

AGENDA

Thursday, April 12, 2018 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2018-22

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. HOUSING AUTHORITY CONSENT AGENDA

1. Resolution #1929 - Approval of supporting the Housing Authority of Clackamas County Application for a Metro 2040 Community Planning and Development Grant for the Clackamas Heights Master Plan

II. PRESENTATION *(Following are items of interest to the citizens of the County)*

1. Proclaiming Grange Month in Clackamas County (BCC)

III. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

IV. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Second Reading of Ordinance No. 03-2018 Amending the Rules and Regulations of Water Environment Services Regarding Sanitary Sewer and Surface Water Management Services (Ron Wierenga, Water Environment Services) *1st reading was 3-29-18*
2. Public Hearing on the Proposed Housing and Community Development 2018 Action Plan (Chuck Robbins, Community Development)

V. CONSENT AGENDA *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of a Construction Contract with SUBCOM Excavation & Utilities, LLC for the Clackamas County Veterans' Village Site Improvements Project

2. Approval of Amendment No. 6 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority for Operation as the Local Public Health Authority for Clackamas County

3. Approval of a Service Agreement with Walmart Pharmacies Partnering with Clackamas County Health Centers Division in Participation with Pharmacy Services Agreement

B. Department of Transportation & Development

1. Approval and Authorization to Purchase Rodda Paint for Road Striping in Clackamas County - *Procurement*

C. Finance Department

1. Resolution No. _____ for a Clackamas County Supplemental Budget (Less than 10%) for Fiscal Year 2017-2018

2. Resolution No. _____ for Clackamas County for Budgeting of New Specific Purpose Revenue for Fiscal Year 2017-2018

3. Resolution No. _____ for Clackamas County for Transfer of Appropriations for Fiscal Year 2017-2018

D. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

2. Request by the Clackamas County Sheriff's Office to Enter into an Intergovernmental Agreement with North Clackamas School District for School Resource Officer's for the 2017-2018 School Year - *CCSO*

3. Approval of the Victims of Crime Act 2018-2019 Support Services and Training Grant Award for the District Attorney's Office - *DA*

E. Technology Services

1. Approval of Amendment No. 3 to the Service Level Agreement between Clackamas Broadband eXchange and Lightspeed Networks for Dark Fiber Connection

F. Public & Government Affairs

1. Board Order No. _____ Approving an Extension of the Cable Television Franchise with Beaver Creek Cooperative Telephone Company

VI. SERVICE DISTRICT NO. 5

1. Approval of a Contract with EC Company for Construction Services for the SE McLoughlin Blvd. Phase 2 Street Lighting Improvements - *Procurement*

VII. COUNTY ADMINISTRATOR UPDATE

VIII. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. www.clackamas.us/bcc/business.html

April 12, 2018

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Resolution #1929 - Approval of supporting the Housing Authority of Clackamas County (HACC) Application for a Metro 2040 Community Planning and Development Grant for the Clackamas Heights Master Plan

Purpose/Outcomes	Approval of Resolution #1929 and Letter of Support for the Metro 2040 Community Planning and Development Grant for the Housing Authority of Clackamas County's Master Plan of Clackamas Heights project
Dollar Amount and Fiscal Impact	The 2040 Grant request for HACC's Clackamas Heights Master Plan is for \$220,000.
Funding Source	In-kind match from HACC and the City of Oregon City of up to \$55,000 in staff time and \$26,000 in cash match from HACC Reserve Account.
Duration	If awarded the 2040 Grant, the Clackamas Heights master planning process would begin in the spring of 2019 and continue through the FY 2020
Previous Board Action	The HACC Board authorized preparation of the application at their April 5, 2018 meeting.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Ensure safe, healthy and secure communities 2. Build public trust through good government
Contact Person	Chuck Robbins, HACC Executive Director 503-650-5666

BACKGROUND:

The Housing Authority of the County of Clackamas, a division of the Health, Housing & Human Services Department request the approval of an application to a Metro 2040 Community Planning and Development Grant. In January, 2018, Metro Regional Government released a funding notice for their 2040 Planning and Development Grants. Eligible applicants for these funds are local governments (cities and counties) within Metro's service district. Grant applications are due to Metro no later than April 20th, 2018.

Fifty percent (50%) of the funding available through the Metro 2040 Grant program is designated for projects that facilitate "equitable development," either by having a strong emphasis on development that serves historically marginalized communities and/or by promoting equitable housing.

The Housing Authority of Clackamas County (HACC) in partnership with the City of Oregon City, has prepared an application requesting \$220,000 in funds to complete a Master Plan for the Clackamas Heights community in Oregon City.

Funds will go toward completion of the following deliverables:

- Outreach/Communications Strategy with Public involvement
- Detailed site analysis
- Development capacity and market analysis
- Preferred Concept Design
- Financial Feasibility and Pro Forma Analysis
- Financing Plan for Federal, State, and local funding applications
- Economic Impact Analysis for job creation and economic opportunities
- Health Impact Assessment for the Clackamas Heights community

The expected development outcomes from the completion of the Clackamas Heights Master Plan are the construction of a mixed use, mixed income community that preserves and rebuilds existing affordable housing at the site, while creating opportunities for expanded housing choice and housing types (e.g. multi-family, single family, duplex etc). Additional development outcomes include improved pedestrian and transit access on the site and the potential for commercial and other uses.

At the April 5th, 2018 BCC Business Meeting, the Board was provided with the details of the application. Following their discussion, the BCC agreed that the application addressed important housing needs within the County and approved the request to submit an application.

Attached is Resolution #1929 supporting HACC's application and a letter of support from the HACC Board of Commissioners.

No general funds will be needed to fulfill match requirements. No other Clackamas County Department or Division will be applying for these funds during this funding cycle.

RECOMMENDATION:

Staff respectfully recommends adoption of Resolution #1929 of Support for Metro 2040 Community Planning and Development Grant for the Housing Authority of Clackamas County Clackamas Heights Master Plan and requests that Jim Bernard, Board Chair, approve and sign the letter of support.

Respectfully submitted,

Richard Swift, Director
Health, Housing and Human Services

In the Matter of Approving the Housing Authority of Clackamas County's Metro 2040 Community Planning and Development Grant for the Clackamas Heights Master Plan

Resolution No. 1929

WHEREAS, the Housing Authority of Clackamas County (HACC) in partnership with the City of Oregon City, is submitting a proposal to the Metro 2040 Community Planning and Development grant program requesting \$220,000 in funds to complete a Master Plan for the Clackamas Heights Public Housing community in Oregon City; and

WHEREAS, this proposal represents an important planning effort that, when completed, will help to leverage additional resources for affordable housing development within Clackamas County; and

WHEREAS, on April 5, 2018, the Board of County Commissioners discussed the application and indicated their full support for the proposal; and

WHEREAS, the Board of County Commissioners have approved the application, including the budget and proposed match for the application; and

WHEREAS, Metro requires HACC Board approval in the form of a board resolution; and

NOW, THEREFORE BE IT RESOLVED that the Board of Commissioners of the Housing Authority of Clackamas County authorize HACC staff to submit the above mentioned Metro 2040 Community Planning and Development Grant project application and application materials.

Dated this 12th day of April, 2018

BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY, OREGON

Chair

Recording Secretary

2040 Planning and Development Grants, Review Committee
Metro Regional Government
600 NE Grand Ave
Portland, OR 97232

April 12, 2018

RE: Letter of Support for Clackamas County Proposal: Clackamas Heights Master Plan

Dear Metro 2040 Grants Review Committee,

On behalf of the Clackamas County Board of Commissioners, I am writing in support of the proposal from our jurisdiction, the Clackamas Heights Master Plan, a proposal by the Housing Authority of Clackamas County (HACC).

The Housing Authority of Clackamas County (HACC) in partnership with the City of Oregon City, seeks to submit a proposal to complete a Master Plan for the Clackamas Heights Public Housing community in Oregon City. This proposal represents an important planning effort that, when completed, will help to leverage additional resources for affordable housing development within Clackamas County. The Board of Commissioners of the Housing Authority of Clackamas County fully supports this proposal.

This project represents significant community partnerships, opportunities for engagement in planning efforts, and the strong likelihood of development implementation. Given the merits of the proposal, the Board of Commissioners of the Housing Authority of Clackamas County is pleased to offer its full support for the Clackamas Heights Master Plan application.

Sincerely,

Jim Bernard, Chair
Board of Commissioners of the Housing Authority of Clackamas County



Proclaiming April 2018 as Grange Month in Clackamas County

Whereas, the Grange, founded on December 4, 1867, is celebrating its sesqui-centennial anniversary in 2017-18 and has been a grassroots movement for the benefit of American families and local communities; and

Whereas, the Grange has played a major role in the development of rural America over the course of three centuries,

Whereas, the Grange provides leadership, motivation and education to bring together rural and urban families and offer them opportunities for personal growth and individual expression; and

Whereas members of the 16 active granges in Clackamas County ignite a passion in our community for service and involvement; and

Whereas Grange members attend public meetings, inform themselves of local, state, and national issues, and speak on behalf of those working in agriculture, producing food, fuel, and fiber; and

Whereas the outcomes of Grange advocacy are felt by nearly every citizen of Clackamas County today;

Now, therefore, the Clackamas County Board of Commissioners do hereby Proclaim April 2018 as Grange Month in Clackamas County. We urge the Citizens of the County to recognize and participate in Grange activities and support Clackamas County Granges.

Dated this 12th day of April 2018

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Jim Bernard, Chair
Commissioner

Ken Humberston
Commissioner

Sonya Fischer
Commissioner

Paul Savas
Commissioner

Martha Schrader
Commissioner



Gregory L. Geist
Director

April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Ordinance No. 03-2018
Amending the Rules and Regulations of Water Environment Services Regarding
Sanitary Sewer and Surface Water Management Services

Purpose/Outcomes	Adoption of an ordinance amending the Sanitary and Surface Water Rules and Regulations for WES
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Indefinite.
Previous Board Action/Review	WES created on November 3, 2016 (Ordinance Nos. 05-2016 & 06-2016), and amended on May 18, 2017 (Ordinance Nos. 07-2017, 08-2017, & 09-2017). WES Regulations adopted June 22, 2017 (Ordinance No. 10-2017).
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This supports the WES Strategic Plan that customers will continue to benefit from a well-managed utility. 2. This project supports the County Strategic Plan to build public trust through good government.
Contact Person	Ron Wierenga, WES Environmental Services Manager, 503-742-4581 Greg Geist, WES Director, 503-742-4560
Contract No.	N/A

BACKGROUND:

As part of the ongoing efforts associated with the formation of the Water Environment Services (“WES”) partnership, Tri-City Service District (“TCSD”) and the Surface Water Management Agency of Clackamas County (“SWMACC”) were fully integrated into WES on July 1, 2017. The third member of the partnership, Clackamas County Service District No. 1 (“CCSD1”), is scheduled to be fully integrated by July 1, 2018.

On June 22nd, 2017, the Board of County Commissioners, acting as the governing body of WES, adopted a set of rules and standards for WES (“WES Regulations”). At that time, the WES Regulations consisted of the existing rules and regulations for TCSD and SWMACC.

In order to accomplish the integration of CCSD1 into WES, the existing sanitary sewer and surface water management rules and regulations covering CCSD1 need to be added to the current WES Regulations to ensure WES’ compliance with its National Pollutant Discharge Elimination System Permits issued under the Federal Clean Water Act, relating to both sewer and surface water services. A draft ordinance, with the proposed amendments to the rules and

regulations attached thereto as Exhibit A (“Amended WES Regulations”), is provided for second reading.

The Amended WES Regulations are a compilation of the existing rules for TCSD, SWMACC, and CCSD1, which have been updated to include rate zone-specific chapters consisting of the current TCSD, CCSD1, and SWMACC rules and regulations, respectively. There are no substantive changes in these proposed Amended WES Regulations, merely organizational structure.

WES is in the early stages of a comprehensive rules and standards update, which when completed in early 2019, will be specifically designed to function efficiently under the WES partnership model. The result of this comprehensive update will ensure ease of use and clear interpretation for all ratepayers and County staff.

This ordinance has been reviewed and approved by County Counsel.

RECOMMENDATION:

District staff respectfully recommends that the Board of County Commissioners of Clackamas County, as the governing body of Water Environment Services, hold a second public hearing and reading on the adoption of ordinance No. 03-2018 amending the WES Rules and Regulations for April 12th, 2018, at 10:00 AM in the Commissioners’ Hearing Room, 2051 Kaen Road, 4th Floor, Oregon City, OR, and subsequently adopt the amended WES Rules and Regulations regarding Sanitary Sewer and Surface Water Management Services.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Greg Geist", with a long horizontal flourish extending to the right.

Greg Geist, Director
Water Environment Services

ORDINANCE NO. 03-2018

An Ordinance Amending the Rules and Regulations Ordinance of Water Environment Services for Sanitary Sewer and Surface Water Management Services

WHEREAS, this matter comes before the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of Water Environment Services (“Board”), an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 (“District”); and

WHEREAS, the Board adopted Ordinance 10-2017 on June 22nd, 2017 (“WES Ordinance”), establishing District rules and regulations for sanitary sewer and surface water management services to ensure the District’s compliance with its National Pollutant Discharge Elimination System Permits issued under the Federal Clean Water Act (“District Rules and Regulations”); and

WHEREAS, pursuant to the Intergovernmental Partnership Agreement approved by the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 1 (“CCSD#1”), on November 3, 2016, the property, assets and permits of CCSD#1 are to be transferred to the District by July 1, 2018; and

WHEREAS, effectuation of the CCSD#1 transfer necessitates an amendment to the WES Ordinance to incorporate CCSD#1’s existing rules and regulations into the District Rules and Regulations;

WHEREAS, the amendments to the WES Ordinance attached hereto are found to be necessary for the proper operation and administration of the District (“Amended Rules and Regulations”);

NOW, THEREFORE, the Board of Commissioners of Clackamas County, acting as the governing body of Water Environment Services, ordains as follows:

- Section 1:** The Amended Rules and Regulations as shown in Exhibit A, attached hereto and incorporated by reference, are hereby approved and adopted as an ordinance of the District as of the effective date specified below.
- Section 2:** The Amended Rules and Regulations are on file at the District’s offices where they may be examined and will be published online promptly after adoption.
- Section 3:** This ordinance has been included in the published agenda at the adopting meeting. The agenda did state the time, date, and place of the meeting and gave brief description of the ordinance to be considered at the meeting, and states that copies of the ordinance are available at the offices of the District.
- Section 4:** Pursuant to Oregon Revised Statutes, Chapter 198, this ordinance was read at two regular meetings of the District’s Board on two different days, at least six days apart, prior to adoption thereof, to wit: the 29th day of March, 2018, and the 12th day of April, 2018.

Section 5: This ordinance was adopted by a majority of the members of the District Board at its regular meeting on the 12th day of April, 2018 and shall go into effect on July 1, 2018. 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.

ADOPTED this 12th day of April, 2018.

BOARD OF COUNTY COMMISSIONERS
Acting as governing body of
Water Environment Services

Chair

Recording Secretary

Exhibit A

WATER ENVIRONMENT SERVICES
RULES AND REGULATIONS

JULY 2018



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ZONE 3

CHAPTER 4: SANITARY SEWER AND SURFACE WATER RULES AND REGULATIONS FOR
RATE ZONE 2

CHAPTER 1
GENERAL PURPOSES AND PROVISIONS

SECTION 1 DECLARATION OF POLICY

1.1 PURPOSE

Water Environment Services (“WES”) is an intergovernmental entity within Clackamas County, Oregon. WES was organized pursuant to Oregon Revised Statutes Chapter 190 for the purpose of holding the assets of the Partner organizations and to provide for a singular management ability of the same. This management structure provides for a regional, consistent, and efficient way to plan for and provide North Clackamas County’s current and future wastewater and surface water needs in a way that protects public health and the environment while supporting economic development.

These Water Environment Services Rules and Regulations (“Rules and Regulations”) are established to serve a public use and promote the health, safety, prosperity, security, orderly and uniform administration of the affairs of WES, and general welfare of the inhabitants of the Tri-City Service District (“TCSD”), the Surface Water Management Agency of Clackamas County (“SWMACC”), and Clackamas County Service District No. 1 (“CCSD1”).

1.2 PARTNER(S)

WES is an entity consisting of TCSD, a regional provider of only sanitary sewer services, CCSD1, a regional provider of sanitary sewer and surface water management services, and SWMACC, a regional provider of only surface water management services. Each are individually commonly referred to as a "Partner" and collectively as the "Partners." TCSD and SWMACC were fully integrated into WES on July 1, 2017, and CCSD1 will become fully integrated on July 1, 2018.

1.3 BOARD

The Board of County Commissioners of Clackamas County (“Board”) is the governing body of WES. The business and affairs of WES shall be managed by the Board in accordance with Oregon Revised Statutes Chapter 190. All powers, privileges and duties vested in or imposed upon WES by law shall be exercised and performed by and through the Board, whether set forth specifically or implied in these Rules and Regulations. The Board may delegate to officers and employees of WES any or all executive, administrative, and managerial powers.

1.4 DECLARATION OF POLICY

It is intended that these Rules and Regulations shall be liberally construed to affect the general purposes set forth herein, and that each and every part hereof is separate, distinct and severable from all other parts. Omission from, and additional materials set forth in, these Rules and Regulations shall not be construed as an alteration, waiver or deviation from any grant of power, duty or responsibility or limitation or restriction imposed or conferred upon the Board by virtue of the statutes as now existing or as may hereafter be amended. Nothing contained herein shall be so construed as to prejudice, limit or affect the right of WES to secure the full benefit and protection of any laws which are now or hereafter may be enacted by the Oregon

State Legislature. These Rules and Regulations become effective on the date the ordinance is adopted by the Board and, to the extent there is a conflict, shall supersede all former TCSD, CCSD1, and SWMACC rules and regulations.

1.5 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

Upon the recommendation of the Director, or on its own motion, the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of WES, may promulgate new or amended rules pertaining to these Rules or Regulations. Except as specifically provided in these Rules and Regulations, any new or amended rule(s) will be adopted pursuant to ORS 198.510 through 198.600 and ORS 451.

1.6 SERVICE AREAS / WES RATE ZONES

The service area of WES encompasses the geographic boundaries of (i) the TCSD, which includes the City of West Linn, the City of Oregon City, the City of Gladstone, and certain unincorporated areas; (ii) SWMACC, which includes the City of Rivergrove and unincorporated areas of Clackamas County within the Tualatin River Drainage Basin; and (iii) the CCSD1, which includes the City of Happy Valley, certain unincorporated areas within the urbanized portion of the County, and certain unincorporated areas within Boring, Fischer's Forest Park, and Hoodland. The rate zones were established by the WES Intergovernmental Partnership Agreement executed by the parties on November 3, 2016, and amended on May 18, 2017.

1.6.1 TCSD / RATE ZONE 1

Tri-City Service District, Clackamas County, Oregon, was organized for the purpose of providing sewerage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage.

WES Rate Zone 1 is coterminous with the boundaries of TCSD, as they may be adjusted from time to time. Rate provisions listed in Chapter 2 only apply to the area known as 'Rate Zone 1.'

1.6.2 SWMACC / RATE ZONE 3

Surface Water Management Agency of Clackamas County, Clackamas County, Oregon, was organized for the purpose of protecting, maintaining and enhancing the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

WES Rate Zone 3 is coterminous with the boundaries of SWMACC, as they may be adjusted from time to time. Rate provisions listed in Chapter 3 only apply to the area known as 'Rate Zone 3.'

1.6.3 CCSD1 / RATE ZONE 2

Clackamas County, Oregon, Service District No. 1 was organized for the purpose of

providing sewerage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage. It was also formed for the purpose of protecting, maintaining and enhancing the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

WES Rate Zone 2 is coterminous with the boundaries of CCSD1, as they may be adjusted from time to time. Rate provisions listed in Chapter 4 only apply to the area known as 'Rate Zone 2.'

1.7 ENFORCEMENT OF RULES AND REGULATIONS

In the event WES must take an enforcement action to ensure compliance with these Rules and Regulations, any actions taken by WES shall be performed in accordance with the subsequent chapters within these Rules and Regulations.

1.8 SEVERABILITY

If any provision of these Rules and Regulations or the application thereof to any person or circumstance is held invalid, such determination shall not affect the enforceability of any other provision or application of these Rules and Regulations. A determination by a court of competent jurisdiction that any section, clause, phrase, or word of these Rules and Regulations or its application is invalid or unenforceable for any reason shall not affect the validity of the remainder of this Rules and Regulations or its application, and all portions not so stricken shall continue in full force and effect.

1.9 DELEGATION OF AUTHORITY TO THE DIRECTOR

Standards. The Director shall have the authority to promulgate such technical standards and requirements necessary to implement the purpose and intent of these Rules and Regulations, including but not limited to pipe type, size, connection requirements, elevation, grade, materials, and any other good and necessary item. Such standards shall be contained in one or more documents that are publicly available and WES shall provide 30 days public notice on its website of any potential change to such standards or requirements.

CHAPTER 2

SANITARY SEWER RULES AND REGULATIONS FOR RATE ZONE 1

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SECTION 1 DECLARATION OF POLICY

1.1 PURPOSE AND OBJECTIVES

Tri-City Service District, Clackamas County, Oregon, was organized pursuant to Chapter 451, Oregon Revised Statutes, for the purpose of providing sewerage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage within its boundaries. It is further declared to be the policy of the District to provide and offer sewage disposal service for such areas adjacent to the District as may, in the judgment of the District, be feasibly served upon such terms, conditions, and rates as the District shall, from time to time, determine. The objectives of these Rules and Regulations (“Rules and Regulations” or this Ordinance) are: (a) to advance public health and welfare; (b) to prevent the introduction of pollutants which will interfere with the operation of the sewage system or contaminate the resulting biosolids; (c) to prevent the introduction of pollutants which will pass through the sewage system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system; (d) to protect City and District personnel who may come into contact with sewage, biosolids and effluent in the course of their employment as well as protecting the general public; (e) to ensure that the District complies with its NPDES permit conditions, biosolids use and disposal requirements and other applicable Federal and State laws; (f) to improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and (g) to provide for the equitable distribution of the costs of the sewage system.

1.2 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

Upon the recommendation of the Director, or on its own motion, the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of the District, may promulgate new or amended rules pertaining to these Rules or Regulations. Except as specifically provided in these Rules and Regulations, any new or amended rule(s) will be adopted pursuant to ORS 198.510 through 198.600.

SECTION 2 DEFINITIONS

2.1 WORDS AND TERMS

Unless the context specifically indicates otherwise, the following words and terms, as used in this Ordinance, shall have the meanings hereinafter designated:

2.1.1 Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

2.1.2 Applicable Pretreatment Standards. Local, state, and federal standards, whichever are more stringent and apply to the Industrial User.

2.1.3 ASTM Specifications. The Standard specifications or methods of the American Society for Testing and Materials. Unless otherwise stated, it shall refer to the latest adopted revisions of said specifications.

2.1.4 Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under a standard laboratory procedure in five (5) days at a temperature of twenty degrees centigrade (20°C), expressed in milligrams per liter or parts per million. Laboratory determinations shall be made in accordance with the applicable techniques prescribed in 40 CFR Part 136.

2.1.5 Biosolids. Domestic wastewater treatment facility solids that have undergone adequate treatment to permit land application, recycling or other beneficial use.

2.1.6 Board. The Board of County Commissioners of Clackamas County, acting as the governing body of Tri-City Service District.

2.1.7 Building. Any structure containing sanitary facilities.

2.1.8 Building Drain. That part of the lowest piping of a sewerage system which receives the discharge from the drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.

2.1.9 Building Sewer. The extension from the building drain to the service connection.

2.1.10 Capital Improvement(s). Facilities or assets used for the purpose of providing sanitary sewerage collection, transmission, treatment and/or disposal.

2.1.11 Categorical Pretreatment Standards. National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a public sewer system by specific industrial categories. These standards are promulgated pursuant to Section 307(b) and (c) of the Clean Water Act.

2.1.12 City. The Cities of Oregon City, West Linn and Gladstone, Oregon.

2.1.13 Cleanout. A sealed aperture permitting access to a sewer pipe for cleaning purposes.

2.1.14 Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

2.1.15 Combined Sewer System. A conduit or system of conduits in which both sewage and storm water are transported.

2.1.16 Composite Sample. A series of samples mixed together so as to approximate the average strength of discharge to the sewer. A composite sample is collected over a period of time greater than 15 minutes, formed by an appropriate number of discrete samples which are: (a) collected at equal intervals and combined in proportion to wastewater flow; (b) are equal volumes taken at varying time intervals in proportion to the wastewater flow; or (c) equal volumes taken at equal time intervals.

2.1.17 Contractor. A person duly licensed or approved by the State of Oregon, the District or City to perform the type of work to be done under a permit or contract issued by the District or City.

2.1.18 County. Clackamas County, Oregon.

2.1.19 Day. A continuous twenty-four (24) hour period from 12:01 a.m. to 12:00 p.m.

2.1.20 Department of Environmental Quality, or DEQ. The State of Oregon, Department of Environmental Quality.

2.1.21 Development. The act of conducting a building operation, or making a physical change in the use or appearance of a structure or land, which increases the usage of any capital improvements or which creates the need for additional capital improvements.

2.1.22 Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.

2.1.23 Director. The Director of the Water Environment Services Department of Clackamas County, Oregon.

2.1.24 Discharger or User. Any person who causes wastes or sewage to enter directly or indirectly to the District or City sewerage system.

2.1.25 District. Tri-City Service District.

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

2.1.27 Dwelling Unit. A living unit with kitchen facilities including those in multiple dwellings, apartments, hotels, motels, mobile homes, or trailers.

2.1.28 Engineer. A registered professional engineer licensed to practice by the State of Oregon.

2.1.29 Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

2.1.30 Equivalent Dwelling Unit, or EDU. A unit of measurement of sewer usage which is assumed to be equivalent to the usage of an average dwelling unit. Equivalent Dwelling Unit (EDU) has the following definition for the purposes listed below:

(a) User Charge. A unit, based on water consumption and strength of sewage of a single dwelling unit, by which all users of the sanitary sewers may be measured.

(b) System Development Charge. A unit, based upon a single dwelling unit or its equivalent, for connecting to the District sewerage system.

2.1.31 Garbage. Solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

2.1.32 Government Agency. Any municipal or quasi-municipal corporation, state or federal agency.

2.1.33 Grab Sample. A sample which is taken from a waste stream on a onetime basis with no regard to the flow in the waste stream and without consideration of time.

2.1.34 Hauled Waste. Any waste hauled or transported by any method which may include but not be limited to drop tanks, holding tanks, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

2.1.35 Improvement Fee. A fee for costs associated with capital improvements to be constructed after the date this ordinance becomes effective.

2.1.36 Indirect Discharge. The discharge or the introduction of non-domestic pollutants or industrial wastes into the sewerage system from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317), including hauled tank wastes discharged into the sewerage system.

2.1.37 Industrial User. Any person who discharges industrial waste into the District and City sewerage system.

2.1.38 Industrial Waste. Any liquid, gaseous, radioactive or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources, or as defined by the Oregon State Department of Environmental Quality or the United States Environmental Protection Agency, exclusive of domestic sewage.

2.1.39 Inspector. A person designated by the District or City to inspect building sewers, service connections, and other installations to be connected to the District or City sewerage systems.

2.1.40 Installer. Either the owner of the property being served or a contractor doing work in connection with the installation of a service connection or building sewer under a proper permit from the District or City.

2.1.41 Interference. A discharge which, alone or in conjunction with a discharge from other sources, inhibits or disrupts the public sewer system, treatment processes or operations, or its biosolids processes, biosolids use or disposal, or which contributes to a violation of any requirement of the District's NPDES Permit or other permit issued to the District.

2.1.42 Local Collection Facilities. All sewerage facilities that are owned, operated and maintained by a City which collect and convey sewage to the District sewerage system.

2.1.43 May. The word "may" is permissive.

2.1.44 National Pollution Discharge Elimination System, or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

2.1.45 New Source. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced according to the deadlines and conditions of 40 CFR 403.3.

2.1.46 Operation, Maintenance, and Replacement; or O, M, & R. Those functions that result in expenditures during the useful life of the treatment works or sewerage system for materials, labor, utilities, administrative costs, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

2.1.47 This Ordinance. This Ordinance as adopted, any and all rules and orders adopted pursuant hereto, and any and all amendments to the Ordinance or an such rules or amendments. This Ordinance may also be referred to as Rules and Regulations.

2.1.48 Pass Through. A discharge which exits the POTW into waters of the state in quantities or concentration which alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the District's NPDES permit (including an increase in the magnitude or duration of the violation) or any other permit issued to the District.

2.1.49 Permit. Any authorization required pursuant to this or any other regulation of the District or City for connection of facilities to the public sewerage system and/or continued discharge of sewage to the public sewerage system.

2.1.50 Person. Any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, partnership, association, firm, trust or any other legal entity.

2.1.51 pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution. pH shall be determined using one of the applicable procedures prescribed in 40 CFR Part 136.

2.1.52 Pollutant. Any of the following, including but not limited to: dredged soil spoil, solid waste, incinerator residue, sewage, garbage, sewage biosolids, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

2.1.53 Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the public sewage system. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR, Section 403.6(d).

2.1.54 Pretreatment Requirement. Any substantive or procedural pretreatment requirement other than applicable pretreatment standard, imposed on an Industrial User.

2.1.55 Properly Shredded Garbage. The wastes from foods that have been shredded to such a degree that all particles will be carried freely under the flow and conditions normally prevailing in public sewers with no particle greater than one-half inch ($\frac{1}{2}$ ") in any dimension.

2.1.56 Publicly Owned Treatment Works, or POTW. A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by a governmental entity. This definition includes any public sewers that conveys wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the District who are, by contract or agreement with the District, users of the District's POTW.

2.1.57 Public Right-of-Way. Any public highway, road, street, avenue, alleyway, public place, public easement, or public right-of-way.

2.1.58 Public Sewer or Public Sewerage System. Any or any part of the facilities for collection, pumping, treating and disposing of sewage as acquired, constructed, or used by the District or City within the boundaries of the District.

2.1.59 Qualified Public Improvements. A capital improvement that is: (a) required as a condition of development approval; (b) identified in the District's adopted Capital Improvement Plan pursuant to ORS 223; and (c) not located on or contiguous to a parcel of land that is the subject of the development approval.

2.1.60 Receiving Waters. Any body of water into which effluent from a sewage treatment plant is discharged either directly or indirectly.

2.1.61 Reimbursement Fee. A cost associated with capital improvements constructed or under construction on the effective date of this Ordinance.

2.1.62 Replacement. Any actions which result in expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the treatment works or other facilities to maintain the capacity and performance for which such works were designed and constructed.

2.1.63 Rules and Regulations. This Ordinance and all amendments thereto.

2.1.64 Sanitary Sewer. A conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

2.1.65 Service Connection. That portion of a private sewer which has been constructed from the public sewer to the edge of the public right-of-way or sewer easement in which the public sewer is located.

2.1.66 Sewage. The water-carried human, animal, or vegetable wastes from residences, business buildings, institutions, and industrial establishments, together with groundwater infiltration and surface water as may be present. The admixture with sewage of industrial wastes or water shall be considered "sewage" within the meaning of this definition.

2.1.67 Sewage Disposal Agreement. An agreement between the District or City and any government agency or person providing for the delivery or receipt of sewage to or from the District sewerage system.

2.1.68 Sewage Treatment Plant. An arrangement of devices, structures, and equipment for treating sewage.

2.1.69 Sewer Easement. Any easement in which the District or City has the right to construct and maintain a public sewer.

2.1.70 Sewer Main Extension. Any extension or addition of the public sewer.

2.1.71 Sewer Service Area. An area served by sewage treatment facilities within the District or a defined geographic area which becomes a part of the District.

2.1.72 Sewer User. Any person using any part of the public sewerage system. In the case of tenants, the property owner shall also be considered the sewer user for that property.

2.1.73 Shall. The word "shall" is mandatory.

2.1.74 Significant Industrial User. The term significant industrial user means:

- (a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, subchapter N; and
- (b) Any other industrial user that: discharges an average of 25,000 gallons per day or more of processed wastewater to the sewerage system (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5%) percent or more of the average dry weather hydraulic or organic capacity of the District's treatment plant; or is designated as such by the District on the basis that the industrial user has a reasonable potential for

adversely affecting the treatment plant's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

- (c) Upon finding that an industrial user meeting the criteria of this definition has no reasonable potential for adversely affecting the District's operations or for violating any pretreatment standard or requirement, the District may at any time, on its own initiative or in response to a petition received from the industrial user, determine that such industrial user is not a significant industrial user.

2.1.75 Significant Non-Compliance. An Industrial User is in significant non-compliance if its violation meets one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined as those in which sixty-six percent or more of all the measurements taken during a six-month period exceeded (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (b) Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceeded the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (c) Any other violation of a Pretreatment effluent limit (daily maximum or longer-termed average) that the District determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of District or City personnel or the general public);
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or order for starting construction, completing construction, or attaining final compliance.
- (f) Failure to provide within 30 days after the due date, required reports, initial compliance reports, periodic compliance reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance;
- (h) Any other violation or group of violations, which the District determines will adversely affect the operation or implementation of the Pretreatment Program.

2.1.76 Slugload. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary discharge. Any discharge which exceeds, for a period of longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour flow during

normal operation or more than five (5) times a specified allowable concentration of any hazardous or toxic substance listed in, but not limited to, the toxic pollutant list set forth in Table II, attached to this Ordinance. In the case of batch discharges, the average flow shall be calculated using the actual discharge times.

2.1.77 Standard Industrial Classification, or SIC. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

2.1.78 Standard Methods. The examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

2.1.79 Storm Sewer. A sewer designed to carry only storm waters, surface runoff, street washwaters, or drainage.

2.1.80 Storm Water. Waters on the surface of the ground or underground resulting from precipitation.

2.1.81 Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering in accordance with the applicable procedures prescribed in 40 CRF Part 136.

2.1.82 System Development Charge. A reimbursement fee, an improvement fee or a combination thereof assessed or collected as a condition of connection to the sanitary sewer system. It shall also include that portion of a sanitary sewer connection charge that is greater than the amount necessary to reimburse the District for its average cost of inspecting connections to the sanitary sewer system. "System Development Charge" does not include (a) any fees assessed or collected as part of a local improvement district; (b) a charge in lieu of a local improvement district or assessment; or (c) the cost of complying with requirements or conditions imposed upon a land use decision.

2.1.83 Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a), 503(13), or other federal Acts.

2.1.84 Unit. A unit of measurement of sewer usage assumed to be equivalent to the usage of an average single family dwelling unit. A unit is equivalent to sewage of a strength and volume normally associated with an average single family dwelling unit or its equivalent. Where unit equivalency must be computed it shall be equivalent to: (a) 1,000 cubic feet of water consumption per month; (b) .449 pounds of BOD5 per day; and (c) .449 pounds of suspended solids per day.

2.1.85 Unpolluted Water or Liquids. Any water or liquid containing none of the following: free or emulsified grease or oil, acids or alkalis, substances that may impart taste and odor or color characteristics, toxic or poisonous substances in suspension, colloidal state or solution, odorous or otherwise obnoxious gases. Such water shall meet the current state standards for water use and recreation. Analytical determination shall be made in accordance with the applicable procedures prescribed in 40 CRF Part 136.

2.1.86 Upset. An exceptional incident in which an Industrial User unintentionally and temporarily is in a state of noncompliance with this Ordinance, due to factors beyond the reasonable control of the Industrial User, and excluding noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

2.1.87 Useful Life. The period during which a treatment works or other specific facility operates.

2.1.88 User Charge. The periodic charges levied on all users of the public sewerage system for the cost of operation, maintenance, and replacement; including but not limited to, any other costs, such as, but not limited to, debt service, debt service coverage, capital improvements, etc.

2.1.89 Water of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oregon or any portion thereof.

2.2 ADDITIONAL WORDS OR TERMS

Words, terms or expressions peculiar to the art or science of sewerage not hereinabove defined shall have the meanings given therefor in Glossary, Water and Wastewater Control Engineering, published in 1969 and prepared by a Joint Committee representing the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Federation.

2.3 PRONOUNS

Pronouns indicating number or gender in this Ordinance are interchangeable and shall be interpreted to give effect to the requirements and intent of this Ordinance.

2.4 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ASTM	American Society for Testing and Materials
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
DEQ	Department of Environmental Quality
EDU	Equivalent Dwelling Unit
EPA	Environmental Protection Agency
L	Liter
mg	Milligrams
mg/l	Milligrams per liter
OAR	Oregon Administrative Rules
ORS	Oregon Revised Statutes

SECTION 3 DISCHARGE REGULATIONS

3.1 GENERAL DISCHARGE PROHIBITIONS

3.1.1 Unpolluted Water and Storm Water

No persons shall discharge or contribute to the discharge of any storm water or other unpolluted water into the District or City sewerage systems.

3.1.2 Prohibited Substances

No persons shall discharge or cause to be discharged, directly or indirectly, into the public sewerage system any pollutant, substances, or wastewater which will interfere with the operation or performance of the public sewerage system, cause a pass through, have an adverse effect on the receiving stream, endanger life, limb or public property, or constitute a nuisance. Prohibited substances, shall include, but not be restricted to, the following:

- (a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to persons, property or the public sewerage system. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods of 40 CFR 261.21. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oils, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- (b) Any sewage containing pollutants in sufficient quantity either at a flow rate or pollutant concentration, singularly or by interaction with other pollutants, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters, or exceed the limitations set forth in federal categorical pretreatment standards. Toxic pollutants shall include, but not be limited to, any pollutant listed in the toxic pollutant list set forth in Table II, attached to this Ordinance.
- (c) Any sewage having a pH lower than 5.5 Standard Unit ("S.U.") or higher than 11.5 S.U., or having any corrosive property capable of causing damage or hazard to structures, equipment or persons.

Facilities with continuous monitoring of pH shall not exceed the pH range of 5.5 S.U. to 11.5 S.U. more than a total of 15 minutes on any single day (cumulative duration of all excursions) provided that, at no time shall any discharge of a pH be lower than 5.0 S.U. or at/or above 12.5 S.U.

- (d) Any solid or viscous substances in quantities or size capable of causing obstruction to the flow of sewers or other interference with the proper operation of the sewage treatment plant such as, but not limited to, ashes, cinders, sand, mud, straw, insoluble shavings, metal, glass, rags, feathers, tar, creosote, plastics, wood, animal paunch contents, offal, blood, bones, meat trimmings and wastes, fish or fowl heads, entrails, trimmings and wastes, lard, tallow, baking dough, chemical residues, paint residues, cannery waste, bulk solids, hair and fleshings, or plastic or paper dishes, cups, or food or beverage containers, whether whole or ground.
- (e) Any pollutant having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or having temperatures sufficient to cause the influent to the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius). If, in the opinion of the District, lower temperatures of such wastes could harm either the sewers, sewage treatment process, or equipment, or could have an adverse effect on the receiving streams or otherwise endanger life, health or property, or constitute a nuisance, the District may prohibit such discharges.
- (f) Any sewage containing garbage that has not been properly shredded to one-half inch ($\frac{1}{2}$ ") or less in any dimension.
- (g) Any sewage containing unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate), which may interfere with the operation of the sewerage system.
- (h) Any sewage with objectionable color not removed in the treatment process (such as, but not limited to, dye and printing wastes and vegetable tanning solutions).
- (i) Any slug discharge, which means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single discharge episode of such volume or strength as to cause interference to the sewerage system.
- (j) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into sewers for maintenance and repair.
- (k) Any hauled wastes or pollutants, except such wastes received at the District's sewage treatment plant under a District permit or at a District approved dump station pursuant to Section 10 of this Ordinance.
- (l) Any substance which may cause the District's sewage treatment plant to violate its NPDES Permit or the receiving water quality standards or any other permit issued to District or City.
- (m) Any wastewater which causes or may cause a hazard to human life or creates a public nuisance.

- (n) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to exceed limits established by State or Federal regulations.
- (o) Any substance which may cause the District's sewage treatment plant effluent or any other product of the District's sewage treatment process such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case, shall a substance discharged to the District's sewerage system cause the District to be in noncompliance with biosolids use or disposal criteria, guidelines, or regulations developed under Section 405 of the Clean Water Act; any criteria, guidelines, or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, the Clear Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used, or any amendments thereto.)
- (p) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.
- (q) Pollutants which result in presence of toxic gases, vapors, or fumes in the POTW that may cause acute worker health and safety problems.

3.2 DISCHARGE LIMITATIONS

3.2.1 National Categorical Pretreatment Standards

National categorical pretreatment standards, as promulgated by the Environmental Protection Agency (EPA) pursuant to the Federal Water Pollution Control Act, if more stringent than limitations imposed under this Ordinance, shall be met by all Dischargers into the sewerage system who are subject to such standards.

3.2.2 State Requirements

State requirements and limitations on all discharges to the public sewerage system shall be met by all Dischargers who are subject to such standards in any instance in which the State standards are more stringent than Federal requirements and limitations, or those in this or any other applicable Ordinance.

3.2.3 District Requirements

No persons shall discharge into the public sewerage system any sewage containing the following:

- (a) Fats, wax, grease, or oils whether emulsified or not, in excess of 100 milligrams per liter for sources of petroleum origin, or in excess of 300 milligrams per liter for sources composed of fatty matter from animal and vegetable sources, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (0 degrees Celsius and 65 degrees Celsius).

- (b) Strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not, unless the Discharger has a valid Industrial Wastewater Discharge Permit that allows otherwise.
- (c) Pollutants in excess of the concentrations in Table III measured as a total of both soluble and insoluble concentrations for a composite representing the process day or at any time as shown by grab sample, unless the Discharger has a valid Industrial Wastewater Discharge Permit which establishes a different limitation for the specific pollutant as set forth in Table III.

3.2.4 Wastewater Discharge Permit Limitations

It shall be unlawful for an Industrial User with a valid Industrial Wastewater Discharge Permit to discharge wastes to the public sewerage system in excess of the limitations established in the discharge permit or in violation of the prohibited discharge substances described in Subsection 3.1.

3.2.5 Tenant Responsibility

Any occupant of the premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of these Rules and Regulations in the same manner as the owner.

3.2.6 More Stringent Limitations

The District reserves the right to amend these Rules and Regulations at any time to provide for more stringent limitations or requirements on discharges to the public sewerage system where it deems necessary to comply with the objectives of this Ordinance. Nothing in these Rules and Regulations shall prohibit a City served by the District from adopting more stringent limitations or requirements than are contained herein for its sewerage system.

3.2.7 Notification of Hazardous Waste Discharges

All Industrial Users shall notify the District in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261, as set forth in 40 CFR 403.12(p). Any Industrial User who commences discharging shall provide notification in accordance with 40 CFR 403.12(p) no later than 180 days after the discharge of any listed or characteristic hazardous waste(s).

3.2.8 Dilution

No discharger shall increase the use of potable or processed water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this Ordinance.

3.3 ACCIDENTAL DISCHARGES

Each Discharger shall provide protection from accidental discharge of prohibited substances or other substances regulated by this Ordinance. Where necessary, facilities to prevent accidental discharge

of prohibited substances shall be provided and maintained at the Discharger's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the District for review, and shall be approved by the District before construction of the facility. Each existing Discharger shall complete his plan and submit it to the District upon request. No Discharger shall be permitted to introduce pollutants into the public sewerage system until the accidental discharge protection procedures have been approved by the District. Review and approval of such plans and operating procedures by the District will not relieve the Discharger from the responsibility to modify its facility as necessary to meet the requirements of this Ordinance. Dischargers shall notify the District immediately upon the occurrence of an accidental discharge of substances, or slug loadings, prohibited by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, corrective actions taken.

3.3.1 Written Notice

Within five (5) days following an accidental discharge; the Discharger shall submit to the District a detailed written report describing the cause of the discharge and the measures to be taken by the Discharger to prevent similar future occurrences. Such notification shall not relieve the Discharger of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, harm to aquatic life, or any other damage to person or property; nor shall such notification relieve the discharger of any fines, civil penalties, or other liability which may be imposed by this subsection or other applicable law.

3.3.2 Notice to Employees

A notice shall be permanently posted on the Discharger's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. Employers shall insure that all employees who may cause or discover such a discharge to occur are advised of the emergency notification procedure.

SECTION 4 INDUSTRIAL WASTES

4.1 GENERAL STATEMENT

4.1.1 Scope

This section of the Rules and Regulations sets forth uniform requirements for direct and indirect discharges of industrial wastes into the public sewerage system, and enables the District to comply with all applicable State and Federal laws required by the Clean Water Act and the General Pretreatment Regulations (40 CFR, Part 403). The District shall be empowered to enforce Section 307(b) and (c) and 402(b)(8) of the Clean Water Act and any implementing regulations pursuant to these Rules and Regulations. Enforcement may include injunctive or any other relief in Federal and State courts or through administrative hearings.

The objectives of this section of the Rules and Regulations are to prevent the introduction of pollutants into the public sewerage system which will interfere with the operation of the systems or contaminate the resulting biosolids; to prevent the introduction of pollutants into the public sewerage system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system; to improve the opportunity to recycle or reclaim wastewaters and biosolids from the system; and to provide for equitable distribution of the cost of the District sewerage system.

This section provides for the regulation of direct and indirect discharges of industrial wastes to the public sewerage system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

4.1.2 Signatory Requirements

All applications, reports, or information submitted to the District shall be signed and certified in accordance with 40 CFR 403.12(l).

4.1.3 Provision on Fraud and False Statements

Any reports required in this Ordinance and any other documents required to be submitted to the District or maintained by the Industrial User shall be subject to enforcement provisions of municipal and state law relating to fraud and false statements. In addition, the Industrial User shall be subject to: (a) the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements; (b) the provisions of Sections 309(c)(4) of the Clean Water Act, as amended governing false statements, representation or certification; and (d) the provision of Section 309(c)(6) regarding responsible corporate officers.

4.2 INDUSTRIAL WASTEWATER DISCHARGE PERMITS

4.2.1 Requirements for a Permit

All users discharging or proposing to discharge industrial wastes into any sewer outlet within the jurisdiction of the District or which flow to the public sewerage system shall obtain an Industrial Wastewater Discharge Permit from the District if:

- (a) The discharge is subject to promulgated national categorical pretreatment standards; or
- (b) The discharge, as determined by the District, under 40 CFR Part 403 contains pollutants in concentrations or quantities that interfere or have the potential to interfere with the operation of the public sewerage system; has a significant impact or potential for a significant adverse impact on the public sewerage system, either singly or in combination with other contributing industries; or increases the cost of operation of the sewerage system; or
- (c) The discharge requires pretreatment in order to comply with the discharge limitations set forth in Section 3 of this Ordinance; or
- (d) The discharge contains suspended solids or BOD in excess of 350 mg/l, or in excess of thirty (30) pounds in any one day; or
- (e) The discharge contains wastes requiring unusual quantities of chlorine (more than 20 mg/l) for treatment at the treatment plant; or
- (f) The discharge exceeds an average flow of 10,000 gallons or more in any one day, excluding sanitary, non-contact cooling water and boiler blowdown wastewater, or contributes a maximum instantaneous flow which exceeds ten (10) percent of the capacity of the available lateral or appropriate trunk sewer; or
- (g) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or
- (h) The discharge is a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261.

4.2.2 Permit Applications

Application for an Industrial Wastewater Discharge Permit shall be made to the District on forms provided by the District. The application shall not be considered as complete until all information identified on the form is provided, unless specific exemptions are granted by the District. Completed applications shall be made within thirty (30) days of the date requested by the District or, for new sources, at least ninety (90) days prior to the date that discharge to the sewerage system is to begin.

4.2.3 Industrial Waste Inspection

After the submitted discharge permit application has been received and reviewed, the District may schedule with the applicant an industrial waste inspection. The industrial waste inspection will consist of an interview with applicant personnel and a plant tour. At the interview, the applicant's application, waste generating process, water consumption, wastewater composition and quantities of wastewater flow are discussed. As part of the tour of that plant, an industrial waste sampling point will be identified. The sampling location, if appropriate and acceptable to the District, will be used for both self-monitoring and monitoring by District personnel for water quality and quantity monitoring and permit enforcement. The investigator's report of the inspection, together with the completed permit application from the industry, form the basis for establishing the discharge permit conditions.

4.2.4 Issuance of Permit

After full evaluation and acceptance of the data furnished by the applicant, the District may approve the basis for a permit and issue an Industrial Wastewater Discharge Permit subject to the terms and conditions provided herein. No permit shall be issued or effective until payment of the applicable initial or renewal fees as the Board may prescribe by Order. All fees charged by the District may be amended at any time by an Order of the Board. The permittee shall reapply with the District for reissuance of its permit at least 90 days prior to the permit expiration date. Reapplication shall be on the form provided by the District.

4.2.5 Permit Conditions

Industrial Wastewater Discharge Permits shall specify, where applicable, the following:

- (a) Fees and charges to be paid upon initial permit issuance;
- (b) Limits on the average and maximum wastewater constituents and characteristics;
- (c) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;
- (d) Requirements for installation and maintenance of inspection and sampling facilities compatible with facilities of the District;
- (e) Special conditions as the District may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types, and standards for test and reporting schedule;
- (f) Compliance schedules;
- (g) Requirements for submission of special technical reports or discharge reports where the same differ from those prescribed by this Ordinance;
- (h) An effective date and expiration date of the permit;

- (i) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the District, Oregon DEQ and the EPA, and affording District access thereto for purposes of inspection and copying;
- (j) Requirements for inspection and surveillance by District personnel and access to the Industrial User's parcel;
- (k) Requirements for notification to the District of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents, including listed or characteristic hazardous wastes, being introduced into the District sewerage system or any significant change in the production where the permit incorporates equivalent mass or connection limits calculated from a production based standard.
- (l) Requirements for notification to the District of slugload discharges and slug control plans;
- (m) Other conditions as deemed appropriate by the District to ensure compliance with this Ordinance and Federal and State statutes, and Administrative Rules.
- (n) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.
- (o) Duty to reapply and to obtain a new permit should the permittee wish to continue the activity regulated by the discharge permit following the expiration date of the discharge permit.
- (p) Requirements that samples and measurements taken for purposes of monitoring be representative of the monitored activity, including but not limited to the volume and nature of the discharge.

