be agreed upon, in writing, by the Parties, then the Parties may commence litigation. If the mediation fails the Parties may agree to binding arbitration. If all Parties do not agree to arbitrate, then any Party may seek legal relief through the Circuit Court of Clackamas County, or U.S. District Court if jurisdiction is available.

25.3. **Arbitration**

If the Parties agree to enter into binding arbitration, selection of the arbitrator, time frame for arbitration, and ground rules for arbitration will be agreed upon at that time. Any arbitrator or arbitrators selected must have a minimum of 10 years’ of municipal law experience, unless the Parties mutually agree, in writing, otherwise.

25.4. **Injunctive Relief and Specific Performance**

A Party may seek and obtain immediate equitable relief before or during the Dispute Resolution process and as described in Section 23.3.

25.5. **Attorney Fees**

Each Party shall bear its own legal fees and expert witness fees and all other costs in any Dispute Resolution process, including litigation.

26. Dissolution

The Parties may desire to dissolve the Commission. Dissolution of the Commission shall require an affirmative vote of each Party's governing body. Dissolution shall occur no later than five years from the date of the last affirmative vote to dissolve and no sooner than two years, unless the governing body of each Party agrees to a different deadline. If the Commission is not dissolved then any Party(ies) seeking dissolution may elect to terminate and withdraw as described in Section 19. If the Commission is dissolved, the Easement for the Intake Facilities in **Exhibit 1** will be automatically terminated.

26.1. **Plan of Dissolution**

The Managing Agency will develop a dissolution plan to wind up business affairs, to be reviewed and approved by the Management Committee before it is presented to each Party's respective governing body. The dissolution plan must provide for among other things: (1) the continued operation of the Intake Facilities while the dissolution plan is implemented; (2) an accounting of assets and liabilities; (3) provisions for the payment of debts and obligations, including assumption of future payment for ongoing debts and obligations along with appropriate indemnity provisions as the Parties mutually agree; (4) the creation of a reserve account for known, unforeseen, and contingent liabilities; (5) a plan for liquidation of the assets; and (6) a mechanism for distribution of asset proceeds and excess funds among the Parties in accordance with their ownership interest, following payment

of all liabilities and obligations related to the Intake Facilities.

26.2. Transfer of Capacity Ownership

The dissolution plan may provide for transfers of Capacity ownership, for cash or other consideration, from a Party that seeks complete divestiture of ownership to a Party who plans to remain and withdraw water from the Willamette River at the Intake Facilities. The dissolution plan must provide for appropriate documents to vest proportionate ownership as tenants in common for owners that remain in joint ownership of the Intake Facilities.

26.3. Disputes

Any dispute regarding dissolution, the dissolution plan, division of Capacity or transfer of Capacity shall be first subject to the Dispute Resolution process of Section 25 and, if not resolved in Dispute Resolution or mediation, then as determined by the Circuit Court of Clackamas County under ORS 190.020 (2).

27. General Provisions

27.1. Warranties and Representations

Each Party hereto warrants and represents that it has the legal authority to enter into this Agreement.

27.2. Ordinance of the Governing Body

Each Party to this Agreement hereby represents that it has undertaken or will undertake the necessary public procedures to approve an ordinance in accordance with ORS 190.085. The ordinance shall authorize the Party's representatives to the Board of the Commission to modify the Exhibits to this Agreement as provided in Section 27.6. The Parties further agree that they shall file with the Secretary of State, within 30 days after the Effective Date, the filings described in ORS 190.085(2).

27.3. **Insurance Requirements**

The insurance requirements and limits necessary for the operations of the Intake Facilities are described in **Exhibit 12** and shall be purchased and maintained at all times. The requirements will be reviewed by the Board annually, and modified when necessary per recommendations from the Managing Agency.

27.4. **Other Agreements**

Each Party warrants that entry into this Agreement will not constitute a default under any other agreement or covenant the Party may be bound to.

27.5. **Interpretation**

Unless a clear contrary intention appears: (a) reference to any person includes such person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity; (b) reference to any gender includes each other gender; (c) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (d) reference to any Section, Schedule or Exhibit means such Section, Schedule or Exhibit to this Agreement, and references in any Section, Schedule, Exhibit or definition to any clause means such clause of such Section, Schedule, Exhibit or definition; (e) "hereunder," "hereof," "hereto," "herein," and words of similar import are references to this Agreement as a whole and not to any particular Section or other provision hereof; (f) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding," and "through" means "through and including"; (g) "including" (and with correlative meaning "include")

means including without limiting the generality of any description preceding such term; (h) reference to any law (including statutes and ordinances) means such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder; and reference to a singular number or person may include the plural number or person, and the plural number or person the singular.

27.6. **Exhibits**

The Parties agree that the Exhibits to this Agreement may be modified or amended by the Commission without other modification or amendment to this Agreement and without approval by the governing body of each Party. Upon execution of this Agreement, the Parties have agreed to include **Exhibits 1 through 13**, attached hereto and incorporated by reference. The purpose and intent of specific exhibits are set forth in other parts of this Agreement. Exhibits consisting of other agreements or contracts among other Parties to this Agreement, or with outside parties, may only be modified by consent of all of those named Parties/parties to those other agreements or contracts and not by the Commission without the consent of those other Parties/parties.

27.7. **Existing Agreements**

Existing Agreements between some or all of the Parties that affect or are affected by the Intake Facilities that are the subject of this Agreement are identified in **Exhibit 13**. These related agreements are not superseded or modified by this Agreement. Nothing in this Agreement shall be construed to require any alteration or modification of any other Existing Agreement. Specifically, the duration of this Agreement does not alter or extend the term of the Ground Lease.

27.8. **Periodic Review**

Exhibits shall be reviewed at least annually by the Board. Exhibits must be updated by resolution of the Board when ownership percentages change, new or expanded Capacity is placed in service, a new Party joins, an existing Party withdraws, or one or more Party(ies) purchases or sells an interest in the Intake Facilities.

27.9. **Severability**

Should any provision of this Agreement be rendered invalid by a court of competent jurisdiction or arbitrator with authority to render a provision invalid, it is agreed that every other part of the Agreement shall remain in full force and effect.

27.10. **No Joint and Several Liability**

Each Party to this Agreement assumes its own rights and obligations and does not assume the rights and obligations of any other Party.

27.11. **Counterparts**

This Agreement may be signed in one or more counterparts, and each counterpart shall be deemed to be an original instrument.

27.12. **Amendments and Modifications**

Except as provided in Section 27.6 for Exhibits, any modification or amendment to this Agreement requires unanimous approval of the Board and an affirmative vote of the governing bodies of all Parties. The amended Agreement must be signed by all Parties upon approval.

27.13. **Judicial Review and Attorney Fees**

This Agreement and its construction shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding between the Parties that arises from or relates to this Agreement shall be brought and conducted solely and

exclusively within the Circuit Court of Clackamas County for the State of Oregon. In any such claim, action, suit, or proceeding, the Parties shall bear their own fees and costs including attorney fees.

27.14. **Third Parties**

Except as expressly provided otherwise in this Agreement, the provisions of this Agreement are for the exclusive benefit of the Parties hereto and not for the benefit of any other persons, as third-party beneficiaries or otherwise, and this Agreement shall not be deemed to have conferred any rights, express or implied, upon any person not a Party to this Agreement.

27.15. **Non-Waiver**

Failure of any Party at any time to require performance of any provision of this Agreement shall not limit the Party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provisions.

27.16. **Time of the Essence**

Time is of the essence of each and every term, covenant, and condition set forth in this Agreement.

27.17. **Further Assurances**

Each Party agrees that it will reasonably consider cooperation in the execution of other documents and/or performance of other action as may be reasonably requested by another Party to more effectively consummate or achieve the purposes or subject matter of this Agreement.

27.18. **Signing Authority**

Each person signing this Agreement on behalf of a Party hereby warrants actual authority to bind their respective Party.

TUALATIN VALLEY WATER DISTRICT

By:

Richard Burke, President

APPROVED AS TO FORM

By:

Clark Balfour, District Counsel

CITY OF SHERWOOD

By:

Lee Weislogel, Mayor

APPROVED AS TO FORM

By:

Josh Soper, City Attorney

CITY OF TIGARD

By:

John Cook, Mayor

APPROVED AS TO FORM

By:

Shelby Rihala, City Attorney

CITY OF WILSONVILLE

By:

Tim Knapp, Mayor

APPROVED AS TO FORM

By:

Barbara Jacobson, City Attorney

CITY OF HILLSBORO

By:

Michael Brown, City Manager

APPROVED AS TO FORM

By:

Christopher Crean, City Attorney

CITY OF BEAVERTON

By:

Dennis Doyle, Mayor

APPROVED AS TO FORM

By:

Peter Livingston, City Attorney

After recording, return to:
City of Wilsonville
Attn: Legal Department
29799 SW Town Center Loop East
Wilsonville OR 97070

INTAKE FACILITIES EASEMENT

KNOW ALL BY THESE PRESENTS, that the **City of Wilsonville**, a duly chartered home rule municipal government of the State of Oregon (“Grantor Wilsonville”), and **Tualatin Valley Water District**, a duly organized water supply district under Oregon Revised Statutes (ORS) Chapter 264 (“Grantor TVWD”) (hereinafter collectively referred to as “Grantor”), as the legal owners of that certain real property described below (“Property”), for the consideration hereinafter stated, do hereby grant and convey unto the **Willamette River Intake Facilities Commission**, an ORS Chapter 190 entity of the State of Oregon (hereinafter referred to as “Grantee”), a permanent Intake Facilities Easement (“Easement”), effective the ____ day of _____ 2018 (“Effective Date”), in, under, across, and along the full width and length of that certain land owned by Grantor (“Easement Area”) and legally described and depicted as follows:

See **Exhibit A**, Easement legal description, and **Exhibit B**, drawing of Easement Area showing Intake Facilities, attached hereto and incorporated by reference as if fully set forth herein.

The true and actual consideration paid for this Easement, stated in terms of dollars, is Zero Dollars, but consists of value given or promised, which is agreed by Grantor and Grantee to be whole and adequate consideration.

TO HAVE AND TO HOLD the above-described Easement unto said Grantee for the benefit of the Grantee, in accordance with the conditions and covenants as follows:

1. **Scope of Easement.** Pursuant to the terms of the Willamette Intake Facilities Intergovernmental Agreement, dated _____, 2018 (the “IGA”), this Easement grants to Grantee the right, privilege, and authority to access, construct, inspect, operate, maintain, repair, replace, and remove the Intake Facilities. Grantor, upon request of Grantee, will authorize reasonable temporary work areas outside of the permanent easement area for a reasonable time period required for Grantee to perform construction, maintenance, repair, or replacement of the Intake Facilities. As used herein, Intake Facilities means the existing or upgraded Intake Facilities used to withdraw and transmit water from the authorized diversion point in the Willamette River to the agreed System Separation Point between the Willamette River Water Treatment Plant and the Willamette Water Supply System Water Treatment Plant. The System Separation Point means that point shown where the Intake Facilities terminate and water from the caisson of the Intake Facilities is separated by pumps into untreated water pipes conveying water to the two above-referenced Plants. There will be items beyond the System Separation Point that are separately owned and are

not assets of Grantee but rather are some assets owned by Grantor and some assets owned by only certain of the Grantees, as depicted on Exhibit B. The Intake Facilities and the System Separation Point, as noted on **Exhibit B** are all Permanent Assets and can remain with the Easement Area. All of those assets are permitted and will remain within the Easement Area. Except those buildings or structures depicted on **Exhibit B**, and for existing structures or improvements already located within the Easement Area, including but not limited to the pedestrian bridge, no buildings or structures shall be constructed within the Easement Area that would materially impede access to Grantee's Intake Facilities. Grantor shall, however, continue to have full access to the Easement Area and use of the same as long as the use does not unreasonably interfere with the uses granted to Grantee herein. Any expansion of the Intake Facilities beyond those shown on **Exhibit B** will require written approval of Grantor and an amendment to this Easement. Attached hereto as **Exhibit C** is a copy of Pipeline Easement No. 22670-EA from the Division of State Lands (DSL) to Grantor City of Wilsonville for that area at or below the ordinary low water mark which allows for the current in-water facilities. As part of this Easement, Grantor Wilsonville allows Grantee to exercise Wilsonville's rights under this DSL Easement, provided Grantee complies with all provisions. Grantor and Grantee understand the DSL Easement may need to be amended, with such amendment subject to DSL approval, in order to accommodate the new Intake Facilities. Grantor Wilsonville will use good faith efforts to work with DSL to obtain any such amendment, if needed.

2. **Definitions.** Capitalized terms not defined herein are as defined in the IGA.

3. **Security.** Grantee acknowledges and agrees that the Easement Area is currently and must remain a secure area and that access to the Easement Area must be closely monitored by Grantor Wilsonville. Therefore, except in the case of an emergency, Grantee shall give Grantor Wilsonville at least a 24-hour notice (may be by email or telephone) that Grantee will be coming to the Easement Area. In all cases, Grantee must sign in at the Willamette River Water Treatment Plant administration building before entering the Easement Area. While on site, Grantee must follow the Willamette River Water Treatment Plant security protocol. The administration building is staffed 24 hours a day, seven days a week. If this staffing protocol should ever change, Grantee will be given another means of immediate access (after required notice) before any change is made. Grantee shall give as much notice as reasonably possible in the case of an emergency. If Grantee wishes to come on to the Easement Area for routine operations, maintenance, or inspection and has not given at least 24 hours' advance notice, Grantee may contact Grantor Wilsonville and ask permission to come onto the Easement Area with shorter notice. Grantor Wilsonville may deny any shorter request that would interfere or conflict with already planned operations of the Willamette River Water Treatment Plant.

4. **AS IS CONDITION.** Except for warranty of title, Grantor makes no other representations or warranties with regard to the condition or suitability of the Easement Area for Grantee's intended use. This disclaimer of any and all warranties, excepting warranty of title, includes, but is not limited to, the environmental condition of the Easement Area and adjacent lands. It is Grantee's sole responsibility to conduct environmental due diligence and remediation for the Easement Area and any required archeological studies, if applicable, prior to construction. If any environmental hazards are discovered within the Easement Area, Grantee will be solely responsible for clean-up and remediation unless Grantee can prove that a Hazardous Substance release was caused by Grantor after the Effective Date of this Easement. Grantor will not be responsible to Grantee for the clean-up or remediation of any pre-existing environmental hazards, releases, or contamination. Grantee shall also be responsible for any exacerbation by Grantee of

any Hazardous Substance release that was caused by either Grantor after the Effective Date, but only to the extent of the exacerbation as long as Grantee had not been made aware of the condition caused by Grantor after the Effective Date and prior to the action that caused the exacerbation. Grantor's limited post-Effective Date responsibility for any Hazardous Substance condition within the Easement Area will apply only to the Grantor who actually caused the Hazardous Substance release after the Effective Date, and not to the other member of the collective Grantor(s). As used herein, "Hazardous Substances" include, but are not necessarily limited to, any substance, material, or product defined or designated as hazardous, toxic, radioactive, or dangerous, regulated wastes or substances, or any other similar term in or under any Environmental Laws as now apply or may apply in the future.

5. **Damage and Restoration.** Grantee, upon the initial expansion and construction of the Intake Facilities, and upon each and every occasion that the same be occupied for inspection, repair, replacement, addition to, or removal, shall restore the Easement Area and any improvements disturbed by Grantee, including but not limited to the pedestrian ramp, if any, to the same or better condition and repair, unless Grantor mutually agrees to some other proposed condition. Grantee shall be responsible to follow all City of Wilsonville public works and permitting standards during construction and shall be liable for all repair and restoration of any damage caused by Grantee's use of or operations within the Easement Area. Grantee shall also be liable to reimburse Grantor for any damage to Grantor's adjoining property caused by Grantee's construction or operations. Grantee shall have no obligation, however, to restore any building or structure placed within the Easement Area in violation of **Paragraph 1**.

6. **Relocation.** Grantor, or any one of them, may request relocation of the Easement Area and Intake Facilities impacted thereby, provided that such request for relocation is subject to written approval by Grantee, which approval shall not be unreasonably withheld or delayed. If requested by one Grantor, the other Grantor must also approve the requested relocation, in writing. If approved, the cost of relocation shall be at the requesting Grantor's sole expense.

7. **Duration of Easement.** This Easement begins on the Effective Date and will remain in place for as long as the Intake Facilities are used to transmit water to Grantee's water treatment plants for public consumption. Nothing contained herein, however, including duration, shall be construed in any way to alter or extend the term of the Ground Lease (wherein Grantor Wilsonville is the lessor) for the water pipeline currently used to convey water from the Intake Facilities to the Willamette Water Supply System Water Treatment Plant. If the Ground Lease is terminated, it will be incumbent upon Grantee to find another route to move the water from the Intake Facilities to its destination.

8. **Abandonment.** If the Intake Facilities are not used for a period of two years by Grantee, this Easement shall be deemed abandoned unless such lack of use is due to damage, destruction, reconstruction, or another event that temporarily prevents use by Grantee, and Grantee has made Grantor aware of the interruption in use and is exercising good faith to restore use. Notwithstanding the foregoing, if the Easement is not used for a period of seven years or longer, it will be deemed abandoned and this Easement will terminate. A delay in completion of construction of the Willamette Water Supply System Water Treatment Plant will not be considered an abandonment if longer than two years, as long as the construction is ongoing.

9. **Insurance.** Grantee will maintain and abide by the insurance requirements set forth in the IGA and will name Grantor as additional insureds with respect to this Easement. In addition, during construction activities and any time Hazardous Substances are being used within the Easement Area, other than in small quantities as generally needed for landscaping or as cleaning supplies, Grantee or Grantee's contractor shall carry full environmental coverage, including sudden and accidental and gradual release pollution liability coverage that will cover, among other things, environmental damage, any spillage of chemicals, fuels, oils, lubricants, de-icing, anti-freeze, or other hazardous materials, or disturbance of any Hazardous Substances during the performance of any work on the pipeline and/or other activities in the Easement Area or as a result of any pipe rupture, leakage, or other failure, written on an "occurrence" form policy. Grantee will be fully responsible for the cost of any clean-up of any released materials or disturbance, in accordance with Oregon Department of Environmental Quality ("DEQ") and Federal Environmental Protection Agency ("EPA") clean-up requirements. The amount of coverage will be agreed by Grantor and Grantee to be reasonable given the type of construction activity. Whatever the coverage might be, however, will not limit Grantee's liability or responsibility for any environmental damage claim or Hazardous Substances release. If said insurance is carried by Grantee's contractor, in lieu of Grantee, then Grantee must ensure that Grantor is named as an additional insured on the pollution policy in accordance with all requirements for naming Grantor as an additional insured. Nothing contained herein, however, shall be construed as a limitation on liability. Grantor shall maintain a direct right of action against Grantee and shall not be required to first seek relief through the insurance carrier or general contractor.

10. **Grantee's General Indemnity.** Grantee agrees to defend (using legal counsel reasonably acceptable to Grantor, taking into account insurance defense requirements), indemnify, reimburse, and hold harmless Grantor from and against any and all claims, demands, damages to person or property, including Grantor's own property, causes of action for injury or death, fines, penalties, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), liabilities, losses, proceedings, and/or suits that may be imposed on or claimed against Grantor, in whole or in part, directly or indirectly, arising from or in any way connected with: (a) any act, omission, or negligence by Grantee or its partners, officers, directors, members, managers, agents, employees, invitees, contractors, subcontractors, and suppliers; (b) any use, occupation, management, or control of the Easement Area by Grantee, including, but not limited to, the sudden or accidental release of raw water that causes damage to person or property; (c) any condition created in or about the Easement Area by Grantee, including any accident, injury, or damage occurring on or about the Easement Area during the term of this Easement, unless caused by Grantor or a third party unrelated to Grantee; (d) any breach, violation, or nonperformance of any of Grantee's obligations under this Easement; or (e) any damage caused on or to the Easement Area during Grantee's use or occupancy thereof, unless caused by Grantor or a third party unrelated to Grantee. As used throughout this Easement, "Grantee" includes all of Grantee's partners, officers, directors, members, managers, agents, employees, invitees, contractors, consultants, and suppliers. This indemnity shall apply to any claim, however caused, or regardless of the legal grounds and basis, in which Grantor is named.

11. **Grantee's Environmental Indemnity.** Grantee will be solely responsible for and agrees to defend (using legal counsel reasonably acceptable to Grantor, taking into account insurance defense requirements), indemnify, and hold harmless Grantor from and against all environmental costs claimed against or assessed against Grantor arising, in whole or in part, from acts or omissions of Grantee (including Grantee's own employees, agents, contractors, or suppliers)

on or about the Easement Area. Grantee will be responsible to promptly and fully address and remediate any claims for natural resources damages, as directed by the agency assessing such damage claim. Notwithstanding the foregoing, Grantee will not be responsible for, and does not indemnify Grantor for, any actions of Grantor, including Grantor's own employees, agents, contractors, suppliers, or any other tenant of Grantor, that cause environmental damage or a violation of any environmental law within the Easement Area occurring after the Effective Date of this Easement.

12. **Condemnation.** If the Easement Area or any interest therein is taken as a result of the exercise of the right of eminent domain or under threat thereof (a "Taking"), this Easement will terminate with regard to the portion that is taken by condemnation authority. If Grantee determines that the portion of the Easement Area taken does not feasibly permit the continuation of the operation of the Intake Facilities, this Easement will terminate. The termination will be effective as of the date of the Taking. Any condemnation award relating to the land will be the property of Grantor. Grantee will not be entitled to any proceeds of any such real property award, except Grantee will be entitled to any compensation attributed by the condemning authority to Grantee's ownership interest in the Intake Facilities and relocation expense and loss or interruption of business.

13. **Legal Effect and Assignment.** This Easement runs with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

14. **Defaults and Disputes.** Any legal action based on an alleged violation of this Easement will be brought in Clackamas County Circuit Court in the State of Oregon, and all remedies available at law or in equity will be available to the aggrieved Grantor(s) or Grantee. Except in those cases where either Grantor(s) or Grantee determines that equitable relief, including injunctive relief or specific performance, is needed, Grantor and Grantee agree to follow the mediation provision set forth in the IGA. In the case of equitable relief, either Grantor or Grantee may apply for immediate relief from the Court.

15. **Legal Action/Attorney Fees.** If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Easement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review. This attorney fee provision will not apply to mediation proceedings conducted pursuant to the IGA.

16. **Governing Law.** This Easement will be governed in accordance with the laws of the State of Oregon.

17. **Nonwaiver.** Any failure to enforce any provision of this Easement will not be deemed a waiver of the right to enforce that provision or any other provision of this Easement.

18. **Severability.** If any provision of this Easement is found to be void or unenforceable, it is the intent of the parties that the rest of the Easement shall remain in full force and effect, to the greatest extent allowed by law.

19. **Modification.** This Easement may not be modified unless signed by Grantor and Grantee and the modification is recorded.

20. **Time of the Essence.** Time is of the essence in performance of this Easement.

21. **Recording.** The fully executed original of this Easement shall be duly recorded in the Deed Records of Clackamas County, Oregon.

22. **Notices.** Any notice required or permitted under this Easement shall be in writing and shall be given when actually delivered in person or 48 hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To Grantor Wilsonville: City of Wilsonville
 Attn: Finance Director
 29799 SW Town Center Loop East
 Wilsonville, OR 97070

 with copy to: Wilsonville City Attorney
 29799 SW Town Center Loop East
 Wilsonville, OR 97070

To Grantor TVWD: Tualatin Valley Water District
 Attn: Chief Executive Officer
 1850 SW 170th Avenue
 Beaverton, OR 97003

 with copy to: District Counsel
 1850 SW 170th Avenue
 Beaverton, OR 97003

To Grantee: Willamette River Intake Facilities Commission
 Attn: Managing Agency
 1850 SW 170th Avenue
 Beaverton, OR 97003

[Signatures on following pages]

23. **Authority.** The individuals executing this Easement on behalf of Grantor and Grantee each represent and warrant that he/she has the full power and authority to do so on behalf of the respective party and to bind said party to the terms of this Easement.

IN WITNESS WHEREOF, the undersigned have executed this Easement effective as of the date first above written.

GRANTOR WILSONVILLE:

CITY OF WILSONVILLE

APPROVED AS TO LEGAL FORM:

By: _____
Bryan Cosgrove
As Its: City Manager

Barbara A. Jacobson, City Attorney

STATE OF OREGON)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 2018, by Bryan Cosgrove, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the City Manager of the City of Wilsonville, a municipal corporation of the State of Oregon, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public – State of Oregon

[Signatures continued on following pages]

GRANTOR TVWD:

TUALATIN VALLEY WATER DISTRICT

APPROVED AS TO LEGAL FORM:

By: _____
Mark Knudson, P.E.
As Its: Chief Executive Officer

Clark Balfour, Counsel

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on _____, 2018, by Mark Knudson, P.E., who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Chief Executive Officer of Tualatin Valley Water District, a water supply district organized under ORS Chapter 264, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public – State of Oregon

[Signatures continued on following pages]

ACCEPTED BY:

GRANTEE:

TUALATIN VALLEY WATER DISTRICT

By: _____
Richard Schmidt
As Its: Board President

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on _____, 2018, by Richard Schmidt, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Board President of the Tualatin Valley Water District, a water supply district organized under ORS Chapter 264, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public – State of Oregon

APPROVED AS TO FORM:

Clark Balfour, Counsel

[Signatures continued on following pages]

ACCEPTED BY:

GRANTEE:

CITY OF BEAVERTON

By: _____
Dennis Doyle
As Its: Mayor

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on _____, 2018, by Dennis Doyle, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Mayor of the City of Beaverton, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public – State of Oregon

APPROVED AS TO FORM:

Peter Livingston, City Attorney

[Signatures continued on following pages]

ACCEPTED BY:

GRANTEE:

CITY OF HILLSBORO

By: _____
Michael Brown
As Its: City Manager

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on _____, 2018,
by Michael Bropwn, who personally appeared before me, was identified by satisfactory evidence,
and acknowledged that he executed the instrument in his authorized capacity as the City Manager of
the City of Hillsboro, to be the free and voluntary act of such party for the uses and purposes
mentioned in the instrument.

Notary Public – State of Oregon

APPROVED AS TO FORM:

Christopher Crean, City Attorney

[Signatures continued on following pages]

ACCEPTED BY:

GRANTEE:

CITY OF SHERWOOD

By: _____

Lee Weislogel

As Its: Mayor

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on _____, 2018, by Krisanna Clark, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that she executed the instrument in her authorized capacity as the Mayor of the City of Sherwood, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public – State of Oregon

APPROVED AS TO FORM:

Josh Soper, City Attorney

[Signatures continued on following pages]

ACCEPTED BY:

GRANTEE:

CITY OF TIGARD

By: _____
John Cook
As Its: Mayor

STATE OF OREGON)
) ss.
County of Washington)

This instrument was acknowledged before me on _____, 2018, by John Cook, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Mayor of the City of Tigard, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public – State of Oregon

APPROVED AS TO FORM:

Shelby Rihala, City Attorney

[Signatures continued on following page]

ACCEPTED BY:

GRANTEE:

CITY OF WILSONVILLE

By: _____
Tim Knapp
As Its: Mayor

STATE OF OREGON)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 2018, by Tim Knapp, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Mayor of the City of Wilsonville, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public – State of Oregon

APPROVED AS TO FORM:

Barbara A. Jacobson, City Attorney

APPROVED AS TO LEGAL DESCRIPTION:

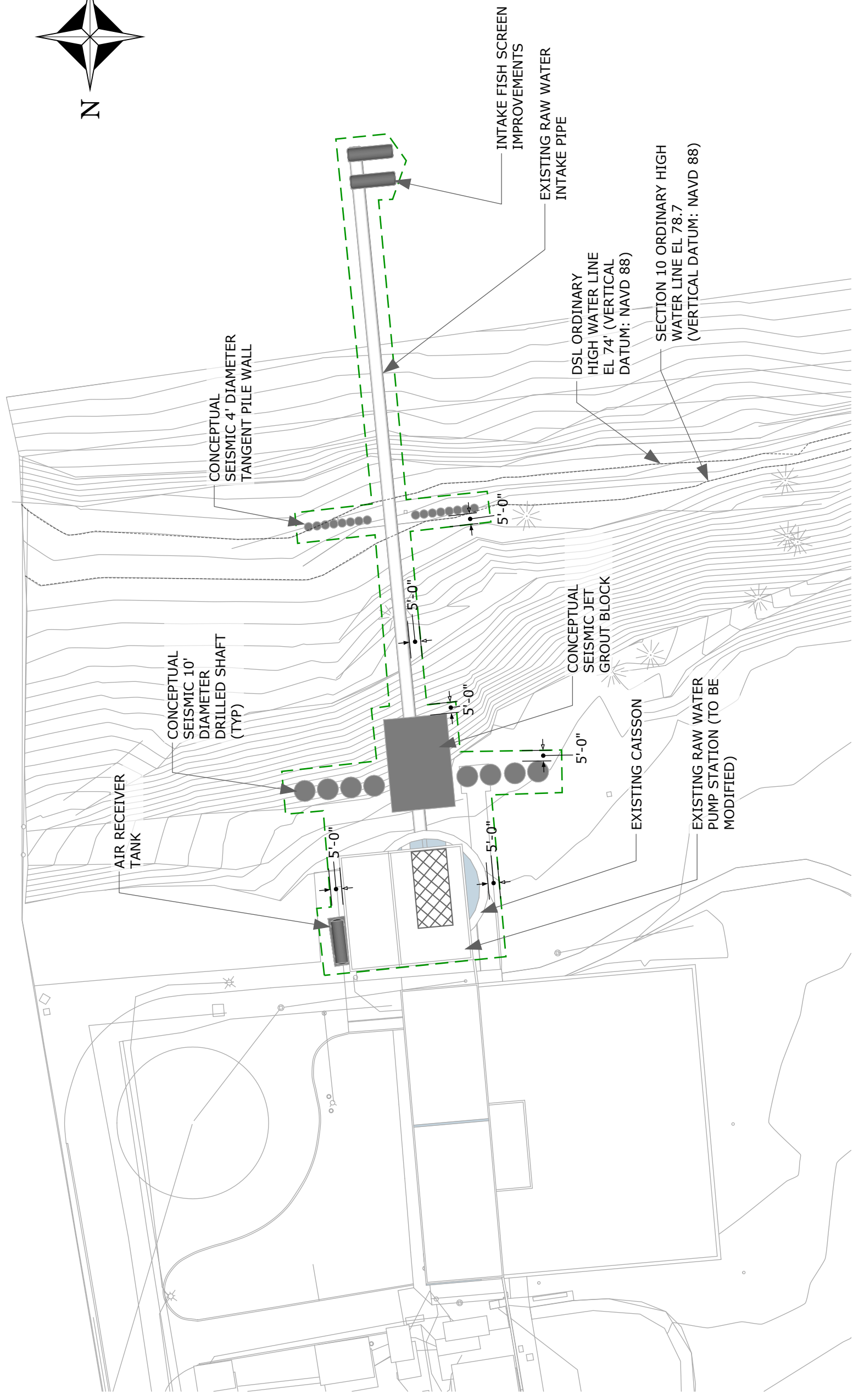
Nancy J.T. Kraushaar, P.E., City Engineer
City of Wilsonville, Oregon

EXHIBIT A

PLACEHOLDER FOR LEGAL DESCRIPTION

To be completed at a later date

EXHIBIT B



- EASEMENT
- EXISTING INFRASTRUCTURE
- NEW WILLAMETTE INTAKE FACILITIES INFRASTRUCTURE
- SYSTEM SEPARATION AREA

NOTES:
 1) EXHIBIT B IS A GENERAL LAYOUT DESCRIPTION BASED ON PRELIMINARY DESIGN CONCEPTS, BUT IS SUBJECT TO FINAL APPROVAL AT THE TIME EXHIBIT A IS GENERATED AND APPROVED.
 2) THE SYSTEM SEPARATION POINT IS LOCATED AT THE POINT WITHIN SYSTEM SEPARATION AREA THAT THE RAW WATER ENTERS THE RAW WATER PUMPS.
 3) THERE ARE ITEMS SUCH AS PUMPS AND ASSOCIATED MECHANICAL AND ELECTRICAL EQUIPMENT THAT ARE LOCATED WITHIN THE SYSTEM SEPARATION AREA THAT ARE NOT PART OF THE WILLAMETTE INTAKE FACILITIES EASEMENT.

**EXHIBIT B
 WILLAMETTE INTAKE
 FACILITIES EASEMENT**
 JANUARY 2018

scale: 50'

EXHIBIT C

Exhibit 1 - Willamette Intake Facilities Easement

STATE OF OREGON Division of State Lands

PIPELINE EASEMENT NO. 22670-EA

The STATE OF OREGON, by and through its Division of State Lands, GRANTOR, for and in consideration of Two Hundred and Fifty Dollars and no cent (\$250.00), hereby grants to City of Wilsonville, GRANTEE, an easement and right to construct, maintain, operate and replace a water intake structure and pipeline in, over, upon, and across the State-owned submerged and submersible land of the Willamette River, in Clackamas County, Oregon, described as follows:

That portion of the following described land being below the Ordinary Low Water line as defined by elevation 55.0 feet above mean sea level, NGVD 1929, and being described as follows:

A strip of land, variable in width located within the Southwest one-quarter of Section 23, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. The centerline of said strip being described as commencing at the Northwest corner of said Section 23, Township 3 South, Range 1 West, Willamette Meridian, from which the North one-quarter corner of said Section 23 bears South 88°24'47" East, a distance of 2631.38 feet;

thence South 07°32'58" East, a distance of 3081.79 feet to the TRUE POINT OF BEGINNING;

thence South 03°04'44" East, a distance of 230 feet more or less to the said Ordinary Low Water line;

thence continuing South 03°04'44" East, a distance of 104.20 feet to the terminus of said centerline.

The width of said strip East of said centerline being 12 feet measured at right angles to said centerline from the point of beginning to its terminus. The width of said strip West of said centerline being 12 feet measured at right angles to said centerline from the point of beginning to a point 28 feet from its terminus; varying in width by straight line from 12 feet at 28 feet from the terminus to 17 feet at 14 feet from its terminus; varying in width by straight line from 17 feet at 14 feet from its terminus to 12 feet at the terminus. Said strip of land encompassing 2,571 square feet or 0.06 acres, more or less, and as shown on the attached Exhibit "A".

EXHIBIT C

Exhibit 1 - Willamette Intake Facilities Easement

TO HAVE AND TO HOLD the same unto GRANTEE for 40 years, subject to the following conditions:

1. Construction in navigable waters shall conform to standards and specifications set by the U.S. Army Corps of Engineers or the U.S. Coast Guard for this Project.
2. The bed and banks of the waterway shall be restored to a condition acceptable to the GRANTOR as soon as construction or maintenance is completed.
3. Any blasting which may be necessary in the construction of the pipeline shall be performed according to the laws of the State.
4. GRANTOR reserves the right to lease or otherwise utilize the State-owned lands within the granted area hereinabove described in a manner and for uses that will not be incompatible with the primary use for which this easement is granted.
5. GRANTOR shall have the right to stop operation of the pipeline for noncompliance with the conditions of this easement or any lawful requirement by a regulatory agency of this State.
6. GRANTEE agrees to defend and hold GRANTOR harmless from any and all claims suffered or alleged to be suffered on the premises. Further, GRANTEE shall be responsible for the payment of any fines or penalties charged against the premises as a result of GRANTEE's action in not complying with laws or regulations affecting the premises.
7. If the facility for which this easement is granted is not used for a period of five (5) consecutive years, this easement may be terminated by written notice from GRANTOR to GRANTEE at its last known address. Upon termination, GRANTEE will have 90 days to remove the pipeline and appurtenances from the State-owned lands.
8. Nothing in this document may be construed as permission, except during construction or maintenance periods, to GRANTEE to interfere with navigation or reduce the public's rights to the free and unimpeded use of the navigable waters of the State of Oregon within the boundaries of this easement; provided, however, that to the extent necessary to facilitate construction and maintenance of these facilities, GRANTEE may so interfere, but shall keep such interference to an absolute minimum.
9. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the leasehold or STATE by the assessing agency.
10. GRANTEE shall use the property subject to this easement only in a manner, or for such purposes, that assure fair and nondiscriminatory treatment of all persons

EXHIBIT C

Exhibit 1 - Willamette Intake Facilities Easement

without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.

This easement does not convey an estate in fee simple of the lands used for a right-of-way. This grant is for an easement only, and title remains in the State of Oregon.

WITNESS the seal of the Division of State Lands affixed this 13th day of July, 2000.



STATE OF OREGON, acting by and through its Division of State Lands.

Stephen J. Purchase
Stephen J. Purchase

STATE OF Oregon)
) ss
County of Marion)

The foregoing instrument was acknowledged before me this 15th day of July, 2000, by Stephen J. Purchase, the Assistant Director (title) of the Division of State Lands.

Beth Smith
Signature
My Commission Expires 9/12, 2003

J:\Attachment\Awes\LAS\EA Easements\22670-EA.doc



EXHIBIT C

Exhibit 1 - Willamette Intake Facilities Easement

EXHIBIT TO ACCOMPANY DESCRIPTION

'A'

Water Intake Easement

SW 1/4, Section 23, Township 3 South, Range 1 West,

Willamette Meridian, City of Wilsonville, Clackamas County, Oregon

SECTION CORNER

107

15 1/4
23 2/3

X = 7614299.82
Y = 604850.52

S 88° 24' 47" E

2631.38'

14

X = 7616930.19

Y = 604777.65

23

ONE-QUARTER CORNER

EA-22670

Prepared for:

The CITY of WILSONVILLE

TRUE POINT OF BEGINNING

3081.79'

S 07° 32' 58" E

X = 7614704.71
Y = 601795.45

1



Scale: 1" = 50'

AREA ABOVE ELEVATION 55 FEET

BEARINGS ARE BASED ON OREGON COORDINATE SYSTEM, NORTH ZONE PRIVATE SURVEY NUMBER 25005 CLACKAMAS COUNTY SURVEY RECORDS

ORDINARY LOW WATER LINE AT ELEVATION 55 FEET ABOVE MEAN SEA LEVEL, NGVD 1929

X = 7614717.06
Y = 601565.78

3

WILLAMETTE RIVER



AREA COVERED BY EASEMENT

Prepared by:
DEHAAS & ASSOCIATES, INC.
SUITE 300 - A.G.C. CENTER
9450 S.W. COMMERCE CIRCLE
WILSONVILLE, OREGON 97070
PHONE: (503) 682-2450
FAX: (503) 682-4018

CENTERLINE TERMINUS

13'

13'

X = 7614722.66
Y = 601461.73

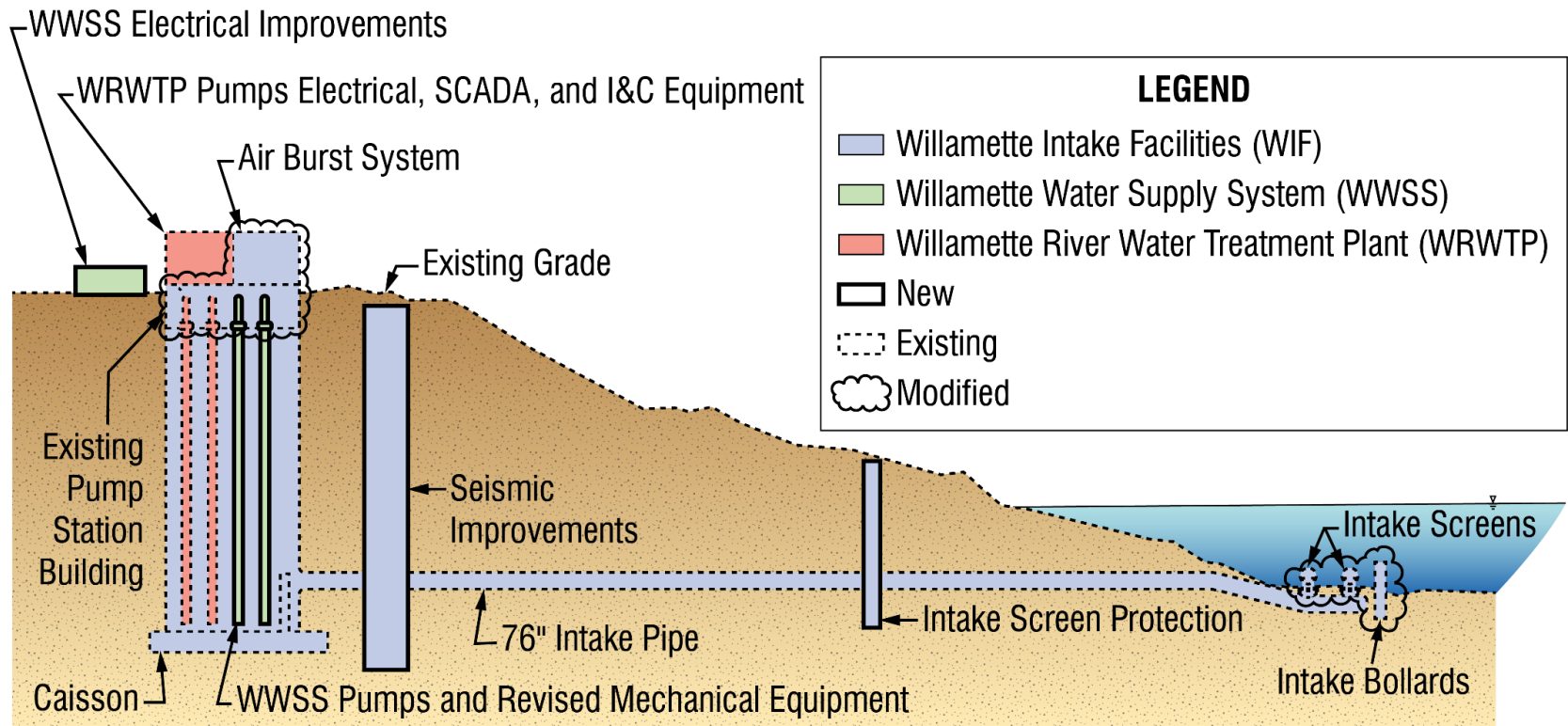
12'

12'

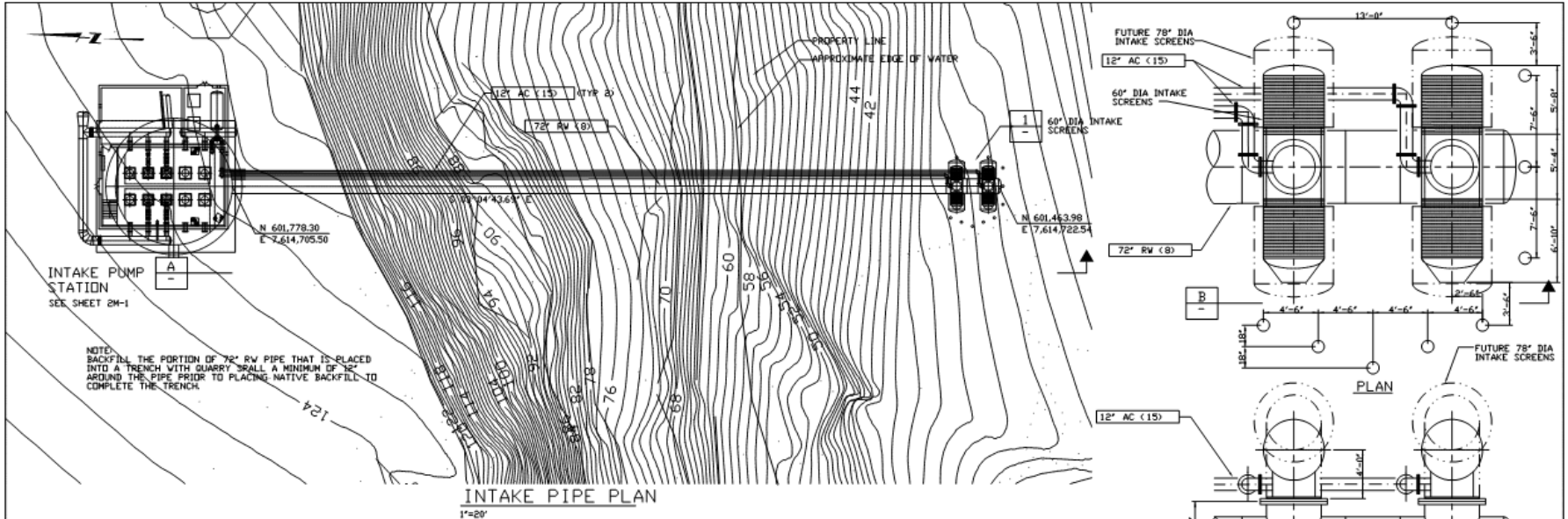
4

Exhibit 2
Willamette Intake Facilities
Preliminary Design Drawings and
Layouts

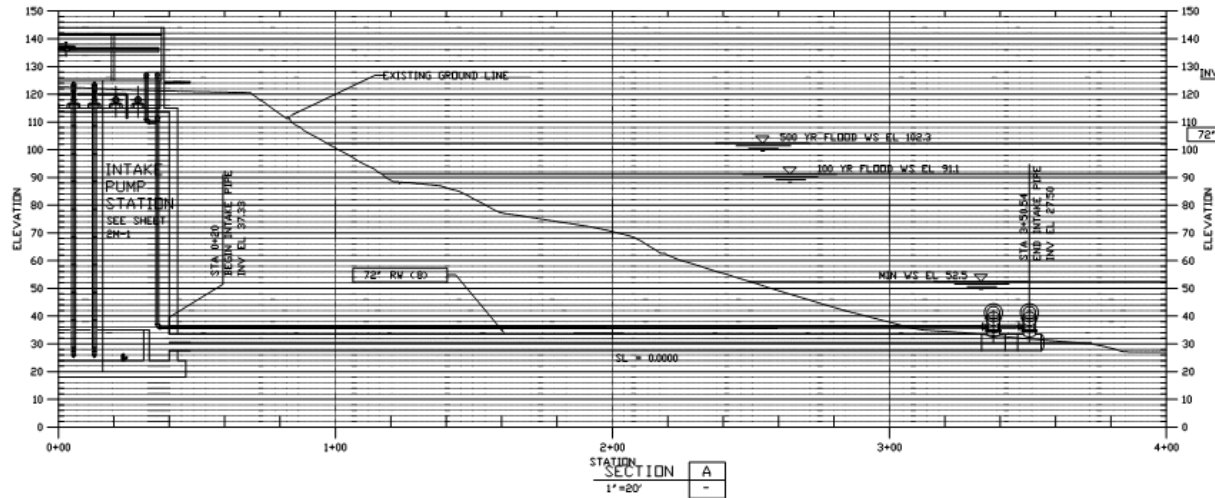
New, Existing, and Modified WIF Project Components



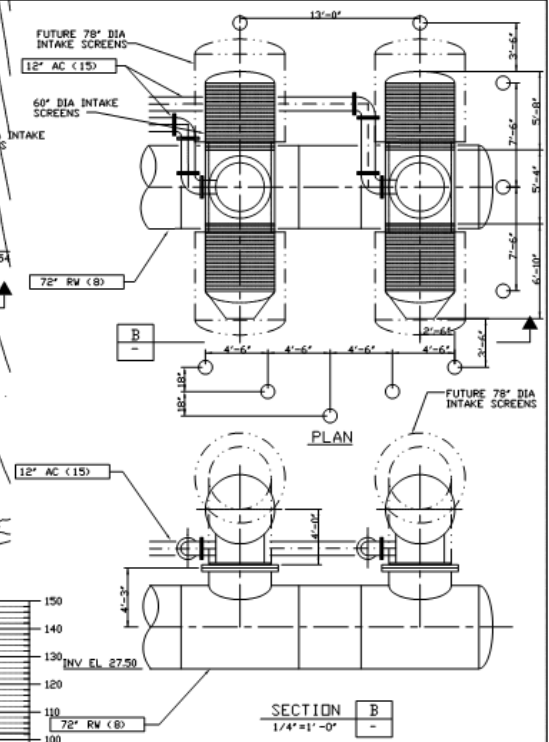
The System Separation Point is located where the raw water enters the raw water pumps.



INTAKE PIPE PLAN
1"=20'



SECTION A
1"=20'



SECTION B
1/4"=1'-0"

DETAIL 1
1/4"=1'-0"

RECORD DRAWING
This record drawing has been prepared, entirely or in part on the basis of unverified information compiled and furnished by others to the preparer who is not responsible for any inaccuracies, errors or omissions which may have been incorporated into the document as a result

REV	DATE	BY	DESCRIPTION
0			
1			

SCALE	AS NOTED	WARNING	DESIGNED	SUBMITTED BY
		0 1/2 1	E. VEST	
		F THIS BAR DOES NOT MEASURE IF THEN DRAWING IS NOT TO SCALE	DRAWN	LICENSE NO. DATE
			B. PATRICK	
			CHECKED	LICENSE NO. DATE

MONTGOMERY WATSON
Portland, Oregon

City of **WILSONVILLE**
in OREGON

CITY OF WILSONVILLE
WILANETTE RIVER WATER TREATMENT PLANT
INTAKE SCREENS AND PIPELINE PLAN AND SECTION

SHEET
C-22

Exhibit 3
Willamette Intake Facilities
Capacity Ownership Allocations

Description:

Willamette Intake Facilities Capacity Ownership		
Entity	Capacity (mgd) (1)	Percent
Wilsonville	25.0	16.67%
Tualatin Valley Water District	59.1	39.40%
Sherwood (2)	9.7	6.47%
Tigard (3)	15.0	10.00%
Hillsboro (3)	36.2	24.13%
Beaverton (3)	5.0	3.33%
Total	150.00	100.00%

- (1) Estimated capacity which will be evaluated through additional physical hydraulic modeling.
- (2) Includes existing ownership interest with allocation of increased intake capacity to 150 mgd and estimated capacity to be purchased from TVWD.
- (3) Estimated capacity to be purchased by each entity from TVWD.

Willamette Intake Facilities – Asset Values at Original (2002) Cost of Construction*

Project Element	Wilsonville	TVWD	Sherwood	Total
Screening	\$ 207,147	\$ 466,082	\$ 51,787	\$ 725,016
Intake Pipe	\$ 228,029	\$ 1,083,139	\$ 57,007	\$ 1,368,175
Wetwell	\$ 364,847	\$ 1,733,021	\$ 91,212	\$ 2,189,079
Pump Station Building	\$ 233,834	\$ 1,110,709	\$ 58,458	\$ 1,403,001
Total	\$ 1,033,857	\$ 4,392,950	\$ 258,464	\$ 5,685,271

*Notes:

- (1) Original cost shares based on 2002 original construction costs and do not include allocation of program management costs.
- (2) Pumps, Electrical Wire & Conduit, Electrical Equipment and the Raw Water Pipeline from the caisson to the Willamette River Water Treatment Plant were included as part of the original cost of construction in 2002, but are not included here since those assets are not included in the Willamette Intake Facilities.

Methodology used to establish buy-in costs for each Party:

1. TVWD & Wilsonville identified TVWD's share of **Original Direct Cost** (2002) for each asset included in the purchase and sale
2. For each asset, added TVWD's share of **Program Costs** from original Wilsonville-TVWD construction (2002) to **Original Direct Cost** to establish **TVWD Original Cost**
3. Subtracted depreciation from **TVWD Original Cost** to establish **TVWD Book Value**
4. Added **TVWD Cost of Capital** (from 2002 to 2016 at 4% per year) to **TVWD Book Value** to establish **TVWD Asset Offer Price**
5. Added one-time Administrative Cost (3% of **Asset Offer Price**) to **TVWD Asset Offer Price** to establish **Buy-in Offer Price**
6. Calculated cost per MGD of **Buy-in Offer Price** based on TVWD available capacity of 59.7 MGD to establish **Buy-in Offer Unit Price**
7. For each asset being purchased by each Party, multiplied the **Buy-in Unit Price** times the capacity being purchased by the party to establish **Buy-in Offer Price** by Party by asset
8. For each party, totaled the Party's **Buy-in Offer Price** for all assets being purchased

Resulting Capacity and Cost of Purchase for WIF Assets Acquired from TVWD*

Acquired Capacity (MGD) from TVWD by Party by Asset								
Project Element	Wilsonville	TVWD	Sherwood	Tigard	Tualatin	Hillsboro	Beaverton	Total
Screening	0	0	0	0	0	0	0	0
Intake Pipe	0	0	3.45	15	0	36.2	5	59.65
Wetwell	0	0	3.45	15	0	36.2	5	59.65
Pump Station Building	0	0	3.45	15	0	36.2	5	59.65
Cost of Purchase (\$) from TVWD by Party by Asset								
Project Element	Wilsonville	TVWD	Sherwood	Tigard	Tualatin	Hillsboro	Beaverton	Total
Screening	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Intake Pipe	\$ -	\$ -	\$ 50,462	\$ 219,399	\$ -	\$ 529,482	\$ 73,133	\$ 872,476
Wetwell	\$ -	\$ -	\$ 80,739	\$ 351,038	\$ -	\$ 847,171	\$ 117,013	\$ 1,395,961
Pump Station Building	\$ -	\$ -	\$ 41,355	\$ 179,802	\$ -	\$ 433,923	\$ 59,934	\$ 715,014
Total	\$ -	\$ -	\$ 172,555	\$ 750,239	\$ -	\$ 1,810,577	\$ 250,080	\$ 2,983,451

*Notes:

1. Raw water Pumps, Electrical Wire & Conduit, Electrical Equipment, and Raw Water Pipeline are not WIF assets and transfers of Raw Water Pipeline capacity are covered under separate agreements.
2. Wilsonville acquired 5 MGD of capacity in existing Raw Water Pipeline to the WRWTP from TVWD under separate agreement.
3. Sherwood acquired 4.7 MGD of capacity in existing Raw Water Pipeline to the WRWTP from TVWD under a separate agreement.
4. Tigard will not acquire capacity in the existing Raw Water Pipeline to the WRWTP or the future WWSS at this time. Tigard will conduct planning in the future to determine if Tigard will use capacity from the WWSS system or from the WRWTP

system, in which case Tigard will need to obtain Raw Water Pipeline capacity from TVWD and/or capacity in the WWSS.

Willamette Intake Facilities Seismic and Facilities Improvements (1)		
Location	Year	Cost
Wilsonville		
Tualatin Valley Water District		
Sherwood		
Tigard		
Hillsboro		
Beaverton		
Total:		

(1) To be updated after project completion with actual design and construction costs.

Exhibit 4 Real Property

Description:

The Real Property currently owned by Wilsonville and TVWD upon which the Willamette Intake Facilities and appurtenances are located are described in Attachment 1, Real Property Legal Description and Map, and Attachment 2, Special Warranty Deed.

Order No: 216629

LEGAL DESCRIPTION**PARCEL I:**

Being a part of the R. V. Short Donation Land Claim in Township 3 South, Range 1 West, Willamette Meridian, in the County of Clackamas and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point on the line between Sections 22 and 23, said township and range, 792.23 feet South 0°03' East of the Northwest corner of said Section 23; running thence South 0°03' East on said section line 604.99 feet to the Southwest corner of M.A. Holbrook Tract as recorded in Book 159, Page 546, Records of Deed for Clackamas County, Oregon; thence North 89°50' East 1239.0 feet along the South boundary of the said Holbrook Tract to the East line of the above mentioned Short DLC; thence North 0°17' West along the East boundary of the said Short DLC 545.7 feet to a point; thence North 87°25' West 1237.9 feet to the place of beginning.

EXCEPT the West 20 feet thereof conveyed for private roadway.

AND FURTHER EXCEPTING THEREFROM that portion included in Quit Claim Deed to Joe Bernert Towing Co., Inc. recorded December 29, 1987 as Recorder's Fee No. 87057703.