4.2.6 Permit Modifications

An Industrial Wastewater Discharge Permit may be modified for good and valid cause at the written request of the permittee and/or at the discretion of the District. Any new or increased discharge shall require the Discharger to apply for permit modification. The District at all times has the right to deny or condition new or increased contributions or changes in the nature of pollutants to meet applicable pretreatment standards or requirements or to prevent violation of its NPDES permit or any permit issued to the District or City. Permittee modification requests shall be submitted to the District and shall contain a detailed description of all proposed changes in the discharge. The District may request any additional information needed to adequately prepare the modification or assess its impact.

The District may deny a request for modification if, as determined by the District, the change will result in violations of District, State, or Federal laws or regulations; will overload or cause damage to any portion of the District or City sewerage systems; or will create an imminent or potential hazard to personnel.

If a permit modification is made at the discretion of the District, the permittee shall be notified in writing of the proposed modification at least 30 days prior to its effective date and shall be informed of the reasons for the changes. Any request for reconsideration shall be made before the effective date of the changes.

4.2.7 Permit Duration/No Property Interest Acquired

All Industrial Wastewater Discharge Permits shall be issued for a specified time period, not to exceed five (5) years, as determined by the District and subject to amendment, revocation, suspension or termination as provided in these Rules. No Discharger acquires any property interest by virtue of permit approval and continued approval is expressly contingent upon compliance with all applicable federal, state, and local requirements.

4.2.8 Limitations on Permit Transfer

Industrial Wastewater Discharge Permits are issued to a specific Discharger for a specific operation and are not assignable to another Discharger or transferable to any other location without the prior written approval of the District and provision of a copy of the existing permit to the new owner or operator.

4.2.9 Permit Revocation

Industrial Wastewater Discharge Permits may be revoked for the following reasons:

- (a) Failure to notify the District of significant changes to the wastewater prior to the changed discharge;
- (b) Falsifying self-monitoring reports;
- (c) Tampering with monitoring equipment;
- (d) Refusing to allow the District timely access to the facility premises and records;
- (e) Failure to meet effluent limitations;
- (f) Failure to pay fines;
- (g) Failure to pay user charges;
- (h) Failure to meet compliance schedules;
- (i) Failure to provide advance notice of the transfer of a permitted facility;
- (j) Violation of any applicable pretreatment standard or requirement or any terms of the permit or these Rules and Regulations.

Permits shall be voidable upon nonuse, cessation of operations, transfer of business ownership. All are void upon the issuance of a new Industrial Wastewater Discharge Permit.

4.3 PRETREATMENT FACILITIES

4.3.1 General Requirements

If, as determined by the District, treatment facilities, operation changes or process modifications at an Industrial User's facility are needed to comply with any requirements under this Ordinance or are necessary to meet any applicable pretreatment standards or requirements, the District may require that such facilities be constructed or modifications or changes be made within the shortest reasonable time, taking into consideration construction time, impact of the untreated waste on the public sewerage system, economic impact on the facility, impact of the waste on the marketability of the District's treatment plant biosolids, and any other appropriate factor.

Existing Sources and New Sources shall meet the deadlines for installation and start-up of equipment and compliance with Categorical Pretreatment Standards established according to 40 CFR 403.6(b).

4.3.2 Condition of Permit

Any requirement in Paragraph 4.3.1 may be incorporated as part of an Industrial wastewater Discharge Permit issued under Subsection 4.2 and made a condition of issuance of such permit or made a condition of the acceptance of the waste from such facility.

4.3.3 Plans, Specifications, and Construction

Plans, specifications and other information relating to the construction or installation of pretreatment facilities required by the District under this Ordinance shall be submitted to the District. No construction or installation thereof shall commence until written approval of plans and specifications by the District is obtained. Plans must be reviewed and signed by an authorized representative of the Discharger and certified by a qualified professional engineer. No person, by virtue of such approval, shall be relieved of compliance with other laws of the City, County, or State relating to construction and to permits. Every facility for the pretreatment or handling of wastes shall be constructed in accordance with the approved plans and installed and maintained at the expense of the Discharger.

4.3.4 Sampling and Monitoring Facility

Any person constructing a pretreatment facility, as required by the District, shall also install and maintain at his own expense a sampling manhole or other suitable monitoring access for checking and investigating the discharge from the pretreatment facility to the public sewer. The sampling manhole or monitoring access shall be placed in a location designated by the District and in accordance with specifications approved by the District.

4.4 REPORTING REQUIREMENTS

4.4.1 Initial Compliance Report

Within one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard issued by the Environmental Protection Agency (EPA) or within ninety (90) days after receiving

notification from the District that such a standard has been issued, whichever is sooner, existing Industrial Waste Dischargers subject to such standard shall submit to the District a baseline monitoring report, as required by the EPA pretreatment regulations, which includes the following:

- (a) The name and address of the facility and the name of the owner and operator;
- (b) A list of any environmental control permits on the facility;
- (c) A description of the operation(s);
- (d) The measured average and maximum daily flow from regulated process streams and other streams as necessary to allow use of the combined wastestream formula;
- (e) Measurement of the particular pollutants that are regulated in the applicable pretreatment standard and results of sampling as required in the permit;
- (f) A statement reviewed by an authorized representative and certified by a qualified professional as to whether the applicable standards are being consistently met and, if not, what additional measures are necessary to meet them; and
- (g) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, a report on the shortest schedule by which the needed pretreatment and/or operation and maintenance can be provided. The compliance date for users covered by categorical pretreatment standards should not be later than the compliance date established for the particular standard. The report shall be reviewed and signed by an authorized representative of the Discharger and certified to by a qualified professional engineer.

New sources subject to an effective categorical pretreatment standard issued by the EPA shall submit to the District, 90 days prior to commencement of their discharge into the sewerage system, a report which contains the information listed in items (a) through (e) above, along with information on the method of pretreatment the source intends to use to meet applicable pretreatment standards.

These reports shall be completed in compliance with the specific requirements of Section 403.12(b) of the General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403) promulgated by the EPA on January 28, 1981, or any subsequent revision thereto, including the signatory requirements 403.12(l) for industrial user reports.

If the information required by these reports has already been provided to the District and that information is still accurate, the Discharger may reference this information instead of submitting it again.

4.4.2 Report on Compliance

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, within sixty (60) days following commencement of the introduction of wastewater into the public sewerage system, any Discharger subject to applicable pretreatment standards and requirements shall submit to the District a report

indicating the nature and concentration of all pollutants in the wastestream from the regulated process and the average and maximum daily flow for these process units, and long term production data, or actual production data, when requested. This report shall also include an estimation of these factors for the ensuing twelve (12) months. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the Discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the Discharger and certified to by a qualified professional engineer. A new source is required to achieve compliance within 90 days after commencement of discharge.

If the Industrial Discharger is required to install additional pretreatment or provide additional operation and maintenance, a schedule will be required to be submitted. The schedule shall contain increments of progress in the form of dates for commencement and completion of major events leading to the construction and operation of additional pretreatment or operation and maintenance (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.) No increment of progress shall exceed nine (9) months. The Industrial Discharger shall submit a progress report to the District including, at a minimum, whether or not it complied with the increment of progress to be met on such a date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial discharger to return the construction to the schedule established. This progress report shall be submitted not later than fourteen (14) days following each date in the schedule and the final date of compliance. In no event shall more than nine (9) months elapse between such progress reports to the District.

4.4.3 Periodic Compliance Reports

Any Discharger that is required to have an Industrial Wastewater Discharge Permit pursuant to this Ordinance shall submit to the District during the months of June and December, unless required on other dates and/or more frequently by the District, a report indicating the nature of its effluent over the previous six-month period. The report shall include, but is not limited to, a record of the nature and concentrations (and mass if limited in the permit) for all samples of the limited pollutants that were measured and a record of all flow measurements that were taken or estimated average and daily maximum flows, and long term production data, or actual production data, when requested.

The frequency of the monitoring shall be determined by the District and specified in the Industrial Wastewater Discharge Permit. If there is an applicable effective Federal Categorical Pretreatment Standard, the frequency shall be not less than that prescribed in the standard. If a Discharger monitors any pollutant more frequently than required by the District, all monitoring results must be included in the periodic compliance reports.

Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the District may accept reports of average and maximum flows estimated by verifiable techniques.

The District may require reporting by Industrial Dischargers that are not required to have an Industrial Wastewater Discharge Permit if information and/or data is needed to establish a sewer charge,

determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

The District may require self-monitoring by the Discharger, or if requested by the Discharger, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this Subsection of the Ordinance. If the District agrees to perform such periodic compliance monitoring, the District will charge the Discharger for the monitoring based upon the costs incurred by the District for the sampling and analyses.

4.4.4 TTO Reporting

Those industries which are required by EPA to eliminate and/or reduce the levels of total toxic organics (TTO's) discharged into the public sewerage system must follow the National Categorical Pretreatment Standards for that industry.

4.4.5 Violations

The Industrial User shall notify the District within twenty-four (24) hours of becoming aware of a sampling activity which indicates a violation of the permit. The Industrial User shall repeat the sampling and analysis and submit their results to the District as soon as possible, but in no event later than thirty (30) days after becoming aware of the violation.

4.5 INSPECTION AND SAMPLING

4.5.1 Inspection

Authorized District representatives may inspect the monitoring facilities of any Industrial Waste Discharger to determine compliance with the requirements of the Ordinance. The Discharger shall allow the District to enter upon the premises of the Discharger at all reasonable hours, for the purpose of inspection, sampling, or records examination and copying. The District shall also have the right to set up on the Discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. The right of entry is to the Industrial User's entire premises, and includes, but is not limited to, access to manufacturing, production, and chemical storage areas, to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling wastes, and storing records, reports or documents relating to the pretreatment, sampling, or discharge of the wastes. The following conditions for entry shall apply:

- (a) The authorized District representative shall present appropriate credentials at the time of entry;
- (b) The purpose of the entry shall be for inspection, observation, measurement, sampling, testing or record examination and copying in accordance with the provisions of this Ordinance;

- (c) The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the District; and
- (d) All regular safety and sanitary requirements of the facility to be inspected shall be complied with by the District representative(s) entering the premises.

4.5.2 Sampling

Samples of wastewater being discharged into the public sewage system shall be representative of the discharge and shall be taken after treatment, if any. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil grease, sulfides, and volatile organics. For all other pollutants, the sampling method shall be by obtaining 24-hour composite samples through flow proportional composite sampling techniques where feasible. The District may waive flow proportional composite sampling for any industrial user that demonstrates that flow proportional composite sampling is infeasible. In such cases, the samples may be obtained through time proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

Samples that are taken by the District for the purposes of determining compliance with the requirements of this Ordinance shall be split with the Discharger (or a duplicate sample provided in the instance of fats, oils, and greases) if requested before or at the time of sampling.

All sample analyses shall be performed in accordance with techniques prescribed in 40 CFR Part 136 and any amendments thereto. Where 40 CFR Part 136 does not include a sampling or analytical technique for the pollutant in question, or where the District determines that the Part 136 Sampling and Analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other sampling and analytical procedures including procedures suggested by the District or other parties, that have been approved by the Administrator of the United States Environmental Protection Agency.

4.5.3 Monitoring Facilities

- (a) Any person discharging industrial waste into the public sewerage system which requires an Industrial Wastewater Discharge Permit shall, at their own expense, construct and maintain an approved control manhole, together with such flow measurement, flow sampling and sample storage facilities as may be required by the District. The facilities required shall be such as are reasonably necessary to provide adequate information to the District to monitor the discharge and/or to determine the proper user charge.
- (b) Such monitoring facilities shall be located on the Discharger's premises except when, under circumstances approved by the District, it must be located in a public street or right-of-way, provided it will not be obstructed by landscaping or parked vehicles.
- (c) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measurement equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Discharger.

- (d) Whether constructed on private or public property, the sampling and monitoring facilities shall be provided in accordance with the District's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the District.
- (e) Dischargers shall allow the District and City and their representatives, access to monitoring facilities on their premises at all times. The District and City shall have the right to set up such supplementary monitoring equipment as it may require.
- (f) The District may, in lieu of requiring measurement sampling and monitoring facilities, procure and test, at the user's expense, sufficient composite samples on which to base and compute the user charge. In the event that measurement sampling and monitoring facilities are not required, the user charge shall be computed using the metered water flow to the premises as a basis for waste flow and the laboratory analysis of samples procured as the basis for computing BOD and suspended solids content. Metered water flow shall include all water delivered to or used on the premises. In the event that private water supplies are used, they shall be metered at the user's expense. Cooling waters or other waters not discharged into the public sewerage system may be separately metered at the user's expense in a manner approved by the District, and all or portions of these waters deducted from the total metered water flow to the premises subject to District approval.

4.6 CONTROL OF DISCHARGE

It shall be the responsibility of every Industrial User to control the discharge of industrial wastewater into the public sewerage system, or any private or side sewer which drains into the public sewerage system, so as to comply with this Ordinance and the requirements of any applicable wastewater discharge permit issued pursuant to the provisions of this Ordinance.

4.7 CHANGE IN PERMITTED DISCHARGE

It shall be the responsibility of every Industrial User to promptly report to the District any changes (permanent or temporary) to the Discharger's premises or operations that change the quality or quantity of the wastewater discharge. Changes in the discharge involving the introduction of a wastestream(s), or hazardous waste as set forth in 40 CFR, Part 261, not included in or covered by the Discharger's Industrial Wastewater Discharge Permit Application itself shall be considered a new discharge, requiring the completion of an application as described under Subsection 4.2. Any such reporting shall not be deemed to exonerate the Discharger from liability for violations of this Ordinance. Any industrial user operating under equivalent mass or concentration limits calculated from a production based standard shall notify the District within two business days after the industrial user has a reasonable basis to know that the production level will significantly change within the next calendar month. An industrial user not notifying the District of such anticipated change will be required to meet the mass or concentration limits that were based on the original estimate of the long-term average production rate.

4.8 RECORDS

All Dischargers subject to this Ordinance shall retain and preserve for not less than three (3) years all records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or on behalf of a Discharger in connection with its discharge. All such records shall be subject to review by the District. All records which pertain to matters subject to appeals or other proceedings before the Director or the Board, or any other enforcement or litigation activities brought by the District shall be retained and preserved until such time as all enforcement or other activities have concluded and all periods of limitation with respect to any and appeals have expired.

4.9 CONFIDENTIAL INFORMATION

4.9.1 Public Inspection

Information and data furnished to the District regarding frequency and nature of discharges into the public sewerage system or other information submitted in the regular course of reporting and, compliance with the requirements of these Rules and Regulations or the Industrial User's Permit, shall be available to the public or other governmental agencies without restriction unless the industrial user claims, when submitting the data, and satisfies the District as to the validity of the claim, that release of the information would divulge information, processes or methods of production entitled to protection as "trade secrets" under federal laws or ORS 192.501(2). Such portions of an industrial user's report which qualify as trade secrets shall not be made public. Notwithstanding the foregoing, the United States Environmental Protection Agency and the State of Oregon Department of Environmental Quality shall have access to all records at all times. Effluent data, as defined and set forth in 40 CFR Part 2 incorporated by reference hereto, shall be available to the public.

4.9.2 Disclosure in the Public Interest

Nothing in paragraph 4.9.1 shall prevent disclosure of any information submitted by an industrial user when the public interest in that case requires disclosure. Disclosure to other governmental agencies for uses related to this ordinance is in the public interest.

4.9.3 Procedure

- (a) An industrial user submitting information to the District may assert a "trade secret" or "business confidentiality" claim covering the information by placing on or attaching to the information a cover sheet, stamped or type legend or other suitable form of notice employing language such as "trade secret", "proprietary" or "business confidential". This shall be done at the time of submission. Post submittal claims of confidentiality will not be considered unless good cause is shown by the industrial user to the satisfaction of the Director. Allegedly confidential portions of otherwise non-confidential documents shall be clearly identified by the industrial user and may be submitted separately to facilitate identification. If the industrial user desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice shall so state. If no claim of confidentiality is made at the time of submission, the District may make the information available to the public without

further notice. If a claim is asserted, the information will be evaluated pursuant to the criteria of ORS 192.501(2) and 40 CFR Part 2 relating to Effluent Data.

- (b) The industrial user must show that it has taken reasonable measures to protect the confidentiality of the information, that it intends to continue to take such measures and must show that the information claimed to be confidential (a) is not patented; (b) is known only to a limited number of individuals within the industrial user who are using it to make or produce an article of trade or a service or to locate a mineral or other substance; (c) has commercial value; (d) gives the industrial user a chance to obtain a business advantage over competitors not having the information; and (e) is not, and has not been, reasonably obtainable without the industrial user's consent by other persons (other than governmental bodies) by use of legitimate means (excluding discovery in litigation or administrative proceedings).
- (c) The District shall examine the information meeting the criteria set forth above and to the extent allowed, will determine what information, if any, is confidential.
- (d) If the District determines that the information is confidential, it shall so notify the industrial user. If a request for inspection under the public records law has been made, the District shall notify the person requesting the information of its confidentiality and notify the industrial user of the inquiry and the District's response.
- (e) If the District determines that the information is not entitled to confidential treatment, the District shall notify the industrial user of its decision, as well as any other person who has requested the information.
- (f) Any party aggrieved by a ruling of the District may, within three business days of the decision, seek reconsideration by filing a written request accompanied by any additional supporting arguments or explanation supporting or denying confidentiality. Once the final decision is made, the District will wait five business days before releasing the subject information so that the industrial user may have an adequate time to obtain judicial relief to prevent disclosure.
- (g) Information deemed confidential or, while a decision thereon is pending, will be kept in a place inaccessible to the public.
- (h) Nothing herein shall prevent a party requesting information to exercise remedies provided by the Oregon Public Records law to obtain such information. Nothing herein shall prevent the industrial user from undertaking those remedies to prevent disclosure if the District has determined that such disclosure will occur. The District will not oppose any motion to intervene or other action taken by an industrial user to perfect standing to make any confidentiality claims before a court of competent jurisdiction.

4.10 ENFORCEMENT OF STANDARDS THROUGH ADMINISTRATIVE PENALTIES

4.10.1 Enforcement

In addition to the imposition of civil penalties, the District shall have the right to enforce this ordinance by injunction, or other relief, and seek fines, penalties and damages in Federal or State courts.

Any discharger that fails to comply with the requirements of these Rules and Regulations or provisions of its Industrial Wastewater Discharge Permit may be subject to enforcement actions as prescribed below in addition to those developed by the District.

(a) Violations

- (1) A violation shall have occurred when any requirement of these Rules and Regulations has not been met.
- (2) Each day a violation occurs or continues shall be considered a separate violation.
- (3) For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation;
- (4) Significant Non-Compliance: Significant non-compliance with applicable pretreatment requirements exists when a violation by any discharger meets one or more of the criteria defined in Section 2.

(b) Enforcement Mechanisms

- (1) In enforcing any of the requirements of this ordinance or rules or procedures adopted hereunder, the District may:
 - (i) Take civil administrative action (such as issuance of notices of violations, administrative fines, revocation of a permit) as outlined in herein;
 - (ii) Issue compliance orders;
 - (iii) Cause an appropriate action (such as civil litigation, criminal prosecution) to be instituted in a court of competent jurisdiction;
 - (iv) Terminate sewer service; or
 - (v) Take such other action as the District deems appropriate.
- (2) The type of enforcement action shall be based, but not limited by the duration and the severity of the violation; impacts on water quality, biosolids, disposal, interference, worker health and safety; violation of the District's NPDES permit. Enforcement shall, generally, be escalated in nature.
- (3) Whenever the District finds that any discharger has violated any provisions of these Rules and Regulations, or its waste discharge permit, it shall take appropriate enforcement action against the noncomplying industry based on its enforcement response procedures. The discharger will be required to comply with all requirements contained in the enforcement document issued by the District to include such items

as responding in a timely fashion to notices of violation letters, compliance inquiry letters, or show cause hearings, and compliance with all terms of compliance orders or other enforcement mechanisms as established by the District.

4.10.2 Imposition of Civil Penalties

The District may impose civil penalties including, but not limited to, fines, damages, modification or revocation of permit and/or cessation of services when any Industrial User (a) fails to factually report the wastewater constituents and characteristics of its discharge; (b) fails to report significant changes in wastewater constituents or characteristics; (c) tampers with sampling and monitoring equipment; (d) refuses reasonable access to the user's premises by representatives of the District for the purpose of inspection or monitoring; or (e) violates any condition or provision of its permit, this Ordinance, any rule adopted pursuant hereto, or any final judicial order entered with respect thereto. Nothing herein shall prevent the District from seeking injunctive or declaratory relief or any other remedy available under Federal or State law.

4.10.3 Procedure for Imposition of Civil Penalties

Procedures for the imposition of civil penalties on Industrial Users shall be in accordance with Section 11. In addition to any other remedy or penalty, the District may assess civil penalties of at least \$1,000 per day for each violation.

4.10.4 Emergency Suspension of Service and Permits Notwithstanding Any Other Provisions of This Ordinance

In addition to the procedures given in Section 11 for the enforcement of the civil penalty, the District may immediately cause to be suspended wastewater treatment service and/or the sewer permit of an Industrial User when it appears that an actual or threatened discharge presents, or may present, an imminent danger to the health or welfare of persons or the environment, interferes with the operations of the public sewerage system, or violates any pretreatment limits imposed by this Ordinance, any rule adopted or any permit issued pursuant hereto, or any other applicable law.

The suspension notice shall be served upon the Industrial User by personal, office, or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, unless the emergency nature of the suspension makes service impracticable.

Any Industrial User notified of the suspension of the Industrial User's permit and/or service shall cease all discharges within the time determined solely by the District and specified in the suspension notice. If the Industrial User fails to comply voluntarily with the notice of suspension, the District may immediately, in its discretion, enter upon the property and disconnect the service, or seek a temporary restraining order or other relief from the Circuit Court to compel compliance or may proceed judicially or administratively as set forth in these Regulations to insure compliance with this Ordinance. The District shall reinstate the permit and/or service of the Industrial User and may terminate, in its discretion, any proceedings brought upon proof by the user of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

4.10.5 Operational Upset

Any Industrial User who experiences an upset in operations which place the industrial user in a temporary state of noncompliance with this Ordinance, and/or any rule adopted or permit issued pursuant hereto, shall inform the District thereof as soon as practicable, but not later than twenty-four (24) hours after first awareness of commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the industrial user with the District within five (5) days.

An upset shall constitute an affirmative defense to an action brought for noncompliance if the Industrial User demonstrates, through properly signed, contemporaneous operating logs or other relevant evidence (a) a description of the upset, the cause(s) thereof, and the upset's impact on the industrial user's compliant status; (b) the duration of noncompliance including exact dates and times or if not corrected the anticipated time that noncompliance is expected to continue; (c) all steps taken, or to be taken to reduce, eliminate and prevent recurrence of such upset or other conditions of noncompliance; and workmanlike manner and in compliance with applicable operational maintenance procedures.

A documented, verified, and bona fide operation upset, including good faith and reasonable remedial efforts to rectify the same, shall be an affirmative defense to any enforcement action brought by the District against an industrial user for any noncompliance with this Ordinance or any rule adopted or permit issued pursuant hereto which arises out of violations alleged to occur during the period of the upset. In an enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

The Industrial User shall control production for all discharges to the extent necessary to maintain compliance with this ordinance or any rule adopted or permit issued pursuant hereto upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in a situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

4.10.6 Bypass

Bypass means the intentional diversion of waste streams from any portion of an industrial users treatment facility. Bypass is prohibited and the District may take enforcement action against an industrial user for a bypass, unless: (a) the bypass was unavoidable to prevent loss of life, personal injury or severe property damage as defined in 40 CFR 403.17(a)(2); (b) there was no feasible alternatives to the bypass such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of down time or preventative maintenance; and (c) the Industrial User submitted notices as set forth below.

If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the District, if possible, at least ten days before the date of the bypass. The District may approve an anticipated bypass after considering its adverse effects, if the District determines that it will meet the three conditions set forth above.

An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the District within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The District may waive the written report on a case-by-case basis if the oral report has been received.

An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of the paragraphs of this section.

4.10.7 Affirmative Defense

Any Industrial User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions covered in 40 CFR 403.5(a)(1) and the specific prohibitions covered in 40 CFR 403.5(b)(3), (4), (5), (6) and (7) in addition to those covered in this Ordinance. The Industrial User in its demonstration shall be limited to provisions of 40 CFR 403.5(a)(2)(i) and (ii).

4.10.8 Public Notification

At least annually, the District shall publish in a newspaper of general circulation in the District, a list of the Industrial Users who were in significant noncompliance of Applicable Pretreatment Standards or requirements for the preceding twelve (12) months, in accordance with and as defined in 40 CFR 403.8(f)(2)(viii).

SECTION 5 USE OF PUBLIC SEWERS REQUIRED

5.1 GENERAL

The owner of any building situated within the District and proximate to any street or sewer easement in which there is located a public sewer of the District or City may request permission, at owner's expense, to connect said building directly to the proper public sewer in accordance with the provisions of these Rules and Regulations and other applicable codes. Such request shall be made through proper application to connect to the sanitary sewer system.

5.2 DISCONNECTION

A property owner may request disconnection from the District's system provided all applicable statutes, rules and ordinances are complied with. The property owner shall pay a disconnection inspection fee at the time disconnection is requested. The inspection fee is based upon staff time, materials, mileage, other expenses, and a reasonable allocation of general overhead expenses. The fee shall be due and payable immediately upon billing. The fee may be amended from time to time by order of the Board.

5.3 HEALTH HAZARDS

Where it is determined that property not within the boundaries of the District has a failing subsurface disposal system constituting a health hazard, the property owner may apply to the District for annexation. Annexation will occur by an Order of the Board finding a health hazard, said Order subject to compliance with all applicable statutes. If the property is within the Urban Growth Boundary the property must be annexed to the City and District, and no extraterritorial extension of service will be allowed unless in conformance with the then existing Rules of the Tri-City Advisory Committee. If extraterritorial extension is allowed, the property owner shall agree to pay all amounts determined under these Rules and Regulations in the District's applicable assessment formulas or collection sewer charge so that the proportionate fair share for service is fully paid.

SECTION 6 CONNECTION RULES AND SPECIFICATIONS

6.1 GENERAL REQUIREMENTS

All connections and specifications shall be in accordance with the Ordinances and laws of the District, the affected City, the Plumbing Code of the State of Oregon, and any other federal or state requirement.

6.2 GREASE, OIL, SAND AND SCUM TRAPS

All restaurants, fast food, delicatessens, taverns, and other food preparation facilities which prepare food onsite, service stations, automotive repair facilities or any other facility so determined by the District and/or city shall install grease, oil, sand and scum trap separators to remove fats, oils, greases, and scums. In addition, all proprietors will be responsible for cleaning and maintaining these separators. The District and/or City shall also have the authority to enter upon premises drained by any side sewer, at all reasonable hours, to ascertain whether this provision of limiting the introduction of fats, oils, greases, and scums to the system has been complied with. Violators of this provision may be directed to prepare a schedule of corrective action, pay a penalty as prescribed in Section 11, or both.

6.3 HOLD HARMLESS

All users of the system, all contractors who may perform work on the system in any manner, and all other persons or entities whose actions may affect the system shall indemnify and hold harmless the District, the City, their officers, employees, and representatives from and against all suits, actions, or claims of any character or nature brought because of any injuries or damages received or sustained by any person, or property, or alleged to have been so received or sustained on account of the actions, or failure to act, of such users, contractors, or other persons, their subcontractors, employees or representatives. Such indemnification shall include the cost of defense of such claims, including attorney's fees.

6.4 ABANDONED CONNECTION

Any connection that is abandoned shall be capped or plugged by the property owner at the private property line or easement line at his sole cost and expense. All materials to plug or cap the service connection shall be approved by the District and/or city and inspected by the District and/or City prior to backfilling.

SECTION 7 PUBLIC SEWER CONSTRUCTION

7.1 CONSTRUCTION GENERALLY

All sewer construction shall conform to all standards of the District, the City, and the Department of Environmental quality of the State of Oregon, including but not limited to, OAR Chapter 340, Division 52, or as may be amended and specifically incorporated by reference hereto. Any sewer construction must be constructed under the continuous inspection of a registered professional engineer approved by the District. If a third party is involved, the agreement between the person causing construction and the registered professional engineer shall provide that the engineer shall have the sole responsibility for determining that design, materials and construction of the sewer extension conform to all of the applicable specifications of the District. Such agreement shall further provide that the engineer shall furnish such testing and inspection services as are required by the District and are deemed necessary by the engineer to permit him to make the certification required by Subsection 7.5 of these regulations.

7.2 PLANS

Three (3) copies of the plans and specifications prepared by the engineer shall be furnished to the District and shall be approved by the District in writing.

7.3 SPECIFICATIONS

All construction and material specifications for any sewer construction shall be in conformance with the construction and material specifications which are then in use by the District for sewer extensions constructed by the District.

7.4 SEWER EXTENSIONS

Sewer construction shall be constructed by a contractor duly licensed by the State of Oregon and any other licensing political subdivision having jurisdiction over the work. All sewer construction shall be located within the public right-of-way wherever possible.

7.5 CERTIFICATION

Prior to the acceptance of sewer construction by the District, the engineer shall certify in writing to the District that all workmanship and materials have been tested by methods approved by the District, that all workmanship and materials conform to the applicable plans and specifications approved by the District, and for the purpose of enabling the District to maintain adequate records relating to the construction costs of the District's sewerage system, the engineer shall certify in writing on forms provided by the District the total construction costs of the sewer construction.

7.6 ACCEPTANCE BY DISTRICT

When the District is in receipt of the certification required of the engineer, the engineer shall arrange with the District for the District to perform a joint inspection of the sewer construction with the engineer. Following completion of the joint inspection, the District shall, if it determines as a result of such inspection that the construction is in conformance with the construction materials specifications of the District, accept the sewer construction upon receipt of: 1) a bond or deposit in the amount of 25 percent of the construction cost guaranteeing the sewer construction against any defects in labor and materials for a period of one year from the date of acceptance by the District; 2) a sufficient bill of sale or other conveyancing document in the form approved by the District (or on a District supplied form) transferring all rights, title and interest in and to the sewer construction to the District; 3) a document conveying any easements required and in a form approved by the District, providing that the District have a perpetual right to maintain, repair and replace the sewer construction; 4) a certificate of completion, certifying in writing that the work was done under the engineer's supervision or inspection and is in conformance with the approved plans and specifications and meets all required tests; 5) a complete and stamped sewer service connection record form for each service connection; 6) blackline mylar As-Built drawings capable of being reprinted with all details legible, showing the connection size, station length and depth at the property line on a 22" x 34" or 24" x 36" plan sheet at the scale of 1" = 50 feet; 7) CAD As-Built drawings on a 3 1/2" IBM compatible floppy disk formatted for 1.44 MB capacity, using native Auto Cad (DWG or DXF Data exchange file format) with layer data as provided by District personnel; and 8) construction and engineering cost data on District forms.

SECTION 8 [RESERVED]

SECTION 9 CHARGES AND RATES FOR SEWAGE SERVICES

9.1 SYSTEM DEVELOPMENT CHARGES

9.1.1 Purpose

Section 9.1 is intended to provide authorization for system development charges for capital improvements pursuant to ORS 223.297-223.314 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. These charges shall be due and payable at the time of permitted increased improvements by new development whose impacts generate a need for those facilities. The system development charges imposed by Section 9.1 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.

9.1.2 System Development Charge Imposed; Method for Establishment Created

Unless otherwise exempted by the provisions of these Rules and Regulations or other local or state law, a system development charge is hereby imposed on all development within the District that increases usage upon the sanitary sewer facilities for each equivalent dwelling unit as defined in the Table I. System development charges shall be established and may be revised by resolution or order of the Board. The resolution or order shall set the methodology and amount of the charge.

9.1.3 Methodology

- (c) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, ratemaking principles employed to finance publicly-owned capital improvements, and other relevant factors identified by the board. The methodology shall promote the objective that future system users shall contribute not more than an equitable share of the cost of then-existing facilities.
- (d) The methodology used to establish the improvement fee shall consider 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.
- (e) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution or order of the Board.

9.1.4 Authorized Expenditure

- (a) 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.
- (b)(1) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such 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 improvements funded by improvement fees must be related to demands created by current or projected development.

- (2) A capital improvement being funded wholly or in part from the revenues derived from the improvement fee shall be included in the Capital Improvement Program adopted by the Board; and
- (c) Notwithstanding 9.1.4(a) and (b), system development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds.

9.1.5 System Development Charge Project Plan

- (a) The Board has adopted by resolution or order the Tri-City Service District System Development Charge Report. This Report:
 - (1) Lists existing facilities and the capacity available for new development;
 - (2) Lists the planned capital improvements that may be funded with improvement fee revenues; and
 - (3) Lists the estimated cost and time of construction of each improvement.
- (b) In adopting this Report, 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 Report at any time through the adoption of an appropriate resolution.

9.1.6 Collection of Charge

- (a) As a condition to connection of the sanitary sewer system, the applicant shall pay all applicable charges to the District and the City. Except as allowed in Section 9.1.7, the system development charge is payable at the time of permitted increased usage upon issuance of:
 - (1) A building permit; or
 - (2) A development permit for development not requiring the issuance of a building permit; or
 - (3) Increased usage of the system or systems provided by the District.
- (b) The resolution which sets the amount of the charge shall designate the permit or systems to which the charge applies.

- (c) If development is commenced or connection is made to the systems provided by the District within an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required or increased usage occurred.
- (d) The Director of Water Environment Services or his/her designee shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless provision for installment payments has been made pursuant to Section 9.1.7, or unless an exemption is granted pursuant to Section 9.1.8.
- (e) All moneys collected through the system development charge shall be retained in a separate fund and segregated by type of system development charge and by reimbursement versus improvement fees.
- (f) In addition, each person making an application for connection shall pay an inspection charge equal to the average costs incurred by the District in providing sewer system construction inspection and testing for the type of service for which the application has been submitted and the permit to be reasonably calculated. The applicant shall pay an estimated inspection charge which may be adjusted as follows:
 - (1) If the actual inspection costs exceed the estimated costs, an additional charge equal to the costs in excess of those estimated shall be levied. The charge shall be immediately due and payable.
 - (2) If the actual inspection costs are less than the estimated inspection costs, the balance of the inspection charges in excess of actual costs shall be refunded.

9.1.7 Installment Payment of District's System Development Charges

- (a) Where the District's share of system development charges is greater than two times the amount of a system development charge for a single family residential unit, the applicant may, at the time of application, with the consent of the District, make a one-time election to pay the charge in installments. If approved, payment in 20 semi-annual installments, secured by a lien on the property upon which the development is to occur or to which the connection is to occur or to which the connection is to be made, to include interest on the unpaid balance.
- (b) The District shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.
- (c) The District reserves the right to reject any application for installment payments. Requirements and procedures for installment payments of the District's share of the system development charge shall be in accordance with the following:
 - (1) A person requesting installment payments shall have the burden of demonstrating the person's authority to assent to the imposition of a lien on

the property and that the interest of the person is adequate to secure payment of the lien.

- (2) Any eligible property owner requesting the installment shall at the time of the application for connection submit to the District an application for deferral on a form provided by the District.
- (3) Upon receipt of an application, the applicant, at his expense, shall order a preliminary title report from a title insurance company doing business in Clackamas County, Oregon, and provide it to the District.
- (4) The applicant, at his expense, shall furnish the District with a current statement of amount due to each lienholder disclosed by the preliminary title report, the tax assessor's statement of true cash value, and, for property proposed for improvement, an MAI appraisal, certified by the appraiser, as to the estimated fair market value upon completion of the proposed improvement. The applicant shall answer such questions as the District deems proper regarding the applicant's ability to make the installment payments, as well as any other lienholder. The applicant also authorizes the District to contact other lienholders regarding applicant's payment history.
- (5) If, upon examination of the title to the property and other information, the District is satisfied:
 - (i) That the total unpaid amount of all liens disclosed, together with the amount of the system development charge sought to be paid by installments, does not exceed (1) the appraised value of the property as determined by the current appraisal of the County Assessor or (2) if the District elects, based upon the appraisal or other evidence of value acceptable to the District, the amount does not exceed the estimated fair market value of the property; and
 - (ii) The District, in its discretion, upon review of the applicant's ability to make payments as required under the proposed mortgage or trust deed and other debt obligations and the status of applicant's title to the property, consents to execution of the mortgage or trust deed; then
 - (iii) The applicant shall execute an installment promissory note, payable to the District in the form prescribed by the District for payment in installments not to exceed 20 equal semi-annual installments due January 1 and July 1 of each year, together with interest on the deferred principal balance at the prime rate of interest being charged on each principal payment date by the bank doing business in Oregon and having the largest deposits. The promissory note shall be secured by a mortgage or trust deed covering the property to be connected thereto. The cost of recording, preparation of security documents, title company report and filing fees shall be borne by the

applicant in addition to the system development charge. The applicant, by electing to pay in installments, agrees that as an additional remedy to recovery upon the promissory note and foreclosure of the mortgage or remedy in lieu thereof, the District may after ten (10) days' notice of delinquent installments cause termination of service to the defaulting property.

- (d) If the District determines that the amount of system development charge, together with all unpaid liens, exceeds the appraised value of the property or that the applicant cannot execute a mortgage or trust deed which will be a valid lien; or if the District believes that it will not have adequate security, or that the applicant cannot make the required payments, it shall so advise the applicant and installment payments shall not be accepted.
- (e) The District shall docket the lien in the lien docket. From that time, the District shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the Board. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230.

9.1.8 Exemptions

The System Development Charge shall not apply to:

- (a) Structures and uses using the sewerage facilities on or before the effective date of the resolution.
- (b) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the Uniform Building Code or the City's Zoning Development Ordinance.
- (c) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the sanitary sewer facilities.

9.1.9 Credits

- (a) A permittee is eligible for credit against the improvement fee element of the system development charge for constructing a qualified public improvement. A qualified public improvement means one that meets all of the following criteria:
 - (1) Required as a condition of development approval by the Board or its designee through the development review process; and
 - (2) Identified in the District's Capital Improvement Plan; and
 - (3)(i) Not located within or contiguous to the property or parcel that is subject to development approval; or

- (ii) Located in whole or in part on, or contiguous to, property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
- (4) 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.
- (b) Applying the adopted methodology, the District may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing District capital improvements or the need for further District capital improvements or that would otherwise have to be constructed at District expense under the then-existing Board policies.
- (c) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.
- (d) All credit requests must be in writing and filed with the District before the issuance of a building permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the District. The amount of any credit shall be determined by the District and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the District that the contract amounts exceed the prevailing market rate for a similar project, the credit shall be based upon market rates. The credit shall state the actual dollar amount that may be applied against any system development charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.
- (e) Credits shall be apportioned against the property which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property 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 property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the District.

- (f) Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought, and shall not be a basis for any refund.
- (g) Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.
- (h) Credits shall be used by the applicant within ten years of their issuance by the District.

9.1.10 Payment of System Development Charges

As a condition of connection to the sewerage system, the applicant shall pay all fees and charges, except as allowed under Section 9.1.7 to the jurisdiction that bills the user.

In addition, each person making an application for connection directly to a District facility shall pay an Inspection Charge equal to the average costs incurred by the District in providing sewer system construction inspection and testing for the type of service for which the application has been submitted and the permit to be reasonably calculated, the applicant shall pay an estimated inspection charge which may be adjusted as follows:

- (a) If the actual inspection costs exceed the estimated costs, an additional charge equal to the costs in excess of those estimated shall be levied. The charge shall be immediately due and payable.
- (b) If the actual inspection costs are less than the estimated inspection costs, the balance of the inspection charges in excess of actual costs shall be refunded.

9.1.11 Changing Class of Service

Whenever a parcel of property shall have become connected to the City or District sewerage system and shall thereafter undergo a change of use so that a different number of dwelling units would be assigned to the property if connection were made after the change, the following shall occur:

- (a) If the change results in the assignment of a greater number of EDU's pursuant to Table I, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.
- (b) If the change results in the assignment of a lesser number of EDU's pursuant to Table I, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.

9.1.12 Notification/Appeals

The District shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the system development charge methodology. These persons shall be so notified in writing of any such proposed changes at least 45 days prior to the first hearing to adopt or amend such methodology(ies). This methodology shall be available at least 30 days prior to the public hearing. Any challenge to the system development charge methodology shall be filed not later than 60 days following final adoption by the Board and only pursuant to the provisions of ORS 34.010 to 34.100.

9.1.13 Challenges

Any citizen or interested person may challenge expenditure of system development charge revenues according the Section 11.1 of the Rules and Regulations. Notwithstanding Section 11.1.1, the initial appeal of that Section with respect to an expenditure of system development charge revenues shall be filed within two years of the expenditure complained of. Thereafter, all time limits of Section 11.1 shall apply including Circuit Court review pursuant to ORS 34.010 to 34.100.

9.2 USER CHARGES

9.2.1 Dwelling Unit Monthly User Charge

As shown on Table I, a monthly sewer user charge for each residential dwelling unit is assigned each residential class of service listed in the attached Table I and shall be paid by the property owner or user commencing on the third month following the date of connection to the District or City's sewer system unless the City requires an earlier charge. All nonresidential users shall pay from the date of connection to the system. The Board may set user fees and charges by resolution or order.

9.2.2 Low Income Senior Citizen Monthly User Charge

The monthly user charge for service provided to the principal residence of a person 65 years of age or older, having a maximum income of \$13,616 for a single person residing in the residence or a maximum of \$18,204 for all persons residing in the residence shall be 50% of the monthly sewer service charge. This amount will be automatically adjusted annually commencing July 1, 1998, and thereafter depending upon the poverty level amounts established by the United States of America. In order to be eligible for the reduced user charge, the qualified person must be the person to whom the monthly user charge is billed and must have completed and filed with the District an application for the rate on a form supplied by the District.

9.3 OTHER CHARGES

9.3.1 Sewer Tap-In Charge

Whenever any property requiring sanitary facilities directly connects to the District sewerage system and there has not been provided a service connection to serve such property, the owner at the time of connection shall pay a tap-in charge. The charge shall be equal to the costs incurred by the District in providing the sewer tap-in and shall be set by resolution or order of the Board.

9.3.2 Other Connecting Charges

Whenever service to a property requires special facilities to be provided by the District, the property owner shall be charged the actual cost incurred by the District in providing the special facilities. Special facilities shall include, but are not limited to, manhole connections, extension of the public sewer, or modification of the public sewer.

9.3.3 Industrial Waste User Charge

An industrial waste user charge will be applied to each class of industrial user as defined in Tables I. The user charge shall be comprised of rates for the customer's proportionate contribution of flow, the suspended solids ("TSS") and biochemical oxygen demand ("BOD") which are in excess of domestic sewage contributions.

Rates for industrial flows shall be based on their Equivalent Dwelling Units as determined by metered water consumption. Rates for TSS and BOD removal shall be based on the actual treatment cost per pound incurred by the District, including administrative overhead, operation, maintenance, and other expenses as established by the District. The user charge shall be based on simultaneous monitoring of flow, TSS, and BOD concentrations measured at the customer's property and the sewage treatment plant periodically during the preceding three-month period. Quarterly adjustments may be made to reconcile differences in projected versus actual conditions.

Such user charge shall be payable from the date of connection to the District or City sewage system or from the date on which the property owner is required to connect to the District or City sewage system, whichever occurs first.

9.3.4 Surcharge

If the District or City verifies that any customer has discharged waste on a sustained, periodic, or accidental basis, and those wastewater characteristics result in additional costs above the normal costs associated with treating, operating, maintaining, or complying with regulatory requirements, then that customer may be billed for the additional costs resulting from that discharge.

9.3.5 Setting Other Charges and Fees

The Board shall create, adopt, and amend charges and fees by resolution or order.

9.4 PAYMENT OF CHARGES

9.4.1 User Charges

Owners of property will be billed by the jurisdiction that provides collection sewer services according to the schedule set by that entity. No single point of connection to the sewage system shall have a user charge less than the amount specified on Table I as amended from time to time. Users will be billed on a monthly or bimonthly basis.

9.4.2 Notification Requirements

In conjunction with a regular bill, the city will provide an annual notification to each user of that portion of the monthly user rate which is attributable to wastewater treatment services. The City shall state separately the portion imposed by it for sewer services.

9.4.3 Charges and Fees

All charges and fees shall be due and payable at the time of service, unless otherwise specifically provided by these Rules.

9.5 ACCOUNT SETUP, BILLING AND COLLECTION POLICY

9.5.1 General

It is the policy of the District that the user (in whose name the account is set up) is primarily responsible for all fees and charges at the service location.

9.5.2 Account Setup

All applications for service shall be on forms provided by the District or City. The account holder shall be considered the user of the service. In the case of a landlord-tenant situation, the tenant shall be the account holder unless the rental agreement (oral or written) provides that the landlord is responsible or the landlord has executed a written document stating that he/she/it is responsible for service. If the landlord is responsible, then both the landlord and the tenant shall be listed as the account holder. While the rental unit is unoccupied, any charges shall be the responsibility of the landlord.

9.5.3 Notices

Regardless of who is listed as the user, the District or City will make all reasonable efforts to provide the landlord and tenant with copies of all invoices, notices, and other information relating to fees and charges. This policy is intended to comply with ORS 91.255 and to provide notices to enable the landlord and tenant a reasonable opportunity within the time set by the District or City to avoid delinquent charges and discontinuance of service.

9.5.4 Collection of Charges

All invoices or bills for fees and charges shall be sent to the user at the address set forth on the records of the billing entity. If the District or City's records reveal that the user is not the owner and the owner has not executed a document to pay for services, then the District or City may take all reasonable steps to provide the owner with copies of all invoices, bills and notices pursuant to ORS 91.255.

If the owner has executed such an agreement to be bound or if the rental agreement provides, then the landlord and the tenant shall be jointly and severally liable and, following notices to each in accordance with the District or City's procedures, collection practices may ensue or service may be terminated. The District or City may look to either or both parties for payment in addition to the remedies of ORS 91.255.

If the user is different than the owner, the District or City may take all reasonable efforts to provide notice of delinquent status on billings by First Class mail to the last address of the owner or owner's agent that is on file with the District or City not later than 30 days from the time payment is due on the account. Thereafter, in accordance with typical procedures, the District or City may terminate or deny service to the property regardless of who is occupying the property, including any subsequent tenant, based upon the unpaid fees and charges incurred by the previous tenant following provision of the notices set forth above. In the case of a subsequent tenant, the District will provide not less than ten (10) days' written notice to that subsequent tenant prior to termination of services.

The District or City may enter into a payment plan in its sole discretion to avoid hardship to the user and leave the ultimate resolution between landlord and tenant.

The District or City may also deny or terminate service to the delinquent user at a new service location within the District based upon the outstanding fees and charges at the previous service location.

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

Nothing herein shall limit the City from undertaking those procedures or actions authorized by statute, charter or ordinance and using any collection or method available, including but not limited to, termination of water service.

9.5.5 Delinquent Charges

All District user charges shall bear interest at 9% per annum from the date of the levy until paid. In addition, the District may certify the amount to the Assessor for inclusion on the property tax statement pursuant to ORS 454.225, and in such case those charges shall become a lien upon the property from the date of the certification to the Assessor and any such collection of the debt and foreclosure of said lien shall be according to the Oregon Revised Statutes. In any action or suit to collect any delinquent user charges, the District shall be entitled to reasonable attorneys fees and costs and disbursements that may be awarded by the trial court, including any appeal therefrom.

9.5.6 Discontinuance of Service

The District may, at any time after any charges or fees hereunder become delinquent, remove or close sewer connections and enter upon any delinquent owner's property for such purpose. In addition, when any property owner fails to cease discharging into the sewerage system prohibitive substances after being notified by the District to do so, sewerage service may be similarly discontinued. The expense of such discontinuance as well as the expense of restoring service shall be a debt due to the District and may be recovered in the same manner as other delinquent charges.

9.5.7 Restoration of Service

Sewer service which has been discontinued by the District or City shall not be restored until all accrued charges, including the expenses of discontinuance and restoration have been paid and the cause for discontinuance corrected.

9.5.8 Fees and Costs

By resolution, the District shall set fees and charges, for collection efforts, including fees and charges necessary to recover all costs related to insufficient fund check or the cost of processing lien searches and the like based upon labor rates or other items deemed reasonable by the Board or the Director as its designee.

SECTION 10 SEPTIC TANK WASTES

10.1 GENERAL STATEMENT

This Section of the Rules and Regulations sets forth uniform requirements for discharges of septic tank wastes at the Tri-City Service District (TCSD) Water Pollution Control Plant, as required by applicable Oregon laws, the federal Clean Water Act, and the Environmental Protection Agency General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this Section of the Rules and Regulations are to prevent the introduction of pollutants into the District's sewerage system which will interfere with the operation of the system or contaminate the resulting biosolids; to prevent the introduction of pollutants into the District's sewerage system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system; to improve the opportunity to recycle or reclaim wastewaters and sludges; and to provide for equitable distribution of the cost of the District's sewerage system.

This section provides for the regulation of discharges of septic tank wastes at the TCSD Water Pollution Control Plant through the issuance of Septic Tank Waste Discharge Permits to approved septic tank waste haulers, authorizes monitoring and enforcement activities, requires septic tank waste hauler reporting, and establishes fees for the equitable distribution of costs of the District's sewerage system.

10.1 DEFINITIONS

In addition to the definitions provided in Section 2 of the Rules and Regulations, as used in this Section, the following additional words and terms shall have the meanings hereinafter designated:

10.2.1 Cesspool

A lined pit which receives domestic sewage, allows separation of solids and liquids, retains the solids and allows liquids to seep into the surrounding soil through perforations in the lining.

10.2.2 Chemical Toilet

A non-flushing, non-recirculating toilet facility wherein domestic sewage is deposited directly into a chamber containing a solution of water and toilet facility chemical.

10.2.3 Holding Tank

A watertight receptacle designed to receive and store domestic sewage generated on-site to facilitate disposal at another location, such as a chemical toilet, camper, trailer, septic tank and pumping facility used to pump domestic sewage up to an available gravity sewer line.

10.2.4 Operator in Charge

The designated personnel on duty at the TCSD Water Pollution Control Plant responsible for supervising and directing any discharge of septic tank wastes hauled to the Plant.

10.2.5 Septic Tank

A watertight receptacle, which receives domestic sewage from an on-site sanitary drainage system, is designed to separate solids from liquids, digest organic matter during a period of detention, and allows the liquid to discharge to a second treatment unit or to a soil absorption facility.

10.2.6 Septic Tank Wastes

Septic tank wastes include and are limited to domestic sewage from the sanitary facilities of residences, hotels, motels, and domestic sewage from the sanitary facilities of commercial and industrial property whether collected from septic tanks, cesspools, holding tanks, pumping facilities or chemical toilets. Process wastes from commercial and industrial property are excluded.

10.3 SEPTIC TANK WASTE DISCHARGE PERMITS

10.3.1 Requirements for a Permit

Only those persons possessing a valid Septic Tank Waste Discharge Permit from the District and displaying a valid charge card issued by the District will be allowed to discharge septic tank wastes at the TCSD Water Pollution Control Plant. The applicant must obtain a separate charge card for each truck and trailer in order for each truck and trailer to be authorized to discharge septic tank wastes.

Septic Tank Waste Permits for the discharge of septic tank wastes at the TCSD Water Pollution Control Plant will be issued by the District only to those persons possessing a valid Sewage Disposal Service Business License issued by the Oregon Department of Environmental Quality (DEQ), and who have submitted a complete application to the District with all information required by the District pursuant to the Rules and Regulations. Licenses from the DEQ will not be required of governmental units.

The District may refuse to issue a Septic Tank Waste Discharge Permit to any applicant who has had one or more permits previously revoked or canceled under the provisions of this Section of the Rules and Regulations, or to any agent, or associates of such person. The District may also refuse to issue a permit to any applicant who has been or is currently under an enforcement action by the District or another governmental unit and relating to the discharge of pollutants to waters of the State or to POTWs.

10.3.2 Permit Applications

Application for a Septic Tank Waste Discharge Permit to discharge septic tank wastes at the TCSD

Water Pollution Control Plant shall be made to the District on forms provided by the District. The application shall not be considered as complete until all information identified on the form is provided, unless specific exemptions are granted by the District. The District shall impose appropriate conditions in Septic Tank Waste Discharge Permits to ensure compliance with requirements in these Rules and Regulations.

10.3.3 Surety Bond

Except for governmental agencies, each permit applicant, regardless of the number of trucks for which application is made, shall post a surety bond in a form approved by the District in the sum of ten thousand dollars (\$10,000.00), which bond shall be forfeited to the District under any of the following conditions:

- (a) The discharge of wastes which are toxic or harmful to the treatment plant operation or process.
- (b) The discharge of septic tank wastes at any unauthorized location within the boundaries of the Tri-City Service District.
- (c) Failure to pay all charges for discharge within 30 days of billing by the District.

10.3.4 Issuance of Permit

After full evaluation and acceptance by the District of the information and data furnished by the applicant, the District shall issue a Septic Tank Waste Discharge Permit to the applicant subject to the terms and conditions required by the District consistent with or pursuant to the Rules and Regulations.

Each permit holder will be issued one Septic tank Waste Discharge Permit. Each truck and trailer will be issued one charge card, which card, after issuance by the District must be presented to the operator in charge before any septic tank wastes may be discharged at the TCSD Water Pollution Control Plant.

In addition to complying with the requirements of the Septic Tank Waste Discharge Permit and these Rules and Regulations, the permittee is required to file annually with the District the permittee's current Oregon DEQ Sewage Disposal Service Business License or annual proof of application for renewal of the DEQ License if the DEQ has not issued a renewed License and the permittee is operating under an approved License that administratively continues in effect under Oregon law.

10.3.5 Permit Duration/No Property Interest Acquired

All Septic Tank Waste Discharge Permits shall be issued for a term not to exceed three years. Each Septic Tank Waste Discharge Permit shall expire on July 1 of each permit term.

If the permittee wishes to continue an activity regulated by Septic Tank Waste Discharge Permit, the permittee must file with the District a complete application to renew their permit no later than 30 days prior to the expiration date and obtain a renewed permit by no later than the expiration date.

No permit holder acquires any property interest by virtue of permit approval and continued approval is expressly contingent upon compliance with this Section of the Rules and Regulations and all other applicable Federal, State, and local requirements.

10.3.6 Limitations on Permit Transfer

A Septic Tank Waste Discharge Permit is issued to a specific applicant and a charge card is issued for a specific truck and trailer. The permit is not assignable or transferable to another waste hauler, and the charge card is not assignable or transferable to another truck and trailer without the prior written approval of the District.

10.3.7 Enforcement and Revocation of Permit

Any septage hauler that fails to comply with the requirements of these Rules and Regulations or the provisions of its Septic Tank Waste Discharge Permit is subject to enforcement by the District. The District shall conduct enforcement pursuant to and in accordance with Section 11 of these Rules and Regulations. In enforcing any of the requirements of the Rules and Regulations or Septic Tank Waste Discharge Permit, the District may:

1. Take civil administrative action (such as issuance of Notices of Violations, administrative fines or revocation of a permit);
2. Issue compliance orders;
3. Cause an appropriate action (such as civil litigation, criminal prosecution) to be instituted in a court of competent jurisdiction;
4. Terminate service; or
5. Take such other action as the District deems appropriate.

All Septic Tank Waste Discharge Permits issued to an applicant by the District shall be revoked or canceled for any of the following reasons:

- (c) Failure to accurately certify the source or sources of a waste load prior to discharge, and to provide verifiable, complete and accurate information in the manner required by the operator in charge at the TCSD Water Pollution Control Plant.
- (d) Failure to pay all fees and charges for discharging septic tank wastes within thirty (30) days of billing by the District.
- (e) Any act which is named a cause for forfeiture of the surety bond, as outlined in Subsection 10.3.3 of these Rules and Regulations.

10.4 WASTE DISCHARGE REQUIREMENTS

10.4.1 Prohibited Discharges

No septic tank waste hauler shall discharge or cause to be discharged, directly or indirectly, to the TCSD Water Pollution Control Plant, any waste that is not septic tank waste or any pollutant, substances, or wastewater which will interfere with the operation or performance of the District sewerage system, have an adverse effect on the receiving stream, endanger life, limb or public property, or constitute a nuisance. Prohibited discharges shall include, but are not limited to the following:

- (a) Any process waste from industrial or commercial locations;
- (b) Any wastes containing liquids, solids, or gases that will create a fire or explosion hazard;
- (c) Any wastes containing solid or viscous substances which may cause obstruction to flow such as, but not limited to, oil, grease, sand, rags, or metals;
- (d) Any wastes having a pH lower than 6.0 or higher than 9.0, or having any corrosive property capable of causing damage or hazard to structures, equipment or people;
- (e) Any wastes having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or having temperatures sufficient to inhibit biological activity or cause the influent to the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius); and
- (f) Any other type of waste that may be untreatable by the treatment plant, or will interfere with the operation of the treatment plant, such as but not limited to toxic, radioactive, or hazardous wastes.

Any septic tank waste hauler who violates these conditions and discharges wastes with the above characteristics is subject to forfeiture of their surety bond and revocation of their Septic Tank Waste Discharge Permit, in addition to any other penalties, assessments, fines, or damages that may be recoverable.

10.4.2 Discharge Limitations

- (f) The District will accept domestic septic tank wastes originating from within Clackamas, Multnomah, and Washington Counties and hauled to the TCSD Water Pollution Control Plant subject to the provisions of this Section of the Rules and Regulations.
- (g) Discharge of septic tank wastes at the TCSD Water Pollution Control Plant will only be allowed during plant hours established by the Tri-City Service District. The District reserves the right to change the hours and/or days that waste haulers are allowed to

discharge at the TCSD Water Pollution Control Plant.

- (c) Each septic tank waste load hauled to the TCSD Water Pollution Control Plant shall be accompanied by a manifest in a form provided by the District which provides verifiable, complete and accurate information on the source or sources of the septic tank waste load. The permittee shall certify under penalty of law the information provided in the manifest.
- (d) The operator in charge shall have full authority to take any of the following steps if any septic tank waste exhibits prohibited discharge characteristics, exhibits inconsistencies between certified contents and actual contents, contains materials that are suspected to be harmful to the treatment plant, or if the TCSD Water Pollution Control Plant exhibits capacity or operational problems:
 - (1) Refuse acceptance of the waste;
 - (2) Limit the volume of discharge; or
 - (3) Establish such restrictions as deemed necessary for the efficient and safe operation of the treatment plant.
- (e) If for reason of lack of capacity or operational problems, the operator in charge is unable to accept any waste material, the operator in charge will notify the Oregon DEQ.
- (f) In the event a load of waste is rejected by the operator in charge, the Oregon DEQ will be notified of such rejection and the reason therefore.
- (g) No wastes from septic tanks, holding tanks, or pumping facilities, shall be discharged into any sewer system within the jurisdiction of the District, except as specifically authorized by existing codes, ordinances, and regulations.

10.5 FEES AND CHARGES

10.5.1 Permit Fee

The fee for the initial Septic Tank Waste Discharge Permit and for the renewal thereof is set forth in Table I, payable at the time the permit application or renewal application is filed with the District. The initial and renewal permit fees may be amended at any time by an Order of the Board.

10.5.2 Disposal Charges

The charge for disposing of septic tank wastes at the TCSD Water Pollution Control Plant shall be based upon each gallon discharged as set forth on Table I. This charge rate per gallon may be amended at any time by an Order of the Board.

Determination of the quantity of septic tank wastes discharged shall be made by the operator in charge. Any appeal of the determination of the quantity of wastes discharged must be made before

the wastes are discharged to the TCSD Water Pollution Control Plant.

10.6 COLLECTION AND BILLING

The operator in charge shall retain two copies of every manifest executed by permit holders.

The District's accounting office shall mail a statement of account to each permit holder once per month. The statement shall contain the warning that failure to pay the amount shown therein within thirty (30) days of the date of billing will result in revocation of the Septic Tank Waste Discharge Permit, and the statement will contain a total amount due and payable based on the charges set forth in Subsection 10.5 of these Rules and Regulations.

10.7 PROTECTING THE PUBLIC INTEREST

No provision of this Section of the Rules and Regulations shall be construed to create any right to the disposition of septic tank wastes at a District facility inconsistent with the public interest.

No provision of this Section of the Rules and Regulations shall be construed to create any right in any individual to a Septic Tank Waste Discharge Permit, which in the opinion of the District would be inconsistent with the public interest.

SECTION 11 APPEALS

11.1 INTERPRETATION OF THIS ORDINANCE

11.1.1 Appeal

Any person aggrieved by a ruling or interpretation of the provisions of this Ordinance may submit a written appeal to the Director. 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's property or business, together with any other reasons for the appeal. This provision shall not apply in cases arising under Section 11.2.

11.1.2 Decision of District

The District shall study the matter, hear testimony if deemed necessary, and issue written findings and reasons for such recommendations to the appellant.

11.1.3 Appeal to Board

If the appellant considers that his grievance has not been handled to his satisfaction, he may apply to the governing body of the District for an independent review of his case 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. Within thirty (30) days from receipt of the appeal if the Board chooses to review the matter, it will prepare a written decision on the matter, which shall be sent to the applicant. In lieu of a hearing by the Board, a hearing officer may be appointed.

11.1.4 Circuit Court Review

Decisions of the Board shall be reviewable by the Circuit Court of the State of Oregon for Clackamas County, solely and exclusively under the provisions of ORS 34.010 to 34.100.

11.2 VIOLATIONS AND CIVIL PENALTIES

11.2.1 Violation of These Rules and Regulations

The District may impose civil penalties, including but not limited to fines, damages, modification or revocation of permit, cessation of services or seek an injunction or other relief provided by law when any user or person violates any condition or provision of this Ordinance or any rule adopted thereto or any final order with respect thereto as well as violation of federal or state statutes, regulations or administrative rules. The goal of enforcement is to (a) obtain and maintain compliance with the District's statutes, rules and regulations, permits and orders; (b) protect the public health and the environment; (c) deter future violators and violations; and (d) ensure appropriate and consistent enforcement. Except as provided by 11.3.1, the District shall endeavor by conference, conciliation and persuasion to solicit compliance. The District shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary to achieve the goals set forth herein under the particular circumstances of each violation. The violators who do not comply with

initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved.

11.2.2 Definitions for Enforcement

- (a) "Compliance" means meeting the requirements of the District's statutes, rules, permits or orders.
- (b) "Documented Violation" means any violation which the District or other government agency verifies through observation, investigation or data collection.
- (c) "Enforcement" means any documented action taken to address a violation.
- (d) "Flagrant" means any documented violation where the respondent had actual knowledge of the law and had consciously set out to commit the violation.
- (e) "Formal enforcement" means an administrative action signed by the Director or designee which is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame and states consequences for continued noncompliance.
- (f) "Intentional" means respondent consciously and voluntarily took an action or admitted to take an action and knew the probable consequences of so acting or omitting to act.
- (g) "Magnitude of Violation" means the extent and effects of a violator's deviation from the District's statutes, rules, permits or orders. In determining magnitude, the District shall consider all available applicable information, including such factors as, but not limited to, concentration, volume, duration, toxicity or proximity to human or environmental receptors and the extent of the effects of the violation. Deviations shall be classified as major, moderate or minor.
- (h) "Prior Significant Action" means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment of a civil penalty, by order or default, or by Stipulated Final Order of the District.
- (i) "Respondent" means the person to whom a formal enforcement action is issued.
- (j) "Risk of Harm" means the level of risk created by the likelihood of exposure, either individual or cumulative or the actual damage either individual or cumulative, caused by a violation to public health or the environment. Risk of harm shall be categorized as major, moderate or minor.
- (k) "Systematic" means any documented violation which occurs on a regular basis.
- (l) "Violation" means a transgression of any statute, rule, order, license, permit or any part thereof and includes both acts and omissions. Violations shall be classified as follows:

- (1.) “Class I” means any violation which poses a major risk of harm to public health or the environment, or violation of any compliance schedule contained in a District permit or a District order:
- (i) Violation of a District Order;
 - (ii) Intentional unauthorized discharges;
 - (iii) Negligent spills which pose a major risk of harm to public health or the environment;
 - (iv) Waste discharge permit limitation violations which pose a major risk of harm to public health or the environment;
 - (v) Discharge or introduction of waste to the publicly owned treatment works as defined in 40 CFR 403.3(o), without first obtaining an Industrial User Waste Discharge Permit;
 - (vi) Failure to immediately notify the District of a spill or upset condition which results in an unpermitted discharge to public waters or to the publicly owned treatment works as defined in 40 CFR 403.3(o);
 - (vii) Violation of a permit compliance schedule;
 - (viii) Failure to provide access to premises or records;
 - (ix) Any other violation related to water quality which poses a major risk of harm to public health or the environment;
 - (x) Two Class II violations or one Class II and two Class III violations or three Class III violations.
- (2.) “Class II” means any violation which poses a moderate risk of harm to public health or the environment, including but not limited to:
- (i) Waste discharge permit limitation violations which pose a moderate risk of harm to public health or the environment;
 - (ii) Negligent spills which pose a moderate risk of harm to public health or the environment;
 - (iii) Failure to submit a report or plan as required by permit or license;
 - (iv) Any other violation related to water quality which poses a moderate risk of harm to public health or the environment.

(3.) "Class III" means any violation which poses a minor risk of harm to public health or the environment, including but not limited to:

- (i) Failure to submit a discharge monitoring report (DMR) on time;
- (ii) Failure to submit a completed DMR;
- (iii) Negligent spills which pose a minor risk of harm to public health or the environment;
- (iv) Violation of a waste discharge permit limitation which poses a minor risk of harm to public health or the environment;
- (v) Any other violation related to water quality which poses a minor risk of harm to public health or the environment.

11.3 PROCEDURE FOR ENFORCEMENT

11.3.1 Prior Notice and Exceptions

Except as otherwise provided, prior to the assessment of any civil penalty, the District shall serve a notice of violation upon the Respondent. The written notice shall be served, either personally, by office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the District will assess a civil penalty if a violation continues or occurs after five days following receipt of the notice.

The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if (a) the act or omission constituting the violation is intentional; or (b) the water pollution would normally not be in existence for five days.

11.4 ENFORCEMENT ACTION

11.4.1 Notice of Non-Compliance (NON)

A notice of noncompliance (NON) is an enforcement action which: (a) informs a person of the existence of a violation, the actions required to resolve the violations and the consequences of continued noncompliance. The notice may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated; (b) shall be issued under the direction of the Director or designee; (c) shall be issued for all classes of documented violations; and (d) is consistent with the policy of 11.2.1. Typically a NON will be in the form of a Compliance Telephone Memorandum and may include a request for a written report within five (5) business days. The report shall detail the event, steps taken to correct the problem and steps to prevent future events. 11.4.2 Notice of Violation and Intent to Assess a Penalty (NOV).

11.4.2 Notice of Violation and Intent to Assess a Penalty (NOV)

The Notice of Violation and Intent to Assess a Civil Penalty (NOV) is a formal enforcement action which: (a) is issued pursuant to 11.3.1; (b) may include a time schedule by which compliance is to be achieved; (c) shall be issued by the Director or designee; (d) shall be issued for the first occurrence of a documented Class I violation which is not excepted under 11.3.1 or the repeated or continued occurrence of documented Class II or Class III violations where notice of noncompliance has failed to achieve compliance or satisfactory progress toward compliance.

11.4.3 Notice of Civil Penalty Assessment

A notice of Civil Penalty Assessment is a formal enforcement action which (a) is escalated pursuant to Section 11.5; (b) shall be issued by the District or designee; and (c) may be used for the occurrence of any class of documented violation, for any class of repeated or continuing violations if a person has failed to comply with a Notice of Violation and intent to assess a civil penalty or other order or Stipulated Final Order.

11.4.4 Memorandum of Agreement and Order

A Memorandum of Agreement and Order (MAO) is a formal enforcement action which is in the form of a MAO, stipulated final order or consent order issued by the Director that (a) may be negotiated between the District and the subject party prior to or after any notice set forth above; (b) shall be signed by the Director or designee on behalf of the District and the authorized representative of the subject party; and (c) shall set forth action to be taken and set civil penalties. This may be issued for any class of violations. The formal enforcement action as described in these sections in no way limits the District from seeking other legal or equitable remedies in the proper court as provided by Oregon law.

11.4.5 Right to Hearing

- (a) A civil penalty shall be due and payable 10 days after the date of service of the Notice of Civil Penalty Assessment. The decision of the Director or the Director's designee to assess a civil penalty or other enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be served on the user or person (hereinafter "Respondent") by personal service, office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure or by certified or registered mail, return receipt requested. Service may be made upon any agent, officer or authorized representative of the user or person. The Notice shall specify the violation, the reasons for the enforcement action and the amount of the penalty. It shall comply with ORS 183.090 relating to notice and contested cases. The decision shall be final unless the respondent files a written Notice of Appeal and Request for Hearing with the District within 21 days from the date of the Director's decision. The Notice of Appeal and Request for Hearing shall contain the following:
 - (b) The name of the Respondent and the case file number or permit number;
 - (c) The name and signature of the Respondent and a statement that if acting on behalf of a partnership or corporation, that the person executing the Notice of Appeal is duly authorized to file such appeal and such person is the contact representative;

- (d) The date that the Notice of Civil Penalty Assessment or other formal enforcement was received by the Respondent;
- (e) The nature of the decision and the specific grounds for appeal. In the Notice of Appeal, the party shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and the reasons therefore.
- (f) The appeal shall be limited to the issues raised in the petition.
- (g) The hearing shall be conducted in accord with ORS Chapter 183. The record of the hearing shall be considered by the District or Hearings Officer, which shall enter appropriate orders , including the amount of any civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 11.9, below. Notwithstanding the foregoing, nothing shall be construed to prevent the District from taking any other enforcement action or remedy available.

11.5 CIVIL PENALTY SCHEDULE MATRICES

In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the District's statutes, regulations, permits or orders by service of a written notice of assessment of civil penalty upon the respondent as set forth in Paragraph 11.04 above. The amount of any civil penalty shall be determined through the use of the following matrices in conjunction with the formula contained in Section 11.5.3.

11.5.1 Base Penalty Matrix

	Magnitude of Violation		
	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

No civil penalty issued by the Director pursuant to this matrix shall be less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) for each day of each violation.

11.5.2 Petroleum Spills

Persons causing oil spills to waters of the state within the jurisdiction of the District through intentional or negligent acts shall incur a civil penalty of not less than one hundred dollars (\$100) or more than twenty thousand dollars (\$20,000) per violation. The amount of the penalty shall be determined by doubling the values contained in the matrix in subsection 11.5.1 of this rule in conjunction with the formula contained in 11.5.3. In determining whether to seek a civil penalty, the District shall take into account the circumstances and enforcement efforts of other governmental agencies having jurisdiction.

11.5.3 Civil Penalty Determination Procedure

(a) When determining the amount of civil penalty to be assessed for any violation the Director shall apply the following procedures:

(1) Determine the class of violation and the magnitude of violation;

(2) Choose the appropriate base penalty established by the matrices of Section 11.5.1 based upon the above finding;

(3) Starting with the base penalty (BP), determine the amount of penalty through the application of the formula $BP + [(.1 \times BP) (P + H + E + O + R + C)]$ where:

(i) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for P and the finding which supports each are as follows:

- 0 if no prior significant action or there is insufficient information on which to base a finding;
- 1 if the prior significant action is one Class II or two Class III violations;
- 2 if the prior significant action is one Class I or equivalent;
- 3 if the prior significant actions are two Class I or equivalents;
- 4 if the prior significant actions are three Class I or equivalents;
- 5 if the prior significant actions are four Class I or equivalents;
- 6 if the prior significant actions are five Class I or equivalents;
- 7 if the prior significant actions are six Class I or equivalents;
- 8 if the prior significant actions are seven Class I or equivalents;
- 9 if the prior significant actions are eight Class I or equivalents;
- 10 if the prior significant actions are nine Class I or equivalents.

In determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

- A value of two if all prior significant actions are greater than three years old, but less than five years old;
- A value of four if all the prior actions are greater than five years old;

In making the above reductions no finding shall be less than zero. Any prior significant action which is greater than ten years old shall not be included in the above determination.

(ii) "H" is past history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions. The values for H and the findings which support each are as follows:

- Minus 2 if the Respondent took all feasible steps to correct any violation;
- 0 if there is no prior history or insufficient information on which to base a finding;
- 1 if the Respondent took some but not all feasible steps to correct a Class II or III violation;
- 2 if the Respondent took some but not all feasible steps to correct a Class I violation;
- 3 if no action to correct prior significant actions.

(4) "E" is the economic condition of the Respondent. The values for E and the finding which support each are as follows:

- 0 to minus 4 if economic condition is poor, subject to any significant economic benefit gained by Respondent through non-compliance.
- 0 if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound;
- 2 if the Respondent gained a minor to moderate economic benefit through noncompliance;
- 4 if the Respondent gained a significant economic benefit through noncompliance.

(5) "O" is whether the violation was a single occurrence or was repeated or continuous during the period resulting in the civil penalty assessment. The values for "O" and the finding which supports each are as follows:

- If a single occurrence;
- If repeated or continuous.

(6) "R" is whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent. The values for "R" and the finding which supports each are as follows:

- Minus 2 if unavoidable accident;
- 0 if insufficient information to make any other finding;
- 2 if negligent;
- 4 if grossly negligent;
- 6 if intentional
- 10 if flagrant.

(7) "C" is the Respondent's cooperativeness in correcting the violation. The values for "C" and the finding which supports each are as follows:

- Minus 2 if Respondent is cooperative;
- 0 if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding;
- 2 if violator is uncooperative.

- (b) In addition to the factors listed in 11.5.3(a) of this rule, the Director may consider any other relevant rule or statute and shall state the effect the consideration had on the penalty. On review, the Board of county Commissioners or Hearings Officer shall consider the factors contained in 11.5.3(a) of this rule and any other relevant rule or statute.
- (c) If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4 in subsection 11.5.3(a)(iii) of this section, it may increase the penalty by the amount of economic gain, as long as the penalty does not exceed the maximum penalty allowed by rule and statute.
- (d) In any contested case proceeding or settlement in which Respondent has raised economic condition as an issue, Respondent has the burden of providing documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Hearings Officer or District may consider the causes and circumstances of Respondent's economic condition.

11.6 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR

11.6.1 Any time subsequent to service of a written notice of assessment of civil penalty the Director may compromise or settle any unpaid civil penalty at any amount that the Director deems appropriate. Any compromise or settlement executed by the Director shall be final.

11.6.2 In determining whether a penalty should be compromised or settled, the Director may take into account the following:

- (a) New information obtained through further investigation or provided by Respondent which relates to the penalty determination factors.
- (b) The effect of compromise or settlement on deterrence.
- (c) Whether Respondent has or is willing to employ adequate means to correct the violation or maintain compliance.
- (d) Whether Respondent has had any previous penalties which have been compromised or settled.
- (e) Whether the compromise or settlement would be consistent with the District's goal of protecting the public health and environment as set forth in Section 1.1 of these Rules and Regulations.
- (f) The relative strength or weaknesses of the District's case.

11.7 STIPULATED PENALTIES

Nothing herein shall affect the ability of the District to include stipulated penalties in a Stipulated Final Order or any other agreement.

11.8 APPOINTMENT OF HEARINGS OFFICER

For any contested case hearing, the District, through the Director, may appoint a hearings officer to determine all issues.

11.9 APPEALS

The decision of the District or the Hearings Officer shall be sent to the user or person by certified mail, return receipt requested. This decision shall be final unless a notice of intent to file a writ of review in the Circuit Court from the user or person is received by the District or the Hearings Officer within ten (10) days after the decision of the District or the Hearings Officer was sent to the user or person. Upon filing of the notice of intent to seek writ of review in the Circuit Court, the user or person shall comply with ORS Chapter 34 relating to writ of review procedures.

Every notice of intent to file a writ of review shall contain (a) a reference of the matter to be reviewed; (b) a statement of the interest of the appellant/user or person; (c) the specific ground relied upon as to why the decision being appealed is improper or erroneous; and (d) the date of the decision of the initial action.

11.10 COLLECTION OF CIVIL PENALTY

Procedures for the enforcement of the civil penalty shall be as follows:

11.10.1 Time Limit

Any civil penalty imposed shall be a judgment and lien and may be registered with the Court Clerk. The penalty shall be paid in full within fifteen (15) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.

11.10.2 Relief in Circuit Court

If full payment is not made, the District may take further action for collection and/or cause sewer service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

11.11 ENFORCEMENT

Nothing shall prevent enforcement of this ordinance or applicable Federal or State statutes or rules or regulations in Federal and State Courts.

SECTION 12 SUPPLEMENTARY RULES

12.1 COMPLIANCE WITH LAWS

Conformance with this Ordinance shall in no way be a substitute for, or eliminate the necessity of, conforming with any and all federal, state and local laws, ordinances, rules and regulations which are now, or may in the future be, in effect.

12.2 REGULATIONS AND RULES AS CONTRACT

The terms and conditions contained in this Ordinance, the ordinances of the Cities, and all resolutions and orders adopted pursuant hereto, shall constitute a contract between the District, Cities, and all users, contractors, and connectors to the system. The consideration for the conditions imposed upon such users and connectors shall be the privilege of the use of, and connection to, the sewerage system.

12.3 NO PROPERTY INTEREST ACQUIRED BY PURCHASE OF PERMIT OR CONNECTION TO SYSTEM

A user or connector to the sewerage system does not thereby acquire a vested property interest in continued use or connection to the system. Such use or connection is conditioned always upon such user or connector complying with all applicable terms and conditions contained in this Ordinance, and all regulations and orders adopted pursuant hereto and, further, upon compliance with all federal, state or local requirements which are, or may hereafter be, imposed upon such user or connector.

Nothing contained herein shall require the District to provide service or access to the system to such user when any federal, state, or local agency having jurisdiction over the District has imposed limitations upon such service or access, or when the District, in its discretion, has determined that the public interest requires any such limitation.

12.4 CONFLICTS WITH EXISTING AND FUTURE REGULATORY REQUIREMENTS OF OTHER AGENCIES

Any provision or limitations of this Ordinance and any regulation and order adopted pursuant hereto are superseded and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto which are more stringent than the provisions and limitations contained herein provided, always, that any provision of this Ordinance and resolution and order adopted pursuant hereto which are more stringent than any such applicable federal, state or local requirement shall prevail and shall be the standard for compliance by the users of and connectors to the sewerage system.

12.5 PREVIOUS ORDINANCES, RESOLUTIONS REPEALED

Any portion of any Ordinance, regulation and minute order heretofore adopted by the District or its predecessor agencies or City is hereby repealed to the extent that such portion is inconsistent with this Ordinance and any regulation and order adopted pursuant hereto.

12.6 ADMINISTRATION OF THIS ORDINANCE

The District, through its Director or other authorized designee or representative, shall have the authority to do all things necessary to administer the provisions of this Ordinance and any rules adopted pursuant thereto.

12.7 SEVERABILITY

If any section, subsection, provision, clause, or paragraph of this Ordinance or rules adopted pursuant hereto shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules, and it is hereby declared that every other section, subsection, provision, clause, or paragraph is, and shall remain, irrespective of the validity of any other provision.

12.8 EFFECTIVE DATE

The provisions of this Ordinance and the rules herein adopted shall be effective on the date of enactment.

**TABLE 1
SEWER USER CHARGES AND SYSTEM DEVELOPMENT CHARGE/
EQUIVALENT DWELLING UNIT (EDU)
ASSIGNMENT FOR CLASSES OF SERVICE
TRI-CITY SEWER SERVICE AREA**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
<u>RESIDENTIAL</u>		
01. Single Family Dwelling	1 EDU	1 EDU per dwelling unit
02. Duplex	.8 EDU per dwelling unit	1 EDU per dwelling unit
03. Triplex	.8 EDU per dwelling unit	
04. Multi-Family (4=plex & Up)	.8 EDU per dwelling unit	
05. Trailer/Mobile Home Parks provided sewer service	.8 EDU per dwelling unit	1 EDU per rental space provided sewer service
06. Adult Forster Care Homes ¹	1 EDU	1 EDU
<u>INSTITUTIONAL</u>		
10. High Schools	1 EDU per 29 students (A.D.A) ²	1 EDU per 1,000 cu ft. or fraction thereof per month of metered water consumption
11. Junior High	1 EDU per 29 students (A.D.A)	
12. Elementary schools and Pre-schools	1 EDU per 65 students (A.D.A)	
13. Community Colleges	1 EDU per 29 students (A.D.A.)	
14. Churches	1 EDU per 180 seats*	
- if parsonage	1 EDU, additional	
- if weekday child care or church school	1 EDU per 65 students, additional	
- if full time business office	1 EDU per 1,900 sq. ft. office additional	
- if evening programs conducted 3 nights or more per week	1 EDU per 1,900 sq. ft. meeting area, additional	
15. Hospitals – general	1 EDU per bed	
16. Convalescent/rest homes	1 EDU per two beds	
17. Adult Foster Care Homes ⁴	1 EDU per 2 beds	
<u>COMMERCIAL</u>		
20. Hotels, Motels	1 EDU per two rooms	
- if quality restaurant	1 EDU per 10 seats, additional	
21. Quality Restaurants	1 EDU per 10 seats	
22. Fast Food	1 EDU per 11 seats	
23. Tavern/Lounge	1 EDU per 18 seats	
24. Service stations (w/o car wash)	1.7 EDUs	1 EDU per each 1,000 cu ft or fraction thereof per month of metered water consumption
25. Car wash – Wand	1.2 EDUs per stall	
26. Rollover (w/service station)	5.6 EDUs	
27. Tunnel (w/service station)	16 EDUs	
28. Laundromats	1 EDU per machine	

**TABLE 1
TRI-CITY SERVICE DISTRICT
ASSIGNMENT OF EQUIVALENT DWELLING UNITS TO CLASSES OF SERVICE**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
<u>COMMERCIAL</u> (Continued)		
29. Other Commercial (shall include all classes not otherwise included on this table)	The lesser of a) 1 EDU per 1,900 sq. ft. or less of floor space or b) 1 EDU per quarter acre or fraction thereof of land acre but not less than 50% of maximum charge resulting from a) or b) above	
<u>INDUSTRIAL</u>		
30. Light industrial waste with a) 30 lbs to 200 lbs of S.S. per day b) 30 lbs to 200 lbs of B.O.D. per day, and c) less than 10,000 gallons per day		1 EDU per each 1,000 cu. ft. or fraction thereof per month of metered water consumption and actual cost to District for removal of SS and BOD per pound for amount resulting from sewage strength in excess of domestic sewage strength. Based on District cost per pound for removal of BOD and SS and cost per gallon for processing sewage flow.
31. Heavy industrial waste More than a) 200 lbs of S.S. per day or b) 200 lbs of B.O.D. per day of c) 10,000 gallons or more per day	Based on actual cost to District but not less than Class 29	
<u>Public Authorities</u>		
40. Cities	see applicable agreements	see applicable agreements
NOTE: For the purpose of Equivalent Dwelling Units for connection charge purposes, the quotient will be carried to two decimal places.		

¹Adult Foster Care Homes having an occupancy capacity of 5 or fewer persons for whom the owner/operator of the facility receives remuneration of any kind shall be charged for one EDU.

²A.D.A. = Average Daily Attendance

⁴Adult Foster Care Homes having an occupancy capacity in excess of 5 persons for whom the owner/operator of the facility receives remuneration of any kind.

**TABLE 1
(Continued)**

**PROCEDURE FOR CALCULATING MONTHLY RATE FOR
INDUSTRIAL/HIGH STRENGTH CUSTOMERS**

PROCEDURE:

1. Monitor BOD and SS concentrations simultaneously at the customer site and at the District sewerage treatment plant periodically throughout the three (3) months preceding the quarterly rate adjustment.
2. Compute the net “excess” customer contribution of BOD and SS in lb/cu. Ft. by deducting average concentrations observed in the sewage treatment plant influent from the customer’s average concentration during this same time period.
3. Obtain water consumption and flow records for this period and compute the pounds of BOD and SS removed at the plant which are in “excess” of that paid by a single family residence in their flat monthly rate.
4. Compute the unit cost of BOD and SS treatment and removal, by allocating expenses to BOD and SS removal functions during that same preceding three (3) month period.
5. Calculate total BOD and SS costs to the customer by multiplying the result of Steps 3 and 4.
6. Calculate the flow-related portion of the rate by computing the number of EDUs from water consumption records and multiplying them by the flat rate per EDU, which includes costs related to collection system O&M, capital improvements, engineering, administration, and treatment costs.

TABLE II
TOXIC POLLUTANTS

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzidine
6. Carbon Tetrachloride
7. Chlorobenzene
8. 1,2,4-Trichlorobenzene
9. Hexachlorobenzene
10. 1,2-Dichloroethane
11. 1,1,1-Trichloroethane
12. Hexachloroethane
13. 1,1-Dichloroethane
14. 1,1,2-Trichloroethane
15. 1,1,2,2-Tetrachloroethane
16. Chloroethane
17. Bis (2-Chloroethyl) Ether
18. 2-Chloroethyl Vinyl Ether (mixed)
19. 2-Chloronaphthalene
20. 2,4,6-Trichlorophenol
21. Parachlorometa Cresol
22. Chloroform (Trichloromethane)
23. 2-Chlorophenol
24. 1,2-Dichlorobenzene
25. 1,3-Dichlorobenzene
26. 1,4-Dichlorobenzene
27. 3,3-Dichlorobenzidine
28. 1,1-Dichloroethylene
29. 1,2-Trans-dichloroethylene
30. 2,4-Dichlorophenol
31. 1,2-Dichloropropane
32. 1,2-Dichloropropylene (1,3-Dichloropropene)
33. 2,4-Dimethylphenol
34. 2,4-Dinitrotoluene
35. 2,6-Dinitrotoluene
36. 1,2-Diphenylhydrazine
37. Ethylbenzene
38. Fluoranthene
39. 4-Chlorophenyl Phenyl Ether
40. 4-Bromophenyl Phenyl Ether
41. Bis (2-Chloroisopropyl) Ether

TABLE II
TOXIC POLLUTANTS
(Continued)

42. Bis (2-Chloroethoxy) Methane
43. Methylene Chloride (Dichloromethane)
44. Methyl Chloride (Chloromethane)
45. Methyl Bromide (Bromomethane)
46. Bromoform (Tribromomethane)
47. Dichlorobromomethane
48. Chlorodibromomethane
49. Hexachlorobutadiene
50. Hexachlorocyclopentadiene
51. Isophorone
52. Naphthalene
53. Nitrobenzene
54. 2-Nitrophenol
55. 4-Nitrophenol
56. 2,4-Dinitrophenol
57. 4,6-Dinitro-o-cresol
58. N-nitrosodimethylamine
59. N-nitrosodiphenylamine
60. N-nitrosodi-n-propylamine
61. Pentachlorophenol
62. Phenol
63. Bis (2-Ethylhexyl) Phthalate
64. Butyl Benzyl Phthalate
65. Di-n-butyl Phthalate
66. Di-n-octyl Phthalate
67. Diethyl Phthalate
68. Dimethyl Phthalate
69. Benzo (a) Anthracene (1,2-Benzanthracene)
70. Benzo (a) Pyrene (3,4-Benzo-pyrene)
71. 3,4-Benzofluorathene (Benzo (b) Fluoranthene)
72. Benzo (k) Fluoranthene (11,12-Benzofluoranthene)
73. Chrysene
74. Acenaphthylene
75. Anthracene
76. Benzo (ghi) Perylene (1,12-Benzoperylene)
77. Fluorene
78. Phenanthrene
79. Dibenzo (ah) Anthracene (1,2,5,6-Dibenzanthracene)
80. Indeno (1,2,3-cd) Pyrene (2,3-o-Phenylene-pyrene)
81. Pyrene

TABLE II
TOXIC POLLUTANTS
(Continued)

82. Tetrachloroethylene
83. Toluene
84. Trichloroethylene
85. Vinyl Chloride (Chloroethylene)
86. Aldrin
87. Dieldrin
88. Chlordane (Technical Mixture & Metabolites)
89. 4,4-DDT
90. 4,4-DDE (p,p-DDX)
91. 4,4-DDD (p,p-TDE)
92. Alpha Endosulfan
93. Beta Endosulfan
94. Endosulfan Sulfate
95. Endrin
96. Endrin Aldehyde
97. Heptachlor
98. Heptachlor Epoxide (BHC-Hexachlorocyclohexane)
99. Alpha-BHC
100. Beta-BHC
101. Gamma-BHC (Lindane)
102. Delta-BHC (PCB-Polychlorinated Biphenyl)
103. PCB-1242 (Arochlor 1242)
104. PCB-1254 (Arochlor 1254)
105. PCB-1221 (Arochlor 1221)
106. PCB-1232 (Arochlor 1232)
107. PCB-1248 (Arochlor 1248)
108. PCB-1260 (Arochlor 1260)
109. PCB-1016 (Arochlor 1016)
110. Toxaphene
111. Antimony (Total)
112. Arsenic (Total)
113. Asbestos (Total)
114. Beryllium (Total)
115. Cadmium (Total)
116. Chromium (Total)
117. Copper (Total)
118. Cyanide (Total)
119. Lead (Total)
120. Mercury (Total)
121. Nickel (Total)

TABLE II
TOXIC POLLUTANTS
(Continued)

- 122. Selenium (Total)
- 123. Silver (Total)
- 124. Thallium (Total)
- 125. Zinc (Total)
- 126. 2,3,7,8-Tetrachlorodibenzo-o-dioxin (TCDD)

**TABLE IV
LOCAL LIMITS**

Expressed as daily maximum concentrations:

0.3 mg/l	arsenic (As)
0.5 mg/l	cadmium (Cd)
2.0 mg/l	copper (Cu)
0.2 mg/l	cyanide (total)
1.5 mg/l	lead (Pb)
0.05 mg/l	mercury (Hg)
1.5 mg/l	nickel (Ni)
0.4 mg/l	silver (Ag)
2.0 mg/l	zinc (Zn)
2.0 mg/l	total chromium (Cr)
3.0 mg/l	phenolic compounds or any amount which cannot be removed by the District's wastewater treatment processes.
2.1 mg/l	Total Toxic Organics (TTO) which is the summation of all quantifiable values greater than 0.01 mg/l for the toxic organics in Table II

CHAPTER 3
SURFACE WATER MANAGEMENT RULES AND REGULATIONS FOR
RATE ZONE 3

**SURFACE WATER MANAGEMENT AGENCY
OF
CLACKAMAS COUNTY**

RULES AND REGULATIONS

December 15, 2002



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SECTION 1 – DECLARATION OF POLICY

1.1 PURPOSE AND OBJECTIVES

The objective of this ordinance is: (a) to prevent or minimize the introduction of pollutants to surface waters; (b) to meet Federal National Pollutant Discharge Elimination System (NPDES) permit requirements; (c) to establish policies which prevent future pollution and erosion through implementation of Best Management Practices; (d) to provide for the equitable distribution of the costs of the surface water management program; and (e) to better manage and control surface water within the Lower Tualatin Basin.

1.2 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

The Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of the District, may promulgate new or amended rules pertaining to these rules or regulations in accordance with ORS Chapters 198 and 451.

SECTION 2 – DEFINITIONS

2.1 WORDS AND TERMS

Unless the context specifically indicates otherwise, the following words and terms, as used in this Ordinance, shall have the meanings hereinafter designated:

2.1.1 Advanced Sedimentation and/or Filtration Process.

Any process that through correct application/implementation brings effluent discharge from the site into compliance with local, state and federal requirements. Polymers and electrolytic processes are two possible examples.

2.1.2 Bond.

As required by SWMACC, a surety bond, cash deposit or escrow account, assignment of savings, irrevocable letter of credit or other means acceptable to or required by SWMACC to guarantee that work is completed in compliance with project's surface water plan and in compliance with all SWMACC's requirements and for a maintenance period of one year thereafter.

2.1.3 Bioswale. (See Water Treatment/Bioswale)

2.1.4 Buffer/Undisturbed Buffer.

The zone contiguous with a sensitive area that is required for the continued maintenance, function, and structural stability of the sensitive area. The critical functions of a riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of fine sediments, overflow during high water events, protection from disturbance by humans and domestic animals, maintenance of wildlife habitat, and room for variation of aquatic system boundaries over time due to hydrologic or climatic effects. The critical functions of terrestrial buffers include protection of slope stability, attenuation of surface water flows from surface water runoff and precipitation, and erosion control.

2.1.5 Civil Penalty.

A civil penalty is a monetary sanction for violation of these Rules and Regulations, levied pursuant to Section 8 below, whereby SWMACC may impose a fine or penalty for violation of these Rules and Regulations, as well as recover all costs incurred, which are

attributable to or associated with the violations, including but not limited to the costs of administration, investigation, sampling and monitoring, legal and enforcement activities, damages to the storm sewer system, and contracts or health studies necessitated by the violation.

2.1.6 Contractor.

A person duly licensed or approved by the State of Oregon to perform the type of work to be done under a permit or contract issued by SWMACC.

2.1.7 County. Clackamas County, Oregon.

2.1.8 Detention.

The release of surface water runoff from a site at a slower rate than it is collected by the drainage system, the difference being held in temporary storage.

2.1.9 Developed parcel. See "Development."

2.1.10 Development.

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving excavation or any other activity which results in the removal of substantial amounts of vegetation (either over half the site or such that soil movement occurs) or in the alteration of natural site characteristics.

2.1.11 Discharge.

Any addition of water, storm water, wastewater, process water or any pollutant or combination of pollutants to waters of the State, directly or indirectly, by actions of dumping, spilling, disposing or physically connecting to the public storm system or natural drainage conveyance.

2.1.12 Drainageway.

A channel such as an open ditch that carries surface water.

2.1.13 Drywell.

An approved receptacle used to receive storm, surface and other water, the sides and bottom being porous, permitting the contents to seep into the ground. A drywell must conform to SWMACC's current standards.

2.1.14 Easement.

An interest or right to use or occupy real property for construction and maintenance of facilities.

2.1.15 Engineer.

A registered professional engineer licensed to practice in the State of Oregon.

2.1.16 Equivalent Service Unit (ESU).

A configuration of development resulting in impervious surfaces on a parcel, estimated to contribute an amount of runoff to the storm water system which is approximately equal to that created by the average single family residential parcel. One ESU is equal to 2500 square feet of impervious surface area.

The number of ESU attributable to a user's area calculated in whole units, with the minimum user's charge set at 1 ESU. For non-single family users with more than 1

ESU, the charge will be rounded to the nearest whole unit with a half value, or more, being rounded up.

2.1.17 Erosion.

Erosion is the movement of soil particles resulting from the flow or pressure from water, wind, or earth movement.

Visible or measurable erosion includes, but is not limited to:

2.1.17.1 Deposits of mud, dirt, sediment or similar material exceeding ½ cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge, or as a result of the action of erosion.

2.1.17.2 Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of onsite erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the site.

2.1.17.3 Earth slides, mud flows, earth sloughing, or other earth movement which results in material leaving the property.

2.1.18 Erosion Control Plan.

A plan containing a list of best management practices to be used during construction to control and limit soil erosion in accordance with the District's current erosion control manual.

2.1.19 FEMA.

Federal Emergency Management Agency.

2.1.20 Fences.

Structures which consist of concrete, brick, wood, plastic, or metal posts located in the ground, connected by wood, metal, or plastic, and capable of allowing passage of water.

2.1.21 Government Agency.

Any municipal or quasi-municipal jurisdiction, state or federal agency.

2.1.22 Grab Sample.

A sample which is taken from a surface flow, such as a stream, on a one-time basis without consideration of time.

2.1.23 Hazardous Materials.

Materials described as hazardous by the Department of Environmental Quality, including any toxic chemicals listed as toxic under Section 307(a) of the Clean Water Act or Section 313 of Title III of SARA.

2.1.24 Hearings Officer.

Officer, appointed by the Director, for hearings of appeals of administrative actions.

2.1.25 Highly Erodible.

Soils with erosion (K) factors greater than 0.25, as listed in the Soil Survey of Clackamas County Area, Oregon, developed by the Soil Conservation Service.

2.1.26 Illicit Discharge.

Any discharge to the public or natural stormwater conveyance system that is not composed entirely of stormwater, except discharges governed by and in compliance with an NPDES permit.

2.1.27 Impervious Surface.

That hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots, oiled macadam, gravel, or other surfaces which similarly resist infiltration or absorption of moisture.

2.1.28 Industrial Waste.

Any liquid, gaseous, radioactive or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources, or as defined by the Oregon State Department of Environmental Quality or the United States Environmental Protection Agency, exclusive of domestic sewage.

2.1.29 Infiltration System.

A drainage facility designed to use the hydrologic process of surface and storm water runoff soaking into the ground, commonly referred to as recharge, to dispose of surface and stormwater runoff.

2.1.30 In-Line Detention.

Detention located in a stream channel, a drainageway, or in a regional or subregional piped system. In-line detention mixes flows to be detained with flows from other areas.

- 2.1.31 Inspector.
A person authorized to inspect construction sites and activities affecting surface water.
- 2.1.32 Intermittent Stream.
A stream with no visible surface flows for a period of 30 or more continuous days per year.
- 2.1.33 Mean High Water Line.
The bank of any river or stream established by the annual fluctuations of water generally indicated by physical characteristics, such as a line on the bank, changes in soil conditions or vegetation line.
- 2.1.34 National Pollutant Discharge Elimination System, or NPDES, Permit
A permit issued pursuant to Chapter 402 of the Clean Water Act (40 CRF 122, 123, 124, and 504).
- 2.1.35 Open Spaces.
Land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreational uses or scenic purposes.
- 2.1.36 Owner.
The owners of record title or the purchasers under a recorded sale agreement and other persons having an interest of record in the described real property.
- 2.1.37 Parcel of Land.
A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and includes yards and other undeveloped areas required under the zoning, subdivision or other development ordinances.
- 2.1.38 Perennial Stream.
A permanently flowing (non-intermittent) stream.
- 2.1.39 Permit.
Any authorization required by SWMACC pursuant to this or any other regulation.
- 2.1.40 Permittee.
The person to whom a building permit, development permit or any other permit described in this ordinance is issued.
- 2.1.41 Person.
Any individual, firm, company, or corporation, partnership or association, entity, public corporation, political subdivision, governmental agency, municipality, industry, or any department or agency thereof.
- 2.1.42 Pollutant.
Any of the following, but not restricted to: oil, grease, soil, mining waste, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, heavy metals, asbestos, wrecked or discharged equipment, cellar dirt and untreated industrial, municipal and agricultural discharges into water.
- 2.1.43 Post-developed.