PARCEL II:

A tract of land in a portion of the Robert V. Short DLC No.46 located in the Northwest and Southwest one-quarters of Section 23, Township 3 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a point on the North line of said Section 23, that bears East a distance of 20.00 feet from the Northwest corner of said Section 23; thence South 0°03'00" East, parallel with and 20 feet Easterly of the West line of said Section 23, a distance of 1397.22 feet to an interior angle corner in the Northerly line of that tract of land conveyed to Hardy S. Young by Deed, described in and recorded under Fee Number 74-10618 Clackamas County Deed Records; thence North 89°51' East, along said Young's North line, a distance of 580.00 feet to a 5/8 inch iron rod at the Northwest corner of that tract of land conveyed as a Tract I to Joe Bernert Towing Company, Inc., in a contract recorded under Fee Number 75-9882, Deed Records; thence South 0°03' East, along the Westerly line of said Towing Company Tract, a distance of 220.00 feet to a 5/8 inch iron rod at the Northeast corner of that tract of land conveyed to Joe Bernert Towing Company, Inc., by a contract described in and recorded under Fee Number 90-2243, Deed Records; thence South 89°51' West, along the Northerly line of last said tract, a distance of 60.00 feet to a 5/8 inch iron rod; thence South 77°08'26" West, along last said Towing Company Tract, a distance of 492.25 feet to a 5/8 inch iron rod; thence South 0°03' East, along the Westerly line of last said tract, a distance of 141.69 feet to a 5/8 inch iron rod; thence South 49°54'37" East, along a Westerly line of last said tract, a distance of 659.97 feet to a 5/8 inch iron rod at an angle corner in said Westerly line; thence South 9°47'13" East, along said Westerly line, a distance of 747.37 feet to a 5/8 inch iron rod, being the South corner of said Fee Number 90-2243, said South corner being on the West line of said Tract I of Fee Number 75-9882; thence South 0°03' East, along the West line of said Tract I, a distance of 225.18 feet, more or less, to the South line of said Fee Number 74-10618; thence South 83°31'40" West, along the South line of said Fee Number 74-10618, a distance of 517.54 feet, more or less, to the mouth of a ravine; thence

Order No: 216629

LEGAL DESCRIPTION

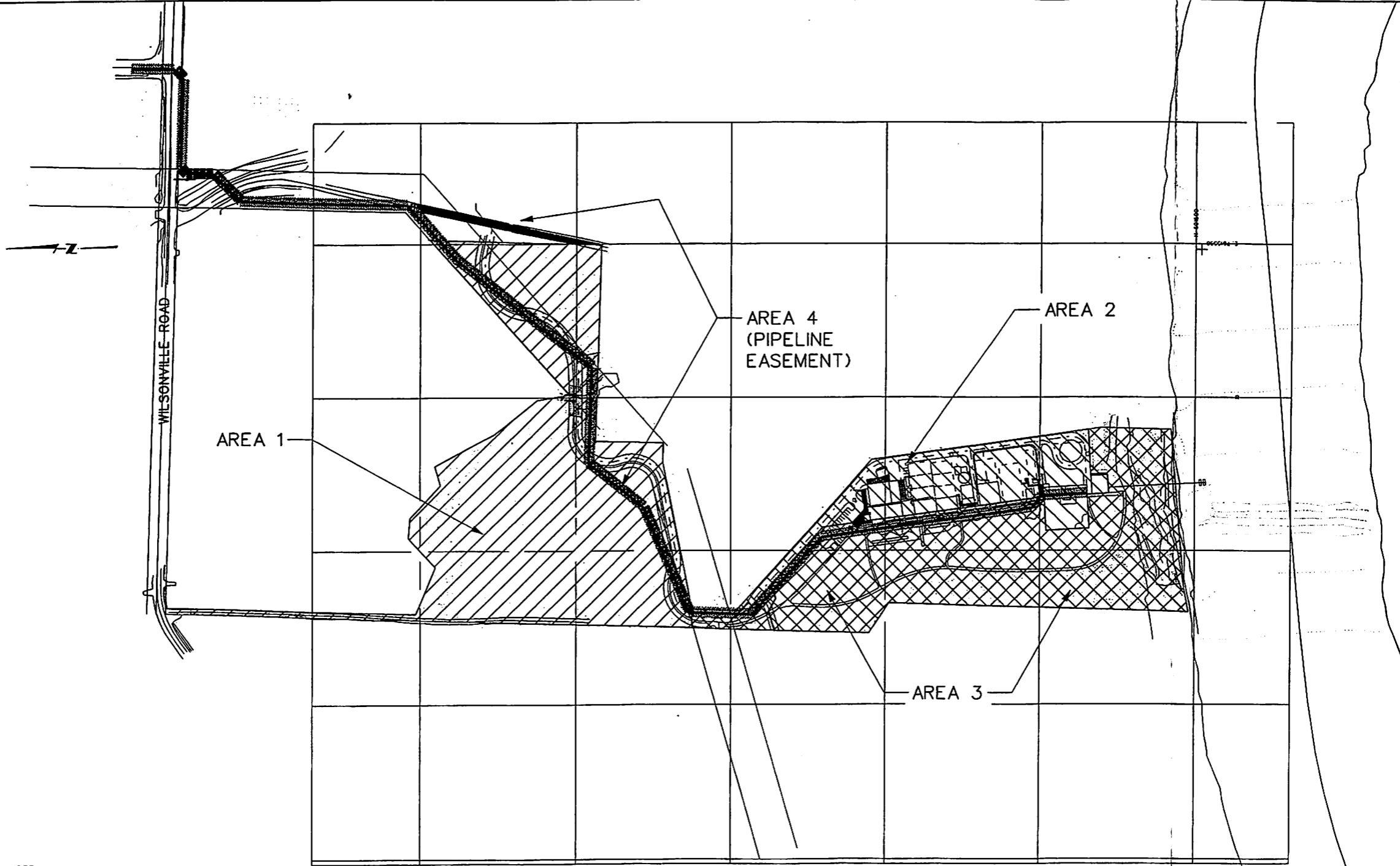
South 77°46'41" West, continuing along the South line of Fee Number 74-10618, a distance of 79.72 feet to the Southwest corner thereof; thence North, along the Westerly line of said Fee Number 74-10618, a distance of 966.90 feet to a point; thence North 58°00' West, a distance of 117.48 feet to a point on the West line of said Section 23; thence North 0°03" West, along said West section line, a distance of 2299.44 feet to the Northwest corner of said Section 23; thence East a distance of 20.00 feet returning to the point of beginning.

PARCEL III:

TOGETHER WITH an easement for road and utility purposes over the following described parcel:

A tract of land situated in Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows, to wit:

A strip of land 60.00 feet in width and heretofore known as the Industrial Way Road easement, the centerline intersection of said 60.00 foot strip of land with the centerline of Market Road No. 6 (also known as Wilsonville Road), which intersection is North 89°56' East along the centerline of Market Road No. 6, 1278.43 feet from the Northwest corner of said Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, from said place of beginning; thence leaving said centerline of Market Road No. 6, South 31°36' East along the centerline of said 60.00 foot strip of land 263.90 feet; thence South 17°48' East 64.49 feet; thence South 10°22' West, 145.34 feet to the intersection of the North line of the Bailey D.L.C. No. 45; the same point of intersection being South 89°55' East 163.15 feet from the Northwest corner of the Thomas Bailey D.L.C. No. 45; thence South 10°22' West 906.74 feet along the centerline of said 60.00 foot strip of land South to the point of intersection of said centerline with the West line of said Thomas Bailey D.L.C.



NOTE:
 AREA 4 - OFF-SITE LOCATION FOR ACCESS AND PIPELINE IS OWNED BY THE CITY WITHIN THE INDUSTRIAL WAY EASEMENT, BUT IS SHOWN NEARBY IN CONTEMPLATION OF A PROBABLE LOCATION ADJUSTMENT BY DEVELOPMENT REVIEW BOARD AND ACQUISITION FROM PROPERTY OWNERS.

CITY OF WILSONVILLE
 WILLAMETTE RIVER WATER TREATMENT PLANT

EXHIBIT **B**
 GENERAL AREA MAP

We certify this instrument to be a true
copy recorded 7/28/2000
Book _____, Page _____, For 2000-048871
Records of Clackamas County, Oregon.

CHICAGO TITLE INSURANCE COMPANY

By C. Knapp

SPECIAL WARRANTY DEED

City of Wilsonville, an Oregon Municipal corporation, Grantor, grants, conveys and specially warrants to **Tualatin Valley Water District, a water supply district, Grantee,** an undivided forty-nine percent (49%) interest as tenant in common, and the City of Wilsonville reserves to itself the remaining fifty-one percent (51%) interest as tenant in common, in and to the following described real property free of encumbrances created or suffered by the Grantor except as specifically set forth herein, situated in Clackamas County, Oregon, to-wit:

Parcels I and II, together with Parcel III, an easement, as described in the attached Exhibit A and incorporated by reference herein.

The true consideration for this conveyance is \$1,291,350.00.

The said property is free of all encumbrances created or suffered by Grantor, except easements, access agreements, roadway agreements, and maintenance agreements of record, and changes (if any) in the location of the Willamette River and shall be subject to the following covenants to run with the land:

1. The above described real property is dedicated, conveyed and granted for domestic and municipal water supply purposes and such accessory uses as may be necessary and convenient thereto, together with the following purposes:

1.1 Area 1, which is the northern portion of the property as set forth in Exhibit B, attached hereto and incorporated herein, shall include an access road and bicycle and pedestrian access to Areas 2 and 3. The Grantor reserves Area 1 for park and recreational purposes at the sole risk and cost of Grantor; provided, however, upon one-year notice by either Grantor or Grantee to the other, park and recreation usage shall terminate to accommodate use for future domestic and municipal water supply facility capacity in excess of the 70 mgd facilities in Area 2, subject to required land use approval and such other governmental approvals as may be required. Nothing in the foregoing sentence is intended to limit or restrict the parties from agreeing to use the property in any manner in support of the Supply Facilities and/or such governmental regulations as may be imposed on the parties for the operation of up to a 70 mgd capacity plant.

After recording, return to:
City Recorder, City of Wilsonville
30000 SW Town Center Loop E.
Wilsonville, OR 97070

Until requested otherwise, send tax statements to:
No Change

- 1.2 Area 2 is that portion on the site which includes the multi-barrier treatment plant with expansion up to 70 mgd (the wall and area behind the wall) as set forth in Exhibit B.
 - 1.3 Area 3 is the "Meadow Area" and Water Feature as set forth on Exhibit B and is to be developed for passive recreational use and will have bicycle and pedestrian use and access. This public bicycle and pedestrian access will also extend to the Plant.
 - 1.4 Area 4 is the 70' access easement, together with such other property and/or easements necessary for the alignment of the access roadway from the property to Wilsonville Road and the water transmission line from the Treatment Plant to Wilsonville Road as set forth in Exhibit B. Thereafter, the transmission line will be in the Grantor's Wilsonville Road right-of-way until it joins the City's transmission system at or about Station 67⁺00^{+/-} of the Grantor's Kinsman Road right-of-way. The Grantor's Wilsonville Road and Kinsman Road right-of-ways are not intended to be conveyed to Grantee as part of this deed or otherwise.
2. Grantee's 49% ownership interest may be conveyed in whole or in part by Grantee, with prior approval by Grantor to the Willamette Water Supply Agency (WWSA) for a period of one year (365 days) from June 30, 2000, and thereafter without prior approval by Grantor; provided, however, WWSA's membership remains one of local governments and water districts. Neither Grantor nor Grantee shall convey to any person or entity which is not a local government or water district without the prior consent of the other. Each party's consent shall be based in its sole discretion on whether an allocation or conveyance to an entity other than a local government or water district is in the best interest of, in the case of Grantor, its citizens and, in the case of Grantee, its customers. Nothing in this paragraph is intended to prevent Grantee from conveying to Grantor or Grantor from conveying to Grantee its respective interest as the parties may agree in the future.
 3. Neither Grantor nor Grantee shall seek or obtain through any legal proceedings an administrative or judicial partition of the Property or sale of the Property in lieu of partition, without the prior written consent of the other. Paragraph 2 above is not intended or meant to create a partition of the Property and this paragraph on partition is not intended or meant to prevent an allocation and conveyance of Grantee's interest as set forth in paragraph 2 above.
 4. Nothing in the above covenants is intended to prevent a deletion, amendment, or modification of the above covenants if expressly agreed to by Grantor and Grantee, their respective successors in interest, if any, in writing and duly recorded.

Grantee has inspected the said property and accepts the condition of the said property as is.

EXHIBIT 5 - Water Rights Authorized for Use at Willamette Intake Facilities

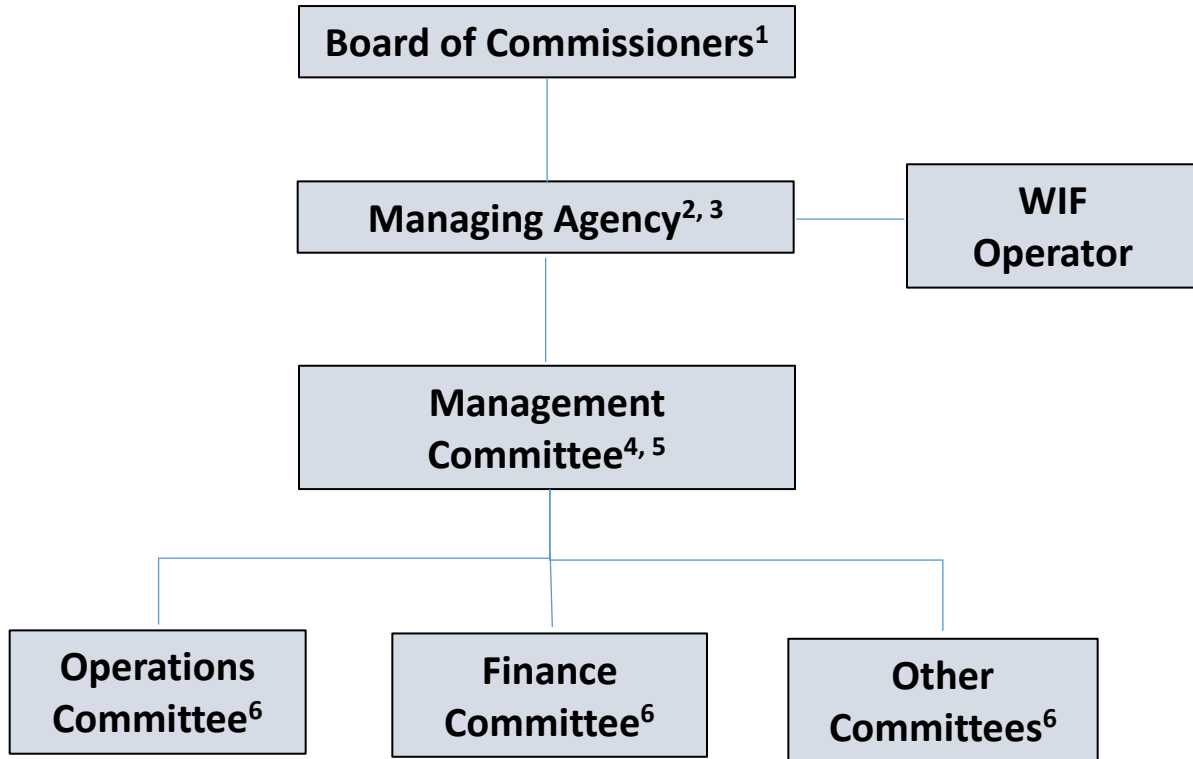
Water Right Permits and Certificates Authorized by the Oregon Water Resources Department

Entity Name on Water Right	Application	Permit	Certificate	Transfer or Permit Amendment	Priority Date	Type of Beneficial Use	Authorized Rate (cfs)	Authorized Date for Completion	Conditions
Willamette River Water Coalition	S-50693	S-49240	N/A	T-10477	June 19, 1973	Municipal & Industrial	202.0	October 1, 2047	<ul style="list-style-type: none"> Measuring device required Fish screen required A 60-day waiting period is required between WMCP approval and diversion of water for the first diversion and each increment of "green light water" for each water supplier. WMCP provisions apply to additional future municipal water suppliers using water under permit under certain conditions. WRWC member Sherwood has access to up to 23 cfs based on last WMCP approval. TVWD has access to up to 80.1 cfs following approval of its most recent updated WMCP. Fish persistence conditions. Proportional reduction based on target flows and the portion of permit to which permittee has legal access. Reduction is capped at 20% during April, May and June.
City of Wilsonville	S-51780	S-46319	N/A	T-8444	March 27, 1974	Municipal	30.0	October 1, 2042	<ul style="list-style-type: none"> Measuring device required Fish screen required
City of Beaverton	S-87964	S-54940	N/A	-	March 11, 2014	Municipal	33.7	May 4, 2035	<ul style="list-style-type: none"> Measuring device and water use reporting are required Fish screen required Diversion of water is prohibited at times when the ODFW recommended flow targets at the Salem gage are not met.
City of Hillsboro	S-55010	S-55045	N/A	T-12512	December 6, 1976	Municipal	56	October 1, 2086	<ul style="list-style-type: none"> Willamette Intake Facilities added as a point of diversion through a permit amendment Conditions from permit amendment require measurement device and fish screen. Fish persistence conditions. Proportional reduction based on target flows and permit's maximum authorized rate; capped at 20% year-round. Approval of a WMCP is required to obtain access to water under the permit.

Exhibit 6 Organizational Structure

Description:

This Exhibit sets forth the Organizational Structure for the Willamette Intake Facilities Commission.



Notes:

1. Appointed by governing bodies of each Party
2. Provides its and Management Committee's recommendations to Board
3. Provides support to and consults with all committees
4. Provides recommendations to Managing Agency to be forwarded to the Board
5. Serve as liaisons to Parties' governing bodies
6. Provides recommendations to Management Committee

Exhibit 7
Willamette Intake Facilities
Managing Agency
Initial Management Plan

Description:

This Exhibit sets forth the Managing Agency Interim Term Plan under Section 5 of the Willamette Intake Facilities Intergovernmental Agreement (Agreement).

1. Designation of Interim Managing Agency

1.1. TVWD is designated as the Interim Managing Agency under Section 5 until June 30, 2032. In 2029, the Commission will complete a performance review of the Managing Agency and will decide whether to initiate the selection process under Section 6.1, Subsequent Appointment of Managing Agency, or continue with TVWD without engaging in the described process. TVWD will designate General Manager that will have primary responsibility for reporting to the Commission.

2. Duties of Interim Managing Agency

2.1. TVWD shall have all duties and powers of the Managing Agency under Section 6, except as provided in Paragraphs 3.0 and 4.0 of this Exhibit.

3. Interim Operations Management Until 2022

3.1. Wilsonville and TVWD have approved an operations contract extension with Veolia through June 30, 2022 for the Willamette River Water Treatment Plant. The scope of work for this contract includes operation of the Willamette Intake Facilities. Upon execution of this Agreement by the parties, the Commission delegates authority to Wilsonville, through its own forces or through the operations contract, to manage daily operations and operational coordination of the Intake Facilities to:

- 3.1.1. Assure delivery of water to the WRWTP for the benefit of Wilsonville and Sherwood; and
- 3.1.2. Assure effective coordination with the design and construction of improvements, modifications, and expansion of the Intake Facilities and connection to a new WWSS transmission pipeline.

3.2. Prior to expiration of this contract extension, the Parties will cooperate in conducting an evaluation of performance under the contract and will coordinate to identify planned activities of all Parties relating to the Intake Facilities during the period July 1, 2022 to June 30, 2026. Based on that coordination, the Management Committee will recommend to Wilsonville terms and activities that should be addressed in a contract extension or operations protocols for the period July 1, 2022 through June 30, 2026.

4. Interim Operations Management from 2022 to 2026

4.1. For the period of July 1, 2022 to June 30, 2026, the Commission delegates authority to Wilsonville, through its own forces or through an operations contract, to manage daily operations and operational coordination of the Intake Facilities. Thereafter, the Commission shall determine who will manage the operations of the Intake Facilities and may either delegate this responsibility to the Managing Agency or to a Party or contractor.

5. Wilsonville covenants that it will do the following during the Interim Operations Management periods:

- 5.1. Daily operations and operational coordination to supply water to the existing WRWTP;
- 5.2. Timely and cooperative coordination with TVWD (or its designee, Willamette Water Supply Program staff) in the construction of the expansion of the Intake Facilities and the WWSS transmission pipeline;
- 5.3. Timely and cooperative coordination with TVWD (or its designee, Willamette Water Supply Program staff) of Wilsonville/Sherwood operations and the startup and commissioning of the expansion of the Intake Facilities during calendar year 2025;
- 5.4. Best efforts to effect transition of all intake operations to the Commission and facilitate assumption of operational duties to the Party designated by the Board on or before June 30, 2026.

6. Repairs to Existing Intake Facility Assets Prior to June 30, 2026

- 6.1. Wilsonville has identified that there may be potential repairs required to the intake pipe, caisson, sparge system, and grout pipe joints in order to repair maintain and preserve the Intake Facilities. Any such repair costs (less any cost for sediment removal which shall only be paid by those actually drawing water through the Intake Facilities, currently Wilsonville and Sherwood), shall be shared by Wilsonville, TVWD, Sherwood, Hillsboro, Tigard and Beaverton in proportion to Intake Facilities Capacity ownership. Wilsonville will evaluate the condition of the Intake Facility when the sediment clean-out occurs, scheduled for Fiscal Year 2017-18. If the need for any repairs is identified, Wilsonville will work with the Willamette Water Supply Program to incorporate those repairs into the expansion of the Intake Facilities, managed by TVWD, to achieve construction coordination and cost savings. If Wilsonville discovers any repairs that it deems must be made before the expansion of the Intake Facilities is ready for construction, including any emergency repairs, Wilsonville will notify the Managing Agency about the repairs and may proceed independent of the expansion of the Intake Facilities. Wilsonville will follow all public contracting rules in making any such repairs and will invoice the Managing Agency the actual costs of any such required repairs. Wilsonville and TVWD will coordinate the Intake Facility expansion and any other Intake Facility repairs so that the making of the repairs and expansion of the Intake Facility will not interfere with or adversely impact the expansion of the Intake Facilities or the WRWTP.

7. Interim Fee

- 7.1. TVWD, as the initial Managing Agency, will prepare a work plan and associated cost estimate for the Fiscal Year 2017-18 budget for Commission administration responsibilities. Budgets for subsequent years will be proposed by TVWD and will be subject to review by the Parties and will require approval by the Board, as provided in this Agreement.
- 7.2. Wilsonville elects not to charge an Interim Operations Fee to the Commission.

Exhibit 8
Willamette Intake Facilities
Budget Calendar

Description: Annual Proposed Budget Submission and Calendar

The Board shall adopt a budget for its operations and capital improvements for each Fiscal Year. The Managing Agency shall annually prepare a budget for administration, operations, and capital improvements in coordination with the appropriate committees representing the Parties as described in Section 7 of this Agreement. The budget review process shall follow the following schedule listed below.

Budget Deliverable	Annual Submission Date	Party Receiving Budget
Preliminary capital improvement project list	December 15	Operations Committee
Preliminary budget	January 5	Operations and Finance Committees
Draft budget	February 15	Management Committee
Proposed budget	March 31	Board

The proposed budget for review shall be submitted with the proposed annual work plan, associated budget narratives, project descriptions, and budget summary spreadsheets for each level of Committee and Board review.

Exhibit 9
Willamette Intake Facilities
Interim Financial Procedures

Description:

The Willamette Intake Facilities Commission (Commission) is a joint venture of the cities of Beaverton, Hillsboro, Tigard, Sherwood, and Wilsonville and the Tualatin Valley Water District. The Commission owns and operates water intake facilities for the benefit of the Parties to the Willamette Intake Facilities (WIF) Agreement. This Exhibit establishes the interim financial procedures to be followed by the Commission as it undertakes its activities as described in Exhibit 7 to the WIF Agreement. The City of Wilsonville operates the current WIF facilities and those operations are not included within the interim financial procedures.

These interim financial procedures consist of three sections. Each is described below.

1. Elements of Financial Procedures:

a) Establishing Rates and Charges

This section outlines the methodology the Commission will use to set rates and charges to recover the cost of operating the Commission.

b) Accounting and Financial Reporting

This section outlines the accounting and financial procedures that the Commission and its managing agency will follow.

2. Establishing Rates and Charges:

a) Rate Setting Process

Each Party's proportionate share of the expenditures of the Commission, shall be estimated by the Commission, and set forth in the Commission's annual budget.

b) Quarterly Payments

Each Party shall make quarterly payments to the Commission for operations in accordance with the IGA.

i. *Commission Expenditures*

Each Party shall pay for its share of the Commission's expenditure quarterly based on the formulas described below.

ii. *Allocation of Expenditures for Administration*

Expenditures related to administration of the Commission will be allocated among the Parties using the following formula: Twenty-five percent of the expenditures of the Commission will be divided evenly among the Parties; and

the remaining 75 percent will be divided among the Parties according to each Party's percentage share of the Capacity Ownership in the WIF facilities.

- iii. ***Allocation of Expenditures for Operations, Maintenance, and Repair***
Expenditures by the WIF for Operations, Maintenance, and Repair of the facilities shall be identified by the Operations and Finance Committees along with an allocation methodology. Operations, Maintenance, and Repair expenditures that are the result of use of the facilities will be allocated based on each Party's proportionate use of the WIF facilities. Operations, Maintenance, and Repair expenditures that are unrelated to use will be allocated based on each Party's proportionate ownership of the WIF facilities. If an expenditure serves multiple purposes, jointly, the Operations and Finance Committees shall divide expenditures into both use-based allocations and ownership-based allocations in a fair and equitable manner. If the matter cannot be resolved by the joint Operations and Finance Committees, the matter shall be referred to the Management Committee for resolution.

- iv. ***Invoicing***
The Commission shall invoice the Parties for the prior quarter's expenditures within thirty days of the end of the preceding quarter. Payment is due to the Commission thirty days after receipt of the invoice.

3. Accounting and Financial Reporting:

a) Periodic Financial Reports

The Commission shall maintain an independent budget control procedure and provide budget reports at least quarterly to each of the Parties not later than 30 days after the end of each quarter. This report shall show expenditures and receipts by budget item for each transaction through the last working day of the preceding quarter.

b) Accounting Policies

i. *Fiscal Year*

The Commission shall operate on a fiscal year basis from July 1 through June 30 of the subsequent year.

ii. *Accounting Standards*

The Managing Agency shall use generally accepted accounting principles to account for the transactions of the Commission. The Commission shall be treated as an enterprise fund for accounting purposes and report its finances on an accrual basis.

iii. *Indirect Cost Allocations*

The Managing Agency shall maintain an indirect cost allocation plan that conforms to industry standards for allocating the indirect overhead costs of the entity. The Managing Agency shall submit the indirect cost allocation plan annually with the budget.

iv. *Working Capital*

The Managing Agency will provide working capital for the Commission by paying the Commission's bills when due and receiving payments from the Partners within 30 days after invoicing. The Managing Agency shall adopt accounting procedures to determine the cost of providing the Commission working capital and shall be entitled to charge the Parties a proportionate share of the cost of providing the working capital. The cost of providing the Commission's working capital shall be based on the forgone interest earnings the Managing Agency could have earned at its then-current rate of earnings on its portfolio of investments. Working capital, and the rate, will be listed separately on the invoices.

Exhibit 10
Willamette Intake Facilities
Lease Payment Formulas

Firm Lease Formula:

The lease payment for Willamette Intake Facilities capacity shall be determined by utilizing the depreciated replacement cost value of the asset amortized over the remaining book depreciation life of the asset at an interest rate equal to the Municipal Bond Index rate at the year of the lease payment, Engineering News Record (ENR) index rate, or a comparable index. The Commission may modify the method used to calculate lease payments by resolution of the Board. A firm lease rate example is shown in the Attachment 1 to this Exhibit.

Interruptible Lease Formula:

The interruptible lease payment for the Willamette Intake Facilities shall be 80 percent of the firm lease rate formula minus the daily rate amount that the capacity was withdrawn from the Lessee back to the Lessor. The interruptible lease shall have a minimum term of 12 months. The lease payment shall be calculated at the start of the lease term using 80 percent of the firm lease as determined by the firm lease formula. The interruptible lease cost shall be recalculated at the end of the lease term. If the Lessor notified the Commission that its interruptible capacity was not available for any portion of that lease year, the interruptible lease cost would be reduced by 1/365 of the cost for each day that it withdrew the interruptible capacity. If the Lessor agency did not exercise the right to withdraw capacity during the lease year, then full interruptible lease cost would apply.

Interruptible Lease Rate = 80% * (Firm Lease Rate for 1 year) – [(Number of Days Withdrawn/365 * (80% * Firm Lease Rate for 1 Year)]

Surplus Capacity Pool Formula:

The protocols for Surplus Capacity Pool payment for the Willamette Intake Facilities shall be determined using the firm lease rate formula calculated with a daily rate and multiplied by a factor of two. For each day that the Surplus Capacity Pool capacity was used, the Lessee of the pool will be required to pay that daily rate. The Surplus Capacity Pool capacity requests and payment procedures will be developed and determined by the Managing Agency.

Surplus Pool Daily Rate = (1/365) * Firm Lease Rate for 1 year * 2

Exhibit 10 - Attachment 1
Willamette Intake Facilities Commission
Firm Lease Payment Example

Assumptions:

Year of Construction		2000
Cost of Constuction	\$	19,683,536
Capacity		150 MGD
Useful Life		50 Years
First Year of Lease		2026
Municipal Bond Index (Year of Lease)		4.93%
ENR Cost Construction Index-Seattle (Month/Year Construction was Complete)		7,368.25
ENR Cost Construction Index-Seattle-December Prior to Mo/Year of Lease-Update for all assets		7,368.25

Lease Calculation:

Replacement Cost (Capacity*ENR CCI-Seattle Construction Complete/ENR CCI-Seattle-Dec prior to lease)	\$	19,683,536
Accumulated Depreciation (Replacement cost/Useful Life*(First Year of Lease-Year of Construction)		10,235,439
Depreciated Replacement Cost	\$	9,448,097
Lease Payment	\$	680,057
Annual Cost	\$	4,534 Per MGD

**EXHIBIT 10
ATTACHMENT 2
SAMPLE LEASE**

This Willamette Intake Facilities Lease (Agreement) is entered into this _____ day of _____, 20__ between _____, located in Washington County, Oregon (hereinafter “_____”), and _____, a _____ located in Washington County, Oregon.

Recital:

WHEREAS, the parties to this Agreement are members of the Willamette Intake Facilities Commission (Commission), an intergovernmental entity formed pursuant to ORS Chapter 190 by agreement dated _____, and amended at various and sundry times since, including the addition of new members;

WHEREAS, the parties of the Commission have into a Willamette Intake Facilities Agreement dated _____, 20__;

WHEREAS, the Willamette Intake Facilities Agreement, among other things, provides for a party to lease all or a portion of its interest in a component(s) of the Intake Facilities as defined therein, including water rights and supplemental water rights, to another party, upon such terms and conditions as approved by the Commission;

WHEREAS, the parties hereto have agreed that _____ will lease _____ to _____ upon the terms and conditions set forth herein and that the Commission has approved the terms and conditions as evidenced by signature below and being fully advised

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Intake Facilities Capacity.** _____ agrees to provide _____, and _____ agrees to purchase, _____ million gallons per day in Willamette Intake Facilities capacity each fiscal year during the life of this Agreement, unless modified by other provisions of this Agreement, for an initial ___-year period beginning _____, through _____, subject to renewal, extension or termination on the terms and conditions as set forth in this Agreement. If a change in lease is anticipated because _____ (Lessor’s) demands have increased, the parties will negotiate the terms of such change.

2. **Connections, Measurement and Meters.** The Commission or the leasing Party as appropriate and necessary will provide and maintain meters, valves and controls, and measurement devices, in proper order for measurement of Intake Facilities capacity used and connections at the following locations:

Meters or measurement devices shall be tested and calibrated biennially by the Commission or an independent tester qualified to do such work. A copy of the test report shall be forwarded to the parties hereto.

3. **Rates.** _____ shall be billed monthly for the total leased Intake Facilities capacity under this Agreement, and payment shall be made within 30 days of billing. A late fee of 1.5 percent per month shall be assessed for any unpaid balance.

_____ will pay monthly to _____ for all leased asset capacity , at rates as described in Exhibit X of the Willamette Intake Facilities Agreement.

Inasmuch as _____ has contracted to lease an amount of capacity each year, _____ agrees to pay _____ the greater of: the amount calculated based on the actual volume of water passing through the meter(s) described above; or the amount calculated based on the minimum lease amount. This calculation will be done annually after the end of the year.

4. **Term.** This Agreement shall be for _____-years, commencing with execution of this Agreement and ending _____ years thereafter.

[ALTERNATIVE A]

_____ agrees to notify _____ in writing as soon as practicable if _____ wishes to extend the term of this Agreement, but not later than one year prior to the termination of this Agreement. The parties shall meet to determine if extension or renewal and the terms thereof is mutually agreeable.

[ALTERNATIVE B]

_____ shall have the right to renew this Agreement for _____ successive periods of _____ years, each by giving written notice thereof not less than one year prior to the expiration of this Agreement, whichever shall first occur. The terms and conditions of this Lease shall continue in any renewal term.

5. **Notices.** Notices shall be deemed sufficient if deposited in the United States mail, postage prepaid, to the following addresses:

6. **Severability.** In the event any provisions of this Agreement shall be held to be impossible, invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties hereto. One or more waivers by either party of any provision, term, condition or covenant, shall not be construed by the other party as a waiver of subsequent breach of the same by the other party. Both parties have fully participated in negotiating and writing this Agreement; therefore, it

shall not be construed against the party preparing it, but shall be construed as if both parties have prepared it.

7. **Acts of God, Emergency, Etc.** Performance or delay in performance of the obligations stated in this Agreement shall be reasonably excused when performance or timely performance is impossible or impracticable because of the occurrence of unforeseeable events such as emergency, catastrophe, disaster, labor disputes, or acts of God.

8. **Disputes: Attorney's Fees.** If a dispute arises between the parties regarding breach of this Lease, the dispute resolution process in Section ___ of the Agreement shall be utilized.

9. **Full Agreement.** This document is the entire, final and complete agreement of the parties pertaining to _____ lease of Intake Facilities to _____, and supersedes and replaces all prior or existing written and oral agreements between the parties or their representatives.

10. **Service Reduction in Case of Emergency.** If a general emergency or water shortage requires restrictions on the delivery of raw water, general restrictions placed upon deliveries to _____ shall be determined by the Curtailment Plan.

By: _____

By: _____

APPROVED AS TO FORM AND
CONTENT

WILLAMETTE INTAKE FACILITIES
COMMISSION

By: _____

Exhibit 11
Willamette Intake Facilities
Intake Improvements Cost Allocation Summary
Preliminary Estimate - June 2017

Description:

The following is a summary of the cost estimate for the Intake Facilities improvements required to achieve a Capacity of 150 MGD. The cost estimates are based on preliminary design and will be refined as design progresses. Attachment 1 includes the preliminary design drawings and layout of the Intake Facilities.

Assumptions

1. Costs based on WWSP cost estimates presented to WGG on 5/25/17
2. Assumes total expanded capacity of intake is 150 MGD, including:

Feature	Capacity (MGD)
Existing Screen Capacity	70
Additional Screen Capacity resulting from expansion	80
Existing Hydraulic Capacity of intake pipe & caisson	120
Additional Hydraulic Capacity of intake pipe & caisson from expansion	30

3. Assumes permitting and mitigation costs = \$1.257 million (WWSP, 6/9/17)
4. Assumes screen cost for 150 MGD = \$4.65 million – includes intake screen replacement to 150 MGD, intake screen protection, and upgrades to air burst system (WWSP, 5/24/17)
5. Assumes seismic upgrade for the Intake Facilities = \$9.36 million – includes piles and jet grout for seismic stability of existing caisson structure (only); does not include seismic improvements for WWSS improvements (WWSP, 5/24/17)
6. Value of remaining useful life of existing screen = \$7,876 per MGD (Wilsonville, March 2017)

Anticipated Cost Allocations

Note: Costs and cost allocations are based on capacity shares and preliminary cost estimates as of current date and are subject to change. Final cost shares will be updated based on final capacity shares and actual costs for proposed improvements using cost allocation methodology as detailed below.

Partner	Capacity (MGD)	Capacity Share (%)	Cost Allocations (\$)			
			Permitting (1)	Screen & Air Burst	WIF Seismic Upgrades (9)	Total
Wilsonville	25.0	16.7%	\$ 75,000	\$ 50,000 (2)	-	\$ 125,000 (3)
TVWD (4,8)	59.1	39.4%	\$ 393,786	\$ 955,000 (5)	\$ 4,487,458	\$ 5,836,244
Sherwood (6)	9.7	6.5%	\$ 77,567	\$ 160,000 (7)	\$ 605,280	\$ 842,847
Tigard (8)	15.0	10.0%	\$ 189,674	\$ 930,160	\$ 1,138,949	\$ 2,258,783

Hillsboro (8)	36.2	24.1%	\$ 457,748	\$ 2,244,786	\$ 2,748,663	\$ 5,451,197
Beaverton (8)	5.0	3.3%	\$ 63,225	\$ 310,053	\$ 379,650	\$ 752,928
Total	150.0	100.0%	\$ 1,257,000	\$ 4,650,000	\$ 9,360,000	\$ 15,267,000

Footnotes for Cost Allocation Methodology

Cost allocations are generally based on proportionate ownership shares subject to additional terms and conditions as noted below.

1. Permitting cost allocation assumes 50% of costs applied to new capacity (80 MGD) and 50% of costs applied to total capacity (150 MGD).
2. Wilsonville receives full credit equal to remaining undepreciated asset value of 20 MGD share of existing screen.
3. Wilsonville total cost cap for permitting, screen, air burst & seismic = \$125,000.
4. TVWD capacity share includes 56.5 MGD for demand and 2.6 MGD of capacity not allocated to other partners.
5. TVWD receives partial credit for remaining undepreciated asset value of 45 MGD share of existing screen.
6. Sherwood does not contribute toward Wilsonville’s cost shares in excess of Wilsonville cost caps for permitting, screen, and seismic improvements.
7. Sherwood receives partial credit for remaining undepreciated asset value of 5 MGD share of existing screen.
8. TVWD, Tigard, Hillsboro and Beaverton costs include allocation, proportionate to capacity share, for Wilsonville’s cost shares for permitting, screen, and seismic improvements in excess of Wilsonville cost caps.
9. Improvements for seismic stability of existing caisson structure and intake pipe only; does not include seismic improvements for WWSS improvements. Wilsonville cost share for seismic improvements = \$0. TVWD, Tigard, Hillsboro and Beaverton - but not Sherwood - pay Wilsonville’s cost share for seismic improvements.

Exhibit 12
Willamette Intake Facilities
Insurance Requirements and Limits

Description:

The following insurance requirements and limits are necessary for the operations of the Willamette Intake Facilities (Intake Facilities) and shall be purchased and maintained at all times. The requirements will be reviewed and approved by the Board annually, and modified when necessary.

1. Insurance Requirements

- (a) The Managing Agency shall obtain and maintain at all times appropriate insurance coverage for the Intake Facilities on behalf of the Commission based on exposure. Where applicable, the insurance limit shall meet or exceed the corresponding monetary limit of the Oregon Tort Claims Act. For all other insurance, the insurance limits shall meet or exceed the corresponding limit or obligation established for a special government body under Oregon law.
- (b) The Managing Agency shall recommend the purchase of all necessary insurance to protect the interests of the Intake Facilities and the Commission.
- (c) The Board shall review and approve insurance coverage, limits and deductibles proposed by the Managing Agency.
- (d) The Commission, its members, officers, boards, agents and employees will be listed as additional insureds on all policies purchased by the Managing Agency for the Intake Facilities, and be listed on insurance policies required of the Commission of their contractors and consultants.

2. Summary Insurance Requirements and Limits:

a) Property

To include loss or damage to all types of property owned by the Commission due to perils such as fire, wind, theft, vandalism, malicious mischief, earthquake and flood, for the full insurable replacement-cost basis. (For earthquake and flood, a sublimit typical of the industry standard). Property coverage shall also include machinery breakdown coverage.

b) Commercial General Liability

To include all major coverage including bodily injury, personal injury, property damage and wrongful acts. Coverage shall be provided for all XCU (explosion, collapse and all underground) hazards and shall be in the amount not less than **\$2,000,000** per occurrence and **\$4,000,000** general aggregate.

c) Automobile Liability

To include all owned, hired and non-owned vehicles of a combined single limit per occurrence shall not be less than **\$2,000,000**.

d) Workers' Compensation and Employers' Liability

Workers' compensation coverage sufficient to meet statutory liability limits and Employers' Liability of **\$1,000,000** for each accident, **\$1,000,000** for each bodily injury/disease and **\$1,000,000** for aggregate bodily injury/disease.

e) Fidelity bond or Crime

A fidelity bond or equivalent crime coverage in the amount not less than **\$500,000**.

f) Directors and Officers

For the protection of all directors and officers of the Commission in the amount of not less than **\$1,000,000**.

g) Pollution Liability

The Board may require the purchase of pollution liability coverage for any significant construction projects on the Intake Facilities or may require contractors to obtain pollution liability coverage for the Intake Facilities construction projects. Contractors' policy shall name the Commission as an additional insured.

Exhibit 13

Existing Agreements

Description:

The following is a list of existing agreements between some or all of the Parties that affect or are affected by the Intake Facilities that are the subject of this Agreement. These related agreements are not superseded by this Agreement unless agreed to by the parties to those agreements.

- 1) *Agreement Regarding Water Treatment Plant Design, Construction, Operation and Property Ownership* (“2000 Master Agreement”), dated July 6, 2000 and entered into by Wilsonville and TVWD
- 2) *The Accord Agreement* (“Accord”), dated June 19, 2001 and entered into by Wilsonville and TVWD
- 3) *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated _____, 2018, entered into by TVWD and Wilsonville;
- 4) *Operation and Maintenance Contract with Veolia Water North America-West LLC*, dated July 1, 2017, as amended, entered into by TVWD and Wilsonville;
- 5) *First Restated Intergovernmental Cooperative Agreement Continuing the Willamette River Water Coalition* (“WRWC Agreement”), dated October 15, 2008 and entered into by TVWD, Sherwood, Tigard, and Tualatin
- 6) *Sherwood and Tualatin Valley Water District Willamette River Water Treatment Plant Agreement* (“Sherwood TVWD WRWTP Agreement”), dated December 27, 2006 and entered into by TVWD and Sherwood
- 7) *Agreement for Design and Construction of the Willamette Water Supply Program* (“WWSP Agreement”), dated June 16, 2015 and entered into by TVWD and Hillsboro
- 8) *Agreement(s) for Transfer, Purchase and Sale of Intake Facilities*, dated _____, 2018 and separate agreements entered into by TVWD and Beaverton, TVWD and Hillsboro, TVWD and Sherwood, TVWD and Tigard
- 9) *City of Wilsonville and Tualatin Valley Water District Willamette Water Supply System Intake Facility Agreement*, dated _____, 2018 and entered into by Wilsonville and TVWD

- 10) *Ground Lease for the Raw Water Pipeline*, dated _____, 2018, entered into by TVWD, Wilsonville, and Hillsboro.
- 11) *Easement for Raw Water Pipe*, dated _____, 2018, entered into by TVWD, Wilsonville, and Hillsboro.
- 12) *Intake and Pipeline Easement No. 22670-EA*, dated July 13, 2000 and granted by the State of Oregon Division of State Lands to the City of Wilsonville.

Tualatin Valley Water District



Delivering the Best Water Service Value

ORDINANCE NO. 02-18

AN ORDINANCE AMENDING THE DISTRICT'S RULES AND REGULATIONS TO CLASSIFY DUPLEX CUSTOMERS AS CLASS CODE 2 – RESIDENTIAL MULTI-FAMILY AND REVISE CLASS CODE 1 – RESIDENTIAL TO EXCLUDE TWO DWELLING UNITS.

WHEREAS, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations which provided for usage of the District's water system; and

WHEREAS, the Board of Commissioners finds that it is necessary to amend Section 11.0 Class Codes, Rates, Fees and Other Charges in the Rules and Regulations to classify duplex customers as Class Code 2 – Residential Multi-Family rather than Class Code 1 – Residential for the purpose of calculating how Volume Water Charges are assessed under Rates, Fees and Other Charges as adopted by resolution; and

WHEREAS, it is the intent of amendments to Section 11.0 of the Rules and Regulations to define a duplex customer as two separate residential units served by a common water meter, and classified as two dwelling units by the sanitary sewer provider; and

WHEREAS, if this proposed amendment is approved by the Board of Commissioners, it is the intent of the District to implement the change in how Volume Water Charges are assessed starting on the first full bill on or after November 1, 2018 for each duplex customer; and

WHEREAS, the Board of Commissioners finds it necessary to declare an emergency so that this ordinance shall be effective and duplex charges consistent with the Volume Water Charges as described above and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1: The proposed amendments to Section 11.0 Class Codes, Rates, Fees and Other Charges in the Rules and Regulations is attached hereto as Exhibit A, and incorporated by reference, are hereby adopted as of the effective date below.

Section 2: This ordinance is on file at the District's administrative office and is available for review. The District Recorder of the District is instructed to send a certified copy of this ordinance to the County Clerk and publish the required notices post adoption under ORS 198.560.

Section 3: This emergency ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date and place of the meeting and gave a brief description of the ordinance to be considered at the meeting, and that copies of the ordinance are available at the office of the District. The presiding officer caused the notice to be published not more than 10 days or less than four days before the meeting in a newspaper of general circulation.

Section 4: Pursuant to Oregon Revised Statute 198.550, this emergency ordinance was read at a regular meetings of the District Board of Commissioners on the 24th day of October, 2018,

unanimously approved by the Commissioners in attendance and was signed by the presiding officer and attested to by the secretary.

Section 5: This emergency ordinance shall take effect on November 1, 2018, at 12:01 a.m.

Bernice Bagnall, President

Todd Sanders, Secretary

**EXHIBIT A
TUALATIN VALLEY WATER DISTRICT
RULES AND REGULATIONS**

11.0 CLASS CODES, RATES, FEES, AND OTHER CHARGES

The **District** will assign a **Class Code** for each **Customer Connection**. **Class Codes** will be used to determine applicable **Rates, Fees and Other Charges**.

1. **Class Code 1 – Residential** shall consist of **Customer Connections** serving a dwelling unit where one District meter serves only one dwelling unit.
2. **Class Code 2 – Residential Multi-Family** shall consist of **Customer Connections** serving two or more dwelling units.
3. **Class Code 3 - Non-Residential** shall consist of **Customer Connections** not serving one or more dwelling units. Class code 3 does not include **customer** connections classified in class code 4, class code 5, or class code 6.
4. **Class Code 4 - Production Processes** shall consist of **Customer Connections** that would otherwise be in class code 3 but where the water passing through a District meter is used in a production process.
5. **Class Code 5 - Fire Lines** shall consist of **Customer Connections** for **Fire Service Lines** on private property where water can only be used for fire suppression.
6. **Class Code 6 – Irrigation** shall consist of **Customer Connections** where water passing through a District meter can only be used for seasonal agricultural or landscaping purposes and not returned to a wastewater utility system.
7. **Class Code 7 - Temporary Irrigation** shall consist of **Customer Connections** that are for Temporary Irrigation where the **Customer** is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits.
8. **Class Code 8 – Local Government/Water Provider** shall consist of **Customer Connections** that are for Local Government Water Purveyors and **Customers** that have a wholesale rate approved by the District **Board** of Commissioners.

The **District** shall establish **Rates, Fees and Other Charges** for use of water, services, and property of the **District by Resolution**. A copy of the established **Rates, Fees and Other Charges** shall be on file in the **District** office for examination by the public during business hours.

Tualatin Valley Water District



ORDINANCE NO. 01-19

AN ORDINANCE OF THE TUALATIN VALLEY WATER DISTRICT, OREGON, AUTHORIZING THE ISSUANCE OF WATER REVENUE BONDS.

WHEREAS, the District is authorized to issue revenue bonds for a public purpose under ORS 287A.150 and related statutes (the "Act"). Revenue bonds issued under the Act may be payable from all or any portion of the water system revenues of the District; and

WHEREAS, the District may authorize revenue bonds under the Act by nonemergency ordinance. The District may not sell the revenue bonds under the Act until the period for referral of the nonemergency ordinance authorizing the revenue bonds has expired. If a nonemergency ordinance authorizing the revenue bonds is referred, the District may not sell the revenue bonds unless the voters approve the revenue bonds; and

WHEREAS, the District now finds it financially feasible and in the best interests of the District to authorize the issuance of revenue bonds under the Act in order to finance capital assets of the water system, including but not limited to the District's portion of the Willamette Water Supply System including pumps, pipelines, the water treatment plant and the reservoir (collectively, the "System Improvements"); and

WHEREAS, it may be desirable to issue revenue bonds to finance the System Improvements under one or more financing structures, including as water revenue bonds with a senior lien on net revenues of the District's water system, as water revenue bonds with a subordinate lien on net revenues of the District's water system, as short term water revenue bonds or refunding bonds; and

WHEREAS, prior to the issuance of the water revenue bonds, the District desires to incur certain capital expenditures with respect to the System Improvements from available moneys of the District and wishes to declare its official intent to reimburse itself for any such expenditures from the proceeds of borrowings authorized by this ordinance.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. Issuance of Bonds for System Improvements.

- a. The District hereby authorizes the issuance of revenue bonds pursuant to ORS 287A.150 in an amount that is sufficient to provide net proceeds of up to \$600 million to pay for costs of System Improvements, plus additional amounts that are required to pay capitalized interest, fund bond reserves for bonds authorized by Section 1.a and Section 2 of this ordinance and to pay costs related to the financings. The District estimates that the total principal amount of revenue bonds required for this purpose will not exceed \$680 million. The bonds shall be issued and sold in accordance with the Act.

- b. The bonds authorized by this ordinance shall be special obligations of the District that are payable solely from water system revenues and related amounts that the District pledges to pay the bonds. The District may issue the bonds authorized by this ordinance with a first lien on net revenues of the water system or with a subordinate lien on the net revenues of the water system.
- c. No bonds authorized by Section 1.a of this ordinance may be sold and no purchase agreement for any of those bonds may be executed until the period for referral of this nonemergency ordinance has expired. If this ordinance is referred, the District may not sell the bonds authorized by Section 1.a of this ordinance unless the voters approve those bonds.

Section 2. Issuance of Refunding Bonds. The District hereby authorizes the issuance of refunding bonds pursuant to applicable Oregon statutes to refinance any water revenue bonds that are issued pursuant to Section 1.a of this ordinance to provide interim financing. The refunding bonds authorized by this Section 2 may be issued in an aggregate principal amount sufficient to refund any water revenue bonds selected by the District Official pursuant to Section 3.k of this ordinance, plus amounts required to pay costs related to the refunding bonds.

Section 3. Delegation. When and if this ordinance takes effect, the Chief Financial Officer, the Chief Executive Officer or the employees of the District designated by the District's Chief Executive Officer or Board of Commissioners to act on behalf of the District under this ordinance (each of whom is referred to herein as a "District Official") are each hereby authorized, on behalf of the District and without further action by the Board of Commissioners, to:

- a. Issue the revenue bonds authorized by this ordinance (the "Water Bonds") in one or more series, which may be sold at different times, and issue any series of Water Bonds as First Lien Bonds, as defined below, or with a subordinate lien on water system revenues.
- b. Issue the Water Bonds as short or intermediate term bonds to provide interim financing for System Improvements and enter into lines of credit or similar documents which permit the District to draw Water Bond proceeds over time.
- c. Participate in the preparation of, authorize the distribution of and deem final the preliminary and final official statements and any other disclosure documents for each series of the Water Bonds, as applicable.
- d. Subject to the limits of this ordinance, establish the final principal amounts, lien status, maturity schedules, interest rates, redemption terms and other terms for each series of Water Bonds.
- e. Either publish a notice of sale, receive bids and award the sale of that series to the bidder complying with the notice and offering the most favorable terms to the District or select one or more underwriters or lenders and negotiate the sale of that series with those underwriters or lenders and execute and deliver a bond purchase agreement or other document in connection with such sale.
- f. Prepare, execute and deliver one or more documents that will specify the terms under which the Water Bonds are issued and the administrative provisions that apply to the Water Bonds.
- g. Enter into covenants with owners or credit enhancement providers that are designed to obtain more favorable terms for the District, including covenants required by the Water Infrastructure Finance and Innovation Act, if the District borrows under that program, or by the State, if the District borrows under State lending programs.

- h. Prepare and finalize the terms of a master water system declaration which pledges the revenues of the District's water system to the Water Bonds issued with a first lien on the water system revenues ("First Lien Bonds"), contains covenants regarding the levels of fees and charges that the District must impose and describes the terms under which the District may issue obligations in the future that are secured by the revenues of the District's water system.
- i. If all or any portion of the Water Bonds is secured by a subordinate lien on water system revenues, establish a master second lien water revenue bond declaration or similar document to memorialize the terms under which that series and future series of subordinate lien bonds may be issued.
- j. Make contributions to bond reserve accounts that the District Official determines are desirable and determine the reserve requirement, if any, for each series of the Water Bonds.
- k. Select water revenue bonds to be refunded, refund any Water Bonds that are issued to provide interim financing with other short, intermediate or long-term term bonds.
- l. Undertake to provide continuing disclosure for any series of Water Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission or lender requirements, as applicable.
- m. Apply for and purchase municipal bond insurance, reserve sureties or other forms of credit enhancements for any series of Water Bonds and enter into related agreements.
- n. Appoint and enter into agreements with paying agents and other professionals and service providers for the Water Bonds.
- o. Issue any qualifying series of Water Bonds as "tax-exempt bonds" bearing interest that is excludable from gross income under the Internal Revenue Code of 1986, as amended, (the "Code") and enter into covenants for the benefit of the owners of those series to maintain the excludability of interest on those series from gross income under the Code.
- p. If the federal government approves subsidy payments or tax credits for municipal bonds and those subsidies or tax credits are estimated to reduce the net debt service payments for the Water Bonds, issue any series of Water Bonds as eligible for those federal subsidies or tax credits, and enter into related covenants to maintain the eligibility of such series of Water Bonds for those subsidies or tax credits.
- q. Issue any series of Water Bonds as "taxable bonds" bearing interest that is includable in gross income under the Code.
- r. Designate any series of Water Bonds as "green bonds" if applicable.
- s. Execute any documents and take any other action in connection with the Water Bonds which the District Official finds will be advantageous to the District.

Section 4. Unless referred, this ordinance shall take effect on the 30th day after it is enacted.

Section 5. Declaration of Intent to Reimburse. The District hereby declares its official intent to reimburse itself with the proceeds of the Water Bonds for any expenditures on the System Improvements paid prior to the issuance of the Water Bonds. This declaration is adopted as an official action of the District in order to comply with United States Treasury Regulation 1.150-2.

Section 6. Pursuant to Oregon Revised Statute Chapter 198, the ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 20th day of March 2019, and the 17th day of April 2019.

Section 7. This ordinance was adopted following a second reading by the affirmative vote of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 17th day of April 2019, and was signed by the presiding officer and attested to by the secretary.

Bernice Bagnall, President

Todd Sanders, Secretary

Tualatin Valley Water District



ORDINANCE NO. 02-19

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT TO FORM THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION, AN INTERGOVERNMENTAL ENTITY FORMED UNDER ORS CHAPTER 190 BETWEEN TUALATIN VALLEY WATER DISTRICT AND THE CITIES OF HILLSBORO AND BEAVERTON.

WHEREAS, on June 16, 2015, Tualatin Valley Water District (District) and the City of Hillsboro (Hillsboro) entered into an Agreement for Design and Construction of the Willamette Water Supply Program to create the Willamette Water Supply System (WWSS) which will consist of a raw water transmission, pumps, pipeline, water treatment plant, finished water pipelines and terminal storage to deliver water to their respective service boundaries; and

WHEREAS, District, Wilsonville, Sherwood, Hillsboro, Beaverton and Tigard entered into the Willamette Intake Facilities intergovernmental agreement creating the Willamette Intake Facilities Commission, an intergovernmental entity under Oregon Revised Statutes 190.003 to 190.265, to own, upgrade and expand, operate and manage the Willamette Intake Facilities at the site of the Willamette River Water Treatment Plant (WRWTP) in Wilsonville for the use and benefit of the WRWTP and the WWSS Water Treatment Plant; and

WHEREAS, District, Hillsboro and Beaverton have agreed to execute the Willamette Water Supply System intergovernmental agreement (WWSS IGA) effective July 1, 2019 to form the Willamette Water Supply System Commission (WWSS Commission), an intergovernmental entity under Oregon Revised Statutes 190.003 to 190.265, vested with the powers and authorities as set forth in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of District to enter into the WWSS IGA and to become a member of the WWSS Commission; and

WHEREAS, ORS 190.085 requires District and the other parties to enact an ordinance ratifying the WWSS IGA and creation of the WWSS Commission, and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. Pursuant to ORS 190.085, Tualatin Valley Water District approves the Willamette Water Supply System intergovernmental agreement (WWSS IGA) creating the Willamette Water Supply System Commission (WWSS Commission) with the cities of Hillsboro and Beaverton. The Willamette Water Supply System intergovernmental agreement is attached hereto as Exhibit A and incorporated by reference.