Conditions after development.

2.1.44 Pre-developed.

Conditions at the site immediately before application for development. Man-made site alterations or activities made without an approved development permit will not be considered as pre-developed conditions.

2.1.45 Pretreatment or Treatment.

The reduction of the amount of pollutants, the elimination of pollutants, or the alternation of the nature of pollutant properties in water to a less harmful state prior to discharging to Waters of the State.

2.1.46 Private Storm System.

That portion of the storm system owned and/or maintained by any person or entity other than SWMACC outside the public right-of-way, except as otherwise approved by SWMACC.

2.1.47 Property (or the site).

The property or the site shall mean the real property undergoing development.

2.1.48 Public Stormwater System.

Those portions of the stormwater system that are accepted for repair and maintenance responsibilities by SWMACC. Natural waterways are defined under State and Federal regulations.

2.1.49 Public Right-of-Way.

Any public highway, road, street, avenue, alleyway, public place, public easement, or public right-of-way.

2.1.50 Qualified Public Improvement.

A capital improvement that is:

- a) Required as a condition of development approval;
- b) Identified in the plan adopted pursuant to Section 6.3.5; and
- c) Not located on or contiguous to a parcel of land that is the subject of the development approval.

2.1.51 Rational Method.

A formula for estimating maximum discharge of runoff at a point, using flow (Q), runoff coefficient (C), rainfall intensity (I) for selected recurrence interval, and area (A), in the formula: $Q=CIA$.

2.1.52 Recharge.

The flow to ground water from the infiltration of surface and storm water.

2.1.53 Redevelopment.

A project that proposes to add, replace, and/or alter impervious surface (for purposes other than routine maintenance, resurfacing, regrading, or repair) on a site that is already developed. Requirements related to redevelopment shall be met when the project impacts greater than 800 square feet of impervious surface area. Single family developments on a lot of record are not required to implement water quality and quantity improvements.

2.1.54 Retention.

The process of collecting and holding surface water runoff with no surface outflow.

2.1.55 Sensitive Areas.

Sensitive Areas are:

- 2.1.55.1 Existing or created wetlands, including all mitigated wetlands; limits defined by wetlands reports approved by both the Division of State Lands and SWMACC.
- 2.1.55.2 Rivers, streams, sloughs, swamps, creeks, drainageways and open conveyances draining 50 acres or more; limits defined by the top of the bank or first break in slope measured upland from the mean high water line;
- 2.1.55.3 Impoundments (lakes and ponds); limits defined by the top of the bank or first break in slope measured upland from the mean high water line.
- 2.1.54.4 Sensitive Areas do not include a constructed wetland, an undisturbed buffer adjacent to a sensitive area, or a water feature, such as a lake, constructed during an earlier phase of a development for specific purposes not including water quality, such as recreation.

2.1.56 Stop Work Order.

An Order issued by SWMACC for violation of the Rules and Regulations. All work contributing to the violation must cease when a Stop Work Order is issued and the Stop Work Order will stay in place until such time as removed in writing.

2.1.57 Storm Drainage/Storm Sewer.

A pipe, or any method of conveyance that carries stormwaters, surface runoff, or drainage.

2.1.58 Stormwater.

Waters on the surface of the ground or underground resulting from precipitation.

2.1.59 Stormwater Management.

A program to provide surface water quality and quantity controls through nonstructural methods and capital improvement projects. Nonstructural controls include maintenance of surface water facilities, public education, water quality monitoring, implementation or intergovernmental agreements to provide for regional coordination, and preparation of water quality control ordinances and regulations.

2.1.60 Stormwater Quality Treatment Facility.

Stormwater Quality Treatment Facility refers to any structure or drainageway that is designed, constructed, and maintained to collect, filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may include, but is not limited to constructed wetlands, water quality swales, and ponds.

2.1.61 Stream.

A drainageway that is determined to be jurisdictional by the Oregon Division of State Lands or the U. S. Army Corps of Engineers.

2.1.62 User.

Any person or entity in whose name service is rendered as evidenced by the signature on the application or contract for that service, or in the absence of a signed instrument, but the receipt and payment of utility bills regularly issued in his/her/its name. A user, under this system and structure of rates, is either single family or non-single family.

2.1.63 User – Non-Single Family.

Any user whose impervious surface results from the development of land for purposes of operating a dwelling unit for occupancy by more than one single family or for other business, industrial, commercial or institutional purposes and to whom utility services are provided at a distinct service location.

2.1.64 User – Single Family.

Any user whose impervious surface results from the development of land for purposes of establishing a dwelling unit for occupancy by a single family and to whom utility services are provided at a distinct service location.

2.1.65 User Charge.

The periodic charges applied to all users for the cost of operation, maintenance, and replacement of the public stormwater quality and quantity systems, including any other costs, such as, but not limited to, debt service, capital improvements, regulatory compliance, program administration, etc.

2.1.66 Variance.

A discretionary decision to permit modification of the terms of any part of this ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.

2.1.67 Water Quality Facility.

A facility specifically designed for pollutant removal.

2.1.68 Water Quality Resource Areas.

Areas as defined on the Water Quality and Flood Plain Management Areas Map adopted by Metro or Clackamas County and amended.

2.1.69 Water Treatment Bioswale/Water Quality Swale.

A vegetated natural depression, wide shallow ditch, or similar constructed facility used to filter runoff for the purpose of improving water quality.

2.1.70 Waters of the State.

Those waters defined in ORS Chapter 468B.005 or as amended which include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do

not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

2.1.71 Wetland.

Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are those areas identified and delineated by a qualified wetlands specialist as set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 1987, or by a DSL/COE 404 permit. Wetlands may also consist of:

- 2.1.71.1 Constructed Wetlands. As defined in Section 404 of the Clean Water Act, constructed wetlands are those areas developed as a water quality or quantity facility, subject to maintenance as such. These areas must be clearly separated from existing or created wetlands.
- 2.1.71.2 Created Wetlands. Created wetlands are those wetlands developed in an area previously identified as a non-wetland to replace or mitigate wetland destruction or displacement.
- 2.1.71.3 Existing Wetlands. Existing Wetlands are those identified and delineated as set forth in the Federal Manual for Identifying the Delineating Jurisdictional Wetlands, January 1987, or as amended, by a qualified wetlands specialist.

2.1.72 Wet Weather Measures.

Erosion prevention and sediment control methods deemed necessary to meet the types of conditions that occur during the wet weather season, as identified in the District's current erosion control manual.

2.1.73 Wet Weather Season.

The portion of the year when rainfall amounts and frequency tend to have the most significant effect on erosion prevention and sediment control (October 1 to April 30).

2.1.74 Work Area.

Areas of disturbance for activities defined under "Development". Work Area includes areas used for storage of equipment or materials that are used for these activities.

SECTION 3 – DISCHARGE REGULATIONS

3.1 DISCHARGE PROHIBITIONS

3.1.1 Discharge to Public Storm Water System

No person shall discharge or cause to be discharged, directly or indirectly, to the public storm system any quantity of stormwater or any pollutant, substance, stormwater, or wash water, that will violate the NPDES permit, this Ordinance or any environmental law or regulation, or water quality standard. Prohibited activities include, but are not limited to, the following:

- 3.1.1.1 Introduction of pollutants or waters to the public stormwater system containing pollutants or concentrations at levels equal to or in excess of those necessary to protect waters of the State.
- 3.1.1.2 Failure to abide by the terms of any NPDES permit, statute, administrative rule, ordinance, stipulated and final order or decree or other permit or contract.
- 3.1.1.3 Discharges of non-stormwater or spills or dumping of materials other than stormwater into public storm system unless pursuant to a conditional permit approved by SWMACC and in compliance therewith.
- 3.1.1.4 Illegal or unpermitted connection or methods of conveyance to the public stormwater system.
- 3.1.1.5 Any discharge that will violate water quality standards.

3.1.2 Discharge to Creeks or Drainageways

Storm drains and roof drains are not allowed to drain to creeks or drainageways or encroach into the buffer unless approved in writing by SWMACC. Encroachment into buffer areas must be approved in writing and will require mitigation. Existing and replacement storm drains shall be constructed according to State and Federal Regulations. Non-single family development shall provide an approved water quality facility prior to any discharge from the site to a storm drain system, a creek or drainageway, as approved by SWMACC.

3.2 PRETREATMENT FACILITIES

- 3.2.1 If it is determined by SWMACC that pretreatment facilities, in addition to on-site facilities described in Section 6, are necessary to comply with water quality standards, SWMACC may require that such facilities be constructed or modifications made within the shortest reasonable time, taking into consideration the construction time, impact of the surface water on the surface water system, economic impact on the facility and any other appropriate factor. All such facilities shall be constructed and operated under a permit issued by SWMACC.

3.3 PERMIT REQUIREMENTS

3.3.1 Connection Permit

A permit is required to connect to any storm drain facility, including but not limited to pipes, pollution reduction manholes, and detention facilities, whether constructed or natural. Before connecting to any storm drain facilities, a permit authorizing such connection shall first be secured in writing from SWMACC and fees paid.

SECTION 4 – ENVIRONMENTAL PROTECTION AND EROSION CONTROL RULES

4.1 GENERAL POLICY

The policies of this section shall apply during construction and until permanent measures are in place following construction as described herein, unless otherwise noted.

4.1.1 It is the policy to require temporary and permanent measures for all construction projects to lessen the adverse effects of site alteration on the environment. The owner or his/her agent, contractor, or employee, shall properly install, operate and maintain both temporary and permanent works as provided in this section or in an approved plan, to protect the environment during the useful life of the project. These erosion control rules apply to all parcels within the authority of SWMACC.

Nothing in this section shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

4.1.2 Maintenance and repair of existing facilities shall be the responsibility of the owner of record as shown in the real property records.

4.2 EROSION CONTROL

4.2.1 It is SWMACC's policy to prevent erosion and to minimize the amount of sediment and other pollutants reaching the public storm and/or surface water system resulting from development, construction, grading, filling, excavating, clearing, and any other activity which accelerates erosion as required by water quality standards set forth in OAR 340-41-445 through 340-41-470.

4.2.2 Erosion Prohibited.

No visible or measurable erosion shall leave the property during construction or during activity described in Section 4.2.1. The owner of the property, together with any person who causes such action from which the visible or measurable erosion occurs, shall be responsible for clean up, fines, and damages. Clean up responsibilities include clean up of creeks, drainageways, or wetlands impacted by a project.

4.2.3 General Requirements.

Site Plans for storm drainage, grading and erosion control will be required for all development, construction, grading, filling, excavating, clearing, and any other activity which accelerates erosion as required by water quality standards set forth in OAR 340-41-445 through 340-41-470. Such activities impacting areas of 800 square feet or greater must obtain an erosion control permit. Activities impacting areas less than 800 square feet which result in erosion from a site do not need to obtain an erosion control permit but still must comply with the requirements of Section 4.2.2. All sites shall submit an erosion control plan for review, regardless of size. The plans shall use the techniques and methods prescribed in the current WES erosion prevention manual. If the applicant desires to use erosion prevention and sediment control measures different than those contained in the manual, supporting calculations and/or information must be submitted to WES for approval prior to construction. At a minimum the Erosion Control Plan shall include:

- 4.2.3.1 The methods and/or facilities to be used to prevent erosion and pollution created from the activity both during and after construction. Site-specific considerations shall be incorporated.
- 4.2.3.2 Limits of clearing by flagging boundaries in the field before starting site grading or construction. Staging areas shall be included.

- 4.2.3.3 An analysis of source controls such as detention and storage techniques during construction showing existing contours as an alternative method to control erosion from storm water runoff.
- 4.2.3.4 A drainage plan during construction.
- 4.2.3.5 Show existing contours as well as all sensitive areas, creeks, streams, wetlands, and open areas.
- 4.2.3.6 A description of historic localized flooding problems resulting from surface water runoff, FEMA or flooding problems known to the community or SWMACC.
- 4.2.3.7 Erosion control plan shall include a schedule for implementation of erosion control measures. The schedule shall include:
 - measures to cover exposed soil if unworked for 14 days or more
 - Implementation of wet weather measures between October 1st and April 30th, unless otherwise approved by the District.
- 4.2.3.8 On sites where vegetation and ground cover have been removed, District approved ground cover shall be re-established by seeding and mulching on or before September 1 with the ground cover established by October 15. As an alternative to seeding and mulching, or if ground cover is not established by October 15, the open areas shall be protected through the wet season with straw mulch, erosion blankets, or other approved method, where appropriate, with long term site plan.
- 4.2.3.9 Water containing sediment shall not be discharged into the surface water management system, wetlands or streams without first passing through an approved sediment filtering facility or device. Discharge from temporary sedimentation ponds or detention facilities used for sedimentation during construction shall be constructed to District standards to provide adequate sediment filtration.
- 4.2.3.10 Re-inspection fees may be charged for those sites that are notified of deficiencies and fail to complete corrective actions in full by the time of the next inspection.

4.2.4 Site Plan.

A site-specific plan prepared by an engineer shall be required and additional erosion control measures may be required for sites having one or more of the following characteristics:

- 4.2.4.1 Sites greater than five (5) acres disturbed;
- 4.2.4.2 Sites with slopes greater than 15 percent on any portion of the site;
- 4.2.4.3 Sites with highly erodible soils;
- 4.2.4.4 Sites adjacent to sensitive areas;
- 4.2.4.5 Sites where grading and clearing activities are likely between October 1 and April 30.

Refer to the current WES erosion prevention manual for additional measures required. Additional measures may include, but are not limited to, one or more of the following:

1. Limited area cleared at any one time;

2. Additional drainage requirements during construction;
3. Additional water quality treatment, including filtering or treatment of runoff;
4. Cover portions of the site;
5. Maintain a vegetated buffer strip between site and sensitive area;
6. Additional facilities to reduce volume and velocity of water runoff;
7. If there are no workable alternatives, limit clearing and grading in some areas between October 1 and April 30.

4.2.5 No soils shall remain exposed for more than 14 days in the wet weather season unless an advanced sedimentation or filtration process is used. WES must approve such process prior to implementation.

4.2.6 All construction activities disturbing an area that is five (5) or more acres of land shall obtain an NPDES 1200C erosion control permit from SWMACC for construction activities.

4.2.7 Performance.

The Applicant may be required to submit a bond, cashier's check or irrevocable letter of credit from an acceptable financial institution to secure performance of the requirements of this section. Upon default, SWMACC may perform work or remedy violations and draw upon the bond or fund. If SWMACC does not require a bond and the Developer does not perform the erosion control plan in whole or in part, SWMACC may, but shall not be obligated to, perform or cause to be performed corrective work and charge the Developer. Such amount shall bear interest at 9% per annum and shall be a lien upon the property foreclosable in accordance with ORS Chapter 88.

4.2.8 Erosion Control Certification.

1. All building activities requiring erosion control permits or approvals shall identify an individual, with authority over erosion control, to be responsible for erosion control of the site. In the event the individual responsible for erosion control is certified for erosion control, the development is eligible for a discount in erosion control fees, see Section 9.
2. Certification shall involve training in erosion control techniques, issues, and implementation strategies. A minimum of 4 hours of classroom instruction shall be required every 2 years.

4.2.9 Maintenance. The applicant shall maintain the facilities and techniques contained in the approved Erosion Control Plan so as to continue to be effective during construction or other permitted activity. If the facilities and techniques approved in an Erosion Control Plan are not effective or sufficient as determined by SWMACC's site inspector, the permittee shall submit a revised plan within three working days of written notification. In cases where erosion is occurring, SWMACC may require the applicant to implement interim control measures prior to submittal of a revised Erosion Control Plan and without limiting SWMACC's right to undertake enforcement measures. Upon approval of the revised plan by SWMACC, the permittee shall immediately implement the revised plan. The developer shall implement fully the revised plan within 3 working days of approval by the Director, or their designee.

4.2.10 Inspection.

The erosion control measures necessary to meet the requirements of Section 4.2.2 shall be installed by the owner or their representative and shall be inspected by SWMACC prior to the start of any excavation work.

4.2.11 Deposit of Sediment.

No person shall drag, drop, track, or otherwise place or deposit, or permit to be deposited, mud, dirt, rock or other such debris upon a public street or into any part of the public storm and surface water system, including natural drainage systems, or any part of a private storm and surface water system which drains or connects to the public storm and surface water system, with the exception of sanding for ice and snow and maintenance such as crack or chip sealing. Any such deposit of material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into the road/street or any part of the storm and surface water system without erosion control measures installed to the satisfaction of SWMACC, and any such action shall be an additional violation.

4.2.12 Permit Fee

SWMACC may collect all fees for the review of plans, administration, enforcement, and field inspection(s) to carry out the rules contained herein as established and amended by SWMACC.

4.2.13 Permit Duration

4.2.13.1 Development or construction must be initiated as per the approved final development plans within one (1) year of the date of erosion control permit issuance or the permit will be null and void. When the Hearings Officer or Board of County Commissioners specify a time period for commencement of a development, that time period shall supersede.

4.2.13.2 Erosion Control permits (excluding 1200-C permits) shall expire and become null and void 24 months after the date of permit issuance unless extended by the Director. If the work authorized by such permit has not received final inspection approval prior to the permit expiration date, and the permit has not been extended by the Director, all work shall stop until a new permit is obtained that conforms to the erosion control regulations in effect at the time of re-application. The Director may extend the time for action by the permittee for a period not exceeding 12 months on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. Failure on the part of WES to notify the permittee by mail prior to the original date of expiration shall result in an automatic 12-month extension. No permit shall be extended more than once.

4.2.13.3 1200-C permits shall expire and become null and void if the permit is not renewed annually or as per the general permit schedule set forth by the Oregon Department of Environmental Quality (DEQ).

4.3 AIR POLLUTION

4.3.1 Dust.

Dust and other particulate matters containing pollutants may settle on property and be carried to waters of the state through rainfall or other means.

Dust shall be minimized to the extent practicable, utilizing all measures necessary, including, but not limited to:

4.3.1.1 Sprinkling haul and access roads and other exposed dust producing areas with water.

4.3.1.2 Establishing temporary vegetative cover.

4.3.1.3 Placing wood chips or other effective mulches on vehicle and pedestrian use areas.

4.3.1.4 Maintaining the proper moisture condition on all fill surfaces.

4.3.1.5 Pre-wetting cut and borrow area surfaces.

4.3.1.6 Use of covered haul equipment.

4.4. MAINTAINING WATER QUALITY

4.4.1 Construction of new facilities between stream banks shall be pursuant to permits issued by state and federal agencies having jurisdiction and applying their regulations.

4.4.2 Pollutants such as, but not limited to, fuels, lubricants, asphalt, concrete, bitumens, raw sewage, and other harmful materials shall not be discharged into rivers wetlands, streams, impoundments, undisturbed buffers or any storm drainage system, or at such proximity that the pollutants flow to these watercourses.

4.4.3 The use of water from a stream or impoundment, wetland or sensitive area, shall not result in altering the temperature or water quality of the water body in violation of Oregon Administrative Rules, and shall be subject to water rights laws.

4.4.4 All sediment-laden water from construction operations shall be either routed through sedimentation basins, filtered, or otherwise treated to remove the sediment load before release into the surface water system.

4.5 FISH AND WILDLIFE HABITAT

4.5.1 Construction shall be done in a manner to minimize adverse effects on wildlife and fishery resources pursuant to the requirements of local, state, and federal agencies charged with wildlife and fish protection.

4.6 NATURAL VEGETATION

4.6.1 As far as is practicable, natural native vegetation shall be protected and left in place in undisturbed buffer areas. Work areas shall be carefully located and marked to reduce potential damage. Trees shall not be used as anchors for stabilizing working equipment.

4.6.2 During clearing operations, trees shall not be permitted to fall outside the work area. In areas designated for selective cutting or clearing, care in falling and removing trees and brush shall be taken to avoid injuring trees and shrubs to be left in place.

4.6.3 Where natural vegetation has been removed, or the original land contours disturbed, the site shall be revegetated per a submitted and approved seeding and maintenance plan from a list approved by SWMACC as soon as practicable after construction has commenced, not later than October 15. After that date a reseeded and stabilization plan approved by SWMACC must be used.

4.7 PESTICIDES, FERTILIZERS, CHEMICALS

4.7.1 The use of hazardous chemicals, pesticides, including insecticides, herbicides, defoliants, soil sterilants, and the use of fertilizers, must strictly adhere to federal, state, county, and local restrictions.

4.7.2 All materials defined in Section 4.7.1 delivered to the job site shall be covered and protected from the weather. None of the materials shall be exposed during storage. Waste materials, rinsing fluids, and other such material shall be disposed of in such a manner that pollution of groundwater, surface waste, or the air does not occur. In no case shall toxic materials be dumped into drainageways.

4.8 CONTAMINATED SOILS

In the event the construction process reveals soils contaminated with hazardous materials or chemicals, all parties shall stop work immediately to ensure no contaminated materials are hauled from the site, remove work forces from the contaminated areas, leaving all machinery and equipment, and secure the areas from access by the public until such time as a mitigation team has evaluated the situation and identified an appropriate course of action. The Owner and the Contractor shall notify OSHA and DEQ of the situation upon discovery. The Owner and the Contractor must comply with OSHA and DEQ statutes and rules.

SECTION 5 – ADDITIONAL SURFACE WATER MANAGEMENT STANDARDS

5.1 GENERAL STANDARDS

- 5.1.1 All development shall be planned, designed, constructed and maintained to:
- 5.1.1.1 Protect and preserve existing streams, creeks, natural drainage channels and wetlands to the maximum practicable extent, and to meet state and federal requirements.
 - 5.1.1.2 Protect property from flood hazards. Provide a flood evacuation route if the system fails.
 - 5.1.1.3 Provide a system by which storm/surface water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons.
- 5.1.2 All stream crossings must be approved by the Oregon Division of State Lands, US Army Corps of Engineers, and any other authorized federal, state, or local agency.
- 5.1.3 In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for surface water drainage purposes shall be provided to SWMACC. This does not imply a maintenance obligation by SWMACC.
- 5.1.4 Channel obstructions are not allowed except with approval from SWMACC.
- 5.1.5 Facilities developed on site shall be constructed in a manner consistent with basin-wide or sub-basin drainage management plans.
- 5.1.6 All storm conveyance pipes, vaults, detention facilities or other water quality or quantity facilities shall be built to specifications required by SWMACC.
- 5.1.7 All surface water facilities shall be constructed per SWMACC specifications.
- 5.1.8 Inspection of surface water facilities and approval of shop drawings shall be provided by the developer's engineer.
- 5.1.9 Following completion of construction, the engineer shall submit a document, stamped by a professional engineer, indicating all surface water systems have been inspected and installed per approved plans and approved changes.
- 5.1.10 Maintenance is required for all on-site surface water facilities. The maintenance program must be approved by SWMACC.
- 5.1.11 As-built plans of facilities, easements for all facilities, and approved maintenance plans shall be provided to SWMACC upon completion of construction.
- 5.1.12 Each surface water system shall have adequate easements and access for construction, operation and maintenance. A commercial or industrial user having ownership or control of onsite detention facilities shall maintain such facilities in compliance with these Rules and Regulations and provide documentation of annual maintenance.
- 5.1.13 All surface water facilities shall be maintained as needed and as approved by SWMACC. Proof of maintenance shall be annually submitted in accordance with a schedule approved by SWMACC. If the facility is not maintained, SWMACC may perform the maintenance and charge the owner of the facility.
- 5.1.14 Plan Review.
- All plans and calculations must be stamped and signed by a civil engineer licensed by the State of Oregon and meet the standards of SWMACC.

5.1.15 Bonds.

Developers or owners shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. A maintenance bond shall be provided to the District prior to release of the performance bond. The maintenance bond shall be in favor of the District, in the amount of 25% of the actual construction cost, for a period of one year from the date of final District inspection and acceptance of all completed buffer mitigation and public surface water facilities. During construction and the guarantee period, the District may perform work if the owner fails to do so, and charge the Bond. At the end of the one year guarantee period, the residual bond amount shall be released and remitted to the owner. Nothing herein shall limit the owner's responsibility for repair and maintenance to the amount of the bond.

5.1.16 All activities must meet State and Federal regulations.

5.1.17 All developments and re-developments shall provide water quantity, water quality and infiltration systems to meet requirements of these Rules and Regulations.

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

5.2 WATER QUANTITY STANDARDS

5.2.1 Surface water collection systems with the potential to serve areas up to 10 acres of land must be sized for the post-developed 10-yr storm, using the Rational Method. All other surface water conveyance systems shall be sized for post-developed conditions in accordance with the following criteria:

5.2.1.1 Storm sewer and outfall pipes draining less than 640 acres: 25-yr, 24-hr design storm

5.2.1.2 Storm sewer and outfall pipes draining greater than 640 acres: 50-year, 24-hour design storm

5.2.1.3 Creek or stream channels draining less than 250 acres: 25-year, 24-hour design storm

5.2.1.4 Creek or stream channels draining greater than 250 acres: 50-year, 24-hour design storm

5.2.1.5 Creek or stream channels draining greater than 640 acres: 100-year, 24-hour design storm

Conveyance calculations shall use the Rational Method for analysis. Areas draining greater than 10 acres of land may use alternate methods such as SBUH, HEC 1, or SWMM, or as approved by the District.

Exceptions must be documented and approved by SWMACC.

In-stream or in-line detention can only be used in locations approved by the Oregon Division of State Lands and US Army Corps of Engineers, and any other authorized federal, state, or local agency.

5.2.2 It shall be the responsibility of the owner to provide a drainage system for all water on site and for water entering the property from off-site. Surface water, springs, and groundwater shall be incorporated into the drainage design. The owner is also

responsible for springs and groundwater that surface during construction and within the warranty period of the drainage system.

5.2.3 Where a drainage system of catch basins and pipes is available, all drains that extend to the curb must be directly connected to the storm system for SWMACC. No drainage will be allowed into the street or roadway where a drainage system is available.

5.2.4 Onsite Detention Design Criteria

Onsite storm quantity detention facilities shall be designed to capture and detain runoff as follows:

- 2 year, 24-hour post-developed runoff rate to a ½ of the 2 year, 24-hour pre-developed discharge rate;

Downstream analysis shall demonstrate adequate conveyance capacity where the project site contributes less than 15% of the upstream drainage area OR a minimum of 1,500 feet downstream of the project, whichever is greater. If the downstream analysis crosses the jurisdictional boundary of another surface water management agency, that agency must be notified by the Developer or Owner and given the opportunity to review and comment on the analysis.

For residential subdivisions and partitions of parcels with the potential to create more than two lots as currently zoned, and for developments having more than 5,000 square feet of impervious surface, on-site stormwater detention, treatment, and infiltration facilities shall be required. For 2- and 3-lot partitions that cannot be further partitioned under current zoning, detention and treatment facilities are not required if there are no downstream impacts. All subdivisions and partitions must include a drainage plan for each proposed lot. Infiltration facilities are required where soil conditions permit.

Open detention facilities shall be planted with vegetation as per the Metro Water Quality Treatment Facility Plant List (in the Metro Native Plant List, October 1998), available from the District. See Standards for details. Planting schedule and maintenance of vegetation shall be approved by the District.

5.2.5 Onsite Detention Design Method

The procedure for determining the detention quantities is set forth in Chapter 4.4, Retention/Detention Facility Analysis and Design, King County, Washington, Surface Water Design Manual Version 4.21 (ibid), except subchapters 4.4.5 Tanks, 4.4.6 Vaults and Figure 4.4.4G Permanent Surface Water Control Pond Sign. This reference shall be used for procedure only. Local rainfall data and information shall apply. The design criteria shall be as noted herein. Engineers desiring to utilize a procedure other than that set forth herein shall obtain the approval of SWMACC prior to submitting calculations utilizing the proposed procedure.

For all developments other than single family and duplex, the sizing of stormwater quantity detention facilities shall be based on the impervious area to be created by the development, including structures and all roads and impervious areas.

For single family and duplex residential subdivisions or partitions, stormwater quantity detention facilities shall be sized for the impervious areas to be created by the subdivision or partitions, including all residences on individual lots at a rate of one ESU of impervious surface area per dwelling unit, plus all roads. If actual impervious area is to be greater than one ESU per dwelling unit, then the actual impervious numbers shall be used. Such facilities shall be constructed as a part of the subdivision or partition.

Redevelopment of sites shall require detention for the areas impacted by construction.

Subregional detention and water quality facilities are encouraged. Where topographically feasible, detention and water quality facilities may be sized and constructed to provide detention and treatment for more than one development. Maintenance must be provided for the facility. Easements and access must also be provided.

Each development shall address drainage for groundwater and springs. Existing problems shall be addressed in plans submitted for review and approval. Groundwater and springs that are encountered during development shall be the responsibility of the developer to address. Plans for drainage of these waters shall be submitted to SWMACC for review and approval prior to construction.

5.2.6 Infiltration systems are required for all new developments and re-developments to infiltrate all runoff from storm events up to one-half inch of rainfall in 24 hours. Treatment shall occur prior to or concurrent with infiltration systems in accordance with Section 6. Infiltration system capacity may be incorporated into the detention system design, in order to reduce the required detention volume. Infiltration facilities shall be sized to infiltrate the design runoff volume within a maximum of 96 hours. Infiltration requirements may be waived, or reduced, if it can be demonstrated by a registered professional engineer that infiltration will destabilize the soil, cause adverse structural problems or environmental impacts, or provide negative impacts to the environment, or due to site constraints such as high groundwater, springs, or impermeable soils.

5.2.7 Development shall conform to SWMACC standards.

5.3 NATURAL RESOURCE PROTECTION

5.3.1 Study

The applicant shall be required to provide a study identifying areas on the parcel which are or may be sensitive areas when, in the opinion of the District:

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

5.3.1.2 The parcel has been included in an inventory of sensitive areas adopted by the District and more site specific identification of the boundaries are needed.

5.3.2 Undisturbed Buffer Required

New development or a division of land adjacent to sensitive areas shall preserve and maintain an undisturbed buffer wide enough to protect the water quality functioning of the sensitive area. The undisturbed buffer is a facility required to prevent damage to the sensitive area caused by the development. The width of the undisturbed buffer shall be as specified in Table 5.1.

Undisturbed buffers shall be protected, maintained, enhanced or restored as follows: Vegetative cover native to the region shall be maintained or enhanced, or restored, if disturbed in the buffer. Invasive non-native vegetation may be removed from the buffer and replaced with native vegetation. Only native vegetation shall be used to enhance or restore the buffer. This shall not preclude construction of energy dissipaters at outfalls consistent with watershed enhancement, and as approved by the District. Any disturbance of the buffer requires prior District approval.

Uncontained areas of hazardous materials as defined by DEQ are prohibited in the buffer. Starting point for measurements from the Sensitive Area begin at:

- Either the edge of bankfull stage or 2-year storm level for streams; and
- An Oregon Division of State Lands approved delineation marking the edge of the wetland area.

5.3.2.1 Where no reasonable and feasible option exists for not encroaching within the minimum undisturbed buffer, such as at a road crossing or where topography limits options, then onsite mitigation on the intrusion of the buffer will be on a ratio of 1.5 to 1 (one). All encroachments into the buffer, except those listed in 5.4.3, require a written variance from the District. The Surface Water Manager may grant a variance. The District shall give notice by First Class mail of its decision to grant or deny a variance to the applicant and to owners of property within 250 feet of the affected property.

Table 5.1 – Undisturbed Buffers

Sensitive Area	Upstream Drainage Area	Slope Adjacent to Sensitive Area	Width of Undisturbed Buffer
Intermittent Creeks, Rivers, Streams	Less than 50 acres	Any slope	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	<25%	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	≥25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	<25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	≥25%	100 to 200 feet
Perennial Creeks, Rivers, Streams	Any upstream area	<25%	50 feet
Perennial Creeks, Rivers, Streams	Any upstream area	≥25%	100 to 200 feet
Wetlands, lakes (natural), and springs.	Any drainage	<25%	50 feet
Wetlands lakes (natural), and springs.	Any drainage	≥25%	100 to 200 feet

Note: See Administrative Procedures for details for application of undisturbed buffer.

5.3.3 Design Standards for the Undisturbed Buffer

No future structures, development, or other activities shall be allowed which otherwise detract from the water quality protection provided by the buffer, as required by state and federal regulations, except as allowed below:

- 5.3.3.1 A road crossing the undisturbed buffer to provide access to the sensitive area or across the sensitive area.
- 5.3.3.2 Utility construction or approved plans by a governmental agency or public utility subject to Public Utility Commission regulation, providing the buffer is restored and a restoration plan approved by the District.
- 5.3.3.3 A walkway or bike path not exceeding eight feet in width, only if it is part of a regional system of walkways and trails managed or adopted by a public agency.
- 5.3.3.4 A pervious walkway or bike path, not exceeding eight feet in width that does not provide access to the sensitive areas or across the sensitive areas. If the walkway or bike path is impervious, then the buffer must be widened by the width of the path. The average distance from the path to the sensitive area must be at least 60% of the total buffer width. At no point shall a path be constructed closer than ten feet from the boundary of the sensitive area, unless approved by the District.
- 5.3.3.5 Measures to remove or abate hazards, nuisances, or fire and life safety violations.

5.3.3.6 Homeowners are allowed to take measures to protect property from erosion, such as protecting river banks from erosion, within limits allowed by State and Federal regulations.

5.3.3.7 The undisturbed buffer shall be left in a natural state. Gardens, lawns, or other landscaping shall not be allowed except with a plan approved by the District. The proposal shall include information to demonstrate that improvement and maintenance of improvements will not be detrimental to water quality.

5.3.3.8 Fences: The District may require that the buffer be fenced, signed, delineated, or otherwise physically set apart from parcels that will be developed.

5.3.4 Location of Undisturbed Buffer

In any new development or redevelopment, the undisturbed buffer shall be contained in a tract, and shall not be a part of any parcel to be used for the construction of a dwelling unit. The District reserves the right to require separate tracts for undisturbed buffers; however, conservation easements will be considered and allowed if the developer can demonstrate that restrictions for activities on the parcel will protect the resource associated with the buffer. Restrictions may include permanent signage, fencing, documentation with the title of the property, or other acceptable methods. All methods shall be approved by the District.

5.3.5 Construction in Undisturbed Buffer

5.3.5.1 With approval of the District and an approved plan, noxious vegetation may be removed and replaced with native vegetation.

5.3.5.2 Any disturbance of the buffer shall be replaced with native vegetation and with the approval of the District.

SECTION 6 - PERMANENT ONSITE WATER QUALITY FACILITIES

6.1 PURPOSE OF SECTION

The purpose of this Section is to require new development and other activities which create impervious surfaces to construct or fund onsite or offsite permanent water quality facilities to reduce the amount of phosphorous entering the storm and surface water system.

6.2 APPLICATION OF SECTION

The provisions of Section 6 shall apply to all activities which create new or additional impervious surfaces, except as provided in Section 6.03.

6.3 EXCEPTIONS

6.3.1 Construction of single family and two family (duplex) dwellings.

6.3.2 Sewer lines, water lines, utilities or other land development that will not directly increase the amount of storm water runoff or pollution leaving the site once construction has been completed and the site is either restored to or not altered from its approximate original condition.

6.4 PERMIT REQUIRED

Except as provided in Section 6.3, no person shall cause any change to improved or unimproved real property that will, or is likely to, increase the rate or quantity of runoff or pollution from the site, without a permit from the District.

6.5 STORM WATER QUALITY FACILITIES REQUIRED

For new development, subject to the exemptions of Section 6.3, no permit for construction, or land development, or plat or site plan shall be approved unless the conditions of the plat, plan, or permit approval require permanent storm water quality control facilities in accordance with this Section.

Permanent water quality control facilities shall be designed in accordance with the "Surface Water Quality Facilities Technical Guidance Handbook", developed by Portland, Lake Oswego, Clackamas County, and the Unified Sewerage Agency, now known as Clean Water Services.

6.6 PHOSPHOROUS REMOVAL STANDARD

The storm water quality control facilities shall be designed to remove 65 percent of the phosphorous from the runoff from 100 percent of the newly constructed impervious surfaces. Impervious surfaces shall include pavement, buildings, public and private roadways, and all other surfaces with similar runoff characteristics.

6.7 DESIGN STORM

The storm water quality control facilities shall be designed to meet the removal efficiency of Section 6.6 for events up to 2/3 of a 2-year, 24-hour storm in post-developed conditions.

6.8 DESIGN REQUIREMENTS

The removal efficiency in Section 6.6 specifies only the design requirements and are not intended as a basis for performance evaluation or compliance determination of the storm water quality control facility installed or constructed pursuant to this Section.

6.9 FACILITY PERMIT APPROVAL

A storm water quality control facility permit shall be approved only if the following are met:

A. The plat, site plan, or permit application includes plans and a certification prepared by an Oregon registered, professional engineer that the proposed storm water quality control facilities have been designed in accordance with criteria expected to achieve removal efficiencies for total phosphorous required by this Section.

B. A financial assurance, or equivalent security acceptable to the District, is provided by the applicant which assures that the storm water quality control facilities are constructed according to the plans established in the plat, site plan, or permit approval. The financial assurance shall be equivalent to the value of the constructed facility. The financial assurance may be combined with other financial assurance requirements deemed appropriate by the District.

6.10 ENFORCEMENT

Failure to comply with any provision of this Section shall be deemed a violation of this Ordinance. In such event, the District may take enforcement action pursuant to applicable Rules and Regulations.

6.11 PERMIT FEE

The District shall collect a fee in accordance with Table 1 for the review of plans, administration, enforcement, and field inspection/s to carry out the rules contained herein.

6.12 RESIDENTIAL DEVELOPMENTS

The permanent storm water quality control facilities for the construction of any single family and duplex subdivision shall be adequately sized for the public improvements of the subdivision and for the future construction of single family and duplex houses on the individual lots at a rate of 2,500 square feet of impervious surface per dwelling unit.

6.13 PLACEMENT OF WATER QUALITY FACILITIES

No water quality facilities shall be constructed within the defined area of existing or created wetlands unless a mitigation action is approved by the District, and is constructed to replace the area used for water quality.

6.14 OPERATION AND MAINTENANCE

Owners of water quality facilities shall provide operation and maintenance manuals to the District and DEQ. Manuals shall indicate maintenance activities and schedules. Owners of facilities are responsible for maintenance.

SECTION 7 - RATES FOR SURFACE WATER SERVICE

7.1 CUSTOMER CHARGES

7.1.1 Equivalent Service Unit Rate Structure

Except as specifically provided below, a monthly surface water charge shall be paid by the User. The rate is set according to the surface water service area, as follows:

Lower Tualatin Basin Surface Water Service Area.

There is hereby imposed a system of rates for users for surface water services established by this ordinance. The rates are set and amended from time to time to fund the administration, planning, design, construction, water quality and quantity programming, operation, maintenance and repair of surface water facilities. The following rates are hereby established for all users within the Lower Tualatin Basin Surface Water Service Area as set forth on Table 2, attached hereto and incorporated by reference. The Table may be amended by Resolution or Order of the Board of County Commissioners.

The District has determined through its review of hydrologic data and computer modeling of storm water quantity and quality events that impervious surface area is, without appropriate mitigation measures, the primary cause of a change in the quantity, quality and timing of the surface water leaving such sites and impacting waters of the state within the boundaries of the District. The following rates are hereby established for all customers within the District's service area.

7.1.2 Rate Calculation.

A monthly customer charge, in accordance with Table 2, shall be paid by each user. All non-single family customers shall pay for the total number of equivalent service units (ESUs) attributable to their sites. The total ESUs shall be calculated by dividing the total impervious on the site by the average amount of impervious area for a single family customer within the service area. The resulting figure, when rounded to the nearest whole number, is multiplied by the monthly base customer charge applied to single-family customers.

7.1.3 Rate Application to Rural Residential and Commercial Agriculture.

All developed rural residential parcels shall be treated as single family parcels if the parcels are used primarily for single-family residence purposes, regardless of secondary activities conducted on such rural residential parcels.

Those developed parcels on which the primary activity is that of commercial agricultural and/or farming shall be treated as non-single family parcels, but measured impervious areas shall reflect only paved areas and rooflines of buildings. Such commercial agricultural and/or farming activities shall be eligible to apply for the onsite mitigation credit delineated in the Surface Water Management Agency's Administrative Policies.

7.1.4 Mitigation Reduction Factor.

The amount of surface water service for sites can be controlled through provision of detention and/or other storm water quantity or quality control mitigation facilities. The District's Surface Water Engineer shall determine the appropriate mitigation credit factor for customers who provide such mitigation in a manner consistent with the Administrative Procedures adopted by the District.

7.2 PAYMENT OF CUSTOMER CHARGES

Single family customers will be billed on a bi-annual basis in advance, with payment due within fifteen (15) days of the billing date. Non-single family customers will be billed on a monthly basis in advance, with payment due within fifteen (15) days of the billing date.

SECTION 8 - COLLECTION PROCEDURES

8.1 ACCOUNT SETUP

All applications for service shall be on forms provided by the District. The account holder shall be considered the user of the service. In the case of a landlord-tenant situation, the tenant shall be the account holder unless the rental agreement (oral or written) provides that the landlord is responsible or the landlord has executed a written document stating that he/she/it is responsible for service. If the landlord is responsible, then both the landlord and the tenant shall be listed as the account holder. While the rental unit is unoccupied, any charges shall be the responsibility of the landlord.

8.2 NOTICES

Regardless of who is listed as the user, the District will make all reasonable efforts to provide the landlord and tenant with copies of all invoices, notices, and other information relating to fees and charges. This policy is intended to comply with ORS 91.255 and to provide notices to enable the landlord and tenant a reasonable opportunity within the time set by the District to avoid delinquent charges and discontinuance of service.

8.3 COLLECTION OF CHARGES

All invoices or bills for fees and charges shall be sent to the user at the address set forth on the District's records. If the District's records reveal that the user is not the owner and the owner has not executed a document to pay for services, then the District may take all reasonable steps to provide the owner with copies of all invoices, bills and notices pursuant to ORS 91.255. If the owner has executed such an agreement to be bound or if the rental agreement provides, then the landlord and the tenant shall be jointly and severally liable and, following notices to each in accordance with the District's procedures, collection practices may ensue or service may be terminated. The District may look to either or both parties for payment in addition to the remedies of ORS 91.255.

If the user is different than the owner, the District may take all reasonable efforts to provide notice of delinquent status on billings by First Class mail to the last address of the owner or owner's agent that is on file with the District not later than 30 days from the time payment is due on the account. Thereafter, in accordance with typical procedures, the District may terminate or deny service to the property regardless of who is occupying the property, including any subsequent tenant, based upon the unpaid fees and charges incurred by the previous tenant following provision of the notices set forth above. In the case of a subsequent tenant, the District will provide not less than ten (10) days' written notice to that subsequent tenant prior to termination of services.

The District may enter into a payment plan in its sole discretion to avoid hardship to the user and leave the ultimate resolution between landlord and tenant.

The District may also deny or terminate service to the delinquent user at a new service location within the District based upon the outstanding fees and charges at the previous service location. The Director may enter into such agreements regarding payment of delinquent fees and charges as are reasonable and necessary to obtain payment to the District and avoid hardship and inequities.

8.4 DELINQUENT CHARGES

All user charges by the District shall be due within twenty (20) days of billing. Thereafter, a charge shall be considered delinquent. All delinquent charges shall bear interest at the legal interest rate from the date of delinquency until paid. Failure to make payment when due shall give the District the right to undertake such collection action as it deems appropriate under the circumstances including, but not limited to, letters, telephone calls (reasonable as to time and

place), legal proceedings or certification to the Tax Assessor. In addition, upon ten (10) days written notice, if feasible, the District may undertake those steps to construct on-site mitigation facilities or obtain cessation of customer's impact upon the District's or public's surface water system and the charges therefore shall be owed by customer to the District. Any costs incurred by the District to cease or mitigate the customer's impact on the surface water system, shall be charged at the District's usual labor and material rates.

In any action or suit to collect any delinquent user charges, the District shall be entitled to its reasonable attorney's fees, costs and disbursements as may be awarded by the trial court, including any appeal therefrom.

8.5 DISCONTINUANCE OF SERVICE

The District may, at any time after any charges or fees hereunder become delinquent, remove or close connections and enter upon any delinquent owner's property for such purpose. In addition, when any property owner fails to cease discharging into the District system prohibited substances after being notified by the District to do so, service may be similarly discontinued. The expense of such discontinuance as well as the expense of restoring service shall be a debt due to the District and may be recovered in the same manner as other delinquent charges.

8.6 RESTORATION OF SERVICE

Service which has been discontinued by the District shall not be restored until all accrued charges, including the expenses of discontinuance and restoration, shall have been paid and the cause for discontinuance corrected.

8.7 CERTIFICATION TO TAX ASSESSOR

Pursuant to ORS 454.225, the District may certify all delinquent charges to the Clackamas County Assessor for inclusion in the real property tax statement and collected in accordance therewith.

8.8 FEES AND COSTS

By resolution, the District shall set fees and charges, for collection efforts, including fees and charges necessary to recover all costs related to insufficient fund check or the cost of processing lien searches and the like based upon labor rates or other items deemed reasonable by the Board or the Director of Water Environment Services as its designee.

SECTION 9 - ENFORCEMENT

9.1 VIOLATIONS AND CIVIL PENALTIES

9.1.1 Violation of These Rules and Regulations

The District may impose civil penalties, including but not limited to stop work orders, fines, modification or revocation of permit and/or cessation of services, or seek an injunction or other relief provided by law when any user or person violates any condition or provision of this ordinance or any rule adopted thereto or any final order entered with respect thereto as well as violation of federal or state statutes, regulations or administrative rules.

The goal of enforcement is to (a) obtain and maintain compliance with applicable Federal and State statutes or administrative rules, the District's NPDES permit, ordinances, rules and regulations, permits and orders; (b) protect the public health and the environment; (c) deter future violators and violations; and (d) ensure appropriate and consistent enforcement. Except as provided by 9.3.1, the District shall endeavor by conference, conciliation and persuasion to solicit compliance. The District shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary to achieve the goals set forth herein under the particular circumstances of each violation. The violators who do not comply with initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved.

9.1.2 Definitions for Enforcement

9.1.2.1 "Compliance" means meeting the requirements of the District's statutes, rules, permits or orders.

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

9.1.2.3 "Enforcement" means any documented action taken to address a violation.

9.1.2.4 "Flagrant" means any documented violation where the respondent had actual knowledge of the law and had consciously set out to commit the violation.

9.1.2.5 "Formal enforcement" means an administrative action signed by the Director or designee which is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame and states consequences for continued non-compliance.

9.1.2.6 "Intentional" means respondent consciously and voluntarily took an action or admitted to take an action and knew the probably consequences of so acting or omitting to act.

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

9.1.2.8 "Prior Significant Action" means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment of a civil penalty, by order or default or a Memorandum of Agreement and Order of the District.

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

9.1.2.10 "Risk of Harm" means the level of risk created by the likelihood of exposure, either individual or cumulative or the actual damage either individual or cumulative, caused by a violation to public health or the environment. Risk of harm shall be categorized as major, moderate or minor.

9.1.2.11 "Systematic" means any documented violation which occurs on a regular basis.

9.1.2.12 "Violation" means a transgression of any statute, rule, order, license, permit or any part thereof and includes both acts and omissions. Violations shall be classified as follows:

9.1.2.13 “Class I” means any violation which poses a major risk of harm to public health or environment, or violation of any compliance schedule contained in a District permit or a District order:

- (a) Violation of a District Order or approved plan;
- (b) Intentional unauthorized discharges;
- (c) Negligent spills or discharges which pose a major risk of harm to public health or the environment;
- (d) Discharge of waste to surface waters without first obtaining a National Pollutant Discharge Elimination System Permit;
- (e) Failure to immediately notify the District of a spill or upset condition which results in an unpermitted discharge to public waters which pose a major risk of harm to public health or the environment;
- (f) Violation of a permit compliance schedule;
- (g) Failure to provide access to premises or records;
- (h) Any other violation related to water quality which poses a major risk of harm to public health or the environment;
- (i) Two Class II violations or one Class II and two Class III violations or three Class III violations.

9.1.2.14 “Class II” means any violation which poses a moderate risk of harm to public health or the environment, including but not limited to:

- (a) Violation of a District order or approved plan;
- (b) Waste discharge permit limitation violations which pose a moderate risk of harm to public health or the environment;
- (c) Negligent spills which pose a moderate risk of harm to public health or the environment;
- (d) Failure to submit a report or plan as required by permit or license;
- (e) Any other violation related to water quality which poses a moderate risk of harm to public health or the environment.

9.1.2.15 “Class III” means any violation which poses a minor risk of harm to public health or the environment, including but not limited to:

- (a) Violation of a District order or an approved plan;
- (b) Negligent spills or discharges which pose a minor risk of harm to public health or the environment;
- (c) Violation of a waste discharge permit limitation which poses a minor risk of harm to public health or the environment;
- (d) Any other violation related to water quality which poses a minor risk of harm to public health or the environment.

9.2 PROCEDURE FOR ENFORCEMENT

9.2.1 Inspection, Entry, and Sampling

Authorized District representatives may inspect the property and facilities of any person to determine compliance with the requirements of the Ordinance. The person shall allow the District or its authorized representatives to enter upon the premises at all reasonable hours for the purpose of inspection, sampling or records examination. The District shall also have the right to set up on the person's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring and/or metering operations. The right of entry includes but is not limited to access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling surface water and storing records, reports, or other documents related thereto.