Section 2. The effective date of the WWSS IGA is July 1, 2019.

Section 3. The public purpose for which the WWSS Commission is created is to use all authority vested in the WWSS IGA for the operation, maintenance, design, construction, repair and replacement and resource management of the Willamette Water Supply System as set forth in the WWSS IGA among the parties or with others.

Section 4. To carry out its public purpose, the WWSS Commission shall have the following powers, duties and functions, and as more specifically set forth in the WWSS IGA, and in addition to those specified in ORS 190.003 through 190.265:

- A. To provide operation, maintenance, design, construction, repair and replacement and water resource management of the Willamette Water Supply System as described in the WWSS IGA for water intake, treatment, storage and transmission to the service territories of each Party;
- B. To issue debt pursuant to ORS 190.080(1)(a) and the terms of the WWSS IGA;
- C. To otherwise manage the business affairs of the WWSS as set forth in the WWSS IGA;
- D. To retain such officers and employees as it deems necessary and to contract for the purchase of property and services;
- E. To perform the administration and accounting of all payments and receipts related to operation of the Willamette Water Supply System for the account of a party, parties or the WWSS Commission;
- F. To adopt such bylaws, rules, regulations and policies as the parties deem necessary to further the purposes of the WWSS;
- G. To exercise all powers pursuant to the applicable acts, charters, or laws of the individual parties, which are necessary or desirable to economically and efficiently develop and operate the WWSS Commission.

Section 5. This ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date and place of the of the meeting and gave a brief description of the ordinance to be considered at the meeting, and that copies of the ordinance are available at the office of the District.

Section 6. This ordinance was adopted following a first reading and public hearing on April 17, 2019 and followed by a second reading and public hearing of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 15th day of May 2019, and was signed by the presiding officer and attested to by the secretary.

Section 7. This ordinance shall take effect 30 days from the date of its adoption.

Section 8. Not later than 30 days after the effective date of the WWSS IGA, the District shall file or cause to be filed with the Secretary of State for the State of Oregon a copy of this ordinance together with the statement required by ORS 190.085(2).

Bernice Bagnall, President

Todd Sanders, Secretary

Willamette Water Supply System Intergovernmental Agreement

**EFFECTIVE DATE
JULY 1, 2019**

BY AND AMONG

TUALATIN VALLEY WATER DISTRICT

CITY OF HILLSBORO

CITY OF BEAVERTON

TABLE OF CONTENTS

EXHIBIT LIST	3
RECITALS	4
<u>AGREEMENT:</u>	
1. EFFECTIVE DATE AND DURATION	6
2. TRANSFER AND ASSIGNMENT	6
3. DEFINITIONS.....	6
4. COMMISSION	11
5. WILLAMETTE WATER SUPPLY SYSTEM BOARD	12
6. MANAGING AGENCY.....	18
7. MANAGEMENT, OPERATIONS, FINANCE, AND OTHER COMMITTEES	22
8. FINANCIAL MANAGEMENT	24
9. WWSS OWNERSHIP	28
10. WATER RIGHTS.....	30
11. USE OF THE WWSS BY THE PARTIES	30
12. OPERATIONS.....	30
13. CURTAILMENT PLAN AND EMERGENCY RESPONSE PLAN	36
14. LEASING	37
15. OVERUSE	39
16. REMEDIES FOR OVERUSE	40
17. EXPANSION AND CAPITAL IMPROVEMENTS.....	41

18. AGREEMENTS FOR SALE OF WATER TO NON-PARTY	43
19. SALE OF INTEREST TO PARTIES	44
20. ADMISSION OF NEW MUNICIPAL PARTIES.....	48
21. INDEMNIFICATION OF BOARD, OFFICERS AND EMPLOYEES	50
22. DEFAULT	52
23. REMEDIES.....	54
24. DEFAULT BY THE MANAGING AGENCY	56
25. ENFORCEMENT BY INDIVIDUAL PARTIES	58
26. DISPUTE RESOLUTION.....	58
27. DISSOLUTION.....	60
28. GENERAL PROVISIONS	61

EXHIBIT LIST

Exhibit No.	Title
1	WWSS Ownership Allocation by Percentage
2	Description of Water Rights
3	WWSS Commission Organizational Structure
4	Weighted Voting System Calculation
5	Contract Approval Procedures
6	Financial Procedures
7	True Up Obligation
8	WWSS-Related Real Property
9	Sample Lease Form and Methodology
10	Overuse Compensation Requirements
11	Insurance Requirements and Limits
12	Existing Agreements Affected by the WWSS
13	Performance and Maintenance Assurance
14	Approved Ancillary Projects
15	Capacity Allocations Methodology

Willamette Water Supply System Intergovernmental Agreement

This Willamette Water Supply System Intergovernmental Agreement (“**Agreement**”) for the ownership, management and operation of the Willamette Water Supply System (“**WWSS**”) is entered into between Tualatin Valley Water District (“**TVWD**”), a domestic water supply district organized under ORS Chapter 264, the City of Hillsboro (“**Hillsboro**”), an Oregon municipal corporation, and the City of Beaverton (“**Beaverton**”), an Oregon municipal corporation, all of which are local governments authorized to own, operate and maintain municipal water supply systems. Each entity may be referred to individually as a “**Party**” or jointly as “**Parties.**”

RECITALS

WHEREAS, TVWD is a domestic water supply district under Oregon Revised Statutes (“**ORS**”) Chapter 264, which distributes potable water to its respective water system Users; and,

WHEREAS, Hillsboro operates a municipal water supply utility under ORS Chapter 225, which distributes potable water to its respective water system Users; and,

WHEREAS, Beaverton operates a municipal water supply utility under ORS Chapter 225, which distributes potable water to its respective water system Users; and,

WHEREAS, TVWD, Hillsboro, Beaverton, and the cities of Wilsonville, Sherwood, and Tigard have entered into the *Willamette Intake Facilities Intergovernmental Agreement* (“**WIF Agreement**”) dated April 18, 2018, creating an ORS Chapter 190 intergovernmental entity for the ownership, management, and operation of the Willamette Intake Facilities and to provide for design and construction to upgrade and expand the Willamette Intake Facilities; and,

WHEREAS, Hillsboro and TVWD entered into the *Agreement for Design and Construction of the Willamette Water Supply Program* (“**WWSP Agreement**”) on or about June

16, 2015, to permit, design, and construct the Willamette Water Supply System including intake and transmission facilities, a water treatment plant, and reservoir facilities (“**WWSS**”) to provide potable water to Hillsboro and TVWD and system reliability; and

WHEREAS, design and construction of portions of the WWSS has commenced; and,

WHEREAS, Hillsboro and TVWD desire to supersede and transfer, as necessary, the rights and obligations set forth in the WWSP Agreement into this Agreement; and

WHEREAS, TVWD, Hillsboro, and Wilsonville entered into a *Ground Lease for the Raw Water Pipeline*, dated March 21, 2018, and a *Pipeline Easement*, dated March 26, 2018, that will allow the Intake Facilities to connect via pipeline over the real property owned by TVWD and Wilsonville to the WWSS raw water pipeline located in and along Wilsonville right-of-way and lands owned or to be acquired by Wilsonville and TVWD; and,

WHEREAS, the Parties hold or may hold certain storage, release and surface water rights on the Willamette River and its tributaries (“**Water Rights**”) for the purpose of providing water to Willamette River Water Treatment Plant (“**WRWTP**”) or WWSS Water Treatment Plant Facilities for ultimate delivery to their respective water system Users; and,

WHEREAS, the Parties each own and operate municipal water supply systems that provide essential service to their communities, including protection of public health, emergency fire suppression, and potable water supply to support viable community and economic activities, and WWSS will provide necessary water supply to their respective water systems; and,

WHEREAS, the purpose of this Agreement is to set forth the terms for the joint ownership, financing, design, permitting, construction, operation, maintenance, repair and replacement of the WWSS in a prudent, economic and efficient manner to provide high quality water to the Parties’

respective municipal water supply systems, to support the resilient functioning of the WWSS, and to support their commitment to WWSS regional water supply planning and management; and

WHEREAS, the Parties are authorized under ORS Chapter 190 to enter into an agreement for the performance of any or all functions and activities that the Parties, their officers, employees or agents have authority to perform, and to create this intergovernmental entity.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

AGREEMENT

Based on the foregoing Recitals and the mutual promises and obligations, and other good and fair consideration, the sufficiency of which is acknowledged, the Parties agree to the following.

1. Effective Date and Duration

This Agreement is effective as of the 1st day of July 2019. Subject to the dissolution provisions in Section 27, this Agreement is perpetual.

2. Transfer and Assignment

As further provided for by this Agreement, the Parties agree to transfer and assign all their rights and obligations under the WWSP Agreement to the WWSS Commission created by this Agreement, and as provided in Section 28.7, the WWSP Agreement shall terminate upon such transfers and assignments. The Parties shall conclude and transfer WWSP assets; notwithstanding the foregoing, the Parties may elect to keep regulatory agency permits in the joint names of TVWD and Hillsboro to avoid additional permit processes.

3. Definitions

As used in this Agreement, the following terms when capitalized shall have the following meanings:

- 3.1. **Agreement** means this WWSS Intergovernmental Agreement.
- 3.2. **Board** means the Willamette Water Supply System Board created by Section 5.1.1 of this Agreement.
- 3.3. **Capacity** means the instantaneous ability of various components of the WWSS to deliver available water that does not exceed a Party's Ownership, measured in million gallons per day, gallons per minute, cubic feet per second or other comparable measurement as set forth in the Operations Plan and consistent with generally accepted engineering and prudent utility operating practices. Storage shall be measured in million gallons. The Capacity interest in the WWSS of each Party is set forth in Exhibit 1.
- 3.4. **Capacity Expansion** means the expansion of any component facility of the WWSS through a capital improvement project that increases capacity.
- 3.5. **Commission** means the Willamette Water Supply System Commission, an intergovernmental entity created pursuant to ORS Chapter 190 and formed under this Agreement whose Parties are TVWD, Hillsboro and Beaverton, and may include other Municipal Water Providers joining at a future date.
- 3.6. **Curtailed Plan** means a plan developed and approved by the Board for curtailment of water service in accordance with OAR Chapter 690 Division 86 rules.
- 3.7. **Demand** means the instantaneous amount of water used or projected to be used by a Party and imposed on the WWSS to deliver water to their respective municipal water supply systems. The instantaneous measurement of Demand shall be defined

in the Operations Plan as million gallons per day, gallons per minute, cubic feet per second, or other agreed measurement for the WWSS.

- 3.8. **Emergency Response Plan** means a plan that outlines emergency procedures that are recommended for implementation.
- 3.9. **Effective Date** means the date specified in Section 1.
- 3.10. **Facilities Modification** means a capital improvement that does not result in a Capacity Expansion.
- 3.11. **Finance Committee** means the committee with a representative appointed by each Party to act as provided in Section 7.3.
- 3.12. **Fiscal Year** means the period from July 1 through June 30.
- 3.13. **Lease** means the lease of Capacity in the WWSS according to the terms and conditions of Section 14.
- 3.14. **Management Committee** means the committee with a representative appointed by each Party to act as provided in Section 7.1.
- 3.15. **Managing Agency** means the Party designated under Section 6 to manage the business affairs of the Commission and act in accordance with Section 6 and other provisions of this Agreement.
- 3.16. **Master Plan** means a plan that analyzes the performance of the WWSS, documents recommended upgrades, estimates water demand projections from the Parties, and updates the capital improvement plan.
- 3.17. **Member** means a person appointed by a Party to serve on the Board.
- 3.18. **MGD** means million gallons per day.
- 3.19. **Municipal Water Provider** means a city or special district, as defined by ORS

174.116, that supplies drinking water to the public.

- 3.20. **Operations Committee** means the committee with a representative appointed by each Party to act as provided in Section 7.2.
- 3.21. **Operations Plan** means the plan that describes the operational protocols, communications, and coordination for the WWSS.
- 3.22. **Ownership** means the ownership interest in the WWSS of each Party, established following a financial investment in the component facilities of the WWSS and periodically adjusted based upon audited financial records. The Ownership interest in the WWSS of each Party is set forth in Exhibit 1.
- 3.23. **Point of Delivery** means the WWSS owned and operated metered delivery locations connected to a Party's distribution system at the outlet side of the first manual isolation valve downstream from the WWSS-owned meter.
- 3.24. **Real Property** means the real property upon which the WWSS assets are located and may consist of fee, Wilsonville Ground Lease, lease, easement, license or permit interests.
- 3.25. **Supermajority** means a vote of approval from more than seventy percent (70%) of the weighted eligible votes of the Board when the votes are cast.
- 3.26. **System Separation Point** means that point defined in the WIF Agreement where the Willamette Intake Facilities terminate and the water from the caisson is separated by the pumps into untreated water pipes conveying water to either the WRWTP or WWSS WTP, as defined below.
- 3.27. **Users** means any water system users or customers of a Party's water system, including but not limited to residential, commercial and industrial uses, as well as

other units of local government to whom the Party has agreed to sell water.

- 3.28. **Water Rights** means those surface water registrations, permits (including storage and secondary), or certificates held by a Party, the WRWC, or the Commission as registered with the State of Oregon Water Resources Department, which allow for diversion of water from the Willamette River to deliver water to the WWSS Water Treatment Plant. The Water Rights are more fully described in Exhibit 2.
- 3.29. **Willamette Intake Facilities (“WIF”)** means existing, expanded, or upgraded Willamette Intake Facilities used to withdraw and transmit water to the WIF Parties at the agreed System Separation Point. The Willamette Intake Facilities include the fish screens, intake pipe, caisson, pump station building, and other jointly owned equipment leading up to the System Separation Point in the WIF Agreement.
- 3.30. **Willamette River Water Coalition (“WRWC”)** means the ORS Chapter 190 entity currently consisting of TVWD and the cities of Sherwood, Tigard, and Tualatin.
- 3.31. **Willamette River Water Treatment Plant (“WRWTP”)** means the Water Treatment Plant located near the Willamette Intake Facilities currently serving potable water to the cities of Wilsonville and Sherwood, and other potential Municipal Water Providers.
- 3.32. **Willamette Water Supply Program (“WWSP”)** means the Program described in the Agreement for Design and Construction of the Willamette Water Supply Program (WWSP Agreement) and the Staff consisting of TVWD employees, Hillsboro employees, and consultants, assembled under the WWSP Agreement.
- 3.33. **Willamette Water Supply System (“WWSS”)** means all water supply system

infrastructure facilities beginning at the Willamette Intake Facilities System Separation Point and continuing to the Points of Delivery, consisting of the raw water pipeline, water treatment plant, finished water pipeline(s), finished water storage, and related facilities that serve potable water to TVWD, Hillsboro, Beaverton and other potential Municipal Water Providers.

3.34. **Willamette Water Supply System Water Treatment Plant (“WWSS WTP”)** means the Water Treatment Plant in Washington County to be designed and constructed to serve potable water to TVWD, Hillsboro, Beaverton and other potential Municipal Water Providers.

4. Commission

Pursuant to ORS Chapter 190, the Willamette Water Supply System Commission (“**Commission**”), governed by the Willamette Water Supply System Board, is created according to this Agreement and the laws of Oregon. The Commission is created under this Agreement to design, permit, fund, construct, own, operate, manage, repair and replace and, as reasonable provide information to the Parties in support of their procuring financing for the WWSS in order to supply water to the Parties to this Agreement. The Board is served by appointed Management, Finance, and Operations Committees and the affairs of the Board are administered by an appointed Managing Agency (as appointed under Section 6), WWSS Intake and Water Treatment Plant Operator (as appointed under Section 12.3), and a WWSS Transmission System Operator (as appointed under Section 12.4), with an organization structure illustrated in Exhibit 3.

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5. Willamette Water Supply System Board

5.1. Composition, Voting, Appointment, Alternates, and Quorum

- 5.1.1. The Commission shall be governed by a three-member Board. The name of the Board is the Willamette Water Supply System Board (“**Board**”).
- 5.1.2. The Board shall use a weighted voting system that is calculated by the percent of owned capacity of: 1) the raw water pipeline and 2) the finished water pipeline pumped as set forth in Exhibit 4. Vote splitting is not allowed. Any vote by a Member shall be a vote for the entire percentage share. Except where a unanimous vote is required, a Supermajority affirmative vote is required to decide any issue before the Board.
- 5.1.3. Each Party will appoint its respective Member to the Board pursuant to the decision-making process of the Party’s governing body. A Member serves at the pleasure of the Member’s governing body. A Party may not appoint a non-elected employee, employed by the Party, to serve as its Member on the Board.
- 5.1.4. Each Party’s governing body shall appoint an alternate Member to the Board to attend meetings in the absence of the regularly appointed Member. The alternate Member shall be appointed and may be removed in the same manner and must meet the same qualifications as the regularly appointed Member as set forth in Section 5.1.3. If the Member and the alternate Member attend the same meeting of the Board, the Member shall be the voting representative for the Party. The Member shall inform the Chair, as appointed under Section 5.3, in advance of any meeting of the Board if he

or she cannot attend and whether the alternate Member will attend and will be authorized to vote.

5.1.5. A quorum of the Board shall be two Members representing at least 70% of the weighted eligible votes, provided that if a unanimous vote is required to decide an issue before the Board, then each Party must have a voting Member present at the time of the vote to constitute a quorum for purposes of deciding that issue.

5.1.6. Upon application for membership by another Municipal Water Provider, the allocation of weighted voting shall be negotiated and mutually agreed upon before a new Party is admitted.

5.2. **Meetings; Manner of Acting**

Board meetings shall be conducted in accordance with applicable state law relating to public meetings. The Board shall generally meet monthly during the construction of the WWSS, but in no event less than quarterly. Special meetings may be called by the Chair or by any two Members. The Board shall adopt rules governing the conduct of its proceedings. Attendance at meetings by a Party's Member or alternate Member is an obligation required to be performed under this Agreement, and absences that preclude the Board from taking action constitute a default under Section 22.

5.3. **Officers**

The Board shall annually elect from its Members a chair ("**Chair**") and a vice chair ("**Vice Chair**"), who shall be officers of the Board. The elections shall occur at the first meeting of the Board in each calendar year, unless otherwise agreed by the

Board. The Chair shall serve as the presiding officer. In the absence of the chair, the Vice Chair shall serve as presiding officer. Officers shall serve at the pleasure of the Board and may be replaced by the Board at any time. Officers will serve until a successor is appointed by the Board.

5.4. **Powers and Duties**

The Board shall be the governing body of the Commission and manage the business and affairs of the Commission for the mutual benefit of all Parties. The Board shall adopt such bylaws, rules, regulations and policies as it deems necessary in furtherance of the purposes of this Agreement. The Board shall perform such further duties as may be required by this Agreement, and it shall have all powers necessary and incidental to the execution of its specific duties. Unless otherwise reserved or delegated to the Managing Agency or a committee, the Board shall have all powers state or federal law authorize the Commission to exercise. The Board's powers shall include, among other things the authority to:

- 5.4.1. Appoint a Managing Agency, as provided in Section 6, and approve the terms of any agreement(s) with the Managing Agency as described in Section 6.
- 5.4.2. Adopt ordinances, resolutions and rules or regulations.
- 5.4.3. Approve an operations and management contract(s) as needed.
- 5.4.4. Adopt a budget, as described in Section 8.2.
- 5.4.5. Hire employees as it deems necessary.
- 5.4.6. Adopt a work plan in association with the budget.
- 5.4.7. Approve capital improvement plans, which may include the current fiscal

year.

- 5.4.8. Adopt contracting rules and serve as the Local Contract Review Board under ORS Chapter 279A.
- 5.4.9. Approve and periodically update a Master Plan and Operations Plan for the WWSS.
- 5.4.10. Recommend membership by another Municipal Water Provider, as provided in Section 20, subject to approval by the governing body of each Party.
- 5.4.11. Approve modifications or amendments to the Exhibits to this Agreement.
- 5.4.12. Approve and periodically update an Emergency Response Plan, and related policies and practices, to govern the operation of the assets in an emergency.
- 5.4.13. Approve and periodically update a Curtailment Plan.
- 5.4.14. Approve any Lease that has a term less than one year or longer than five years, as provided in Section 14.
- 5.4.15. Approve and periodically update overuse plans developed under Section 15.
- 5.4.16. Cause a financial audit to be conducted annually.
- 5.4.17. Review and obtain appropriate insurance and fidelity coverages.
- 5.4.18. Oversee the management and operation of the Managing Agency.
- 5.4.19. Approve contracts as set forth in Exhibit 5; acquire real property by negotiation, lease sale or condemnation; and dispose of surplus real and personal property.

5.4.20. Delegate to the Managing Agency, in writing, any functions of the Board and change those delegations from time to time.

5.4.21. Take other actions necessary and proper to manage, operate and maintain the WWSS.

5.5. **Ancillary Projects**

The Board may, in its reasonable discretion, consider and approve a request from a Party to allow use of Managing Agency resources to oversee and manage design and construction of a project that delivers water from a direct connection to the WWSS to that Party's water system. In such case, the Party shall submit the request to the Managing Agency, with a description of the scope of the proposed project and the justification for oversight and management by the Managing Agency. The Board will consider the request and may approve use of Managing Agency resources generally upon the following:

5.5.1. The proposed project is of sufficient size, complexity, or potential impact to the WWSS that oversight and management of its design and construction is appropriate;

5.5.2. WWSS Managing Agency resources staff are available to manage the project; and,

5.5.3. A mutually acceptable separate project agreement is executed between the requesting Party and the WWSS whereby the requesting Party agrees to, among other things, (a) management of the project by Managing Agency resources; (b) award the design or construction contract in the Party's sole name; (c) be responsible for all direct and indirect costs incurred by WWSS

Managing Agency resources; and (d) to fully indemnify, defend and hold harmless the WWSS and other Parties from any and all claims, costs, damages, liabilities or demands of any kind.

5.5.4. Notwithstanding the criteria established in Section 5.5, the Projects set forth on Exhibit 14, which are attached and incorporated by this reference, are approved as Ancillary Projects. Amendments to remove a project from Exhibit 14 require unanimous approval of the Board. A mutually acceptable separate project agreement is required for the Projects in Exhibit 14 before the Managing Agency may use its resources for the Projects.

5.5.5 The Parties shall use reasonable efforts to cooperate and coordinate to facilitate the construction of any Party's public improvement projects similarly aligned with the WWSS or WWSS- Party projects and that can be completed in a manner that is mutually beneficial to the Parties.

5.6 **Performance and Maintenance Assurances**

The Board and a City may agree to use a bond or other third-party security as performance and maintenance assurances (“**Assurances**”) for construction or restoration of City infrastructure directly impacted or necessitated by a WWSS Project component. In lieu of bonds or other third-party security, the Board may elect to provide Assurances through an intergovernmental agreement in substantially the form included as Exhibit 13, attached and incorporated by reference. The Board and City may mutually agree on other terms and conditions of Assurance in addition to the foregoing.

6. Managing Agency

6.1. Initial Appointment of Managing Agency

TVWD is appointed the Managing Agency until such time that the Board designates a new Managing Agency. Upon designation of a new Managing Agency, TVWD and the new Managing Agency will be required to create a one-year transition plan unless a different period is approved by the Board. The components of the transition plan shall be reviewed by the Management Committee prior to implementation, which shall provide advice to the existing and new Managing Agencies about recommended changes to the plan.

6.2. Contracted Services

The Board may select a Managing Agency who is not a Party. In such case, the Board will obtain proposals in whatever manner it deems to be in the best interests of the Commission, provided that such process is otherwise consistent with this Agreement and applicable law. The Board will designate a Party to manage the contract and will adopt an annual work plan. Upon Board approval of the contract, the current Managing Agency will be required to create a one-year transition plan unless a different period is approved by the Board. The components of the transition plan shall be reviewed by the Management Committee prior to implementation. The Board may terminate the contract with a non-Party Managing Agency at its sole discretion and appoint a new Managing Agency.

6.3. Commission Employees

The Board, in its discretion, may hire employees to assist or replace the Managing Agency. Upon notice from the Board of its intent to appoint employees to replace

the Managing Agency, the current Managing Agency will be required to create a one-year transition plan unless a different period is approved by the Board. The components of the transition plan shall be reviewed by the Management Committee prior to implementation, which shall provide advice to the existing Managing Agency and the new employee(s) about recommended changes to the plan.

6.4. Managing Agency Review

The Management Committee shall conduct a performance review of the Managing Agency every five years to assist the Managing Agency with its duties. The Board, in its discretion, may also conduct a review of the Managing Agency as it deems necessary and prudent.

6.5. Termination or Withdrawal

The Board will provide notice to the Managing Agency and Parties if the termination is for a default as provided in Section 24. The Managing Agency will provide a notice to the Board if withdrawal is desired. A notice to withdraw must specify an effective date, but in no event may the Managing Agency terminate without a successor Managing Agency in place. A transition plan with a reasonable period for transfer of duties to the new Managing Agency will be developed by the current Managing Agency and new Managing Agency for approval by the Board.

6.6. Powers and Duties of Managing Agency

The Board may delegate any and all powers to the Managing Agency as necessary to provide for the management functions required to administer the Commission. The Managing Agency is responsible for administering the day-to-day business affairs of the Commission. This Section does not prevent the Board, upon a finding

that it is in the best interest of the Commission, from modifying the duties of the Managing Agency. The Managing Agency shall act for the mutual benefit of all Parties at all times in the performance of all Managing Agency duties. In addition to any other duties assigned or delegated by the Board, the Managing Agency's duties shall include, but are not necessarily limited to, the following:

- 6.6.1. Prepare a proposed annual work plan and corresponding proposed annual budget.
- 6.6.2. Perform such duties as established in an adopted annual work plan and any other duties as directed by the Board.
- 6.6.3. Provide administration of the Board meetings and required public meeting notices and duties.
- 6.6.4. Maintain records in accordance with public records laws.
- 6.6.5. Provide administration of the infrastructure operations and maintenance of the WWSS assets and associated contract approvals.
- 6.6.6. Perform financial planning and management for the Commission and WWSS operations including payment of invoices, accounting, reporting, financial oversight and budgeting in accordance with Oregon law.
- 6.6.7. Develop and coordinate capital improvements plans, including the timing of any improvements or expansions related to the WWSS. Each Party will participate in planning projects, such as a Master Plan or facilities plan, and will provide good-faith estimates for future Demand.
- 6.6.8. Provide capital project management for initial delivery of the WWSS by 2026 and thereafter with Managing Agency resources.

- 6.6.9. Provide leadership, administration and staffing in support of the Board and committees such as the Management Committee, Operations Committee, and Finance Committee.
- 6.6.10. Prepare and update an Operations Plan in coordination with the Parties. The Operations Plan must be reviewed by the Management Committee prior to submitting it to the Board for adoption.
- 6.6.11. Coordinate with WRWTP and the Willamette Intake Facilities to support and facilitate the orderly and effective operations, maintenance and construction activities of the WWSS.
- 6.6.12. Oversee and collaborate with the WTP Operator (as appointed in Section 12.3) and Transmission System Operator (as appointed in Section 12.4) for operation and maintenance management strategies and asset management.
- 6.6.13. Take prompt action, as necessary, in accordance with a Curtailment Plan or an Emergency Response Plan and report to the Parties and the Board as soon as reasonably possible. In the case of an emergency, an after-action report including the nature of the emergency, the effect(s) on the WWSS, and the steps taken by the Managing Agency in response will be provided to the Board.
- 6.6.14. Procure and manage appropriate insurance coverages and fidelity coverages, in accordance with the insurance requirements set forth in Section 28.3, or as the Board may otherwise direct.
- 6.6.15. Approve, execute and administer contracts, subject to the contracting rules and direction of the Board within the limits set forth on Exhibit 5.

- 6.6.16. Provide the Parties and their authorized representatives access to all books, documents, papers and records of the Managing Agency that are directly related to the WWSS and associated capital improvement projects for the purpose of making any audit, examination, copies, excerpts and transcripts.
- 6.6.17. Provide public communications and outreach, including response to public information, media or records requests.
- 6.6.18. Provide operation management and oversight as set forth in Section 12.2.
- 6.6.19. Identify, track and report on key performance indicators and level of service goals.
- 6.6.20. Establish and maintain an operations safety program.
- 6.6.21. Manage the use of proceeds and any facilities constructed with borrowed proceeds in accordance with authorized purposes.
- 6.6.22. Cooperate with the Parties and assist them as reasonably requested in complying with covenants related to their own borrowings associated with the WWSS.
- 6.6.23. Other duties as may be assigned by the Board.

7. Management, Operations, Finance, and Other Committees

7.1. Management Committee

Each Party shall appoint one person to serve on the Management Committee. Each Management Committee appointee shall be a Party's Chief Executive Officer, City Manager, or his or her designee. The Managing Agency shall meet with the Management Committee to receive recommendations on policies, planning, operations, capital projects, contract awards, etc., which the Managing Agency may

use to provide information and recommendations to the Board. The Management Committee members will also serve as the liaison to each of their respective governing bodies regarding the work of the Managing Agency.

7.2. **Operations Committee**

Each Party shall appoint one person to serve on the Operations Committee. Each Operations Committee appointee shall be technically knowledgeable in water system operations or engineering to the Operations Committee. A Party may allow other attendees at an Operations Committee meeting. The Managing Agency will advise and consult with the Operations Committee on matters including but not limited to WWSS operations, capital improvements and planning, and contract management. The Operations Committee shall adopt a meeting schedule and, as required by this Agreement or upon request by the Management Committee, report on or provide recommendations to the Management Committee on any such matter in order to permit the Management Committee to provide advice to the Managing Agency.

7.3. **Finance Committee**

Each Party shall appoint one person to serve on the Finance Committee. Each Finance Committee appointee shall be knowledgeable in governmental accounting and finance practices. A Party may allow other attendees at a Finance Committee meeting. The Finance Committee shall adopt a meeting schedule and, as required by the Agreement or as requested, provide recommendations to the Management Committee to permit the Management Committee to provide advice to the Managing Agency on the proposed annual budget; capital improvement plan,

including resource availability and timing; and other financial policies. The Finance Committee will also provide comment and recommendations on the financial procedures to be developed and implemented by the Managing Agency.

7.4. **Other Committees**

Other Committees may be formed as needed to support and provide guidance to the Commission or Managing Agency.

8. Financial Management

8.1. **Budget Process and Calendar**

The Board shall adopt a budget for the Commission's operations and capital improvements for each Fiscal Year or on a biennial budget basis if the Board elects.

The Board shall adopt procedures for its consideration of the budget, which may, in the Board's discretion, require the Managing Agency to work with the Management, Operations and/or Finance Committee, before proposing a budget to the Board for its consideration.

8.2. **Budget Adoption**

The Board will strive to adopt the budget by resolution in April of each year to enable the Parties to adequately reflect necessary commitments in their own respective budgets, but in no case will the Board adopt the budget later than June 1st of each year.

8.3. **Capital Improvement Plan Budget**

The Managing Agency shall maintain capital improvement plan budget projections for at least the subsequent four Fiscal Years following the current fiscal year budget, which shall be updated annually or biennially and submitted to the Board

with the initial draft budget and the proposed budget. The Board will consider the capital improvement plan for adoption on an annual basis on the same timeline as the annual budget.

8.4. **Accounting**

The Managing Agency shall comply with government accounting standards, maintain independent budget and accounting control procedures, and provide budget financial status reports in a manner and at times required by the Board.

8.5. **Audit**

The Board shall cause an independent audit of the financial affairs of the Commission to be performed by a certified public accountant licensed and certified to do municipal auditing in the State of Oregon. The audit shall be performed in accordance with the provisions of the Oregon Municipal Audit Law, ORS 297.405 – 297.555. The audit shall be completed annually within six months following the end of each Fiscal Year. The Board shall review, accept the annual audit, and direct the Managing Agency to complete corrective actions as needed. A copy of the annual audit shall be provided to each Party upon acceptance by the Board.

8.6. **Borrowings**

Each Party is expected to independently finance its share of the various components of the WWSS as well as any necessary future capital improvements. Accordingly, the Parties do not anticipate that the Commission itself will need to enter into borrowing for the WWSS or future capital improvements. Nonetheless, upon the approval of a written agreement by the governing bodies of each Party (the “**Debt Agreement**”), and a unanimous decision by the Board, the Board may approve

borrowing funds. To the extent that the WWSS Commission enters into borrowings, then each Party shall be responsible for its proportionate share of the borrowings as determined by the Debt Agreement, which shall become an exhibit to this Agreement.

8.7. Financial Procedures

The Managing Agency shall develop any additional financial procedures necessary to comply with the terms of this Agreement and applicable law for adoption by the Board.

8.8 Invoicing of Parties and Payment of Budgeted Costs

8.8.1. Each Party acknowledges and recognizes that all the Parties to this Agreement are relying upon each other to provide a critical health, life and safety service to their respective Users. To that end, each Party covenants to impose rates in whatever amounts necessary to fund the Commission in a sum equal to its percentage share of the costs incurred to operate and maintain the WWSS, provide for administrative oversight of the Commission, as well as any additional capital improvement costs necessary to continue the operation of the WWSS. The Managing Agency shall provide periodic invoices to each Party in an amount equal to each Party's percentage share of the costs incurred by the Commission for (1) administrative costs; (2) capital improvement costs, except those paid pursuant to Section 8.8.3 for initial WWSS capital expenditures; and (3) operation and maintenance costs, as determined by the methodology set forth in Exhibit 6. Payment shall be as provided in Exhibit 6.

8.8.2. The Parties shall true up expenditures incurred prior to the effective date of this Agreement, including but not limited to expenditures for permitting, interests in land (fee, easement, Wilsonville Ground Lease, lease, permit or license), design, construction, and other costs incurred for WWSP by TVWD and Hillsboro. The amount of these true up expenditures either owed or overpaid for each Party is set forth in Exhibit 7. Within a reasonable time after the effective date of this Agreement, the Managing Agency will provide an invoice to each Party, which shall reflect the amounts allocated in Exhibit 7 to the invoiced Party. Each Party shall pay any amount owed within 30 days of invoice by the Managing Agency. The Managing Agency shall provide a credit against future invoices issued pursuant to Section 8.8.1 for any Party's overpayment as set forth in Exhibit 7.

8.8.3. For initial permitting, land acquisition, design and construction of WWSS capital improvement projects to deliver water by 2026, the WWSS shall follow the billing and payment methods and procedures set forth in Exhibit 6, attached and incorporated by reference.

8.9. First Year Budget and Expenses

The initial budget for the WWSS for fiscal year 2019-20 will be considered by the Board after the effective date of this Agreement. Each Party agrees to reimburse the Managing Agency for its share of all WWSS costs and expenses incurred after the effective date of this Agreement up to and including the adoption of the

WWSS budget by the Board. These expenses will be included in the projected first year budget and will be accounted for and invoiced per Sections 8.7 and 8.8.

9. WWSS Ownership

9.1. Ownership

The Parties each own or anticipate owning a certain percentage of Capacity in the various components of the WWSS. The anticipated percentage of owned Capacity for each component is set forth in Exhibit 1. Upon completion of construction of each WWSS component and at any other time thereafter, the Board may amend Exhibit 1 as necessary to reflect the actual Capacity percentage of each WWSS component. Unless waived by the Board, a Party's ownership interest in the WWSS shall be equal to or less than the Party's Capacity in the WIF.

9.2. Real Property Ownership

Current and future acquired Real Property interests will be held in the name of the WWSS Commission. Upon execution of this Agreement, any Party holding a WWSS-related Real Property interest listed in Exhibit 8 shall undertake to convey and transfer the interest to the Commission, unless either impracticable or otherwise agreed by the Board.

9.3. IGA's, Permits and Other Assets

Unless otherwise agreed by the Board, each Party agrees to take any further actions as necessary to effectuate the intent of this Agreement, including but not limited to, transferring or assigning any rights or interests in Intergovernmental Agreements, Permits and other assets that would have been held by the Commission if it were in existence at the time the rights or interests were acquired.

9.4. **Re-Rating Capacity**

The Parties acknowledge that the Assets set forth on Exhibit 1 may be capable of producing greater capacity than the stated ownership capacity. The capacity ownership stated on Exhibit 1 shall remain binding until the asset is re-rated at the request of TVWD or Hillsboro following the procedure set forth herein. No Party will have a greater capacity in an asset until the re-rating process is completed and approved by the Board and Exhibit 1 is amended.

TVWD or Hillsboro may request the Board undertake a re-rating process for a specific asset(s) or of the entire WWSS. The Party's request shall be initiated by a written proposal to the Managing Agency for Board consideration. The Managing Agency will provide the proposal to the Board and the other Parties. At or prior to the meeting where the Board will consider the proposal, the other Party (TVWD or Hillsboro) shall state whether they support the proposal. Beaverton will not participate or receive benefit of re-rated capacity in excess of its ownership in the WIF.

Board authorization shall be conditioned upon full cost reimbursement of the WWSS for all consultant, attorney or other costs incurred by the WWSS from the re-rating study. A Party that does not seek to benefit from a re-rating study shall not be liable for costs incurred from the re-rating study. The Parties that participate in the re-rating study may agree upon the allocation of resulting additional capacity different than proportional allocation. The results of any re-rating study shall be provided to the Board for review and approval. No re-rating of capacity is effective until Board approval. As part of Board approval of the re-rated capacity, all

transactions, sales or exchanges resulting from the re-rating shall be implemented and the necessary exhibits will be amended or adopted.

10. Water Rights

Each Party is responsible for obtaining its own Water Rights sufficient to meet its demand. Coordination, certifications and perfections, curtailments, and restrictions on use are managed through the WIF Agreement. The WWSS Commission will coordinate with the WIF Commission for demand and withdrawal needs. A Party's certification or perfection of its individual Water Right through the WWSS facilities cannot exceed the Party's owned Intake Facilities Capacity unless the Board approves otherwise and such approval is not to the detriment of the other Parties' Water Rights.

11. Use of the WWSS by the Parties

Each Party shall use the WWSS in a manner consistent with prudent water utility operating practices and in a manner that minimizes the impact of use, including additional costs, on the other Parties. The Managing Agency shall manage the WWSS for the mutual benefit of all Parties. Each Party shall obtain sufficient Ownership in the WWSS to serve the Demand imposed on the WWSS Commission by the Party.

12. Operations

12.1. Operations Plan

Prior to the date the WWSS Commission commences delivery of potable water to the Parties' respective distribution systems, the Board shall approve an Operations Plan that is developed by the Managing Agency in consultation with the Operations and Management Committees. The Operations Plan for the WWSS will include, but is not limited to, agreed protocols and a methodology to provide for the

equitable, effective and efficient operation of the WWSS in accordance with generally accepted utility practices regarding the management, operation, maintenance, capital improvements, and expansion of all aspects of the WWSS, including level of service goals and coordination with the WIF, WWSS WTP, raw and finished water transmission system, terminal storage reservoirs and Points of Delivery to the Parties. The Operations Plan will provide that the Parties will use best efforts and good faith in the operation of the WWSS for the mutual benefit of all Parties. The Operations Plan will be updated as needed.

12.2. **Operation Management and Oversight**

The Managing Agency shall follow the Board-adopted Operations Plan in performance of its functions. In addition to the duties set forth in Section 6.6, the Managing Agency shall be responsible for periodic updates to the Operations Plan. The Managing Agency shall identify the resources needed to fulfill the Operations Plan as part of the Commission's annual work plan and budget.

12.3. **Operation of WWSS Intake and Water Treatment Plant – WTP Operator**

Hillsboro is initially appointed as the WWSS Water Treatment Plant Operator (“**WTP Operator**”) with responsibilities for participation in the design of improvements as well as routine operation and maintenance of the WWSS Raw Water Pump Station (“**WWSS RWPS**”) and WWSS WTP. The WTP Operator will be responsible for preparation and execution of those portions of the Operation Plan that directly pertain to the operation and maintenance of the WWSS RWPS and WWSS WTP, including coordination with the Managing Agency in support of the Managing Agency's role for oversight and management of these functions. The

WTP Operator, in coordination with the Managing Agency, shall recommend for review and approval by the Managing Agency the resources needed to fulfill these duties as part of the WWSS Commission's annual work plan and budget.

12.3.1. The Management Committee, in coordination with the Managing Agency, shall conduct a performance review of the WTP Operator every five years. The Board, in its discretion, may also conduct a review of the WTP Operator as it deems prudent.

12.3.2. Initial appointment of the WTP Operator will remain in effect until such time that the Board designates a new WTP Operator. The Board may select a WTP Operator who is not a Party. In such case, the Board will obtain proposals in whatever manner it deems to be in the best interests of the Commission and the Parties, provided that such process is otherwise consistent with this Agreement and applicable law. Upon Board designation of a new WTP Operator, the Management Committee and the Managing Agency will create a one-year transition plan, unless a different period is approved by the Board.

12.3.3. Duties to be performed by WTP Operator include but are not limited to:

- Day-to-day operation of the WWSS assets at the WIF, the WWSS RWPS and the WWSS WTP, including coordination with Parties to meet daily water demands.
- Coordinate operations and maintenance with other WIF partners.
- Coordinate operations and maintenance with the WRWTP.
- Perform routine maintenance of the WWSS RWPS and WWSS WTP.

- Track and report on performance of WWSS components of the WIF, WWSS RWPS, and WWSS WTP operations and maintenance.
- Undertake financial reporting and annual budgeting of the WWSS components at the WIF, the WWSS RWPS/and the WWSS WTP.
- Coordinate with Managing Agency for budgeting, financial reporting, level of service goals development and tracking, key performance indicators development and tracking, and procurements.
- Undertake routine ordering and maintenance of consumable supplies such as treatment chemicals.
- Undertake routine process control monitoring, including in-house laboratory testing.
- Asset management including maintenance of records.
- Participate in the WWSS Operations Committee.
- Coordinate with the Managing Agency for the procurement of WWSS WTP-related contract services (e.g., specialized maintenance, testing and inspections).

12.3.4. Operation of the WIF is the responsibility of the WIF Commission and, as such, the WWSS Commission does not direct the operation of the WIF. Notwithstanding that limitation, the WWSS WTP Operator shall be responsible for operation of WWSS assets located within the WIF, including coordination with the WIF Managing Agency and operation of WWSS assets in the WIF in conformance with the WIF Agreement and the

WIF Operations Plan.

12.3.5. Operation of WWSS WTP shall be executed in conformance with the WWSS Operations Plan and shall be coordinated with Managing Agency, Parties and the Transmission System Operator.

12.4 Operation of WWSS Pipelines and Reservoirs – Transmission System Operator

TVWD is initially appointed as the WWSS Transmission System Operator (“**Transmission System Operator**”) with responsibilities for participation in the design of improvements as well as routine operation and maintenance of the WWSS assets not located at the WIF or WTP. Transmission system assets generally include the WWSS raw water pipeline, finished water pipeline, terminal storage reservoirs, connections to the distribution systems (turnouts up to the isolation valve separating the turnout from the distribution system) and related appurtenances. The Transmission System Operator will be responsible for preparation and execution of those portions of the Operation Plan that directly pertain to the operation and maintenance of the WWSS transmission system, including coordination with the Managing Agency in support of the Agency’s role for oversight and management of these functions. The Transmission System Operator, in coordination with the Managing Agency, shall identify the resources needed to fulfill these duties as part of the WWSS Commission’s annual work plan and budget.

12.4.1. The Management Committee, in coordination with the Managing Agency, shall conduct a performance review of the Transmission System Operator every five years. The Board, in its discretion, may also conduct a review of

the Transmission System Operator as it deems prudent.

12.4.2. Initial appointment of the Transmission System Operator will remain in effect until such time that the Board designates a new Transmission System Operator. The Board may select a Transmission System Operator who is not a Party. In such case, the Board will obtain proposals in whatever manner it deems to be in the best interests of the Commission, provided that such process is otherwise consistent with this Agreement and applicable law. Upon Board designation of a new Transmission System Operator, the Management Committee and the Managing Agency will create a one-year transition plan, unless a different period is approved by the Board.

12.4.3. Operation of WWSS transmission system shall be executed in conformance with the WWSS Operations Plan and shall be coordinated with Managing Agency, Parties and the WTP Operator.

12.4.4. Duties to be performed by Transmission System Operator include but are not limited to:

- Day-to-day operation of the WWSS transmission system (including raw and finished water pipelines), terminal storage reservoirs and turnouts.
- Pipeline locating.
- Valve exercising, and other maintenance related to pipelines including periodic pipeline cleaning.
- Reservoir operation and maintenance including periodic cleaning.
- Asset management and mapping related to WWSS transmission system

assets, including maintenance records.

- Performance tracking and reporting of transmission system operations and maintenance.
- Delivery meter reading, reporting and meter maintenance.
- Coordination with Managing Agency for budgeting, financial reporting, Key Performance Indicator development and tracking, and procurements.
- Routine ordering and maintenance of consumable supplies.
- Participation in the WWSS Operations Committee.
- Coordination with the Managing Agency for the procurement of transmission system-related contract services (e.g., specialized maintenance, testing and inspections).

13. Curtailment Plan and Emergency Response Plan

13.1. Curtailment Plan

The Board shall adopt a Curtailment Plan that establishes policies and procedures for when and how reductions in Demand shall be made. The Managing Agency shall develop a proposed Curtailment Plan in consultation with the Operations and Management Committees. When reductions in Demand become necessary, the reduction shall be in accordance with the Curtailment Plan. The Curtailment Plan shall be developed in coordination and consistent with the Willamette Intake Facilities Curtailment Plan. The Curtailment Plan will be updated as needed.

13.2. Emergency Response Plan

The Board shall adopt an Emergency Response Plan. The Managing Agency shall prepare an Emergency Response Plan in consultation with the Operations and

Management Committees. Procedures and protocols must be included in the proposed Emergency Response Plan. The Emergency Response Plan will be updated as needed and presented to the Board for adoption.

14. Leasing

14.1. Leasing

The Parties recognize that options for leasing Capacity, as provided in Exhibit 9, are important to maintain the cost effective and efficient use of the WWSS and associated infrastructure. Only Parties to this Agreement are eligible to engage in leasing. A Party will not be forced to lease its percentage of Capacity to other Parties. Each Party retains sole discretion as to how much, if any, of its percentage of Capacity of the WWSS components to make available for leasing. Prior to expanding or adding new infrastructure to the WWSS above the current Capacity of the components of the WWSS, the Parties will determine if leasing options are a reasonable approach as a method to defer capital expansion.

14.2. Leasing Procedures

The Managing Agency will coordinate and manage the annual leasing process for the components of the WWSS, including associated agreements and approval requirements, on a schedule that accommodates the Commission and the Parties' budget processes. Any Party wishing to lease shall make a request to the Managing Agency stating the identity and Capacity of WWSS components and the length of time the Party desires to lease. The Managing Agency will notify all Parties of the lease request. Each Party interested in meeting the terms of the lease request will respond to the Managing Agency stating the Capacity of WWSS components it

wishes to make available to lease that conform to the lease term requested. The Managing Agency will develop forms and protocols for managing the leasing process including the leasing requests and percentage of Capacity in each WWSS component being made available for leasing by each Party. A rate methodology for leasing will be proposed by the Managing Agency, in consultation with the Management and Finance Committees, and adopted by the Board.

14.3. **Lease Terms**

The length of time for leases will be a minimum of one year and a maximum of five years, unless otherwise approved by the Board. The Managing Agency will develop recommended protocols and the terms to be approved by the Board for Leases. A sample Lease form and methodology are attached in Exhibit 9, which may be modified and/or updated by the Board.

14.4. **Lease Approval**

A Lease that is within the terms of this Section will be reviewed, approved and administered by the Managing Agency after consultation with the Management Committee. Status reports regarding the Lease agreements will be provided to the Board by the Managing Agency. A Lease that is not consistent with the terms of this Section must be approved by the Board.

14.5. **Lease Distribution and Payments**

If more than one lessor and one lessee are involved, Lease requests and associated Lease revenues will be divided among the lessors based on the percentage of Capacity in the WWSS component leased, unless otherwise approved by the Board. When Lease requests exceed the amount of percentages of Capacity made

available, available percentages will be divided amongst the lessees based on the percent of Capacity requested, unless otherwise approved by the Board.

15. Overuse

15.1. Notification

A Party will manage its Demand on the WWSS within the Party's respective percentages of owned capacity in each of the WWSS components as may be augmented by leased sources. Overuse terms are included in the Agreement in order to discourage use that may result in adverse impacts to the operational integrity of the WWSS and to promote prudent planning of needed expansions. The Managing Agency shall notify a Party when the Party's instantaneous Demand has exceeded its percentage of owned capacity in any WWSS component as augmented by any leased Capacity. A Party should notify the Managing Agency if the Party exceeds or anticipates exceeding its percentage of owned capacity in any WWSS component as augmented by any leased Capacity. A Party will be required to take appropriate corrective action to decrease the Party's Demand on the WWSS to be within its percentage of owned capacity in the WWSS component(s) in question as augmented by any leased Capacity. A Party shall be deemed to have overused the WWSS if the Party's Demand on the WWSS exceeds the Party's percentage of Capacity in any WWSS component as described in Exhibit 1, attached and incorporated by reference.

15.2. Overuse Terms

If a Party has been notified by the Managing Agency that its instantaneous Demand on the WWSS has exceeded the percentage of owned capacity in any WWSS

component as augmented by any leased Capacity, the Party shall take corrective action to decrease the Demand to a non-exceedance level. A Party shall be deemed to have overused the WWSS if the Party's instantaneous Demand on the WWSS exceeds the Party's Capacity by the amount set forth in Exhibit 1,. If overuse occurs, then the Party shall be subject to the remedies for overuse terms set forth in Section 16.

16. Remedies for Overuse

16.1. Remedies Considered by the Board

To the extent that a Party overuses the Capacity of a component of the WWSS as defined in Section 15 of this Agreement, the Party shall compensate the other Parties as set forth in Section 16.2. When overuse occurs, the Board may require the Party to lease Capacity in the WWSS, reduce Demand on the WWSS, or purchase Capacity in the WWSS, if made available by another Party such that the overuse will cease to occur. The Party that overused the WWSS shall deliver to the Management Committee and the Board a plan to avoid overuse in the future. The plan must include a proposal for a Lease agreement, a Capacity purchase agreement, and/or other measures to eliminate overuse of the WWSS. Nothing in this Agreement shall compel a Party to lease or sell its percentage of owned capacity in any WWSS component to an overusing Party. The plan to eliminate overuse by the Party must be approved by the Board, and the Managing Agency shall monitor the implementation of the plan and report back to the Board. Penalties for overuse may only be waived by the Board. A request for a waiver may be given to the Managing Agency, along with justification for the waiver, to be presented to

the Board. Failure of a Party to provide a plan, implement the plan or pay compensation shall be a default.

16.2. Compensation

To the extent that a Party overuses its percentage of Capacity in any WWSS component as defined in Section 15 of this Agreement, the Party shall compensate the other Parties as required by Exhibit 10. The compensation for overuse shall be distributed to the other Parties by their percentage of Capacity in the WWSS component that was overused.

17. Expansion and Capital Improvements

17.1. Future Expansion or Improvement

The component facilities constructed as part of the initial WWSS shall become the baseline measure of Capacity. Subsequent Capacity Expansion of the WWSS refers to any capital improvement project that results in increased WWSS Capacity over the baseline Capacity or any re-rating of a component facility that results in increased WWSS Capacity over the baseline Capacity. Capacity Expansion or Facilities Modification of the WWSS, to the extent possible, shall be planned for through a Master Plan to be updated not less than every five years. The Managing Agency will lead and facilitate the development of the Master Plan, which will be reviewed by the Management, Operations and Finance Committees before the Managing Agency presents it to the Board for adoption. The Managing Agency will conduct the planning and implementation of the WWSS Capacity Expansion, including provision for minimum operational impacts and cost impacts, to the other Parties. Any Party may propose to the Managing Agency a Capacity Expansion

outside the planned Capacity Expansions in the Master Plan, pursuant to the procedures set forth in subsection 17.2 below.

17.2. Determination of Future Expansion

Any Party may propose a Capacity Expansion by providing written notice to the Managing Agency describing the proposed expansion. The Managing Agency will provide notice to all Parties of any proposed Capacity Expansions to determine participation. Parties shall have 120 days from the date they receive notice, with an option for an additional 60 days if requested, in which to respond to the Managing Agency and: (a) state whether they wish to participate in the proposed Capacity Expansion, and (b) propose any conditions for participation. The Managing Agency will also determine if costs will be incurred that are beneficial to the WWSS, separate from the costs that increase capacity, such that non-participating parties should contribute a share of those general benefit costs based on the Party's percentage of owned capacity in the WWSS component in question. Once participation in the proposed Capacity Expansion is fixed and the scope, budget, and schedule are established, then the non-participating Parties shall have no responsibility for the capacity expansion costs, but they will participate in the general benefit costs. All Parties will include their proportionate share of the estimated costs in their respective budgets. In the case of any proposed Capacity Expansion, the Board must approve the proposed Capacity Expansion and allocation of capacity expansion and general benefit costs. If the Board agrees to allow the Capacity Expansion, each Party will have the option to participate in the Capacity Expansion. If not all of the Parties agree to participate in the Capacity

Expansion, then only those Parties electing to participate in the Capacity Expansion will be responsible for all costs related to the Capacity Expansion other than those costs allocated to all Parties as general benefit costs. The Managing Agency will strive to resolve objections to proposed Expansion prior to a final decision being made with respect to the Capacity Expansion. A project agreement will be executed, and the Managing Agency will provide all design, permitting and construction management unless otherwise agreed.

18. Agreements for Sale of Water to Non-Party

18.1. Sale by a Party

Each Party may enter into wholesale water sales agreements with a non-party if the connection to the non-party is to the Party's distribution system and not to the WWSS. Existing wholesale agreements that are in place with a Party prior to this Agreement are not governed by the WWSS Commission or this Agreement.

18.2 Sale by the WWSS.

Wholesale water sales agreements between a non-party and the WWSS Commission shall be required and approved by the Board when a non-party purchaser is connected to the WWSS and not a Party's distribution system. The Parties agree that sale of water to a non-party from the WWSS shall occur only through the WWSS Agreement and not the WIF Agreement. The Capacity made available to a non-party shall be based on an agreed upon formula by those Parties who own Capacity in the WWSS components required for the sale that agree to participate. A WWSS wholesale water sales agreement will be developed and approved by the Board and the non-party. A Party may opt out of participating in

any wholesale agreement prior to the WWSS Commission entering into any such agreement. The cost of water for the sale to a non-party will be evaluated at the time of sale, and the formula will be approved by the Board and added to this Agreement as an Exhibit.

19. Sale of Interest to Parties

19.1. Notification

One or more Parties (“**Selling Parties**”) may sell all or a portion of their Capacity in the WWSS or their WWSS components by providing written notice to the Managing Agency and the other Parties. Within 60 days of receipt of the notice, each Party with an interest in acquiring additional Capacity in components of the WWSS shall respond in writing to the Managing Agency and the Selling Parties indicating: (a) whether it wishes to purchase all or a portion of the interest in the WWSS, (b) the offer price, and (c) the proposed terms and conditions of the purchase and sale (“**Purchase Nomination**”).

19.2. Purchase Nomination Recommendation

19.2.1. The Managing Agency will review each Purchase Nomination and make a preliminary determination as to whether all Parties submitting a Purchase Nomination (“**Purchasing Parties**”) and Selling Parties can be accommodated in full. If all Purchasing and Selling Parties can be accommodated in full, the Managing Agency shall notify the Selling Parties and Purchasing Parties of how the reallocation of ownership will be calculated.

19.2.2. If all Purchasing and Selling Parties cannot be satisfied in full, then the

Managing Agency will confer with the Purchasing and Selling Parties individually or collectively and if an agreement can be reached, the Managing Agency will make a recommendation as to how the total interest designated for sale should be allocated among the Purchasing and Selling Parties. The Managing Agency will recommend a proposed allocation within 30 days after receipt of Purchase Nominations.

19.2.3. If all Purchasing and Selling Parties cannot be satisfied in full, and if an agreement for allocation cannot be reached, then the total interest designated for sale shall be divided and allocated in proportion to the Purchase Nominations received up to the capacity made available for sale as set forth on Exhibit 15, attached and incorporated by reference. The Managing Agency will recommend a proposed allocation using this method within 30 days after receipt of Purchase Nominations.

19.3. **Purchase Negotiations**

Within 30 days after the Managing Agency makes the recommendation and provides written notice of the proposed allocation, the Managing Agency will convene a meeting of the Selling Parties and the Purchasing Parties to reach final agreement on the allocation of Capacity, the purchase price to be paid, and other terms of sale. The Purchasing Parties and Selling Parties will each designate a representative for negotiations. As a result of the negotiations, one price will be set that will apply to all Selling and Purchasing Parties.

19.4. **Purchase Term Sheet**

All Purchasing Parties and Selling Parties, with the Managing Agency as the

facilitator, will have 60 days to negotiate a mutually agreeable transaction through a process so that all Purchasing and Selling Parties are privy to all discussions of price and terms resulting in a mutually agreed final reallocation of WWSS Capacity, component ownership, and the terms of purchase and sale. The terms and price shall include a required sale of WIF capacity if a Purchasing Party does not own WIF Capacity in an amount equal to or greater than what the Purchasing Party's WWSS Capacity would be after the contemplated sale, and, pursuant to Section 9.1, the Board does not waive the requirement to own such levels of WIF Capacity for the Purchasing Party. The final terms will be reduced to a term sheet for tentative approval by the designated representatives of the Purchasing and Selling Parties.

19.5. Acceptance or Rejection

Within 45 days of approval of a term sheet, each of the Purchasing and Selling Parties will conduct such internal review as each deems necessary and provide written notice of intent to proceed with or decline the transaction to the other Parties and the Managing Agency. If any Purchasing or Selling Parties declines, then the Managing Agency will convene the remaining Purchasing and Selling Parties who will then determine how to reallocate the Capacity and adjust their respective purchase price or terms. If there is excess Capacity available, the Managing Agency may also offer the excess Capacity to those Parties who had earlier declined to purchase. Those declining Parties shall have 15 days from notice by the Managing Agency to accept or decline the term sheet as is, and without opportunity to vary its terms, unless the Purchasing and Selling Parties mutually agree to extend the

period to accept or decline the term sheet to more than 15 days.

19.6. **Purchase and Sale Agreement**

Once the terms of purchase and sale are determined, the Managing Agency shall notify all Parties of the pending transaction. Purchasing and Selling Parties will prepare the necessary documents for final approval by the governing bodies of the Selling and Purchasing Parties and the transaction will close within 30 days after final approval, unless a longer period is agreed to by the Selling and Purchasing Parties. Upon closing of the transaction, the Managing Agency will undertake to gather or prepare amended Exhibits and other documents necessary to memorialize the transaction, and it will enter the revised Capacity allocation and resulting equity interest into the books and records of the Commission. Board approval of the transaction is not required, but the Board will approve the amended Exhibits that reflect the revised Capacity allocations.

19.7. **Commission's Purchase Rights**

If all or a portion of the offered Capacity remains unsold after the exhaustion of the procedure in Sections 19.1 through 19.6 above, the Board will have the right to consider whether to purchase a Selling Party's interest on terms and conditions agreed upon by the Board and the Selling Party. If so acquired, the Commission will hold the Capacity in trust for the benefit of all the Parties.

19.8. **Sale to Municipal Non-Party**

If all or a portion of the offered Capacity remains unsold after the exhaustion of the procedure in Sections 19.1 through 19.7, then the Selling Parties may seek and obtain offer(s) from a non-Party so long as the non-Party is a Municipal Water

Provider and becomes a Party to the Commission and this Agreement. Such offers will be reviewed in accordance with Section 20.

19.9. **Party Status**

If the interests of the Selling Party remain unsold, then the Selling Party will continue as a Party. Upon sale of all ownership interests, the Selling Party will cease to be a Party. No entity may remain a Party to this Agreement unless the Party maintains at least 5 MGD in WIF and 5 MGD in WWSS Capacity.

19.10. **Water Rights**

The process described in this Section does not govern the sale or purchase of Water Rights.

19.11. **Schedule**

Participating Parties in any proposed transaction may adjust the schedule provided in this Section as mutually agreed.

20. Admission of New Municipal Parties

20.1. **Eligibility**

Only a Municipal Water Provider who is also a Party to the WIF Agreement and has or will acquire, upon becoming a member, not less than 5 MGD in WIF and 5 MGD in WWSS Capacity, is eligible to apply to become a Party and must make a written request to become a Party (“**Applicant**”).

20.2. **Applicant Request**

The Applicant’s written request shall state: (a) the proposed date of joinder; (b) Demand and component Capacity sought to be purchased; (c) membership and Capacity in the WIF Commission; (d) the quantity and status of Water Rights the

Applicant would provide; (e) the existing Capacity necessary to serve the Applicant; (f) any improvement(s) that would need to be built or expanded to accommodate the Applicant; and (g) other supply sources available to Applicant.

20.3. **Consideration by Managing Agency and Board**

The Applicant shall deliver its request to the Managing Agency who shall then distribute it to the Board and the Management Committee. Each Party's representative of the Management Committee will be responsible for presenting the application to their respective governing bodies for a recommendation to approve or deny within 30 days of receipt. Failure to respond shall be considered a no vote. Once the Management Committee reports back to the Managing Agency the results from each of the Party's respective governing bodies, at the next regularly scheduled Board meeting, the Board will consider the request. A decision to consider an application for admission will require a unanimous affirmative vote of the Board. If the Board determines that the application will not be considered, the Managing Agency will inform the Applicant the request is denied, and the matter will be deemed concluded.

20.4. **Provision of Additional Information**

If the Board unanimously votes to consider the admission, the Board, through the Managing Agency, shall request that Applicant provide all information as the Board deems necessary, in its sole discretion, to adequately consider the matter. This may include a request for oral presentation by Applicant's staff and/or elected officials.

20.5. **Term Sheet**

Based on the information submitted, the Board shall determine if there is

unanimous interest to continue to consider the request. If so, then the Board shall direct the Managing Agency to deliver a term sheet to the Applicant defining the terms and conditions for joinder, including but not limited to the date of joinder, the method of payment for existing Capacity component and Applicant's obligations for construction of new expansion of existing WWSS Facilities.

20.6. Applicant Review of Term Sheet and Negotiation

The Applicant shall have 30 days from the receipt of the term sheet to accept or decline the term sheet or propose modified terms. If the term sheet is acceptable to the Applicant and the Board, or if the Applicant and the Board negotiate and reach agreement within 30 days on the proposed modified terms, the Managing Agency shall cause a joinder agreement to be prepared for approval by the Applicant and the Board. If declined, the matter will be deemed terminated without any further action.

20.7. Sale or Transfer to Applicant

In accordance with Section 19, if an existing Party wishes to sell or transfer Capacity ownership in a component to an Applicant, the Party seeking to sell shall give notice to the Managing Agency as provided in Section 19. The Party shall also include a written statement of its intent to sell. Thereafter, the evaluation of the Applicant and terms and conditions of joinder shall follow the process Applicant requests under this Section concurrent with the Sale of Interest provisions of Section 19 for the Selling Party and remaining Parties.

21. Indemnification of Board, Officers and Employees

Except as may otherwise be provided by contractual agreement between the Commission

or Board and any agent of the Commission, including but not limited to the Managing Agency, the Commission shall defend and indemnify any Board member, officer, committee member, employee or agent of the Commission who was or is a party, or is threatened to be a party, to any threatened or actual action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the collective Parties under this Agreement), by reason of the fact that such person is or was a Board member, officer, committee member, employee, or agent of the Commission, against all reasonable expenses, attorney fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if such person acted in good faith and such person reasonably believed his or her conduct to be lawful, provided that such duty shall not arise in case of malfeasance in office or willful or wanton neglect of duty by such person. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or with a plea of nolo contendere or its equivalent shall not in and of itself create a presumption that the person did not act in good faith or did not reasonably believe his or her conduct to be lawful. Payment under this clause may be made during the pendency of such claim, action suit or proceeding as and when incurred, subject to the right of the Commission to recover such payment from such person, should it be proven later that such person had no right to such payments. Any person who is ultimately held liable for his/her good faith and reasonably believed to be lawful actions on behalf of the Commission as a Board Member, officer, committee member, employee, or agent of the Commission shall be fully covered by this indemnity. Any person who is ultimately held liable but is determined by the Board to have acted in bad faith or without reasonably believing his or her conduct to be lawful shall not be indemnified by the Commission but may have a right of contribution over and against any other Board Members, officers, committee member, employees,

agent of the Commission, or Parties who, in bad faith or without reasonably believing his or her conduct to be lawful, participated in the action that created said liability. As used in this Agreement, “person” refers to an individual or an entity.

22. Default

22.1. Generally

A Party is deemed in Default of this Agreement if the Party violates any provision of this Agreement or fails to perform an obligation required to be performed or otherwise breaches this Agreement. An Event of Default shall be deemed to have occurred if the Defaulting Party fails to cure the Default within the cure period designated in Section 22.2.

22.2. Notice of Default and Cure

A written notice of Default (“**Notice of Default**”) shall be delivered to the Party in Default (“**Defaulting Party**”) by the Managing Agency. The Notice of Default must specify the nature and factual circumstances of the Default and provide a specified period to cure the Default or otherwise reasonably commence to cure the Default in a diligent manner. A notice of default for non-payment shall require cure within a 10-calendar day period. A reasonable time period to cure any default other than non-payment shall be deemed to be 30 calendar days unless another time period to cure is set by the Board and contained in the Notice of Default. The Notice of Default may also include a requirement to engage in the Dispute Resolution process. A copy of the Notice of Default shall be delivered to all other Parties. Specific provisions relating to Default by the Managing Agency are found in Section 24.

22.3. **Response by Defaulting Party**

22.3.1. **Nonpayment Default**

The alleged Defaulting Party shall either: (a) make payment in full by the date set in the Default notice; (b) submit a plan for repayment to the WWSS that must be approved by the Board; or (c) request Dispute Resolution. The timer period to cure for non-payment is a 10-day period, but the Board may, in its sole discretion, approve a payment plan in extraordinary circumstances.

22.3.2. **Other Defaults**

The Defaulting Party must: (a) cure the Default by the time period to cure set forth in the Notice of Default; (b) state why the Default cannot be cured within the time period to cure what efforts the Defaulting Party has made to cure the Default and provide a reasonable plan to cure the Default; or (c) request Dispute Resolution. The plan for cure must be approved by the Board, and if not approved, an Event of Default will be declared. If Dispute Resolution is requested by the Defaulting Party or the Board, then that process will be followed.

22.3.3. **Failure to Cure**

Failure to cure the Default within the allowed time period for cure will result in the Declaration of an Event of Default, and a Final Notice to cure will be delivered to the Defaulting Party by the Managing Agency. Except in the case of nonpayment, the Final Notice to cure will contain one final allowed time period to cure. Failure to cure the Event of Default within the

Final Notice of Default Cure Period will result in a Declaration of Default and the Remedies for Default will apply.

23. Remedies

23.1. Determination of Remedy

Upon Declaration of an Event of Default, the Board will determine an appropriate remedy. The Defaulting Party will not have voting privileges regarding the appropriate remedy and the remaining Board Members shall be required to determine the remedy. The Dispute Resolution process will apply to the imposition and scope of remedies. In deciding the remedy for the Event of Default, the remaining Board Members shall consider:

23.1.1. The nature of and severity of the Event of Default and resulting impact on the other Parties;

23.1.2. Whether the factors leading to the Event of Default were beyond the reasonable control of the Defaulting Party;

23.1.3. The Defaulting Party's history of performance and satisfaction of obligations and duties under this Agreement;

23.1.4. The Defaulting Party's responsiveness and cooperation to cure the Event of Default, including consideration of how proactive the Defaulting Party was in revealing the Default.

23.1.5. Other factors that the Board deems relevant.

23.2. Potential Remedies for Consideration by the Board

The Board may consider all remedies available at law, or in equity, for breach of this Agreement as provided in this Section and Section 24. The purpose of the

remedy is to make all non-Defaulting Parties whole and to bring the Defaulting Party into compliance, if possible. The remedies, until the Event of Default is cured, may include, but not be limited to, the following:

23.2.1. Loss of Voting Privileges

The loss of voting privileges such that the remaining Members of the Board may conduct business without the Defaulting Party until the Defaulting Party fully cures the Event of Default.

23.2.2. Money Damages

The Board may recover money damages for additional costs of service, costs of capital and other actual costs incurred by the other Parties resulting from the Default, plus interest at the statutory judgement rate of interest from the date of the Notice of Default.

23.2.3. Termination of Service

The Board may elect: (a) to terminate water deliveries, or (b) to reduce water deliveries to the Defaulting Party until the Event of Default is cured

23.2.4. Expulsion

In cases of repeated Defaults by the Defaulting Party, the Board may expel the Defaulting Party from the Commission and require the Defaulting Party to sell its ownership in the WWSS.

23.3. Suspension of Legal Remedies Imposed by the Board

A Default for other than non-payment may be addressed using the Dispute Resolution process described in Section 25. If Dispute Resolution has been requested, then the Remedy provisions of Section 23 will be suspended until the

Dispute Resolution process is exhausted. Notwithstanding the foregoing, if the Default is of a nature that it poses a health risk to any User or could cause damage to the WWSS, WIF, or the Real Property of the Commission, then the Board or any aggrieved Party may seek immediate equitable relief without waiting for initiation or completion of any Dispute Resolution.

24. Default by the Managing Agency

24.1. Generally

This Agreement obligates the Managing Agency to manage the business affairs of the Commission for the mutual benefit of all Parties to consistently deliver water from the WWSS to their respective municipal water systems. If the Managing Agency is also a Party and is alleged to be a Defaulting Party, the remaining Board Members shall designate another Party to act as the facilitator for the Default. Based on the nature of the Default, the Board may also remove the Managing Agency from some or all Managing Agency duties pending Dispute Resolution, mediation, arbitration, or litigation, as the case may be. The following provisions shall apply to a Default by the Managing Agency, unless other Default provisions are contained in a separate Managing Agency contract that states its default provisions are intended to control and supersede over the provisions in this Section.

24.2. Notice of Default and Cure

A written Notice of Default shall be provided to the Managing Agency by the Board following a vote of the remaining Members of the Board. The Managing Agency serves at the will of the Board. Therefore, the Notice may include a Notice of Termination of the Managing Agency, which termination may be immediate for

acts or omissions such as gross negligence, malfeasance or dishonesty in financial practices, or at the end of a specified period of time set by the Board in the Notice. The Board must consider and provide a plan of transition if the Notice includes termination. If a Notice of Default with an opportunity to cure the Default is given, the Notice must specify the nature of the Default and provide a specified period in which to cure the Default or otherwise reasonably commence to cure the Default in a diligent manner. A reasonable time period to cure a Default by the Managing Agency shall be deemed to be 30 days unless another time for cure is set by the Board and contained in the Notice of Default. The Notice of Default may also include a requirement by the Board for the Managing Agency to engage in the Dispute Resolution process. A copy of the Notice of Default shall be delivered to all Parties. If the Managing Agency is a Party and the Board does not elect to terminate the Managing Agency, the Board may vote to temporarily remove the Managing Agency from some or all its duties pending a cure of the Default.

24.3. Event of Default

The Managing Agency shall be deemed in Default of this Agreement if it fails to perform any obligation required to be performed by the Managing Agency under this Agreement or through a separate Managing Agency contract. An Event of Default shall be deemed to have occurred if the Managing Agency fails to cure the Default within the time period to cure designated in Section 24.2, if any time period to cure is allowed. If no time period to cure is given, then the Default shall be deemed to be an immediate Event of Default.

24.4. Remedies

If the Managing Agency commits an Event of Default, the Commission may seek any remedy available to it, at law or in equity. Such remedies include but are not limited to money damages, including restitution; specific performance; injunctive relief; and termination of the Managing Agency's contract. The Board, at its sole discretion, may enter into the Dispute Resolution process described in Section 25 if requested by the Managing Agency.

25. Enforcement by Individual Parties

If the Board does not take action to remedy a Default under Sections 23 or 24, a Party may individually seek to take any enforcement action available to it under Oregon law.

26. Dispute Resolution

This Agreement obligates the Parties to cooperate in the ownership and operation of the WWSS for the mutual benefit of all Parties to consistently deliver water to their respective municipal water systems. To that end, the Parties agree that each Party should bring forward issues regarding past performance or anticipated performance of obligations and duties at the earliest reasonable opportunity so that all Parties can proactively work toward solutions in an attempt to avoid a formal declaration of default. This Dispute Resolution process is provided to encourage informal resolution through negotiation among the Parties' staff, executives or elected officials before resorting to a formal process using mediation, arbitration, or litigation.

26.1. Notice of Dispute

Except in the case of a Default for non-payment, any dispute shall be submitted in writing to the Management Committee. The Management Committee has 30 days from the date of notice to meet with the affected Parties to resolve the dispute. If the Management Committee does not resolve the dispute within 30 days, it shall be

referred to mediation. In the case of a Default for other than non-payment, either the Defaulting Party or the Board may demand Dispute Resolution at any time during the Default process or within 10 days following imposition of any of the Remedies by the Board, as set forth above. If Dispute Resolution is not requested during that time period, it shall be deemed waived and any aggrieved Party may proceed to litigation.

26.2. **Mediation**

A Party desiring mediation shall provide the other Parties with a written notice (“**Request to Mediate**”), which shall set forth the nature of the dispute. The Parties will cooperate in good faith to select the mediator within 14 days of either Party requesting mediation, and the Parties may adopt any procedural format that seems appropriate for the particular dispute. Mediation should be scheduled within 14 days of selection of the mediator, or as soon as possible, based on availability. In the event the Parties cannot agree on a mediator, the Parties will ask the Presiding Judge of Washington County Circuit Court to appoint a mediator. The mediator will then set the ground rules for the mediation. The Parties will share the mediation costs as agreed upon with the mediator. If a written settlement agreement is not reached by the Parties within 60 days from the date of the Request to Mediate, or such longer time frame as may be agreed upon, in writing, by the Parties, then the Parties may commence litigation. If the mediation fails, the Parties may agree to binding arbitration. If all Parties do not agree to arbitrate, then any Party may seek legal relief through the Circuit Court of Washington County, or U.S. District Court if jurisdiction is available.

26.3. **Arbitration**

If the Parties agree to enter into binding arbitration, the matter shall be referred to Arbitration Service of Portland, Inc., or such other arbitration organization or arbitrator that the Parties may agree upon for final and binding arbitration in accordance with the Oregon Uniform Arbitration Act. Selection of the arbitrator, time frame for arbitration, and ground rules for arbitration will be agreed upon at that time. Any arbitrator or arbitrators selected must have significant municipal law experience, unless the Parties mutually agree, in writing, otherwise.

26.4. **Injunctive Relief and Specific Performance**

A Party may seek and obtain immediate equitable relief before or during the Dispute Resolution process and as described in Section 23.3.

26.5. **Attorney Fees**

Each Party shall bear its own legal fees and expert witness fees and all other costs in any Dispute Resolution process, including litigation.

27. Dissolution

The Parties may desire to dissolve the Commission. Dissolution of the Commission shall require an affirmative vote of each Party's governing body. Dissolution shall occur no later than five years from the date of the last affirmative vote to dissolve and no sooner than two years, unless the governing body of each Party agrees to a different deadline.

27.1. **Plan of Dissolution**

The Managing Agency will develop a dissolution plan to wind up business affairs, to be reviewed and approved by the Management Committee before it is presented to each Party's respective governing body. The dissolution plan must provide for

among other things: (a) the continued operation of the WWSS while the dissolution plan is implemented; (b) an accounting of assets and liabilities; (c) provisions for the payment of debts and obligations, including assumption of future payment for ongoing debts and obligations along with appropriate indemnity provisions as the Parties mutually agree; (d) the creation of a reserve account for known, unforeseen, and contingent liabilities; (e) a plan for liquidation of the assets; and (f) a mechanism for distribution of asset proceeds and excess funds among the Parties in accordance with their ownership interest, following payment of all liabilities and obligations related to the WWSS.

27.2. Transfer of Capacity Ownership

The dissolution plan may provide for transfers of Capacity component ownership, for cash or other consideration, from a Party that seeks complete divestiture of ownership to a Party that plans to remain and use Capacity component to meet its Demand through the WWSS. The dissolution plan must provide for appropriate documents to vest proportionate ownership as tenants in common for owners that remain in joint ownership of the WWSS.

27.3. Disputes

Any dispute regarding dissolution, the dissolution plan, division of Capacity or transfer of Capacity shall be first subject to the Dispute Resolution process of Section 25 and, if not resolved in Dispute Resolution or mediation, then as determined by the Circuit Court of Washington County under ORS 190.020(2).

28. General Provisions

28.1. Warranties and Representations

Each Party warrants and represents that it has the legal authority to enter into this Agreement.

28.2. **Ordinance of the Governing Body**

Each Party to this Agreement represents that it has undertaken or will undertake the necessary public procedures to approve an ordinance in accordance with ORS 190.085. The ordinance shall specifically authorize the Party's representatives to the Board to take final vote or action that this Agreement does not specifically require to be referred to the Party's governing body, including a contractual commitment, to modify the Exhibits to this Agreement as provided in Section 28.6 and acknowledge that the other Parties to this Agreement may rely upon such authority. The Parties further agree that they shall file with the Secretary of State, within 30 days after the Effective Date, the filings described in ORS 190.085(2).

28.3. **Insurance Requirements**

The insurance requirements and limits necessary for the operations of the WWSS, as set forth in Exhibit 11, shall be purchased and maintained at all times. The requirements will be reviewed by the Managing Agency periodically and modified when necessary.

28.4. **Other Agreements**

Each Party warrants that entry into this Agreement will not constitute a default under any other agreement or covenant the Party may be bound to.

28.5. **Interpretation**

Unless a clear contrary intention appears: (a) reference to any person includes such person's successors and assigns but, if applicable, only if such successors and

assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity; (b) reference to any gender includes each other gender; (c) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms of that document and, if applicable, the terms of this Agreement; (d) reference to any Section, Schedule or Exhibit means such Section, Schedule or Exhibit to this Agreement, and references in any Section, Schedule, Exhibit or definition to any clause means such clause of such Section, Schedule, Exhibit or definition; (e) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding,” and “through” means “through and including”; (f) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term; (g) reference to any law (including statutes and ordinances) means such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated in accordance with the law; and reference to a singular number or person may include the plural number or person, and the plural number or person the singular.

28.6. Exhibits

The Parties agree that the Exhibits to this Agreement may be modified or amended by the Commission without other modification or amendment to this Agreement and without approval by the governing body of each Party. Upon execution of this Agreement, the Parties agree to include Exhibits 1 through 15, attached and

incorporated by reference. The purpose and intent of specific exhibits are set forth in other parts of this Agreement. Exhibits consisting of other agreements or contracts among other Parties to this Agreement, or with outside parties, may only be modified by consent of all those named Parties/parties to those other agreements or contracts and not by the Commission without the consent of those other Parties/parties.

28.7. Existing Agreements

The WWSP Agreement between TVWD and Hillsboro dated on or about June 16, 2015, is superseded by this Agreement and terminated pursuant to Section XIV of the WWSP Agreement upon the effective date of this Agreement. Other existing Agreements between some or all of the Parties that affect or are affected by the WWSS that are the subject of this Agreement are identified in Exhibit 12. These related agreements on Exhibit 12 are not superseded or modified by this Agreement. Nothing in this Agreement shall be construed to require any alteration or modification of any other Existing Agreement.

28.8. Periodic Review

Exhibits shall be reviewed at least annually by the Board. Exhibits must be updated by resolution of the Board when ownership percentages change, new or expanded Capacity is placed in service, a new Party joins, an existing Party withdraws, or one or more Party(ies) purchases or sells an interest in the WWSS.

28.9. Severability

Should any provision of this Agreement be rendered invalid by a court of competent jurisdiction or arbitrator with authority to render a provision invalid, it is agreed

that every other part of the Agreement shall remain in full force and effect.

28.10. **No Joint and Several Liability**

Each Party to this Agreement assumes its own rights and obligations and does not assume the rights and obligations of any other Party.

28.11. **Counterparts**

This Agreement may be signed in one or more counterparts, and each counterpart shall be deemed to be an original instrument.

28.12. **Amendments and Modifications**

Except as provided in Section 28.6 for Exhibits, any modification or amendment to this Agreement requires unanimous approval of the Board and an affirmative vote of the governing bodies of all Parties. The amended Agreement must be signed by all Parties upon approval.

28.13. **Notice**

Notice shall be provided in writing, regular United States mail, or by hand delivery to the persons set forth below. A Party may provide written notice designating new recipients.

Tualatin Valley Water District

City of Hillsboro

Attn: Chief Executive Officer

Attn: City Manager

1850 SW 170th Avenue

150 Main St.

Beaverton, Oregon 97003

Hillsboro, Oregon 97123

City of Beaverton

Attn: Mayor
12725 SW Millikan Way
Beaverton, Oregon 97005

28.14. **Judicial Review and Attorney Fees**

This Agreement and its construction shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding between the Parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Washington County for the State of Oregon. In any such claim, action, suit, or proceeding, the Parties shall bear their own fees and costs including attorney fees.

28.15. **Third Parties**

Except as expressly provided otherwise in this Agreement, the provisions of this Agreement are for the exclusive benefit of the Parties and not for the benefit of any other persons, as third-party beneficiaries or otherwise, and this Agreement shall not be deemed to have conferred any rights, express or implied, upon any person not a Party to this Agreement.

28.16. **Non-Waiver**

Failure of any Party at any time to require performance of any provision of this Agreement shall not limit the Party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provisions.

28.17. **Time of the Essence**

Time is of the essence of each and every term, covenant, and condition set forth in this Agreement.

28.18. **Further Assurances**

Each Party agrees that it will reasonably consider cooperation in the execution of other documents and/or performance of other action as may be reasonably requested by another Party to more effectively consummate or achieve the purposes or subject matter of this Agreement.

28.19. **Signing Authority**

Each person signing this Agreement on behalf of a Party warrants the person has actual authority to bind the person's respective Party.

28.20. **WWSS Facilities in Right of Way**

In consideration of the terms and covenants of the Parties to this Agreement, Hillsboro and Beaverton agree that any right of way fee (license, registration, gross revenue, linear foot or other methodology), that may be charged to WWSS or to any individual WWSS Party for use of right of way shall be calculated and paid based upon gross revenues received by each Party to this Agreement from direct retail water sales within the charging city. On or after July 1, 2058, a city may charge a linear foot fee on WWSS or any individual WWSS Party pipelines.

[Signature Page Follows]

**TUALATIN VALLEY WATER
DISTRICT**

By:

Bernice Bagnall, President

APPROVED AS TO FORM

By:

Clark Balfour, District Counsel

CITY OF HILLSBORO

By:

Steve Callaway, Mayor

CITY OF BEAVERTON

By:

Dennis Doyle, Mayor

APPROVED AS TO FORM

By:

William Kirby, City Attorney

Exhibit 1

Willamette Water Supply System Ownership Allocation

1. Introduction

The approach used to define ownership allocation is specific to each element of the Willamette Water Supply System (WWSS): Raw Water Pump Station, Raw Water Pipeline, Water Treatment Plant, Finished Water Pipeline - Pumped, Reservoirs, Finished Water Pipeline – Gravity, Turnouts, and the Distributed Controls System. The following sections provide a description of each of the WWSS elements, explain the formulas used to calculate ownership allocation, and summarize ownership allocation for each element.

2. Definitions

Defined Capacity – The capacity of a WWSS element used for calculating ownership percentages. It is usually based on the capacity owned in the Willamette Intake Facilities or the Raw Water Pipeline.

Fixed Capacity – designates the capacity of components that when initially constructed or purchased are at their ultimate capacity.

Hydraulic Head – a value resulting from the mathematical conversion of pipeline pressure to an equivalent height of water column.

Hydraulic Grade Line – a line plotted above a pipeline profile that connects points of Hydraulic Head along the pipeline

Incremental Capacity –water pumping or treatment capacity that is projected by the partners to meet the water supply needs for a projected period of time.

Pipeline Maximum Hydraulic Gradient – a line joining the points of highest Hydraulic Head, based on a flow scenario that will serve as the basis for the pipeline design. WWSS pipelines are designed for a Hydraulic Grade Line that is based on a maximum working pressure that corresponds to not exceed 50% of yield stress in the pipe wall.

Vertical Datum – a base measurement point or set of points from which all elevations are determined; measured in feet. WWSS elevations used are based on the North Geodetic Vertical Datum 1929 (NGVD29).

Ultimate Capacity – the capacity that is established to meet future maximum operating conditions. Ultimate Capacity is at times used interchangeably with Fixed Capacity.

WIF – Willamette Intake Facilities is an ORS Chapter 190 entity created to own and manage the Intake Facilities (fish screens, intake pipe, caisson, pump station building, and other jointly owned equipment) that enable the partners to draw water from the Willamette River.

3. Elements Description

This section describes each of the WWSS elements. Each element comprises various components such as civil improvements, structural improvements, mechanical equipment, electrical apparatus, and the like. In its initial construction, some components of each WWSS element will be built to their Ultimate Capacity, while others will only be built to a capacity sufficient to meet water demands for a set period based on collective water demand projections by the partners (i.e. Incremental Capacity). Additionally, the various components of each element will have different useful lifespans, which means that it is beneficial to account for them separately for asset management purposes. The following sections describe each of the components that comprise each element of the WWSS and their capacities. The description of each WWSS element is broken out into separate groups intended to assist with future asset management efforts.

3.1. Raw Water Pump Station

The raw water pump station includes the WWSS raw water pumps installed in the caisson at the Willamette River, and the related systems and improvements required for drawing water from the caisson and delivering it into the Raw Water Pipeline at adequate flow and pressure for delivery to the WWSS Water Treatment Plant. The design enables expansion of the Raw Water Pump Station to align with the capacity of the WWSS Water Treatment Plant.

3.1.1 Real Property

Property interests owned by the WWSS, all of which are sized at the Ultimate Capacity:

1. Upper site (owned by TVWD and Wilsonville)
2. Easement for duct bank consisting of various conduits between the upper site and the Raw Water Pump Station
3. Land east of the Raw Water Pump Station for an operations and maintenance structure
4. Land required for seismic mitigation features for the duct bank and the operations and maintenance structure

3.1.2 Structure

The following structures are fixed in size in that they are unrelated to the installed Raw Water Pump Station capacity, and are thus installed to match the Willamette Intake Facilities (WIF) Ultimate Capacity owned by the WWSS Parties (100.3-MGD):

1. Operations and Maintenance structure east of the Raw Water Pump Station
2. Electrical building on upper site
3. Seismic mitigation for the duct bank
4. Future chemical building on the upper site

3.1.3 Civil

All civil improvements are assumed to be installed at the WIF Ultimate Capacity owned by the WWSS partners (100.3-MGD).

1. Paving at upper site
2. Landscaping at upper site

3. Fencing and access gates at upper site
4. Stormwater collection and treatment systems at the upper site
5. Stormwater collection and treatment systems near the Raw Water Pump Station.
6. Sediment management area at the upper site
7. Duct bank between the upper site and the Raw Water Pump Station
8. Seismic mitigation related to the duct bank

3.1.4 Mechanical

Mechanical equipment is presumed to be installed according to the installed Raw Water Pump Station capacity that will match the Incremental Capacity of the WWSS Water Treatment Plant:

1. Raw water pumps and related mechanical equipment to the discharge flanges downstream of any pump control or isolation valves
2. Surge control equipment (excluding electrical equipment)
3. Standby power generation and fuel storage
4. Raw water pump seal water system
5. HVAC equipment at the upper site building
6. Water quality monitoring and sampling equipment for raw water
7. Future chemical feed systems

3.1.5 Electrical

The following electrical equipment associated buildings and plant site improvements are presumed to be installed according to the WIF Ultimate Capacity owned by the WWSS partners (100.3-MGD):

1. Electrical power equipment for lighting, security, HVAC, and other minor services in buildings other than the Raw Water Pump Station
2. Upper site lighting, security equipment, communications/IT, and other minor services
3. Duct bank (including wires and conduits) between the upper site and the Raw Water Pump Station

The following electrical improvements associated with raw water pumping are assumed to be installed at a capacity that matches the Incremental Capacity:

1. Electrical power equipment for all equipment related to raw water conveyance including:
 - a. Raw water pumps
 - b. Surge control equipment
 - c. Standby power transfer switch, switchgear, and other related electrical components
 - d. Raw water pump seal water system
 - e. Water quality monitoring and sampling equipment
 - f. Future chemical feed systems

3.1.6 Instrumentation and Controls

The following instrumentation and controls equipment associated with raw water pumping is presumed to be installed according to the WIF Ultimate Capacity owned by the WWSS partners (100.3-MGD).

1. Overall pump station control equipment in the upper site electrical building

The instrumentation and controls improvements associated with raw water pumping and related facilities are assumed to be installed at the Incremental Capacity that matches the installed pumping capacity:

1. Instrumentation and controls equipment for all pumping and process equipment:
 - a. Raw water pumping
 - b. Surge control
 - c. Standby power
 - d. Raw water pump seal water system
2. Water quality monitoring and sampling equipment
3. Raw water flow meter

3.2 Raw Water Pipeline

The Raw Water Pipeline conveys water from the Raw Water Pump Station to the Water Treatment Plant. The raw water pipeline is designed for the Ultimate Capacity of the WWSS Water Treatment Plant, which is 120-MGD, operating at a pipeline maximum hydraulic gradient developed using a higher flow demand scenario of 125-MGD to account for a special all-pumps-on condition. Ownership allocations will be calculated using the Defined Capacity of 100.3-MGD, which is equal to the Partners' collective ownership of WIF capacity.

3.2.1 Real Property

Property interests owned by the WWSS, all of which are sized at the Defined Capacity:

1. Easements, leased premises and licenses/permits
2. Property acquired for appurtenances such as blow-offs and air relief valves
3. Land required for seismic mitigation features for the raw water pipeline

3.2.2 Structure

1. Vaults associated with pipeline access points, valves and appurtenances

3.2.3 Civil

1. Pipeline from the point of connection to the discharge flanges of the raw water pumps to the point at which it enters the flash mix facility at the WWSS water treatment plant, including all valves and appurtenances
2. Seismic mitigation for the Raw Water Pipeline

3.2.4 Mechanical

None.

3.2.5 Electrical
None.

3.2.6 Instrumentation and Controls
None.

3.3 Water Treatment Plant

The WWSS WTP is located southwest of the intersection of (future) Blake Road and SW 124th Avenue in Sherwood, Oregon. The property owned by the WWSS is approximately 43 acres south of Blake Road and west of SW 124th Avenue. The WWSS WTP receives water from the Raw Water Pipeline, processes it to render it potable, stores the potable (finished) water in a clearwell, and pumps the water into the Finished Water Pipeline – Pumped.

3.3.1 Real Property

Property interests owned by the WWSS, all of which are sized at the Defined Capacity (100.3-MGD):

1. Southern portion of the Orr Family Farm property (approximately 43 acres) in fee with Hillsboro
2. Utility easements across the property to the north.

3.3.2 Structure

The following structures are fixed in size in that they are unrelated to the water treatment plant capacity, and are thus installed to match the Define Capacity of 100.3-MGD:

1. Administration building (including operations center, offices, meeting rooms, lab, and other related facilities)
2. Flash mix pump station building
3. Ozone generation building
4. UV disinfection building
5. Clearwell
6. Finished water pump station building
7. Washwater pump station building
8. Residuals dewatering building
9. Chemical storage and feed building
10. Maintenance and storage building
11. Electrical building

The sizes of the following structures are related to the water treatment plant capacity (Incremental Capacity):

1. Ballasted flocculation basins
2. Ozone contactors
3. Filter basins
4. Washwater clarification basins
5. Residuals gravity thickeners
6. Liquid oxygen storage

3.3.3 *Civil*

All civil improvements are assumed to be installed at the Defined Capacity rating of 100.3-MGD.

1. Grading and paving
2. Stormwater collection and treatment systems
3. Plant overflow system
4. All plant yard piping, vaults and appurtenances
5. Landscaping
6. Fencing
7. Site security

3.3.4 *Mechanical*

Mechanical equipment is presumed to be installed according to the Incremental Capacity.

1. Flash mix equipment
2. Ballasted flocculation process equipment
3. Liquid oxygen storage and ozone generation equipment
4. Filter media and related mechanical equipment
5. UV disinfection equipment
6. Chemical storage and feed equipment
7. Finished water pumps and surge protection equipment
8. Standby power generation and fuel storage
9. Washwater clarification and pumping equipment
10. Residuals dewatering and handling equipment

3.3.5 *Electrical*

The following electrical equipment associated buildings and plant site improvements are presumed to be installed according to the Defined Capacity (i.e., 100.3-MGD).

1. Electrical power equipment for lighting and HVAC in buildings
2. Plant site lighting

The following electrical improvements associated with water treatment and production processes and related facilities are assumed to be installed at the Incremental Capacity:

1. Electrical power equipment for all pumping and process equipment:
 - a. Flash mixing
 - b. Ballasted flocculation
 - c. Liquid oxygen and ozone generation
 - d. Filtration
 - e. UV disinfection
 - f. Chemical storage and feed
 - g. Finished water pumping
 - h. Standby power distribution
 - i. Washwater clarification and pumping
 - j. Residuals dewatering and handling

3.3.6 *Instrumentation and Controls*

The following instrumentation and controls equipment associated with overall WTP operations is presumed to be installed according to the Defined Capacity (i.e., 100.3-MGD).

1. Overall plant control equipment in the administration building including all control system hardware and software

The instrumentation and controls improvements associated with water treatment and production processes and related facilities are assumed to be installed at the Incremental Capacity:

1. Instrumentation and controls equipment for all pumping and process equipment:
 - a. Flash mixing
 - b. Ballasted flocculation
 - c. Liquid oxygen and ozone generation
 - d. Filtration
 - e. UV disinfection
 - f. Chemical storage and feed
 - g. Finished water pumping
 - h. Standby power distribution
 - i. Washwater clarification and pumping
 - j. Residuals dewatering and handling
2. Water quality monitoring and sampling equipment

3.4 **Finished Water Pipeline – Pumped**

The Finished Water Pipeline - Pumped conveys finished (potable) water from the finished water pump station at the WWSS Water Treatment Plant to the site of the Reservoirs on Cooper Mountain. The pipeline is designed for the Ultimate Capacity of the WWSS Water Treatment Plant, which is 120-MGD operating at a maximum hydraulic gradient developed using a flow demand scenario of 120-MGD (Fixed Capacity). The Defined Capacity is set at 100.3-MGD to match the Raw Water Pipeline and the WWSS WTP Defined Capacities.

There are two turnouts along the Finished Water Pipeline – Pumped. The capacities for those turnouts are listed in the following table. The turnout capacities do not alter the Defined Capacity of the Finished Water Pipeline – Pumped which is set at 100.3-MGD for its entire length.

Ultimate Capacities for Each Turnout on the Finished Water Pipeline - Pumped

Turnout (T.O.)	Turnout Capacity (MGD)
Roy Rogers Road and Scholls Ferry Road (TVWD)	33.5
Tile Flat Road (COB)	5.0

3.4.1 Property

Property interests owned by the WWSS, all of which are sized at the Defined Capacity:

1. Easements, licenses and permits
2. Property acquired for appurtenances such as blow-offs and air relief valves

3.4.2 Structure

1. Vaults associated with pipeline access points, valves, and appurtenances

3.4.3 Civil

1. Pipeline from the point of connection to the discharge flanges of the finished water pumps to the point at which it enters the site of the reservoirs, including all valves and appurtenances

3.4.4 Mechanical

None

3.4.5 Electrical

None

3.4.6 Instrumentation and Controls

None

3.5 Reservoirs

Finished water will be stored in two 15-MG reservoirs (tanks) on Cooper Mountain. The total of 30-MG will be constructed as part of the initial WWSS implementation. There are no plans for additional reservoirs in the WWSS. This storage will provide for balancing flows between the water treatment plant and the turnouts to allow them to operate at different instantaneous flow rates. The storage will also provide for temporary emergency water supply to the system in the event of a shutdown of the Water Treatment Plant.

3.5.1 Real Property

Property interests owned by the WWSS, all of which are sized at the Ultimate Capacity (30-MG):

1. Approximately 10-acre site at the southeast corner of SW Grabhorn Road and SW Stonecreek Drive

3.5.2 Structure

1. Two 15-MG prestressed concrete reservoirs and appurtenances (e.g., hatches, ladders, etc.)
2. Water quality monitoring building

3.5.3 Civil

1. Grading and paving
2. Stormwater collection and treatment systems
3. Reservoir overflow control system
4. Yard piping and appurtenances

5. Landscaping
6. Fencing
7. Site security

3.5.4 Mechanical

1. Mechanical mixing equipment
2. Chemical storage and feed equipment
3. HVAC equipment in the building

3.5.5 Electrical

1. Electrical power equipment for lighting, controls, HVAC, etc.
2. Lighting

3.5.6 Instrumentation and Controls

Local instrumentation and controls associated with flow metering, level sensing, chemical feed operation and monitoring, security, and water quality monitoring. Excludes equipment used for communications with the remaining WWSS through the Distributed Control System.

3.6 Finished Water Pipeline – Gravity

The finished water pipeline - gravity conveys water from the Reservoirs to turnouts that connect the pipeline to the distribution systems. The capacity of the Finished Water Pipeline – Gravity varies along its length according to the planned flows through each of the turnouts.

The Ultimate Capacity of the first portion of the finished water pipeline – gravity is 69.2-MGD, which is a total of the planned maximum water flows delivered to each of the turnouts shown in the table below while operating at a Reservoir water surface elevation of 500.0-feet NGVD29 (i.e., water depth 20-feet below its maximum depth). Note that flows through the emergency connections are not included in the calculation of the pipeline capacity. The Finished Water Pipeline – Gravity is designed to contain a pressure based on a maximum hydraulic gradient that is static at reservoir elevation 520.0-feet NGVD29 (i.e., the reservoirs are full, connected to the pipeline, and the flow rate is zero).

Ultimate Capacities for the Turnouts on the Finished Water Pipeline - Gravity

Turnout (T.O.)	Turnout Capacity (MGD)	Capacity used for Sizing Transmission Pipeline (MGD)
209th and Farmington (TVWD)	17.0	17.0
Cornelius Pass/Rosa (COH)	10.0	NA
Blanton (COH)	10.0	10.0
Tualatin Valley Highway - STL Emergency Intertie (COH)	25.0	NA

Tualatin Valley Highway (COB)	5.0	5.0
Francis (COH)	10.0	NA
Baseline (COH)	10.0	10.0
Walbridge (COH)	10.0	NA
Old Evergreen (COH)	16.2	NA
Highway 26 - NTL Emergency Intertie (COH)	16.0	16.2
Highway 26 (TVWD)	11.0	11.0
Total	N/A	69.2

Ultimate Pipeline Capacity

Pipe Section	Ultimate Pipeline Capacity per Section (MGD)
1. Reservoirs to 209 th and Farmington	69.2
2. 209 th and Farmington to Cornelius Pass and Rosa	52.2
3. Rosa to Blanton	52.2
4. Blanton to Tualatin Valley Highway	42.2
5. Tualatin Valley Highway to Frances	37.2
6. Frances to Baseline	37.2
7. Baseline to Walbridge	27.2
8. Walbridge to Old Evergreen	27.2
9. Old Evergreen to Highway 26	27.2

3.6.1 Real Property

Property interests owned by the WWSS, all of which are sized at the Ultimate Capacity:

1. Fee title, easements, licenses/permits, including the Tanabe property for gravity pipeline Section 1.
2. Property acquired for appurtenances such as blow-offs and air-relief valves

3.6.2 Structure

1. Vaults for pipeline access, valves, and appurtenances

3.6.3 Civil

1. Pipeline from the point of connection to the reservoirs discharge pipe to the terminus near the intersection of Cornelius Pass Road and Highway 26, including all valves and appurtenances.

3.6.4 Mechanical

None.

3.6.5 Electrical

None.

3.6.6 Instrumentation and Controls

None.

3.7 Turnouts

The turnouts are the elements of the WWSS that connect the transmission pipelines to the distribution systems. The standard WWSS turnout includes an isolation valve at the connection to the transmission pipeline, a seismically actuated valve and flow meter inside a vault, and another isolation valve downstream of the vault. For the City of Hillsboro, the same equipment is included but a larger vault is provided to allow for equipment owned and operated by the city to control water flow and pressure into its system.

3.7.1 Real Property

Property interests owned by the WWSS, all of which are sized at the Ultimate Capacity of each Turnout:

1. Fee title, easements for pipelines and other underground improvements
2. Property acquired for vaults and other at-grade or aboveground improvements

3.7.2 Structure

1. Vaults to house valves and flow meters

3.7.3 Civil

None.

3.7.4 Mechanical

1. Isolation valves
2. Seismically actuated valve

3.7.5 Electrical

1. Electrical improvements to power any instrumentation, lighting, ventilation, valve actuator, sump pump, or other electrically-powered equipment

3.7.6 Instrumentation and Controls

1. Flow meter
2. Pressure element
3. Seismic sensor and controller

3.8 Distributed Controls System

The Distributed Controls System (DCS) is a collection of instrumentation, software, communications equipment, and related improvements that provide for the overall WWSS operation, monitoring and control as a system, as opposed to a collection of individual infrastructure elements. It is assumed that the DCS improvements are unrelated to system capacity, meaning that the DCS will be adequate for the initial WWSS capacity as well as the Defined Capacity of 100.3-MGD.

3.8.1 Property

None

3.8.2 Structure
None

3.8.3 Civil
None

3.8.4 Mechanical
None

3.8.5 Electrical
None

3.8.6 Instrumentation and Controls
SCADA equipment that enables communications, monitoring, and control of the overall WWSS

4. Ownership Allocation Methodology

The WWSS has multiple owners who must share in the costs of its design, permitting and construction now, and in its operation, maintenance, repair, replacement and expansion in the future. For the initial WWSS construction, costs will be split according to the ownership allocation. The following sections detail how ownership allocation is calculated for each WWSS element.

The basis for many of the ownership allocation calculations is the WIF capacity. The WIF is the infrastructure that enables water to be drawn from the Willamette River and delivered into the WWSS for treatment and distribution.

4.1 Raw Water Pump Station

The Raw Water Pump Station comprises components that are constructed at their Ultimate Capacity, and those that are constructed to the capacity needed for WWSS Water Treatment Plant operations. Components that are constructed at their Ultimate Capacity are called “fixed” in that their size is independent of the raw water pump station capacity. Components that are constructed at the WWSS Water Treatment Plant capacity are called “incremental” in that their size can be built in increments to meet the needs of the partners. Ownership allocation will be calculated separately for these components as follows:

1. Fixed Components ownership (and cost shares) shall be calculated as a fraction of the total WIF capacity owned by each partner according to the following table:

Partner	WIF Capacity Owned (MGD)	Ownership Allocation of Raw Water Fixed Components
TVWD	59.1	58.92%

Hillsboro	36.2	36.09%
Beaverton	5.0	4.99%
Totals	100.3	100%

2. Incremental Components ownership (and cost shares) shall be calculated as a fraction of the total owned capacity of the installed WWSS Water Treatment Plant incremental capacity according to the following table:

Partner	WWSS WTP Capacity Owned (MGD)	Ownership Allocation of Raw Water Incremental Components
TVWD	40.0	66.67%
Hillsboro	15.0	25.00%
Beaverton	5.0	8.33%
Totals	60.0	100%

4.2 Raw Water Pipeline

Since the design of the WWSS includes a single Raw Water Pipeline, ownership is based on the Defined Capacity of 100.3-MGD, which is equivalent to the owned capacity in the WIF.

Partner	WIF Capacity Owned (MGD)	Percent of Owned Capacity
TVWD	59.1	58.92%
Hillsboro	36.2	36.09%
Beaverton	5.0	4.99%
Totals	100.3	100.00%

4.3 Water Treatment Plant

The Water Treatment Plant comprises components that are constructed at their Ultimate Capacity, and those that are constructed to the capacity needed to meet water demands for a period as projected by the partners. Components that are constructed at their Ultimate Capacity are called “fixed” in that their size is independent of the Water Treatment Plant capacity. Components that are constructed at the WWSS Water Treatment Plant capacity are called “incremental” in that their size can be built in increments to meet the needs of the partners. Ownership allocation will be calculated separately for these components as follows:

- Fixed Components ownership (and cost shares) shall be calculated as a fraction of the total owned capacity for each partner in the same manner as the Raw Water Pipeline:

Partner	Defined Fixed WTP Capacity Owned (MGD)	Ownership Allocation of WTP Fixed Components
TVWD	59.1	58.92%
Hillsboro	36.2	36.09%
Beaverton	5.0	4.99%
Totals	100.3	100%

- Incremental Components ownership (and cost shares) shall be calculated as a fraction of the total owned capacity of the initially installed capacity at 2026 according to the following table:

Partner	Incremental WTP Capacity Owned (MGD)	Ownership Allocation of WTP Incremental Components
TVWD	40.0	66.67%
Hillsboro	15.0	25.00%
Beaverton	5.0	8.33%
Totals	60.0	100%

The first water treatment plant expansion is intended to be accomplished via re-rating to increase the capacity of the existing processes by 20 percent. Following that expansion, and assuming that 20 percent re-rating is approved by Oregon Health Authority, the ownership allocation will be as shown in the following table:

Partner	WTP Incremental Capacity Owned (MGD)	Ownership Allocation of WTP Incremental Components
TVWD	48.7	66.68%
Hillsboro	18.3	25.38%
Beaverton	5.0	6.94%
Totals	72.0	100%

The second water treatment plant expansion is intended to be accomplished by the addition of another process train at the updated operating criteria. Following that expansion, the ownership allocation will be as shown in the following table:

Partner	WTP Incremental Capacity Owned (MGD)	Ownership Allocation of WTP Incremental Components
TVWD	54.8	57.08%
Hillsboro	36.2	37.71%
Beaverton	5.0	5.21%
Totals	96.0	100%

4.4 Finished Water Pipeline – Pumped

Like the Raw Water Pipeline, the design of the WWSS includes a single finished water pipeline. Ownership is based on the Defined Capacity of 100.3-MGD, which is equivalent to the owned capacity in the WIF.

Partner	Defined Finished Water Pipeline - Pumped Capacity Owned (MGD)	Percent of Owned Capacity
TVWD	59.1	58.92%
Hillsboro	36.2	36.09%
Beaverton	5.0	4.99%
Totals	100.3	100.00%

4.5 Reservoirs

The WWSS included two 15-MG prestressed concrete reservoirs (tanks). Hillsboro will own 10-MG of the total Reservoirs capacity, and the partners will share in the remaining 20-MG of capacity. Ownership and cost shares will be calculated per the following table:

Partner	Capacity Owned Outright (MG)	WIF Capacity Owned (MGD)	Percent of Shared Reservoir Capacity Owned	Shared Reservoir Capacity Owned (MG)	Total Reservoir Capacity Owned (MG)	Percent of Total Reservoir Capacity Owned (MG)
TVWD	0	59.1	58.92%	11.78	11.78	39.28%
Hillsboro	10	36.2	36.09%	7.22	17.22	57.39%
Beaverton	0	5.0	4.99%	1.00	1.00	3.32%
Totals	10	100.3	100%	20.00	30.00	100.00

4.6 Finished Water Pipeline – Gravity

The Finished Water Pipeline - Gravity conveys water from the Reservoirs to turnouts that connect the pipeline to the distribution systems. The capacity of the Finished Water Pipeline – Gravity varies along its length according to the planned flows through each of the turnouts. The capacity and ownership allocation along the pipeline varies for each section between the turnouts. The following tables present the calculation of ownership shares for each section:

Section 1 – Reservoirs to 209th and Farmington

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	28.0	40.46%
Hillsboro	36.2	52.31%
Beaverton	5.0	7.23%
Totals	69.20	100.00%

Section 2 – 209th and Farmington to Cornelius Pass and Rosa

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	21.07%
Hillsboro	36.2	69.35%
Beaverton	5.0	9.58%
Totals	52.20	100.00%

Section 3 – Rosa to Blanton

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	21.07%
Hillsboro	36.2	69.35%
Beaverton	5.0	9.58%
Totals	52.20	100.00%

Section 4 – Blanton to Tualatin Valley Highway

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	26.07%
Hillsboro	26.2	62.09%
Beaverton	5.0	11.85%
Totals	42.20	100.00%

Section 5 – Tualatin Valley Highway to Frances

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	29.57%
Hillsboro	26.2	70.43%
Beaverton	0.0	0%
Totals	37.2	100.00%

Section 6 – Frances to Baseline

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	29.57%
Hillsboro	26.2	70.43%
Beaverton	0.0	0%
Totals	37.2	100.00%

Section 7 – Baseline to Walbridge

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	40.44%
Hillsboro	16.2	59.56%
Beaverton	0.0	0%
Totals	27.2	100.00%

Section 8 – Walbridge to Old Evergreen

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	40.44%
Hillsboro	16.2	59.56%
Beaverton	0.0	0%
Totals	27.2	100.00%

Section 9 – Old Evergreen to Highway 26

Partner	Owned Capacity (MGD)	Percent of Owned Capacity
TVWD	11.0	40.44%
Hillsboro	16.0	59.56%
Beaverton	0.0	0%
Totals	27.2	100.00%

4.7 Turnouts

Turnouts connect the WWSS transmission main to the partners' distribution systems. As such, they have a single purpose, and each serves a single partner. Accordingly, 100 percent of the cost associated with any turnout is allocated to the partner that it serves. A summary of the Turnouts, their capacities and ownership are presented in Section 5.

4.8 Distributed Controls System

Since the design of the DCS is unrelated to system capacity, ownership and costs will be allocated according to the percentage of WIF capacity ownership.