9.2.1.1 The District is authorized to conduct inspections and take such actions as required to enforce any provisions of this ordinance or any permit issued pursuant to this ordinance whenever the Director has reasonable cause to believe there exists any violation of this ordinance. If the premises are occupied, credentials shall be presented to the occupant and entry requested. If the premises are unoccupied and no permit has been issued, the District shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused in either case, the District shall have recourse to the remedies provided by law to secure entry.

9.2.1.2 Where feasible, inspections shall occur at reasonable times of the day. If a permit has been issued and the responsible party or their representative is at the site when the inspection is occurring, the Director or authorized representative shall first present proper credentials to the responsible party. The permittee or person having charge or control of the premises shall allow the Director or the Director's authorized representatives, agents and contractors to:

- a. Enter upon the property where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a permit;
- c. Inspect at reasonable times the property, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required by these rules and regulations or under a permit; and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance with these rules and regulations or as otherwise authorized by local or state law, any substances or parameters at any location.

9.2.2 Prior Notice and Exceptions

Except as otherwise provided, prior to the assessment of any civil penalty the District shall serve a notice of violation upon the Respondent. The written notice shall be served, either personally, by office or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the District will assess a civil penalty if a violation continues or occurs after five days following receipt of the notice.

The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if (a) the act or omission constituting the violation is intentional; (b) the violation would normally not be in existence for five days, (c) the

water pollution might leave or be removed from the jurisdiction of the District.

9.2.3 Notice of Non-Compliance (NON)

A notice of non-compliance (NON) is an enforcement action which: (a) informs a person of the existence of a violation, the actions required to resolve the violations and the consequences of continued non-compliance. The notice may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated; (b) shall be issued under the direction of the Director or designee; (c) shall be issued for all classes of documented violations; and (d) is consistent with the policy of 9.1.1. Typically a NON will be in the form of a Compliance Telephone Memorandum and a request for a written report within five (5) business days. The report shall detail the event, steps taken to correct the problem and steps to prevent future events

9.2.4 Notice of Violation and Intent to Assess a Penalty (NOV)

The Notice of Violation and Intent to Assess a Civil Penalty (NOV) is formal enforcement action which: (a) is issued pursuant to 9.2.1; (b) may include a time schedule by which compliance is to be achieved; (c) shall be issued by the Director or designee; (d) shall be issued for the first occurrence of a documented Class I violation which is not excepted under 9.2.1 or the repeated or continued occurrence of documented Class II or III violations where notice of non-compliance has failed to achieve compliance or satisfactory progress toward compliance.

9.2.5 Notice of Civil Penalty Assessment

A notice of Civil Penalty Assessment is a formal enforcement action which (a) is issued pursuant to 9.4.5; (b) is calculated pursuant to 9.4; (c) shall be issued by the Director or designee; (d) may be issued for the occurrence of any class of documented violation, for any class of repeated or continuing documented violations or where a person has failed to comply with a notice of violation and intent to assess a civil penalty or other order or Stipulated Final Order.

9.2.6 Memorandum of Agreement and Order (MAO)

A Memorandum of Agreement and Order (MAO) is a formal enforcement action which is in the form of an agreement or consent order issued by the Director that; (a) may be negotiated between the District and the subject party prior to or after any notice set forth above; (b) shall be signed by the Director or designee on behalf of the District and the authorized representative of the subject party; and (c) shall set forth action to be taken and set civil penalties. This may be issued for any class of violations.

9.2.7 Other Remedies

The formal enforcement action as described in these sections in no way limits the District from seeking other legal or equitable remedies in the proper court as provided by Oregon law.

9.2.8 Right to Hearing

A civil penalty shall be due and payable fifteen (15) days after the decision is final. The decision of the Director or the Director's designee to assess a civil penalty or other enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be served on the user or person (hereinafter 'Respondent' by personal service, office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure or by certified or registered mail, return receipt requested. The Notice shall specify the violation, the reasons for the enforcement action, and the amount of the penalty. It shall comply with ORS 183.090 relating to notice and contested cases. The decision shall be final unless the respondent files a written Notice of Appeal and Request for Hearing with the District within 21 days from the date of the Director's decision. The Notice of Appeal and Request for Hearing shall contain the following:

9.2.8.1 The name of the Respondent and the case file number or permit number;

9.2.8.2 The name and signature of the respondent and a statement that if acting on behalf of a partnership or corporation, that the person executing the Notice of Appeal is duly authorized to file such appeal and such person is the contact representative;

9.2.8.3 The date that the Civil Penalty Assessment or other formal enforcement was received by the Respondent;

9.2.8.4 The nature of the decision and the specific grounds for appeal.

9.2.8.5 The appeal shall be limited to the issues raised in the petition. In the Notice of Appeal, the Respondent shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and reasons therefore.

9.2.8.6 The hearing shall be conducted in accord with ORS Chapter 183. The record of the hearing shall be considered by the District or Hearings Officer, who shall enter appropriate orders including the amount of civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 9.8 below.

Notwithstanding the foregoing, nothing shall be construed to prevent the District from taking any other enforcement action or remedy available.

9.3 CIVIL PENALTY SCHEDULE MATRICES

In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the District's statutes, regulations, permits or orders by service of a written notice of assessment of civil penalty upon the Respondent as set forth in Paragraph 9.3 above. The amount of any civil penalty shall be determined through the use of the following matrices in conjunction with the formula contained in Section 9.4.3.

9.3.1 Base Penalty Matrix

Magnitude of Violation			
	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

No civil penalty issued by the Director pursuant to this matrix shall be less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) for each day of each violation.

9.3.2 Petroleum Spills

Persons causing oil spills to waters of the state within the jurisdiction of the District through intentional or negligent acts shall incur a civil penalty of not less than one hundred dollars (\$100) or more than twenty thousand dollars (\$20,000) per violation. The amount of the penalty shall be determined by doubling the values contained in the matrix in subsection 9.4.1 of this rule in conjunction with the formula contained in 9.3.3. In determining whether to seek a civil penalty, the District shall take into account the circumstances and enforcement efforts of other governmental agencies having jurisdiction.

9.3.3 Civil Penalty Determination Procedure

9.3.3.1 When determining the amount of civil penalty to be assessed for any violation the Director shall apply the following procedures:

- (a) Determine the class of violation and the magnitude of violation;
- (b) Choose the appropriate base penalty established by the matrices of Section 8.3.1 based upon the above finding;
- (c) Starting with the base penalty (BP), determine the amount of penalty through the application of the formula $BP + [(0.1 \times BP) (P + H + E + O + R + C)]$ where:
 - (1) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for P and the finding which supports each are as follows:

- 0 if no prior significant action or there is insufficient information on which to base a finding;
- 1 if the prior significant action is one Class II or two Class III violations;
- 2 if the prior significant action is one Class I or equivalent;
- 3 if the prior significant actions are two Class I or equivalents;
- 4 if the prior significant actions are three Class I or equivalents;
- 5 if the prior significant actions are four Class I or equivalents;
- 6 if the prior significant actions are five Class I or equivalents;
- 7 if the prior significant actions are six Class I or equivalents;
- 8 if the prior significant actions are seven Class I or equivalents;
- 9 if the prior significant actions are eight Class I or equivalents;

- 10 if the prior significant actions are nine Class I or equivalents determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

In determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

- A value of two if all prior significant actions are greater than three years old, but less than five years old;
- A value of four if all the prior actions are greater than five years old;

In making the above reductions no finding shall be less than zero. Any prior significant action which is greater than ten years old shall not be included in the above determination.

- (2) "H" is past history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions. The values for H and the findings which support each are as follows:

- Minus 2 if the Respondent took all feasible steps to correct any violation;

- 0 if there is no prior history or insufficient information on which to base a finding;
 - 1 if the Respondent took some but not all feasible steps to correct a Class II or III violation;
 - 2 if the Respondent took some but not all feasible steps to correct a Class I violation;
 - 3 if no action to correct prior significant actions.
- (3) “E” is the economic condition of the Respondent. The values for E and the finding which support each are as follows:
- 0 to minus 4 if economic condition is poor, subject to any significant economic benefit gained by Respondent through non-compliance.
 - 0 if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound;
 - 2 if the Respondent gained a minor to moderate economic benefit through noncompliance;
 - 4 if the Respondent gained a significant economic benefit through noncompliance.
- (4) “O” is whether the violation was a single occurrence or was repeated or continuous during the period resulting in the civil penalty assessment. The values for “O” and the finding which supports each are as follows:
- 0 if a single occurrence;
 - 2 if repeated or continuous.
- (5) “R” is whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent. The values for “R” and the finding which supports each are as follows:
- minus 2 if unavoidable accident;
 - 0 if insufficient information to make any other finding;
 - 2 if negligent;
 - 4 if grossly negligent;
 - 6 if intentional
 - 10 if flagrant.
- (6) “C” is the Respondent’s cooperativeness in correcting the violation. The values for “C” and the finding which supports each are as follows:
- minus 2 if Respondent is cooperative;
 - 0 if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding;
 - 2 if violator is uncooperative.

9.3.3.2 In addition to the factors listed in 9.3.3.1 of this rule, the Director may consider any other relevant rule or statute and shall state the effect the consideration had on the

penalty. On review, the Board of county Commissioners or Hearings Officer shall consider the factors contained in 9.3.3.1 of this rule and any other relevant rule or statute.

9.3.3.3 If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4 in subsection 9.3.3.1(c)(3) of this section, it may increase the penalty by the amount of economic gain, as long as the penalty does not exceed the maximum penalty allowed by rule and statute.

9.3.3.4 In any contested case proceeding or settlement in which Respondent has raised economic condition as an issue, Respondent has the burden of providing documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Hearings Officer or District may consider the causes and circumstances of Respondent's economic condition.

9.4 STOP WORK ORDERS

9.4.1 Erosion Control Violations

In addition to civil penalties described in Section 9.1, erosion control violations will be enforced by on-site control activities to mitigate existing violations and prevent future violations to the greatest extent possible. Initial violations will result in a written description of requirements for repair of the problem and a 24-hour time period for compliance or a specified time for compliance as included in the Deficiency Notice. If the repair is not performed, or violations continue, the inspector will issue a stop work order on the project, which will remain in effect until the violation is repaired to the requirements stated in these Rules and Regulations. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table 1 will be assessed to the owner of the property.

9.4.2 Other Violations

In addition to civil penalties described in Section 9.1, other violations may be enforced by on-site control activities to mitigate existing violations of these rules including failure to follow approved plans and prevent future violations to the greatest extent possible. Initial violations will result in a written description of requirements for compliance and a specified time period for compliance as included in the Deficiency Notice. If compliance is not achieved, or violations continue, the inspector will issue a stop work order on the project, which will remain in effect until the violation is repaired to the requirements stated in these Rules and Regulations. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table 1 will be assessed to the owner of the property.

9.5 ABATEMENT

Nothing herein shall prevent the District, following seven (7) days written notice to the discharger, and discharger's failure to act, from entering upon the property and disconnecting, sealing, or otherwise abating any unauthorized connection to the storm water or system discharger violating any permit, this ordinance or water quality standards. As part of this power, the District may perform tests upon the property to trace sources of water quantity or water quality violation.

9.6 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR

9.6.1 Any time subsequent to service of a written notice of assessment of civil penalty the Director may compromise or settle any unpaid civil penalty at any amount that the Director deems appropriate. Any compromise or settlement executed by the Director shall be final.

9.6.2 In determining whether a penalty should be compromised or settled, the Director may take into account the following:

9.6.2.1 New information obtained through further investigation or provided by Respondent which relates to the penalty determination factors.

9.6.2.2 The effect of compromise or settlement on deterrence.

9.6.2.3 Whether Respondent has or is willing to employ adequate means to correct the violation or maintain compliance.

9.6.2.4 Whether Respondent has had any previous penalties which have been compromised or settled.

9.6.2.5 Whether the compromise or settlement would be consistent with the District's goal of protecting the public health and environment as set forth in Section 1.1 of these Rules and Regulations.

9.6.2.6 The relative strength or weaknesses of the District's case.

9.7 STIPULATED PENALTIES

Nothing herein shall affect the ability of the District to include stipulated penalties in a Memorandum of Agreement and Order or any other agreement.

9.8 APPOINTMENT OF HEARINGS OFFICER

For any contested case hearing, the District, through the Director, may appoint a hearings officer to determine all issues.

9.9 APPEALS

The decision of the District or the Hearings Officer shall be sent to the user or person by certified mail, return receipt requested. This decision shall be final unless the user or person files a writ of review in the Circuit Court in compliance with ORS Chapter 34 relating to writ of review procedures.

9.10 COLLECTION OF CIVIL PENALTY

Procedures for the enforcement of the civil penalty shall be as follows:

9.10.1 Time Limit: Any civil penalty imposed shall be a judgment and may be registered with the Court Clerk. The penalty shall be paid in full within fifteen (15) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.

9.10.2 Relief in Circuit Court: If full payment is not made, the District may take further action for collection and/or cause service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

9.11 ENFORCEMENT

Nothing shall prevent enforcement of this ordinance or applicable federal or state statutes or rules or regulations in federal and state courts.

SECTION 10 - APPEALS

10.1 APPEALS

10.1.1 Appeals to Director or his/her Designee: Except for violations and enforcement matters under Section 9, any person aggrieved by ruling or interpretation (decision) of the provisions of this Ordinance may submit a written appeal to the Director. The appeal shall be in writing and set forth the events and circumstances leading to the appeal, the nature of the impact of the ruling on the appellant, together with any other reasons for the appeal. The Director shall make a written decision within 30 days of written notification of appeal. If the appellant chooses to appeal the Director's decision, the Director shall appoint a hearings officer to decide the appeal.

10.1.2 The hearings officer appointed pursuant to section 10.1.1 shall set a *de novo* hearing on the matter at which he or she will take testimony and hear arguments. The Director shall give notice of the time and place for the hearing to the appellant, the applicant, and all property owners within 250 feet of the subject property. The notice called for in this section shall be given by First Class mail, postage prepaid, at least fourteen (14) days in advance of the time scheduled for the hearing. Only persons who have been aggrieved by the Director's decision shall have standing to participate in the hearing. The hearings officer shall issue written findings and a decision on the appeal within thirty (30) days after the *de novo* hearing, with copies to the Board, all persons who participated in the hearing and those persons who have requested a copy.

10.1.2 The governing body may refer the matter to a hearings officer for resolution, and shall within thirty (30) days from receipt of the application prepare a written decision on the matter which shall be sent to the applicant.

10.1.3 Circuit Court Review: Decisions of the Hearings Officer shall be reviewable by the Circuit Court of the State of Oregon for Clackamas County, solely and exclusively under the provisions of ORS 34.010 to 34.100.

SECTION 11 - SUPPLEMENTARY RULES

11.1 COMPLIANCE WITH LAWS

Conformance with this Ordinance shall in no way be a substitute for, or eliminate the necessity of, conforming with any and all federal, state, and local laws, ordinances, rules and regulations which are now, or may in the future, be in effect.

11.1.1 Regulations and Rules as Contract: The terms and conditions contained in this Ordinance, and all resolutions and orders adopted pursuant hereto, shall constitute a contract between the district and all users, contractors, and connectors to the system. The consideration for the conditions imposed upon such users and connectors shall be the privilege of the use of, and/or connection to, the District's surface water system and programs.

11.1.2 No Property Interest Acquired: A user or connector to the surface water system does not thereby acquire a vested property interest in continued use or connection to the system. Such use or connection is conditioned always upon such user or connector complying with all applicable terms and conditions contained in this Ordinance, and all regulations and orders adopted pursuant hereto and, further, upon compliance with all federal, state, or local requirements which are, or may hereafter, be imposed upon such user or connector.

11.1.3 Nothing contained herein shall require the District to provide service or access to the system to such user or connector when any federal, state, or local agency having jurisdiction over the District has imposed limitations upon such service or access, or when the District, in its discretion, has determined that the public interest requires any such limitation.

11.2 CONFLICTS WITH EXISTING AND FUTURE REGULATORY REQUIREMENTS OF OTHER AGENCIES

Any provisions or limitations of this Ordinance and any regulation and order adopted pursuant hereto are suspended and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto which are more stringent than the provisions and limitations contained herein, provided, always, that any provision of this Ordinance and resolution and order adopted pursuant thereto which are more stringent than any applicable federal, state, or local requirement shall prevail and shall be the standard for compliance by the customers of any connectors to the District surface water system.

11.3 ADMINISTRATION OF THIS ORDINANCE

The District, through its Director or other authorized designee or representative, shall have the authority to do all things necessary to administer the provision of this Ordinance and any rules adopted pursuant thereto.

11.4 SEVERABILITY

If any section, subsection, provision, clause, or paragraph of this Ordinance or rules adopted pursuant hereto shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules, and it is hereby declared that every other section, subsection, provision, clause, or paragraph is, and shall remain, irrespective of the validity of any other portion.

11.5 EFFECTIVE DATE

The provision of this Ordinance and the rules herein adopted shall be in effect on the date of enactment.

TABLE 1: SURFACE WATER MANAGEMENT FEES
Effective 7-1-2007

Permit Fees:

Plan Review for Erosion Control* (Includes 2 site inspections)

Single Family Residential or 800 sq. feet or greater without erosion control certification	\$310
Single Family Residential or 800 sq. feet or greater with erosion control certification	\$205
Non-Single Family or NPDES 1200C without erosion control certification	\$460 base \$80 additional per acre over 1 acre
Non-Single Family or NPDES 1200C with erosion control certification	\$270 base \$80 additional per acre over 1 acre

Plan Review for Surface Water Facilities

Single Family Residence	\$55
Non-Single Family	4% of the installed cost of any surface water management system or \$400.00, whichever is greater, EXCEPT, no fee will be due where there is no increase in impervious surface area.

Erosion Control Re-inspection

Single Family Residence	\$65 per visit
Non-Single Family	\$65 minimum per visit (1 acre or less) \$25 additional per acre (over 1 acre)

*See Administrative Procedures for further clarification of fees.

TABLE 2: SURFACE WATER MANAGEMENT FEES

Monthly Service Charge:

Single Family	\$4.00 per month
Non-Single Family	$\$4.00 \times \text{Impervious Area in Sq. Ft.}^*$ $\div 2500 \text{ Sq. Ft}$

Collection Procedures:

Interest for Delinquent User Charges:	9% per Annum
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* Graveled surfaces are charged at 60% of the ESUs measured.

CHAPTER 4

SANITARY SEWER AND SURFACE WATER RULES AND REGULATIONS FOR RATE ZONE 2

CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

RULES AND REGULATIONS
For
SANITARY SEWER AND
SURFACE WATER MANAGEMENT

JANUARY 2013



CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
 RULES AND REGULATIONS for Sanitary Sewer and Surface Water Management

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ARTICLE I

SECTION 1 DECLARATION OF POLICY

1.1 PURPOSE AND OBJECTIVES

Clackamas County Service District No. 1 (the "District"), Clackamas County, Oregon, was organized pursuant to Oregon Revised Statutes Chapter 451 for the purpose of providing sewerage, surface water, and stormwater management, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage within its boundaries. It is further declared to be the policy of the District to provide and offer sewage disposal service for such incorporated or other areas adjacent to the District as may, in the judgment of the District, be feasibly and appropriately served upon such terms, conditions, and rates as the District shall, from time to time in its sole and absolute discretion, determine. The objectives of these Rules and Regulations ("Rules and Regulations") are: (a) to advance public health and welfare; (b) to prevent the introduction of pollutants that will interfere with the operation of the sewage system, contaminate the resulting biosolids, or pollute surface or storm waters; (c) to prevent the introduction of pollutants that could enter the surface waters or pass through the sewage system into receiving waters or the atmosphere or otherwise be incompatible with the system; (d) to protect City and District personnel who may come into contact with sewage, biosolids and effluent in the course of their employment, as well as protecting the general public; (e) to ensure that the District complies with its National Pollutant Discharge Elimination System (NPDES) permit conditions and requirements, biosolids use and disposal requirements and other applicable Federal and State laws; (f) to improve the opportunity to recycle and reclaim wastewaters and sludges from the system; (g) to provide for the equitable distribution of the costs of the sewage system and the surface water management program; (h) to establish policies that prevent future pollution and erosion through implementation of Best Management Practices; and (i) to better manage and control surface water in the District.

1.2 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

Upon the recommendation of the Director, or on its own motion, the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of the District, may promulgate new or amended rules pertaining to these Rules or Regulations. Except as specifically provided in these Rules and Regulations, any new or amended rule(s) will be adopted pursuant to ORS 198.510 through 198.600 and ORS 451.

1.3 DELEGATION OF AUTHORITY TO THE DIRECTOR

A. Easements. The Director of the District shall have the authority to accept, reject or release easements for the purposes as set forth below in subsections 1, 2, 3 and 4; and as the Board may further determine by resolution and order.

1. The Board grants the Director authority to govern easements for the District as shown by one or more of the following examples:

- a. Assessment District;
 - b. Local Improvement District;
 - c. Capital Improvement Project;
 - d. Existing easements recorded by instrument or plat;
 - e. Proposed easement to be recorded by instrument or plat; and
 - f. Quit claim of an existing easement.
2. All documents accepted pursuant to this section and submitted for recording shall show evidence of approval by Districts legal counsel and the signature and title of the person accepting the document on behalf of the District.
 3. The Director, in instances when the Director is not present, shall have the power to delegate the authority under this section by a written statement to his or her designee declaring the delegation, the individual designated, and the duration of the designation.
 4. The authority granted in this section shall be in addition to other authority that may be provided to District officers and employees to acquire interests in real property on behalf of the District. Nothing in this section shall be deemed to grant any employee or individual the authority to acquire or accept an interest in real property on behalf of the District except as specifically provided herein, or upon the direction or approval by the Board.
- B. Standards. The Director shall have the authority to promulgate such technical standards and requirements necessary to implement the purpose and intent of these Rules and Regulations, including but not limited to pipe type, size, connection requirements, elevation, grade, materials, and any other good and necessary item. Such standards shall be contained in one or more documents that are publicly available and the District shall provide 30 days public notice on its website of any potential change to such standards or requirements.
- C. No other provision of the District Rules and Regulations shall be affected by the provisions of this Section 1.3. A determination by a court of competent jurisdiction that any section, clause, phrase, or word of this Ordinance or its application is invalid or unenforceable for any reason shall not affect the validity of the remainder of this Ordinance or its application, and all portions not so stricken shall continue in full force and effect.

SECTION 2 DEFINITIONS

2.1 WORDS AND TERMS

Unless the context specifically indicates otherwise, the following words and terms, as used in these Rules and Regulations, shall have the meanings hereinafter designated:

- 2.1.1 Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
- 2.1.2 Advanced Sedimentation and/or Filtration Process. Any process that, through correct application/implementation, brings effluent discharge from the site into compliance with local, state and federal requirements. Polymers and electrolytic processes are two possible examples.
- 2.1.3 Applicable Pretreatment Standards. Local, state, and federal standards, whichever are more stringent and apply to the Industrial User.
- 2.1.4 Best Management Practices or BMPs. Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- 2.1.5 Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under a standard laboratory procedure in five (5) days at a temperature of twenty degrees centigrade (20°C), expressed in milligrams per liter or parts per million. Laboratory determinations shall be made in accordance with the applicable techniques prescribed in 40 CFR Part 136.
- 2.1.6 Biosolids. Domestic wastewater treatment facility solids that have undergone adequate treatment to permit land application, recycling or other beneficial use.
- 2.1.7 Board. The Board of County Commissioners of Clackamas County, acting as the governing body of the Clackamas County Service District No. 1.
- 2.1.8 Bond. As required by the District, a surety bond, cash deposit or escrow account, assignment of savings, irrevocable letter of credit or other means acceptable to and required by the District to guarantee that work is completed in compliance with all requirements of the District Regulations and Specifications and for a maintenance period specified in the Standards.
- 2.1.9 Buffer/Undisturbed Buffer. The zone contiguous with a sensitive area that is required for the continued maintenance, function, and structural stability of the sensitive area. The critical functions of a riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of fine sediments, overflow during high water events, protection from disturbance by humans and domestic animals, maintenance of wildlife habitat, and

room for variation of aquatic system boundaries over time due to hydrologic or climatic effects. The critical functions of terrestrial buffers include protection of slope stability, attenuation of surface water flows from surface water runoff and precipitation, and erosion control.

- 2.1.10 Building. Any structure containing sanitary facilities.
- 2.1.11 Building Drain. That part of the Districts sewerage system piping that receives the discharge from the drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.
- 2.1.12 Building Sewer. The extension from the building drain to the service connection.
- 2.1.13 Capital Improvement(s). Facilities or assets used for the purpose of providing sanitary sewerage collection, transmission, treatment and/or disposal.
- 2.1.14 Categorical Pretreatment Standards. National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties that may be discharged or introduced into a public sewer system by specific industrial categories. These standards are promulgated pursuant to Section 307(b) and (c) of the Clean Water Act.
- 2.1.15 Civil Penalty. A civil penalty is a monetary sanction for violation of the District's Rules and Regulations, levied pursuant to Section 8 below, whereby the District may impose a fine or penalty for violation of these Rules and Regulations, as well as recover all costs incurred, which are attributable to or associated with the violations, including but not limited to the costs of administration, investigation, sampling and monitoring, legal and enforcement activities, damages to the storm sewer system, and contracts or health studies necessitated by the violation.
- 2.1.16 COE. U.S. Army Corps of Engineers.
- 2.1.17 Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- 2.1.18 Combined Sewer System. A conduit or system of conduits in which both sewage and stormwater are transported.
- 2.1.19 Composite Sample. A series of samples mixed together so as to approximate the average strength of discharge to the sewer. A composite sample is collected over a period of time greater than 15 minutes, formed by an appropriate number of discrete samples that are: (a) collected at equal intervals and combined in proportion to wastewater flow; (b) are equal volumes taken at varying time intervals in proportion to the wastewater flow; or (c) equal volumes taken at equal time intervals.
- 2.1.20 Contractor. A person duly licensed or approved by the State of Oregon and District to

perform the type of work to be done under a permit or contract issued by the District.

2.1.21 County. Clackamas County, Oregon.

2.1.22 Day. A continuous twenty-four (24) hour period from 12:01 a.m. to 12:00 p.m.

2.1.23 DEQ. The State of Oregon Department of Environmental Quality or successor state organization.

2.1.24 Detention. The release of surface water runoff from a site at a slower rate than it is collected by the drainage system, the difference being held in temporary storage.

2.1.25 Development. All human-induced changes to improved or unimproved real property.

2.1.26 Discharge. Any addition of water, stormwater, wastewater, process water or any pollutant or combination of pollutants to waters of the State, directly or indirectly, by actions of dumping, spilling, disposing or physically connecting to the public storm system or natural drainage conveyance.

2.1.27 Director. The Director of Water Environment Services, a Department of Clackamas County, Oregon.

2.1.28 Discharger or User. Any person who causes wastes or sewage to enter directly or indirectly to the District sewerage system.

2.1.29 District. Clackamas County Service District No. 1.

2.1.30 District Regulation. The adopted rules, regulations, standards, principles and policies established by the District.

2.1.31 District System. Any sanitary or stormwater conveyance, treatment or pumping facilities that are owned, operated and maintained by the District.

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

2.1.33 Drainageway. A channel such as an open ditch that carries surface water.

2.1.34 Drywell. An approved receptacle used to receive storm, surface and other water, the sides and bottom being porous, permitting the contents to seep into the ground. A drywell must conform to the District's current standards.

2.1.35 DSL. Oregon Department of State Lands or successor state organization.

- 2.1.36 Dwelling Unit. A living unit with kitchen facilities including those in multiple dwellings, apartments, hotels, motels, mobile homes, or trailers.
- 2.1.37 Easement. The legal right to use a described piece of land for a particular purpose. It does not include fee ownership, but may restrict the owner's use of the land. Easements granted must be legally recorded with the County Clerk and Recorder.
- 2.1.38 Easement - Sewer. Any easement in which the District has the right to construct and maintain a public sewer.
- 2.1.39 Engineer. A registered professional engineer licensed to practice by the State of Oregon.
- 2.1.40 EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- 2.1.41 Equivalent Dwelling Unit, or EDU. A unit of measurement of sewer usage that is assumed to be equivalent to the usage of an average dwelling unit. Equivalent Dwelling Unit has the following definition for the purposes listed below:
- (a) User Charge. A unit, based on water consumption and strength of sewage of a single dwelling unit, by which all users of the sanitary sewers may be measured.
 - (b) System Development Charge. A unit, based upon a single dwelling unit or its equivalent, for connecting to the District sewerage system.
- 2.1.42 Equivalent Service Unit (ESU). A configuration of development resulting in impervious surfaces on a parcel that contributes runoff to the stormwater system. One ESU is equal to 2,500 square feet of impervious surface area.
- The number of ESU's attributable to a user's area is calculated in whole units, with the minimum user's charge set at 1 ESU. For non-single family users with more than 1 ESU, the charge will be rounded to the nearest whole unit with a half value, or more, being rounded up.
- 2.1.43 Erosion. Erosion is the movement of soil particles resulting from the flow or pressure from water, wind, or earth movement.
- Visible or measurable erosion includes, but is not limited to:
- (a) Deposits of mud, dirt, sediment or similar material exceeding ½ cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge, or as a result of the action of erosion.

- (b) Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of onsite erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the site.
 - (c) Earth slides, mud flows, earth sloughing, or other earth movement which results in material leaving the property.
- 2.1.44 Erosion Control Plan. A plan containing a list of best management practices to be used during construction to control and limit soil erosion in accordance with the District's current erosion prevention manual.
- 2.1.45 FEMA. Federal Emergency Management Agency.
- 2.1.46 Fences. Structures which consist of concrete, brick, wood, plastic, or metal posts located in the ground, connected by wood, metal, or plastic, and capable of allowing passage of water.
- 2.1.47 Garbage. Solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.
- 2.1.48 Government Agency. Any municipal or quasi-municipal corporation, state or federal agency.
- 2.1.49 Grab Sample. A sample that is taken from a waste stream or surface flow on a onetime basis with no regard to the flow in the waste stream or surface flow and without consideration of time.
- 2.1.50 Hauled Waste. Any waste hauled or transported by any method that may include, but not be limited to, drop tanks, holding tanks, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
- 2.1.51 Hazardous Materials. Materials described as hazardous by the Department of Environmental Quality, including any toxic chemicals listed as toxic under Section 307(a) of the Clean Water Act or Section 313 of Title III of SARA.
- 2.1.52 Hearings Officer. Officer, appointed by the Director, for hearings of appeals of administrative actions.

- 2.1.53 Highly Erodible. Soils with erosion (K) factors greater than 0.25, as listed in the Soil Survey of Clackamas County Area, Oregon, developed by the Soil Conservation Service.
- 2.1.54 Illicit Discharge. Any discharge to the public or natural stormwater conveyance system that is not composed entirely of stormwater, except discharges governed by and in compliance with an NPDES permit.
- 2.1.55 Impervious Surface.
That surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots, oiled macadam, gravel, or other surfaces which similarly resist infiltration or absorption of moisture.
- 2.1.56 Improvement Fee. A fee for costs associated with capital improvements to be constructed after the date these Rules and Regulations become effective.
- 2.1.57 Indirect Discharge. The discharge or the introduction of non-domestic pollutants or industrial wastes into the sewerage system from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317), including hauled tank wastes discharged into the sewerage system.
- 2.1.58 Industrial User. Any person who discharges industrial waste into the District sewerage system.
- 2.1.59 Industrial Waste. Any liquid, gaseous, radioactive or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resources, or as defined by the DEQ or the EPA, exclusive of domestic sewage.
- 2.1.60 Infiltration System. A drainage facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as recharge, to dispose of surface and stormwater runoff.
- 2.1.61 In-Lieu of Fee. A fee paid to the District to cover on-site water quality or water quantity facilities from a site on which stormwater management is not practical.
- 2.1.62 In-Line Detention. Detention located in a stream channel, a drainageway, or in a regional or subregional piped system. In-line detention mixes flows to be detained with flows from other areas.
- 2.1.63 Inspector. A person designated by the District to inspect building sewers, construction sites, service connections, and other installations to be related to the District sewerage and/or surface water system.

- 2.1.64 Installer. Either the owner of the property being served or a contractor doing work in connection with the installation of a service connection or building sewer under a proper permit from the District.
- 2.1.65 Interference. A discharge which, alone or in conjunction with a discharge from other sources, inhibits or disrupts the public sewer system, treatment processes or operations, or its biosolids processes, biosolids use or disposal, or that contributes to a violation of any requirement of the District's NPDES Permit or other permit issued to the District.
- 2.1.66 Intermittent Stream. A stream with no visible surface flows for a period of 30 or more continuous days per year.
- 2.1.67 Local Collection Facilities. All sewerage facilities that are owned, operated and maintained by a City that collect and convey sewage to the District sewerage system.
- 2.1.68 Local Limit. Specific discharge limits developed and enforced by the District upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- 2.1.69 May. The word "may" is permissive.
- 2.1.70 Mean High Water Line. The bank of any river or stream established by the annual fluctuations of water generally indicated by physical characteristics, such as a line on the bank, changes in soil conditions or vegetation line.
- 2.1.71 Metro. The elected regional government that serves more than 1.3 million residents in Clackamas, Multnomah and Washington counties, and the 25 cities in the Portland, Oregon, metropolitan area.
- 2.1.72 Minor Modification. A slight change or alteration made to the Standards to improve something or make it more suitable and does not change the functionality, maintenance, or intent of the Standards.
- 2.1.73 Modification. A change or alteration made to the Standards to improve something or make it more suitable. A modification shall meet the intent of the Standards.
- 2.1.74 NPDES Permit. A National Pollution Discharge Elimination System permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342).
- 2.1.75 New Source. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced according to the deadlines and conditions of 40 CFR 403.3.

- 2.1.76 Open Spaces. Land within a development that has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreational uses or scenic purposes.
- 2.1.77 Operation, Maintenance, and Replacement; or O, M, & R. Those functions that result in expenditures during the useful life of the treatment works, sewerage system, or stormwater system for materials, labor, utilities, administrative costs, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.
- 2.1.78 Owner. The owners of record title or the purchasers under a recorded sale agreement and other persons having an interest of record in the described real property.
- 2.1.79 Parcel of Land. A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and includes yards and other undeveloped areas required under the zoning, subdivision or other development ordinances.
- 2.1.80 Pass Through. A discharge that exits the POTW into State waters in quantities or concentration that alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the District's NPDES permit (including an increase in the magnitude or duration of the violation) or any other permit issued to the District.
- 2.1.81 Perennial Stream. A permanently flowing (non-intermittent) stream.
- 2.1.82 Permit. Any authorization required pursuant to this or any other regulation of the District.
- 2.1.83 Permittee. The person to whom a building permit, development permit, waste discharge permit or any other permit described in this ordinance is issued.
- 2.1.84 Person. Any individual, public or private corporation, political subdivision, governmental agency or department, municipality, industry, partnership, association, firm, trust or any other legal entity.
- 2.1.85 pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in Standard Units (S.U.). pH shall be determined using one of the applicable procedures prescribed in 40 CFR Part 136.
- 2.1.86 Pollutant. Any of the following, including but not limited to: dredged soil spoil, solid waste, incinerator residue, sewage, garbage, sewage biosolids or sludge, munitions, chemical wastes, oil, grease, mining waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, heavy metals, asbestos, rock, sand, cellar dirt and untreated industrial, municipal and agricultural waste discharges into water.

- 2.1.87 Post-developed. Conditions after development.
- 2.1.88 Pre-developed. Conditions at the site immediately before application for development. Man-made site alterations or activities made without an approved development permit will not be considered as pre-developed conditions.
- 2.1.89 Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in water to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the public sewage system or the Waters of the State, as applicable. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR, Section 403.6(d).
- 2.1.90 Pretreatment Requirement. Any substantive or procedural pretreatment requirement other than Applicable Pretreatment Standard, imposed on an Industrial User.
- 2.1.91 Private Storm System. That portion of the storm system owned and/or maintained by any person or entity other than the District and is located outside the public right-of-way, except as otherwise approved by the District.
- 2.1.92 Properly Shredded Garbage. The wastes from foods that have been shredded to such a degree that all particles will be carried freely under the flow and conditions normally prevailing in public sewers with no particle greater than one-half inch (½”) in any dimension.
- 2.1.93 Publicly Owned Treatment Works, or POTW. A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by a governmental entity. This definition includes any public sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of these Rules and Regulations, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the District who are, by contract or agreement with the District, users of the District's POTW.
- 2.1.94 Public Right-of-Way. Any public highway, road, street, avenue, alleyway, public place, public easement, or public right-of-way.
- 2.1.95 Public Sewer or Public Sewerage System. Any or any part of the facilities for collection, pumping, treating and disposing of sewage as acquired, constructed, donated, or used by the District within the boundaries of the District.

- 2.1.96 Public Stormwater System. Those portions of the stormwater system that are accepted for repair and maintenance responsibilities by the District. Natural waterways are defined under State and Federal regulations.
- 2.1.97 Qualified Public Improvements. A capital improvement that is: (a) required as a condition of development approval; (b) identified in the District's adopted Capital Improvement Plan pursuant to ORS 223 or the District's System Development Charge Project Plan adopted pursuant to Section 4.1.6 hereof; and (c) not located on or contiguous to a parcel of land that is the subject of the development approval.
- 2.1.98 Rational Method. A formula for estimating maximum discharge of runoff at a point, using flow (Q), runoff coefficient (C), rainfall intensity (I) for selected recurrence interval, and area (A), in the formula: $Q=CIA$.
- 2.1.99 Receiving Waters. Any body of water into which effluent from a sewage treatment plant or from a surface water outfall is discharged either directly or indirectly.
- 2.1.100 Recharge. The flow to ground water from the infiltration of surface and stormwater.
- 2.1.101 Redevelopment. On an existing developed site, the creation or addition of impervious surfaces, external structural development, including construction, installation, or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities associated with structural or impervious redevelopment. (See Development.)
- 2.1.102 Reimbursement Fee. A cost associated with capital improvements constructed or under construction on the effective date of these Rules and Regulations.
- 2.1.103 Replacement. Any actions that result in expenditures for obtaining and installing equipment, accessories, or appurtenances that are necessary during the design or useful life, whichever is longer, of the treatment works or other facilities to maintain the capacity and performance for which such works were designed and constructed.
- 2.1.104 Retention. The process of collecting and holding surface water runoff with no surface outflow.**
- 2.1.105 Rules and Regulations. These Rules and Regulations as adopted, and any and all rules and orders adopted pursuant hereto, and all amendments thereto.
- 2.1.106 Sanitary Sewer System. A conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

2.1.107 Sensitive Areas. Sensitive Areas are:

(a) Existing or created wetlands, including all mitigated wetlands; limits defined by wetlands reports approved by both the Division of State Lands and the District.

(b) Rivers, streams, sloughs, swamps, creeks; limits defined by the top of the bank or first break in slope measured upland from the mean high water line;

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

Sensitive Areas shall not include a constructed wetland, an undisturbed buffer adjacent to a sensitive area, or a water feature, such as a lake, constructed during an earlier phase of a development for specific purposes not including water quality, such as recreation.

2.1.108 Service Area. An area served by the District sanitary sewer system or surface water management within the District boundaries or a defined geographic area that becomes a part of the District.

2.1.109 Service Connection. The portion of a private sewer that has been constructed from the public sewer to the edge of the public right-of-way or sewer easement, in which the public sewer is located.

2.1.110 Sewage. The water-carried human, animal, or vegetable wastes from residences, business buildings, institutions, and industrial establishments, together with groundwater infiltration and surface water as may be present. The admixture with sewage of industrial wastes or water shall be considered “sewage” within the meaning of this definition.

2.1.111 Sewage Disposal Agreement. An agreement between the District and any government agency or person providing for the delivery or receipt of sewage to or from the District sewerage system.

2.1.112 Sewage Treatment Plant. An arrangement of devices, structures, and equipment for treating sewage.

2.1.113 Sewer. A piped or open conveyance system designed and operated to convey either sewage or stormwater runoff.

2.1.114 Sewer Main Extension. Any extension or addition of the public sewer.

2.1.115 Sewer User. Any person using any part of the public sewerage system. In the case of tenants, the property owner shall also be considered the sewer user for that property.

2.1.116 Shall. The word “shall” is mandatory.

2.1.117 Significant Industrial User. The term significant industrial user means:

(a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1(N); and

(b) Any other industrial user that: discharges an average of 25,000 gallons per day or more of processed wastewater to the sewerage system (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the District's treatment plant; or is designated as such by the District on the basis that the industrial user has a reasonable potential for adversely affecting the treatment plant's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(c) Upon finding that an industrial user meeting the criteria of this definition has no reasonable potential for adversely affecting the District's operations or for violating any pretreatment standard or requirement, the District may at any time, on its own initiative or in response to a petition received from the industrial user, determine that such industrial user is not a significant industrial user.

2.1.118 Significant Non-Compliance. An industrial user is in significant non-compliance if its violation meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined as those in which sixty-six percent or more of all the measurements taken during a six-month period exceeded (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l), or any successor statutes;

(b) Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-termed average) that the District determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of District personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or order for starting construction, completing

construction, or attaining final compliance;

(f) Failure to provide within 45 days after the due date, required reports, initial compliance reports, periodic compliance reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations, may include a violation of BMPs, which the District determines will adversely affect the operation or implementation of the pretreatment program.

- 2.1.119 Slug Discharge. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through or in any way violate the District's local limits or permit conditions.
- 2.1.120 SIC. A standard industrial classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.
- 2.1.121 Standards. The adopted standards, principles and policies established by the District to meet the intent of District Regulations. The standards are required to meet all Local, State and Federal requirements of any permitting agency with authority to govern the activities of the District.
- 2.1.122 Standard Methods. The examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
- 2.1.123 Stop Work Order. An Order issued by the District for violation of the Rules and Regulations. All work contributing to the violation must cease when a Stop Work Order is issued and the Stop Work Order will stay in place until such time as removed by the District in writing.
- 2.1.124 Storm Sewer. A conveyance structure designed to carry only stormwaters, surface water runoff, and / or drainage.
- 2.1.125 Stormwater. Waters on the surface of the ground resulting from precipitation.
- 2.1.126 Stormwater Management. A program to provide surface water quality and quantity controls through structural and nonstructural methods and capital improvement projects. Nonstructural controls include maintenance of surface water facilities, public education, water quality monitoring, implementation or intergovernmental agreements

to provide for regional coordination, and preparation of water quality control ordinances and regulations.

- 2.1.127 Stormwater Management Plan. Plan incorporating stormwater best management practices approved and/or permitted by the District which provides for stormwater runoff, infiltration, water quality treatment, flow control and conveyance as required within the Stormwater Standards.
- 2.1.128 Stormwater Quality Treatment Facility. Any structure or drainageway that is designed, constructed, and maintained to collect, filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may include, but is not limited to, constructed wetlands, water quality swales, and ponds.
- 2.1.129 Stream. A drainageway that is determined to be jurisdictional by the Oregon Division of State Lands or the U.S. Army Corps of Engineers.
- 2.1.130 Surface Waters. (See Stormwater).
- 2.1.131 Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering in accordance with the applicable procedures prescribed in 40 CRF Part 136.
- 2.1.132 System Development Charge. A reimbursement fee, an improvement fee or a combination thereof assessed or collected as a condition of connection to the sanitary sewer or stormwater system, or at the time of increased usage of the capital improvement or at the time of issuance of the development or building permit. It shall also include that portion of a sanitary sewer connection charge or stormwater mitigation charge that is greater than the amount necessary to reimburse the District for its average cost of inspecting connections to the sanitary sewer or stormwater system. "System Development Charge" does not include (a) any fees assessed or collected as part of a local improvement district; (b) a charge in lieu of a local improvement district or assessment; or (c) the cost of complying with requirements or conditions imposed upon a land use decision.
- 2.1.133 Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision of CWA 307(a), 503(13), or other federal or state Acts, or any successor statutes.
- 2.1.134 Undue Hardship. Special or specified circumstances that partially or fully exempt a person from performance of the Rules and Regulations so as to avoid an unreasonable or disproportionate burden or obstacle.
- 2.1.135 Unit. A unit of measurement of sewer usage assumed to be equivalent to the usage of an average single-family dwelling unit. A unit is equivalent to sewage of a strength and volume normally associated with an average single family dwelling unit or its equivalent.

Where unit equivalency must be computed it shall be equivalent to: (a) 1,000 cubic feet of water consumption per month; (b) 0.449 pounds of BOD5 per day; and (c) 0.449 pounds of suspended solids per day.

- 2.1.136 Unpolluted Water or Liquids. Any water or liquid containing none of the following: free or emulsified grease or oil, acids or alkalis, substances that may impart taste and odor or color characteristics, toxic or poisonous substances in suspension, colloidal state or solution, odorous or otherwise obnoxious gases. Such water shall meet the current state standards for water use and recreation. Analytical determination shall be made in accordance with the applicable procedures prescribed in 40 CRF Part 136.
- 2.1.137 Upset. An exceptional incident in which an Industrial User unintentionally and temporarily is in a state of noncompliance with these Rules and Regulations, due to factors beyond the reasonable control of the Industrial User, and excluding noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.
- 2.1.138 Useful Life. The period during which a treatment works or other specific facility operates.
- 2.1.139 User. Any person or entity in whose name service is rendered as evidenced by the signature on the application or contract for that service, or in the absence of a signed instrument, but the receipt and payment of utility bills regularly issued in his/her/its name. A user, under this system and structure of rates, is either single family or non-single family.
- 2.1.140 User – Non-Single Family. Any user whose impervious surface results from the development of land for purposes of operating a dwelling unit for occupancy by more than one single family or for other business, industrial, commercial or institutional purposes and to whom utility services are provided at a distinct service location.
- 2.1.141 User – Single Family. Any user whose impervious surface results from the development of land for purposes of establishing a dwelling unit for occupancy by a single family and to whom utility services are provided at a distinct service location.
- 2.1.142 User Charge. The periodic charges levied on all users of the public sewerage system for the cost of operation, maintenance, and replacement; including but not limited to, any other costs, such as, but not limited to, debt service, debt service coverage, capital improvements, regulatory compliance, program administration, etc.

- 2.1.143 Variance. A discretionary decision to permit modification of the terms of any part of these Rules & Regulations based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.
- 2.1.144 Vegetated Corridor. See Buffer/Undisturbed Buffer.
- 2.1.145 Water Quality Facility. A facility specifically designed for pollutant removal.
- 2.1.146 Water Quality Resource Areas. Areas as defined on the Water Quality and Flood Plain Management Areas Map adopted by Metro or Clackamas County and amended.
- 2.1.147 Water Treatment Bioswale/Water Quality Swale. A vegetated natural depression, wide shallow ditch, or similar constructed facility used to filter runoff for the purpose of improving water quality.
- 2.1.148 Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oregon or any portion thereof.
- 2.1.149 Wetland. Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are those areas identified and delineated by a qualified wetlands specialist as set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 1987, or by a DSL/COE 404 permit. Wetlands may also consist of:
- (a) Constructed Wetlands. As defined in Section 404 of the Clean Water Act, constructed wetlands are those areas developed as a water quality or quantity facility, subject to maintenance as such. These areas must be clearly separated from existing or created wetlands.
 - (b) Created Wetlands. Created wetlands are those wetlands developed in an area previously identified as a non-wetland to replace or mitigate wetland destruction or displacement.
 - (c) Existing Wetlands. Existing Wetlands are those identified and delineated as set forth in the Federal Manual for Identifying the Delineating Jurisdictional Wetlands, January 1987, or as amended, by a qualified wetlands specialist.

- 2.1.150 Wet Weather Measures. Erosion prevention and sediment control methods deemed necessary to meet the types of conditions that occur during the wet weather season, as identified in the District’s current erosion control manual.
- 2.1.151 Wet Weather Season. The portion of the year when rainfall amounts and frequency tend to have the most significant effect on erosion prevention and sediment control (October 1 to April 30).
- 2.1.152 Work Area. Areas of disturbance for activities defined under “Development”. Work Area includes areas used for storage of equipment or materials that are used for these activities.

2.2 ADDITIONAL WORDS OR TERMS

Words, terms or expressions peculiar to the art or science of wastewater or surface water not hereinabove defined shall have the meanings given therefore in Glossary, Water and Wastewater Control Engineering, published in 1969 and prepared by a Joint Committee representing the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Federation.

2.3 PRONOUNS

Pronouns indicating number or gender in these Rules and Regulations are interchangeable and shall be interpreted to give effect to the requirements and intent of these Rules and Regulations.

2.4 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ASTM	American Society for Testing and Materials
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
EDU	Equivalent Dwelling Unit
L	Liter
mg	Milligrams
mg/L	Milligrams per liter
OAR	Oregon Administrative Rules
ORS	Oregon Revised Statutes

SECTION 3 DISCHARGE REGULATIONS

3.1 GENERAL DISCHARGE PROHIBITIONS

3.1.1 Discharge to Sanitary Sewer System. No person shall discharge or contribute to the discharge of any stormwater or other unpolluted water into the District's sanitary sewerage system.