Partner	DCS Capacity Owned (MGD)	Percent of DCS Capacity Owned
TVWD	59.1	58.92%
Hillsboro	36.2	36.09%
Beaverton	5.0	4.99%
Totals	100.3	100.00%

5. Ownership Allocation Summary

ELEMENT	TVWD		Hillsboro		Beaverton	
	Capacity (MGD)	Ownership (%)	Capacity (MGD)	Ownership (%)	Capacity (MGD)	Ownership (%)
Raw Water Pump Station						
Fixed	59.1	58.92%	36.2	36.09%	5.0	4.99%
Incremental	40.0	66.67%	15.0	25.00%	5.0	8.33%
Raw Water Pipeline	59.1	58.92%	36.2	36.09%	5.0	4.99%
Water Treatment Plant						
Fixed	59.1	58.92%	36.2	36.09%	5.0	4.99%
Incremental						
Initial 60-MGD Capacity	40.0	66.67%	15.0	25.00%	5.0	8.33%
Following 20% Re-Rating	48.7	67.68%	18.3	25.38%	5.0	6.94%
After Adding Process Train	54.8	57.08%	36.2	37.71%	5.0	5.21%
Finished Water Pipeline - Pumped	59.1	58.92%	36.2	37.71%	5.0	4.99%
Reservoirs						
Capacity Owned Outright	0.0	--	10.0	--	0.0	--
Shared Capacity Owned	11.8	--	7.2	--	1.0	--
Total	11.8	39.28%	17.2	57.39%	1.0	3.32%
Finished Water Pipeline - Gravity						
Reservoirs to 209th and Farmington	28.0	40.46%	36.2	52.31%	5.0	7.23%
209th and Farmington to Cornelius Pass and Rosa	11.0	21.07%	36.2	69.35%	5.0	9.58%
Rosa to Blanton	11.0	21.07%	36.2	69.35%	5.0	9.58%
Blanton to Tualatin Valley Highway	11.0	26.07%	26.2	62.09%	5.0	11.85%
Tualatin Valley Highway to Frances	11.0	29.57%	26.2	70.43%	0.0	0.00%
Frances to Baseline	11.0	29.57%	26.2	70.43%	0.0	0.00%
Baseline to Walbridge	11.0	40.44%	16.2	59.56%	0.0	0.00%
Walbridge to Old Evergreen	11.0	40.44%	16.2	59.56%	0.0	0.00%
Old Evergreen to Highway 26	11.0	40.44%	16.2	59.56%	0.0	0.00%
Turnouts						
Roy Rogers Road and Scholls Ferry Road	33.5	100.00%	0.0	0.00%	0.0	0.00%
Tile Flat Road	0.0	0.00%	0.0	0.00%	5.0	100.00%
209th Avenue and Farmington Road	17.0	100.00%	0.0	0.00%	0.0	0.00%
Cornelius Pass Road and Rosa	0.0	0.00%	10.0	100.00%	0.0	0.00%
Cornelius Pass Road and Blanton Street	0.0	0.00%	10.0	100.00%	0.0	0.00%
Tualatin Valley Highway - JWC STL	0.0	0.00%	25.0	100.00%	0.0	0.00%
Cornelius Pass Road and Tualatin Valley Highway	0.0	0.00%	0.0	0.00%	5.0	100.00%
Cornelius Pass Road and Francis Street	0.0	0.00%	10.0	100.00%	0.0	0.00%
Cornelius Pass Road and Baseline Road	0.0	0.00%	10.0	100.00%	0.0	0.00%
Cornelius Pass Road and Walbridge Drive	0.0	0.00%	10.0	100.00%	0.0	0.00%
Cornelius Pass and Old Evergreen Road	0.0	0.00%	16.2	100.00%	0.0	0.00%
Highway 26 - JWC NTL	0.0	0.00%	16.0	100.00%	0.0	0.00%
Cornelius Pass Road and Highway 26	11.0	100.00%	0.0	0.00%	0.0	0.00%
Distributed Control System	59.1	58.92%	36.2	36.09%	5.0	4.99%

EXHIBIT 2 - Water Rights By Member

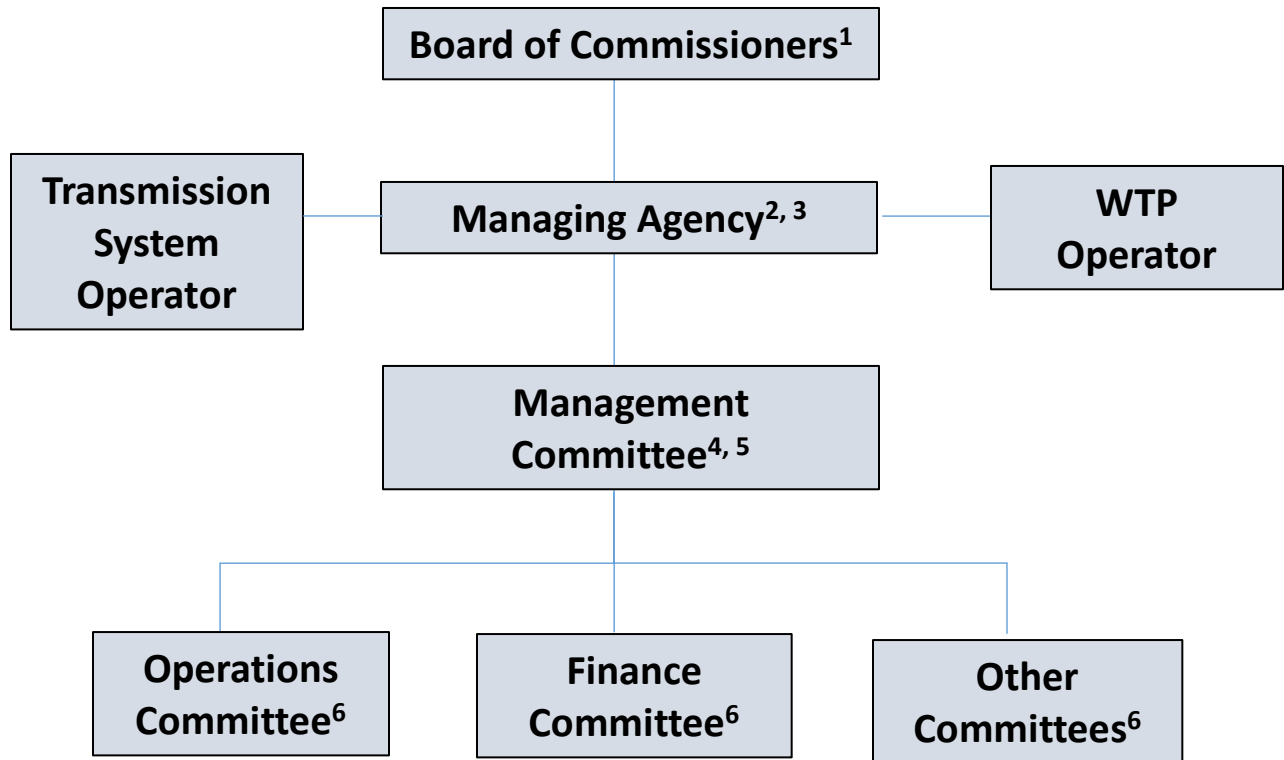
Water Right Permits and Certificates Authorized by the Oregon Water Resources Department

Entity Name on Water Right	Application	Permit	Certificate	Transfer or Permit Amendment	Priority Date	Type of Beneficial Use	Authorized Rate (cfs)	Authorized Date for Completion	Conditions
Willamette River Water Coalition (TVWD)	S-50693	S-49240	N/A	T-10477	June 19, 1973	Municipal & Industrial	202.0	October 1, 2047	<ul style="list-style-type: none"> Measuring device required Fish screen required A 60-day waiting period is required between WMCP approval and diversion of water for the first diversion and each increment of "green light water" for each water supplier. WMCP provisions apply to additional future municipal water suppliers using water under permit under certain conditions. WRWC member Sherwood has access to up to 23 cfs based on last WMCP approval. TVWD has access to up to 80.1 cfs following approval of its most recent updated WMCP. Fish persistence conditions. Proportional reduction based on target flows and the portion of permit to which permittee has legal access. Reduction is capped at 20% during April, May and June.
City of Beaverton	S-87964	S-54940	N/A	-	March 11, 2014	Municipal	33.7	May 4, 2035	<ul style="list-style-type: none"> Measuring device and water use reporting are required Fish screen required Diversion of water is prohibited at times when the ODFW recommended flow targets at the Salem gage are not met.
City of Hillsboro	S-55010	S-55045	N/A	T-12512	December 6, 1976	Municipal	56	October 1, 2086	<ul style="list-style-type: none"> Willamette Intake Facilities added as a point of diversion through a permit amendment Conditions from permit amendment require measurement device and fish screen. Fish persistence conditions. Proportional reduction based on target flows and permit's maximum authorized rate; capped at 20% year-round. Approval of a WMCP is required to obtain access to water under the permit.

Exhibit 3 Organizational Structure

Description:

This Exhibit sets forth the Organizational Structure for the Willamette Water Supply System Commission.



Notes:

1. Appointed by governing bodies of each Party
2. Provides Managing Agency's recommendations to Board
3. Provides support to and consults with all committees
4. Provides recommendations to Managing Agency
5. Serve as liaisons to Parties' governing bodies
6. Provides recommendations to Management Committee

Exhibit 4
Willamette Water Supply System
Weighted Voting Calculation

Threshold for Affirmative Vote

Super Majority = 70.0%

Unanimous = 100.0%

Basis of Voting Weight

Party	Ownership Capacity (MGD)	Ownership Capacity Share (%)	Weighted Vote (%)
TVWD	59.1	58.92	58.92
Hillsboro	36.2	36.09	36.09
Beaverton	5.0	4.98	4.98
Total	100.3	100.00	100.00

Notes:

1. One Board Member per Party.
2. One vote of full percentage per Member (no splitting of vote by a Party).
3. Percentage based on RWP and FWP pumped Capacity Ownership.

Exhibit 5
Willamette Water Supply System
Contracts and Approval Procedures

I. Contracting Party

- A. Managing Agency As Contracting Party. The Managing Agency shall be responsible for all WWSS contracts and procurements according to Oregon law and its adopted contracting rules, policies and procedures. Contracts and procurements may be in the name of the Managing Agency or the WWSS, pursuant to Section I.B.
- B. WWSS As Contracting Party. If the Board appoints a Local Contract Review Board and adopts local contract review board rules and procedures, the Board may also direct that contracts be in the name of the WWSS and administered by the Managing Agency.

II. Procedure

- A. The need for contracts and procurements will typically be identified by the Board as part of the:
1. annual or biennial budget that includes the capital improvement plan budget component;
 2. work plan adopted in association with the budget;
 3. capital improvement plan;
 4. master plan and operations plan; and
 5. emergency response plan.
- B. The Managing Agency will present contract awards in excess of \$500,000 to the Board for approval. Contract awards for \$500,000 or less may be approved and executed by the Managing Agency without necessity of Board action.
- C. Emergency or unforeseen conditions necessitating contract or procurement action may be approved by the Managing Agency as reasonable under the circumstances. If the Managing Agency, in the exercise of reasonable judgment under the circumstances, needs to act before a Board meeting can be held, then the Managing Agency may proceed but shall provide an after-action report to the Management Committee and Board detailing the action taken and reasons thereof.

III. Change Orders and Amendments

- A. Any change order or amendment to a contract or procurement with an amended total of \$500,000 or less may be approved by the Managing Agency in its discretion without Board approval.
- B. If the change order or amendment results in an amended total of more than \$500,000, then approval by the Board is required. y.
- C. If the change order or amendment occurs because of emergency or unforeseen circumstances, the procedures of Section II C of this exhibit shall apply.

Exhibit 6
Willamette Water Supply System
Financial Procedures

Description:

The Willamette Water Supply System (WWSS) is a joint venture of the cities of Hillsboro, Beaverton and the Tualatin Valley Water District. The WWSS owns, manages and operates the WWSS for the benefit of the Parties to the Willamette Water Supply System Agreement. This Exhibit establishes the financial procedures to be followed by the WWSS as it undertakes its activities as described in the WWSS Agreement.

These financial procedures consist of 3 Sections. Each is described below.

1. Accounting and Financial Reporting:

This section outlines the accounting and financial procedures that the Managing Agency will follow.

a) Periodic Financial Reports

The Managing Agency shall maintain independent budget control procedures and provide unaudited budget reports at least quarterly to each of the Parties not later than 30 days after the end of each quarter. This report shall show expenditures and receipts by budget item through the last day of the preceding quarter.

b) Accounting Policies

Unless otherwise specified in this Exhibit or elsewhere in the WWSS Agreement, the accounting policies of the WWSS shall be those accounting policies adopted by the Managing Agency.

i. *Fiscal Year*

Unless otherwise set by the Board in a manner consistent with Oregon law, the WWSS shall operate on a fiscal year basis from July 1 through June 30 of the subsequent year.

ii. *Accounting Standards and Basis*

The Managing Agency shall use generally accepted accounting principles to account for the transactions of the WWSS. The WWSS shall be treated as an enterprise fund for accounting purposes and report its finances on an accrual basis.

iii. *Capitalization Standard*

The WWSS shall capitalize expenditures on assets that have an expected useful life exceeding one year and an original cost exceeding \$7,500.

iv. *Depreciable Lives and Depreciation Rates*

The Managing Agency shall determine depreciation rates for classes of assets and, when appropriate, individual assets, based on the expected useful lives of

the assets considering local conditions within the WWSS. Estimates of the depreciable lives shall be based on engineering assumptions for the WWSS and operational experience. Unless otherwise more appropriate, the depreciation rates shall be calculated to recover the original costs using a straight-line basis over the depreciable life of an asset.

v. ***Indirect Cost Allocations***

The Managing Agency shall maintain an indirect cost allocation plan that conforms to industry standards for local governments. If requested by a Party, the Managing Agency shall provide a copy of its indirect cost allocation plan.

2. **Charges to Parties for Operations:**

This section outlines the process and methodology the WWSS will use to charge the Parties for the actual cost of administration, operations, maintenance, and repair of the WWSS.

a) **Methodology and Process**

Unless otherwise agreed to by the Parties, the charges to each Party should reflect an allocation of the actual costs of providing services to each Party. Where applicable, industry standards for allocating actual costs for water systems should be used to determine a fair allocation of the actual cost of providing services to each Party.

The actual cost of operations may be charged to the Parties using one or more of three billing determinants. These determinants are:

1. Equal shares. For actual costs that vary by the number of Parties rather than usage or Capacity, an equal share per Party may be used to allocate actual costs.
2. Usage. Where costs vary based on the quantity of water used and/or delivered, a charge per unit of use may be used to allocate the actual costs.
3. Capacity. Where costs vary based on the size of an asset being serviced, the Capacity owned by a Party may be used to allocate the actual costs.

When more than one determinant is required to allocate costs consistent with industry standards, a combined allocation based on multiple determinants may be used. Other billing determinants may be adopted by the Board to enhance the overall consistency of the charges with the cost of providing services.

At least once every 5 years, the Board shall budget funds to retain the services of a qualified nationally recognized expert (Expert) in the field of cost allocations for water systems to review the methodology used to allocate costs. The Managing Agency will engage the services of the Expert after conducting a competitive

selection process that provides each Party an opportunity to participate and culminates in the selection of the Expert by the Board.

The selection process for the Expert shall be based on the:

1. Recommendation by the Finance Committee of an Expert to the Management Committee.
2. Recommendation by the Management Committee of an Expert to the Managing Agency.
3. Selection of an Expert by the Board in accordance with its voting procedures.

The Expert shall prepare a report of findings and recommendations (Expert Report) that includes an appropriate methodology (Methodology) for allocating the WWSS' costs consistent with the cost-of-service principles. Once accepted by the Board, the Managing Agency will use the Methodology contained within the Board-accepted Expert Report to allocate costs to each Party. Nothing in this Exhibit or the resulting Methodology shall prevent a Party from using the WWSS Agreement's Dispute Resolution Process to rectify an outcome inconsistent with the Agreement and/or cost-of-service principles.

b) Monthly Payments for Operations

Each Party shall make monthly payments to the WWSS for operations and maintenance in accordance with the IGA. The Monthly Payments shall be determined by the Methodology developed in this Exhibit or by another agreed-to methodology.

i. *Exception for the Allocation of Expenditures for Administration*

Notwithstanding the findings of the Expert Report, expenditures related to administration of the WWSS Commission activities will be allocated among the Parties where 25% of the costs are shared equally and 75% are allocated according to each Party's weighted vote established in Exhibit 4.

Expenditures related to administration of the WWSS Commission include the costs of conducting Commission meetings, developing the annual work plan and budget, conducting the annual audit, providing insurance applicable to the Board members and their actions, and other activities that are not directly related to operating the WWSS or placing assets into service. Casualty insurance on the WWSS facilities are not considered expenditures for administration. Expenditures for administration will be identified separately in the annual work plan and budget.

ii. ***Allocation of Other Expenditures for Operations, Maintenance, and Repair***
Expenditures other than those for administration described above, or capital projects subject to a Project Agreement, shall be allocated using the Methodology developed by the Expert as described in the Expert Report.

iii. ***Allowance for Working Capital for Operations***

The Managing Agency may provide working capital for the operations of the Commission by paying the Commission's bills when due and receiving payments from the Partners within 30 days after invoicing. The Managing Agency shall adopt accounting procedures to determine the cost of providing the Commission working capital for operations and shall be entitled to charge the Parties a proportionate share of the cost of providing the working capital. The cost of providing the Commission's working capital for operations shall be based on the forgone interest earnings the Managing Agency could have earned at its then-current rate of earnings on its portfolio of investments. The charge by the Managing Agency for working capital for operations will be listed separately on the invoices. The allowance for working capital provision only applies to working capital for operations and not the funding of capital improvement projects. Procedures for funding capital improvement projects are described in this Exhibit below.

3. Charges to Parties for Capital Improvement

i. ***Project Agreement***

When the WWSS undertakes capital improvement projects, the Managing Agency will develop a proposed Project Agreement. The proposed Project Agreement will describe the capital improvement, identify the ownership shares of the capital improvement, provide an estimated total cost for each proposed owner of the capital improvement.

The proposed Project Agreement will be presented to the Operations and Finance Committees for their review and comment. After the review and comment by the Operations and Finance Committees, the Managing Agency will present the proposed Project Agreement to the Management Committee for its review and comment. Once the Managing Agency has taken into consideration the various Committee comments, if any, the Managing Agency will present the Project Agreement to the Board for adoption. Once adopted, the adopted Project Agreement will serve as the basis for managing the capital improvement project.

ii. ***Funding Procedures***

Unless specified otherwise in an adopted Project Agreement, the method of funding capital projects by the Parties shall consist of the following steps.

1. Each month the Managing Agency will provide each Party with an estimate of capital expenditures for the succeeding three months as

identified by the project's or program's baseline budget or other available data.

2. Each Party shall identify a source of cash (or cash equivalents or credit facility) ("Cash Funds") that is available for draws consistent with the three-month estimated capital expenditures to fund that Party's share of the capital expenditures.
3. When paying a vendor as part of a capital expenditure project(s), the Managing Agency shall send a remittance advice to each Party not less than 2 business days prior to scheduled payment to a vendor by the Managing Agency. This includes payments to the Managing Agency when the Managing Agency is providing services for the capital expenditure project(s).
4. On receipt of the remittance advice, each Party shall immediately pay its share by electronic transfer, such as a wire transfer, a Local Government Investment Pool transfer, or Automated Clearing House transfer, to the Managing Agency and the Managing Agency will release payment to the vendor.
5. At all times, each Party shall maintain the estimated Cash Fund necessary for the succeeding three months and, upon payment following a remittance advice, replenish its Cash Fund accordingly.

Exhibit 7
Willamette Water Supply System
True Up Calculation

Tualatin Valley Water District (TVWD) and the City of Hillsboro (COH) have jointly incurred costs to do preliminary planning, master planning, WWSP staffing, 404 permitting, land use analysis, land acquisition, design and construction of the Willamette Water Supply System (WWSS) as set forth below. Pursuant to the WWSP Agreement, the costs incurred to date have been allocated based on capacity of the RWP where TVWD has paid 60.31% and Hillsboro has paid 39.69 %. The ownership allocation shares of TVWD and COH, including ownership shares of City of Beaverton (Beaverton) in each individual WWSS element, have now been more accurately defined and modified by element as defined in Exhibit 1 “Willamette Water Supply System Ownership Allocation.”

A condition of the WWSS Intergovernmental Agreement is that new members pay their proportionate share of costs incurred prior to entry in to the Agreement, including accrued interest at a rate of 4 percent per year, and future costs as they are incurred. TVWD and COH also agree to reimburse each other for previous costs incurred to achieve cost allocations that match the ownership allocations identified in Exhibit 1. The payment for previous costs incurred is referred to as “true up.”

Beaverton is joining as part of the formation of the WWSS Commission and shall within 30 days after invoicing by the Managing Agency true up for its proportionate share of costs previously incurred by payment to the Managing Agency as shown in column labeled “COB True Up.”

Upon receipt by the Managing Agency of payment by Beaverton, the amount received will be remitted to TVWD and Hillsboro as stated in the following table.

The true up expenditure adjustments for TVWD and COH are shown in the column labeled “TVWD/COH.

Item	Cost	COB True Up	Amount to TVWD	Amount to COH	TVWD/COH
HDR Master Plan					
WTP Master Plan		\$XX after \$100,000 credit			
Wilsonville Ground Lease					
404 Permit					
Land Use Processes					
WIF/RWP to PLM 1._ Kinsman Road					
PLM 1._ Kinsman Road					
Orepac Easement					
Other Easements					
PLM 1._ Kinsman Road to Garden Acres					
PLM 1.2 Garden Acres to SW 124th					
SW 124 th					
WTP Site Purchase					
WTP Permitting					
PLM 4.1					
PLM 4.2					
PLM 4.3					
PLM 4.4					
PLM 5.1					
PLM 5.2					
Tanabe Property					
Toye Property					

Exhibit 8
Willamette Water Supply System
Real Property Interests

TVWD and Hillsboro have transferred or agree to transfer all real property interests and rights to the WWSS Commission. Real Property interests includes fee title, lease, easement, license or permit related to property upon which is located a WWSS asset.

Item	Property Description	Type of Interest
RWP	WRWTP site from WIF outlet to exit on TL XX	Easement
	Young/Bernert Property	Easement
	Kinsman Road To Wilsonville Road STA + to STA +	Ground Lease
	Wilsonville Road to Kinsman Road to STA + to STA	Ground Lease
	Kinsman Road to Boeckman	Ground Lease
	Boeckman Road to SW 95 th	Ground Lease
	SW 95 th to Ridder Road	Ground Lease
	Ridder Road to Garden Acres	Ground Lease
	Garden Acres Road to Grahams Ferry Road	Ground Lease
	Grahams Ferry Road to Clay St.	Ground Lease
	OrePac Easement Map and TL #	Easement
	SW 124 th Project Grahams Ferry to WTP	WC Road Permit
	SW 124 th Project ODOT Rail Crossing Permit SW Tonquin Road	ODOT Permit
WTP/RWP/FWP	Water Treatment Plant Map and TL	Fee
FWP WTP to Res	SW 124 th to Tualatin Sherwood Road	WC Road Permit
	Tualatin Sherwood Road from 124 th To SW Roy Rogers Road	WC Road Permit
	Roy Rogers Road	DSL Permit

	Chicken Creek Undercrossing	
	SW Roy Rogers Road to SW Beef Bend Road	WC Road Permit
	Bore Shaft and Pipeline on Numarnilk Property	Easement
	Roy Rogers Road Tualatin River Under Crossing	DSL Permit
	Receiving Shaft and Pipeline on Amstad Property	Easement
	Roy Rogers Road Amstad Property to Scholls Ferry Road	WC Road Permit
	Scholls Ferry Road Roy Rogers to Tile Flat Road	WC Road Permit
	Tile Flat Road Scholls Ferry to Grabhorn Road	WC Road Permit
	Grabhorn Road Tile Flat Road to Reservoir	WC Road Permit
Terminal Reservoir	Toye Property	Fee
FWP PLW	Tanabe Property	Fee
	Wetzel Property?	Easement
	Clark Hill Road Wetzel to Farmington Road	WC Permit
	Farmington to 209th	Easement
	209 th to Rosedale	WC Permit
	Rosedale Road to Cornelius Pass Road	WC Permit
	Cornelius Pass Road Rosedale to SW TV Highway	WC Permit
	Cornelius Pass Road SW TV Highway to Quatama	WC Permit
	Orenco Woods/Metro	Easement
	ODOT/TriMet LRT Line Undercrossing	Permit

	ODOT Abandoned Rail Corridor To SW Cherry Lane	Fee
	Cherry Lane to Cornelius Pass Road	COH Permit
	Cornelius Pass Road Cherry Lane to JWC NTL	WC Permit

Exhibit 9
Willamette Water Supply System
Lease

Lease Formula:

The lease payment for Willamette Water Supply System (WWSS) Capacity shall be determined by utilizing the depreciated replacement cost value of the assets that make up the Capacity, amortized over the remaining book depreciation life of the asset at an interest rate equal to the Municipal Bond Index rate at the year of the lease payment, Engineering News Record (ENR) index rate, or a comparable index. The WWSS may modify the method used to calculate lease payments by resolution of the Board. A lease rate example is shown in Attachment 1 to this Exhibit.

**Exhibit 9 - Attachment 1
Willamette Water Supply System
Lease Payment Example**

Assumptions:

Asset	_____
Year of Construction	_____
Cost of Constuction	_____
Capacity	100.3 MGD
Useful Life	50 Years
First Year of Lease	2026
Municipal Bond Index (Year of Lease)	4.93%
ENR Cost Construction Index-Seattle (Month/Year Construction was Complete)	_____
ENR Cost Construction Index-Seattle-December Prior to Mo/Year of Lease-Update for all assets	_____

Lease Calculation:

Replacement Cost (Capacity*ENR CCI-Seattle Construction Complete/ENR CCI-Seattle-Dec prior to lease)	█	#DIV/0!
Accumulated Depreciation (Replacement cost/Useful Life*(First Year of Lease- Year of Construction)	█	_____ #DIV/0!
Depreciated Replacement Cost	█	#DIV/0!
Lease Payment	█	#DIV/0!
Annual Cost	█	#DIV/0! Per MGD

**EXHIBIT 9
ATTACHMENT 2
SAMPLE LEASE**

This Willamette Water Supply System Lease (Agreement) is entered into this ____ day of _____, 20__ between _____, (hereinafter “____”), and _____, a _____.

Recital:

WHEREAS, the parties to this Agreement are members of the Willamette Water Supply System Commission (Commission), an intergovernmental entity formed pursuant to ORS Chapter 190 by the Willamette Water Supply System Intergovernmental Agreement (“WWSS Agreement”) dated _____, 2019, and as may be amended;

WHEREAS, the WWSS Agreement, among other things, provides for a Party to lease all or a portion of its Capacity in a component(s) of the WWSS as defined in Exhibit 1 to the WWSS Agreement, to another Party, upon such terms and conditions authorized by this Agreement and approved by the Commission;

WHEREAS, the Parties agree that _____ will lease _____ to _____ upon approval of the Commission of the terms and conditions of this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Capacity and Asset(s).** _____ agrees to provide _____, and _____ agrees to lease, _____ million gallons per day in the _____ WWSS asset during the life of this Agreement, unless modified by other provisions of this Agreement, for an initial __-year period beginning _____, through _____, subject to renewal, extension or termination on the terms and conditions as set forth in this Agreement. If a change in lease is anticipated because _____ (Lessor’s) demands have increased, the parties will negotiate the terms of such change.

2. **Connections, Measurement and Meters.** The Commission or the leasing Party as appropriate and necessary will provide and maintain meters, valves and controls, and measurement devices, in proper order for measurement of WWSS Capacity used and connections at the following locations:

Meters or measurement devices shall be tested and calibrated biennially by the Commission or an independent tester qualified to do such work. A copy of the test report shall be forwarded to the parties.

3. **Rates.** _____ shall be billed monthly for the total leased WWSS asset's capacity under this Agreement, and payment shall be made within 30 days of billing. A late fee of 1.5 percent per month shall be assessed for any unpaid balance.

_____ will pay monthly to _____ for all leased asset capacity, at rates as described in Exhibit X of the Willamette Water Supply System Agreement.

In as much as _____ has contracted to lease an amount of capacity each year, _____ agrees to pay _____ the greater of: the amount calculated based on the actual volume of water passing through the meter(s) described above; or the amount calculated based on the minimum lease amount. This calculation will be done annually after the end of the year.

4. **Term.** This Agreement shall be for _____-years, commencing with execution of this Agreement and ending ____ years later.

[ALTERNATIVE A]

_____ agrees to notify _____ in writing as soon as practicable if _____ wishes to extend the term of this Agreement, but not later than one year prior to the termination of this Agreement. The parties shall meet to determine if extension or renewal, and the associated terms, are mutually agreeable.

[ALTERNATIVE B]

_____ shall have the right to renew this Agreement for _____ successive periods of _____ years, each by giving written notice of renewal not less than one year prior to the expiration of this Agreement, whichever shall first occur. The terms and conditions of this Lease shall continue in any renewal term.

5. **Notices.** Notices shall be deemed sufficient if deposited in the United States mail, postage prepaid, to the following addresses:

6. **Severability.** In the event any provisions of this Agreement shall be held to be impossible, invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant, shall not be construed by the other party as a waiver of subsequent breach of the same by the other party. Both parties have fully participated in negotiating

and writing this Agreement. Therefore, it shall not be construed against the party preparing it; it shall be construed as if both parties have prepared it.

7. **Acts of God, Emergency, Etc.** Performance or delay in performance of the obligations stated in this Agreement shall be reasonably excused when performance or timely performance is impossible or impracticable because of the occurrence of unforeseeable events such as emergency, catastrophe, disaster, labor disputes, or acts of God.

8. **Disputes: Attorney's Fees.** If a dispute arises between the parties regarding breach of this Lease, the dispute resolution process in Section 26 of the WWSS Agreement shall be utilized.

9. **Full Agreement.** This document is the entire, final and complete agreement of the parties pertaining to _____ lease of WWSS assets to _____, and supersedes and replaces all prior or existing written and oral agreements between the parties or their representatives.

10. **Service Reduction in Case of Emergency.** If a general emergency or water shortage requires restrictions on the delivery of raw water, general restrictions placed upon deliveries to _____ shall be determined by the Curtailment Plan.

By: _____

By: _____

APPROVED AS TO FORM AND CONTENT

WILLAMETTE WATER SUPPLY SYSTEM COMMISSION

By: _____

Exhibit 10
Willamette Water Supply System
Overuse Compensation Formula

Overuse shall mean that a Party's instantaneous demand on the WWSS exceeded its Capacity, augmented by leased Capacity, by 5% for either: 1) three consecutive days in two consecutive years or 2) three consecutive days in any three years out of a five-year period.

Unless modified by the Board, compensation for overuse volume shall be five times the lease rate for Capacity which would have been in effect under the overuse period of time described above. The calculation will be applied to the quantity of water that is the difference in demand and owned or leased capacity.

Exhibit 11
Willamette Water Supply System
Insurance Requirements and Limits

The following insurance requirements and limits are necessary for the operations of the Commission and shall be purchased and maintained at all times. The requirements will be reviewed by the Board annually and modified when necessary per recommendations from the Managing Agency.

1. Insurance Requirements

- a) The Managing Agency shall obtain and maintain at all times the following insurance coverage as applicable based on exposure:
 - (1) Property
 - (2) General Liability
 - (3) Automobile Liability
 - (4) Workers' Compensation
 - (5) Employers' Liability
 - (6) Crime
 - (7) Pollution Liability
 - (8) Railroad Protective Liability

- b) The Managing Agency shall have discretion to purchase other necessary insurance to protect the interests of the WWSS.

- c) The WWSS, its members, officers, boards, agents and employees will be listed as additional insureds on professional services contracts, public works contracts, and other associated contracts required to design, construct, own, operate, maintain repair and replace the Intake Facilities.

2. Summary Insurance requirements and limits:

- a) ***Property***
To include loss or damage to buildings, contents, mobile equipment and motor vehicles due to perils such as fire, wind, theft, vandalism, malicious mischief, earthquake and flood, for the full insurable replacement-cost basis (For earthquake and flood, a sublimit typical of the industry standard). Property coverage shall also include machinery breakdown coverage if necessary.

- b) ***General Liability***
To include all major coverage including bodily injury, personal injury, property damage and wrongful acts. Coverage shall be provided for all XCU (explosion, collapse and all underground) hazards and shall be in the amount not less than **\$10,000,000** per occurrence and **\$10,000,000** general aggregate and shall include

Products-Completed Operations in the minimum amount of **\$10,000,000**, Fire Damage (any one fire) in the minimum amount of **\$100,000**. Must also cover damage to property from water damage, mole or equipment failure.

c) ***Automobile Liability***

To include all owned, hired and non-owned vehicles of a combined single limit per occurrence shall not be less than **\$5,000,000**.

d) ***Workers' Compensation and Employers' Liability***

Workers' compensation coverage sufficient to meet statutory liability limits and Employers' Liability of **\$1,000,000** for each accident, **\$1,000,000** for each bodily injury/disease and **\$1,000,000** for aggregate bodily injury/disease.

e) ***Fidelity Bond or Crime***

A fidelity bond or equivalent crime coverage in the amount not less than **\$500,000**.

f) ***Pollution Liability***

During construction activities, and any time hazardous substances are being used within the area covered by the Ground Lease Agreement, other than in small quantities as generally needed for landscaping or as cleaning supplies, the WWSS shall carry coverage that meets the terms of the Ground Lease Agreement. Otherwise, Pollution liability Coverage will be placed at the discretion of the WWSS Board.

g) ***Railroad Protective Liability***

Purchase and maintain coverage as required by utility crossing, encroachment and maintenance agreements with the railroad.

h) ***Deductibles and Coverage***

The Commission is empowered to obtain insurance and exercise its reasonable judgement in determining the appropriate amounts of deductibles, self-insurance, primary and excess coverages to protect the Commission and WWSS assets.

Exhibit 12
Willamette Water Supply System
Existing Agreements

Description:

The following is a list of existing agreements between some or all of the Parties that affect or are affected by the Willamette Water Supply Systems Assets that are the subject of this Agreement. These related agreements are not superseded by this Agreement unless agreed to by the parties to those agreements.

Related to Willamette Intake Facilities Commission

- 1) Willamette Intake Facilities Intergovernmental Agreement dated April 18, 2018 (WIF Agreement).
- 2) *Agreement Regarding Water Treatment Plant Design, Construction, Operation and Property Ownership* (“2000 Master Agreement”), dated July 6, 2000 and entered into by Wilsonville and TVWD.
- 3) *The Accord Agreement* (“Accord”), dated June 19, 2001 and entered into by Wilsonville and TVWD.
- 4) *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated March 21, 2018, entered into by TVWD and Wilsonville.
- 5) *Operation and Maintenance Contract with Veolia Water North America-West LLC*, dated July 1, 2017, as amended, entered into by TVWD and Wilsonville.
- 6) *First Restated Intergovernmental Cooperative Agreement Continuing the Willamette River Water Coalition* (“WRWC Agreement”), dated October 15, 2008 and entered into by TVWD, Sherwood, Tigard, and Tualatin.
- 7) *Sherwood and Tualatin Valley Water District Willamette River Water Treatment Plant Agreement* (“Sherwood TVWD WRWTP Agreement”), dated December 27, 2006 and entered into by TVWD and Sherwood.
- 8) *Agreement(s) for Transfer, Purchase and Sale of Intake Facilities*, of various dates in 2018 and entered into by TVWD and Beaverton, TVWD and Hillsboro, TVWD and Sherwood, TVWD and Tigard.
- 9) *City of Wilsonville and Tualatin Valley Water District Willamette Water Supply System Intake Facility Agreement*, dated March 21, 2018 and entered into by Wilsonville and TVWD.

10) *Easement for Raw Water Pipe*, dated _____, 2019, entered into by TVWD, Wilsonville, and Hillsboro.

11) *Intake Pipeline Easement No. 22670-EA*, dated July 13, 2000 and granted by the State of Oregon Division of State Lands to the City of Wilsonville.

Related to Willamette Water Supply System Intergovernmental Agreement

1) Willamette Water Supply System Intergovernmental Agreement dated _____, 2019 (WWSS Agreement).

2) *Agreement for Design and Construction of the Willamette Water Supply Program* (“WWSP Agreement”), dated June 16, 2015 and entered into by TVWD and Hillsboro

3) *Ground Lease for the Raw Water Pipeline*, dated March 21, 2018, entered into by TVWD, Wilsonville, and Hillsboro.

4) *Easement for Raw Water Pipe*, dated _____, 2019, entered into by TVWD, Wilsonville, and Hillsboro.

5) *Intake Pipeline Easement No. 22670-EA*, dated July 13, 2000 and granted by the State of Oregon Division of State Lands to the City of Wilsonville.

Exhibit 13
Willamette Water Supply System
Financial Assurances

INTERGOVERNMENTAL AGREEMENT
FOR FINANCIAL ASSURANCES
BETWEEN CITY AND
WILLAMETTE WATER SUPPLY SYSTEM

WWSS: Willamette Water Supply System,
An ORS Chapter 190 entity
c/o Tualatin Valley Water District, Managing Agency
1850 SW 170th Avenue
Beaverton, Oregon 97003

CITY: City of Beaverton, an Oregon municipal corporation

EFFECTIVE DATE: _____

RECITALS

WHEREAS, WWSS, as part of its ongoing facility addition and improvement projects (“WWSS Facilities”), will be constructing or restoring various public improvements in the public rights-of-way of the City of Beaverton that will become property of the City (“Project” or “public improvements”) and are not WWSS Facilities; and

WHEREAS, when the City of Beaverton Development Code applies, the City issues a land use decision approving the WWSS’ application for WWSS Facilities, which may require the construction of public improvements; and

WHEREAS, the City rights-of-way and site development permits for each Project requires the WWSS to provide financial assurance for the value of the required public improvements to be constructed; and

WHEREAS, the required public improvements must be constructed in accordance with City specifications and City approved plans; and

WHEREAS, Per the Beaverton Code, an applicant for a site development permit must submit a bond or other security in an amount satisfactory to the City engineer and in a form approved by the City attorney, in the sum of 100 percent of the estimated cost of the public improvements to guarantee the faithful performance of the work specified in the permit; and

WHEREAS, per the Beaverton Code, when the public improvements described in a site development permit are substantially complete and are acceptable to the City, the applicant must submit

a maintenance bond or other security in an amount satisfactory to the City engineer and in a form approved by the City attorney, in the sum of 25 percent of the cost of those public improvements, as determined by the City engineer, to guarantee the quality of workmanship and materials used to complete the work, for at least two years after substantial completion of the improvements and written acceptance of the improvements by the City, or for a longer period to be determined by the City engineer if necessary or desirable to guarantee the viability of one or more improvements; and

WHEREAS, per the Beaverton Code, the security instrument must obligate the principal to faithfully perform the work for the public improvements specified in the permit within the time specified by the City engineer and shall further provide that it will not be canceled or terminated until the City approves the work in writing; and

WHEREAS, the WWSS desires to provide assurance to the City that any and all required public improvements obligations relating to or arising out of a land use permit, site development permit, facilities permit, or any other permit issued by the City (“Permit”), such as street restoration, will be completed in accordance with City specifications and City approved plans;

NOW, THEREFORE, pursuant to the authority provided in ORS 190.010 and the consideration of the mutual promises contained in this Intergovernmental Agreement for Financial Assurances between City and WWSS (“Agreement”), the parties agree as follows:

1. WWSS ASSURANCE

a) **GENERAL PROVISIONS**

- i. The WWSS may act as its own assurance provider for public improvement obligations and for performance and maintenance obligations related to public improvements described in a City Permit. By executing this Agreement, the WWSS represents to the City that it has or will at all times maintain dedicated and available funds to meet its performance and maintenance obligations.
- ii. The WWSS agrees to budget, dedicate and maintain available funds to assure performance or maintenance for the Project covered by the City Permits in the form of cash, cash equivalents or credit facilities available for immediate payment (the “Assurance”).
- iii. In the event the WWSS either: (1) does not complete all or any portion of the Project, or (2) constructs the Project with low quality workmanship or defective materials that do not meet the approved Project specifications, plans, Engineering Design Manual or Permit requirements for the Project, the City shall notify WWSS. Following the notice, the City may demand disbursement of Assurance funds for the reasonable cost of the work to be performed by letter to WWSS. The WWSS shall disburse funds to the City when it receives a dated and signed letter demanding payment from the City Engineer. No other documentation or substantiation will be requested or required. Upon demand for payment, the WWSS shall dis-

burse the requested amount to the City within 30 days, unless the WWSS is actively engaged in the dispute resolution process with its contractor regarding the completion of the Project or correction of defective workmanship or materials for the Project. If the WWSS is actively engaged in dispute resolution with its contractor for the Project and in the reasonable assessment of the WWSS payment of the requested amount would have a material adverse effect on the ability of the WWSS to assert or defend against a claim in arbitration, then the WWSS may delay payment to the extent payment would have a material adverse effect on the WWSS or until the arbitration concludes, whichever occurs first. Otherwise, the WWSS shall disburse the requested amount regardless of the merits of the City's claim. The City's claim is paramount to all parties including the WWSS. Any dispute as to the merits of the City's claim under this section 1.a.iii.3 shall be determined separately between the WWSS and the City.

- iv. The WWSS will make no disbursements to the City under this Agreement without prior written notice from the City indicating the amount to be disbursed. The City may at any time, upon reasonable notice, request a statement from the WWSS as to the available funds and the public improvements to which those funds relate.

b) PERFORMANCE SECURITY

- i. When WWSS enters into a public improvement contract for WWSS Facilities or upon City's issuance of a Permit to the WWSS, the WWSS shall have on hand the budgeted, dedicated and available funds for the required public improvements in the amount determined by the City Engineer or designee. The WWSS shall also require its selected contractor to list the City as an additional payee on its bond.
- ii. The WWSS shall provide written notice of the Assurance in substantially the same form as Attachment A, which is attached and incorporated by this reference.
- iii. WWSS shall hold funds in an amount equal to the amount outlined in Section 1.a.ii for each Project entered into by the WWSS until: (a) the Project is complete, or (b) the WWSS disburses the full amount of the Assurance for the Project to the City on City's demand.
- iv. Further with regard to Assurance for performance security, the amount of funds requested for disbursement shall be the cost to complete the public improvements, as determined exclusively by the City Engineer. The check for the amount requested shall be transmitted to City within 10 days of the receipt of a letter.

c) MAINTENANCE SECURITY

- i. When the WWSS substantially completes the Project described in Permits issued to the WWSS, and those improvements are accepted in writing by the City, the WWSS shall maintain an Assurance equal to 25% of the Project construction cost of any public improvements owned by the City that were restored or constructed by the WWSS as part of its Project such as streetcar, sidewalks and the like, to guarantee the quality of workmanship and materials for the public improvements through

the Maintenance Period as defined in Section 2(e) (“Maintenance Security”), unless the City Engineer approves a lesser amount.

- ii. WWSS shall provide written notice of the availability of budgeted funds (cash, cash equivalents or credit facilities) for Maintenance Security as Assurance in substantially the same form as Attachment B, which is attached and incorporated by this reference.
- iii. With regard to the Maintenance Security Assurance, WWSS shall maintain funds for each Project until: (a) the two year warranty period expires, or (b) the WWSS disburses the full amount of the Maintenance Security Assurance in accordance with this Agreement.
- iv. Subject to the process of Section 1.a.iii, the amount of Maintenance Security Assurance funds requested for disbursement by the City shall be the reasonable cost to repair or replace defective and unworkmanlike public improvements to meet applicable standards. If the WWSS is actively engaged in the dispute resolution process with its contractor for the public improvements, the WWSS may delay payment in accordance with subsection 1.a.iii. The check for the amount requested shall be transmitted to City within 10 days of the receipt of a letter.

2. COVENANTS

- a) The WWSS shall perform all the provisions and obligations required by Permits it receives from the City.
- b) The WWSS shall complete all its public improvement obligations required by Permits in a manner satisfactory to the City.
- c) The City may enter into an extension of a particular Permit if the WWSS demonstrates good cause for an extension, as determined by the City Engineer.
- d) The WWSS shall be liable for any and all loss or damage resulting from the failure to complete public improvements in accordance with its Permits, including the expense to bring the improvements into compliance with the City’s requirements.
- e) The WWSS shall warranty replacement and repair of the public improvements it constructs for a period of at least two years after substantial completion of the Project as determined by the City Engineer. The WWSS shall secure its maintenance obligation in the manner provided in this Agreement.
- f) In the event that any suit or action is pursued by the City to enforce any provision of its Permits, including any suit or action to obtain release of the Assurance funds, or any other dispute arising out of this Agreement, each party shall bear the cost of their own attorney fees. Venue for any such action shall be the Washington County Circuit Court.

- g) This Agreement is in addition to, and not in lieu, of any other enforcement action available to the City including permit revocation, citation and withholding approval of a final plat for the development for which the improvements are required if a plat is required by local or state law. Nothing in this Agreement shall be construed to relieve the WWSS of its obligation to complete required public improvements, including a lack of Assurance funds related to the Project.
- h) A party's failure to enforce a provision of this Agreement or any provision of a Permit shall not: (a) constitute a continuing waiver, (b) constitute a relinquishment of such party's right to performance in the future, or (c) operate as a waiver of that party's right to enforce any other provision of this Agreement or any provision of a Permit.
- i) In the event any one or more of the provisions contained in this Agreement is declared by an arbiter or a court of competent jurisdiction to be illegal, invalid, void, or otherwise unenforceable in any respect, then such provision shall be ineffective only to the extent of such prohibition or invalidity, and all other provisions and requirements of this Agreement shall remain in full force and effect.

3. INDEMNIFICATION

- a) The WWSS shall protect, indemnify and save harmless the City from any liability for payment of invoices, wages, penalties, or interest due to laborers, mechanics, subcontractors and material suppliers who perform work or furnish material in connection with the construction of required public improvements.
- b) The WWSS shall pay and discharge all lawful assessments levied by federal, state or local governmental authorities related to construction of a public improvement.
- c) The WWSS shall protect, indemnify and save harmless the City from any damages for personal injury, death or property that the City may sustain by reason of any defective material or workmanship which become apparent during the Maintenance Period.

4. INSURANCE

- a) The WWSS shall, at its sole cost and expense, maintain a policy of comprehensive commercial general liability insurance, including coverage for bodily injury, personal injury, contractual liability, owner's protective liability and broad form property damage, with premiums fully paid on or before the due date, that affords minimum protection of not less than two million dollars (\$2,000,000) for each occurrence and combined single limit coverage of three million dollars (\$3,000,000) for bodily injury, property damage, personal injury, or a combination thereof.
- b) The WWSS's liability is governed by the Oregon Tort Claims Acts ("OTCA" ORS 30.285 – 30.295).

- c) The WWSS shall name, or cause its contractor to name, the City of Beaverton, its employees, agents and elected officials as additional named insureds.
- d) The insurance shall not be cancelled unless the City of Beaverton is provided with not less than thirty (30) days' notice of cancellation. This Agreement shall constitute proof of insurance.

5. AUTHORITY OF WWSS REPRESENTATIVE

The WWSS authorizes the Managing Agency's Chief Executive Officer or designee to undertake the required steps to comply with the Assurance requirements and execute all necessary documents.

6. EFFECTIVE DATE, TERM AND TERMINATION

- a) This Agreement shall become effective on the date last signed by one of the parties.
- b) This Agreement shall continue in effect until December 31, 2028. After its initial expiration, this Agreement shall renew indefinitely for a term of one year, commencing on the day following expiration of the preceding term.
- c) Either party may terminate this Agreement on July 1st of any year, providing written notice of intent to terminate the Agreement is received on or before April 1st of that year in which the party wants to terminate. In addition, the City may notify the WWSS upon 60 days' written notice that this Agreement is terminated as to any future City required public improvements.
- d) Termination or expiration of this Agreement shall not terminate WWSS's obligations to continue to provide assurance amounts for required public improvements approved prior to the effective date of termination and shall not extinguish or prejudice a party's right to enforce this Agreement with respect to any breach or default or defect in performance that has not been cured. All representations, indemnifications, warranties and guarantees made in, required by or given by the parties in accordance with this Agreement, as well as all continuing obligations indicated in the Agreement, shall survive termination of or expiration of this Agreement.

The parties have executed this Agreement this ____ day of _____, 20__.

[signatures follow]

**CITY OF BEAVERTON
SYSTEM**

WILLAMETTE WATER SUPPLY

Mayor

Chair Board of Directors

Approved as to Form:

Approved as to Form:

City Attorney

Legal Counsel

ATTACHMENT A

[WWSS Letterhead]

To: City Engineer, City of Beaverton

From: Willamette Water Supply System, WWSS

Date:

RE: Notice of Performance Security Assurance Pursuant to Intergovernmental Agreement

[WWSS Facilities identification]

[Description of City's public improvements] [site development permit no. _____]

("Project" or "public improvements")

Pursuant to the terms and conditions of the Intergovernmental Agreement for Financial Assurances between the City and WWSS ("Agreement") relating to performance and maintenance assurances, this letter is to notify the City that the WWSS has budgeted, dedicated and available funds (through cash, cash equivalents, or credit facilities) to cover the cost to construct public improvements required for the WWSS's Facilities as a condition of the City's permit approval. The Assurance amount constitutes 100% of the estimated cost to construct the required Project. The Project includes the construction or restoration of various public improvements in the public rights-of-way of the City of Beaverton that will become property of the City, such as streets, sidewalks or the like, that are not WWSS Facilities.

The WWSS shall in all respects faithfully perform all of the provisions of the Agreement, the Project construction contract and its obligations, faithfully complete the public improvements, and comply with City Permit conditions in a manner satisfactory to the City, or be liable for any and all costs associated with the completion of the Project. The WWSS shall protect, indemnify and save harmless the City as stated in the Agreement from any liability for payment of invoices, wages, penalties, or interest due to laborers, mechanics, subcontractors and material suppliers who perform work or furnish material for the Project; and pay and discharge all lawful assessments levied by government authorities.

In the event the WWSS either: (1) does not complete all or any portion of the Project, or (2) constructs the Project with low quality workmanship or defective materials that do not meet the approved Project specifications, plans, Engineering Design Manual or Permit requirements for the Project, the City will notify WWSS. Following the notice, the City may demand disbursement of Assurance funds within 30 days for the reasonable cost of the work to be performed by letter to WWSS. If the WWSS is actively engaged in the dispute resolution process with its contractor for the Project, the WWSS may delay payment in accordance with subsection 1.a.iii of the Agreement. No other documentation or substantiation will be requested or required. Upon demand for disbursement of funds, the WWSS shall disburse the requested funds to the City regardless of the merits of the City's claim. The check for the amount requested shall be transmitted to the City within 10 days of the receipt of a letter. The City's claim is paramount to all parties including the WWSS.

This notice is subject to all the terms and conditions of the Agreement, and if a conflict exists between the provisions of this notice and the provisions of the Agreement requiring this notice, the provisions of the Agreement shall control.

WILLAMETTE WATER SUPPLY SYSTEM

By _____
[Name & Title Duly Authorized Willamette Water Supply System Representative]

FOR CITY USE ONLY

Engineering Division:

Approved as to form:

City Engineer or Designee

City Attorney

ATTACHMENT B

[WWSS Letterhead]

To: City Engineer, City of Beaverton

From: Willamette Water Supply System, WWSS

Date:

RE: Notice of Maintenance Security Assurance Pursuant to Intergovernmental Agreement

[WWSS Facilities identification]

[Description of City’s public improvements] [site development permit no. _____]

(“Project” or “public improvements”)

Pursuant to the terms and conditions of the Intergovernmental Agreement for Financial Assurances between the City and WWSS (“Agreement”) relating to performance and maintenance assurances, this letter is to notify the City that the WWSS has budgeted, dedicated and available funds through cash, cash equivalents, or credit facilities (“Assurance”) to guarantee the quality of workmanship and materials used to construct the Project for a period of two years after substantial completion of the Project (“Maintenance Period”). The Assurance shall be 25% of the cost of the Project, unless the WWSS and the City Engineer agree to a lesser amount.

The WWSS shall indemnify the City for all personal injury, death or property damage losses that the City may sustain by reason of any defective workmanship or materials which become apparent during the Maintenance Period.

In the event that the workmanship or materials used to construct the Project are defective or otherwise not of the quality required pursuant to the approved Project plans, specifications or the Permit requirements for the Project, the City shall notify WWSS. Following the notice, the City may demand disbursement of Assurance funds within 30 days for the reasonable cost of the work to be performed by letter to WWSS. If the WWSS is actively engaged in the dispute resolution process with its contractor for the Project, the WWSS may delay payment in accordance with subsection 1.a.iii of the Agreement. Upon demand for disbursement of funds, WWSS shall disburse the requested funds to the City without regard as to the merits of the City's claim. The check for the amount requested shall be transmitted to the City within 10 days of the receipt of the letter as long as it is presented to the WWSS before the Maintenance Period ends or within 30 calendar days of the end of the Maintenance Period. The City's claim is paramount to all parties, including WWSS.

The WWSS shall maintain the funds in an amount up to, but not exceeding, the amount noted above for the City's benefit until: (a) 30 calendar days after the Maintenance Period ends, or (b) the WWSS disburses the full amount of the maintenance security assurance for the above-referenced Project to the City.

This notice is subject to all the terms and conditions of the Agreement, and if a conflict exists between the provisions of this notice and the provisions of the Agreement pursuant to which this notice is given, the provisions of the Agreement shall control.

WILLAMETTE WATER SUPPLY SYSTEM

By _____
[Name & Title Duly Authorized Willamette Water Supply System Representative]

FOR CITY USE ONLY

Engineering Division:

Approved as to form:

City Engineer or Designee

City Attorney

Exhibit 14
Willamette Water Supply System
Approval of Ancillary Projects

Pursuant to Section 5.5, the Parties agree that the following Projects are approved as Ancillary Projects as of the date of this Agreement, subject to execution of a separate Project Agreement.

1. City of Beaverton pipeline connecting to the Joint Water Commission North Transmission Line (“JWC NTL”):

Design, bid, and construct the City’s 24” or 30” water line which will connect to the City’s anticipated water line at NW Evergreen Parkway. The route of the water line is to be determined but possible routes could be: 1) run north parallel to S.W. Cornelius Pass Road in ODOT Right of Way until it reaches the vicinity of HWY 26, and continue under S.W. Cornelius Pass Road to connect to the JWC NTL at a mutually agreed point; or 2) continue along NW Evergreen Parkway and other rights-of-way to connect to the JWC NTL at a mutually agreed point. The mutually agreed connection point to the JWC NTL may be in the right-of-way or on real property. This water line will not be connected to the WWSS, and the City will pay for all aspects of the Project, acquire necessary permits and right-of-way.

Prior to execution of the Project Agreement between WWSS and Beaverton for management of this project, Beaverton, Hillsboro, TVWD and the Joint Water Commission shall approve a separate agreement regarding the standards, specifications, terms and conditions of connection to the NTL, the point of connection, routing and access, metering and other matters deemed necessary by prudent utility practices to allow Beaverton’s project. In addition, Hillsboro shall have sole discretion as to terms and conditions of any use of its real property for the NTL connection.

2. TVWD Metzger Pipeline (MPE): formerly known as PLE_1.0; the MPE waterline will extend from the Point of Delivery at the Scholls Ferry and Roy Rogers Road turnout and generally follow Scholls Ferry Road to S.W. Allen, then to S.W. Western to connection with the Washington County Supply Line at Beaverton-Hillsdale Highway:

Design, procure and construct TVWD’s 66” and 48” waterline along the final selected routing. TVWD will pay for all aspects of the Project, acquire necessary permits and right of way. TVWD will coordinate with Beaverton regarding improvements in S.W. Western Blvd.

3. City of Beaverton pipeline from S.W. Nimbus/Scholls Ferry to S.W. Allen, then to S.W. Western to S.W. Beaverton Hillsdale HWY:

Design, bid, and construct the City’s 16” waterline along the same route as the MPE 48” waterline from Nimbus/Scholls Ferry to Beaverton Hillsdale HWY. There is no connection to the WWSS, and the City will pay for all aspects of the Project, acquire necessary permits and right of way.

4. City of Beaverton pipeline from S.W. Davies/Scholls Ferry Road to S.W. Murray/Scholls Ferry Road:

Design, bid, and construct the City's 12" waterline in this area along the same route as the MPE. There is no connection to the WWSS, and the City will pay for all aspects of the Project, acquire necessary permits and right of way.

5. Beaverton or TVWD shall be responsible to develop work scopes and obtain permits separately from the WWSS permitting efforts and pay for all costs. If a WWSS Project is permitted and ready for construction, but the Beaverton or TVWD Ancillary Project is not, the WWSS may proceed.

Exhibit 15

Capacity Allocation

Pursuant to Section 19.2.3, if all Purchasing and Selling Parties cannot be satisfied in full, and if an agreement for allocation cannot be reached, then the total interest designated for sale shall be divided and allocated in proportion to the proposed purchase up to the total Capacity made available for sale as follows:

Examples:

- 1) Total Amount for Sale: (10 MGD). Two Parties wish to buy 10 MGD each.

10 MGD (available) divided by 20 MGD (total requests) = 5 MGD purchased by each.

- 2) Total Amount for Sale: (10 MGD). Party 1 wishes to buy 10 MGD, and Party 2 wishes to buy 5 MGD.

10 MGD (available) divided by 15 MGD (total requests) = 6.67 MGD to Party 1 and 3.33 MGD to Party 2.

- 3) Total Amount for Sale: (10 MGD). Party 1 wishes to buy 10 MGD, and Party 2 wishes to buy 2 MGD.

10 MGD (available) divided by 12 MGD (total requests) = 8.33 MGD to Party 1 and 1.67 MGD to Party 2.

- 4) Total Amount for Sale: (7 MGD). Party 1 wishes to buy 4 MGD, and Party 2 wishes to buy 5 MGD.

- 5) 7 MGD (available) divided by 9 MGD (total requests) = 3.11 to Party 1 and 3.88 MGD to Party 2.