3.1.2 Discharge to Public Stormwater System. No person shall discharge or cause to be discharged, directly or indirectly, to the public storm system any quantity of stormwater or any pollutant, substance, stormwater, or wash water, that will violate the discharger's permit, if one is issued, the District's NPDES permit, these Rules and Regulations or any environmental law or regulation, or water quality standard. Prohibited activities include, but are not limited to, the following:

- (a) Introduction of pollutants or waters to the public stormwater system containing pollutants or concentrations at levels equal to or in excess of those necessary to protect waters of the State.
- (b) Failure to abide by the terms of any NPDES permit, statute, administrative rule, Rules and Regulations, stipulated and final order or decree or other permit or contract.
- (c) Discharges of non-stormwater or spills or dumping of materials other than stormwater into public storm system unless pursuant to a conditional permit approved by the District and in compliance therewith.
- (d) Illegal or unpermitted connection or methods of conveyance to the public stormwater system.
- (e) Any discharge that will violate water quality standards.

3.1.3 Discharge to Creeks or Drainageways. Storm drains and roof drains are not allowed to drain to creeks or drainageways or encroach into the buffer unless approved in writing by the District. Encroachment into buffer areas must be approved by the District and will require mitigation. Existing and replacement storm drains shall be constructed according to State and Federal Regulations. Non-single family development shall provide an approved water quality facility prior to any discharge from the site to a storm drain system, a creek or drainageway, as approved by the District.

3.1.4 Prohibited Substances. No persons shall discharge or cause to be discharged, directly or indirectly, into the public sewerage system any pollutant, substances, or wastewater that will interfere with the operation or performance of the public sewerage system, cause a pass through, have an adverse effect on the receiving stream, endanger life, limb or public property, or constitute a nuisance. Prohibited substances, shall include,

but not be restricted to, the following:

- (a) Any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to persons, property or the public sewerage system. Pollutants that create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods of 40 CFR 261.21, as it may be amended from time to time. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oils, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- (b) Any sewage containing pollutants in sufficient quantity either at a flow rate or pollutant concentration, singularly or by interaction with other pollutants, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters, or exceed the limitations set forth in federal categorical pretreatment standards. Toxic pollutants shall include, but not be limited to, any pollutant listed in the toxic pollutant list set forth in Table II, attached to these Rules and Regulations.
- (c) Any sewage having a pH lower than 5.5 Standard Unit ("S.U.") or higher than 11.5 S.U., or having any corrosive property capable of causing damage or hazard to structures, equipment or persons.

Facilities with continuous monitoring of pH shall not exceed the pH range of 5.5 S.U. to 11.5 S.U. more than a total of 15 minutes on any single day (cumulative duration of all excursions) provided that, at no time shall any discharge be lower than 5.0 S.U. or at/or above 12.5 S.U pH.
- (d) Any solid or viscous substances in quantities or size capable of causing obstruction to the flow of sewers or other interference with the proper operation of the sewage treatment plant such as, but not limited to, ashes, cinders, sand, mud, straw, insoluble shavings, metal, glass, rags, feathers, tar, creosote, plastics, wood, animal paunch contents, offal, blood, bones, meat trimmings and wastes, fish or fowl heads, entrails, trimmings and wastes, lard, tallow, baking dough, chemical residues, paint residues, cannery waste, bulk solids, hair and fleshings, or plastic or paper dishes, cups, or food or beverage containers, whether whole or ground.
- (e) Any pollutant having a temperature higher than 140 degrees Fahrenheit (60

degrees Celsius) or having temperatures sufficient to cause the influent to the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius). If, in the opinion of the District, lower temperatures of such wastes could harm the sewers, sewage treatment process, or equipment, or could have an adverse effect on the receiving streams or otherwise endanger life, health or property, or constitute a nuisance, the District may prohibit such discharges.

- (f) Any sewage containing garbage that has not been properly shredded to one-half inch ($\frac{1}{2}$ ") or less in any dimension.
- (g) Any sewage containing unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate), which may interfere with the operation of the sewerage system.
- (h) Any sewage with objectionable color not removed in the treatment process (such as, but not limited to, dye and printing wastes and vegetable tanning solutions).
- (i) Any slug discharge, which means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single discharge episode of such volume or strength as to cause interference to the sewerage system.
- (j) Any noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into sewers for maintenance and repair.
- (k) Any hauled wastes or pollutants, except such wastes received at the District's sewage treatment plant under a District permit or at a District approved dump station.
- (l) Any substance that may cause any of the District's sewage treatment plants to violate its NPDES Permit or the receiving water quality standards or any other permit issued to District.
- (m) Any wastewater that causes or may cause a hazard to human life or creates a public nuisance.
- (n) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to exceed limits established by State or Federal regulations.
- (o) Any substance that may cause any of the District's sewage treatment plants effluent or any other product of the District's sewage treatment process such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case, shall a substance discharged to the District's sewerage system cause the District to be in noncompliance with

biosolids use or disposal criteria, guidelines, or regulations developed under Section 405 of the Clean Water Act, as may be amended; any criteria, guidelines, or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used, or any amendments thereto).

- (p) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.
- (q) Pollutants that result in presence of toxic gases, vapors, or fumes in the POTW that may cause acute worker health and safety problems.

3.2 DISCHARGE LIMITATIONS

3.2.1 National Categorical Pretreatment Standards. National categorical pretreatment standards, as promulgated by the EPA, pursuant to the Federal Water Pollution Control Act, if more stringent than limitations imposed under these Rules and Regulations, shall be met by all Dischargers into the sewerage system who are subject to such standards.

3.2.2 State Requirements. State requirements and limitations on all discharges to the public sewerage system shall be met by all Dischargers who are subject to such standards in any instance in which the State standards are more stringent than Federal requirements and limitations, or those in this or any other applicable Rules and Regulations.

3.2.3 District Requirements. No persons shall discharge into the public sewerage system any sewage containing the following:

- (a) Fats, wax, grease, or oils (whether emulsified or not), in excess of 100 milligrams per liter for sources of petroleum origin, or in excess of 300 milligrams per liter for sources composed of fatty matter from animal and vegetable sources, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (zero degrees Celsius and 65 degrees Celsius).
- (b) Strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not, unless the Discharger has a valid Industrial Wastewater Discharge Permit that allows otherwise.
- (c) Pollutants in excess of the concentrations in Table III measured as a total of both soluble and insoluble concentrations for a composite representing the process day or at any time as shown by grab sample, unless the Discharger has a valid Industrial Wastewater Discharge Permit which established a different limitation for the specific pollutant as set forth in Table III.

3.2.4 Wastewater Discharge Permit Limitations. It shall be unlawful for an Industrial User with a valid Industrial Wastewater Discharge Permit to discharge wastes to the public sewerage system in excess of the limitations established in the discharge permit or in violation of the prohibited discharge substances described in Subsection 3.1.4. The District is authorized to establish Local Limits pursuant to 40 CFR 403.5, as may be amended from time to time, to implement the prohibitions listed in sections 3.1.2 and 3.2.3. The District may also develop Best Management Practices, by ordinance or in individual wastewater discharge permits, to implement Local Limits and the Requirements of Sections 3.1.2 and 3.2.3.

3.2.5 Tenant Responsibility. Any occupant of the premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of these Rules and Regulations in the same manner as the owner.

3.2.6 More Stringent Limitations. The District reserves the right for the Director to promulgate new orders at any time to provide for more stringent limitations or requirements on discharges to the public sewerage or stormwater system where it deems necessary to comply with the objectives of these Rules and Regulations. Nothing in these Rules and Regulations shall prohibit a City served by the District from adopting more stringent limitations or requirements than are contained herein.

3.2.7 Notification of Hazardous Waste Discharges. All Industrial Users shall notify the District in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261, as set forth in 40 CFR 403.12(p) or any successor statutes. Any Industrial User who commences discharging, shall provide notification in accordance with 40 CFR 403.12(p) no later than 180 days after the discharge of any listed or characteristic hazardous waste(s).

3.2.8 Dilution. No discharger shall increase the use of potable or processed water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in these Rules and Regulations.

3.3 ACCIDENTAL DISCHARGES

3.3.1 Generally. Each Discharger shall provide protection from accidental discharge of prohibited substances or other substances regulated by these Rules and Regulations. Where necessary, facilities to prevent accidental discharge of prohibited substances shall be provided and maintained at the Discharger's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the District for review, and shall be approved by the District before construction of the facility. Each existing Discharger shall complete its plan and submit it to the District upon request. No Discharger shall be permitted to introduce pollutants into the public sewerage system until the accidental discharge protection procedures have been approved by the District. Review and approval of such plans and operating procedures by the District will not relieve the

Discharger from the responsibility to modify its facility as necessary to meet the requirements of these Rules and Regulations. Dischargers shall notify the District immediately upon the occurrence of an accidental discharge of substances, or slug loadings, prohibited by this Rules and Regulations. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, corrective actions taken.

3.3.2 Written Notice. Within five (5) days following an accidental discharge, the Discharger shall submit to the District a detailed written report describing the cause of the discharge and the measures to be taken by the Discharger to prevent similar future occurrences. Such notification shall not relieve the Discharger of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, harm to aquatic life, or any other damage to person or property; nor shall such notification relieve the discharger of any fines, civil penalties, or other liability which may be imposed by this subsection or other applicable law.

3.3.3 Notice to Employees. A notice shall be permanently posted on the Discharger's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. Employers shall insure that all employees who may cause or discover such a discharge to occur are advised of the emergency notification procedure.

3.4 PRETREATMENT FACILITIES

If it is determined by the District that pretreatment facilities are necessary to comply with water quality standards, the District may require that such facilities be constructed or modifications made within the shortest reasonable time, taking into consideration the construction time, impact of the surface water on the District's system, economic impact on the facility and any other appropriate factor. All such facilities shall be constructed and operated under authority issued by the District.

3.5 CONNECTION REQUIREMENTS

3.5.1 Authority of Connection. The District shall approve and / or permit any connection to any sanitary or stormwater facility owned, operated or maintained by the District, whether constructed or natural. Before connecting to any facilities, the applicant must obtain authorization to make such connection by paying the applicable fees, and obtaining approval and / or a written permit from the District.

SECTION 4 – APPLICABLE CHARGES

4.1 GENERAL

This Section is intended to provide authorization for system development charges for capital improvements pursuant to ORS 223.297-223.314, as may be amended from time to time, 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. These charges shall be due and payable at the time of and as a precondition for permitted increased improvements by new development whose impacts generate a need for those facilities. The system development charges imposed by Section 4.1 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.

4.1.1 Service Areas. The service areas of the District are:

- (a) **North Clackamas Service Area.** The North Clackamas Sewer Service Area consists of the boundaries of Clackamas County Service District No. 1 served by the Kellogg Creek Water Pollution Control Plant and/or District capacity at the Tri-City Water Pollution Control Plant. Table VII, attached hereto and incorporated by reference, applies to this sewer service area.
- (b) **Boring Sewer Service Area.** The Boring Sewer Service Area consists of the property annexed by Order No. 1990 of the Portland Metropolitan Local Government Boundary Commission dated March 8, 1984, and any area subsequently served by the sewage treatment plant to be constructed within this sewer service area. No system development charge shall be assessed for those properties within the original boundaries of Assessment District 84-1. A system development charge per dwelling unit is hereby imposed on all other property in the Boring Area connecting to the District sewerage system. Table VIII, attached hereto and incorporated herein by reference, applies to this sewer service area.
- (c) **Hoodland Sewer Service Area.** The Hoodland Sewer Service Area consists of the property merged by Order 1956 of the Portland Metropolitan Local Government Boundary Commission dated November 10, 1983, and any area subsequently served by the sewage treatment plant in that sewer service area. Table IX, attached hereto and incorporated by reference, applies to this sewer service area. Any parcel of property that was assessed for an area density benefit within Assessment District 1-80 shall be exempt from the imposition of the system development charge for the number of equivalent dwelling units equal to each \$2,170 of area density benefit assessment.
- (d) **Fischer's Forest Park Sewer Service Area.** The Fischer's Forest Park Sewer Service Area consists of the property merged by Order 1956 of the Portland Metropolitan Local Government Boundary Commission dated November 10,

1983, and any area subsequently served by its system. There are no system development charges levied in this sewer service area. Table X, attached hereto and incorporated by reference, applies to this sewer service area.

4.1.2 Exemption. Exemptions to the system development charge in the Boring Sewer Service Area shall be in accordance with the following:

- (a) Dwellings, regardless of the date of construction and within the original boundaries of Assessment District 84-1, are exempt from any system development charge; except, if at the time of connection the number of connection units sought exceeds the highest number of connection units (density) allowed by the zoning ordinance at the time Assessment District 84-1 was formed. The property owner shall pay a system development charge for each excess connection unit.
- (b) Structures other than single family dwellings within Assessment District 84-1, regardless of the date of construction, are exempt from any connection charge; except, if at the time of connection the number of connection units sought exceeds the highest number of connection units (density) allowed by the zoning ordinance at the time Assessment District 84-1 was formed. The property owner shall pay a connection charge for each excess connection unit.

4.1.3 System Development Charge Imposed; Method for Establishment Created.

Unless otherwise exempted by the provisions of these Rules and Regulations or other local or state law, a system development charge is hereby imposed on all development within the District that increases usage upon the sanitary sewer facilities for each equivalent dwelling unit as defined in the Table related to the service area. System development charges shall be established and may be revised by resolution or order of the Board. The resolution or order shall set the methodology and amount of the charge.

4.1.4 Methodology.

- (a) The methodology used to establish the system development charges shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly-owned capital improvements, and other relevant factors identified by the board. The methodology shall promote the objective that future system users shall contribute not more than an equitable share of the cost of then-existing facilities.
- (b) The methodology used to establish the system development charge shall consider 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 system development charge shall be adopted by resolution or order of the Board.
- (d) The system development charge may be adjusted by the periodic application of one or more specific cost indexes or other periodic data sources. The resolution that adopts the system development charge shall identify the cost indexes to be used. A specific cost index or periodic data source must be:
 - (i) A relevant measurement of the average change in prices or cost over an identified time period for materials, labor, real property or a combination of the three;
 - (ii) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
 - (iii) Incorporated as part of the established methodology or identified and adopted in a separate resolution.

4.1.5 Authorized Expenditure.

- (a) System development charges shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- (b) (1) System development charges shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such 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 improvements funded by improvement fees must be related to demands created by current or projected development.

(2) A capital improvement being funded wholly or in part from the revenues derived from the improvement fee shall be included in the Capital Improvement Program adopted by the Board.
- (c) Notwithstanding 4.1.5(a) and (b), system development charge revenues may be expended on the direct costs of complying with the provisions of these Rules and Regulations, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds.

4.1.6 System Development Charge Project Plan.

- (a) The Board has adopted by resolution or order the Clackamas County Service District No. 1 System Development Charge Report for the North Clackamas Area Sanitary Sewer Service Area. This Report:
 - (1) Lists existing facilities and the capacity available for new development;
 - (2) Lists the planned capital improvements that may be funded with improvement fee revenues; and
 - (3) Lists the estimated cost and time of construction of each improvement.
- (b) In adopting this Report, 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 Report at any time through the adoption of an appropriate resolution.

4.1.7 Collection of Charge.

- (a) As a condition to connection of the sanitary sewer system, the applicant shall pay all applicable charges. Except as allowed in Section 4.1.8, the system development charge is payable at the time of permitted increased usage upon issuance of:
 - (1) A building permit; or
 - (2) A development permit for development not requiring the issuance of a building permit; or
 - (3) Increased usage of the system or systems provided by the District.
- (b) The resolution that sets the amount of the charge shall designate the permit or systems to which the charge applies.
- (c) If development is commenced or connection is made to the systems provided by the District within an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required or increased usage occurred.
- (d) The Director or his/her designee shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless provision for installment payments has been made pursuant to Section 4.1.8, or unless an exemption is granted pursuant to Section 4.1.9.
- (e) All moneys collected through the system development charge shall be retained in

a separate fund and segregated by type of system development charge.

- (f) In addition, each person making an application for connection shall pay an inspection charge for stormwater or sanitary sewer system construction inspection and testing for the type of service for which the application has been submitted and the permit to be reasonably calculated.

4.1.8 Installment Payment of District's System Development Charges.

- (a) Where the District's system development charges and/or collection sewer charge are greater than two times the amount of a system development charge for a single family residential unit, the applicant may, at the time of application, with the consent of the District, make a one-time election to pay the charge in installments. If approved, payment in 20 semi-annual installments, secured by a lien on the property upon which the development is to occur or to which the connection is to occur or to which the connection is to be made, to include interest on the unpaid balance. The Director may enter into such agreements and related documents to implement the intent of this section.
- (b) The District shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.
- (c) The District reserves the right to reject any application for installments payments. Requirements and procedures for installment payments of the District's share of the system development charge shall be in accordance with the following:
 - (1) A person requesting installment payments shall have the burden of demonstrating the person's authority to assent to the imposition of a lien on the property and that the interest of the person is adequate to secure payment of the lien.
 - (2) Any eligible property owner requesting the installment shall, at the time of the application for connection, submit to the District an application for deferral on a form provided by the District.
 - (3) Upon receipt of an application, the applicant, at his expense, shall order a preliminary title report from a title insurance company doing business in Clackamas County, Oregon, and provide it to the District.
 - (4) The applicant, at his expense, shall furnish the District with a current statement of amount due to each lienholder disclosed by the preliminary title report, the tax assessor's statement of true cash value, and, for property proposed for improvement, an MAI appraisal, certified by the appraiser, as to the estimated fair market value upon completion of the

proposed improvement. The applicant shall answer such questions as the District deems proper regarding the applicant's ability to make the installment payments, as well as any other lienholder. The applicant also authorizes the District to contact other lienholders regarding applicant's payment history.

- (5) If, upon examination of the title to the property and other information, the District is satisfied:
- (i) That the total unpaid amount of all liens disclosed, together with the amount of the system development charge sought to be paid by installments, does not exceed (1) the appraised value of the property as determined by the current appraisal of the County Assessor or (2) if the District elects, based upon the appraisal or other evidence of value acceptable to the District, the amount does not exceed the estimated fair market value of the property; and
 - (ii) The District, in its discretion, upon review of the applicant's ability to make payments as required under the proposed mortgage or trust deed and other debt obligations and the status of applicant's title to the property, consents to execution of the mortgage or trust deed; then
 - (iii) The applicant shall execute an installment promissory note, payable to the District in the form prescribed by the District for payment in installments, not to exceed 20 equal semi-annual installments, due January 1 and July 1 of each year, together with interest on the deferred principal balance at the prime rate of interest being charged on each principal payment date by the bank doing business in Oregon and having the largest deposits. The promissory note shall be secured by a mortgage or trust deed covering the property to be connected thereto. The cost of recording, preparation of security documents, title company report and filing fees shall be borne by the applicant in addition to the system development charge. The applicant, by electing to pay in installments, agrees that as an additional remedy to recovery upon the promissory note and foreclosure of the mortgage or remedy in lieu thereof, the District may, after ten (10) days notice of delinquent installments, cause termination of service to the defaulting property.
- (d) If the District determines that the amount of system development charge, together with all unpaid liens, exceeds the appraised value of the property or that the applicant cannot execute a mortgage or trust deed that will be a valid lien or if

the District believes that it will not have adequate security, or that the applicant cannot make the required payments, it shall so advise the applicant and installment payments shall not be accepted.

- (e) The District shall docket the lien in the lien docket. From that time, the District shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the Board. The lien shall be enforceable in the manner provided in ORS Chapter 223, as may be amended from time to time, and shall be superior to all other liens pursuant to ORS 223.230.
- (f) The District at its sole discretion can allow an applicant to apply for installment payment per this Section in an amount equal to or greater than one times the amount of a system development charge for a single family residential unit as prescribed in Section 4.1.8(a), if the applicant can demonstrate a financial Undue Hardship and the inability to obtain financial funding.

4.1.9 Exemptions. The System Development Charge shall not apply to:

- (a) Structures and uses of the sewerage or surface water system facilities on or before the effective date of the resolution.
- (b) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the Uniform Building Code or the County's Zoning Development Ordinance.
- (c) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the sanitary sewer or surface water system facilities.

4.1.10 Credits.

- (a) A permittee is eligible for credit against the improvement fee element of the system development charge for constructing a qualified public improvement. A qualified public improvement means it meets all of the following criteria:
 - (1) Required as a condition of development approval by the Board or its designee through the development review process; and
 - (2) Identified in the Capital Improvement Plan, or other plan set forth in 4.1.6, or adds additional capacity in excess of a local sewer system; and
 - (3) (i) Not located within or contiguous to the property or parcel that is subject to development approval, or (ii) located in whole or in part on, or contiguous to, property that is the subject of development approval and required to be build larger or with greater capacity than is necessary for

the particular development project to which the improvement fee is related.

- (4) 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.
- (b) Applying the adopted methodology, the District may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing capital improvements or the need for further capital improvements or that would otherwise have to be constructed at District expense under the then-existing Board policies.
- (c) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.
- (d) All credit requests must be in writing and filed with the District before the issuance of a building permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the District. The amount of any credit shall be determined by the District and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the District that the contract amounts exceed the prevailing market rate for a similar project, the credit shall be based upon market rates. The credit shall state the actual dollar amount that may be applied against any system development charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.
- (e) Credits shall be apportioned against the property that was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property 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 property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the District.

- (f) Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought, and shall not be a basis for any refund.
- (g) Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.
- (h) Credits shall be used by the applicant within ten years of their issuance by the District.

4.1.11 Payment of Charges. As a condition of service and/or connection District System, the applicant shall pay all fees and charges, except as allowed under Section 4.1.8.

In addition, each person making an application for service and/or connection shall pay an Inspection Charge to the District for providing construction inspection and testing for the type of service for which the application has been submitted and was reasonably calculated.

4.1.12 Changing Class of Service. Whenever a parcel of property becomes connected to the District's sanitary sewer system and shall thereafter undergo a change of use so that a different number of dwelling units would be assigned to the property if connection were made after the change, the following shall occur:

(a) **North Clackamas Sewer Service Area - Surface Water**

- (1) If the change results in the assignment of a greater number of ESU's pursuant to Table XIII, an additional system development charge shall be levied prior to issuance of a permit to cause such change. The additional charge shall be equal to the net increase of ESU's times the current system development charge per ESU's.
- (2) If the change results in the assignment of a lesser number of ESU's pursuant to Table XIII, there shall be no additional charge of rebate. However, the full number of ESU's originally assigned shall be used as a basis for determining any further change of use resulting in the assignment of additional ESU's.

(b) **North Clackamas Sewer Service Area – Sanitary Sewer**

- (1) If the change results in the assignment of a greater number of EDU's pursuant to Table VII, an additional system development charge shall be

levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.

- (2) If the change results in the assignment of a lesser number of EDU's pursuant to Table VII, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.

(c) **Boring Sewer Service Area – Sanitary Sewer**

- (1) If the change results in the assignment of a greater number of EDU's pursuant to Table VIII, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.
- (2) If the change results in the assignment of a lesser number of EDU's pursuant to Table VIII, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.
- (3) There is not a charge for changing class of service for any property located within the boundaries of Assessment District 84-1. These provisions apply to all properties outside Assessment District 84-1.

(d) **Hoodland Sewer Service Area – Sanitary Sewer**

- (1) If the change results in the assignment of a greater number of EDU's pursuant to Table IX, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.
- (2) If the change results in the assignment of a lesser number of EDU's pursuant to Table IX, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.

4.1.13 Notification/Appeals The District shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the system development charge methodology. These persons shall be so notified in writing of any such proposed changes at least 45 days prior to the first hearing to adopt or amend such methodology(ies). This methodology shall be available at least 30 days prior to the public hearing. Any challenge to the system development charge methodology shall be filed not later than 60 days following final adoption by the Board and only pursuant to the provisions of ORS 34.010 to 34.100, as may be amended from time to time.

4.1.14 Annual Accounting. The District shall prepare for public inspection an annual accounting for system development charges showing the total amount of system development charges collected for each system.

4.1.15 Challenges. Any citizen or interested person may challenge expenditure of system development charge revenues according the Section 6 of the Rules and Regulations. Notwithstanding Section 6, the initial appeal of that Section with respect to an expenditure of system development charge revenues shall be filed within two years of the expenditure complained of. Thereafter, all time limits of Section 6 shall apply including Circuit Court review pursuant to ORS 34.010 to 34.100, as may be amended from time to time.

4.2 USER CHARGES – SURFACE WATER

4.2.1 Customer Charges. Equivalent service unit rate structure. Except as specifically provided below, a monthly surface water charge shall be paid by the user. The rate is set according to the surface water service area as follows:

(a) North Clackamas Surface Water Service Area. There is hereby imposed a system of rates for users for surface water services established by this Ordinance. The rates are set forth and amended from time to time to fund the administration, planning, design, construction, water quality and quantity programming, operation, maintenance and repair of surface water facilities.

Rates are hereby established for all users within the North Clackamas Surface Water Service Area as set forth on Table XIV, attached hereto and incorporated by reference. The Table may be amended by Resolution or Order of the Board of County Commissioners.

(b) Annexation. The rates, fees, and system development charges set forth in Table XIII of this Ordinance shall not be charged in areas annexing to the District after January 1, 2005 until urban level¹ sanitary sewer and/or surface water management services are provided to the User. Such charges shall commence upon the date of connection or use of the sanitary sewer and public storm water/surface water management system.

¹ For the purposes of this section, urban level of service shall be defined as connection to the sanitary sewer system; or having any point of the property boundary within three

hundred (300) feet of a serviceable public sanitary sewer and participation in an assessment district, local improvement district, or other service funding mechanism; and/or within three hundred (300) feet of a surface water management program collecting, regulating, and/or controlling surface waters and storm drainage in response to a National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System permit or other regulation imposed upon Clackamas County Service District No. 1 by the Oregon Department of Environmental Quality, United States Environmental Protection Agency, or other regulatory authority.

(c) Mitigation Reduction Factor. The amount of surface water service for sites can be controlled through provision of retention and/or other storm water quantity or quality control mitigation facilities. The District's Planning and Engineering Services Manager, or designee, shall determine the appropriate mitigation credit factor for customers who provide such mitigation in excess of the current District Regulations in a manner consistent with the Administrative Procedures adopted by the District.

4.2.2 Payment of Customer Charge. Single family customers will be billed on a two (2) month basis in advance, with payment due within fifteen (15) days of the billing date. Non-single family customers will be billed on a monthly basis in advance, with payment due within fifteen (15) days of the billing date.

4.3 USER CHARGES – SANITARY SEWER

4.3.1 Dwelling Unit Monthly User Charge. Except as specifically provided below, a monthly sewer user charge for each residential dwelling unit is assigned each residential class of service listed in the attached tables and shall be paid by the property owner or user commencing on the third month following the date of connection to the District's sewer system. All nonresidential users shall pay from the date of connection to the system. The rate is set according to the sewer service area as follows:

(a) **North Clackamas Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof, for each dwelling unit as assigned each class of service listed in Table VII, and shall be paid by the property owner commencing on the third month from the date of connection to the District sewerage system.

(b) **Boring Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof, for each equivalent dwelling unit is assigned to each class of service pursuant to Table VIII, and shall be paid by the property owner or agent authorized to accept billing. The charge shall be paid by the owner commencing on the third month from the date of connection to the District's sewerage system.

(c) **Hoodland Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof, for each equivalent dwelling unit is assigned to each class of service pursuant to Table IX, and shall be paid by the property owner or agent authorized to accept billing. The charge shall be paid by the owner commencing on the third month from the date of connection to the District's sewerage system.

(d) **Fischer's Forest Park Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof for each dwelling unit is assigned to each class of service listed in Table X, and shall be paid by the property owner commencing on the third month from the date of connection to the District's sewerage system.

(e) The Board may set user fees and charges by order or resolution.

4.3.2 Low Income Monthly User Charge. The monthly user charge for sanitary sewer service provided to the principal resident or family having a maximum income under the qualifying income limits shall be fifty percent (50%) of the monthly sewer service charge stated in Table XIII. On July 1st of each year, the qualifying limits shall be set at one hundred eighty-five percent (185%) of the most recently published poverty guidelines in the Federal Register by the U.S. Department of Health and Human Services under authority of 42 U.S.C. 9902(2), as may be amended from time to time, and shall remain in force until the next July 1st. The qualifying income limit for a single person household shall be based on the federal poverty guidelines for a one-person household. The qualifying income limit for a family shall be based on the poverty guidelines for a two-person household. In order to be eligible for the reduced user charge, the qualified person must be the person to whom the monthly user charge is billed and must have completed and filed with the District an application for the reduced rate on a form supplied by the District.

4.4 OTHER CHARGES

4.4.1 Collection Sewer Charge. It is the intent of the District that the owners of all property within the District shall pay their proportionate share of the cost of installation of the local sanitary sewer system. Therefore, whenever any property is connected to the District's sanitary sewer system that has not previously been assessed the full proportional cost of the sanitary system; the owner of such property shall pay a collection sewer charge prior to connecting to the sanitary sewer system. "Full proportional cost" for the purposes of this Section shall mean the cost to design and construct the sanitary sewer system to which connection is made, which would have been assessed against the property if the property had been in an assessment district and assessed in full without regard to any exceptions to the assessment formula. The collection sewer charge shall be:

(a) For property located within an existing assessment district and connecting to facilities for which an assessment has been levied, a sum equal to the amount of assessment which would have been levied against the property had the property been assessed at the time the assessment district was formed without regard to

any exception contained in the assessment formula; or

- (b) For property connecting to facilities for which no assessment has been levied and were not constructed by the District, a sum equal to the proportionate share of the cost of the sanitary sewer system, or
- (c) For capital improvement projects constructed by the District and for which no assessment district have been made, a sum equal to the proportionate share of the cost of the sanitary sewer system, or
- (d) The Director is hereby granted wide discretion in the interpretation of this Section and in its application to particular parcels of property based upon users, lots or acreage to be served, so that the intent of this Section as expressed herein shall be fully implemented.

4.4.2 Sewer Tap-In Charge. Whenever any property connects to the District sanitary sewer system and there has not been provided a service connection to serve such property, the owner shall provide a service lateral at their own expense and at the time of connection shall pay a tap-in charge.

4.4.3 Other Connecting Charges. Whenever sanitary sewer service to a property requires special facilities to be provided by the District, the property owner shall be charged the actual cost incurred by the District in providing the special facilities. Special facilities shall include, but are not limited to, manhole connections, extension of the public sewer, or modification of the public sewer.

4.4.4 Industrial Waste User Charge. An industrial waste user charge will be applied to each class of industrial user as defined in Tables VII through X. The user charge shall be comprised of rates for the customer's proportionate contribution of flow, the suspended solids ("TSS") and biochemical oxygen demand ("BOD") that are in excess of domestic sewage contributions.

Rates for industrial flows shall be based on their Equivalent Dwelling Units as determined by metered water consumption. Rates for TSS and BOD removal shall be based on the actual treatment cost per pound incurred by the District, including administrative overhead, operation, maintenance, and other expenses as established by the District. The user charge shall be based on simultaneous monitoring of flow, TSS, and BOD concentrations measured at the customer's property and the sewage treatment plant periodically during the preceding three-month period. Quarterly adjustments may be made to reconcile differences in projected versus actual conditions.

Such user charge shall be payable from the date of connection to the District sanitary sewer system or from the date on which the property owner is required to connect to the District sanitary sewer system, whichever occurs first.

4.4.5 Surcharge. If the District verifies that any customer has discharged waste on a sustained, periodic, or accidental basis, and those wastewater characteristics result in additional costs above the normal costs associated with treating, operating, maintaining, or complying with regulatory requirements, then that customer may be billed for the additional costs resulting from that discharge.

4.5 PAYMENT OF CHARGES

4.5.1 User Charges. Owners of property will be billed in accordance with the following schedule:

- (a) **North Clackamas Sewer Service Area**. All property owners will be billed on a monthly basis, with payment due within fifteen (15) days of the billing date.
- (b) **Boring Sewer Service Area**. All property owners will be billed monthly for the previous month's service, with payment due within fifteen (15) days of the billing date.
- (c) **Hoodland Sewer Service Area**. All property owners will be billed monthly for the previous month's service, with payment due within fifteen (15) days of the billing date.
- (d) **Fischer's Forest Park Sewer Service Area**. All property owners will be billed on a monthly basis in advance, with payment due within fifteen (15) days of the billing date.

4.5.2 Temporary Charges. User charges to property owners within North Clackamas Sewer Service Area and Boring Sewer Service Area, whose charges may be based upon metered water consumption or EDU count at the District's discretion, will have their charges computed on the basis of the number of dwelling units assigned such use.

4.5.3 Notification Requirements. In conjunction with a regular bill, the District will provide an annual notification to each user of that portion of the monthly user rate that is attributable to wastewater treatment services.

4.5.4 Irrigation Water Meters. Owners of nonresidential properties may install a separate public water meter for irrigation purposes that shall not be included in the billing for sanitary sewer purposes.

4.5.5 Other Charges and Fees. All other charges and fees shall be due and payable at the time of service, unless otherwise specifically provided by these Rules.

4.6 DEFERRAL OF PAYMENTS OF COLLECTION CHARGES

The District reserves the right, in its sole discretion, to allow the applicant to make a one-time election to pay the system development charge or sewer collection charge in installments at the time of application. The District reserves the right to reject any application for installment payments.

4.7 SEGREGATION OF SPECIAL ASSESSMENTS

Pursuant to Oregon Revised Statutes Chapter 307, as may be amended from time to time, and Board Order No. 832036, special assessments may be segregated in accordance with the following subsections when requested by an owner, mortgagee or lien holder of property that was partitioned or divided subsequent to the original assessment.

4.7.1 Application. Whenever an application has been made under the provisions of Chapter 223 of the Oregon Revised Statutes, as may be amended from time to time, and the application has been accepted and payment of the assessment has in fact been financed by such procedure, the lien of such assessment may be segregated upon the following terms and conditions:

- (a) The property for which the segregation is to be made shall have been assessed as a unit and entered accordingly in the bond lien docket.
- (b) There shall be no delinquent installments of principal or interest on the assessment of the entire parcel.
- (c) Written application shall be made to the District in such form as may be required, and such application shall be accompanied by any fees established in accordance with Paragraph (5) hereafter.
- (d) If the District determines that the lien may be segregated and divided without prejudice to the overall security of the entire balance owed, then an equitable division of the assessment shall be made based upon the original assessment formula and the preservation of the security interest. Such segregation shall describe the various parcels of the entire tract and the amount of the assessment to be apportioned to each parcel. The District may require that the portion of the assessment segregated and apportioned to a particular parcel be paid in full or whether the remaining parcel shall be relieved of liability for payment of that portion of the lien.
- (e) To defray the costs of investigation, preparing legal documents, calculating an equitable division of the assessment and making the lien docket entries, the Board hereby reserves the right to establish such fees as it deems proper from time to time. Such fees shall not be refundable if the application is disapproved or if the applicant withdraws the application.

4.7.2 Approval. After the apportionment application, upon such form as developed by the District, is received, fees paid and investigation made, the District shall forward the application to the Board for approval pursuant to Oregon Revised Statutes Chapter 307, as may be amended from time to time.

If the application is approved by the Board and the fees provided herein are paid, the District shall certify the fact on the bond lien docket and appropriate entries shall be made therein segregating the total assessment. When such entries are made, the lien shall be thereby only in the amount and as to the parcels thereby approved by the Board.

SECTION 5 COLLECTION PROCEDURES

5.1 GENERAL

The District requires that the user (in whose name the account is set up) is responsible for all fees and charges at the service location.

5.1.1 Account Setup. All applications for service shall be on forms provided by the District. The account holder shall be considered the user of the service. In the case of a landlord-tenant situation, the landlord shall be the account holder.

5.1.2 Notices. Regardless of who is listed as the user, the District will make all reasonable efforts to provide the landlord with copies of all invoices, notices, and other information relating to fees and charges. This policy is intended to comply with ORS 91.255, as it may be amended from time to time, and to provide notices to enable the landlord and tenant a reasonable opportunity within the time set by the District to avoid delinquent charges and discontinuance of service.

5.1.3 Collection of Charges. All invoices or bills for fees and charges shall be sent to the user at the address set forth on the District's records. If the District's records reveal that the user is not the owner and the owner has not executed a document to pay for services, then the District shall take all reasonable steps to provide the owner with copies of all invoices, bills and notices pursuant to ORS 91.255, as it may be amended from time to time.

If the owner has executed such an agreement to be bound or if the rental agreement provides, then the landlord and the tenant shall be jointly and severally liable and, following notices to each in accordance with the District's procedures, collection practices may ensue. The District may look to either or both parties for payment in addition to the remedies of Section 5.4.1, ORS 91.255, and ORS 454.225, or any successor statutes.

The District may enter into a payment plan in its sole discretion to avoid hardship to the user and leave the ultimate resolution between landlord and tenant.

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

The Director may enter into such agreements regarding payment of delinquent fees and charges as are reasonable and necessary in the judgment of the Administrator or Director to obtain payment to the District and avoid hardship and inequities.

5.1.4 Delinquent Charges. All user charges by the District shall be due within twenty (20) days of billing. Thereafter, a charge shall be considered delinquent. All delinquent charges shall bear interest at 9% per annum from the date of delinquency until paid. Failure to make payment when due shall give the District the right to undertake such collection action as it

deems appropriate under the circumstances including, but not limited to, letters, telephone calls (reasonable as to time and place), legal proceedings or certification to the Tax Assessor. The District may certify the amount to the Assessor for inclusion on the property tax statement pursuant to ORS 454.225, as amended from time to time, and in such case those charges shall become a lien upon the property from the date of the certification to the Assessor and any such collection of the debt and foreclosure of said lien shall be according to the Oregon Revised Statutes.

- (a) For surface water customers, upon ten (10) days written notice, if feasible, the District may undertake those steps to construct on-site mitigation facilities or obtain cessation of a customer's impact upon the District's or public's surface water system and the charges therefore shall be owed by customer to the District. Any costs incurred by the District to cease or mitigate the customer's impact on the surface water system, shall be charged at the District's usual labor and material rates.

5.1.5 Discontinuance of Service. The District may, at any time after any charges or fees hereunder become delinquent, remove or close connections and enter upon any delinquent owner's property for such purpose. In addition, when any property owner fails to cease discharging into the District's sewerage system prohibitive substances after being notified by the District to do so, sewerage service may be similarly discontinued. The expense of such discontinuance, as well as the expense of restoring service, shall be a debt due to the District and may be recovered in the same manner as other delinquent charges. Nothing herein shall prevent the District from entering into an agreement with the water service provider to terminate water service for nonpayment of a sanitary sewer bill.

5.1.6 Restoration of Service. Sewer service that has been discontinued by the District shall not be restored until all accrued charges, including the expenses of discontinuance and restoration have been paid and the cause for discontinuance corrected.

5.1.7 Fees and Costs. By resolution, the District shall set fees and charges, for collection efforts, including fees and charges necessary to recover all costs related to an insufficient fund check or the cost of processing lien searches and the like based upon labor rates or other items deemed reasonable by the Board or Director as its designee.

SECTION 6 APPEALS; ENFORCEMENT

6.1 INTERPRETATION OF THESE RULES AND REGULATIONS

6.1.1 Appeal. Any person aggrieved by a ruling or interpretation of the provisions of these Rules and Regulations may submit a written appeal to the Director. The appeal must be in writing and submitted within fourteen (14) days after the decision was made. 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's property or business, together with any other reasons for the appeal. This provision shall not apply in cases arising under Section 6.2.

6.1.2 Decision of District. The District shall study the matter, hear testimony if deemed necessary, and issue written findings and reasons for such recommendations to the appellant. The Director shall make a written decision within thirty (30) days of written notification of appeal.

6.1.3 Appeal to Board. If the appellant considers that his grievance has not been handled to his satisfaction, he may apply to the governing body of the District for an independent review of his case 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. Within thirty (30) days from receipt of the appeal, if the Board chooses to review the matter, it will prepare a written decision on the matter, which shall be sent to the applicant. In lieu of a hearing by the Board, a hearing officer may be appointed.

(a) If appointed, the hearings officer shall set a de novo hearing on the matter at which he or she will take testimony and hear arguments. The Director shall give notice of the time and place for the hearing to the appellant, the applicant, and all property owners within 250 feet of the subject property. The notice called for in this section shall be given by First Class mail, postage prepaid, at least fourteen (14) days in advance of the time scheduled for the hearing. Only persons who have been aggrieved by the Director's decision shall have standing to participate in the hearing. The hearings officer shall issue written findings and a decision on the appeal within thirty (30) days after the de novo hearing, with copies to the Board, all persons who participated in the hearing and those persons who have requested a copy.

6.1.4 Circuit Court Review. The decision of the Board or Hearings Officer shall be final unless appellant provides a notice of intent to file a writ of review in the Circuit Court, which is received by the District or Hearings Officer within ten (10) days after the decision of the District or Hearings officer was sent to the appellant. Decisions of the Board shall be reviewable by the Circuit Court of the State of Oregon for Clackamas County, solely and exclusively under the provisions of ORS 34.010 to 34.100, or any successor statutes.

6.2 VIOLATIONS AND CIVIL PENALTIES

6.2.1 Violation of These Rules and Regulations. The District may impose civil penalties,

including, but not limited to, fines, damages, modification or revocation of permit, cessation of services, stop work orders, seek an injunction or other relief provided by law when any user or person violates any condition or provision of these Rules and Regulations, any rule adopted thereto or any final order with respect thereto, as well as violation of federal or state statutes, regulations or administrative rules. The goal of enforcement is to (a) obtain and maintain compliance with the District's statutes, rules and regulations, permits and orders; (b) protect the public health and the environment; (c) deter future violators and violations; and (d) ensure appropriate and consistent enforcement. Except as provided by 6.3.2 the District shall endeavor by conference, conciliation and persuasion to solicit compliance. The District shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary to achieve the goals set forth herein under the particular circumstances of each violation. The violators who do not comply with initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved.

6.2.2 Definitions for Enforcement.

- (a) "Compliance" means meeting the requirements of the District's statutes, rules, permits or orders.
- (b) "Documented Violation" means any violation that the District or other government agency verifies through observation, investigation or data collection.
- (c) "Enforcement" means any documented action taken to address a violation.
- (d) "Flagrant" means any documented violation where the respondent had actual knowledge of the law and had consciously set out to commit the violation.
- (e) "Formal enforcement" means an administrative action signed by the Director or designee that is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame and states consequences for continued noncompliance.
- (f) "Intentional" means respondent consciously and voluntarily took an action or admitted to taking an action and knew the probable consequences of so acting or omitting to act.
- (g) "Magnitude of Violation" means the extent and effects of a violator's deviation from the District's statutes, rules, permits or orders. In determining magnitude, the District shall consider all available applicable information, including such factors as, but not limited to, concentration, volume, duration, toxicity or proximity to human or environmental receptors, and the extent of the effects of the violation. Deviations shall be classified as major, moderate or minor.
- (h) "Prior Significant Action" means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment

of a civil penalty, by order or default, or by Stipulated Final Order of the District.

- (i) “Respondent” means the person to whom a formal enforcement action is issued.
- (j) “Risk of Harm” means the level of risk created by the likelihood of exposure (either individual or cumulative) or the actual damage (either individual or cumulative) caused by a violation to public health or the environment. Risk of harm shall be categorized as major, moderate or minor.
- (k) “Systematic” means any documented violation that occurs on a regular basis.
- (l) “Violation” means a transgression of any statute, rule, order, license, permit or any part thereof and includes both acts and omissions. Violations shall be classified as follows:
 - (1) “Class I” means any violation that poses a major risk of harm to public health or the environment, or violation of any compliance schedule contained in a District permit or a District order:
 - (i) Violation of a District Order;
 - (ii) Intentional unauthorized discharges;
 - (iii) Negligent spills that pose a major risk of harm to public health or the environment;
 - (iv) Waste discharge permit limitation violations that pose a major risk of harm to public health or the environment;
 - (v) Discharge or introduction of waste to the publicly owned treatment works, as defined in 40 CFR 403.3(o), without first obtaining an Industrial User Waste Discharge Permit;
 - (vi) Failure to immediately notify the District of a spill or upset condition that results in an unpermitted discharge to public waters or to the publicly owned treatment works as defined in 40 CFR 403.3(o);
 - (vii) Violation of a permit compliance schedule;
 - (viii) Failure to provide access to premises or records;
 - (ix) Any other violation related to water quality that poses a major risk of harm to public health or the environment;
 - (x) Two Class II violations, one Class II and two Class III violations or three Class III violations.

(2) "Class II" means any violation that poses a moderate risk of harm to public health or the environment, including, but not limited to:

- (i) Waste discharge permit limitation violations that pose a moderate risk of harm to public health or the environment;
- (ii) Negligent spills that pose a moderate risk of harm to public health or the environment;
- (iii) Failure to submit a report or plan as required by permit or license;
- (iv) Any other violation related to water quality that poses a moderate risk of harm to public health or the environment.

(3) "Class III" means any violation that poses a minor risk of harm to public health or the environment, including, but not limited to:

- (i) Failure to submit a discharge monitoring report (DMR) on time;
- (ii) Failure to submit a completed DMR;
- (iii) Negligent spills that pose a minor risk of harm to public health or the environment;
- (iv) Violation of a waste discharge permit limitation that poses a minor risk of harm to public health or the environment;
- (v) Any other violation related to water quality that poses a minor risk of harm to public health or the environment.

6.3 PROCEDURE FOR ENFORCEMENT

6.3.1 Inspection, Entry, and Sampling. Authorized District representatives may inspect the property and facilities of any person to determine compliance with the requirements of the Ordinance. The user person shall allow the District or its authorized representatives to enter upon the premises at all reasonable hours for the purpose of inspection, sampling or records examination. The District shall also have the right to set up on the person's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring and/or metering operations. The right of entry includes but is not limited to access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling surface water and storing records, reports, or other documents related thereto.

- (a) The District is authorized to conduct inspections and take such actions as required to enforce any provisions of this ordinance or any permit issued

pursuant to this ordinance whenever the Director has reasonable cause to believe there exists any violation of this ordinance. If the premises are occupied, credentials shall be presented to the occupant and entry requested. If the premises are unoccupied and no permit has been issued, the District shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused in either case, the District shall have recourse to the remedies provided by law to secure entry.

- (b) Where feasible, inspections shall occur at reasonable times of the day. If a permit has been issued and the responsible party or their representative is at the site when the inspection is occurring, the Director or authorized representative shall first present proper credentials to the responsible party. The permittee or person having charge or control of the premises shall allow the Director or the Director's authorized representatives, agents and contractors to:
 - e. **Enter upon the property where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit;**
 - f. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a permit;
 - g. Inspect at reasonable times the property, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required by these rules and regulations or under a permit; and
 - h. Sample or monitor at reasonable times, for the purpose of assuring permit compliance with these rules and regulations or as otherwise authorized by local or state law, any substances or parameters at any location.

6.3.2 Prior Notice and Exceptions. Except as otherwise provided, prior to the assessment of any civil penalty, the District shall serve a notice of violation upon the Respondent. The written notice shall be served, either personally, by office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the District will assess a civil penalty if a violation continues or occurs after five days following receipt of the notice.

The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if (a) the act or omission constituting the violation is intentional; or (b) the water pollution would normally not be in existence for five days.

6.4 ENFORCEMENT ACTION

6.4.1 Notice of Non-Compliance (NON). At the District's discretion, it may issue a notice of noncompliance (NON) as a formal enforcement action that:

- (a) Informs a person of the existence of a violation, the actions required to resolve the violations and the consequences of continued noncompliance. The notice may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated;
- (b) Shall be issued under the direction of the Director or designee;
- (c) Shall be issued for all classes of documented violations; and
- (d) Is consistent with the policy of 6.3.2.

Typically, a NON will be in the form of a letter and may include a request for a written report within five (5) business days. The report shall detail the event, steps taken to correct the problem and steps to prevent future events. 6.4.2 Notice of Violation and Intent to Assess a Penalty (NOV).

6.4.2 Notice of Violation and Intent to Assess a Penalty (NOV). In lieu of or subsequent to a NON in the District's sole discretion, it may issue a Notice of Violation and Intent to Assess a Civil Penalty (NOV) as a formal enforcement action that: (a) is issued pursuant to 6.3.2; (b) may include a time schedule by which compliance is to be achieved; (c) shall be issued by the Director or designee; (d) shall be issued for the first occurrence of a documented Class I violation that is not excepted under 6.3.2 or the repeated or continued occurrence of documented Class II or Class III violations, where notice of noncompliance has failed to achieve compliance or satisfactory progress toward compliance.

6.4.3 Notice of Civil Penalty Assessment. A notice of Civil Penalty Assessment is a formal enforcement action that: (a) is escalated pursuant to Section 6.5; (b) shall be issued by the District or designee; and (c) may be used for the occurrence of any class of documented violation or for any class of repeated or continuing violations if a person has failed to comply with a Notice of Violation and intent to assess a civil penalty, Stipulated Final Order or other order.

6.4.4 Memorandum of Agreement and Order. A Memorandum of Agreement and Order (MAO) is a formal enforcement action that is in the form of a MAO, stipulated final order or consent order issued by the Director that: (a) may be negotiated between the District and the subject party prior to or after any notice set forth above; (b) shall be signed by the Director or designee on behalf of the District and the authorized representative of the subject party; and (c) shall set forth action to be taken and set civil penalties. This may be issued for any class of violations. The formal enforcement action as described in these sections in no way limits the District from seeking other legal or equitable remedies in the proper court as provided by Oregon law.