Tualatin Valley Water District



ORDINANCE NO. 03-19

AN ORDINANCE APPROVING THE SECOND RESTATED INTERGOVERNMENTAL COOPERATIVE AGREEMENT CREATING THE WILLAMETTE RIVER WATER COALITION, AN INTERGOVERNMENTAL ENTITY FORMED UNDER ORS CHAPTER 190 BETWEEN TUALATIN VALLEY WATER DISTRICT AND THE CITIES OF SHERWOOD, TIGARD AND TUALATIN

WHEREAS, Tualatin Valley Water District (District) and the Cities of Sherwood, Tigard and Tualatin were original members, along with other municipal water providers, of the Willamette Water Supply Agency, an ORS Chapter 190 intergovernmental entity formed in 1997 to develop and use the Willamette River as a drinking water source for their respective service boundaries; and

WHEREAS, in 2008 the District, Sherwood, Tigard and Tualatin adopted the First Restated Intergovernmental Cooperative Agreement Creating the Willamette River Water Coalition (WRWC) (First Restated Agreement), continuing the original 1997 intergovernmental entity under Oregon Revised Statutes 190.003 to 190.265, to develop and use Willamette River water and own, upgrade and expand, operate and manage a water treatment plant, transmission and storage; and

WHEREAS, the municipal entities who comprise the WRWC now wish to amend and restate the 2008 First Restated Agreement and enter into the Second Restated Intergovernmental Cooperative Agreement Creating the Willamette River Water Coalition (Second Restated Agreement), effective October 1, 2019, thereby continuing the original intergovernmental entity under Oregon Revised Statutes 190.003 to 190.265, vested with the powers and authorities as set forth in Exhibit 1, attached hereto and incorporated by reference; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of the District to enter into the Second Restated Agreement and to continue as a member of the WRWC; and

WHEREAS, ORS 190.085 requires the District and the other parties to enact an ordinance ratifying the Second Restated Agreement, and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. Pursuant to ORS 190.085, Tualatin Valley Water District approves the Second Restated Intergovernmental Cooperative Agreement Creating the Willamette River Water Coalition (WRWC) (Agreement) with the cities of Sherwood, Tigard and Tualatin, attached hereto as Exhibit 1 and incorporated by reference.

Section 2. The effective date of the Agreement is October 1, 2019.

Section 3. The public purpose of the WRWC Commission is to receive, hold, preserve and protect existing and future water rights on the Willamette River for municipal use by the members of the WRWC and use all authority vested in the Agreement for the operation, maintenance, design, construction, repair and replacement of any supply system assets that may be authorized by the WRWC Commission.

Section 4. To carry out its public purpose, the WRWC Board shall have the following powers, duties and functions, and as more specifically set forth in the Agreement attached hereto as Exhibit 1, and in addition to those specified in ORS 190.003 through 190.265:

- A. To receive and hold Permit No. 49240, issued to WRWC by the State of Oregon Water Resources Department for 130 million gallons per day, with a priority date of June 19, 1973, to acquire new or existing water rights and to develop those water rights on the Willamette River and to perform all other actions necessary to preserve and protect them.
- B. To study and support water resource stewardship and natural resource protection of the Willamette River to maintain and enhance water quality and availability.
- C. To provide support to other entities involved in efforts to improve the health of the Willamette River watershed.
- D. To purchase, own, hold, appropriate and condemn land, facilities and rights-of-way either in its own name or in the name of an individual Party hereto to develop Willamette River rights.
- E. To design, permit, construct, own, operate, repair and replace water system facilities as it deems necessary for municipal use in the service territories of each Party.
- F. To otherwise manage the business affairs of the WRWC as set forth in the Agreement, to adopt such bylaws, rules, regulations and policies as the parties deem necessary to further the purposes of the WRWC and to exercise all powers pursuant to the applicable acts, charters or laws of the individual parties, which are necessary or desirable to economically and efficiently develop and operate the WRWC Board.

Section 5. This ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date and place of the meeting and gave a brief description of the ordinance to be considered at the meeting and that copies of the ordinance are available at the office of the District.

Section 6. This ordinance was adopted following a first reading on July 17, 2019, and followed by a second reading and adoption by at least a majority of the members of the District Board of Commissioners at its regular meeting on August 21, 2019, and was signed by the presiding officer and attested to by the secretary.

Section 7. This ordinance shall take effect 30 days from the date of its adoption.

Section 8. Not later than 30 days after the effective date of the Agreement, the District shall file or cause to be filed with the Secretary of State for the State of Oregon a copy of this ordinance together with the statement required by ORS 190.085(2).

Bernice Bagnall, President

Todd Sanders, Secretary

**SECOND RESTATED INTERGOVERNMENTAL COOPERATIVE AGREEMENT
CREATING THE WILLAMETTE RIVER WATER COALITION (WRWC)**

THIS SECOND RESTATED INTERGOVERNMENTAL COOPERATIVE AGREEMENT is entered into by and between the following entities: Tualatin Valley Water District, a Domestic Water Supply District formed under ORS Chapter 264 (“TVWD”), the City of Sherwood, a municipal corporation (“SHERWOOD”), the City of Tigard, a municipal corporation (“TIGARD”) and the City of Tualatin, a municipal corporation (“TUALATIN”), each also sometimes referred to as (“Party”) or collectively as (“Parties”).

RECITALS:

A. WHEREAS, the Parties hereto have the authority to enter into this Agreement pursuant to their respective principal acts, charters and ORS 190.003 et seq.; and

B. WHEREAS, these Parties and others created the Willamette Water Supply Agency by Agreement and amended that Agreement in 2008 to rename it as the Willamette River Water Coalition (“WRWC”), to develop and use water from the Willamette River through jointly owned water treatment plant(s), transmission pipelines, pumping stations and storage facilities; and

C. WHEREAS, the intent of the WRWC Agreement was to allow Parties to develop and use the Willamette River presently or in the future for water supply needs that could be met by the Willamette River as an economic, efficient and available source; and

D. WHEREAS, TVWD and the City of Hillsboro entered into the Agreement for Design and Construction of the Willamette Water Supply Program (“WWSP”) dated June 16, 2015, to construct an expanded raw water intake facility and water treatment facilities at the Willamette River Water Treatment Plant (“WRWTP”) and finished water transmission pipelines, pumping and storage facilities to deliver water to the TVWD and Hillsboro distribution systems known as the Willamette Water Supply System (“WWSS”); and

E. WHEREAS, the Parties hereto along with the Cities of Hillsboro, Beaverton and Wilsonville engaged in the Willamette Governance Group negotiations regarding participation in all or part of the WWSS improvements that originally envisioned all water treatment plant facilities being located at the (“WRWTP”) in Wilsonville on land owned jointly by TVWD and Wilsonville under ownership and management of an ORS Chapter 190 entity; and

F. WHEREAS, the WRWC Parties engaged in the Willamette Governance Group negotiations to determine how and when the Parties would apply WRWC Water Permit No. 49240 to beneficial use in the new or expanded WWSS facilities or the WRWTP and whether the WRWC would be designated as the ORS Chapter 190 governance entity or if a new entity would be formed; and

G. WHEREAS, for various reasons, TVWD and Hillsboro elected to locate the WWSS Water Treatment Plant on other property near Sherwood and that decision reduced the focus of the ORS Chapter 190 governance entity to include only the upgrade and expansion of the Water Intake Facilities; and

H. WHEREAS, the resulting Willamette Intake Facilities Agreement dated April 18, 2018, provides for the upgrade and expansion of the Raw Water Intake Facilities to approximately 150 million gallons per day, created the Willamette Intake Facilities (“WIF”) Commission, and the Parties, except Tualatin, intend to use the WRWC permit to provide their respective allocated shares of water for treatment at the Willamette River Water Treatment Plant (Sherwood and Tigard) or the WWSS Water Treatment Plant (TVWD and Tigard); and

I. WHEREAS, Tualatin has determined not to participate in the above-described facilities and governance agreements but desires to maintain its opportunity to use the WRWC Permit at some point in the future; and

J. WHEREAS, as a result of the creation of the WIF Commission and the newly created Willamette Water Supply System Commission, under ORS Chapter 190, the WRWC’s primary mission and scope should be changed so that it holds, manages and protects the WRWC Water Permit 49420; acquires new or existing water rights; provides stewardship in water quality and natural resource management services to the Parties; studies local water demands; owns potable water facilities as necessary for the benefit of the Parties; and governs the use of existing permitted rights and future rights and areas of water usage; and being fully advised.

NOW, THEREFORE, the Parties hereto agree as follows:

SECTION 1. WILLAMETTE RIVER WATER COALITION

1.1 WRWC. There is hereby restated and continued the Willamette River Water Coalition. The Parties to the WRWC shall number four (4). The governing body of each Party shall appoint one (1) Board Member and may appoint one (1) alternate to act as Board Member in the absence of the primary Board Member. Each Board Member shall have one vote. Board Members of WRWC shall serve at the pleasure of their respective appointing bodies.

1.2 General Powers and Duties. WRWC shall have the following powers:

1.2.1 To adopt such bylaws, rules, regulations and policies as it deems necessary in furtherance of the purposes of this Agreement.

1.2.2 To receive and hold WRWC Permit No. 49240 for 130 million gallons per day (mgd), 202 cubic feet per second (cfs), with a priority date of June 19, 1973, to acquire new or existing water rights and to develop those water rights on the Willamette River, and to perform all other actions necessary to preserve and protect them.

- 1.2.3 To study and support water resource stewardship and natural resource protection of the Willamette River to maintain and enhance water quality and availability.
- 1.2.4 To provide support to other entities involved in efforts to improve the health of the Willamette watershed.
- 1.2.5 To purchase, own, hold, appropriate and condemn land, facilities, and rights of way either in its own name or in the name of an individual Party hereto to develop Willamette River rights.
- 1.2.6 To design, permit, construct, own, operate, maintain, repair and replace water system facilities as it deems necessary.
- 1.2.7 To perform and exercise pursuant to the Charter or principal acts of the Parties or by Section 190.003 through 190.250 of the Oregon Revised Statutes, all powers pursuant to applicable charter, ordinance, or state or federal law which are necessary to efficiently and effectively develop water sources.

1.3 Effective Date and Duration. This Agreement is effective on October 1, 2019. Subject to Section 6 of this Agreement dealing with termination or withdrawal, the duration of this Agreement shall be perpetual.

1.4 Meetings; Manner of Acting. Meetings of WRWC shall be conducted in accordance with the provisions of the Oregon Public Meetings Law, Oregon Revised Statutes Section 192.610 et seq. A majority of the Board Members shall constitute a quorum for the transaction of business, and only if a quorum is present, a majority of those present shall be necessary to decide any issue, except as otherwise provided herein.

- 1.4.1 Any decision of WRWC seeking financing or other financial obligation shall require an affirmative vote of the governing body of each Party that will financially participate in any project. A WRWC Board Member may bind his/her entity without governing body approval if the amount in question is within his/her delegated contracting authority.
- 1.4.2 A unanimous vote shall require an approving vote of each Board Member. Unanimous votes are required for allocation of WRWC water rights, issuance of WRWC issued debt, admission of new Parties, transfer of interest, and dissolution.
- 1.4.3 A supermajority vote shall require an affirmative vote of three (3) Board Members. Supermajority vote is required for designation of the Managing Agency.

1.5 Meetings. Regular meetings of WRWC shall be conducted at such times as WRWC may designate but shall be no less than semi-annually. The Chair, upon his/her own motion, may, or shall, at the request of two (2) Board Members of WRWC, call a special meeting. The Managing Agency shall endeavor to give notice to Board Members of the WRWC of each meeting no less than seven (7) days in advance, unless an emergency exists. In cases of an emergency, notice reasonable under the circumstances shall be given.

1.6 Officers. Annually, at the beginning of each fiscal year, the Board Members shall elect a Chair and Vice-Chair from among themselves who shall be officers of WRWC who shall serve a term of one (1) year. The WRWC Board shall also appoint a Secretary who need not be a Board Member of WRWC who shall be responsible for WRWC's records and shall keep a record of all WRWC proceedings. Officers shall serve at the pleasure of the WRWC Board or until their successors shall be appointed and take office.

1.7 Work Plan and Budgeting, Accounting, Audits. WRWC shall annually prepare a Work Plan and a proposed budget for the next fiscal year and distribute it to the Parties by February 1 of each year. This Work Plan shall include an estimate of expenses for general administration and for special projects. It is anticipated that each Party shall budget its own staff and funds for costs or provision of in-kind services as necessary. The Work Plan, Budget, and duties performed by the Managing Agency will include invoice, payment, and other financial procedures and matters.

Each Party's apportioned share of the general administration expenses shall be determined by the following formula: one half of the total administrative costs for the fiscal year shall be divided evenly among the WRWC Parties, the second half of the total administrative costs for the fiscal year will be divided among the WRWC Parties according to their percentage share of the total number of water meters served by the Parties of the WRWC as of December 31 of the current fiscal year. WRWC shall maintain financial reports showing its expenditures and receipts by category item for each transaction through the last working day of the preceding calendar month. If necessary, WRWC shall cause an independent audit to be performed and completed by a certified public accountant in accordance with ORS 297.405 et seq., within six (6) months following the end of each fiscal year.

For special projects that will be approved with each budget and separate from general administration, each Party's apportioned share shall be estimated and set forth in a Work Plan detailing the scope of work to be performed and the participating Parties, and the amounts so estimated may be budgeted and appropriated by the Parties in accordance with local budget law. Any special project to design, construct and own water system facility assets shall have a separate Project Agreement between the participating Parties.

1.8 Effect of Participation. Each Party's annual budget contribution shall entitle it to Party status, and each Party shall own an undivided proportionate interest in the assets as reflected, which shall be adjusted by capital contributions over time as set forth in addenda or by separate written agreement. If membership status is maintained, then each Party will have the right to equity participation in the construction of new or expanded facilities if proposed, have an option to purchase

an interest in new or expanded facilities at future times, and/or to be a wholesale customer, subject to the terms of any applicable project agreement.

1.9 Managing Agency. TVWD shall be the Managing Agency until a change is requested by the Managing Agency or three Parties vote to change, such change to be effective 365 days after such request or vote, unless otherwise agreed by the Parties. Upon the request of two or more Parties, the Board shall solicit proposals for selection of a Managing Agency, subject to the foregoing. The Board may delegate any and all powers to the Managing Agency as necessary to provide for the management functions required to administer the WRWC. The Managing Agency is responsible for administering the day-to-day business affairs of the WRWC. The Managing Agency shall act for the mutual benefit of all Parties at all times in the performance of all Managing Agency duties. In addition to any other duties assigned or delegated by the Board, the Managing Agency's duties shall include, but are not necessarily limited to, the following:

- 1.9.1 Prepare a proposed annual Work Plan and corresponding proposed annual budget.
- 1.9.2 Perform such duties as established in an adopted annual Work Plan and any other duties as directed by the Board.
- 1.9.3 Provide administration of the Board meetings and required public meeting notices and duties.
- 1.9.4 Maintain records in accordance with public records laws.
- 1.9.5 Perform financial planning and management for the WRWC including payment of invoices, accounting, reporting, financial oversight and budgeting in accordance with Oregon law.
- 1.9.6 Develop and coordinate capital improvement plans including the timing of any improvements or expansions related to the WRWC. Each Party will participate in planning projects, such as a Master Plan or facilities plan, and will provide good-faith estimates for future demand.
- 1.9.7 Provide leadership, administration and staffing in support of the Board and Board committees.
- 1.9.8 Prepare and update an Operations Plan in coordination with the Parties.
- 1.9.9 Coordinate with the WRWTP, the Willamette Intake Facilities and the WWSS to support and facilitate the orderly and effective operations of those systems to deliver WRWC water to WRWC Parties.
- 1.9.10 Take prompt action, as necessary, in accordance with a Curtailment Plan or

an Emergency Response Plan pertaining to the WRWC water rights and report to the Parties and the Board as soon as reasonably possible.

- 1.9.11 Procure and manage appropriate insurance coverages and fidelity coverages as directed by the Board.
- 1.9.12 Administer contracts, according to the Managing Agency's contracting rules and subject to direction of the Board.
- 1.9.13 Provide the Parties and their authorized representatives access to all books, documents, papers and records of the Managing Agency that are directly related to the WRWC and associated capital improvement projects for the purpose of making any audit, examination, copies, excerpts and transcripts.
- 1.9.14 Provide public communications and outreach, including response to public information, media or records requests.

SECTION 2. BENEFICIAL USE OF WATER RIGHTS

2.1 Delegation of Powers. It is a primary intent and purpose of this Agreement to enable the individual Parties to develop information, participate in studies, and negotiate relevant agreements regarding implementation of recommendations to design, construct, finance, own and operate facilities to use WRWC Water Rights. WRWC may contract with any Party or other person or entity for performance of services. WRWC and each individual Party shall define the scope of individual Party contributions or individual efforts.

2.2 Existing Water Right. The permitted surface water right to the Willamette River is held by WRWC (130 mgd) as WRD Permit No. 49240, (hereafter "Existing Right"). WRWC shall exclusively own and manage this resource in the best interests of all Parties subject to this Agreement. Perfection of any permit shall be in the name of WRWC for the benefit of all Parties.

2.3 Administration of Water Rights. WRWC shall have the full authority to modify, combine or abandon water rights and permits and seek new sources through new permits or contracting, or leasing of stored water from federal, state or local storage projects for municipal and industrial needs. Curtailment plans shall be developed and applied based upon water utilization.

2.4 Other Water Rights. A Party may apply for other water rights but must notify WRWC and the other Parties and provide a 30-day opportunity for WRWC or any other Party to join in the application to the Oregon Water Resources Department. Use of such water rights shall be in accord with Section 4, below.

SECTION 3. WATER RIGHT ALLOCATIONS

- 3.1 Allocated Shares of Water. WRWC and its Parties shall each owe a duty of good faith

and fair dealing with each other and a commitment to reasonably allocate the unallocated portion of the Existing Right and new water rights obtained by WRWC according to each individual Party's needs and forecasted demand. For purposes of this Agreement, use of the word "allocated" does not mean a change of permit/certificate name to a Party; it means an allocation of a specified amount of water under a permit or certificate.

3.2 Tualatin Valley Water District. Tualatin Valley Water District originally applied for and obtained Permit 49240 on June 19, 1973 and subsequently assigned this water right to the WRWC.

3.3 Tigard. Tigard abandoned a 1995 permit application to appropriate 26 million gallons per day (mgd) (40 cfs). Tigard is allocated 26 mgd (40 cfs) of the Existing Right.

3.4 Sherwood. Sherwood has constructed transmission facilities to deliver 20 mgd from the Willamette River to its service territory. Sherwood is allocated 20 mgd (31 cfs) of the Existing Right.

3.5 Tualatin. Tualatin forecasts the potential need for 3 to 4 mgd of additional water by 2040. At this time, Tualatin is not allocated a specific capacity share of the Existing Right. If Tualatin elects, TVWD agrees to allow Tualatin to use 3.1 mgd of TVWD's 59.1 mgd capacity share of the Willamette Intake Facilities, subject to Tualatin negotiating agreements with TVWD, WIF, WRWTP, WWSS and/or individual members of those entities as needed to draw, treat and deliver the water to Tualatin's distribution system.

3.6 Unallocated. Accounting for the amounts set forth above in total, the unallocated remainder of the Existing Right is 24.9 mgd as set forth on Exhibit A attached hereto and incorporated by reference. TVWD shall have first call and right to use unallocated water rights. This call right shall be exercised within 30 days from the date a Party requests the WRWC to make an allocation, or at any time upon notice from TVWD to the WRWC.

3.7 Cooperation. All or a portion of a Party's allocated water rights may be used at the Willamette Intake Facilities (WIF) or, subject to Section 4 of this Agreement, at other intake facilities. The Parties acknowledge the provisions of the WIF Agreement shall be complied with and not affected by this Agreement, and that any other intake facilities may be governed by separate agreements. As opportunities arise, the Parties agree to seek additional WIF capacity, when and if available, seek additional water rights, and otherwise cooperate in good faith to achieve a Party's goal.

SECTION 4. USE OF WATER AND CONSTRUCTION OF NEW FACILITIES.

4.1 Approved Uses. Beneficial use of water at the WIF, WRWTP and WWSS, is deemed approved by signature to this Agreement, and TVWD, Sherwood and Tigard are authorized to proceed.

4.2 Future Proposals to Use Water. If any Party should desire to design, permit, finance

and construct, improvements to use allocated or unallocated water rights, as set forth in Exhibit A, it shall notify WRWC and the other Parties in writing (“Notice”) of the amount of water proposed to be used and a description of the proposed construction, expansion or modification (“Project”). The Notice shall include cost estimates and a reasonably detailed description of the proposed Project. The Parties, within 90 days of the date of Notice, shall notify the WRWC of their acceptance or rejection of participation in the Project, and cost shares shall thereafter be allocated. If notice of acceptance of the Project from a Party is not received within 90 days, participation in the proposed Project shall be deemed rejected by the Party failing to respond.

4.3 Individual Rights. Facilities constructed under an approved Project may be in the name of WRWC, but design and construction decision making shall be by the participating Party(ies), as set forth in a project agreement. If WRWC does not construct, expand or modify as proposed by an individual Party or Parties, then by separate written agreement or addenda, any Party or Parties may proceed with the proposed Project if the Parties of WRWC likely to be served by that diversion point or facility approve the technical aspects of the proposal to ensure the Project will not be inconsistent with future compatibility with individual Parties’ systems. If the proposal is found inconsistent or incompatible, the Party(ies) may use non-WRWC water rights held outside this Agreement. Under all circumstances, no such Project shall impair the ability of the WRWC to serve the other Parties or significantly increase the cost of usage to the other Parties unless the Party(ies) undertaking the Project agrees to pay the increased unit costs to WRWC or the Parties which have declined to participate in the Project.

4.4 Nonparticipating Parties. If a WRWC Party Project is undertaken and participation in a Project is fixed, then a nonparticipating Party shall have no further opportunity to participate unless the Participating Party(ies) consent and upon such terms as they determine in their sole discretion. If there is a material change in the nature or scope of the Project, the Participating Party(ies) shall notify the nonparticipating Parties specifying the changes. Within 30 days of notice, the nonparticipating Parties may give notice of intent to participate or they may decline. They may also object if the changes to the original Project impair the ability of the WRWC to serve the other Parties or significantly increase the cost of usage as described in Section 4.3. Objections shall be referred to dispute resolution.

SECTION 5. SALE OR LEASE OF WATER TO OTHER ENTITIES.

5.1 WRWC. The Parties agree that the Existing Right and any Willamette River water rights hereafter acquired by WRWC are for regional application. The Parties agree to work in good faith to consider other municipal users through ownership, wholesale, mutual aid or emergency basis. Subject to paragraph 5.2, WRWC or its Parties, upon approval by WRWC (and, if the water rights in question have been allocated, approval of the Party to which they have been allocated), shall have the power to sell or lease water and water rights to other non-Party entities at prices determined from time to time by WRWC. Nothing in this section shall overrule the provisions of any other agreement to which a Party may have entered into such as the WIF or WWSS Agreements.

5.2 Proceeds of Sales. The proceeds attributable to the sale or lease of water and water

rights to a non-Party shall be paid to WRWC unless otherwise determined by WRWC. Any distribution of these proceeds shall be as WRWC determines after expenses and costs of debt service, construction, operation and maintenance are met.

5.3 Transmission Line Charges. Sales or leases which may require wheeling through transmission lines of a Party, may be subject to a transmission line charge to be established by the affected Party. Charges for use of transmission lines shall be collected by WRWC from the user and paid to the Party who owns the transmission line.

5.4 Other Charges. Other charges may be established by WRWC as necessary.

SECTION 6. WITHDRAWAL/TERMINATION.

6.1 Voluntary. Any Party may elect to withdraw from WRWC by giving written notice of its desire to WRWC and other Parties on or before April 1 of any year. Withdrawal shall be effective on July 1 immediately following timely notice unless the Parties otherwise agree. Upon the effective date of withdrawal, unless otherwise agreed by the Withdrawing Party and WRWC, that Party shall immediately cease membership in WRWC. The Withdrawing Party shall continue to pay its share of, or be responsible for, any previously incurred joint debt, and shall hold harmless the remaining Parties for those financial responsibilities and obligations attributable to the Withdrawing Party.

6.2 Assets (not including Water Rights).

6.2.1 If WRWC, after receiving the notice of withdrawal, desires to purchase the assets of the Withdrawing Party, it shall notify the withdrawing Party in writing of its desire to purchase the Withdrawing Party's interest at market value. Such notice shall be given within 60 days of receipt of the notice of withdrawal.

6.2.2 If WRWC declines, then the one or more of the remaining Parties may give notice, within 60 days after notice of WRWC's decline, of intent to purchase assets as provided herein. Unless otherwise agreed in writing, the purchase of assets shall be apportioned equally among the buying Parties and their capital accounts shall be adjusted accordingly.

6.2.3 The price to be paid for the assets, whether determined by mutual agreement or otherwise, shall be paid to the Withdrawing Party in full within 12 months following the date of withdrawal set forth in the notice of intent to withdraw.

6.2.4 In the event that the WRWC or the remaining Parties fail to purchase the interest of the Withdrawing Party within the 12-month period, or in the event the WRWC or the remaining Parties decline to purchase the Withdrawing Party's interest, then the Parties shall negotiate a mutually agreeable operating

or a co-ownership agreement for the assets. If the purchasing Party(ies) fail to pay the purchase price within 12 months of the date of withdrawal and if the purchasing Party(ies) and Withdrawing Party are unable to agree upon a mutually acceptable payment schedule, then the Withdrawing Party shall have the right to sell its assets to any other non-Party entity approved by the governing boards or councils of the remaining Parties. The Withdrawing Party's rights and duties shall be those specified in this Agreement until a sale is made to some other entity or some other mutually agreeable disposition is made, and the Withdrawing Party shall remain responsible for all terms and conditions of this Agreement.

6.3 Water Rights. If a Party seeks to withdraw from the WRWC, it may retain its allocated portion of the Existing Right, and its allocated portion of any Willamette River water rights hereafter acquired by WRWC. The Withdrawing Party shall be solely responsible to meet all requirements of any other agreement to which it is a party and obtain consent as necessary regarding use of its retained water right.

Any unallocated amount will remain with WRWC, and the Withdrawing Party shall have no claim or right thereto.

6.4 Further Action. The Parties agree to cooperate to execute all documents necessary to make the water right transfers and assignments described herein.

6.5 Breach. Upon material breach of this Agreement, WRWC or an aggrieved Party may seek all remedies available at law or in equity, including termination of a Party's interest in this Agreement.

6.6 Dispute Resolution.

6.6.1 Method for resolving disputes. If a dispute arises between WRWC and a Party or between Parties (collectively "Parties") regarding breach of this Agreement or interpretation of any term of this Agreement, the Parties shall first attempt to resolve the dispute by negotiation, followed by mediation, if negotiation fails to resolve the dispute.

Step One: (Negotiation)

The City Manager, Chief Executive Officer, or other persons designated by each of the disputing Parties ("Manager"), will negotiate on behalf of the entities they represent. Prior to negotiation, the nature of the dispute shall be reduced to writing and shall be presented to each Manager ("Notice of Dispute") who shall then meet within 15 days or as otherwise agreed and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each Manager and ratified

by the WRWC which shall be binding upon the Parties.

Step Two: (Mediation)

If the dispute cannot be resolved under Step One, within 45 days after Notice of Dispute, the Parties shall submit the matter to non-binding mediation. The Parties shall attempt to agree on a mediator. If they cannot agree, the Parties shall request a list of 5 mediators from Arbitration Service of Portland, Inc. or another entity or firm providing mediation services they may agree to use. The Parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree or if mediation is not completed within 90 days from Notice of Dispute, then the Parties may exercise legal remedies. Any common costs of mediation shall be borne equally by the Parties, and each Party shall each bear its own costs and fees therefor. If the issue is resolved at this step, a written determination of such resolution shall be signed by each Manager and ratified by the WRWC which shall be binding upon the Parties.

6.6.2 Arbitration; Jurisdiction of Circuit Court. After exhaustion of the negotiation and mediation processes, if the Parties agree, any dispute or claim shall be settled by arbitration under the jurisdiction of the Circuit Court of the State of Oregon for Washington County pursuant to ORS Chapter 36 or by a mutual separate arbitration agreement. In the absence of such an agreement, that same court shall have jurisdiction.

SECTION 7. AMENDMENT.

This Agreement may be amended by mutual written agreement of the Parties, signed by all of the Parties. Future tasks deemed necessary shall be agreed to by the Parties through an addendum to this Agreement setting forth the scope of work and method of payment.

SECTION 8. GENERAL PROVISIONS.

8.1 Merger Clause. This Agreement embodies the entire agreement and understanding between the Parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.

8.2 New Parties and Assignment. WRWC may accept additional government entities as Parties under terms and financial conditions that WRWC deems just and equitable on a case-by-case basis and only upon a unanimous vote of the Parties, with such approving vote not to be unreasonably withheld. Except for changes of organization through entity formation, merger, consolidation or annexation, no Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior unanimous consent of WRWC.

8.3 Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

8.4 Notices. Any notice herein required or permitted to be given shall be given in writing, shall be effective when actually received and may be given by hand delivery or by United States mail, postage prepaid, addressed to the Parties as follows:

Tualatin Valley Water District
Attn: Chief Executive Officer
1850 SW 170th Avenue
Beaverton, Oregon 97003

City of Tigard
Attn: City Manager
13125 SW Hall Blvd.
Tigard, Oregon 97223

City of Sherwood
Attn: City Manager
22560 SW Pine St.
Sherwood, Oregon 97140

City of Tualatin
Attn: City Manager
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062

The Parties hereto are responsible to notify each other of changes and to keep this list current.

8.5 Advisory Boards; Technical Committees. WRWC may appoint advisory boards and technical committees. The advisory boards shall meet as needed and shall review and make recommendations to WRWC on such matters as WRWC so assigns.

8.6 Attorney Fees. If a dispute should arise between the WRWC and a Party or between Parties regarding any term or portion of this Agreement, each Party shall bear its own attorney fees and expert witness fees.

8.7 Counterparts. This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, any one of which shall constitute an agreement between and among the Parties.

8.8 Joint and Several Obligations. For approved WRWC activities, the Participating Parties shall be jointly and severally liable to third parties for payment of debts and costs incurred. No Parties of the WRWC shall be liable for damages, debts or claims caused solely by the negligent act or omission by WRWC or other Parties. The individual Party causing damage by its sole negligence or wrongful act shall be individually liable.

8.9 Instruments of further Assurance. From time to time at the request of any Party or WRWC, each Party shall, without further consideration, execute and deliver such additional instruments and shall take such further action as may be reasonably required to fully effectuate the purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Cooperative

Agreement by the date set forth opposite their names below.

TUALATIN VALLEY WATER DISTRICT

Date: _____, 2019

By: _____
its Chief Executive Officer: Tom Hickmann

Approved as to Form:

By: _____
District Counsel

CITY OF TIGARD

Dated: _____, 2019

By: _____
its Mayor: Jason B. Snider

Approved as to Form:

By: _____
City Attorney

Date: _____, 2019

CITY OF SHERWOOD

By: _____
its Mayor: Keith Mays

Approved as to Form:

By: _____
City Attorney

Date: _____, 2019

CITY OF TUALATIN

By: _____
its Mayor: Frank Bubenik

Approved as to Form:

By: _____
City Attorney

Exhibit A

Party	Assigned MGD	Total CFS
TVWD	59.1 * ₁	91.6 * ₁
Tigard	26.0	40.0
Sherwood	20.0	31.0
Tualatin	-	-
Subtotal	105.1	162.6
Unassigned	24.9 *₂	39.4 *₂
Total	130.0	202.0

*₁ Tualatin may elect to use 3.1 MGD of TVWD's WIF MGD allocation, subject to conditions of this Agreement.

*₂ The remaining unallocated water right of 24.9 MGD is available for use by a Party upon approval by the WRWC Parties, subject to conditions of this Agreement. TVWD shall have first call and right to use unallocated water rights, as set forth in this Agreement. This call right shall be exercised within 30 days from the date a Party requests the WRWC to make an allocation, or at any time upon notice from TVWD to the WRWC.



ORDINANCE NO. 01-20

AN ORDINANCE AMENDING AND RESTATING RULES AND REGULATIONS FOR THE USE OF THE DISTRICT'S WATER SYSTEM

WHEREAS, under the authority of ORS 264.306, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations which provided for usage of the District's water system and which have been amended from time to time; and

WHEREAS, the Board of Commissioners finds that it is necessary to adopt, amend and restate the Rules and Regulations set forth in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, this ordinance shall fix the effective date of the Rules and Regulations attached hereto and at that time the current Rules and Regulations shall be superseded and repealed, and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. The Rules and Regulations attached hereto as Exhibit A, and incorporated by reference, are hereby adopted as of the effective date below.

Section 2. This ordinance is on file at the District's administrative office and is available for review. The District Recorder of the District is instructed to send a certified copy of this ordinance to the County Clerk and publish the required notices under ORS 198.560.

Section 3. This ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date and place of the of the meeting and gave a brief description of the ordinance to be considered at the meeting, and that copies of the ordinance are available at the office of the District. The presiding officer caused the notice to be published not more than 10 days or less than four days before the meeting in a newspaper of general circulation.

Section 4. Pursuant to Oregon Revised Statute Chapter 198, the ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 17th day of June 2020 and the 15th day of July 2020.

Section 5. This ordinance was adopted following a second reading by the affirmative vote of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 15th day of July 2020, and was signed by the presiding officer and attested to by the secretary.

Section 6. This ordinance shall take effect on August 15, 2020, at 12:01 a.m. and all the current Rules and Regulations are repealed at that time.

Bernice Bagnall, President

Todd Sanders, Secretary

RULES AND REGULATIONS

Revision Date: _____

**Adopted By Ordinance No. [XX-2002-18](#)
Under The Authority Of
Oregon Revised Statutes 264.306**

TUALATIN VALLEY WATER DISTRICT
1850 SW 170th Avenue
Beaverton, Oregon 97003

(503) 848-3000
www.tvwd.org

**TUALATIN VALLEY WATER DISTRICT
RULES AND REGULATIONS**

1.0 PREFACE

- 1.1 The Tualatin Valley Water District (**TVWD**) is a unit of local government ~~municipal corporation defined by ORS 174.109~~ organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of **TVWD** is to supply its **Users** with water for domestic (municipal and industrial) purposes as provided by law and, in connection therewith, may supply, furnish and sell water over and above the needs of its **Users** to any persons, corporations or associations, either within or outside the District, or to other communities, water districts or municipal corporations.
- 1.2 **TVWD** is governed by the authority vested in a **Board** of five commissioners residing within **TVWD's** boundaries and elected by voters. Regular monthly meetings are held by the **Board**. These meetings are open to the public. ~~in.~~

2.0 DEFINITIONS

- 2.1 **"Board"** shall mean the Board of Commissioners of the Tualatin Valley Water District.
- 2.2 **"CEO"** shall mean the Chief Executive Officer of the Tualatin Valley Water District or the Chief Executive Officer's designee.
- 2.3 **"Class Code"** shall mean the code assigned to each **Customer Connection** by the **District** to determine applicable **Rates, Fees and Other Charges** for that **Customer Connection**.
- 2.4 **"Connection Charges"** shall be the current service installation charge and meter installation charge as adopted by the **Board**.
- 2.5 **"Customer"** shall mean any ~~User~~ citizen, business or other entity who purchases water from **TVWD**.
- 2.6 **"Customer Connection"** shall mean the point at which the **District Service Line/Service Connection** connects to the **Customer Service Line** or **Fire Service Line**.
- 2.7 **"Customer Service Line"** shall mean any pipes, valves, fitting or appurtenances beginning at the outlet of the **Meter Assembly** into the premises served, excluding **Fire Service Systems** ~~Lines~~.
- 2.XX "Developer" shall mean any person or entity who has a written agreement with an Owner that authorizes the Developer to act on behalf of the Owner to obtain any permit or approval from the District for design and construction of water system improvements to serve Owner's property.
- 2.8 **"District"** shall mean the Tualatin Valley Water District.
- 2.9 **"District Service Line/Service Connection"** shall mean the pipe, valves, stops and fittings from a main to the outlet of the **Meter Assembly**.
- 2.10 **"District Standards"** shall mean the latest revision of the **District's** Water System Design and Construction Standards.

- 2.11 **“District’s System”** shall include the network of pipelines, reservoirs, pump stations, hydrants and other appurtenances necessary for the delivery of water to the **User’s System** and shall include all **District Service Lines** thereto.
- 2.12 **“Fire Service SystemLine”** shall include, 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 SystemLine** shall be owned and solely maintained, repaired and replaced by the **Owner** from the **District’s** valve where the **Fire Service System Line** connects into the **District’s System** or from the downstream side of the last connection to a portion of the **District’s System** (such as a public fire hydrant, **District Service Line**, etc.)
- 2.13 **“Meter Assembly”** is defined as meter, meter box and/or vault, valves, tailpiece, bypass, yoke and other appurtenances to which the **User’s System** is connected.
- 2.14 **“Owner”** shall mean and include any person or entity who owns the property or structures served or to be served by the **District**.
- 2.15 **“Rates, Fees and Other Charges”** shall mean the current rates, fees and charges as adopted by the **Board**.
- 2.16 **“Rules and Regulations”** shall mean these **Rules and Regulations** as adopted by ordinance by the **Board**.
- 2.17 **“Service Area”** shall be that area included within the corporate limits of the **District**, and such other territory as the **Board** shall determine to provide **Water Service**.
- 2.18 **“System Development Charges”** shall mean charges assessed as authorized by Ordinance 01-12 and subsequent revisions.
- 2.19 **“TVWD”** shall mean the Tualatin Valley Water District.
- 2.20 **“User”** shall mean any person, entity, User or occupant of the premises receiving **Water Service**.
- 2.21 **“User’s System”** shall consist of those parts of the facilities beyond the termination of the **District’s System** that are utilized in conveying water to points of use, including the **Customer Service Line** and **Fire Service SystemLine**.
- 2.22 **“Water Main”** shall mean any pipe located in the public street, alley, right-of-way or within an easement on private property which is owned or maintained by the **District** for the purpose of distributing water to **Users** and servicing fire hydrants.
- 2.23 **“Water Service”** shall mean the delivery of water to the **User**.
- 2.24 **“Water Supply Shortage Plan”** shall mean the **District’s** approved **Water Supply Shortage Plan** incorporated by reference.

3.0 PURPOSE

These **Rules and Regulations** establish the conditions by which the **District** will conduct its business and operations and how **Customers** may receive service.

4.0 DISTRICT OWNERSHIP

- 4.1 The **District** owns the **District's System** unless otherwise agreed in writing.
- 4.2 No person other than those authorized by the **District** shall construct, maintain, operate, repair or alter the **District's System**.
- 4.3 No person other than those authorized by the **District** shall make a **Service Connection** or disconnect an existing **Service Connection**.
- 4.4 At all times, **Owners, Customers** and **Users** shall provide the **District** with safe, reasonable and efficient access to the **District's System** and the **District's Service Line** to conduct operations, maintenance, repair and replacement of the Districts System and consent is granted as a condition of service. District will endeavor to provide notice reasonable under the circumstances.

5.0 COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

- 5.1 By requesting or receiving **Water Service** from the **District, Customers** and **Users** agree to abide by these **Rules and Regulations**.
- 5.2 Water shall not be used from a new or proposed service until authorized by the **District**.
- 5.3 Every **User** grants to the **District**, its agents and employees the right at all reasonable times to enter upon the **User's** premises to determine compliance with these **Rules and Regulations**. District will endeavor to provide notice reasonable under the circumstances.

6.0 USE OF WATER

- 6.1 The **District** will furnish water for lawful domestic, household, business, industrial, irrigation, community use and for fire protection purposes as the **District's System** may reasonably supply and as may be approved by the **Board**.
- 6.2 The **District** may enter into contracts to allow for sale or trade of water to other water providers. Said contracts must be approved by the ~~Board or its designee~~.
- 6.3 No person shall use water supplied by the **District** to create or operate a public or private water system within the **District Service Area** unless approved by the **District** and any other required governmental approval is obtained.
- 6.4 In the event that the **Board** or its designee shall determine that conditions exist which require the restriction or prohibition of use of water in order to comply with the **District's Water Supply Shortage Plan** or to protect the health, safety or welfare of **Users**, the **Board** or designee 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.

~~6.5~~—6.5 Any **User** using water in violation of the adopted **Rules and Regulations** shall be given notice in writing by the **District** of said violation. The notice shall advise the **User** that if unlawful use is not discontinued, the **Water Service** to the premises may be terminated. The notice of violation and termination shall be delivered to the **User** of the premises at which the unlawful use is occurring. If the **District** is unable for any reason to serve a written notice to the **User**, the written notice may be posted on the property and the posting shall constitute delivery of notice.

6.6 **Water Service** may be terminated immediately without notice if the use is a threat to health, safety or welfare as determined at the sole discretion of the **District**.

~~6.5~~—6.76. The **District** allows no waste or unauthorized use of water. **Users** will be responsible for all water use in the **User's System**.

7.0 WATER LOSS ADJUSTMENT POLICY

Adjustments for the billing ~~(or billings)~~ for water consumption based on water loss resulting from a leak or leaks in any portion of the **User's System** or plumbing on or within the **User's** property may be made one time per calendar year per meter.

- 7.1 To request a billing adjustment to a ~~Residential~~**User** ~~a~~**Account** for water losses resulting from leaks in the **User's System** or plumbing, the **User** shall:
- A. Repair leaks within 30 days of the date the leak ~~(or leaks)~~ are discovered or reasonably should have been discovered;
 - B. File a request for billing adjustment form within ~~three months~~90 days of the date of the leak repair describing the cause of the water loss, the repair ~~(or repairs)~~ made to the **User's System** or plumbing and the dates the repairs were made.
- 7.2 If it is determined by the **CEO** that a water loss for a ~~User~~**Residential** ~~a~~**Account** has occurred by reason of a leak ~~(or leaks)~~ in the **User's System** or plumbing, and the **User** has complied with the procedures set forth in the preceding sections, then an adjustment shall be calculated in accordance with the following:
- A. For purposes of calculating the water loss adjustment, the **CEO** shall consider the amount of water consumed in the same period of the previous year as ordinary and normal water usage by the **User**. Water consumption greater than the normal amount of the previous year shall be deemed excess water use.
 - B. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods (six months total) if billed on a bi-monthly basis and no more than six billing periods (six months total) if billed on a monthly basis.
 - C. The billing ~~(or billings)~~ to the **User** shall be adjusted in an amount based on the water volume rate in effect for the loss period multiplied by the adjustment allowance. This amount shall be credited to the **User's** account after repairs have been completed. During the loss period, the

peaking charges for consumption are excused, if in the prior year no peaking water charges were applied.

7.3 Alternative Method for Calculation of Ordinary and Normal Water Usage for Non-Residential Accounts.

- A. Shall only be used for the purposes of calculating the water loss adjustment for a **User** on a non-residential account that has made repairs to a water loss condition which lasted longer than one calendar year.
- B. **User** must complete requirements set forth by 7.1.B.
- C. For purposes of establishing ordinary and normal water usage by the **User** following the completion of repairs, the **CEO** shall consider the amount of water consumed for the subsequent three complete billing periods if billed bi-monthly or six ~~months~~ billing periods if billed monthly.
- D. For the purpose of calculating the water loss adjustment, staff will compare the reestablished ordinary and normal usage to the same period of the previous year. Water usage greater than the ordinary and normal usage shall be deemed excess water use.
- E. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods (six months total) if billed on a bi-monthly basis and no more than six billing periods (six months total) if billed on a monthly basis.~~or six months.~~

7.4 If multiple leak requests are submitted from the same **User**, the **CEO** shall determine the eligibility for the water loss request.

7.5 The Water Loss Adjustment Policy may be used in cases of unexplained water loss, fire protection, vandalism or theft of water beyond the reasonable control of the **Customer**.

8.0 SERVICE CONNECTION

8.1 **Service Connections** shall be provided only from **District Water Mains** and shall be located at such points as the **District** shall determine in its sole discretion, all in accordance with District Standards.

8.2 Request for a new water **Service Connection** shall be made to the **District**. No meter installations or connections will be made until all currently adopted **Connection Charges** and **System Development Charges** have been paid in full.

8.3 Unless authorized by the **District** in writing, a **Service Connection** shall provide water to only one single-family dwelling per real property parcel (tax lot). Multi-family dwellings or multiple service uses such as office buildings, commercial malls or industrial **Users and the like** will be served via a master meter. ~~The District may require duplexes to be individually metered.~~

Unless authorized by the **District** in writing, each tax lot ~~tax lot~~ or structure receiving service shall have its own water connection. All accessory buildings and premises used as a part of such dwelling, business or

institution may be served from such connection as approved by the **CEO**. In the case of a commercial or industrial property with multiple **Users** on a single tax lot, more than one **Service Connection** may be provided upon approval by the **District** after payment of the appropriate fees.

- 8.4 No **User** shall extend the **Customer Service Line**, without **District** approval, to furnish water to any residence, business, institution or other premises on the same or neighboring tax lot(s) other than that occupied by the **User**.
- 8.5 All **Service Connections** shall be installed by the **District** unless specifically authorized in writing by the **District**. Work performed will be performed in accordance with **District Standards** relating to size, materials, location and methods of installation. The charges shall be as set forth in the **Rates, Fees and Other Charges**.
- 8.6 **Customer's** capacity from meter purchase shall be limited to that obtained during original purchase and subsequent upgrades regardless of other system improvements that allow greater capacity.
- 8.7 **Users** shall make a request to the **District** for all **Water Services** desired.
- 8.8 Removal or relocation of a **Service Connection** shall be at the expense of the party requesting the change. The **District** shall not bear responsibility for reconnection of the **Customer Service Line**. No **Service Connection** extension can be made unless approved in writing by the **District**.
- 8.9 The **District** reserves the right to relocate the **District Service Line/Service Connection** within the utility easement as necessary to accommodate water system improvements or street improvements or for other similar activities. By virtue of connecting to the **District's System** the **Customer** authorizes the **District** to reconnect the **District Service Line/Service Connection** to the **Customer Connection** when necessary. **District** will endeavor to provide reasonable notice under the circumstances.

9.0 TEMPORARY SERVICE

- 9.1 A **User** who is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits may make a request to the **District** for a temporary irrigation meter.

The **User** will be required to pay a Temporary Irrigation Meter Fee and Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.
- 9.2 The **District** may grant temporary **Water Service** during construction and for special events approved for such service by the **District**. The length of time and conditions of temporary **Water Service** shall be determined by the **District** at the time of application.

All costs for installing and removing these temporary services shall be paid by the **User** in advance. Such costs shall be determined by the **District** and shall include, but are not limited to:

- A. Labor
- B. Material

- C. Equipment rental
- D. Overhead
- E. Monthly fixed charges (if applicable)

If the actual cost of installing and removing these temporary services exceeds the estimated cost, the applicant shall pay the excess cost to the **District** within 30 days after billing by the **District** of the actual cost. If the actual cost of providing the temporary service is less than the estimated cost, the **District** shall refund the difference to the applicant after determination of actual cost.

The **User** will be required to pay all applicable Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

10.0 CUSTOMER SERVICE LINES

- 10.1 The **User** is solely responsible to pay the cost to install the **Customer Service Line** from the **Meter Assembly** to the structure to be served.
- 10.2 **Customer Service Lines** shall be installed in accordance with applicable plumbing codes and other specialty codes.
- 10.3 No pump equipment shall be connected to a **Customer Service Line** without prior written approval from the **District**.
- 10.4 The **User** shall be solely responsible for maintenance, repair and replacement of the **Customer Service Line** and associated appurtenances.
- 10.5 The **District** is not responsible for **Customer Service Lines**.

11.0 CLASS CODES, RATES, FEES AND OTHER CHARGES

The **District** will assign a **Class Code** for each **Customer Connection**. **Class Codes** will be used to determine applicable **Rates, Fees and Other Charges**.

- 1. **Class Code 1 – Residential** shall consist of **Customer Connections** serving a dwelling unit, whether a shared structure or freestanding, where one District meter serves only one dwelling unit.
- 2. **Class Code 2 – Residential Multi-Family** shall consist of **Customer Connections** serving two or more dwelling units.
- 3. **Class Code 3 - Non-Residential** shall consist of **Customer Connections** not serving one or more dwelling units. Class Code 3 does not include **Customer Connections** classified in Class Code 4, Class Code 5 or Class Code 6.
- 4. **Class Code 4 - Production Processes** shall consist of **Customer Connections** that would otherwise be in Class Code 3 but where the water passing through a **District** meter is used in a production process.

5. **Class Code 5 - Fire Lines** shall consist of **Customer Connections** for **Fire Service Lines** on private property where water can only be used for fire suppression.
6. **Class Code 6 – Irrigation** shall consist of **Customer Connections** where water passing through a **District** meter can only be used for seasonal agricultural or landscaping purposes and not returned to a wastewater utility system.
7. **Class Code 7 - Temporary Irrigation** shall consist of **Customer Connections** that are for temporary irrigation where the **Customer** is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits.
8. **Class Code 8 – Local Government/Water Provider** shall consist of **Customer Connections** that are for local government water ~~providers~~surveyors and **Customers** that have a wholesale rate approved by the **District Board** of Commissioners.

The **District** shall establish **Rates, Fees and Other Charges** for use of water, services and property of the **District** by resolution. A copy of the established **Rates, Fees and Other Charges** shall be on file in the **District** office for examination by the public during business hours.

12.0 METER READING AND BILLING

- 12.1 Meters shall be read at regular intervals as determined by the **District**.
- 12.2 The **User** is responsible for ensuring safe and efficient access to the **Meter Assembly** at all times. Access to the meter requires six feet vertical clearance above the meter box and two feet clearance around.
- 12.3 Whenever it is necessary to enter a building to access the **Meter Assembly**, a safe passageway must be maintained by the **User**, free and clear of obstructions of any kind from the building entrance to the **Meter Assembly**.
- 12.4 The **User** consents to the right of **TVWD** employees or agents to remove obstructions as necessary to maintain access to the **Meter Assembly**. Costs incurred by **TVWD** to gain access to the **Meter Assembly** may be billed to the **User**.
- 12.5 If the **District** determines that it is unable to read a meter, billing shall be calculated in accordance with the following:
 - A. The **District** will estimate water consumption based on available historical data.
 - B. A true-up bill will be produced during the next billing cycle when an actual read is obtained.
- 12.6 If it ~~appears to is determined by~~ the **District** that a meter fails to register accurately, the **District** will estimate water consumption based on available historical data and may test the meter under Section 14.0.
- 12.7 A **User** may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.

13.0 PAYMENTS FOR SERVICE

- 13.1 Bills from the **District** shall be due, payable and delinquent in accordance with the terms set forth by the **District**.
- 13.2 The **District** may turn off water supply to the premises for which payment is delinquent. The service will be restored after acceptable terms of payment are arranged for all delinquent bills, including charges established within the **Rates, Fees and Other Charges**.
- 13.3 The **District** has contracted, and retains the right to establish contracts with, other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts or amendments to existing contracts shall be incorporated by reference upon approval by the **Board**.
- 13.4 Outstanding charges owed to the **District** may be transferred to a **Customer's** new account within the **District**.

The **District** may collect unpaid charges incurred by a **Customer** at previous service locations within the **District** as part of the **Customer's** current water bill. These unpaid charges are subject to current collection terms set forth by the **District**.

14.0 METER ACCURACY AND TESTING

- 14.1 The **District's** meters shall operate within the standards established by the American Water Works Association (AWWA) Section C700.
- 14.2 A **User** may request the meter be tested by making a request for such testing to the **District**:
- A. If the test shows the water meter registers outside the AWWA standard, the meter shall be repaired or replaced at no cost to the **User** for a new meter, parts or labor.
- 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.
- B. If the test shows that the water meter registers within the AWWA standard, the **User** shall pay for the test in accordance with **District's Rates, Fees and Other Charges**. The cost for the test shall be billed by the **District**, and the **District** may charge a **User** for water delivered, not to exceed one year prior to the testing.
- 14.3 The **District** may audit, test or replace the meter at any time at the **District's** discretion.

15.0 RESPONSIBILITY FOR DAMAGES OR INJURIES

- 15.1 The **User** is responsible for all damage or injury resulting from the failure to properly construct, maintain, repair or correct conditions in the **User's System**.

- 15.2 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.
- 15.3 The **User** shall be liable for any damage to the **District's System** which is caused by an intentional, reckless, or-negligent act of the **User**, his tenants, agents, employees, contractors, licensees or permittees. The **User** responsible for the damage or tampering may be fined and/or have service terminated.
- 15.4 Only the **District** may operate, modify or alter the **District's System**. Violators shall be responsible for any damage and adverse effects to water quality or availability of water due to unauthorized operation, modification or alteration of the **District's System**.
- 15.5 The **User** is responsible for compliance with all city and county codes and requirements related to maintenance of their property and plumbing system.

16.0 WATER SERVICE INTERRUPTION

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 to the User's property caused by ~~such~~ interruptions of **Water Service** or fluctuation of pressure unless caused by the District's negligence.

17.0 CONNECTION TO ANOTHER WATER SUPPLY

No other water supply shall be connected to the **Customer Service Line** without written approval of the **CEO**.

18.0 ~~BACKFLOW AND~~ CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION

Service Connections shall be protected against backflow into the **District's System** as required by the **District**. Service of water may be terminated if a backflow prevention assembly required by the **District** is not installed, tested, ~~and~~ maintained, repaired or replaced; or if it is found that a backflow prevention assembly has been removed or bypassed; or if an unprotected cross-connection exists. Service may be terminated following written notice and expiration of the time to cure conditions or defects. Furthermore, service may be terminated immediately without notice if an immediate threat to public health and safety has been determined by the District. In all cases, service will not be restored until such conditions or defects are corrected.

The **User** consents to and 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** cross-connection control requirements exists and that compliance requirements are met. If no accommodations are made to allow access, the District may will require a reduced pressure backflow prevention assembly to be installed at the Customer Connection at the expense of the User, consistent with Oregon Administrative Rules. Nothing herein shall prevent the District from terminating service as provided in this Section.

19.0 EXTENSION OF DISTRICT'S SYSTEM

~~Where required by the District~~ In general, Owners shall extend all **Water Mains** the entire distance between opposite boundaries of the property to be served (to and through), and, when required by the District, design, construct and -make appropriate connections to other parts of the District's System as determined by the District using industry best practices to provide redundancy of service, typically through the provision of looped

systems. When the line extension will be on Owner/Developer's property and- the District, in its sole and absolute discretion, does not require Owner to design and construct water system facilities to and through the property, then an easement shall be granted by the Owner to the District unconditionally authorizing the District to construct future improvements. ~~and~~ **Water Mains** shall be located within public right-of-way or, if necessary, within easements approved by the District.

Unless authorized by the **CEO**, projects must be designed and constructed in accordance with **District Standards** approved by the **CEO** and Chief Engineer. All extensions shall be constructed only by the **District** or by a contractor acceptable to the **District**. Contractors shall anticipate and allow for inspection by the **District** during construction. All connections for services shall be made in the manner elsewhere set forth in these **Rules and Regulations**. Prior to final acceptance, the project must be demonstrated to operate and perform as intended.

The methods to extend the Water System are:

19.1 **Owner/Developer Extension.** An Owner/Developer~~Parties~~ other than the **District** may request to extend the District's System, in conformance consistent with these Rules and Regulations and the District's Standards, at his/her/its their sole cost and expense. Parties using non-**District** funds for construction of water improvements shall select an engineer or contractor of their choice who meets the **District's** requirements, including qualifications of the engineer and contractor. ~~Such parties shall adhere to District's Standards.~~

~~A. The District may participate in the Owner/Developer Extension where the District determines the extension would benefit the District's System. The District will reimburse the Owner for the costs of the additional extension beyond what is required for the development.~~

19.2 All extensions of the **District's System** require plan submission, review and written **District** approval.

19.3 **Owner Request.** Upon request of the **Owner**, the **District** may, at its sole discretion, construct system improvements at the expense of the **Owner**. The cost and scheduling of the extension and improvements shall be determined by the **District**.

Installation or construction shall not commence until the applicant has paid a deposit in advance to the **District** in an amount estimated by the **District** to cover the cost of construction of the **District's System** extension. Following completion of construction, the **District** shall determine the actual cost of the project, including overhead, supervision and engineering. The **District** shall refund to the applicant any part of the deposit which exceeds the actual project cost, or the applicant shall pay to the **District** the actual project cost less the deposit already paid.

19.4 **District Extension.** The **District** may extend the **District's System** when, in the opinion of the **District**, the public convenience and welfare is best served by such construction.

At its sole discretion and where it appears equitable that the cost of such construction be apportioned, the **District** may apportion all or any part of the cost of the construction of the **District's System** among the persons as may at any subsequent time apply for a **Service Connection** from said extension. The charge shall be at an amount established by the **District**.