6.4.5 Right to Hearing. A civil penalty shall be due and payable 10 days after the date of service of the Notice of Civil Penalty Assessment. The decision of the Director or the Director's designee to assess a civil penalty or other formal enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be served

on the user or person (hereinafter "Respondent") by personal service, office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure or by certified or registered mail, return receipt requested. Service may be made upon any agent, officer or authorized representative of the user or person. The Notice shall specify the violation, the reasons for the enforcement action and the amount of the penalty. It shall comply with ORS 183.090, as may be amended from time to time, relating to notice and contested cases. The decision shall be final unless the respondent files a written Notice of Appeal and Request for Hearing with the District within 21 days from the date of the Director's decision. The Notice of Appeal and Request for Hearing shall contain the following:

- (a) The name of the Respondent and the case file number or permit number.
- (b) The name and signature of the Respondent and a statement that, if acting on behalf of a partnership or corporation, the person executing the Notice of Appeal is duly authorized to file such appeal and such person is the contact representative.
- (c) The date that the Notice of Civil Penalty Assessment or other formal enforcement was received by the Respondent.
- (d) The nature of the decision and the specific grounds for appeal. In the Notice of Appeal, the party shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and the reasons therefore.
- (e) The appeal shall be limited to the issues raised in the petition.
- (f) The hearing shall be conducted in accord with ORS Chapter 183, as may be amended from time to time. The record of the hearing shall be considered by the District or Hearings Officer, which shall enter appropriate orders, including the amount of any civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 6.1. Notwithstanding the foregoing, nothing shall be construed to prevent the District from taking any other enforcement action or remedy available.

6.4.6 Other Remedies. The formal enforcement action as described in these sections in no way limits the District from seeking other legal or equitable remedies in the proper court as provided by Oregon law.

6.5 CIVIL PENALTY SCHEDULE MATRICES

In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the District's statutes, regulations, permits or orders by service of a written notice of assessment of civil penalty upon the respondent as set forth in Paragraph 6.4 above. The amount of any civil penalty shall be determined through the use of the following matrices, in conjunction with the formula contained in

Section 6.5.3.

6.5.1 Base Penalty Matrix.

	Magnitude of Violation		
	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

No civil penalty issued by the Director pursuant to this matrix shall be less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) for each day of each violation.

6.5.2 Petroleum Spills. Persons causing oil spills to waters of the state within the jurisdiction of the District through intentional or negligent acts shall incur a civil penalty of not less than one hundred dollars (\$100) or more than twenty thousand dollars (\$20,000) per violation. The amount of the penalty shall be determined by doubling the values contained in the matrix in subsection 6.5.1 of this rule, in conjunction with the formula contained in 6.5.3. In determining whether to seek a civil penalty, the District shall take into account the circumstances and enforcement efforts of other governmental agencies having jurisdiction.

6.5.3 Civil Penalty Determination Procedure.

- (a) When determining the amount of civil penalty to be assessed for any violation, the Director shall apply the following procedures:
 - (1) Determine the class of violation and the magnitude of violation;
 - (2) Choose the appropriate base penalty established by the matrix of Section 6.5.1, based upon the above finding;
 - (3) Starting with the base penalty (BP), determine the amount of penalty through the application of the formula $BP + [(0.1 \times BP) (P + H + E + O + R + C)]$ where:
 - (i) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for P and the finding which supports each are as follows:

- 0 if no prior significant action or there is insufficient information on which to base a finding;
- 1 if the prior significant action is one Class II or two Class III violations;
- 2 if the prior significant action is one Class I or equivalent;
- 3 if the prior significant actions are two Class I or equivalents;
- 4 if the prior significant actions are three Class I or equivalents;
- 5 if the prior significant actions are four Class I or equivalents;
- 6 if the prior significant actions are five Class I or equivalents;
- 7 if the prior significant actions are six Class I or equivalents;
- 8 if the prior significant actions are seven Class I or equivalents;
- 9 if the prior significant actions are eight Class I or equivalents;
- 10 if the prior significant actions are nine Class I or equivalents.

In determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

- A value of two if all prior significant actions are greater than three years old, but less than five years old;
- A value of four if all the prior actions are greater than five years old;

In making the above reductions no finding shall be less than zero. Any prior significant action that is greater than ten years old shall not be included in the above determination.

(ii) "H" is past history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions. The values for H and the findings which support each are as follows:

- Minus 2 if the Respondent took all feasible steps to correct any violation;
- 0 if there is no prior history or insufficient information on which to base a finding;

- 1 if the Respondent took some but not all feasible steps to correct a Class II or III violation;
- 2 if the Respondent took some but not all feasible steps to correct a Class I violation;
- 3 if no action to correct prior significant actions.

(4) “E” is the economic condition of the Respondent. The values for E and the finding which support each are as follows:

- 0 to minus 4 if economic condition is poor, subject to any significant economic benefit gained by Respondent through non compliance.
- 0 if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound;
- 2 if the Respondent gained a minor to moderate economic benefit through noncompliance;
- 4 if the Respondent gained a significant economic benefit through noncompliance.

(5) “O” is whether the violation was a single occurrence or was repeated or continuous during the period resulting in the civil penalty assessment. The values for “O” and the finding which supports each are as follows:

- If a single occurrence;
- If repeated or continuous.

(6) “R” is whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent. The values for “R” and the finding which supports each are as follows:

- Minus 2 if unavoidable accident;
- 0 if insufficient information to make any other finding;
- 2 if negligent;
- 4 if grossly negligent;

- 6 if intentional
- 10 if flagrant.

(7) "C" is the Respondent's cooperativeness in correcting the violation. The values for "C" and the finding which supports each are as follows:

- Minus 2 if Respondent is cooperative;
- 0 if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding;
- 2 if violator is uncooperative.

- (b) In addition to the factors listed in 6.5.3(a) of this rule, the Director may consider any other relevant rule or statute and shall state the effect the consideration had on the penalty. On review, the Board of county Commissioners or Hearings Officer shall consider the factors contained in 6.5.3(a) of this rule and any other relevant rule or statute.
- (c) If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4 in subsection 6.5.3(a)(iii) of this section, it may increase the penalty by the amount of economic gain, as long as the penalty does not exceed the maximum penalty allowed by rule and statute.
- (d) In any contested case proceeding or settlement in which Respondent has raised economic condition as an issue, Respondent has the burden of providing documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Hearings Officer or District may consider the causes and circumstances of Respondent's economic condition.

6.6 STOP WORK ORDERS

6.6.1 Erosion Control Violations. In addition to civil penalties described in Section 6.2, erosion control violations will be enforced by on-site control activities to mitigate existing violations and prevent future violations to the greatest extent possible. Initial violations will result in a written description of requirements for repair of the problem and a 24-hour time period for compliance or a specified time for compliance as included in the Deficiency Notice. If the repair is not performed, or violations continue, the inspector will issue a stop work order on the project, which will remain in effect until the violation is repaired to the requirements stated in these Rules and Regulations. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary

remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table XIII will be assessed to the owner of the property.

6.6.2 Other Violations. In addition to civil penalties described in Section 6.2, other violations may be enforced by on-site control activities to mitigate existing violations of these rules including failure to follow approved plans and prevent future violations to the greatest extent possible. Initial violations will result in a written description of requirements for compliance and a specified time period for compliance as included in the Deficiency Notice. If compliance is not achieved, or violations continue, the inspector will issue a stop work order on the project, which will remain in effect until the violation is repaired to the requirements stated in these Rules and Regulations. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table XIII will be assessed to the owner of the property.

6.7 ABATEMENT

Nothing herein shall prevent the District, following seven (7) days written notice to the discharger, and discharger's failure to act, from entering upon the property and disconnecting, sealing, or otherwise abating any unauthorized connection to the storm water or system discharger violating any permit, this ordinance or water quality standards. As part of this power, the District may perform tests upon the property to trace sources of water quantity or water quality violation.

6.8 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR

6.8.1 Any time subsequent to service of a written notice of assessment of civil penalty, the Director may compromise or settle any unpaid civil penalty at any amount that the Director deems appropriate. Any compromise or settlement executed by the Director shall be final.

6.8.2 In determining whether a penalty should be compromised or settled, the Director may take into account the following:

- (a) New information obtained through further investigation or provided by Respondent that relates to the penalty determination factors.
- (b) The effect of compromise or settlement on deterrence.

- (c) Whether Respondent has or is willing to employ adequate means to correct the violation or maintain compliance.
- (d) Whether Respondent has had any previous penalties that have been compromised or settled.
- (e) Whether the compromise or settlement would be consistent with the District's goal of protecting the public health and environment, as set forth in Section 1.1 of these Rules and Regulations.
- (f) The relative strengths and weaknesses of the District's case.

6.9 STIPULATED PENALTIES

Nothing herein shall affect the ability of the District to include stipulated penalties in a Stipulated Final Order or any other agreement.

6.10 COLLECTION OF CIVIL PENALTY

Procedures for the enforcement of the civil penalty shall be as follows:

6.10.1 Time Limit. Any civil penalty imposed shall be a judgment and lien and may be registered with the Court Clerk. The penalty shall be paid in full within fifteen (15) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.

6.10.2 Relief in Circuit Court. If full payment is not made, the District may take further action, pursuant to collection authority granted under ORS 454.225 or any successor statutes, for collection and/or cause sewer service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

6.11 ENFORCEMENT

Nothing shall prevent enforcement of these Rules and Regulations or applicable Federal or State statutes or rules or regulations in Federal and State Courts.

6.12 ARTICLE 1, SECTION 18 CLAIM PROCESSING PROCEDURE AUTHORIZATION

6.12.1 The Board of County Commissioners may by resolution adopt, and from time to time amend, a process for consideration of claims brought by property owners for compensation pursuant to Article 1, section 18,

subsections (a) through (e) of the Oregon Constitution. The process shall apply to claims brought relating to regulations, as that term is used in those subsections, which are District regulations. If a process is adopted, a property owner seeking compensation pursuant to that provision shall only be entitled to compensation through adjudication of a claim through such process.

6.12.2 The claims process shall provide, at a minimum, for the following:

- (a) An opportunity for the claimant to provide evidence to support the claim, and an opportunity for the claimant to have a hearing before the Board on the matter.
- (b) Final disposition of a claim by Board Order. The final disposition of any claim may direct payment of the claimed amount, or other appropriate amount, denial of the claim, release of the private real property from the use restriction in lieu of compensation, or such other remedy as the Board deems appropriate.
- (c) Consideration by the Board of the fiscal impact on District programs and services if compensation is paid.

6.12.3 A final disposition of a claim that results in compensation to the property owner, or release of the use restriction in lieu of compensation, shall be recorded in the County deed records with reference to the affected real property. The final disposition may include such conditions and restrictions as the Board deems necessary to carry out its decision and to protect the public interest.

SECTION 7 ADMINISTRATIVE RULES

7.1 COMPLIANCE WITH LAWS

Conformance with these Rules and Regulations shall in no way be a substitute for, or eliminate the necessity of, conforming with any and all federal, state and local laws, policies, Rules and Regulations that are now, or may in the future, be in effect.

7.2 REGULATIONS AND RULES AS CONTRACT

The terms and conditions contained in these Rules and Regulations, and all resolutions, policies and orders adopted pursuant hereto, shall constitute a contract between the District and all users, contractors, and connectors to the system. The consideration for the conditions imposed upon such users and connectors shall be the privilege of the use of, and/or connection to, the District's sewerage and/or surface water systems.

7.3 NO PROPERTY INTEREST ACQUIRED BY PURCHASE OF PERMIT OR CONNECTION TO SYSTEM

A user to the sewerage and/or surface water system does not thereby acquire a vested property interest in continued use or connection to the system. Such use or connection is conditioned always upon such user complying with all applicable terms and conditions contained in these Rules and Regulations, and all regulations, policies and orders adopted pursuant hereto and, further, upon compliance with all federal, state or local requirements that are, or may hereafter be, imposed upon such user or connector.

Nothing contained herein shall require the District to provide service or access to the system to such user when any federal, state, or local agency having jurisdiction over the District has imposed limitations upon such service or access, or when the District, in its discretion, has determined that the public interest requires any such limitation.

7.4 CONFLICTS WITH EXISTING AND FUTURE REGULATORY REQUIREMENTS OF OTHER AGENCIES

Any provisions or limitations of these Rules and Regulations, or any policy, regulation and order adopted pursuant hereto, are superseded and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto that are more stringent. Any provisions of these Rules and Regulations, or any policy, resolution and order adopted pursuant hereto, that are more stringent than any such applicable federal, state or local requirement shall prevail and shall be the standard for compliance by the users of and connectors to the District sewerage and/or surface water system.

7.5 PREVIOUS RULES AND REGULATIONS, RESOLUTIONS REPEALED

Any portion of any Rules and Regulations, regulation and minute order heretofore adopted

by the District or its predecessor agencies is hereby repealed to the extent that such portion is inconsistent with these Rules and Regulations and any regulation and order adopted pursuant hereto.

7.6 ADMINISTRATION OF THESE RULES AND REGULATIONS

The District, through its Director or other authorized designee or representative, shall have the authority to do all things necessary to administer the provisions of these Rules and Regulations and any rules adopted pursuant thereto.

7.7 SEVERABILITY

If any section, subsection, provision, clause, or paragraph of these Rules and Regulations or policies, rules, or orders adopted pursuant hereto shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of these Rules and Regulations or other such rules, policies and orders adopted pursuant hereto, and it is hereby declared that every other section, subsection, provision, clause, or paragraph is, and shall remain, irrespective of the validity of any other provision.

7.8 EFFECTIVE DATE

The provisions of these Rules and Regulations and the rules herein adopted shall be effective on the date of enactment.

ARTICLE II

This Section sets forth uniform requirements for direct and indirect discharges of industrial wastes into the public sewerage system, and enables the District to comply with all applicable State and Federal laws required by the Clean Water Act and the General Pretreatment Regulations (40 CFR, Part 403), or any successor statutes.

SECTION 8 INDUSTRIAL WASTES

8.1 GENERAL STATEMENT

8.1.1 Scope. The District shall be empowered to enforce Section 307(b) and (c) and 402(b)(8) of the Clean Water Act and any implementing regulations pursuant to these Rules and Regulations, as may be amended from time to time. Enforcement may include injunctive or any other relief in Federal and State courts or through administrative hearings.

The objectives of this section of the Rules and Regulations are to prevent the introduction of pollutants into the public sewerage system that will interfere with the operation of the systems or contaminate the resulting biosolids; to prevent the introduction of pollutants into the public sewerage system that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system; to improve the opportunity to recycle or reclaim wastewaters and biosolids from the system; and to provide for equitable distribution of the cost of the District sewerage system.

This section provides for the regulation of direct and indirect discharges of industrial wastes to the public sewerage system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

8.1.2 Signatory Requirements. All applications, reports, or information submitted to the District shall be signed and certified in accordance with 40 CFR 403.12(l), as may be amended from time to time.

8.1.3 Provision on Fraud and False Statements. Any reports required in this Rules and Regulations and any other documents required to be submitted to the District or maintained by the Industrial User shall be subject to enforcement provisions of municipal and state law relating to fraud and false statements. In addition, the Industrial User shall be subject to the following, as may be amended from time to time: (a) the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements; (b) the provisions of Sections 309(c)(4) of the Clean Water Act, as amended governing false statements representation or certification; and (c) the provision of Section 309(c)(6) regarding responsible corporate officers.

8.2 INDUSTRIAL WASTEWATER DISCHARGE PERMITS

8.2.1 Requirements for a Permit. All users discharging or proposing to discharge industrial wastes into any sewer outlet within the jurisdiction of the District or that flows to the public sewerage system shall obtain an Industrial Wastewater Discharge Permit from the District if:

- (a) The discharge is subject to promulgated national categorical pretreatment standards; or
- (b) The discharge, as determined by the District, under 40 CFR 403, as may be amended from time to time, contains pollutants in concentrations or quantities that interfere or have the potential to interfere with the operation of the public sewerage system; has a significant impact or potential for a significant adverse impact on the public sewerage system, either singly or in combination with other contributing industries; or increases the cost of operation of the sewerage system; or
- (c) The discharge requires pretreatment in order to comply with the discharge limitations set forth in Section 3 of this Rules and Regulations; or
- (d) The discharge contains suspended solids or BOD in excess of 350 mg/l, or in excess of thirty (30) pounds in any one day; or
- (e) The discharge contains wastes requiring unusual quantities of chlorine (more than 20 mg/l) for treatment at the treatment plant; or
- (f) The discharge exceeds an average flow of 10,000 gallons or more in any one day, excluding sanitary, non-contact cooling water and boiler blowdown wastewater, or contributes a maximum instantaneous flow that exceeds ten (10) percent of the capacity of the available lateral or appropriate trunk sewer; or
- (g) Contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or
- (h) The discharge is a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261, as may be amended from time to time.

8.2.2 Permit Applications. Application for an Industrial Wastewater discharge permit shall be made to the District on forms provided by the District. The application shall not be considered as complete until all information identified on the form is provided, unless specific exemptions are granted by the District. Completed applications shall be made within thirty (30) days of the date requested by the District or, for new sources, at least ninety (90) days prior to the date that discharge to the sewerage system is to begin.

8.2.3 Industrial Waste Inspection. After the submitted discharge permit application has been received and reviewed, the District may schedule with the applicant an industrial waste

inspection. The industrial waste inspection will consist of an interview with applicant personnel and a plant tour. At the interview, the applicant's application, waste generating process, water consumption, wastewater composition and quantities of wastewater flow are discussed. As part of the tour of that plant, an industrial waste sampling point will be identified. The sampling location, if appropriate and acceptable to the District, will be used for both self-monitoring and monitoring by District personnel for water quality and quantity monitoring and permit enforcement. The investigator's report of the inspection, together with the completed permit application from the industry, form the basis for establishing the discharge permit conditions.

8.2.4 Issuance of Permit. After full evaluation and acceptance of the data furnished by the applicant, the District may approve the basis for a permit and issue an Industrial Wastewater Discharge Permit subject to the terms and conditions provided herein. No permit shall be issued or effective until payment of the applicable initial or renewal fees as the Board may prescribe by Order. All fees charged by the District may be amended at any time by an Order of the Board. The permittee shall reapply with the District for reissuance of its permit at least 90 days prior to the permit expiration date. Reapplication shall be on the form provided by the District.

8.2.5 Permit Conditions. Industrial Wastewater Discharge Permits shall specify, where applicable, the following:

- (a) Fees and charges to be paid upon initial permit issuance.
- (b) Limits on the average and maximum wastewater constituents and characteristics.
- (c) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization.
- (d) Requirements for installation and maintenance of inspection and sampling facilities compatible with facilities of the District.
- (e) Special conditions as the District may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types, and standards for test and reporting schedule.
- (f) Compliance schedules.
- (g) Requirements for submission of special technical reports or discharge reports where the same differ from those prescribed by this Rules and Regulations.
- (h) An effective date and expiration date of the permit.
- (i) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the District, Oregon DEQ and the EPA, and affording District access thereto for purposes of inspection and copying.

- (j) Requirements for inspection and surveillance by District personnel and access to the Industrial User's parcel.
- (k) Requirements for notification to the District of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents, including listed or characteristic hazardous wastes, being introduced into the District sewerage system or any significant change in the production where the permit incorporates equivalent mass or connection limits calculated from a production based standard.
- (l) Requirements for a Slug Control Plan, notification to the District of slug discharges and changes at the Industrial User's facility affecting potential for a slug discharge.
- (m) Other conditions as deemed appropriate by the District to ensure compliance with this Rules and Regulations and Federal and State statutes, and Administrative Rules.
- (n) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.
- (o) Duty to reapply and to obtain a new permit should the permittee wish to continue the activity regulated by the discharge permit following the expiration date of the discharge permit.
- (p) Requirements that samples and measurements taken for purposes of monitoring be representative of the monitored activity, including, but not limited to, the volume and nature of the discharge.

8.2.6 Permit Modifications. An Industrial Wastewater Discharge Permit may be modified for good and valid cause at the written request of the permittee and/or at the discretion of the District. Any new or increased discharge shall require the Discharger to apply for permit modification. The District at all times has the right to deny or condition new or increased contributions or changes in the nature of pollutants to meet applicable pretreatment standards or requirements or to prevent violation of its NPDES permit or any permit issued to the District. Permittee modification requests shall be submitted to the District and shall contain a detailed description of all proposed changes in the discharge. The District may request any additional information needed to adequately prepare the modification or assess its impact.

The District may deny a request for modification if, as determined by the District, the change will result in violations of District, State, or Federal laws or regulations will overload or cause damage to any portion of the District sewerage system, or will create an imminent or potential hazard to personnel.

If a permit modification is made at the discretion of the District, the permittee shall be notified in writing of the proposed modification at least thirty (30) days prior to its effective date and shall be informed of the reasons for the changes. Any request for reconsideration shall be made before the effective date of the changes.

8.2.7 Permit Duration/No Property Interest Acquired. All Industrial Wastewater Discharge Permits shall be issued for a specified time period, not to exceed five (5) years, as determined by the District and subject to amendment, revocation, suspension or termination as provided in these Rules. No Discharger acquires any property interest by virtue of permit approval and continued approval is expressly contingent upon compliance with all applicable federal, state, and local requirements.

8.2.8 Limitations on Permit Transfer. Industrial Wastewater Discharge Permits are issued to a specific Discharger for a specific operation and are not assignable to another Discharger or transferable to any other location without the prior written approval of the District and provision of a copy of the existing permit to the new owner or operator.

8.2.9 Permit Revocation. Industrial Wastewater Discharge Permits may be revoked for the following reasons:

- (a) Failure to notify the District of significant changes to the wastewater prior to the changed discharge;
- (b) Falsifying self-monitoring reports;
- (c) Tampering with monitoring equipment;
- (d) Refusing to allow the District timely access to the facility premises and records;
- (e) Failure to meet effluent limitations;
- (f) Failure to pay fines;
- (g) Failure to pay user charges;
- (h) Failure to meet compliance schedules;
- (i) Failure to provide advance notice of the transfer of a permitted facility; or
- (j) Violation of any applicable pretreatment standard or requirement, any terms of the permit or these Rules and Regulations.

Permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All are void upon the issuance of a new Industrial Wastewater Discharge Permit.

8.3 PRETREATMENT FACILITIES

8.3.1 General Requirements. If, as determined by the District, treatment facilities, operation changes or process modifications at an Industrial User's facility are needed to comply with any requirements under this Rules and Regulations or are necessary to meet any applicable pretreatment standards or requirements, the District may require that such facilities be constructed or modifications or changes be made within the shortest reasonable time, taking into consideration construction time, impact of the untreated waste on the public sewerage system, economic impact on the facility, impact of the waste on the marketability of the District's treatment plant biosolids, and any other appropriate factor.

Existing Sources and New Sources shall meet the deadlines for installation and start-up of equipment and compliance with Categorical Pretreatment Standards established according to 40 CFR 403.6(b), or any successor statutes.

8.3.2 Condition of Permit. Any requirement in Paragraph 8.3.1 may be incorporated as part of an Industrial wastewater Discharge Permit issued under Subsection 8.2 and made a condition of issuance of such permit or made a condition of the acceptance of the waste from such facility.

8.3.3 Plans, Specifications, and Construction. Plans, specifications and other information relating to the construction or installation of pretreatment facilities required by the District under this Rules and Regulations shall be submitted to the District. No construction or installation thereof shall commence until written approval of plans and specifications by the District is obtained. Plans must be reviewed and signed by an authorized representative of the Discharger and certified by a qualified professional engineer. No person, by virtue of such approval, shall be relieved of compliance with other laws of the City, County, or State relating to construction and to permits. Every facility for the pretreatment or handling of wastes shall be constructed in accordance with the approved plans and installed and maintained at the expense of the Discharger.

8.3.4 Sampling and Monitoring Facility. Any person constructing a pretreatment facility, as required by the District, shall also install and maintain at his own expense a sampling manhole or other suitable monitoring access for checking and investigating the discharge from the pretreatment facility to the public sewer. The sampling manhole or monitoring access shall be placed in a location designated by the District and in accordance with specifications approved by the District.

8.4 REPORTING REQUIREMENTS

8.4.1 Initial Compliance Report. Within one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard issued by the EPA or within ninety (90) days after receiving notification from the District that such a standard has been issued, whichever is sooner, existing Industrial Waste Dischargers subject to such standard shall submit a baseline monitoring report to the District, as required by the EPA pretreatment regulations, which includes the following:

- (a) The name and address of the facility and the name of the owner and operator;
- (b) A list of any environmental control permits on the facility;
- (c) A description of the operation(s);
- (d) The measured average and maximum daily flow from regulated process streams and other streams as necessary to allow use of the combined wastestream formula;
- (e) Measurement of the particular pollutants that are regulated in the applicable pretreatment standard and results of sampling as required in the permit;
- (f) A statement reviewed by an authorized representative and certified by a qualified professional as to whether the applicable standards are being consistently met and, if not, what additional measures are necessary to meet them; and
- (g) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, a report on the shortest schedule by which the needed pretreatment and/or operation and maintenance can be provided. The compliance date for users covered by categorical pretreatment standards should not be later than the compliance date established for the particular standard. The report shall be reviewed and signed by an authorized representative of the Discharger and certified to by a qualified professional engineer.

New sources subject to an effective categorical pretreatment standard issued by the EPA shall submit to the District, 90 days prior to commencement of their discharge into the sewerage system, a report that contains the information listed in items (a) through (e) above, along with information on the method of pretreatment the source intends to use to meet applicable pretreatment standards.

These reports shall be completed in compliance with the specific requirements of Section 403.12(b) of the General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403) promulgated by the EPA on January 28, 1981, or any subsequent revision thereto, including the signatory requirements 403.12(l) for industrial user reports.

If the information required by these reports has already been provided to the District and that information is still accurate, the Discharger may reference this information instead of submitting it again.

8.4.2 Report on Compliance. Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, within sixty (60) days following commencement of the introduction of wastewater into the public sewerage system, any Discharger subject to applicable pretreatment standards and requirements shall submit to the District a report indicating the nature and concentration of all pollutants in the waste stream from the regulated process and the average and maximum

daily flow for these process units, and long term production data, or actual production data, when requested. This report shall also include an estimation of these factors for the ensuing twelve (12) months. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the Discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the Discharger and certified to by a qualified professional engineer. A new source is required to achieve compliance within 90 days after commencement of discharge.

If the Industrial Discharger is required to install additional pretreatment or provide additional operation and maintenance, a schedule will be required to be submitted. The schedule shall contain increments of progress in the form of dates for commencement and completion of major events leading to the construction and operation of additional pretreatment or operation and maintenance (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.) No increment of progress shall exceed nine (9) months. The Industrial Discharger shall submit a progress report to the District including, at a minimum, whether or not it complied with the increment of progress to be met on such a date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial discharger to return the construction to the schedule established. This progress report shall be submitted not later than fourteen (14) days following each date in the schedule and the final date of compliance. In no event shall more than nine (9) months elapse between such progress reports to the District.

8.4.3 Periodic Compliance Reports. Any Discharger that is required to have an Industrial Wastewater Discharge Permit pursuant to this Rules and Regulations shall submit to the District during the months of June and December, unless required on other dates and/or more frequently by the District, a report indicating the nature of its effluent over the previous six-month period. The report shall include, but is not limited to, a record of the nature and concentrations (and mass if limited in the permit) for all samples of the limited pollutants that were measured and a record of all flow measurements that were taken or estimated average and daily maximum flows, and long term production data, or actual production data, when requested.

The frequency of the monitoring shall be determined by the District and specified in the Industrial Wastewater Discharge Permit. If there is an applicable effective Federal Categorical Pretreatment Standard, the frequency shall be not less than that prescribed in the standard. If a Discharger monitors any pollutant at the appropriate sampling location more frequently than required by the District, all monitoring results must be included in the periodic compliance reports.

Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the District may accept reports of average and maximum flows estimated by verifiable techniques.

The District may require reporting by Industrial Dischargers that are not required to have an Industrial Wastewater Discharge Permit if information and/or data are needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor that is related to the operation and maintenance of the sewer system.

The District may require self-monitoring by the Discharger, or if requested by the Discharger, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this Subsection of the Rules and Regulations. If the District agrees to perform such periodic compliance monitoring, the District will charge the Discharger for the monitoring based upon the costs incurred by the District for the sampling and analyses.

8.4.4 TTO Reporting. Those industries that are required by EPA to eliminate and/or reduce the levels of total toxic organics (TTO's) discharged into the public sewerage system must follow the National Categorical Pretreatment Standards for that industry.

8.4.5 Violations. The Industrial User shall notify the District within twenty-four (24) hours of becoming aware of a sampling activity that indicates a violation of the permit. The Industrial User shall repeat the sampling and analysis and submit their results to the District as soon as possible, but in no event later than thirty (30) days after becoming aware of the violation.

8.5 INSPECTION AND SAMPLING

8.5.1 Inspection. Authorized District representatives may inspect the monitoring facilities of any Industrial Waste Discharger to determine compliance with the requirements of the Rules and Regulations. The Discharger shall allow the District to enter upon the premises of the Discharger at all reasonable hours, for the purpose of inspection, sampling, or records examination and copying. The District shall also have the right to set up on the Discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. The right of entry is to the Industrial User's entire premises, and includes, but is not limited to, access to manufacturing, production, and chemical storage areas, to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling wastes, and storing records, reports or documents relating to the pretreatment, sampling, or discharge of the wastes. The following conditions for entry shall apply:

- (a) The authorized District representative shall present appropriate credentials at the time of entry;
- (b) The purpose of the entry shall be for inspection, observation, measurement, sampling, testing or record examination and copying in accordance with the provisions of these Rules and Regulations;
- (c) The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the District; and

- (d) The District representative(s) shall comply with all regular safety and sanitary requirements of the facility to be inspected upon entering the premises.

8.5.2 Sampling. Samples of wastewater being discharged into the public sewage system shall be representative of the discharge and shall be taken after treatment, if any.

For Industrial Users subject to Categorical Pretreatment Standards and for sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil grease, sulfides, and volatile organics for Industrial Users for which historical data does not exist; for Industrial Users for which historical sampling data are available, the District may authorize a lower minimum. For all other pollutants, the sampling method shall be by obtaining 24-hour composite samples through flow proportional composite sampling techniques unless time-proportional composite sampling or grab sampling is authorized by the District. Where time-proportional composite sampling is authorized by the District, the samples must be representative of the discharge.

Samples that are taken by the District for the purposes of determining compliance with the requirements of these Rules and Regulations shall be split with the Discharger (or a duplicate sample provided in the instance of fats, oils, and greases) if requested before or at the time of sampling.

All sample analyses shall be performed in accordance with techniques prescribed in 40 CFR Part 136 and any amendments thereto. Where 40 CFR Part 136 does not include a sampling or analytical technique for the pollutant in question, or where the District determines that the Part 136 Sampling and Analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other sampling and analytical procedures including procedures suggested by the District or other parties, that have been approved by the Administrator of the EPA.

8.5.3 Monitoring Facilities.

- (a) Any person discharging industrial waste into the public sewerage system that requires an Industrial Wastewater Discharge Permit shall, at their own expense, construct and maintain an approved control manhole, together with such flow measurement, flow sampling and sample storage facilities as may be required by the District. The facilities required shall be such as are reasonably necessary to provide adequate information to the District to monitor the discharge and/or to determine the proper user charge.
- (b) Such monitoring facilities shall be located on the Discharger's premises except when, under circumstances approved by the District, it must be located in a public street or right-of-way, provided it will not be obstructed by landscaping or parked vehicles.
- (c) There shall be ample room in or near such sampling manhole or facility to allow

accurate sampling and preparation of samples for analysis. The facility, sampling, and measurement equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Discharger.

- (d) Whether constructed on private or public property, the sampling and monitoring facilities shall be provided in accordance with the District's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the District.
- (e) Dischargers shall allow the District and its representative's access to monitoring facilities on their premises at all times. The District and City shall have the right to set up such supplementary monitoring equipment as it may require.
- (f) The District may, in lieu of requiring measurement sampling and monitoring facilities, procure and test, at the user's expense, sufficient composite samples on which to base and compute the user charge. In the event that measurement sampling and monitoring facilities are not required, the user charge shall be computed using the metered water flow to the premises as a basis for waste flow and the laboratory analysis of samples procured as the basis for computing BOD and suspended solids content. Metered water flow shall include all water delivered to or used on the premises. In the event that private water supplies are used, they shall be metered at the user's expense. Cooling waters or other waters not discharged into the public sewerage system may be separately metered at the user's expense in a manner approved by the District, and all or portions of these waters deducted from the total metered water flow to the premises subject to District approval.

8.6 CONTROL OF DISCHARGE

It shall be the responsibility of every Industrial User to control the discharge of industrial wastewater into the public sewerage system, or any private or side sewer that drains into the public sewerage system, so as to comply with these Rules and Regulations and the requirements of any applicable wastewater discharge permit issued pursuant to the provisions of these Rules and Regulations.

8.7 CHANGE IN PERMITTED DISCHARGE

It shall be the responsibility of every Industrial User to promptly report to the District any changes (permanent or temporary) to the Discharger's premises or operations that change the quality or quantity of the wastewater discharge. Changes in the discharge involving the introduction of a wastestream(s), or hazardous waste as set forth in 40 CFR Part 261, as may be amended from time to time, not included in or covered by the Discharger's Industrial Wastewater Discharge Permit Application itself shall be considered a new discharge, requiring the completion of an application as described under Subsection 8.2. Any such reporting shall not be deemed to exonerate the Discharger from liability for violations of these Rules and Regulations. Any industrial user operating under equivalent mass or

concentration limits calculated from a production based standard shall notify the District within two (2) business days after the industrial user has a reasonable basis to know that the production level will significantly change within the next calendar month. An industrial user not notifying the District of such anticipated change will be required to meet the mass or concentration limits that were based on the original estimate of the long-term average production rate.

8.8 RECORDS

All Dischargers subject to these Rules and Regulations shall retain and preserve for not less than three (3) years all records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or on behalf of a Discharger in connection with its discharge. All such records shall be subject to review by the District. All records that pertain to matters subject to appeals or other proceedings before the Director or the Board, or any other enforcement or litigation activities brought by the District shall be retained and preserved until such time as all enforcement or other activities have concluded and all periods of limitation with respect to any and appeals have expired.

8.9 CONFIDENTIAL INFORMATION

8.9.1 **Public Inspection.** Information and data furnished to the District regarding frequency and nature of discharges into the public sewerage system or other information submitted in the regular course of reporting and, compliance with the requirements of these Rules and Regulations or the Industrial User's Permit, shall be available to the public or other governmental agencies without restriction unless the industrial user claims, when submitting the data, and satisfies the District as to the validity of the claim, that release of the information would divulge information, processes or methods of production entitled to protection as "trade secrets" under federal laws or ORS 192.501(2) or any successor statutes. Such portions of an industrial user's report that qualify as trade secrets shall not be made public. Notwithstanding the foregoing, the United States Environmental Protection Agency and the State of Oregon Department of Environmental Quality shall have access to all records at all times. Effluent data, as defined and set forth in 40 CFR Part 2, as may be amended from time to time and incorporated by reference hereto, shall be available to the public.

8.9.2 **Disclosure in the Public Interest.** Nothing in paragraph 8.9.1 shall prevent disclosure of any information submitted by an industrial user when the public interest in that case requires disclosure. Disclosure to other governmental agencies for uses related to these Rules and Regulations is in the public interest.

8.9.3 **Procedure.**

- (a) An industrial user submitting information to the District may assert a "trade secret" or "business confidentiality" claim covering the information by placing on or attaching to the information a cover sheet, stamped or type legend or other

suitable form of notice employing language such as "trade secret", "proprietary" or "business confidential". This shall be done at the time of submission. Post submittal claims of confidentiality will not be considered unless good cause is shown by the industrial user to the satisfaction of the Director. Allegedly confidential portions of otherwise non-confidential documents shall be clearly identified by the industrial user and may be submitted separately to facilitate identification. If the industrial user desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice shall so state. If no claim of confidentiality is made at the time of submission, the District may make the information available to the public without further notice. If a claim is asserted, the information will be evaluated pursuant to the criteria of ORS 192.501(2) and 40 CFR Part 2 relating to Effluent Data, or any successor statutes.

- (b) The industrial user must show that it has taken reasonable measures to protect the confidentiality of the information, that it intends to continue to take such measures and must show that the information claimed to be confidential (a) is not patented; (b) is known only to a limited number of individuals within the industrial user who are using it to make or produce an article of trade or a service or to locate a mineral or other substance; (c) has commercial value; (d) gives the industrial user a chance to obtain a business advantage over competitors not having the information; and (e) is not, and has not been, reasonably obtainable without the industrial user's consent by other persons (other than governmental bodies) by use of legitimate means (excluding discovery in litigation or administrative proceedings).
- (c) The District shall examine the information meeting the criteria set forth above and to the extent allowed, will determine what information, if any, is confidential.
- (d) If the District determines that the information is confidential, it shall so notify the industrial user. If a request for inspection under the public records law has been made, the District shall notify the person requesting the information of its confidentiality and notify the industrial user of the inquiry and the District's response.
- (e) If the District determines that the information is not entitled to confidential treatment, the District shall notify the industrial user of its decision, as well as any other person who has requested the information.
- (f) Any party aggrieved by a ruling of the District may, within three business days of the decision, seek reconsideration by filing a written request accompanied by any additional supporting arguments or explanation supporting or denying confidentiality. Once the final decision is made, the District will wait five (5) business days before releasing the subject information so that the industrial user may have an adequate time to obtain judicial relief to prevent disclosure.

- (g) Information deemed confidential, or while a decision thereon is pending, will be kept in a place inaccessible to the public.
- (h) Nothing herein shall prevent a party requesting information to exercise remedies provided by the Oregon Public Records law to obtain such information. Nothing herein shall prevent the industrial user from undertaking those remedies to prevent disclosure if the District has determined that such disclosure will occur. The District will not oppose any motion to intervene or other action taken by an industrial user to perfect standing to make any confidentiality claims before a court of competent jurisdiction.

8.10 ENFORCEMENT OF STANDARDS THROUGH ADMINISTRATIVE PENALTIES

8.10.1 Enforcement. In addition to the imposition of civil penalties, the District shall have the right to enforce these Rules and Regulations by injunction, or other relief, and seek fines, penalties and damages in Federal or State courts.

Any discharger that fails to comply with the requirements of these Rules and Regulations or provisions of its Industrial Wastewater Discharge Permit may be subject to enforcement actions as prescribed below in addition to those developed by the District.

(a) Violations

- (1) A violation shall have occurred when any requirement of these Rules and Regulations has not been met.
- (2) Each day a violation occurs or continues shall be considered a separate violation.
- (3) For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation.
- (4) Significant Non-Compliance: Significant non-compliance with applicable pretreatment requirements exists when a violation by any discharger meets one or more of the criteria defined in Section 2.

(b) Enforcement Mechanisms

- (1) In enforcing any of the requirements of these Rules and Regulations or rules or procedures adopted hereunder, the District may:
 - (i) Take civil administrative action (such as issuance of notices of violations, administrative fines, revocation of a permit) as outlined in herein;

- (ii) Issue compliance orders;
- (iii) Cause an appropriate action (such as civil litigation, criminal prosecution) to be instituted in a court of competent jurisdiction;
- (iv) Terminate sewer service; or
- (v) Take such other action as the District deems appropriate.

(2) The type of enforcement action shall be based on, but not limited by, the duration and the severity of the violation; impacts on water quality, biosolids, disposal, interference, worker health and safety; and violation of the District's NPDES permit. Enforcement shall, generally, be escalated in nature.

(3) Whenever the District finds that any discharger has violated any provisions of these Rules and Regulations, or its waste discharge permit, it shall take appropriate enforcement action against the non-complying industry based on its enforcement response procedures. The discharger will be required to comply with all requirements contained in the enforcement document issued by the District to include such items as responding in a timely fashion to notices of violation letters, compliance inquiry letters, or show cause hearings, and compliance with all terms of compliance orders or other enforcement mechanisms as established by the District.

8.10.2 Imposition of Civil Penalties. The District may impose civil penalties including, but not limited to, fines, damages, modification or revocation of permit and/or cessation of services when any Industrial User: (a) fails to factually report the wastewater constituents and characteristics of its discharge; (b) fails to report significant changes in wastewater constituents or characteristics; (c) tampers with sampling and monitoring equipment; (d) refuses reasonable access to the user's premises by representatives of the District for the purpose of inspection or monitoring; or (e) violates any condition or provision of its permit, these Rules and Regulations, any rule adopted pursuant hereto, or any final judicial order entered with respect thereto. Nothing herein shall prevent the District from seeking injunctive or declaratory relief or any other remedy available under Federal or State law.

8.10.3 Procedure for Imposition of Civil Penalties. Procedures for the imposition of civil penalties on Industrial Users shall be in accordance with Section 6. In addition to any other remedy or penalty, the District may assess civil penalties of at least \$1,000 per day for each violation.

8.10.4 Emergency Suspension of Service and Permits Notwithstanding Any Other Provisions of These Rules and Regulations. In addition to the procedures given in Section 6 for the enforcement of the civil penalty, the District may immediately cause wastewater treatment service and/or the sewer permit of an Industrial User to be suspended when it appears that an actual or threatened discharge presents, or may present, an imminent danger to the health or welfare of persons or the environment, interferes with the operations

of the public sewerage system, or violates any pretreatment limits imposed by these Rules and Regulations, any rule adopted or any permit issued pursuant hereto, or any other applicable law.

The suspension notice shall be served upon the Industrial User by personal, office, or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, unless the emergency nature of the suspension makes service impracticable.

Any Industrial User notified of the suspension of the Industrial User's permit and/or service shall cease all discharges within the time determined solely by the District and specified in the suspension notice. If the Industrial User fails to comply voluntarily with the notice of suspension, the District may immediately, in its discretion, enter upon the property and disconnect the service, or seek a temporary restraining order or other relief from the Circuit Court to compel compliance or may proceed judicially or administratively as set forth in these Regulations to insure compliance with these Rules and Regulations. The District shall reinstate the permit and/or service of the Industrial User and may terminate, in its discretion, any proceedings brought upon proof by the user of the elimination of the non-complying discharge or conditions creating the threat of eminent or substantial danger as set forth above.

8.10.5 Operational Upset. Any Industrial User who experiences an upset in operations that places the industrial user in a temporary state of noncompliance with these Rules and Regulations, and/or any rule adopted or permit issued pursuant hereto, shall inform the District thereof as soon as practicable, but not later than twenty-four (24) hours after first awareness of commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the industrial user with the District within five (5) days.

An upset shall constitute an affirmative defense to an action brought for noncompliance if the Industrial User demonstrates, through properly signed, contemporaneous operating logs or other relevant evidence: (a) a description of the upset, the cause(s) thereof, and the upset's impact on the industrial user's compliant status; (b) the duration of noncompliance, including exact dates and times or, if not corrected, the anticipated time that noncompliance is expected to continue; (c) all steps taken, or to be taken to reduce, eliminate and prevent recurrence of such upset or other conditions of noncompliance; and workmanlike manner and in compliance with applicable operational maintenance procedures.

A documented, verified, and bona fide operation upset, including good faith and reasonable remedial efforts to rectify the same, shall be an affirmative defense to any enforcement action brought by the District against an industrial user for any noncompliance with these Rules and Regulations or any rule adopted or permit issued pursuant hereto that arises out of violations alleged to occur during the period of the upset. In an enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

The Industrial User shall control production for all discharges to the extent necessary to maintain compliance with this Rules and Regulations or any rule adopted or permit issued pursuant hereto upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in a situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

8.10.6 Bypass. Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility. Bypass is prohibited and the District may take enforcement action against an industrial user for a bypass, unless: (a) the bypass was unavoidable to prevent loss of life, personal injury or severe property damage as defined in 40 CFR 403.17(A)(2), as may be amended from time to time; (b) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime (this condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of down time or preventative maintenance); and (c) the Industrial User submitted notices as set forth below.

If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the District, if possible, at least ten (10) days before the date of the bypass. The District may approve an anticipated bypass after considering its adverse effects, if the District determines that it will meet the three conditions set forth above.

An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the District within twenty four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain: (i) a description of the bypass and its cause; (ii) the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and (iii) steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The District may waive the written report on a case-by-case basis if the oral report has been received.

An Industrial User may allow any bypass to occur that does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of the paragraphs of this section.

8.10.7 Affirmative Defense. Any Industrial User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions covered in 40 CFR 403.5(a)(1) and the specific prohibitions covered in 40 CFR 403.5(b)(3), (b)(4), (b)(5), (b)(6) and (b)(7), in addition to those covered in these Rules and Regulations. The Industrial User in its demonstration shall be limited to provisions of 40 CFR 403.5(a)(2)(i) and (ii).

8.10.8 Public Notification. At least annually, the District shall publish in a newspaper of

general circulation in the District, a list of the Industrial Users who were in significant noncompliance of Applicable Pretreatment Standards or requirements for the preceding twelve (12) months, in accordance with and as defined in 40 CFR 403.8(f)(2)(viii).

SECTION 9 USE OF PUBLIC SANITARY SEWERS

9.1 GENERAL

The owner of any building situated within the District and proximate to any street or sewer easement in which there is located a public sanitary sewer of the District, may request permission, at owner's expense, to connect said building directly to the proper public sewer in accordance with the provisions of and the District Regulations and other applicable codes. Such request shall be made through proper application to connect to the sanitary sewer system.

9.2 DISCONNECTION

A property owner may request disconnection from the District's system provided all applicable statutes, District Regulations, and policies and procedures are complied with. The property owner shall pay a disconnection inspection fee at the time disconnection is requested. The fee shall be due and payable immediately upon billing. The fee may be amended from time to time by order of the Board. No refund shall be made of any previously assessed SDCs or connection charges and shall not remove the obligation to make payments to any assessment district or similar process that may impact the disconnecting property.

9.3 HEALTH HAZARDS

Where it is determined that property not within the boundaries of the District and has a failing subsurface disposal system constituting a health hazard, the property owner may apply to the District for annexation. Annexation will occur by an Order of the Board finding a health hazard, said Order subject to compliance with other applicable statutes. If the property is within the Urban Growth Boundary, the property shall be required to annex to the District and no extraterritorial extension of service will be allowed. If the property is outside the Urban Growth Boundary and the on-site sewage system cannot be repaired, then District may serve the property by extraterritorial extension in its discretion. If the extraterritorial extension is allowed, the property owner shall agree to pay all amounts determined under these Rules and Regulations in the District's applicable assessment formulas or collection sewer charge so that the proportionate fair share for service is fully paid.

SECTION 10 CONNECTION RULES AND SPECIFICATIONS

10.1 GENERAL REQUIREMENTS

10.1.1 Unauthorized Connections. No person shall uncover, make any connection to, make any opening into, use, alter, or disturb any portion of the Districts System without first making an application to and obtaining the authority and/or permit from the District therefor.

10.1.2 Permit Applications. The installer of work covered by this Section shall make application to the District for connection. The application shall be supplemented by any plans, specifications or other information considered necessary by the District.

10.1.3 Payment of Charges. All system development charges, and other fees or charges, except user charges, established by the District, shall be paid prior to the issuance of a permit to connect, except charges which have been deferred pursuant to the provisions of Section 9.5.

10.1.4 To Whom Permit Issued. The permit shall be issued to the property owner or installer.

10.1.5 Indemnification of District. The owner and installer shall indemnify the District, its officers and agents from any loss or damage that may directly or indirectly be occasioned by the installation of the service connection or building sewer.

10.1.6 Direct Connection Required. All building sewers connected to the District sanitary sewer system shall be directly connected thereto without any intervening private sewage disposal system.

10.1.7 Separate Service Connection and Building Sewer. A separate and independent service connection and building sewer shall be provided by the owner at his expense for each tax lot or lot of record, except:

- (a) That court apartments, motels, mobile home parks and similar properties held under a single ownership, or condominiums represented by a homeowners association, may be permitted in the sole discretion of the Director to use a single service connection and building sewer while such single ownership shall continue. Each single connection shall be of a size and type adequate to service the connecting buildings; or
- (b) In the sole discretion of the Director or his designee, to avoid unnecessary undue hardship, more than one user may share a service connection and private sewer line if the following criteria are met:
 - (1) All parties to the shared service connection and private sewer line have entered into a written agreement recorded in the Clackamas County Real Property Records regarding use and maintenance of the private sewer line and

reciting it is for the benefit of District;

(2) Said agreement shall further provide that it is a covenant running with the land and inures to the benefit of and binds all the parties' heirs, successors and assigns;

(3) Said agreement contains a clause holding the District harmless from any and all liability arising out of the use, damage or destruction of the private sewer line, and that the District shall be indemnified for any and all claims or costs, including legal fees, for which the District may be held liable;

(4) The District and its employees shall have the right to enter upon the private property if necessary to protect, maintain, repair and replace any portion of the District's sewerage system;

(5) The District may terminate sewer service to all users of the private sewer line if one of the users shall violate these Rules and Regulations and termination of service is a remedy. District may do so without liability to any user of the private sewer line; and

(6) The agreement is approved by the District prior to recording and no building permit will be issued until the District has so approved.

Each user shall pay all charges in accord with the District Regulations as if a separate connection to the District's sewerage system had been accomplished. Each single connection under an agreement so approved shall be of a size and type adequate to service the connecting buildings.

10.1.8 Restricted Connections. No person shall connect any roof, surface, foundation, footing, drainage or area drain to any sanitary sewer service connection, sanitary building sewer, or building drain that is connected to the District sanitary sewer system.

10.1.9 Existing Sewers. Whenever a sanitary or storm building sewer or service connection has been installed that does not conform to District Regulations, then the portions nonconforming shall be replaced in accordance with such regulations.

10.1.10 Abandoned Sewers. When building sewers are abandoned, they shall be properly plugged or capped at the property line by the property owner at the time the building sewer is abandoned. District inspection and approval of the plugged or capped building sewer is required prior to backfilling the exposed sewer to be abandoned. An abandoned building sewer found not properly plugged or capped at the property line shall be properly plugged or capped by the property owner when notified to do so by the District. If the property owner fails to properly abandon the building sewer after twenty (20) days of being notified to do so, the District may have the work done at the property owner's expense.