No **Service Connection** or **Fire Service Line** shall be made by the **District** until the **Owner** ~~applicant~~ has paid in advance to the **District** the apportioned charge for the construction of the extended **District's System, Connection Charges** and the appropriate **System Development Charge**.

- 19.5 Local Improvement District or Assessment District Equivalent. The **District** may extend its **District's System** upon written request of the **Owners** of abutting property. It may also extend the **District's System** through property intended to be developed under the applicable zoning and development code. The **District** may require formation of a local improvement district or assessment district or other such security for payment as it deems appropriate. The process for formation of a Local Improvement District or Assessment District shall be according to then applicable statutory requirements. Terms of payment shall be ~~provided in the local improvement district or equivalent documents~~ approved by the **Board**.
- 19.6 After acceptance by the **District**, the facilities shall be the sole property of the **District** and maintained and operated by **District** personnel exclusively. If the **District's System** extension is by a party other than the **District**, the property **Owner** and its contractor shall be responsible for a warranty period of one year after acceptance for failures of materials or workmanship. Conveyance documents shall be in a form acceptable to the District in its sole discretion.
- 19.7 Additional or Upsizing of Facilities. The **District** may elect to require or install larger **Water Mains** or other system improvements other than needed for the applicant's service requirements; construction of additional facilities to connect with other parts of the District's water system; and to provide improved service to the property or other benefitted properties. When it does so, the **District will pay is responsible** for the incremental cost. Where the additional facilities provide a partial benefit to the applicant's property, the District shall determine the amount of the District's contribution in its sole discretion. All cases shall be considered separately, and the requirements for each project shall be specified to the applicant. Design and construction shall be by the **District**, the **District's** contractor or a contractor approved by the **District**.
- 19.8 Reimbursement District and Agreement. Pursuant to ORS 264.320, the **District** may establish Reimbursement District and Agreement subsequent to the following:
- A. The line must be designed and constructed according to **District Standards**, be inspected and accepted by the **District** as part of the **District's System**. The term of the reimbursement agreement shall not exceed 10 years from the date of acceptance.
 - B. The request for partial reimbursement shall be made by pPetition in a form acceptable to the **District** prior to the time of acceptance of the facilities by the **District**.
 - C. The petition shall include, among other things:
 - i. Plans and designs;
 - ii. Identification of the applicant's property and address;
 - iii. Identification of the benefitted properties and owners' addresses;
 - iv. Map of the benefitted properties;
 - v. Project costs incurred or anticipated to be incurred;
 - vi. Proposed equitable calculation methodology that takes into account one or more of the following factors: benefitted parcels, number of current connections, potential connections depending upon future zoning, ease of connection of property once

improvements are made and other relevant factors to achieve an equitable allocation of project costs;

vii. Payment of all fees

The Petition shall include, among other things:

.1 plans and designs;

.2 identification of the applicant's property and address;

.3 identification of the benefitted properties and owners' addresses;

.4 map of the benefitted properties;

.5 project costs incurred or anticipated to be incurred;

.6 proposed equitable calculation methodology that takes into account one or a combination of the following factors: benefitted parcels, number of current connections, potential connections depending upon future zoning, ease of connection of property once improvements are made and other relevant factors to achieve an equitable allocation of project costs;

.7 payment of all fees

D. ~~C.~~ Upon receipt of the pPetition request, the CEO or designee shall review the pPetition for completeness. If incomplete, the applicant shall provide the necessary information to be deemed complete. If deemed complete, the CEO or designee will review the pPetition to determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement, and identification of properties that would be required to pay the reimbursement fee, and the other factors listed in C.7. The CEO shall prepare a staff report and submit it to the Board of Commissioners.

E. ~~—~~ The CEO or designee shall then notify the applicant of the hearing date before the Board of Commissioners where the Reimbursement District and Agreement will be considered. Notice of such hearing shall be mailed by first class United States U.S. mail to the names and mailing addresses of the applicant and the benefitted owners as shown in the Washington County real property records not less than 14 days before the hearing date asking for written comment and the right to appear before the Board and comment. The notice shall include a map of the benefitted properties; a description of the project; the proposed ~~if these criteria are met, the CEO shall compute the~~ amount of reimbursement for each potential lot that could connect to the extension according to the pPetition, which includes the lots of the person or entity extending the line, ~~and notify the person seeking the agreement for reimbursement of the eligible amount.~~

F. ~~—~~ At the time of hearing, the Board shall review the staff report, take testimony or comment from all affected landowners regarding the formation of the Reimbursement District and Agreement, the actual or estimated costs, and the extent to which properties are benefitted. Testimony or comment may be in written or electronic form or by oral testimony. The Board will close the hearing and then decide whether to approve the pPetition, approve the pPetition as modified by the Board, or deny the pPetition. If denied, the matter shall be concluded. If approved, then by resolution the Board shall declare formation of ~~the~~ of the Reimbursement Reimbursement District, identify the benefitted properties and allocate costs in accordance with the final adopted methodology. If the pProject has not been completed, then the Reimbursement District will be approved but final application of the methodology and allocation of costs shall not be made until final pProject costs are known and the Board holds a subsequent hearing to make a final determination. The notice and hearing process shall follow

the procedure of Section E. The **Board's** decision shall be limited to the final pProject costs and allocation according to the previously approved methodology.

G. ~~—D.~~ If the **Board** approves formation of the Reimbursement District, ~~CEO finds that the reimbursement eligibility requirements are met,~~ the **CEO or designee** shall prepare a Reimbursement Agreement that, among other things, identifies all benefitted properties, allocates the cost among them, states the term of the agreement, provides that it is binding on the property and meets all requirements for recording. ~~n agreement that makes final determination as to reimbursement eligibility. If a person disputes in writing the decision of the CEO within 10 days of notification specifying the reason for the dispute, the Board will make a final decision on reimbursement eligibility.~~ In no event will the reimbursement obligation extend longer than the minimum period provided by ORS 264.320. If the final pProject costs are unknown at the time of **Board** approval because the pProject has not been completed, a Preliminary Reimbursement Agreement shall be prepared and recorded stating that the costs are estimates and that when final pProject costs and allocations are determined, a Final Reimbursement Agreement shall be recorded with the final costs.

H. _____

_____ H. _____ Within 15 days following the **Board's** decision on the formation of the Reimbursement District,

_____ orOr the ~~the~~ decision of final pProject cCosts, the **District** shall mail notice of the decision to all Land

_____ Landowners at the addresses set forth in the pPetition, unless the landowner provides a different address. ~~it~~

_____ Address.

E. ~~—I.~~ The applicant or affected landowners may appeal the decision by writ of review under ORS Chapter 34 within 60 days of the **Board's** decision.

J. _____ As the identified properties connect, all applicable **Rates, Fees and Other Charges** and the reimbursement amount shall be collected by the **District**. The **District** will remit to the person ~~any~~the reimbursement amount collected within a reasonable time after receipts by the District. by June 30 of each year for reimbursement of charges collected since the previous July 1.

20.0 TERMINATION OF WATER SERVICE

- 20.1 Termination at Request of **User**. When a **User** notifies the **District** that the **User** wishes service discontinued, the **District** will read the meter and issue a bill including applicable charges for termination.
- 20.2 Termination of Service by **District**. **Water Service** shall be subject to termination upon the occurrence of:
- A. Non-payment of charges established within the **District's** adopted **Rates, Fees and Other Charges**.

- B. Non-compliance with these **Rules and Regulations** relating to matters other than non-payment of charges.
- C. Lack of use of a **Water Service** for a period indicating intent to terminate **Water Service**.
- D. Threat to health, safety or welfare determined at the sole discretion of the **District**. Under these conditions, termination may be immediate and without notice.

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

- A. U.S. mail sent to the **User's** address as shown in **District** records, or
- B. By hand delivery of a notice to the **User's** service premises.

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 **User's** service address and the period of compliance shall be as set forth in the notice.

20.4 Limitation of Liability. The **District** shall not be liable or responsible for any consequential, indirect, punitive, incidental or ~~special damages or~~ damages of any kind regardless of the basis of the claim or in any way arising out of the **District's** termination of **Water Service**.

21.0 STANDBY FIRE PROTECTION SERVICE CONNECTIONS

- 21.1 Standby fire protection systems connected to a **Fire Service Line** shall be installed in accordance with applicable **District** regulations and **District Standards**. The **User** shall make adequate provision to prevent the use of water from such systems for purposes other than fire extinguishing or fire system testing.
- 21.2 Charges for the **Fire Service Line** shall be according to the **District's Rates, Fees and Other Charges**.
- 21.3 The **User** shall pay the cost of installing the **Fire Service Line**, including the cost of **Water Mains** and related improvements in compliance with applicable **District Rates, Fees and Other Charges** and **System Development Charges**.
- 21.4 All water provided by the **District** through a **Fire Service Line** shall be provided subject to the supply and pressure existing in the water distribution system. The **District** shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
- 21.5 If water is used from a **Fire Service Line** in violation of these **Rules and Regulations**, the **User** shall pay for the water based on an estimate of the amount used as determined by the **District's Rates, Fees and Other Charges**. Any unauthorized use during a subsequent billing period within 12 months of a prior notification of unauthorized use, shall be subject to the schedule of fines and penalties as established by the **District's Rates, Fees and Other Charges**.

Following the third occurrence of unauthorized fire line use, within 12 months of the first such use, the **User** is subject to **Final Remedies** as determined by the **CEO**, plus estimated water usage billed at the

Block 1 rate. The **CEO** shall determine final remedy on a case-by-case basis and may include one or more of the following:

- A. A fine of \$5,000 for the unauthorized use;
- B. A civil penalty ~~of \$500~~ calculated on ~~per~~ person per day (Section 26.1.A);
- C. A System Development Charge may be assessed on the service. The District shall determine the amount of the System Development Charge. The CEO may thereafter treat the fire line as a standard Service Connection subject to all applicable provisions of these Rules and Regulations.

_____ Termination of Water Service (Section 20.2); or

D.

~~D-E.~~ Such other actions as the CEO determines appropriate under the circumstances.

- 21.6 The **CEO** may waive or postpone invoking a final remedy, as described above, for **Customers** that work in good faith with the **District** to resolve illegal fire line use issues in a timely manner, as determined by the **CEO**.
- 21.7 The **District** is not the owner nor in any way responsible for operation, maintenance, repair and replacement of the Fire Service Lines.

22.0 USE OF FIRE HYDRANTS

- 22.1 No person except those authorized by the **District** shall operate or attempt to operate any fire hydrant.
- 22.2 The **District** may authorize use of a fire hydrant for a temporary water supply. The **User** shall pay all **Rates, Fees and Other Charges** for such service and shall conform to **District** permit requirement for hydrant use including but not limited to compliance with applicable backflow prevention requirements.
- 22.3 **Users** requesting flow testing of fire hydrants shall pay appropriate **Rates, Fees and Other Charges**.
- 22.4 Unless otherwise approved by the **CEO**, only the **District** may change or relocate a fire hydrant. If a **User** requests hydrant change or relocation and the **District** approves, the **User** shall pay all costs of such change.
- 22.5 Privately owned fire hydrants are to be used only for fire emergencies or other uses specifically authorized by the **District**.
- 22.6 The fire service agency shall not be deterred or hindered from gaining immediate access to fire protection equipment and hydrants. Access from the street to the fire hydrant, fire protection system and control valves shall be maintained in a manner such that the equipment or fire hydrants are immediately visible. A clear space shall be maintained within a 3-foot radius of fire hydrants, fire protection equipment and control valves. Access from the street to the hydrant shall be kept clear if the travel distance is greater than three feet. **Owners** shall be responsible for pruning or removing landscaping or other obstructions that restrict access to or visibility of a fire hydrant.

- 22.7 A minimum of 18 inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed within a 3-foot radius of the hydrant without approval of the **District**.
- 22.8 The **District** designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the **District**.
- 22.9 Upon notice from the **District**, the property **Owner** shall within 14 days remove such obstruction or correct non-compliance. If the obstruction is not removed or compliance is not achieved within the required time, the **District** shall take corrective action. If the obstruction presents an urgent safety hazard, the **District** may take immediate corrective action. All charges associated with corrective actions, including those taken by the **District**, will be the responsibility of the property **Owner**.

23.0 OPERATION OF SYSTEM

Unless authorized by the **District**, no person shall operate any portion of the **District's System**.

24.0 SERVICE OUTSIDE THE DISTRICT

- 24.1 Water shall not be provided outside the **District** boundary without approval of the **Board**, except where such service is temporarily required to avoid a health, safety or other emergency hazard.
- 24.2 Service to other water providers and to **Users** located outside of the boundaries of the **District** will be made only if the **District** has sufficient surplus water and pursuant to an agreement approved by the **Board**. Such services may be discontinued at any time if the best interest and the needs of the **District** so require.
- 24.3 The **Board** reserves the right to increase the rate to any **User** outside the **District** without notice. The rate schedule for sale of water to other governmental units will be set by the **Board**, but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the **District** system unless otherwise established by agreement.

25.0 MISCELLANEOUS

- 25.1 Severability. If any portion of these **Rules and Regulations** is found invalid by a court of competent jurisdiction, the remaining sections of these **Rules and Regulations** shall be unaffected thereby.
- 25.2 Fees. The **District** may adopt fees and charges by resolution as it deems appropriate for services provided under these **Rules and Regulations**.
- 25.3 **District** Approval. Unless otherwise specified, when **District** approval and/or authorization is required by these **Rules and Regulations**, approval shall be in writing and by the **CEO**.

26.0 VIOLATIONS AND REMEDIES

26.1 The District shall seek to enforce these Rules and Regulations by progressive measures to obtain compliance. ~~Notwithstanding~~Notwithstanding the foregoing, the District may enforce ~~V~~violation of these Rules and Regulations by commencement of legal or equitable proceedings for damages, remedial costs and attorney fees and costs. In addition any violation of these Rules and Regulations is punishable by a civil penalty of \$500 per day for each day of violation as set on the District's schedule of District Rates, Fees and Other Charges plus any costs the District has incurred to cure the violation or damages of any kind to the District's system unless these Rules and Regulations provide for a larger amount, at the discretion of the CEO. Each day of violation shall be a separate violation. In addition to this administrative proceeding to recover a civil penalty, said fine, the District may obtain, legal, injunctive or equitable relief to abate the violation, the District may also including termination of Water Service as a violation of these Rules and Regulations.

A. 26.1.1 ~~Notice of V~~violation shall be given to the User by first class U.S. mail to the User's address as shown on the District's records.

B. 26.1.2 ~~The n~~Notice shall specify the violation and the date the civil penalty will commence to accrue which shall be a date not less than 10 days from the date of the notice and also the daily accrual of civil penalty until remedied. The nNotice shall also state any remedial costs incurred by the District to cure the violation or any other damage incurred by the District.

C. 26.1.3 ~~The n~~Notice assessing ment of the civil penalty (and other costs or damages asserted by District) shall provide that the total amount assessed ~~penalty~~ shall be final on the date stated unless the User requests a hearing in writing delivered to the District within 10 days of the notice.

D. 26.1.4 ~~If a hearing is requested, the CEO or designee~~ will set a schedule for submission of written documents or other relevant evidence and a time for hearing as provided in Section 26.3.

E. 26.1.5 ~~The CEO or designee~~ will make a decision within 30 days of the close of the hearing. The ~~CEO or designee~~ may:

A.F. A. ~~Deny the appeal and affirm the assessment of the civil penalty~~ (and other costs or damages asserted);

B.G. B. ~~Affirm the appeal and remove the civil penalty assessment~~

C.H. C. ~~Make such other decision equitable under the circumstances.~~

D. 26.1.6 ~~The CEO's or designee's~~ decision may be reviewed by writ of review in the Circuit Court of the State of Oregon for Washington County if the Petition for Writ is filed within 30 days of the decision.

E.I. 26.1.7 ~~The District may pursue any other remedy at law or in equity in addition to this civil penalty process.~~

26.2 If a violation of these Rules and Regulations exists and the District takes action to remedy the violation, then the User shall be responsible for all remedial costs and damages incurred. Remedial costs shall mean all labor, materials and costs incurred by or on behalf of TVWD to cure the violation

- 26.3 Any person aggrieved by a ruling or interpretation of the provisions of this ordinance or who has received a Notice of Civil Penalty under Section 26.1 ~~may~~ 26.1 may submit a written appeal to the CEO within 105 days of the decision or Notice ~~Notice~~. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant and any other reasons for appeal.
- 26.4 The CEO shall study the matter, hear testimony and provide for additional written argument if necessary and issue a written decision to the appellant affirming, denying or modifying the interpretation or ruling or Notice of Civil Penalty.
- 26.5 If the appellant considers that their grievance has not been handled satisfactorily, they may apply to the CEO Board for reconsideration ~~view~~ of the matter within 30 days from the date of the written decision. The CEO may either affirm, modify or reverse the decision without further hearing in writing. In the alternative ~~the CEO may appoint a Hearings Officer to Board may~~ make an independent review of the case, provide for a hearing, consider the existing record, additional briefs and hear additional testimony on the matter. The Hearings Officer may also limit review to if it deems necessary or restrict it to the record. Within 60 days from receipt of the appeal, the ~~Board~~ CEO or Hearings Officer will prepare a written decision affirming, affirming in part, or denying on the matter which shall be sent to the appellant. ~~In lieu of a hearing by the Board, a hearing officer may be appointed.~~
- 26.6 Decisions of the CEO or Hearings Officer shall be the final decision of the District Board ~~shall be~~ reviewable by the Circuit Court of the State of Oregon for Washington County, solely and exclusively under the provision of ORS 34.010 to 34.100. Exhaustion of administrative remedies is required prior to initiation of legal proceedings.

27.0 REVISION AND MODIFICATION OF THESE RULES, REGULATIONS AND CHARGES

Only the Board may amend these Rules and Regulations. For these Rules and Regulations, the District may adopt implementing policies.

28.0 CONSTITUTIONALITY, SAVING CLAUSE

If any clause, sentence, paragraph, section or portion of these Rules and Regulations for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of these Rules and Regulations.

Tualatin Valley Water District



Delivering the Best Water 💧 Service 💧 Value

ORDINANCE NO. 01-21

AN ORDINANCE AMENDING AND RESTATING RULES AND REGULATIONS TO PROVIDE FOR CIVIL PENALTIES FOR UNAUTHORIZED WORK UPON OR TAMPERING WITH THE DISTRICT'S WATER SYSTEM.

WHEREAS, under the authority of ORS 264.306, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations which provided for usage of the District's water system and which have been amended from time to time; and

WHEREAS, the Board of Commissioners finds that it is necessary to adopt, amend and restate the Rules and Regulations set forth in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, this ordinance shall fix the effective date of the Rules and Regulations attached hereto and at that time the current Rules and Regulations shall be superseded and repealed, and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. The Rules and Regulations attached hereto as Exhibit A, and incorporated by reference, are hereby adopted as of the effective date below.

Section 2. This ordinance is on file at the District's administrative office and is available for review. The District Recorder is instructed to send a certified copy of this ordinance to the County Clerk and publish the required notices under ORS 198.560.

Section 3. This ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date and place of the of the meeting and gave a brief description of the ordinance to be considered at the meeting, and that copies of the ordinance are available at the office of the District. The presiding officer caused the notice to be published not more than 10 days or less than four days before the meeting in a newspaper of general circulation.

Section 4. Pursuant to Oregon Revised Statute Chapter 198, the ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 17th day of November, 2021, and the 15th day of December, 2021.

Section 5. This ordinance was adopted following a second reading by the affirmative vote of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 15th day of December, 2021, and was signed by the presiding officer and attested to by the secretary.

Section 6. This ordinance shall take effect on January 15, 2022 at 12:01 a.m. and all the current Rules and Regulations are repealed at that time.

Todd Sanders, President

Jim Doane, Secretary

RULES AND REGULATIONS

Revision Date: December 15, 2021

**Adopted By Ordinance No. 01-21
Under The Authority Of
Oregon Revised Statutes 264.306**

TUALATIN VALLEY WATER DISTRICT
1850 SW 170th Avenue
Beaverton, Oregon 97003

(503) 848-3000
www.tvwd.org

Exhibit A

**TUALATIN VALLEY WATER DISTRICT
RULES AND REGULATIONS**

1.0 PREFACE

- 1.1 The Tualatin Valley Water District (**TVWD**) is a unit of local government defined by ORS 174.109 organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of **TVWD** is to supply its **Users** with water for domestic (municipal and industrial) purposes as provided by law and, in connection therewith, may supply, furnish and sell water over and above the needs of its **Users** to any persons, corporations or associations, either within or outside the District, or to other communities, water districts or municipal corporations.
- 1.2 **TVWD** is governed by the authority vested in a **Board** of five commissioners residing within **TVWD's** boundaries and elected by voters. Regular monthly meetings are held by the **Board**. These meetings are open to the public.

2.0 DEFINITIONS

- 2.1 **"Board"** shall mean the Board of Commissioners of the Tualatin Valley Water District.
- 2.2 **"CEO"** shall mean the Chief Executive Officer of the Tualatin Valley Water District or the Chief Executive Officer's designee.
- 2.3 **"Class Code"** shall mean the code assigned to each **Customer Connection** by the **District** to determine applicable **Rates, Fees and Other Charges** for that **Customer Connection**.
- 2.4 **"Connection Charges"** shall be the current service installation charge and meter installation charge as adopted by the **Board**.
- 2.5 **"Customer"** shall mean any **User** who purchases water from **TVWD**.
- 2.6 **"Customer Connection"** shall mean the point at which the **District Service Line/Service Connection** connects to the **Customer Service Line** or **Fire Service Line**.
- 2.7 **"Customer Service Line"** shall mean any pipes, valves, fitting or appurtenances beginning at the outlet of the **Meter Assembly** into the premises served, excluding **Fire Service Systems**.
- 2.8 **"Developer"** shall mean any person or entity who has a written agreement with an **Owner** that authorizes the **Developer** to act on behalf of the **Owner** to obtain any permit or approval from the **District** for design and construction of water system improvements to serve **Owner's** property.
- 2.9 **"District"** shall mean the Tualatin Valley Water District.
- 2.10 **"District Service Line/Service Connection"** shall mean the pipe, valves, stops and fittings from a main to the outlet of the **Meter Assembly**.

Exhibit A

- 2.11 **“District Standards”** shall mean the latest revision of the **District’s** Water System Design and Construction Standards.
- 2.12 **“District’s System”** shall include the network of pipelines, reservoirs, pump stations, hydrants and other appurtenances necessary for the delivery of water to the **User’s System** and shall include all **District Service Lines** thereto.
- 2.13 **“Fire Service System”** shall include, 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 System** shall be owned and solely maintained, repaired and replaced by the **Owner** from the **District’s** valve where the **Fire Service System** connects into the **District’s System** or from the downstream side of the last connection to a portion of the **District’s System** (such as a public fire hydrant, **District Service Line**, etc.).
- 2.14 **“Meter Assembly”** is defined as meter, meter box and/or vault, valves, tailpiece, bypass, yoke and other appurtenances to which the **User’s System** is connected.
- 2.15 **“Owner”** shall mean and include any person or entity who owns the property or structures served or to be served by the **District**.
- 2.16 **“Rates, Fees and Other Charges”** shall mean the current rates, fees and charges as adopted by the **Board**.
- 2.17 **“Rules and Regulations”** shall mean these **Rules and Regulations** as adopted by ordinance by the **Board**.
- 2.18 **“Service Area”** shall be that area included within the corporate limits of the **District**, and such other territory as the **Board** shall determine to provide **Water Service**.
- 2.19 **“System Development Charges”** shall mean charges assessed as authorized by Ordinance 01-12 and subsequent revisions.
- 2.20 **“TVWD”** shall mean the Tualatin Valley Water District.
- 2.21 **“User”** shall mean any person, entity, or occupant of the premises receiving **Water Service**.
- 2.22 **“User’s System”** shall consist of those parts of the facilities beyond the termination of the **District’s System** that are utilized in conveying water to points of use, including the **Customer Service Line** and **Fire Service System**.
- 2.23 **“Water Main”** shall mean any pipe located in the public right-of-way or within an easement on private property which is owned or maintained by the **District** for the purpose of distributing water to **Users** and servicing fire hydrants.
- 2.24 **“Water Service”** shall mean the delivery of water to the **User**.
- 2.25 **“Water Supply Shortage Plan”** shall mean the **District’s** approved **Water Supply Shortage Plan** incorporated by reference.

Exhibit A

3.0 PURPOSE

These **Rules and Regulations** establish the conditions by which the **District** will conduct its business and operations and how **Customers** may receive service.

4.0 DISTRICT OWNERSHIP

- 4.1 The **District** owns the **District's System** unless otherwise agreed in writing.
- 4.2 No person or entity other than those authorized by the **District** shall construct, maintain, operate, repair or alter the **District's System**.
- 4.3 No person or entity other than those authorized by the **District** shall make a **Service Connection** or disconnect an existing **Service Connection**.
- 4.4 At all times, **Owners, Customers** and **Users** shall provide the **District** with safe, reasonable and efficient access to the **District's System** and the **District's Service Line to conduct operations, maintenance, repair and replacement of the District's System and consent is granted as a condition of service**. District will endeavor to provide notice reasonable under the circumstances.

5.0 COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

- 5.1 By requesting or receiving **Water Service** from the **District, Customers** and **Users** agree to abide by these **Rules and Regulations**.
- 5.2 Water shall not be used from a new or proposed service until authorized by the **District**.
- 5.3 Every **User** grants to the **District**, its agents and employees the right at all reasonable times to enter upon the **User's** premises to determine compliance with these **Rules and Regulations**. District will endeavor to provide notice reasonable under the circumstances.

6.0 USE OF WATER

- 6.1 The **District** will furnish water for lawful domestic, household, business, industrial, irrigation, community use and for fire protection purposes as the **District's System** may reasonably supply and as may be approved by the **Board**.
- 6.2 The **District** may enter into contracts to allow for sale or trade of water to other water providers. Said contracts must be approved by the **Board**.
- 6.3 No person shall use water supplied by the **District** to create or operate a public or private water system within the **District Service Area** unless approved by the **District** and any other required governmental approval is obtained.

Exhibit A

- 6.4 In the event that the **Board** or its designee shall determine that conditions exist which require the restriction or prohibition of use of water in order to comply with the **District's Water Supply Shortage Plan** or to protect the health, safety or welfare of **Users**, the **Board** or designee 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.
- 6.5 Any **User** using water in violation of the adopted **Rules and Regulations** shall be given notice in writing by the **District** of said violation. The notice shall advise the **User** that if unlawful use is not discontinued, the **Water Service** to the premises may be terminated, in addition to payment of fees, charges and civil penalties adopted by the **Board**. The notice of violation and termination shall be delivered to the **User** of the premises at which the unlawful use is occurring. If the **District** is unable for any reason to serve a written notice to the **User**, the written notice may be posted on the property and the posting shall constitute delivery of notice.
- 6.6 **Water Service** may be terminated immediately without notice if the use is a threat to health, safety or welfare as determined at the sole discretion of the **District**.
- 6.7 The **District** allows no waste or unauthorized use of water. **Users** will be responsible for all water use in the **User's System**.

7.0 WATER LOSS ADJUSTMENT POLICY

Adjustments for the billing(s) for water consumption based on water loss resulting from a leak or leaks in any portion of the **User's System** or plumbing on or within the **User's** property may be made one time per calendar year per meter.

- 7.1 To request a billing adjustment to a **User** account for water losses resulting from leaks in the **User's System** or plumbing, the **User** shall:
- A. Repair leaks within 30 days of the date the leak(s) are discovered or reasonably should have been discovered;
 - B. File a request for billing adjustment form within 90 days of the date of the leak repair describing the cause of the water loss, the repair(s) made to the **User's System** or plumbing and the dates the repairs were made.
- 7.2 If it is determined by the **CEO** that a water loss for a **User** account has occurred by reason of a leak(s) in the **User's System** or plumbing, and the **User** has complied with the procedures set forth in the preceding sections, then an adjustment shall be calculated in accordance with the following:
- A. For purposes of calculating the water loss adjustment, the **CEO** shall consider the amount of water consumed in the same period of the previous year as ordinary and normal water usage by the **User**. Water consumption greater than the normal amount of the previous year shall be deemed excess water use.

Exhibit A

- B. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods (six months total) if billed on a bi-monthly basis and no more than six billing periods (six months total) if billed on a monthly basis.
- C. The billing(s) to the **User** shall be adjusted in an amount based on the water volume rate in effect for the loss period multiplied by the adjustment allowance. This amount shall be credited to the **User's** account after repairs have been completed. During the loss period, the peaking charges for consumption are excused, if in the prior year no peaking water charges were applied.

7.3 Alternative Method for Calculation of Ordinary and Normal Water Usage for Non-Residential Accounts.

- A. Shall only be used for the purposes of calculating the water loss adjustment for a **User** on a non-residential account that has made repairs to a water loss condition which lasted longer than one calendar year.
- B. **User** must complete requirements set forth by 7.1.B.
- C. For purposes of establishing ordinary and normal water usage by the **User** following the completion of repairs, the **CEO** shall consider the amount of water consumed for the subsequent three complete billing periods if billed bi-monthly or six billing periods if billed monthly.
- D. For the purpose of calculating the water loss adjustment, staff will compare the reestablished ordinary and normal usage to the same period of the previous year. Water usage greater than the ordinary and normal usage shall be deemed excess water use.
- E. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods (six months total) if billed on a bi-monthly basis and no more than six billing periods (six months total) if billed on a monthly basis..

7.4 If multiple leak requests are submitted from the same **User**, the **CEO** shall determine the eligibility for the water loss request.

7.5 The Water Loss Adjustment Policy may be used in cases of unexplained water loss, fire protection, vandalism or theft of water beyond the reasonable control of the **Customer**.

8.0 SERVICE CONNECTION

- 8.1 **Service Connections** shall be provided only from **District Water Mains** and shall be located at such points as the **District** shall determine in its sole discretion, all in accordance with **District Standards**.
- 8.2 Request for a new water **Service Connection** shall be made to the **District**. No meter installations or connections will be made until all currently adopted **Connection Charges** and **System Development Charges** have been paid in full.

Exhibit A

- 8.3 Unless authorized by the **District** in writing, a **Service Connection** shall provide water to only one single-family dwelling per real property parcel (tax lot). Multi-family dwellings or multiple service uses such as office buildings, commercial malls or industrial **Users** will be served via a master meter.

Unless authorized by the **District** in writing, each tax lot or structure receiving service shall have its own water connection. All accessory buildings and premises used as a part of such dwelling, business or institution may be served from such connection as approved by the **CEO**. In the case of a commercial or industrial property with multiple **Users** on a single tax lot, more than one **Service Connection** may be provided upon approval by the **District** after payment of the appropriate fees.

- 8.4 No **User** shall extend the **Customer Service Line**, without **District** approval, to furnish water to any residence, business, institution or other premises on the same or neighboring tax lot(s) other than that occupied by the **User**.
- 8.5 All **Service Connections** shall be installed by the **District** unless specifically authorized in writing by the **District**. Work performed will be performed in accordance with **District Standards** relating to size, materials, location and methods of installation. The charges shall be as set forth in the **Rates, Fees and Other Charges**.
- 8.6 **Customer's** capacity from meter purchase shall be limited to that obtained during original purchase and subsequent upgrades regardless of other system improvements that allow greater capacity.
- 8.7 **Users** shall make a request to the **District** for all **Water Services** desired.
- 8.8 Removal or relocation of a **Service Connection** shall be at the expense of the party requesting the change. If the **District** relocates the **Service Connection**, the **Owner** shall grant access to the **District** to relocate the **Service Connection**. The **District** shall not bear responsibility for reconnection of the **Customer Service Line**. No **Service Connection** extension can be made unless approved in writing by the **District**.
- 8.9 The **District** reserves the right to relocate the **District Service Line/Service Connection** within the utility easement as necessary to accommodate water system improvements or street improvements or for other similar activities. By virtue of connecting to the **District's System** the **Customer** authorizes the **District** to reconnect the **District Service Line/Service Connection** to the **Customer Connection** when necessary. **District** will endeavor to provide reasonable notice under the circumstances.

9.0 TEMPORARY SERVICE

- 9.1 A **User** who is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits may make a request to the **District** for a temporary irrigation meter.

The **User** will be required to pay a Temporary Irrigation Meter Fee and Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

Exhibit A

9.2 The **District** may grant temporary **Water Service** during construction and for special events approved for such service by the **District**. The length of time and conditions of temporary **Water Service** shall be determined by the **District** at the time of application.

All costs for installing and removing these temporary services shall be paid by the **User** in advance. Such costs shall be determined by the **District** and shall include, but are not limited to:

- A. Labor
- B. Material
- C. Equipment rental
- D. Overhead
- E. Monthly fixed charges (if applicable)

If the actual cost of installing and removing these temporary services exceeds the estimated cost, the applicant shall pay the excess cost to the **District** within 30 days after billing by the **District** of the actual cost. If the actual cost of providing the temporary service is less than the estimated cost, the **District** shall refund the difference to the applicant after determination of actual cost.

The **User** will be required to pay all applicable Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

10.0 CUSTOMER SERVICE LINES

- 10.1 The **User** is solely responsible to pay the cost to install the **Customer Service Line** from the **Meter Assembly** to the structure to be served.
- 10.2 **Customer Service Lines** shall be installed in accordance with applicable plumbing codes and other specialty codes.
- 10.3 No pump equipment shall be connected to a **Customer Service Line** without prior written approval from the **District**.
- 10.4 The **User** shall be solely responsible for maintenance, repair and replacement of the **Customer Service Line** and associated appurtenances.
- 10.5 The **District** is not responsible for **Customer Service Lines**.

10.6 Relocation of the meter that causes the **Customer Service Line** to be relocated or reconnected shall follow the provisions of Section 8.8 and 8.9.

11.0 CLASS CODES, RATES, FEES AND OTHER CHARGES

Exhibit A

The **District** will assign a **Class Code** for each **Customer Connection**. **Class Codes** will be used to determine applicable **Rates, Fees and Other Charges**.

1. **Class Code 1 – Residential** shall consist of **Customer Connections** serving a dwelling unit, whether a shared structure or freestanding, where one District meter serves only one dwelling unit.
2. **Class Code 2 – Residential Multi-Family** shall consist of **Customer Connections** serving two or more dwelling units.
3. **Class Code 3 - Non-Residential** shall consist of **Customer Connections** not serving one or more dwelling units. Class Code 3 does not include **Customer Connections** classified in Class Code 4, Class Code 5 or Class Code 6.
4. **Class Code 4 - Production Processes** shall consist of **Customer Connections** that would otherwise be in Class Code 3 but where the water passing through a **District** meter is used in a production process.
5. **Class Code 5 - Fire Lines** shall consist of **Customer Connections** for **Fire Service Lines** on private property where water can only be used for fire suppression.
6. **Class Code 6 – Irrigation** shall consist of **Customer Connections** where water passing through a **District** meter can only be used for seasonal agricultural or landscaping purposes and not returned to a wastewater utility system.
7. **Class Code 7 - Temporary Irrigation** shall consist of **Customer Connections** that are for temporary irrigation where the **Customer** is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits.
8. **Class Code 8 – Local Government/Water Provider** shall consist of **Customer Connections** that are for local government water providers and **Customers** that have a wholesale rate approved by the **District Board** of Commissioners.

The **District** shall establish **Rates, Fees and Other Charges** for use of water, services and property of the **District** by resolution. A copy of the established **Rates, Fees and Other Charges** shall be available on the **District website and on** file in the **District** office for examination by the public during business hours.

12.0 METER READING AND BILLING

- 12.1 Meters shall be read at regular intervals as determined by the **District**.
- 12.2 The **User** is responsible for ensuring safe and efficient access to the **Meter Assembly** at all times. Access to the meter requires six feet vertical clearance above the meter box and two feet clearance around.
- 12.3 Whenever it is necessary to enter a building to access the **Meter Assembly**, a safe passageway must be maintained by the **User**, free and clear of obstructions of any kind from the building entrance to the **Meter Assembly**.

Exhibit A

- 12.4 The **User** consents to the right of **TVWD** employees or agents to trim vegetation and remove obstructions as necessary to maintain access to the **Meter Assembly**. Costs incurred by **TVWD** to gain access to the **Meter Assembly** may be billed to the **User**.
- 12.5 If the **District** determines that it is unable to read a meter, billing shall be calculated in accordance with the following:
- A. The **District** will estimate water consumption based on available historical data.
 - B. A true-up bill will be produced during the next billing cycle when an actual read is obtained.
- 12.6 If it appears to the **District** that a meter fails to register accurately, the **District** will estimate water consumption based on available historical data and may test the meter under Section 14.0.
- 12.7 A **User** may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.

13.0 PAYMENTS FOR SERVICE

- 13.1 Bills from the **District** shall be due, payable and delinquent in accordance with the terms set forth by the **District**.
- 13.2 The **District** may turn off water supply to the premises for which payment is delinquent. The service will be restored after acceptable terms of payment are arranged for all delinquent bills, including charges established within the **Rates, Fees and Other Charges**.
- 13.3 The **District** has contracted, and retains the right to establish contracts with, other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts or amendments to existing contracts shall be incorporated by reference upon approval by the **Board**.
- 13.4 Outstanding charges owed to the **District** may be transferred to a **Customer's** new account within the **District**.

The **District** may collect unpaid charges incurred by a **Customer** at previous service locations within the **District** as part of the **Customer's** current water bill. These unpaid charges are subject to current collection terms set forth by the **District**.

14.0 METER ACCURACY AND TESTING

- 14.1 The **District's** meters shall operate within the standards established by the American Water Works Association (AWWA) Section C700.
- 14.2 A **User** may request the meter be tested by making a request for such testing to the **District**:
- A. If the test shows the water meter registers outside the AWWA standard, the meter shall be repaired or replaced at no cost to the **User** for a new meter, parts or labor.

Exhibit A

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.

- B. If the test shows that the water meter registers within the AWWA standard, the **User** shall pay for the test in accordance with **District's Rates, Fees and Other Charges**. The cost for the test shall be billed by the **District**, and the **District** may charge a **User** for water delivered, not to exceed one year prior to the testing.

- 14.3 The **District** may audit, test or replace the meter at any time at the **District's** discretion.

15.0 RESPONSIBILITY FOR DAMAGES OR INJURIES

- 15.1 The **User** is responsible for all damage or injury resulting from the failure to properly construct, maintain, repair or correct conditions in the **User's System**.
- 15.2 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.
- 15.3 The **User** shall be liable for any damage to the **District's System** which is caused by an intentional, reckless, or negligent act of the **User**, his tenants, agents, employees, contractors, licensees or permittees. The **User** responsible for the damage or tampering may be fined and/or have service terminated.
- 15.4 Only the **District** may operate, modify or alter the **District's System**. Violators shall be responsible for any damage and adverse effects to water quality or availability of water due to unauthorized operation, modification or alteration of the **District's System**.

In addition to the foregoing, violators shall be subject to the schedule of fines and civil penalties as established by the **District's Rates, Fees and Other Charges**. The **District** may also prohibit and debar a person or entity from performing any work on the **District's System** as a contractor for the **District** or making physical connection to the **District's** water service for any **Owner**.

- 15.5 The **User** is responsible for compliance with all city and county codes and requirements related to maintenance of their property and plumbing system.

16.0 WATER SERVICE INTERRUPTION

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 to the User's property caused by interruptions of **Water Service** or fluctuation of pressure unless caused by the District's negligence.

17.0 CONNECTION TO ANOTHER WATER SUPPLY

No other water supply shall be connected to the **Customer Service Line** without written approval of the **CEO** and in accord with Section 18.0.

Exhibit A

18.0 CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION

Service Connections shall be protected against backflow into the **District's System** as required by the **District**. Service of water may be terminated if a backflow prevention assembly required by the **District** is not installed, tested, maintained, repaired or replaced; or if it is found that a backflow prevention assembly has been removed or bypassed; or if an unprotected cross-connection exists. Service may be terminated following written notice and expiration of the time to cure conditions or defects. Furthermore, service may be terminated immediately without notice if an immediate threat to public health and safety has been determined by the **District**. In all cases, service will not be restored until such conditions or defects are corrected.

The **User** consents to and 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** cross-connection control requirements exists and that compliance requirements are met. If no accommodations are made to allow access, the **District** may require a reduced pressure backflow prevention assembly to be installed at the **Customer Connection** at the expense of the **User**, consistent with Oregon Administrative Rules. Nothing herein shall prevent the District from terminating service as provided in this Section.

19.0 EXTENSION OF DISTRICT'S SYSTEM

Owners shall extend all **Water Mains** the entire distance between opposite boundaries of the property to be served (to and through), and, when required by the District, design, construct and make appropriate connections to other parts of the **District's System** as determined by the District using industry best practices to provide redundancy of service, typically through the provision of looped systems. When the line extension will be on Owner/Developer's property and the District, in its sole and absolute discretion, does not require Owner to design and construct water system facilities to and through the property, then an easement shall be granted by the Owner to the District unconditionally authorizing the District to construct future improvements. **Water Mains** shall be located within public right-of-way or, if necessary, within easements approved by the District.

Unless authorized by the **CEO**, projects must be designed and constructed in accordance with **District Standards** approved by the **CEO** and Chief Engineer. All extensions shall be constructed only by the **District** or by a contractor acceptable to the **District**. Contractors shall anticipate and allow for inspection by the **District** during construction. All connections for services shall be made in the manner elsewhere set forth in these **Rules and Regulations**. Prior to final acceptance, the project must be demonstrated to operate and perform as intended.

The methods to extend the Water System are:

- 19.1 **Owner/Developer** Extension. An **Owner/Developer** other than the **District** may request to extend the **District's System**, in conformance with these **Rules and Regulations** and the **District's Standards**, at their sole cost and expense. Parties using non-**District** funds for construction of water improvements shall select an engineer or contractor of their choice who meets the **District's** requirements, including qualifications of the engineer and contractor.
- 19.2 All extensions of the **District's System** require plan submission, review and written **District** approval.

Exhibit A

- 19.3 **Owner Request.** Upon request of the **Owner**, the **District** may, at its sole discretion, construct system improvements at the expense of the **Owner**. The cost and scheduling of the extension and improvements shall be determined by the **District**.
- Installation or construction shall not commence until the applicant has paid a deposit in advance to the **District** in an amount estimated by the **District** to cover the cost of construction of the **District's System** extension. Following completion of construction, the **District** shall determine the actual cost of the project, including overhead, supervision and engineering. The **District** shall refund to the applicant any part of the deposit which exceeds the actual project cost, or the applicant shall pay to the **District** the actual project cost less the deposit already paid.
- 19.4 **District Extension.** The **District** may extend the **District's System** when, in the opinion of the **District**, the public convenience and welfare is best served by such construction.
- At its sole discretion and where it appears equitable that the cost of such construction be apportioned, the **District** may apportion all or any part of the cost of the construction of the **District's System** among the persons as may at any subsequent time apply for a **Service Connection** from said extension. The charge shall be at an amount established by the **District**.
- No **Service Connection** or **Fire Service Line** shall be made by the **District** until the Owner has paid in advance to the **District** the apportioned charge for the construction of the extended **District's System**, **Connection Charges** and the appropriate **System Development Charge**.
- 19.5 **Local Improvement District or Assessment District.** The **District** may extend its **District's System** upon written request of the **Owners** of abutting property. It may also extend the **District's System** through property intended to be developed under the applicable zoning and development code. The **District** may require formation of a local improvement district or assessment district or other such security for payment as it deems appropriate. The process for formation of a Local Improvement District or Assessment District shall be according to then applicable statutory requirements. Terms of payment shall be approved by the **Board**.
- 19.6 After acceptance by the **District**, the facilities shall be the sole property of the **District** and maintained and operated by **District** personnel exclusively. If the **District's System** extension is by a party other than the **District**, the property **Owner** and its contractor shall be responsible for a warranty period of one year after acceptance for failures of materials or workmanship. Conveyance documents shall be in a form acceptable to the District in its sole discretion.
- 19.7 **Additional or Upsized Facilities.** The **District** may elect to require or install larger **Water Mains** or other system improvements other than needed for the applicant's service requirements; construction of additional facilities to connect with other parts of the District's water system; and to provide improved service to the property or other benefitted properties. When it does so, the **District** will pay for the incremental cost. Where the additional facilities provide a partial benefit to the applicant's property, the District shall determine the amount of the District's contribution in its sole discretion. All cases shall be considered separately, and the requirements for each project shall be specified to the applicant. Design and construction shall be by the **District**, the **District's** contractor or a contractor approved by the **District**.

Exhibit A

- 19.8 Reimbursement District and Agreement. Pursuant to ORS 264.320, the **District** may establish Reimbursement District and Agreement subsequent to the following:
- A. The line must be designed and constructed according to **District Standards**, be inspected and accepted by the **District** as part of the **District's System**. The term of the reimbursement agreement shall not exceed 10 years from the date of acceptance.
 - B. The request for partial reimbursement shall be made by petition in a form acceptable to the **District** prior to the time of acceptance of the facilities by the **District**.
 - C. The petition shall include, among other things:
 - i. Plans and designs;
 - ii. Identification of the applicant's property and address;
 - iii. Identification of the benefitted properties and owners' addresses;
 - iv. Map of the benefitted properties;
 - v. Project costs incurred or anticipated to be incurred;
 - vi. Proposed equitable calculation methodology that takes into account one or more of the following factors: benefitted parcels, number of current connections, potential connections depending upon future zoning, ease of connection of property once improvements are made and other relevant factors to achieve an equitable allocation of project costs;
 - vii. Payment of all fees
 - D. Upon receipt of the petition, the **CEO** shall review the petition for completeness. If incomplete, the applicant shall provide the necessary information to be deemed complete. If deemed complete, the **CEO** will review the petition to determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement, and identification of properties that would be required to pay the reimbursement fee, and other factors listed in C.vii.7. The **CEO** shall prepare a staff report and submit it to the **Board**.
 - E. The **CEO** shall then notify the applicant of the hearing date before the **Board** where the Reimbursement District and Agreement will be considered. Notice of such hearing shall be mailed by first class U.S. mail to the names and mailing addresses of the applicant and the benefitted owners as shown in the Washington County real property records not less than 14 days before the hearing date asking for written comment and the right to appear before the **Board** and comment. The notice shall include a map of the benefitted properties; a description of the project; the proposed amount of reimbursement for each potential lot that could connect to the extension according to the petition, which includes the lots of the person or entity extending the line.
 - F. At the time of hearing, the **Board** shall review the staff report, take testimony or comment from all affected landowners regarding the formation of the Reimbursement District and Agreement, the actual or estimated costs, and the extent to which properties are benefitted. Testimony or comment may be in written or electronic form or by oral testimony. The **Board** will close the hearing and then decide whether to approve the petition, approve the petition as modified by the **Board**, or deny the petition. If denied, the matter shall be concluded. If approved, then by resolution the **Board** shall declare formation of the Reimbursement District, identify the benefitted properties and allocate costs in accordance with the final adopted methodology. If

Exhibit A

the project has not been completed, then the Reimbursement District will be approved but final application of the methodology and allocation of costs shall not be made until final project costs are known and the **Board** holds a subsequent hearing to make a final determination. The notice and hearing process shall follow the procedure of Section E. The **Board's** decision shall be limited to the final project costs and allocation according to the previously approved methodology.

- G. If the **Board** approves formation of the Reimbursement District, the **CEO** shall prepare a Reimbursement Agreement that, among other things, identifies all benefitted properties, allocates the cost among them, states the term of the agreement, provides that it is binding on the property and meets all requirements for recording. In no event will the reimbursement obligation extend longer than the minimum period provided by ORS 264.320. If the final project costs are unknown at the time of **Board** approval because the project has not been completed, a Preliminary Reimbursement Agreement shall be prepared and recorded stating that the costs are estimates and that when final project costs and allocations are determined, a Final Reimbursement Agreement shall be recorded with the final costs.
- H. Within 15 days following the **Board's** decision on the formation of the Reimbursement District, or the decision of final project costs, the **District** shall mail notice of the decision to all Landowners at the addresses set forth in the petition, unless the landowner provides a different address.
- I. The applicant or affected landowners may appeal the decision by writ of review under ORS Chapter 34 within 60 days of the **Board's** decision.
- J. As the identified properties connect, all applicable **Rates, Fees and Other Charges** and the reimbursement amount shall be collected by the **District**. The **District** will remit to the person any reimbursement amount collected within a reasonable time after receipts by the District.

20.0 TERMINATION OF WATER SERVICE

- 20.1 Termination at Request of **User**. When a **User** notifies the **District** that the **User** wishes service discontinued, the **District** will read the meter and issue a bill including applicable charges for termination.
- 20.2 Termination of Service by **District**. **Water Service** shall be subject to termination upon the occurrence of:
 - A. Non-payment of charges established within the **District's** adopted **Rates, Fees and Other Charges**.
 - B. Non-compliance with these **Rules and Regulations** relating to matters other than non-payment of charges.
 - C. Lack of use of a **Water Service** for a period indicating intent to terminate **Water Service**.
 - D. Threat to health, safety or welfare determined at the sole discretion of the **District**. Under these conditions, termination may be immediate and without notice.

Exhibit A

- 20.3 Notice of the **District's** intent to terminate service shall be sufficient if given by any of the following:
- A. U.S. mail sent to the **User's** address as shown in **District** records, or
 - B. By hand delivery of a notice to the **User's** service premises.

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 **User's** service address and the period of compliance shall be as set forth in the notice.

- 20.4 Limitation of Liability. The **District** shall not be liable or responsible for any consequential, indirect, punitive, incidental or damages of any kind regardless of the basis of the claim or in any way arising out of the **District's** termination of **Water Service**.

21.0 STANDBY FIRE PROTECTION SERVICE CONNECTIONS

- 21.1 Standby fire protection systems connected to a **Fire Service Line** shall be installed in accordance with applicable **District** regulations and **District Standards**. The **User** shall make adequate provision to prevent the use of water from such systems for purposes other than fire extinguishing or fire system testing.
- 21.2 Charges for the **Fire Service Line** shall be according to the **District's Rates, Fees and Other Charges**.
- 21.3 The **User** shall pay the cost of installing the **Fire Service Line**, including the cost of **Water Mains** and related improvements in compliance with applicable **District Rates, Fees and Other Charges** and **System Development Charges**.
- 21.4 All water provided by the **District** through a **Fire Service Line** shall be provided subject to the supply and pressure existing in the water distribution system. The **District** shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
- 21.5 If water is used from a **Fire Service Line** in violation of these **Rules and Regulations**, the **User** shall pay for the water based on an estimate of the amount used as determined by the **District's Rates, Fees and Other Charges**. Any unauthorized use during a subsequent billing period within 12 months of a prior notification of unauthorized use, shall be subject to the schedule of fines and penalties as established by the **District's Rates, Fees and Other Charges**.

Following the third occurrence of unauthorized fire line use, within 12 months of the first such use, the **User** is subject to **Final Remedies** as determined by the **CEO**, plus estimated water usage billed at the Block 1 rate. The **CEO** shall determine final remedy on a case-by-case basis and may include one or more of the following:

- A. A fine of \$5,000 for the unauthorized use;
- B. A civil penalty calculated on per day (Section 26.1.A);

Exhibit A

- C. A System Development Charge may be assessed on the service. The District shall determine the amount of the System Development Charge. The CEO may thereafter treat the fire line as a standard Service Connection subject to all applicable provisions of these Rules and Regulations.
 - D. Termination of Water Service (Section 20.2); or
 - E. Such other actions as the CEO determines appropriate under the circumstances.
- 21.6 The CEO may waive or postpone invoking a final remedy, as described above, for Customers that work in good faith with the District to resolve illegal fire line use issues in a timely manner, as determined by the CEO.
- 21.7 The District is not the owner nor in any way responsible for operation, maintenance, repair and replacement of the Fire Service Lines.

22.0 USE OF FIRE HYDRANTS

- 22.1 No person except those authorized by the District shall operate or attempt to operate any fire hydrant.
- 22.2 The District may authorize use of a fire hydrant for a temporary water supply. The User shall pay all Rates, Fees and Other Charges for such service and shall conform to District permit requirements for hydrant use, including but not limited to, compliance with applicable cross connection control and backflow prevention requirements.
- 22.3 Users requesting flow testing of fire hydrants shall pay appropriate Rates, Fees and Other Charges.
- 22.4 Unless otherwise approved by the CEO, only the District may change or relocate a fire hydrant. If a User requests hydrant change or relocation and the District approves, the User shall pay all costs of such change.
- 22.5 Privately owned fire hydrants are to be used only for fire emergencies or other uses specifically authorized by the District.
- 22.6 The fire service agency shall not be deterred or hindered from gaining immediate access to fire protection equipment and hydrants. Access from the street to the fire hydrant, fire protection system and control valves shall be maintained in a manner such that the equipment or fire hydrants are immediately visible. A clear space shall be maintained within a 3-foot radius of fire hydrants, fire protection equipment and control valves. Access from the street to the hydrant shall be kept clear if the travel distance is greater than three feet. Owners shall be responsible for pruning or removing landscaping or other obstructions that restrict access to or visibility of a fire hydrant.
- 22.7 A minimum of 18 inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed within a 3-foot radius of the hydrant without approval of the District.
- 22.8 The District designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the District.

Exhibit A

- 22.9 Upon notice from the **District**, the property **Owner** shall within 14 days remove such obstruction or correct non-compliance. If the obstruction is not removed or compliance is not achieved within the required time, the **District** shall take corrective action. If the obstruction presents an urgent safety hazard, the **District** may take immediate corrective action. All charges associated with corrective actions, including those taken by the **District**, will be the responsibility of the property **Owner**.

23.0 OPERATION OF SYSTEM

Unless authorized by the **District**, no person shall operate any portion of the **District's System**.

24.0 SERVICE OUTSIDE THE DISTRICT

- 24.1 Water shall not be provided outside the **District** boundary without approval of the **Board**, except where such service is temporarily required to avoid a health, safety or other emergency hazard.
- 24.2 Service to other water providers and to **Users** located outside of the boundaries of the **District** will be made only if the **District** has sufficient surplus water and pursuant to an agreement approved by the Board. Such services may be discontinued at any time if the best interest and the needs of the **District** so require.
- 24.3 The **Board** reserves the right to increase the rate to any **User** outside the **District** without notice. The rate schedule for sale of water to other governmental units will be set by the **Board**, but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the **District** system unless otherwise established by agreement.

25.0 MISCELLANEOUS

- 25.1 Severability. If any portion of these **Rules and Regulations** is found invalid by a court of competent jurisdiction, the remaining sections of these **Rules and Regulations** shall be unaffected thereby.
- 25.2 Fees. The **District** may adopt fees and charges by resolution as it deems appropriate for services provided under these **Rules and Regulations**.
- 25.3 **District** Approval. Unless otherwise specified, when **District** approval and/or authorization is required by these **Rules and Regulations**, approval shall be in writing and by the **CEO**.

26.0 VIOLATIONS AND REMEDIES

- 26.1 The **District** shall seek to enforce these **Rules and Regulations** by progressive measures to obtain compliance. Notwithstanding the foregoing, the **District** may enforce violation of these **Rules and Regulations** by commencement of legal or equitable proceedings for damages, remedial costs and attorney fees and costs. In addition any violation of these **Rules and Regulations** is punishable by a civil penalty for each day of violation as set on the **District's** schedule of **District Rates, Fees and Other Charges** plus any costs the **District** has incurred to cure the violation or damages of any kind to the **District's** system at the discretion of the **CEO**. Each day of violation shall be a separate violation. In

Exhibit A

addition to this administrative proceeding to recover a civil penalty, legal, injunctive or equitable relief to abate the violation, the **District** may also terminate **Water Service** as a violation of these **Rules and Regulations**.

- A. Notice of Violation shall be given to the **User** by first class U.S. mail to the **User's** address as shown on the **District's** records.
 - B. The notice shall specify the violation and the date the civil penalty will commence to accrue which shall be a date not less than 10 days from the date of the notice and also the daily accrual of civil penalty until remedied. The notice shall also state any remedial costs incurred by the **District** to cure the violation or any other damage incurred by the **District**.
 - C. The notice assessing the civil penalty (and other costs or damages asserted by **District**) shall provide that the total amount assessed shall be final on the date stated unless the **User** requests a hearing in writing delivered to the **District** within 10 days of the notice.
 - D. If a hearing is requested, the **CEO** will set a schedule for submission of written documents or other relevant evidence and a time for hearing as provided in Section 26.3.
 - E. The **CEO** will make a decision within 30 days of the close of the hearing. The **CEO** may:
 - i. Deny the appeal and affirm the assessment of the civil penalty (and other costs or damages asserted);
 - ii. Affirm the appeal and remove the civil penalty assessment
 - iii. Make such other decision equitable under the circumstances.
 - F. The **CEO's** decision may be reviewed by writ of review in the Circuit Court of the State of Oregon for Washington County if the Petition for Writ is filed within 30 days of the decision.
- 26.2 If a violation of these **Rules and Regulations** exists and the **District** takes action to remedy the violation, then the **User** shall be responsible for all remedial costs and damages incurred. Remedial costs shall mean all labor, materials and costs incurred by or on behalf of TVWD to cure the violation
- 26.3 Any person aggrieved by a ruling or interpretation of the provisions of this ordinance, or who has received a Notice of Civil Penalty under Section 26.1 may submit a written appeal to the **CEO** within 10 days of the decision or Notice. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant and any other reasons for appeal.
- 26.4 The **CEO** shall study the matter, hear testimony and provide for additional written argument if necessary and issue a written decision to the appellant affirming, denying or modifying the interpretation or ruling or Notice of Civil Penalty.
- 26.5 If the appellant considers that their grievance has not been handled satisfactorily, they may apply to the **CEO** for reconsideration of the matter within 30 days from the date of the written decision. The **CEO** may either affirm, modify or reverse the decision without further hearing in writing. In the alternative the **CEO** may appoint a Hearings Officer to make an independent review of the case, provide for a hearing, consider the existing record, additional briefs and hear additional testimony on the matter. The Hearings

Exhibit A

Officer may also limit review to the record. Within 60 days from receipt of the appeal, the **CEO** or Hearings Officer will prepare a written decision affirming, affirming in part, or denying the matter which shall be sent to the appellant.

- 26.6 Decisions of the **CEO** or Hearings Officer shall be the final decision of the **District** reviewable by the Circuit Court of the State of Oregon for Washington County, solely and exclusively under the provision of ORS 34.010 to 34.100. Exhaustion of administrative remedies is required prior to initiation of legal proceedings.

27.0 REVISION AND MODIFICATION OF THESE RULES, REGULATIONS AND CHARGES

Only the **Board** may amend these **Rules and Regulations**. For these **Rules and Regulations**, the **District** may adopt implementing policies.

28.0 CONSTITUTIONALITY, SAVING CLAUSE

If any clause, sentence, paragraph, section or portion of these **Rules and Regulations** for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of these **Rules and Regulations**.



TUALATIN VALLEY
WATER DISTRICT

ORDINANCE NO. 01-22

AN ORDINANCE OF THE TUALATIN VALLEY WATER DISTRICT, OREGON, AUTHORIZING THE ISSUANCE OF WATER REVENUE BONDS

WHEREAS, the District is authorized to issue revenue bonds for a public purpose under ORS 287A.150 and related statutes (the "Act"). Revenue bonds issued under the Act may be payable from all or any portion of the water system revenues of the District. The District is also authorized to issue bonds to refund revenue bonds pursuant to ORS 287A.360 to 287A.375; and

WHEREAS, the District may authorize revenue bonds under the Act by nonemergency ordinance. The District may not sell the revenue bonds under the Act until the period for referral of the nonemergency ordinance authorizing the revenue bonds has expired. If a nonemergency ordinance authorizing the revenue bonds is referred, the District may not sell the revenue bonds unless the voters approve the revenue bonds; and

WHEREAS, the District now finds it financially feasible and in the best interests of the District to authorize the issuance of revenue bonds under the Act in order to finance capital assets of the water system, including but not limited to the District's portion of the Willamette Water Supply System and Willamette Intake Facilities, including pumps, pipelines, the water treatment plant and the reservoir (collectively, the "System Improvements"); and

WHEREAS, it may be desirable to issue revenue bonds to finance the System Improvements under one or more financing structures, including as water revenue bonds with a first lien on net revenues of the District's water system ("First Lien Bonds"), as water revenue bonds with a subordinate lien on net revenues of the District's water system, as short-term water revenue bonds or refunding bonds, and to one or more lenders, including the federal government and State of Oregon through their lending programs; and

WHEREAS, the District enacts this ordinance to authorize the issuance and sale of water revenue bonds in an amount sufficient to produce net proceeds of up to \$100 million for costs of System Improvements, to refund water revenue bonds that are issued to provide interim financing and to refund water revenue bonds that produce debt service savings or achieve a favorable reorganization of outstanding bonds;

WHEREAS, prior to the issuance of the water revenue bonds, the District desires to incur certain capital expenditures with respect to the System Improvements from available moneys of the District and wishes to declare its official intent to reimburse itself for any such expenditures from the proceeds of borrowings authorized by this ordinance.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. Issuance of Bonds for System Improvements.

- a. The District hereby authorizes the issuance of revenue bonds pursuant to ORS 287A.150 in an amount that is sufficient to provide net proceeds of up to \$100 million to pay for costs of System Improvements, plus additional amounts that are required to pay capitalized interest, fund bond reserves for bonds authorized by Section 1.a and Section 2 of this ordinance and to pay costs related to the financings. The District estimates that the total principal amount of revenue bonds required for this purpose will not exceed \$115 million. The bonds shall be issued and sold in accordance with the Act.
- b. The bonds authorized by this ordinance shall be special obligations of the District that are payable solely from water system revenues and related amounts that the District pledges to pay the bonds. The District may issue the bonds authorized by this ordinance as First Lien Bonds pursuant to its Master Water System Revenue Bond Declaration dated as of August 2, 2019, (the "Master Declaration") or with a subordinate lien on the net revenues of the water system.
- c. No bonds authorized by Section 1.a of this ordinance may be sold and no purchase agreement for any of those bonds may be executed until the period for referral of this nonemergency ordinance has expired. If this ordinance is referred, the District may not sell the bonds authorized by Section 1.a of this ordinance unless the voters approve those bonds.

Section 2. Issuance of Refunding Bonds. The District hereby authorizes the issuance of refunding bonds pursuant to applicable Oregon statutes to refinance any water revenue bonds that are issued pursuant to Section 1.a of this ordinance to provide interim financing and to refund any water revenue bonds that produce debt service savings or achieve favorable reorganization. The refunding bonds authorized by this Section 2 may be issued in an aggregate principal amount sufficient to refund any water revenue bonds selected by the District Official pursuant to Section 3.k of this ordinance, plus amounts required to pay costs related to the refunding bonds.

Section 3. Delegation. When and if this ordinance takes effect, the Chief Financial Officer, the Chief Executive Officer or the employees of the District designated by the District's Chief Executive Officer or Board of Commissioners to act on behalf of the District under this ordinance (each of whom is referred to herein as a "District Official") are each hereby authorized, on behalf of the District and without further action by the Board of Commissioners, to:

- a. Issue the revenue bonds authorized by this ordinance (the "Water Bonds") in one or more series, which may be sold at different times, and issue any series of Water Bonds as First Lien Bonds pursuant to the Master Declaration, or with a subordinate lien on water system revenues.
- b. Issue the Water Bonds as short or intermediate term bonds to provide interim financing for System Improvements and enter into lines of credit or similar documents which permit the District to draw Water Bond proceeds over time.
- c. Participate in the preparation of, authorize the distribution of the official statements and any other disclosure documents for each series of the Water Bonds, as applicable.
- d. Subject to the limits of this ordinance, establish the final principal amounts, lien status, maturity schedules, interest rates, redemption terms and other terms for each series of Water Bonds.
- e. Either publish a notice of sale, receive bids and award the sale of that series to the bidder complying with the notice and offering the most favorable terms to the District or select one or more underwriters or lenders and negotiate the sale of that series with those underwriters or lenders and execute and deliver a bond purchase agreement or other document in connection with such sale.

- f. Prepare, execute and deliver one or more documents that will specify the terms under which the Water Bonds are issued and the administrative provisions that apply to the Water Bonds, including any supplements or amendments to the Master Declaration.
- g. Enter into covenants with owners or credit enhancement providers that are designed to obtain more favorable terms for the District, including covenants required by the Water Infrastructure Finance and Innovation Act, if the District borrows under that program, or by the State, if the District borrows under State lending programs.
- h. If all or any portion of the Water Bonds is secured by a subordinate lien on water system revenues, establish a master second lien water revenue bond declaration or similar document to memorialize the terms under which that series and future series of subordinate lien bonds may be issued.
- i. Make contributions to bond reserve accounts that the District Official determines are desirable and determine the reserve requirement, if any, for each series of the Water Bonds.
- j. Select water revenue bonds to be refunded, refund any Water Bonds that are issued to provide interim financing with other short, intermediate or long-term term bonds, and call, refund and defease any water revenue bonds that produce net debt service savings or a favorable reorganization.
- k. Undertake to provide continuing disclosure for any series of Water Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission or lender requirements, as applicable.
- l. Apply for credit ratings on any series of Water Bonds, as necessary.
- m. Apply for and purchase municipal bond insurance, reserve sureties or other forms of credit enhancements for any series of Water Bonds and enter into related agreements.
- n. Appoint and enter into agreements with escrow agents, paying agents, verification agents and other professionals and service providers for the Water Bonds.
- o. Issue any qualifying series of Water Bonds as “tax-exempt bonds” bearing interest that is excludable from gross income under the Internal Revenue Code of 1986, as amended, (the “Code”) and enter into covenants for the benefit of the owners of those series to maintain the excludability of interest on those series from gross income under the Code.
- p. Designate any qualifying series of Water Bonds as “qualified tax-exempt obligations” pursuant to section 265(b)(3) of the Code, if applicable.
- q. If the federal government approves subsidy payments or tax credits for municipal bonds and those subsidies or tax credits are estimated to reduce the net debt service payments for the Water Bonds, issue any series of Water Bonds as eligible for those federal subsidies or tax credits, and enter into related covenants to maintain the eligibility of such series of Water Bonds for those subsidies or tax credits.
- r. Issue any series of Water Bonds as “taxable bonds” bearing interest that is includable in gross income under the Code.
- s. Designate any series of Water Bonds as “green bonds” if applicable and appoint other professionals and service providers needed to provide such designation.

- t. Monitor and comply with all covenants related to the Water Bonds and enter into agreements with partner entities related to the same.
- u. Execute any documents and take any other action in connection with the Water Bonds which the District Official finds will be advantageous to the District.

Section 4. Unless referred, this ordinance shall take effect on the 30th day after it is enacted.

Section 5. Declaration of Intent to Reimburse. The District hereby declares its official intent to reimburse itself with the proceeds of the Water Bonds for any expenditures on the System Improvements paid prior to the issuance of the Water Bonds. This declaration is adopted as an official action of the District in order to comply with United States Treasury Regulation 1.150-2.

Section 6. Pursuant to Oregon Revised Statute Chapter 198, the ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 15th day of June 2022, and the 20th day of July 2022.

Section 7. This ordinance was adopted following a second reading by the affirmative vote of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 20th day of July 2022, and was signed by the presiding officer and attested to by the secretary.

Jim Duggan, Vice President

Jim Doane, Secretary





TUALATIN VALLEY
WATER DISTRICT

ORDINANCE NO. 01-23

AN ORDINANCE AMENDING AND RESTATING RULES AND REGULATIONS SECTION 7.0 LEAK ADJUSTMENT POLICY

WHEREAS, under the authority of ORS 264.306, the Board of Commissioners of the Tualatin Valley Water District previously adopted Rules and Regulations which provided for usage of the District's water system and which have been amended from time to time; and

WHEREAS, the Board of Commissioners finds that it is necessary to adopt, amend and restate the Leak Adjustment Policy in Section 7.0 of the Rules and Regulations set forth in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, this change to the Leak Adjustment Policy is necessary to enable the implementation of other key District procedures for improved customer services so that immediate adoption is necessary and an emergency is declared to exist; and

WHEREAS, this ordinance shall fix the effective date of the Rules and Regulations attached hereto and at that time the current Section 7 of the Rules and Regulations shall be superseded and repealed, and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. Section 7, Leak Adjustment Policy of the Rules and Regulations attached hereto as Exhibit A, and incorporated by reference, are hereby adopted as of the effective date below. The Chief Executive Officer may apply this policy to pending water loss adjustment requests.

Section 2. This ordinance is on file at the District's administrative office and is available for review. The District Recorder is instructed to send a certified copy of this ordinance to the County Clerk and publish the required notices under ORS 198.560.

Section 3. This ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date and place of the of the meeting and gave a brief description of the ordinance to be considered at the meeting, and that copies of the ordinance are available at the office of the District. The presiding officer caused the notice to be published not more than 10 days or less than four days before the meeting in a newspaper of general circulation.

Section 4. Pursuant to Oregon Revised Statute Chapter 198, the ordinance was read at one special and one regular meeting of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 1st day of August 2023 and the 16th day of August 2023.

Section 5. An emergency is hereby declared to exist. This ordinance was adopted following a second reading by the unanimous vote of the District Board of Commissioners at its regular meeting on the 16th day of August 2023, and was signed by the presiding officer and attested to by the secretary.

Section 6. This ordinance shall take effect on August 17th at 12:01 a.m. and current Section 7 of the current Rules and Regulations are repealed at that time.

Todd Sanders, President

Jim Doane, Secretary



RULES AND REGULATIONS

Revision Date: ~~December 15, 2021~~ August 16, 2023

Adopted By Ordinance No. 01-~~23~~²⁴

Under The Authority Of

Oregon Revised Statutes 264.306

TUALATIN VALLEY WATER DISTRICT

1850 SW 170th Avenue

Beaverton, Oregon 97003

(503) 848-3000

www.tvwd.org

TUALATIN VALLEY WATER DISTRICT

RULES AND REGULATIONS

1.0 PREFACE

- 1.1 The Tualatin Valley Water District (**TVWD**) is a unit of local government defined by ORS 174.109 organized and operating under Chapter 264 of the Oregon Revised Statutes. The purpose of **TVWD** is to supply its **Users** with water for domestic (municipal and industrial) purposes as provided by law and, in connection therewith, may supply, furnish and sell water over and above the needs of its **Users** to any persons, corporations or associations, either within or outside the District, or to other communities, water districts or municipal corporations.
- 1.2 **TVWD** is governed by the authority vested in a **Board** of five commissioners residing within **TVWD's** boundaries and elected by voters. Regular monthly meetings are held by the **Board**. These meetings are open to the public.

2.0 DEFINITIONS

- 2.1 **"Board"** shall mean the Board of Commissioners of the Tualatin Valley Water District.
- 2.2 **"CEO"** shall mean the Chief Executive Officer of the Tualatin Valley Water District or the Chief Executive Officer's designee.
- 2.3 **"Class Code"** shall mean the code assigned to each **Customer Connection** by the **District** to determine applicable **Rates, Fees and Other Charges** for that **Customer Connection**.
- 2.4 **"Connection Charges"** shall be the current service installation charge and meter installation charge as adopted by the **Board**.
- 2.5 **"Customer"** shall mean any **User** who purchases water from **TVWD**.
- 2.6 **"Customer Connection"** shall mean the point at which the **District Service Line/Service Connection** connects to the **Customer Service Line** or **Fire Service Line**.
- 2.7 **"Customer Service Line"** shall mean any pipes, valves, fitting or appurtenances beginning at the outlet of the **Meter Assembly** into the premises served, excluding **Fire Service Systems**.
- 2.8 **"Developer"** shall mean any person or entity who has a written agreement with an **Owner** that authorizes the **Developer** to act on behalf of the **Owner** to obtain any permit or approval from the **District** for design and construction of water system improvements to serve **Owner's** property.
- 2.9 **"District"** shall mean the Tualatin Valley Water District.
- 2.10 **"District Service Line/Service Connection"** shall mean the pipe, valves, stops and fittings from a main to the outlet of the **Meter Assembly**.

EXHIBIT A

- 2.11 **“District Standards”** shall mean the latest revision of the **District’s** Water System Design and Construction Standards.
- 2.12 **“District’s System”** shall include the network of pipelines, reservoirs, pump stations, hydrants and other appurtenances necessary for the delivery of water to the **User’s System** and shall include all **District Service Lines** thereto.
- 2.13 **“Fire Service System”** shall include, 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 System** shall be owned and solely maintained, repaired and replaced by the **Owner** from the **District’s** valve where the **Fire Service System** connects into the **District’s System** or from the downstream side of the last connection to a portion of the **District’s System** (such as a public fire hydrant, **District Service Line**, etc.).
- 2.14 **“Meter Assembly”** is defined as meter, meter box and/or vault, valves, tailpiece, bypass, yoke and other appurtenances to which the **User’s System** is connected.
- 2.15 **“Owner”** shall mean and include any person or entity who owns the property or structures served or to be served by the **District**.
- 2.16 **“Rates, Fees and Other Charges”** shall mean the current rates, fees and charges as adopted by the **Board**.
- 2.17 **“Rules and Regulations”** shall mean these **Rules and Regulations** as adopted by ordinance by the **Board**.
- 2.18 **“Service Area”** shall be that area included within the corporate limits of the **District**, and such other territory as the **Board** shall determine to provide **Water Service**.
- 2.19 **“System Development Charges”** shall mean charges assessed as authorized by Ordinance 01-12 and subsequent revisions.
- 2.20 **“TVWD”** shall mean the Tualatin Valley Water District.
- 2.21 **“User”** shall mean any person, entity, or occupant of the premises receiving **Water Service**.
- 2.22 **“User’s System”** shall consist of those parts of the facilities beyond the termination of the **District’s System** that are utilized in conveying water to points of use, including the **Customer Service Line** and **Fire Service System**.
- 2.23 **“Water Main”** shall mean any pipe located in the public right-of-way or within an easement on private property which is owned or maintained by the **District** for the purpose of distributing water to **Users** and servicing fire hydrants.
- 2.24 **“Water Service”** shall mean the delivery of water to the **User**.

EXHIBIT A

- 2.25 “Water Supply Shortage Plan” shall mean the **District’s** approved **Water Supply Shortage Plan** incorporated by reference.

3.0 PURPOSE

These **Rules and Regulations** establish the conditions by which the **District** will conduct its business and operations and how **Customers** may receive service.

4.0 DISTRICT OWNERSHIP

- 4.1 The **District** owns the **District’s System** unless otherwise agreed in writing.
- 4.2 No person or entity other than those authorized by the **District** shall construct, maintain, operate, repair or alter the **District’s System**.
- 4.3 No person or entity other than those authorized by the **District** shall make a **Service Connection** or disconnect an existing **Service Connection**.
- 4.4 At all times, **Owners, Customers** and **Users** shall provide the **District** with safe, reasonable and efficient access to the **District’s System** and the **District’s Service Line to conduct operations, maintenance, repair and replacement of the District’s System and consent is granted as a condition of service**. District will endeavor to provide notice reasonable under the circumstances.

5.0 COMPLIANCE WITH RULES AND REGULATIONS/CONTRACT FOR SERVICE

- 5.1 By requesting or receiving **Water Service** from the **District, Customers** and **Users** agree to abide by these **Rules and Regulations**.
- 5.2 Water shall not be used from a new or proposed service until authorized by the **District**.
- 5.3 Every **User** grants to the **District**, its agents and employees the right at all reasonable times to enter upon the **User’s** premises to determine compliance with these **Rules and Regulations**. District will endeavor to provide notice reasonable under the circumstances.

6.0 USE OF WATER

- 6.1 The **District** will furnish water for lawful domestic, household, business, industrial, irrigation, community use and for fire protection purposes as the **District’s System** may reasonably supply and as may be approved by the **Board**.
- 6.2 The **District** may enter into contracts to allow for sale or trade of water to other water providers. Said contracts must be approved by the **Board**.

1. 6.3 No person shall use water supplied by the District to create or operate a public or private water system within the District Service Area unless approved by the District and any other required governmental approval is obtained.

- 6.4 In the event that the Board or its designee shall determine that conditions exist which require the restriction or prohibition of use of water in order to comply with the District's Water Supply Shortage Plan or to protect the health, safety or welfare of Users, the Board or designee 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.
- 6.5 Any User using water in violation of the adopted Rules and Regulations shall be given notice in writing by the District of said violation. The notice shall advise the User that if unlawful use is not discontinued, the Water Service to the premises may be terminated, in addition to payment of fees, charges and civil penalties adopted by the Board. The notice of violation and termination shall be delivered to the User of the premises at which the unlawful use is occurring. If the District is unable for any reason to serve a written notice to the User, the written notice may be posted on the property and the posting shall constitute delivery of notice.
- 6.6 Water Service may be terminated immediately without notice if the use is a threat to health, safety or welfare as determined at the sole discretion of the District.
- 6.7 The District allows no waste or unauthorized use of water. Users will be responsible for all water use in the User's System.

7.0 Water Loss Adjustment Policy

Adjustments for the billing(s) for water consumption based on water loss resulting from a leak or leaks in any portion of the User's System or plumbing on or within the User's property may be made one time per calendar year per meter.

- 7.1 To request a billing adjustment to a User account for water losses resulting from leaks in the User's System or plumbing, the User shall:
- A. Repair leaks within 30 days of the date the leak(s) are discovered or reasonably should have been discovered;
 - B. File a request for billing adjustment form within 90 days of the date of the leak repair describing the cause of the water loss, the repair(s) made to the User's System or plumbing and the dates the repairs were made.
- 7.2 If it is determined by the CEO that a water loss for a User account has occurred by reason of a leak(s) in the User's System or plumbing, and the User has complied with the procedures set forth in the preceding sections, then an adjustment shall be calculated in accordance with the following:
- A. For purposes of calculating the water loss adjustment, the CEO shall consider the amount of water consumed in the same period of the previous year as ordinary and normal water usage by the User.

EXHIBIT A

Water consumption greater than the normal amount of the previous year shall be deemed excess water use.

- B. An adjustment allowance will consist of ~~50% of~~ the excess water use for no more than three billing periods (six months total) if billed on a bi-monthly basis and no more than six billing periods (six months total) if billed on a monthly basis.
- C. The billing(s) to the **User** shall be adjusted in an amount equal to the ~~of~~ based on the average operational variable unit cost of water applied to the excess water volume. The average operational variable unit cost of water shall be determined by the Chief Financial Officer on an annual basis and include such costs as purchased water, pumping power, chemicals, and other costs that vary with the quantity of water delivered to the District's customers. ~~rate in effect for the loss period multiplied by the adjustment allowance.~~ This adjusted amount shall be included on credited to the **User's** account after repairs have been completed. ~~During the loss period, the peaking charges for consumption are excused, if in the prior year no peaking water charges were applied.~~

~~7.3~~ Alternative Method for Calculation of Ordinary and Normal Water Usage for Non-Residential Accounts.

- ~~A. Shall only be used for the purposes of calculating the water loss adjustment for a **User** on a non-residential account that has made repairs to a water loss condition which lasted longer than one calendar year.~~
- ~~B. **User** must complete requirements set forth by 7.1.B.~~
- ~~C. For purposes of establishing ordinary and normal water usage by the **User** following the completion of repairs, the **CEO** shall consider the amount of water consumed for the subsequent three complete billing periods if billed bi-monthly or six billing periods if billed monthly.~~
- ~~D. For the purpose of calculating the water loss adjustment, staff will compare the reestablished ordinary and normal usage to the same period of the previous year. Water usage greater than the ordinary and normal usage shall be deemed excess water use.~~
- ~~E. An adjustment allowance will consist of 50% of the excess water use for no more than three billing periods (six months total) if billed on a bi-monthly basis and no more than six billing periods (six months total) if billed on a monthly basis.~~

7.43 If multiple leak requests are submitted from the same **User**, the **CEO** shall determine the eligibility for the water loss request.

7.54 The Water Loss Adjustment Policy may be used in cases of unexplained water loss, fire protection, vandalism, or theft of water beyond the reasonable control of the **Customer**, as determined in the discretion of the **CEO**.

8.0 SERVICE CONNECTION

8.1 **Service Connections** shall be provided only from **District Water Mains** and shall be located at such points as the **District** shall determine in its sole discretion, all in accordance with **District Standards**.

8.2 Request for a new water **Service Connection** shall be made to the **District**. No meter installations or connections will be made until all currently adopted **Connection Charges** and **System Development Charges** have been paid in full.

8.3 Unless authorized by the **District** in writing, a **Service Connection** shall provide water to only one single-family dwelling per real property parcel (tax lot). Multi-family dwellings or multiple service uses such as office buildings, commercial malls or industrial **Users** will be served via a master meter.

Unless authorized by the **District** in writing, each tax lot or structure receiving service shall have its own water connection. All accessory buildings and premises used as a part of such dwelling, business or institution may be served from such connection as approved by the **CEO**. In the case of a commercial or industrial property with multiple **Users** on a single tax lot, more than one **Service Connection** may be provided upon approval by the **District** after payment of the appropriate fees.

8.4 No **User** shall extend the **Customer Service Line**, without **District** approval, to furnish water to any residence, business, institution or other premises on the same or neighboring tax lot(s) other than that occupied by the **User**.

8.5 All **Service Connections** shall be installed by the **District** unless specifically authorized in writing by the **District**. Work performed will be performed in accordance with **District Standards** relating to size, materials, location and methods of installation. The charges shall be as set forth in the **Rates, Fees and Other Charges**.

8.6 **Customer's** capacity from meter purchase shall be limited to that obtained during original purchase and subsequent upgrades regardless of other system improvements that allow greater capacity.

8.7 **Users** shall make a request to the **District** for all **Water Services** desired.

8.8 Removal or relocation of a **Service Connection** shall be at the expense of the party requesting the change. If the District relocates the Service Connection, the Owner shall grant access to the District to relocate the Service Connection. The **District** shall not bear responsibility for reconnection of the **Customer Service Line**. No **Service Connection** extension can be made unless approved in writing by the **District**.

8.9 The **District** reserves the right to relocate the **District Service Line/Service Connection** within the utility easement as necessary to accommodate water system improvements or street improvements or for other similar activities. By virtue of connecting to the **District's System** the **Customer** authorizes the **District** to reconnect the **District Service Line/Service Connection** to the **Customer Connection** when necessary. District will endeavor to provide reasonable notice under the circumstances.

9.0 TEMPORARY SERVICE

9.1 A **User** who is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits may make a request to the **District** for a temporary irrigation meter.

EXHIBIT A

The **User** will be required to pay a Temporary Irrigation Meter Fee and Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

9.2 The **District** may grant temporary **Water Service** during construction and for special events approved for such service by the **District**. The length of time and conditions of temporary **Water Service** shall be determined by the **District** at the time of application.

All costs for installing and removing these temporary services shall be paid by the **User** in advance. Such costs shall be determined by the **District** and shall include, but are not limited to:

- A. Labor
- B. Material
- C. Equipment rental
- D. Overhead
- E. Monthly fixed charges (if applicable)

If the actual cost of installing and removing these temporary services exceeds the estimated cost, the applicant shall pay the excess cost to the **District** within 30 days after billing by the **District** of the actual cost. If the actual cost of providing the temporary service is less than the estimated cost, the **District** shall refund the difference to the applicant after determination of actual cost.

The **User** will be required to pay all applicable Water Volume and Fixed Charges as specified in the **Rates, Fees and Other Charges**.

10.0 CUSTOMER SERVICE LINES

- 10.1 The **User** is solely responsible to pay the cost to install the **Customer Service Line** from the **Meter Assembly** to the structure to be served.
- 10.2 **Customer Service Lines** shall be installed in accordance with applicable plumbing codes and other specialty codes.
- 10.3 No pump equipment shall be connected to a **Customer Service Line** without prior written approval from the **District**.
- 10.4 The **User** shall be solely responsible for maintenance, repair and replacement of the **Customer Service Line** and associated appurtenances.
- 10.5 The **District** is not responsible for **Customer Service Lines**.
- 10.6 Relocation of the meter that causes the customer service line to be relocated or reconnected shall follow the provisions of Section 8.8 and 8.9.

11.0 CLASS CODES, RATES, FEES AND OTHER CHARGES

The **District** will assign a **Class Code** for each **Customer Connection**. **Class Codes** will be used to determine applicable **Rates, Fees and Other Charges**.

1. **Class Code 1 – Residential** shall consist of **Customer Connections** serving a dwelling unit, whether a shared structure or freestanding, where one District meter serves only one dwelling unit.
2. **Class Code 2 – Residential Multi-Family** shall consist of **Customer Connections** serving two or more dwelling units.
3. **Class Code 3 - Non-Residential** shall consist of **Customer Connections** not serving one or more dwelling units. Class Code 3 does not include **Customer Connections** classified in Class Code 4, Class Code 5 or Class Code 6.
4. **Class Code 4 - Production Processes** shall consist of **Customer Connections** that would otherwise be in Class Code 3 but where the water passing through a **District** meter is used in a production process.
5. **Class Code 5 - Fire Lines** shall consist of **Customer Connections** for **Fire Service Lines** on private property where water can only be used for fire suppression.
6. **Class Code 6 – Irrigation** shall consist of **Customer Connections** where water passing through a **District** meter can only be used for seasonal agricultural or landscaping purposes and not returned to a wastewater utility system.
7. **Class Code 7 - Temporary Irrigation** shall consist of **Customer Connections** that are for temporary irrigation where the **Customer** is required to install temporary meters for a limited period of up to two years for the irrigation of water quality facilities and other landscaping requirements as specified by development permits.
8. **Class Code 8 – Local Government/Water Provider** shall consist of **Customer Connections** that are for local government water providers and **Customers** that have a wholesale rate approved by the **District Board** of Commissioners.

The **District** shall establish **Rates, Fees and Other Charges** for use of water, services and property of the **District** by resolution. A copy of the established **Rates, Fees and Other Charges** shall be available on the **District** website and on file in the **District** office for examination by the public during business hours.

12.0 METER READING AND BILLING

- 12.1 Meters shall be read at regular intervals as determined by the **District**.
- 12.2 The **User** is responsible for ensuring safe and efficient access to the **Meter Assembly** at all times. Access to the meter requires six feet vertical clearance above the meter box and two feet clearance around.

EXHIBIT A

12.3 Whenever it is necessary to enter a building to access the **Meter Assembly**, a safe passageway must be maintained by the **User**, free and clear of obstructions of any kind from the building entrance to the **Meter Assembly**.

12.4 The **User** consents to the right of **TVWD** employees or agents to trim vegetation and remove obstructions as necessary to maintain access to the **Meter Assembly**. Costs incurred by **TVWD** to gain access to the **Meter Assembly** may be billed to the **User**.

12.5 If the **District** determines that it is unable to read a meter, billing shall be calculated in accordance with the following:

B. **A.** ***The District will estimate water consumption based on available historical data.***

B. A true-up bill will be produced during the next billing cycle when an actual read is obtained.

12.6 If it appears to the **District** that a meter fails to register accurately, the **District** will estimate water consumption based on available historical data and may test the meter under Section 14.0.

12.7 A **User** may request that the meter be re-read if there is a reasonable basis to conclude the bill is in error.

13.0 PAYMENTS FOR SERVICE

13.1 Bills from the **District** shall be due, payable and delinquent in accordance with the terms set forth by the **District**.

13.2 The **District** may turn off water supply to the premises for which payment is delinquent. The service will be restored after acceptable terms of payment are arranged for all delinquent bills, including charges established within the **Rates, Fees and Other Charges**.

13.3 The **District** has contracted, and retains the right to establish contracts with, other agencies for the purpose of billing for said agency's services and collections. The terms of those contracts regarding allocation of payments received are incorporated by reference. Future contracts or amendments to existing contracts shall be incorporated by reference upon approval by the **Board**.

13.4 Outstanding charges owed to the **District** may be transferred to a **Customer's** new account within the **District**.

The **District** may collect unpaid charges incurred by a **Customer** at previous service locations within the **District** as part of the **Customer's** current water bill. These unpaid charges are subject to current collection terms set forth by the **District**.

14.0 METER ACCURACY AND TESTING

EXHIBIT A

- 14.1 The **District's** meters shall operate within the standards established by the American Water Works Association (AWWA) Section C700.
- 14.2 A **User** may request the meter be tested by making a request for such testing to the **District**:
- A. If the test shows the water meter registers outside the AWWA standard, the meter shall be repaired or replaced at no cost to the **User** for a new meter, parts or labor.

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.

- B. If the test shows that the water meter registers within the AWWA standard, the **User** shall pay for the test in accordance with **District's Rates, Fees and Other Charges**. The cost for the test shall be billed by the **District**, and the **District** may charge a **User** for water delivered, not to exceed one year prior to the testing.
- 14.3 The **District** may audit, test or replace the meter at any time at the **District's** discretion.

15.0 RESPONSIBILITY FOR DAMAGES OR INJURIES

- 15.1 The **User** is responsible for all damage or injury resulting from the failure to properly construct, maintain, repair or correct conditions in the **User's System**.
- 15.2 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.
- 15.3 The **User** shall be liable for any damage to the **District's System** which is caused by an intentional, reckless, or negligent act of the **User**, his tenants, agents, employees, contractors, licensees or permittees. The **User** responsible for the damage or tampering may be fined and/or have service terminated.
- 15.4 Only the **District** may operate, modify or alter the **District's System**. Violators shall be responsible for any damage and adverse effects to water quality or availability of water due to unauthorized operation, modification or alteration of the **District's System**. In addition to the foregoing, Violators shall be subject to the schedule of fines and civil penalties as established by the **District's Rates, Fees and Other Charges**.
- 15.5 The **User** is responsible for compliance with all city and county codes and requirements related to maintenance of their property and plumbing system.

16.0 WATER SERVICE INTERRUPTION

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 to the User's property caused by interruptions of **Water Service** or fluctuation of pressure unless caused by the District's negligence.

17.0 CONNECTION TO ANOTHER WATER SUPPLY

No other water supply shall be connected to the **Customer Service Line** without written approval of the **CEO and in accord with Section 18.0**.

18.0 CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION

Service Connections shall be protected against backflow into the **District's System** as required by the **District**. Service of water may be terminated if a backflow prevention assembly required by the **District** is not installed, tested, maintained, repaired or replaced; or if it is found that a backflow prevention assembly has been removed or bypassed; or if an unprotected cross-connection exists. Service may be terminated following written notice and expiration of the time to cure conditions or defects. Furthermore, service may be terminated immediately without notice if an immediate threat to public health and safety has been determined by the **District**. In all cases, service will not be restored until such conditions or defects are corrected.

The **User** consents to and 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** cross-connection control requirements exists and that compliance requirements are met. If no accommodations are made to allow access, the **District** may require a reduced pressure backflow prevention assembly to be installed at the **Customer Connection** at the expense of the **User**, consistent with Oregon Administrative Rules. Nothing herein shall prevent the District from terminating service as provided in this Section.

19.0 EXTENSION OF DISTRICT'S SYSTEM

Owners shall extend all **Water Mains** the entire distance between opposite boundaries of the property to be served (to and through), and, when required by the District, design, construct and make appropriate connections to other parts of the **District's System** as determined by the District using industry best practices to provide redundancy of service, typically through the provision of looped systems. When the line extension will be on Owner/Developer's property and the District, in its sole and absolute discretion, does not require Owner to design and construct water system facilities to and through the property, then an easement shall be granted by the Owner to the District unconditionally authorizing the District to construct future improvements. **Water Mains** shall be located within public right-of-way or, if necessary, within easements approved by the District.

Unless authorized by the **CEO**, projects must be designed and constructed in accordance with **District Standards** approved by the **CEO** and Chief Engineer. All extensions shall be constructed only by the **District** or by a contractor acceptable to the **District**. Contractors shall anticipate and allow for inspection by the **District** during construction. All connections for services shall be made in the manner elsewhere set forth in these **Rules and Regulations**. Prior to final acceptance, the project must be demonstrated to operate and perform as intended.

The methods to extend the Water System are:

- 19.1 **Owner/Developer** Extension. An **Owner/Developer** other than the **District** may request to extend the **District's System**, in conformance with these **Rules and Regulations** and the **District's Standards**, at their sole cost and expense. Parties using non-**District** funds for construction of water improvements

shall select an engineer or contractor of their choice who meets the **District's** requirements, including qualifications of the engineer and contractor.

- 19.2 All extensions of the **District's System** require plan submission, review and written **District** approval.
- 19.3 **Owner** Request. Upon request of the **Owner**, the **District** may, at its sole discretion, construct system improvements at the expense of the **Owner**. The cost and scheduling of the extension and improvements shall be determined by the **District**.

Installation or construction shall not commence until the applicant has paid a deposit in advance to the **District** in an amount estimated by the **District** to cover the cost of construction of the **District's System** extension. Following completion of construction, the **District** shall determine the actual cost of the project, including overhead, supervision and engineering. The **District** shall refund to the applicant any part of the deposit which exceeds the actual project cost, or the applicant shall pay to the **District** the actual project cost less the deposit already paid.

- 19.4 **District** Extension. The **District** may extend the **District's System** when, in the opinion of the **District**, the public convenience and welfare is best served by such construction.

At its sole discretion and where it appears equitable that the cost of such construction be apportioned, the **District** may apportion all or any part of the cost of the construction of the **District's System** among the persons as may at any subsequent time apply for a **Service Connection** from said extension. The charge shall be at an amount established by the **District**.

No **Service Connection** or **Fire Service Line** shall be made by the **District** until the Owner has paid in advance to the **District** the apportioned charge for the construction of the extended **District's System**, **Connection Charges** and the appropriate **System Development Charge**.

- 19.5 Local Improvement District or Assessment District. The **District** may extend its **District's System** upon written request of the **Owners** of abutting property. It may also extend the **District's System** through property intended to be developed under the applicable zoning and development code. The **District** may require formation of a local improvement district or assessment district or other such security for payment as it deems appropriate. The process for formation of a Local Improvement District or Assessment District shall be according to then applicable statutory requirements. Terms of payment shall be approved by the **Board**.

- 19.6 After acceptance by the **District**, the facilities shall be the sole property of the **District** and maintained and operated by **District** personnel exclusively. If the **District's System** extension is by a party other than the **District**, the property **Owner** and its contractor shall be responsible for a warranty period of one year after acceptance for failures of materials or workmanship. Conveyance documents shall be in a form acceptable to the District in its sole discretion.

- 19.7 Additional or Upsized Facilities. The **District** may elect to require or install larger **Water Mains** or other system improvements other than needed for the applicant's service requirements; construction of additional facilities to connect with other parts of the District's water system; and to provide improved service to the property or other benefitted properties. When it does so, the **District** will pay for the incremental cost. Where the additional facilities provide a partial benefit to the applicant's property,

the District shall determine the amount of the District's contribution in its sole discretion. All cases shall be considered separately, and the requirements for each project shall be specified to the applicant. Design and construction shall be by the **District**, the **District's** contractor or a contractor approved by the **District**.

19.8 Reimbursement District and Agreement. Pursuant to ORS 264.320, the **District** may establish Reimbursement District and Agreement subsequent to the following:

C. A. *The line must be designed and constructed according to **District Standards**, be inspected and accepted by the **District** as part of the **District's System**. The term of the reimbursement agreement shall not exceed 10 years from the date of acceptance.*

D. B. *The request for partial reimbursement shall be made by petition in a form acceptable to the **District** prior to the time of acceptance of the facilities by the **District**.*

E. C. *The petition shall include, among other things:*

- i. Plans and designs;
- ii. Identification of the applicant's property and address;
- iii. Identification of the benefitted properties and owners' addresses;
- iv. Map of the benefitted properties;
- v. Project costs incurred or anticipated to be incurred;
- vi. Proposed equitable calculation methodology that takes into account one or more of the following factors: benefitted parcels, number of current connections, potential connections depending upon future zoning, ease of connection of property once improvements are made and other relevant factors to achieve an equitable allocation of project costs;
- vii. Payment of all fees

- F. D.** Upon receipt of the petition, the **CEO** shall review the petition for completeness. If incomplete, the applicant shall provide the necessary information to be deemed complete. If deemed complete, the **CEO** will review the petition to determine which, if any, facilities are eligible for reimbursement, costs eligible for reimbursement, and identification of properties that would be required to pay the reimbursement fee, and other factors listed in C.vii. The **CEO** shall prepare a staff report and submit it to the **Board**.
- G. E.** The **CEO** shall then notify the applicant of the hearing date before the **Board** where the Reimbursement District and Agreement will be considered. Notice of such hearing shall be mailed by first class U.S. mail to the names and mailing addresses of the applicant and the benefitted owners as shown in the Washington County real property records not less than 14 days before the hearing date asking for written comment and the right to appear before the **Board** and comment. The notice shall include a map of the benefitted properties; a description of the project; the proposed amount of reimbursement for each potential lot that could connect to the extension according to the petition, which includes the lots of the person or entity extending the line.
- H. F.** At the time of hearing, the **Board** shall review the staff report, take testimony or comment from all affected landowners regarding the formation of the Reimbursement District and Agreement, the actual or estimated costs, and the extent to which properties are benefitted. Testimony or comment may be in written or electronic form or by oral testimony. The **Board** will close the hearing and then decide whether to approve the petition, approve the petition as modified by the **Board**, or deny the petition. If denied, the matter shall be concluded. If approved, then by resolution the **Board** shall declare formation of the Reimbursement District, identify the benefitted properties and allocate costs in accordance with the final adopted methodology. If the project has not been completed, then the Reimbursement District will be approved but final application of the methodology and allocation of costs shall not be made until final project costs are known and the **Board** holds a subsequent hearing to make a final determination. The notice and hearing process shall follow the procedure of Section E. The **Board's** decision shall be limited to the final project costs and allocation according to the previously approved methodology.
- I. G.** If the **Board** approves formation of the Reimbursement District, the **CEO** shall prepare a Reimbursement Agreement that, among other things, identifies all benefitted properties, allocates the cost among them, states the term of the agreement, provides that it is binding on the property and meets all requirements for recording. In no event will the reimbursement obligation extend longer than the minimum period provided by ORS 264.320. If the final project costs are unknown at the time of **Board** approval because the project has not been completed, a Preliminary Reimbursement Agreement shall be prepared and recorded stating that the costs are estimates and that when final project costs and allocations are determined, a Final Reimbursement Agreement shall be recorded with the final costs.

- J. H. Within 15 days following the Board's decision on the formation of the Reimbursement District, or the decision of final project costs, the District shall mail notice of the decision to all Landowners at the addresses set forth in the petition, unless the landowner provides a different address.**
- K. I. The applicant or affected landowners may appeal the decision by writ of review under ORS Chapter 34 within 60 days of the Board's decision.**
- L. J. As the identified properties connect, all applicable Rates, Fees and Other Charges and the reimbursement amount shall be collected by the District. The District will remit to the person any reimbursement amount collected within a reasonable time after receipts by the District.**

20.0 TERMINATION OF WATER SERVICE

- 20.1 Termination at Request of **User**. When a **User** notifies the **District** that the **User** wishes service discontinued, the **District** will read the meter and issue a bill including applicable charges for termination.
- 20.2 Termination of Service by **District**. **Water Service** shall be subject to termination upon the occurrence of:
- A. Non-payment of charges established within the **District's** adopted **Rates, Fees and Other Charges**.
 - B. Non-compliance with these **Rules and Regulations** relating to matters other than non-payment of charges.
 - C. Lack of use of a **Water Service** for a period indicating intent to terminate **Water Service**.
 - D. Threat to health, safety or welfare determined at the sole discretion of the **District**. Under these conditions, termination may be immediate and without notice.
- 20.3 Notice of the **District's** intent to terminate service shall be sufficient if given by any of the following:
- A. U.S. mail sent to the **User's** address as shown in **District** records, or
 - B. By hand delivery of a notice to the **User's** service premises.

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 **User's** service address and the period of compliance shall be as set forth in the notice.

- 20.4 Limitation of Liability. The **District** shall not be liable or responsible for any consequential, indirect, punitive, incidental or damages of any kind regardless of the basis of the claim or in any way arising out of the **District's** termination of **Water Service**.

21.0 STANDBY FIRE PROTECTION SERVICE CONNECTIONS

- 21.1 Standby fire protection systems connected to a **Fire Service Line** shall be installed in accordance with applicable **District** regulations and **District Standards**. The **User** shall make adequate provision to prevent the use of water from such systems for purposes other than fire extinguishing or fire system testing.
- 21.2 Charges for the **Fire Service Line** shall be according to the **District's Rates, Fees and Other Charges**.
- 21.3 The **User** shall pay the cost of installing the **Fire Service Line**, including the cost of **Water Mains** and related improvements in compliance with applicable **District Rates, Fees and Other Charges** and **System Development Charges**.
- 21.4 All water provided by the **District** through a **Fire Service Line** shall be provided subject to the supply and pressure existing in the water distribution system. The **District** shall not be responsible for loss or damage resulting from lack of water supply or water pressure.
- 21.5 If water is used from a **Fire Service Line** in violation of these **Rules and Regulations**, the **User** shall pay for the water based on an estimate of the amount used as determined by the **District's Rates, Fees and Other Charges**. Any unauthorized use during a subsequent billing period within 12 months of a prior notification of unauthorized use, shall be subject to the schedule of fines and penalties as established by the **District's Rates, Fees and Other Charges**.

Following the third occurrence of unauthorized fire line use, within 12 months of the first such use, the **User** is subject to **Final Remedies** as determined by the **CEO**, plus estimated water usage billed at the Block 1 rate. The **CEO** shall determine final remedy on a case-by-case basis and may include one or more of the following:

- A. A fine of \$5,000 for the unauthorized use;
 - B. A civil penalty calculated on per day (Section 26.1.A);
 - C. A System Development Charge may be assessed on the service. The District shall determine the amount of the System Development Charge. The CEO may thereafter treat the fire line as a standard Service Connection subject to all applicable provisions of these Rules and Regulations.
 - D. Termination of Water Service (Section 20.2); or
 - E. Such other actions as the CEO determines appropriate under the circumstances.
- 21.6 The **CEO** may waive or postpone invoking a final remedy, as described above, for **Customers** that work in good faith with the **District** to resolve illegal fire line use issues in a timely manner, as determined by the **CEO**.
- 21.7 The **District** is not the owner nor in any way responsible for operation, maintenance, repair and replacement of the **Fire Service Lines**.

22.0 USE OF FIRE HYDRANTS

- 22.1 No person except those authorized by the **District** shall operate or attempt to operate any fire hydrant.
- 22.2 The **District** may authorize use of a fire hydrant for a temporary water supply. The **User** shall pay all **Rates, Fees and Other Charges** for such service and shall conform to **District** permit requirements for hydrant use, including but not limited to, compliance with applicable cross connection control and backflow prevention requirements.
- 22.3 **Users** requesting flow testing of fire hydrants shall pay appropriate **Rates, Fees and Other Charges**.
- 22.4 Unless otherwise approved by the **CEO**, only the **District** may change or relocate a fire hydrant. If a **User** requests hydrant change or relocation and the **District** approves, the **User** shall pay all costs of such change.
- 22.5 Privately owned fire hydrants are to be used only for fire emergencies or other uses specifically authorized by the **District**.
- 22.6 The fire service agency shall not be deterred or hindered from gaining immediate access to fire protection equipment and hydrants. Access from the street to the fire hydrant, fire protection system and control valves shall be maintained in a manner such that the equipment or fire hydrants are immediately visible. A clear space shall be maintained within a 3-foot radius of fire hydrants, fire protection equipment and control valves. Access from the street to the hydrant shall be kept clear if the travel distance is greater than three feet. **Owners** shall be responsible for pruning or removing landscaping or other obstructions that restrict access to or visibility of a fire hydrant.
- 22.7 A minimum of 18 inches shall be maintained between the ground and the center of the lowest hydrant discharge port. No change in grade (ground elevation) is allowed within a 3-foot radius of the hydrant without approval of the **District**.
- 22.8 The **District** designates hydrant paint color. No change in hydrant color is allowed unless specifically authorized by the **District**.
- 22.9 Upon notice from the **District**, the property **Owner** shall within 14 days remove such obstruction or correct non-compliance. If the obstruction is not removed or compliance is not achieved within the required time, the **District** shall take corrective action. If the obstruction presents an urgent safety hazard, the **District** may take immediate corrective action. All charges associated with corrective actions, including those taken by the **District**, will be the responsibility of the property **Owner**.

23.0 OPERATION OF SYSTEM

Unless authorized by the **District**, no person shall operate any portion of the **District's System**.

24.0 SERVICE OUTSIDE THE DISTRICT

EXHIBIT A

- 24.1 Water shall not be provided outside the **District** boundary without approval of the **Board**, except where such service is temporarily required to avoid a health, safety or other emergency hazard.
- 24.2 Service to other water providers and to **Users** located outside of the boundaries of the **District** will be made only if the **District** has sufficient surplus water and pursuant to an agreement approved by the Board. Such services may be discontinued at any time if the best interest and the needs of the **District** so require.
- 24.3 The **Board** reserves the right to increase the rate to any **User** outside the **District** without notice. The rate schedule for sale of water to other governmental units will be set by the **Board**, but will not be less than the cost of producing and transporting the water to the other governmental unit's connection to the **District** system unless otherwise established by agreement.

25.0 MISCELLANEOUS

- 25.1 Severability. If any portion of these **Rules and Regulations** is found invalid by a court of competent jurisdiction, the remaining sections of these **Rules and Regulations** shall be unaffected thereby.
- 25.2 Fees. The **District** may adopt fees and charges by resolution as it deems appropriate for services provided under these **Rules and Regulations**.
- 25.3 **District** Approval. Unless otherwise specified, when **District** approval and/or authorization is required by these **Rules and Regulations**, approval shall be in writing and by the **CEO**.

26.0 VIOLATIONS AND REMEDIES

- 26.1 The **District** shall seek to enforce these **Rules and Regulations** by progressive measures to obtain compliance. Notwithstanding the foregoing, the **District** may enforce violation of these **Rules and Regulations** by commencement of legal or equitable proceedings for damages, remedial costs and attorney fees and costs. In addition any violation of these **Rules and Regulations** is punishable by a civil penalty for each day of violation as set on the **District's** schedule of **District Rates, Fees and Other Charges** plus any costs the **District** has incurred to cure the violation or damages of any kind to the **District's** system at the discretion of the **CEO**. Each day of violation shall be a separate violation. In addition to this administrative proceeding to recover a civil penalty, legal, injunctive or equitable relief to abate the violation, the **District** may also terminate **Water Service** as a violation of these **Rules and Regulations**.
- A. Notice of Violation shall be given to the **User** by first class U.S. mail to the **User's** address as shown on the **District's** records.
- B. The notice shall specify the violation and the date the civil penalty will commence to accrue which shall be a date not less than 10 days from the date of the notice and also the daily accrual of civil penalty until remedied. The notice shall also state any remedial costs incurred by the **District** to cure the violation or any other damage incurred by the **District**.

EXHIBIT A

- C. The notice assessing the civil penalty (and other costs or damages asserted by **District**) shall provide that the total amount assessed shall be final on the date stated unless the **User** requests a hearing in writing delivered to the **District** within 10 days of the notice.
 - D. If a hearing is requested, the **CEO** will set a schedule for submission of written documents or other relevant evidence and a time for hearing as provided in Section 26.3.
 - E. The **CEO** will make a decision within 30 days of the close of the hearing. The **CEO** may:
 - i. Deny the appeal and affirm the assessment of the civil penalty (and other costs or damages asserted);
 - ii. Affirm the appeal and remove the civil penalty assessment
 - iii. Make such other decision equitable under the circumstances.
 - F. The **CEO's** decision may be reviewed by writ of review in the Circuit Court of the State of Oregon for Washington County if the Petition for Writ is filed within 30 days of the decision.
- 26.2 If a violation of these **Rules and Regulations** exists and the **District** takes action to remedy the violation, then the **User** shall be responsible for all remedial costs and damages incurred. Remedial costs shall mean all labor, materials and costs incurred by or on behalf of TVWD to cure the violation
- 26.3 Any person aggrieved by a ruling or interpretation of the provisions of this ordinance, or who has received a Notice of Civil Penalty under Section 26.1 may submit a written appeal to the **CEO** within 10 days of the decision or Notice. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant and any other reasons for appeal.
- 26.4 The **CEO** shall study the matter, hear testimony and provide for additional written argument if necessary and issue a written decision to the appellant affirming, denying or modifying the interpretation or ruling or Notice of Civil Penalty.
- 26.5 If the appellant considers that their grievance has not been handled satisfactorily, they may apply to the **CEO** for reconsideration of the matter within 30 days from the date of the written decision. The **CEO** may either affirm, modify or reverse the decision without further hearing in writing. In the alternative the **CEO** may appoint a Hearings Officer to make an independent review of the case, provide for a hearing, consider the existing record, additional briefs and hear additional testimony on the matter. The Hearings Officer may also limit review to the record. Within 60 days from receipt of the appeal, the **CEO** or Hearings Officer will prepare a written decision affirming, affirming in part, or denying the matter which shall be sent to the appellant.
- 26.6 Decisions of the **CEO** or Hearings Officer shall be the final decision of the **District** reviewable by the Circuit Court of the State of Oregon for Washington County, solely and exclusively under the provision of ORS 34.010 to 34.100. Exhaustion of administrative remedies is required prior to initiation of legal proceedings.

27.0 REVISION AND MODIFICATION OF THESE RULES, REGULATIONS AND CHARGES

EXHIBIT A

Only the **Board** may amend these **Rules and Regulations**. For these **Rules and Regulations**, the **District** may adopt implementing policies.

28.0 CONSTITUTIONALITY, SAVING CLAUSE

If any clause, sentence, paragraph, section or portion of these **Rules and Regulations** for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of these **Rules and Regulations**.



TUALATIN VALLEY
WATER DISTRICT

ORDINANCE NO. 02-23

AN ORDINANCE AMENDING ORDINANCE 01-12 REGARDING SYSTEM DEVELOPMENT CHARGES

WHEREAS, Oregon Revised Statutes 223.297 to 223.314 establish procedures to provide a unified framework for the imposition of System Development Charges by governmental units for specified purposes and to establish that the charges may be made for Capital Improvements and for a Methodology to determine System Development Charges; and

WHEREAS, on August 17, 2012, the Board of Commissioners of Tualatin Valley Water District adopted Ordinance 01-12 Amending and Restating System Development Charges in accordance with Oregon Revised Statutes 223.297 through 223.314; and

WHEREAS, on May 21, 2014, the Board of Commissioners of Tualatin Valley Water District amended Ordinance 01-12 by adopting Ordinance 02-14 Amending Ordinance 01-12 Relating to System Development Charges and Declaring an Emergency; and

WHEREAS, pursuant to Ordinance 01-12, by resolution the Board of Commissioners has adopted the System Development Charges, separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development; and

WHEREAS, the Oregon Legislature recently adopted House Bill 2984, also known as 2023 Oregon Laws Chapter ___, to provide for conversion of commercial structures and uses to residential use with authorization to collect additional System Development Charges based upon the increased impact of such residential use; and

WHEREAS, this Ordinance amends Ordinance 01-12 to be in conformance with the new law and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. The following provisions of Ordinance 01-12 are amended and restated as follows:

A. Section 3 F shall read:

“Where an existing meter is located on a parcel that is *developed, redeveloped*, partitioned or subdivided, the owner may apply to the District to assign the meter and any existing system development charge credit to the *development, redevelopment*, lot or apportioned among the lots that comprised the original parcel. The credit shall apply to the *development, redevelopment or the lot designated by the owner.*”

B. New Section 3 H (6) is added:

“Credits will be valued at the cost of:

1. Where available, the current SDC based on the size of the existing meter; or
2. Where available, the number of ERUs purchased under the requirements Section 3 D of the District’s SDCs Ordinance 01-12 or as subsequently amended; or
3. A reasonable estimate of the number of ERUs calculated by the District using prudent engineering principles,

for developed or redeveloped properties that are converted from commercial uses to residential uses, including affordable housing as defined in 2023 House Bill 2984, 2023 Oregon Laws Chapter __. The credit will be applied to the total system development charges calculated for the number of ERUs and the owner shall pay the amount of system development charges remaining after application of the credit.”

Section 2. Severability

If any clause, section, or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

Section 3. Implementing Regulations

The Board of Commissioners may adopt by resolution any regulations or administrative procedures to implement the provisions of this Ordinance.

Section 4. Pursuant to Oregon Revised Statute Chapter 198, the ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 18th day of October 2023, and the 15th day of November 2023.

Section 5. This ordinance was adopted following a second reading by the affirmative vote of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 15th day of November 2023, and was signed by the presiding officer and attested to by the secretary.

Section 6. This ordinance shall take effect on December 15, 2023, at 12:01 a.m., being at least 30 days from the date of its adoption.

Todd Sanders, President

Jim Doane, Secretary