10.1.11 Users Requiring Pumping Facilities. If the building is below the available gravity

sewer line, the owner or user shall install pumping facilities in accordance with the Uniform Plumbing Code. The owner or user will be required to enter into an agreement with the District regarding the terms and conditions of connection and pumping. When pumping facilities serve multiple residential users, backup electrical generation facilities to serve the pumping mechanism shall be required and installed.

10.2 GREASE, OIL, AND SCUM TRAPS

All restaurants, fast food, delicatessens, taverns, and other food preparation facilities that prepare food onsite, service stations, automotive repair facilities or any other facility so determined by the District shall install grease, oil, and scum trap separators to remove fats, oils, greases, and scums.

In addition, all proprietors will be responsible for cleaning and maintaining these separators. The District shall also have the authority to enter upon premises drained by any side sewer, at all reasonable hours, to ascertain whether this provision of limiting the introduction of fats, oils, greases, and scums to the system has been complied with. Violators of this provision may be directed to prepare a schedule of corrective action, pay a penalty as prescribed in Section 6, or both.

SECTION 11 PUBLIC SANITARY SEWER EXTENSIONS

11.1 EXTENSION GENERALLY

Whenever any property within the District cannot be served by the existing District sanitary sewer system, any interested person may cause sewers to be constructed to serve the property in accordance with the provisions of the District Regulation. Upon completion of the construction in accordance with the District Regulations, the District will accept title thereto and thereafter such sewer extension shall be owned, operated and maintained by the District as a part thereof. Further, those provisions of Oregon Administrative Rules, Chapter 340, Division 52, Subsection 040, as may be amended, are attached hereto as Table VI and incorporated by reference and shall be followed.

11.2 PLAN REVIEW AND APPROVAL

Applicants proposing sanitary sewer extension or connection to the sanitary sewer system shall be governed the District Regulation and shall submit the plans, reports, studies, and information as required by District Regulations. The submittals shall be reviewed and approved by the District. All sanitary sewer extensions shall be located within the public right-of-way wherever possible.

11.3 EASEMENTS

The Sanitary sewer extension plan shall have provide easements and access for construction, operation and maintenance in accordance with the District Regulations.

11.4 ENGINEERING SERVICES

Any sanitary sewer extension proposed for connection to the District sanitary sewer system shall be designed, constructed and tested under the continuous inspection of a registered professional engineer approved by the District.

11.5 SPECIFICATIONS

All construction and material specifications for any sanitary sewer extension shall be in conformance with the construction, material specifications and District Regulations.

11.6 LICENSED CONTRACTOR

Sanitary sewer extensions shall be constructed by a contractor duly licensed by the State of Oregon and any other licensing political subdivision having jurisdiction over the work.

11.7 ACCEPTANCE BY DISTRICT

Upon the completion of construction and certification by the engineer the District shall inspect, approve and accept the sanitary sewer system for ownership, operation and

maintenance pursuant to the District Regulations.

11.8 WARRANTY / SURETY BOND

The District shall require a warranty bond or surety in the amount of 25% of the cost of construction for a period of time and conditions pursuant to the Sanitary Sewer Standards.

11.9 PERFORMANCE BOND.

If the requirements of Section 11.7 are not completed the permittee shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. The amount of the performance bond shall be in the amount of 125% of the engineer's cost estimate for all approved but uncompleted sanitary sewer extension improvements as shown on the approved plans.

11.10 CONVEYANCE.

A conveyance document supplied by the District transferring all rights, title and interest in the sanitary sewer extension to the District.

11.11 ADDITIONAL INFORMATION.

Information related to engineering services, plans, specifications, sanitary sewer extensions, certification and District acceptance can be found in the District Regulations and adopted Sanitary Sewer Standards. Compliance with all aspects of the Standards is required prior to acceptance by the District of any public sanitary sewer system extension.

ARTICLE III

Article III is the District Surface Water Management requirements regarding development activities to preserve watershed health, which, in turn, benefits human health, fish and wildlife habitat, recreational, and water resources.

SECTION 12 – STORMWATER STANDARDS

12.1 GENERAL STANDARDS

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

- (a) Protect and preserve existing streams, creeks, natural drainage channels and wetlands to the maximum practicable extent, and to meet state and federal requirements.
- (b) Protect property from flood hazards. Provide a flood evacuation route if the system fails.
- (c) Provide a system by which storm/surface water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons.

12.2 PLAN REVIEW AND APPROVAL

All applicants proposing stormwater management plans shall be governed the District Regulation and shall submit the plans, reports, studies, and information as required by District Regulations. The submittals shall be reviewed and approved by the District. All stormwater conveyance facilities shall be located within the public right-of-way wherever possible.

12.3 ENGINEERING SERVICES

Stormwater management plans and calculations must be stamped and signed by a civil engineer licensed by the State of Oregon and meet the standards of the District. The construction, specifications, and testing must be completed under the direction of the engineer.

12.4 SPECIFICATIONS

All construction and material specifications for any stormwater management plan shall be in conformance with the construction, material specifications and District Regulations.

12.5 LICENSED CONTRACTOR

Stormwater management facilities shall be constructed by a contractor duly licensed by the State of Oregon and any other licensing political subdivision having jurisdiction over the work.

12.6 REDEVELOPMENT

All developments and redevelopments shall provide water quantity, water quality and infiltration facilities as specified in accordance with the Stormwater Standards.

12.7 CONSTRUCTION ACCEPTANCE

Upon the completion of construction and certification by the engineer the District shall inspect and approve the construction of the stormwater management plan.

12.8 PHASING

Development activities shall not be phased or segmented in such a manner to avoid the requirement of the District Regulations.

12.9 WATER COURSE

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

12.10 MAINTENANCE

Maintenance is required for all stormwater management facilities. The maintenance program must be approved by the District. Proof of maintenance shall be annually submitted in accordance with a schedule approved by the District. If the facility is not maintained, the District may perform the maintenance and charge the owner of the facility.

12.11 EASEMENTS

A stormwater management plan shall provide easements and access for construction, operation and maintenance in accordance with the District Regulations.

12.12 WARRANTY / SURETY BOND.

The District shall require a warranty bond or surety in the amount of 25% of the cost of construction for a period of time in accordance with the Stormwater Standards.

12.13 PERFORMANCE BOND.

If the requirements of Section 12.7 are not completed the permittee shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. The amount of the performance bond shall be in the amount of 125% of the engineer's cost estimate for all approved but uncompleted surface water and buffer improvements.

SECTION 13 – NATURAL RESOURCE PROTECTION

13.1 STUDY

The District shall require the applicant to provide a study identifying areas on the parcel which are or may be sensitive areas when, in the opinion of the District:

- (a) An area or areas on a parcel may be classified as a sensitive area; or
- (b) The parcel has been included in an inventory of sensitive areas adopted by the District and more site specific identification of the boundaries is needed; or
- (c) A natural resource is located within 200-feet of the property.

13.2 UNDISTURBED BUFFER REQUIRED

New development or a division of land adjacent to sensitive areas shall preserve and maintain an undisturbed buffer wide enough to protect the water quality functioning of the sensitive area. The undisturbed buffer is a facility required to prevent damage to the sensitive area caused by the development. The width of the undisturbed buffer shall be as specified in Table 13.1.

Undisturbed buffers shall be protected, maintained, enhanced or restored as follows: Vegetative cover native to the region shall be maintained or enhanced, or restored, if disturbed in the buffer. Invasive non-native vegetation may be removed from the buffer and replaced with native vegetation. Only native vegetation shall be used to enhance or restore the buffer. This shall not preclude construction of energy dissipaters at outfalls and as approved by the District. Any disturbance of the buffer requires prior written District approval.

Uncontained areas of hazardous materials are prohibited in the buffer.

Starting point for measurements from the Sensitive Area begin at:

- Either the edge of bankfull stage or 2-year storm level for streams; and
 - An Oregon Division of State Lands approved delineation marking the edge of the wetland area.
- (a) Where no reasonable and feasible option exists for not encroaching within the minimum undisturbed buffer, such as at a road crossing or where topography limits options, then onsite mitigation on the intrusion of the buffer will be on a ratio of 1.5 to 1 (one). All encroachments into the buffer, except those listed in 13.2.3, require a written variance from the District. The Surface Water Manager may grant a variance. The District shall give notice by First Class mail of its decision to grant or deny a variance to the applicant and to owners of property within 250 feet of the affected property.

Table 13.1 – Undisturbed Buffers

<i>Sensitive Area</i>	<i>Upstream Drainage Area</i>	<i>Slope Adjacent to Sensitive Area</i>	<i>Width of Undisturbed Buffer</i>
Intermittent Creeks, Rivers, Streams	Less than 50 acres	Any slope	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	<25%	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	≥25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	<25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	≥25%	100 to 200 feet
Perennial Creeks, Rivers, Streams	Any upstream area	<25%	50 feet
Perennial Creeks, Rivers, Streams	Any upstream area	≥25%	100 to 200 feet
Wetlands, lakes (natural), and springs.	Any drainage	<25%	50 feet
Wetlands lakes (natural), and springs.	Any drainage	≥25%	100 to 200 feet

Note: See Stormwater Standards for details for application of undisturbed buffer.

13.3 PERMITTED USES WITHIN AN UNDISTURBED BUFFER

No future structures, development, or other activities shall be allowed which otherwise detract from the water quality protection provided by the buffer, as required by state and federal regulations, except as allowed below:

- (a) A road crossing the undisturbed buffer to provide access to the sensitive area or across the sensitive area.
- (b) Utility construction or approved plans by a governmental agency or public utility subject to Public Utility Commission regulation, providing the buffer is restored and a restoration plan approved by the District.
- (c) A walkway or bike path not exceeding eight feet in width, only if it is part of a regional system of walkways and trails managed or adopted by a public agency.
- (d) A pervious walkway or bike path, not exceeding eight feet in width that does not provide access to the sensitive areas or across the sensitive areas. If the walkway or bike path is impervious, then the buffer must be widened by the width of the path. The average distance from the path to the sensitive area must be at least 60% of the total buffer width. At no point shall a path be constructed closer than ten feet from the boundary of the sensitive area, unless approved by the District.**
- (e) Measures to remove or abate hazards, nuisances, or fire and life safety violations.
- (f) Homeowners are allowed to take measures to protect property from erosion, such as protecting river banks from erosion, within limits allowed by State and Federal regulations.

- (g) The undisturbed buffer shall be left in a natural state. Gardens, lawns, or other landscaping shall not be allowed except with a plan approved by the District. The proposal shall include information to demonstrate that improvement and maintenance of improvements will not be detrimental to water quality.
- (h) Fences: The District may require that the buffer be fenced, signed, delineated, or otherwise physically set apart from parcels that will be developed.

13.4 LOCATION OF UNDISTURBED BUFFER

In any new development or redevelopment, the District may require a separate tract, conservation easement or some other mechanism to ensure protection of the undisturbed buffer. Restrictions may include permanent signage, fencing, documentation with the title of the property, or other acceptable methods. All methods shall be approved by the District and the City of Happy Valley.

13.5 CONSTRUCTION IN THE UNDISTURBED BUFFER

With approval of the District and an approved plan, noxious vegetation may be removed and replaced with native vegetation. Any disturbance of the buffer shall be replaced with native vegetation and with the approval of the District.

SECTION 14 – EROSION CONTROL RULES

14.1 GENERAL – EROSION CONTROL

This section shall apply during construction and until permanent measures are in place following construction as described herein, unless otherwise noted.

14.1.1 The District requires temporary and permanent measures for all construction projects to lessen the adverse effects of site alteration on the environment. The owner or his/her agent, contractor, or employee, shall properly install, operate and maintain both temporary and permanent works as provided in this section or in an approved plan, to protect the environment during the useful life of the project. These erosion control rules apply to all parcels within the authority of the District.

Nothing in this section shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

14.2 EROSION CONTROL

14.2.1 Intent. It is the District's intent to prevent erosion and to minimize the amount of sediment and other pollutants reaching the public storm and/or surface water system resulting from development, construction, grading, filling, excavating, clearing, and any other activity as prescribed in the current version of the Erosion Prevention and Sediment Control Manual. And as required by water quality standards set forth in OAR 340-41-445 through 340-41-470, as may be amended from time to time.

14.2.2 Erosion Prohibited. No visible or measurable erosion shall leave the property during construction or during activity described in Section 14.2.1. The owner of the property, together with any person who causes such action from which the visible or measurable erosion occurs, shall be responsible for clean up, fines, and damages. Clean up responsibilities involve public facilities and sensitive areas including, but not limited to:

creeks, drainageways, wetlands, catch basins and storm drains, and sensitive areas, impacted by a project.

14.2.3 Exposed Soil. No soils shall remain exposed for more than fourteen (14) days in the wet weather season unless an advanced sedimentation or filtration process is used. District must approve such process prior to implementation.

14.2.4 Erosion Control Permit. All development activities disturbing an area of square feet or greater as specified in the Stormwater Standards will obtain an erosion control permit pursuant to the Standards.

14.2.5 Performance. The District may require the Applicant to submit a bond, cashiers check or irrevocable letter of credit from an acceptable financial institution to secure performance of the requirements of this section. Upon default, the District may perform work or remedy violations and draw upon the bond or fund. If the District does not require a bond and the Developer does not perform the erosion control plan in whole or in part, the District may, but shall not be obligated to, perform or cause to be performed corrective work and charge the Developer the cost of such remediation. Such amount shall bear interest at 9% per annum and shall be a lien upon the property foreclosable in accordance with ORS Chapter 88, or any successor statutes.

14.2.6 Maintenance. The applicant shall maintain the facilities and techniques contained in the approved Erosion Control Plan so as to continue to be effective during construction or other permitted activity. If the facilities and techniques approved in an Erosion Control Plan are not effective or sufficient as determined by the District's site inspector, the permittee shall submit a revised plan within three (3) working days of written notification by the District. In cases where erosion is occurring, the District may require the applicant to implement interim control measures prior to submittal of a revised Erosion Control Plan and without limiting the District's right to undertake enforcement measures. Upon approval of the revised plan by the District, the permittee shall immediately implement the revised plan. The developer shall implement fully the revised plan within three (3) working days of approval by the Director, or their designee.

14.2.7 Inspection. The erosion control measures necessary to meet the requirements of Section 14.2.2 shall be installed by the owner or their representative and shall be inspected by the District prior to the start of any excavation work.

14.2.8 Re-Inspection Fee. Re-inspection fees may be charged for those sites that are notified of deficiencies and fail to complete corrective actions in full by the time of the next inspection.

14.2.9 Permit Fee. The District may collect all fees for the review of plans, administration, enforcement, and field inspection(s) to carry out the regulations contained herein as established and amended by the District.

14.2.10 Permit Duration.

(a) Development or construction must be initiated as per the approved final development plans within one (1) year of the date of erosion control permit issuance or the permit will be null and void. If a Hearings Officer or the Board of County Commissioners specify a time period for commencement of a development, that time period shall supersede.

(b) Erosion Control permits (excluding 1200-C permits) shall expire and become null and

void twenty four (24) months after the date of permit issuance unless extended by the District. If the work authorized by such permit has not received final inspection approval prior to the permit expiration date, and the permit has not been extended by the District, all work shall stop until a new permit is obtained that conforms to the erosion control regulations in effect at the time of re-application. The District may extend the time for action by the permittee for a period not exceeding twelve (12) months in the District's sole and absolute discretion on written request by the permittee showing that circumstances beyond the control of and unforeseeable by the permittee have prevented work from being completed.

- (c) 1200-C permits shall expire and become null and void if the permit is not renewed annually or as per the general permit schedule set forth by the DEQ.

14.3 AIR POLLUTION

14.3.1 Dust. Dust and other particulate matters caused by development activity containing pollutants may not settle on property and / or be carried to waters of the state through rainfall or other means. Dust shall be minimized to the extent practicable.

14.4. PRESERVE WATER QUALITY

14.4.1 Construction of new facilities between stream banks shall be pursuant to permits issued by state and federal agencies having jurisdiction and applying their regulations.

14.4.2 Pollutants such as, but not limited to, fuels, lubricants, asphalt, concrete, bitumens, raw sewage, and other harmful materials shall not be discharged into rivers wetlands, streams, impoundments, undisturbed buffers or any storm drainage system, or at such proximity that the pollutants flow to these watercourses, buffers, or systems.

14.4.3 The use of water from a stream or impoundment, wetland or sensitive area, shall not result in altering the temperature or water quality of the water body in violation of Oregon Administrative Rules, and shall be subject to water rights laws.

14.4.4 All sediment-laden water from construction operations shall be routed through sedimentation basins, filtered, or otherwise treated to remove the sediment load before release into the surface water system.

14.5 FISH AND WILDLIFE HABITAT

Construction shall be done in a manner to minimize adverse effects on wildlife and fishery resources pursuant to the requirements of local, state, and federal agencies charged with wildlife and fish protection.

14.6 NATURAL VEGETATION

14.6.1 As far as is practicable, natural native vegetation shall be protected and left in place in undisturbed buffer areas. Work areas shall be carefully located and marked to reduce potential damage. Trees shall not be used as anchors for stabilizing working equipment.

14.6.2 During clearing operations, trees shall not be permitted to fall outside the work area. In areas designated for selective cutting or clearing, care in falling and removing trees and brush shall be taken to avoid injuring trees and shrubs to be left in place.

14.6.3 Where natural vegetation has been removed, or the original land contours disturbed, the site shall be revegetated per a submitted and approved seeding and

maintenance plan from a list approved by the District as soon as practicable after construction has commenced, not later than September 1. After that date a reseeding and stabilization plan approved by the District must be used.

14.7 PESTICIDES, FERTILIZERS, CHEMICALS

14.7.1 The use of hazardous chemicals, pesticides, including insecticides, herbicides, defoliants, soil sterilants, and the use of fertilizers, must strictly adhere to federal, state, county, and local restrictions.

14.7.2 All materials defined in Section 12.7.1 delivered to the job site shall be covered and protected from the weather. None of the materials shall be exposed during storage. Waste materials, rinsing fluids, and other such material shall be disposed of in such a manner that pollution of groundwater, surface waste, or the air does not occur. In no case shall toxic materials be dumped into drainageways.

14.8 CONTAMINATED SOILS

In the event the construction process reveals soils contaminated with hazardous materials or chemicals, all parties shall stop work immediately to ensure no contaminated materials are hauled from the site, remove work forces from the contaminated areas, leaving all machinery and equipment, and secure the areas from access by the public until such time as a mitigation team has evaluated the situation and identified an appropriate course of action. The Owner and the Contractor shall notify OSHA and DEQ of the situation upon discovery. The Owner and the Contractor must comply with OSHA and DEQ statutes and rules. Failure to comply with OSHA and DEQ statutes and rules shall be deemed a failure to comply with these Rules and Regulations.

**TABLE II
TOXIC POLLUTANTS**

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzidine
6. Carbon Tetrachloride
7. Chlorobenzene
8. 1,2,4-Trichlorobenzene
9. Hexachlorobenzene
10. 1,2-Dichloroethane
11. 1,1,1-Trichloroethane
12. Hexachloroethane
13. 1,1-Dichloroethane
14. 1,1,2-Trichloroethane
15. 1,1,2,2-Tetrachloroethane
16. Chloroethane
17. Bis (2-Chloroethyl) Ether
18. 2-Chloroethyl Vinyl Ether (mixed)
19. 2-Chloronaphthalene
20. 2,4,6-Trichlorophenol
21. Parachlorometa Cresol
22. Chloroform (Trichloromethane)
23. 2-Chlorophenol
24. 1,2-Dichlorobenzene
25. 1,3-Dichlorobenzene
26. 1,4-Dichlorobenzene
27. 3,3-Dichlorobenzidine
28. 1,1-Dichloroethylene
29. 1,2-Trans-dichloroethylene
30. 2,4-Dichlorophenol
31. 1,2-Dichloropropane
32. 1,2-Dichloropropylene (1,3-Dichloropropene)
33. 2,4-Dimethylphenol
34. 2,4-Dinitrotoluene
35. 2,6-Dinitrotoluene
36. 1,2-Diphenylhydrazine
37. Ethylbenzene
38. Fluoranthene
39. 4-Chlorophenyl Phenyl Ether
40. 4-Bromophenyl Phenyl Ether
41. Bis (2-Chloroisopropyl) Ether

**TABLE II
TOXIC POLLUTANTS
(Continued)**

42. Bis (2-Chloroethoxy) Methane
43. Methylene Chloride (Dichloromethane)
44. Methyl Chloride (Chloromethane)
45. Methyl Bromide (Bromomethane)
46. Bromoform (Tribromomethane)
47. Dichlorobromomethane
48. Chlorodibromomethane
49. Hexachlorobutadiene
50. Hexachlorocyclopentadiene
51. Isophorone
52. Naphthalene
53. Nitrobenzene
54. 2-Nitrophenol
55. 4-Nitrophenol
56. 2,4-Dinitrophenol
57. 4,6-Dinitro-o-cresol
58. N-nitrosodimethylamine
59. N-nitrosodiphenylamine
60. N-nitrosodi-n-propylamine
61. Pentachlorophenol
62. Phenol
63. Bis (2-Ethylhexyl) Phthalate
64. Butyl Benzyl Phthalate
65. Di-n-butyl Phthalate
66. Di-n-octyl Phthalate
67. Diethyl Phthalate
68. Dimethyl Phthalate
69. Benzo (a) Anthracene (1,2-Benzanthracene)
70. Benzo (a) Pyrene (3,4-Benzo-pyrene)
71. 3,4-Benzofluorathene (Benzo (b) Fluoranthene)
72. Benzo (k) Fluoranthene (11,12-Benzofluoranthene)
73. Chrysene
74. Acenaphthylene
75. Anthracene
76. Benzo (ghi) Perylene (1,12-Benzoperylene)
77. Fluorene
78. Phenanthrene
79. Dibenzo (ah) Anthracene (1,2,5,6-Dibenzanthracene)
80. Indeno (1,2,3-cd) Pyrene (2,3-o-Phenylene-pyrene)
81. Pyrene

**TABLE II
TOXIC POLLUTANTS
(Continued)**

82. Tetrachloroethylene
83. Toluene
84. Trichloroethylene
85. Vinyl Chloride (Chloroethylene)
86. Aldrin
87. Dieldrin
88. Chlordane (Technical Mixture & Metabolites)
89. 4,4-DDT
90. 4,4-DDE (p,p-DDX)
91. 4,4-DDD (p,p-TDE)
92. Alpha Endosulfan
93. Beta Endosulfan
94. Endosulfan Sulfate
95. Endrin
96. Endrin Aldehyde
97. Heptachlor
98. Heptachlor Epoxide (BHC-Hexachlorocyclohexane)
99. Alpha-BHC
100. Beta-BHC
101. Gamma-BHC (Lindane)
102. Delta-BHC (PCB-Polychlorinated Biphenyl)
103. PCB-1242 (Arochlor 1242)
104. PCB-1254 (Arochlor 1254)
105. PCB-1221 (Arochlor 1221)
106. PCB-1232 (Arochlor 1232)
107. PCB-1248 (Arochlor 1248)
108. PCB-1260 (Arochlor 1260)
109. PCB-1016 (Arochlor 1016)
110. Toxaphene
111. Antimony (Total)
112. Arsenic (Total)
113. Asbestos (Total)
114. Beryllium (Total)
115. Cadmium (Total)
116. Chromium (Total)
117. Copper (Total)
118. Cyanide (Total)
119. Lead (Total)
120. Mercury (Total)
121. Nickel (Total)

**TABLE II
TOXIC POLLUTANTS
(Continued)**

- 122. Selenium (Total)
- 123. Silver (Total)
- 124. Thallium (Total)
- 125. Zinc (Total)
- 126. 2,3,7,8-Tetrachlorodibenzo-o-dioxin (TCDD)

**TABLE III
LOCAL LIMITS**

Expressed as daily maximum concentrations:

0.1 mg/l	arsenic (As)
0.5 mg/l	cadmium (Cd)
1.8 mg/l	copper (Cu)
0.2 mg/l	cyanide (total)
0.5 mg/l	lead (Pb)
0.05 mg/l	mercury (Hg)
1.0 mg/l	nickel (Ni)
0.4 mg/l	silver (Ag)
1.2 mg/l	zinc (Zn)
2.0 mg/l	total chromium (Cr)
3.0 mg/l	phenolic compounds or any amount which cannot be removed by the District's wastewater treatment processes.
2.1 mg/l	Total Toxic Organics (TTO) which is the summation of all quantifiable values greater than 0.01 mg/l for the toxic organics in Table II

**TABLE VII
ASSIGNMENT OF EQUIVALENT DWELLING UNITS TO CLASSES OF SERVICE
NORTH CLACKAMAS SEWER SERVICE AREA**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
<u>RESIDENTIAL</u>		
01. Single Family Dwelling	1 EDU	1 EDU per dwelling unit
02. Duplex	.8 EDU per dwelling unit	1 EDU per dwelling unit
03. Triplex	.8 EDU per dwelling unit	1 EDU per dwelling unit
04. Multi-Family (4 plex & Up)	.8 EDU per dwelling unit	1 EDU per dwelling unit
05. Trailer/Mobile Home Parks provided sewer service	.8 EDU per rental space	1 EDU per rental space provided sewer service
<u>INSTITUTIONAL</u>		
10. High schools	1 EDU per 29 students(A.D.A.)	1 EDU per each 1,000 cu.ft.
11. Junior High	1 EDU per 29 students(A.D.A.)	<u>or fraction thereof</u> per
12. Elementary schools and Pre-schools	1 EDU per 65 students(A.D.A.)	month of metered water consumption
13. Community Colleges	1 EDU per 29 students(A.D.A.)	
14. Churches	1 EDU per 180 seats*	
- if parsonage	1 EDU, additional	
- if weekday child care or church school	1 EDU per 65 students, additional	
- if full time business office	1 EDU per 1,900 sq. ft. office additional	
- if evening programs conducted 3 nights or more per week	1 EDU per 1,900 sq. ft. meeting area, additional	
15. Hospitals - general	1 EDU per bed	
16. Convalescent/rest homes	1 EDU per two beds	
<u>COMMERCIAL</u>		
20. Hotels, Motels	1 EDU per 2 rooms	1 EDU per each 1,000 cu.ft.
- if quality restaurant	1 EDU per 10 seats, additional	<u>or fraction thereof</u> per
21. Quality Restaurants	1 EDU per 10 seats	month of metered water consumption
22. Fast Food	1 EDU per 11 seats	
23. Tavern/Lounge	1 EDU per 18 seats	
24. Service stations (w/o car wash)	1.7 EDUs	
25. Car wash - Wand	1.2 EDUs per stall	
26. Rollover (w/ service station)	5.6 EDUs	
27. Tunnel (w/ service station)	16 EDUs	

**TABLE VII
ASSIGNMENT OF EQUIVALENT DWELLING UNITS TO CLASSES OF SERVICE
NORTH CLACKAMAS SEWER SERVICE AREA (Continued)**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
COMMERCIAL (Continued)		
28. Laundromats	1 EDU per machine	1 EDU per each 1,000 cu ft. <u>or fraction thereof</u> per month of metered water consumption
29. Mini Storage	1 EDU per office unit plus 1 EDU per dwelling unit	
30. Other Commercial (shall include all classes not otherwise included on this table) or	The lesser of a) 1 EDU per 1,900 sq. ft. or less of interior floor space, b) 1 EDU per quarter acre or fraction thereof of land acre but not less than 50% of maximum charge resulting from a) or b) above	
INDUSTRIAL		
31. Light industrial waste with a) 30 lbs to 200 lbs of S.S. per day, or b) 30 lbs to 200 lbs of B.O.D. per day, and c) less than 10,000 gallons per day	Same as 30	1 EDU per each 1,000 cu. ft. or fraction thereof per month of metered water consumption and actual cost to District for removal of SS and BOD per pound for amount resulting from sewage strength in excess of domestic sewage strength. Based on District Cost per pound for removal of BOD and SS and cost per gallon for processing sewage flow.
32. Heavy industrial waste waste with more than a) 200 lbs of S.S. per day or b) 200 lbs of B.O.D. per day or c) 10,000 gallons or more per day	Based on actual cost to District but not less than Class 30	

PUBLIC AUTHORITIES

40. Cities

A.D.A. = Average Daily Attendance

*Where seating is on benches or pews, the number of seats shall be computed on the basis of one seat for each 18 inches of bench or pews length.

NOTE: For the purpose of Equivalent Dwelling Units for connection charge purposes, the quotient will be carried to two decimal places.

April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Public Hearing on the Proposed Housing and Community Development 2018 Action Plan

Purpose/Outcomes	A Public Hearing before the Board of County Commissioners to review the past performance of the County's Housing and Community Development programs, and to review the Proposed 2018 Housing and Community Development Action Plan.
Dollar Amount and Fiscal Impact	Application for an estimated \$1,973,095 in Community Development Block Grant (CDBG) funds, \$676,890 in HOME funds, and \$162,411 in Emergency Solutions Grant (ESG) funds during the 2018 program year.
Funding Source	U.S. Department of Housing and Urban Development No County General Funds are involved.
Duration	Effective July 1, 2018 and terminates on June 30, 2019
Previous Board Action	2017 Action Plan and the 3-Year Funding Recommendations were approved by the BCC on May 11, 2017 - agenda item 051117-A1
Strategic Plan Alignment	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities
Contact Person	Chuck Robbins, Community Development Director - (503) 655-8591
Contract No.	N/A

BACKGROUND:

The Clackamas County Housing and Community Development Division (HCD) of the Health, Housing and Human Services Department requests a public hearing before the BCC to receive public testimony and to approve the 2018 One-Year Action Plan. This public hearing will satisfy a U.S. Department of Housing and Urban Development (HUD) requirement that the public be given an opportunity to review and comment on the FY2018 funding recommendations for the County's Housing and Community Development programs.

The Action Plan implements the goals and objectives of the 2017-2021 Consolidated Plan and serves as the annual application for HUD funding. The Plan also includes a list of Funding Recommendations for projects selected for funding in the program years 2017 and 2019. The DRAFT Action Plan is currently out for public comment until Monday, April 22, 2018.

After the public comment period closes, the Action Plan will be finalized with public comments and required HUD forms. HUD requires that we submit the plan no later than August 16, 2018. The final 2018 Action Plan is scheduled to be presented to the Board of County Commissioners for approval on May 3, 2018.

Recent notifications from HUD indicates that the Community Development Block Grant (CDBG) and the HOME Investment Partnerships Program (HOME) will receive increased levels of funding for FY2018. Jurisdictions including Clackamas County will not be notified of their final allocation amounts until after the May 15th deadline for submission of the 2018 Action Plan. HUD recommends that contingency provisions be included in the action plan to make necessary funding adjustments once actual allocations are known. These provisions may be found on page 36 in section AP-35 (Projects).

The hearing will consist of three parts:

- 1) A review of the past performance of the County's Housing and Community Development programs;
- 2) A review of the Proposed 2018 Housing and Community Development Action Plan; and
- 3) An open discussion period during which citizens may testify on the plan or the County's housing and community development needs.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners take the following actions:

- 1) Hold a Public Hearing to review past performance of the County's Housing and Community Development program and to review the Proposed 2018 Action Plan;
- 2) Direct the Community Development Division staff to make any changes necessary as a result of the Board's consideration of testimony to the Proposed Plan, and prepare for Board approval of the Final 2018 Action Plan and other materials necessary for applying for FY 2018 CDBG, HOME, and ESG funds; and
- 3) Place approval of the 2018 Action Plan on the Board of County Commissioners' consent agenda for adoption at the May 3, 2018 meeting.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services Department

Attachments:

- Proposed 2018 Housing and Community Development Action Plan
- Public Notice of the Public Hearing
- Three-Year Funding Recommendations

PUBLIC HEARING

The Clackamas County Board of County Commissioners will hold a

PUBLIC HEARING

At the Public Services Building

Hearings Room - 4th Floor, Room 409

2051 Kaen Road, Oregon City, Oregon

Thursday, April 12, 2018 at 10:00 A.M.

This hearing will satisfy a U.S. Department of Housing and Urban Development requirement that the public annually be given an opportunity to review the past performance of the County's Housing and Community Development programs. The hearing is also to review the Proposed 2018 Housing and Community Development Action Plan.

The Proposed 2018 Action Plan consists of projects selected for funding in 2018 and will become the basis for the County's annual applications under the three grant programs.

Submission of grant application materials will enable the County to receive an estimated \$2,000,000 in Community Development Block Grant (CDBG) funds, an estimate \$700,000 in Home Investment Partnership (HOME) funds, and an estimated \$180,000 in Emergency Solutions Grant (ESG) funds during the 2018 fiscal year.

The hearing will consist of three parts:

- 1) A review by the Community Development Director, Chuck Robbins, of the past performance of the County's Housing and Community Development programs;
- 2) A review of the Proposed 2018 Housing and Community Development Action Plan; and
- 3) An open discussion period during which citizens may testify on the plan or the County's housing and community development needs.

The draft 2018 Action Plan has been posted at this website:

<http://www.clackamas.us/communitydevelopment/maps.html>. For additional information, or to submit comments, contact Kevin Ko or Mark Sirois at the Clackamas County Community Development Division, (503) 655-5891, Public Services Building – Suite 245, 2051 Kaen Road, Oregon City, Oregon 97045. Comments will be accepted until 5:00 p.m., Monday, April 23, 2018.

Reasonable accommodation will be provided for any individual with a disability

Pursuant to the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, any individual with a disability who requires reasonable accommodation to attend or participate in this meeting may request assistance by contacting the Section 504 Coordinator. Determinations

on requests for reasonable accommodation will be made on a case-by-case basis. All requests must be made at least 5 days before the meeting date.

Contact: Chuck Robbins, Clackamas County Community Development, 2051 Kaen Road, Suite 245, Oregon City, Oregon 97045. Telephone: (503) 655-8591. E-Mail: chuckrob@co.clackams.or.us.

CLACKAMAS COUNTY
HOUSING AND COMMUNITY
DEVELOPMENT
2018 ACTION PLAN



Clackamas County
Housing and Community Development Division
Public Services Building
2051 Kaen Road – Suite 245
Oregon City, Oregon
(503) 655-8591
www.clackamas.us/communitydevelopment/

MARCH 2018 DRAFT

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

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Commissioner: Sonya Fischer

Commissioner: Ken Humberston

Commissioner: Paul Savas

Commissioner: Martha Schrader

County Administrator
Don Krupp

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Sherilyn Lombos, City of Tualatin

DEPARTMENT OF HEALTH, HOUSING AND HUMAN SERVICES

Director of Health, Housing and Human Services
Richard Swift

Housing and Community Development
Chuck Robbins, Director

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Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

Clackamas County Housing and Community Development is a division within the larger Clackamas County Health, Housing and Human Services Department that includes the Behavioral Health, Public Health, Health Centers, Social Services, the (public) Housing Authority, Community Solutions (workforce programs) and Children Youth and Families divisions.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

Housing and Community Development Division staff have used community survey data, public meeting comments, public housing waitlist information, Portland metropolitan area housing information and several reports to select the following goals to accomplish over the next 5 years (2017 to 2021):

1. Community Infrastructure Improvements - 10,000 persons to benefit.
 2. Public Facilities Improvements - 7,500 persons to benefit.
 3. Public Services - 10,000 persons will benefit.
 4. Housing Rehabilitation - 150 households will benefit.
 5. Affordable Housing - 260 households will benefit.
 6. Homeless Assistance - 1,750 homeless persons will be assisted with shelter and services.
- Six (6) Assessment of Fair Housing Goals have been included in the 2017-2021 Consolidated Plan.

The 2018 Annual Project Summary: (actual funding level unknown at this time)

#	Project Name	Funding Recommendation
1	Housing Rehabilitation 2018	\$400,000
2	CDBG Grant Administration 2018	\$356,095
3	HOME Grant Administration 2018	\$67,689
4	N. Pine Pedestrian and Street Improvements Canby	\$220,000
5	E. Clarendon St. 2017 Gladstone	\$255,000
6	Southeast Sandy ADA Improvements	\$75,000
7	Mobile/Manufactured Home Roofing Project 2018	\$70,000
8	Optional Emergency Assistance 2018	\$25,000

#	Project Name	Funding Recommendation
9	Head Start Classrooms 2018	\$175,000
10	Tiny Houses Community 2018	\$100,000
11	Employment Investment Program 2018	\$45,000
12	Housing Rights and Resources 2018	\$140,000
13	Jackson Transitional Housing 2018	\$67,000
14	Mentor Athletics 2018	\$25,000
15	Homeless Count Planning 2021	\$20,000
16	Tenant Base rental Assistance 2018	\$75,000
17	CHAP Homebuyer Assistance Program 2018	\$50,000
18	HOME Multifamily Housing Project	\$458,201
19	HOME CHDO Operating funds 2018	\$26,000
20	Emergency Solutions Grant Program 2018	\$162,411

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

Clackamas County Housing and Community Development has been a major partner and funder of many affordable housing projects, most of the senior centers and many neighborhood improvement projects throughout the county over the last 20 years. The impact of projects and services supported with grant funds is often limited by the federal grant regulations and the actual annual funding levels although communities and non-profit partners do bring private resources to leverage the federal funds. Clackamas County Housing and Community Development Division continues to expend federal funds efficiently and effectively within the bounds of federal regulations. Slow moving projects are cancelled allowing funds to be reallocated to projects that are on track to be completed as scheduled.

Clackamas County coordinates with and provides staff support to the homeless Continuum of Care.

Clackamas County has recently completed an Assessment of Fair Housing and established the following goals for program years 2017 to 2021:

1. Develop new housing units with long-term affordability for a broad range of low-income households with an emphasis on dispersal of affordable housing.
2. Increase accessibility to affordable housing for persons with disabilities and single parent familial status households. (Households with children under 18 yrs.).
3. Improve access to housing and services for all protected classes.
4. Enforce Fair Housing laws and Increase public understanding of Fair Housing laws.

5. Coordinate Fair Housing Advocacy and Enforcement Efforts among regional partners
6. Ensure that all housing in Clackamas County is healthy and habitable.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

Clackamas County Housing and Community Development Division maintains a Citizen Participation list of persons interested in programs and services funded by federal grants. Public meeting notices are posted in community newspapers and notices of funding availability are distributed throughout the county through newspapers and email lists.

The community participation process for selecting Clackamas County's fair housing goals included 10 public meetings, three separate surveys during April, May and June of 2016 and consultations with 23 community agencies. A total of 310 people responded to a community survey, a public housing resident survey and a Spanish language survey. Some surveys were mailed to groups and all surveys were available on paper and online. A public notice was published in community newspapers notifying interested persons that a draft of the AFH document, AFH Goals and an executive summary was posted for a 30-day comment period that was extended to 45 days.

The Continuum of Care homeless services providers and public housing residents are engaged in annual public meetings to discuss programs, projects and services.

The general public is also invited and engaged through solicitation of feedback through community online surveys and public meetings.

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

Public meetings for the 2018 Action Plan were held on February 21, 2018 and April 12, 2018 to gather comments on housing and community development needs.

The draft 2018 Action Plan was posted for review and comment from March 22, 2018 to April 22, 2018.

Comments were

6. Summary of comments or views not accepted and the reasons for not accepting them

All public comments were accepted and..... included in this plan in Attachment D.

7. Summary

The public comment period on the 2018 Action Plan was from March 22 to April 22, 2018 and the public hearing was held on April 12, 2018. All comments werein support of homeless services, affordable housing projects and first time home owner programs. All comments were accepted. The Board of County Commissioners will likely review and approve the final plan on May 3, 2018 with the provision that the plan would not be submitted until actual grant allocation amounts were provided by HUD and incorporated into the plans.

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	CLACKAMAS COUNTY	
CDBG Administrator	CLACKAMAS COUNTY	Housing and Community Development Division
HOPWA Administrator	City of Portland	City of Portland
HOME Administrator	CLACKAMAS COUNTY	Housing and Community Development Division
ESG Administrator	CLACKAMAS COUNTY	Housing and Community Development Division

Table 1 – Responsible Agencies

Narrative (optional)

Clackamas County Housing and Community Development is a division within the larger Clackamas County Health, Housing and Human Services Department that includes the Behavioral Health, Public Health, Health Centers, Social Services, the (public) Housing Authority, Community Solutions (workforce programs) and Children Youth and Families divisions. Clackamas County receives no HOPWA funds. Services for persons with AIDS are provided by the Cascade AIDS Project (CAP) in the nearby City of Portland, Oregon.

Consolidated Plan Public Contact Information

Office location: Housing and Community Development Division Public Services Building 2051 Kaen Road – Suite 245 Oregon City, Oregon (503) 655-8591

Housing and Community Development Website: <http://www.clackamas.us/communitydevelopment/>

Clackamas County Housing and Community Development website includes maps of low/mod income areas, funding policies, meeting notices, meeting schedules, Consolidated Plans, annual Action Plans, information on HOME repairs grants and loans, and other programs.

Staff Contacts:

Chuck Robbins, Director: chuck@clackamas.us

Kevin Ko, Housing and Community Development Manager: kko@clackamas.us

Mark Sirois, Project Coordinator: marksir@clackamas.us and 503.650.5664

Steve Kelly, Project Coordinator: stevekel@clackamas.us

AP-10 Consultation – 91.100, 91.200(b), 91.215(I)

1. Introduction

Clackamas County is an urban and rural county within the Portland/Vancouver metropolitan statistical area. Clackamas County provides the bulk of the social services, assisted housing services and public housing to low-income residents in the county. Clackamas County provides federal funding to non-profit housing developers to build, purchase and maintain assisted housing throughout the county.

Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(I))

Clackamas County Housing and Community Development Division (HCD) coordinates activities between public housing and assisted housing agencies through funding and reporting outcomes to state and federal agencies. The local public housing authority is a part of Clackamas County's Health, Housing and Human Services Department. Nonprofit and for profit housing developers and housing providers are in regular contact with HCD staff about project ideas and potential state and federal grants that could be combined with CDBG and HOME funds for a successful housing project proposal. The HOME program provides vital funding to affordable housing providers that also apply for state tax credit funding as one of few sources of funds available to develop affordable housing units in the rural parts of Clackamas County.

The Clackamas County Health, Housing and Human Services (H3S) Department includes; a public housing authority, a community development division, a public health division, a social services division, a behavioral health division and a primary care division. H3S is often a convener of agencies to apply for funding, build facilities and provide services to vulnerable populations. In some cases the county provides the services, and in other cases non-profit agencies provide the housing or services. CDBG funds also provide support for the Housing Rights and Resources program, an H3S program in the Social Services Division. This program provides housing referral and information on all available housing services and resources to residents in need of affordable housing and related services.

HCD consults directly with the county primary care health facilities and health services to coordinate services and projects.

HCD consults directly with local governments (15 cities and towns in Clackamas County) regarding public facilities and infrastructure projects. Adjacent governments including City of Portland, Multnomah County and Washington County are contacted regularly regarding public meetings however due to scheduling conflicts staff from these governments rarely attend our public meetings.

Currently HCD has business and civic leaders engaged in the community and housing development needs assessment through their activities on non-profit boards, planning councils and commissions. Some non-profit agencies are considered civic organizations. HCD will continue to reach out to community groups that include civic and business leaders in the community. HCD is currently nurturing business contacts on the Housing Advisory Board that guides the Housing Authority of Clackamas County and county-wide affordable housing policy.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

H3S Housing and Community Development Division (HCD) personnel administer the Continuum of Care (CoC) annual renewal application process and the Homeless Management Information System (HMIS). The same HCD office uses CDBG, ESG and CoC funds to support homeless services and for the Homeless Point in Time (PIT) count of homeless persons. The PIT is conducted with over 150 volunteers coordinated by the Social Services Division.

H3S Housing and Community Development Division (HCD) personnel administer the Continuum of Care (CoC) annual renewal application process and the Homeless Management Information System (HMIS). **The annual Continuum of Care renewal application funds over \$2,000,000 of services and rent assistance to homeless persons in the county. CoC efforts secure services and support for over 478 persons including 32 chronically homeless persons (based on the CoC 2016 Housing Inventory Chart.)**

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The HCD staff coordinate the Continuum of Care monthly meetings and the CoC governing board activities. The CoC policies and ESG program policies were developed with both CoC and ESG homeless services providers. The CoC reviewed and adopted the current CoC and ESG policies in February 2017.

HCD personnel also provide the HMIS training and support for CoC and ESG providers. The monthly CoC activities and quarterly performance reports are coordinated by the same Community Development Division staff that coordinates the ESG funding applications and awards process. **The FY 2017-2019 ESG funding recommendations were presented to the CoC Steering Committee on March 8, 2018 and to the CoC Homeless Council (CoC) for discussion and review on March 28, 2018. CoC providers, the local public housing agency and all the agencies in the Continuum of Care are engaged in addressing the needs of homeless persons.**

The CoC consults with Community Solutions, a Workforce Investment Act partner and division of H3S, to conduct employment related training for homeless persons.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

Table 2 – Agencies, groups, organizations who participated

1	Agency/Group/Organization	Housing Authority of Clackamas County
	Agency/Group/Organization Type	PHA
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Strategy Market Analysis Anti-poverty Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Housing Authority is staffed by Clackamas County employees. The Housing Authority Director is also the director of the Housing and Community Development Division. The anticipated outcomes are coordinate efforts to maintain and build affordable housing units for low income residents as well as coordinated social services and employment training.
2	Agency/Group/Organization	NORTHWEST HOUSING ALTERNATIVES
	Agency/Group/Organization Type	Housing Services - Housing Services-Children Services-Persons with Disabilities Services-Victims of Domestic Violence Services-homeless

	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Strategy Market Analysis
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Northwest Housing Alternatives (NHA) is one of a few non-profit housing developers in Clackamas County. NHA staff are active on the Continuum of Care homeless council as a provider of homeless housing services and homeless prevention services with ESG funding, local government funding and private foundation funding.
3	Agency/Group/Organization	CLACKAMAS WOMEN'S SERVICES
	Agency/Group/Organization Type	Services - Housing Services-Victims of Domestic Violence Services-homeless Services - Victims
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homeless Needs - Families with children Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Clackamas Womens Services is an active participant in the homeless Continuum of care as well as an HESG services provider. The agency is one of a few victim services providers.

4	Agency/Group/Organization	CLACKAMAS COUNTY
	Agency/Group/Organization Type	Services-Health Services-Employment Service-Fair Housing Health Agency Child Welfare Agency Publicly Funded Institution/System of Care Other government - County
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Strategy Non-Homeless Special Needs Anti-poverty Strategy Lead-based Paint Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Clackamas County Health, Housing and Human Services (H3S) Department includes; a public housing authority, a community development division, a public health division, a social services division, a behavioral health division and a primary care division. H3S is often a convener of agencies to apply for funding, build facilities and provide services to vulnerable populations. In some cases the county provides the services, and in other cases non-profit agencies provide the housing or services.
5	Agency/Group/Organization	CASCADIA BEHAVIORAL HEATHCARE, INC.
	Agency/Group/Organization Type	Services-Persons with HIV/AIDS
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Strategy HOPWA Strategy

	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The agency is part of the homeless Continuum of Care.
6	Agency/Group/Organization	CENTRAL CITY CONCERN
	Agency/Group/Organization Type	Housing Services-Persons with Disabilities Services-homeless
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homeless Needs - Chronically homeless Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	This agency provides services and housing through the homeless Continuum of Care.
7	Agency/Group/Organization	IMPACT NW
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	This Agency is part of our homeless Continuum of Care.

8	Agency/Group/Organization	INN HOME
	Agency/Group/Organization Type	Housing Services - Housing Services-Children Services-homeless Services-Education
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homeless Needs - Families with children Homelessness Needs - Unaccompanied youth Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	This agency is part of the homeless Continuum of Care that serves homeless youth.
9	Agency/Group/Organization	LEGAL AID SERVICES OF OREGON
	Agency/Group/Organization Type	Service-Fair Housing
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homelessness Strategy Non-Homeless Special Needs Market Analysis Anti-poverty Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Part of our Housing Rights and Resources and included in all planning efforts

10	Agency/Group/Organization	LIFEWORKS NORTHWEST
	Agency/Group/Organization Type	Services-homeless Services-Employment
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homeless Needs - Chronically homeless Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	This agency provides outreach and health services to homeless adults. This agency is part of the Continuum of Care.
11	Agency/Group/Organization	OUTSIDE IN
	Agency/Group/Organization Type	Services-Children Services-homeless Services-Health
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Needs - Unaccompanied youth Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	This agency provides outreach and health services to homeless youth. This agency is part of the Continuum of Care.
12	Agency/Group/Organization	STATE OF OREGON DEPARTMENT OF HUMAN SERVICES
	Agency/Group/Organization Type	Services-homeless Services-Employment Other government - State

What section of the Plan was addressed by Consultation?	Homeless Needs - Families with children Homelessness Strategy Anti-poverty Strategy
Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	This State of Oregon TANF agency has a local office in our county. A representative from this office participates in our Continuum of Care activities and planning.

Identify any Agency Types not consulted and provide rationale for not consulting

All agencies that expressed interest in participating were consulted. No agencies were excluded.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	H3S Community Development Division	The goals of the Continuum of Care are included as part of the Homeless Prevention Goals in the Action Plan
10 year Plan to Address Homelessness	H3S Social Services Division	The Goals of the 10 year Plan to Address Homelessness are included in both the Action Plan and the Continuum of Care annual goals and objectives.
Public Housing Annual Plan	Housing Authority of Clackamas County	The PHA improvements are included in the annual Action Plan

Table 3 – Other local / regional / federal planning efforts

Narrative (optional)

As a result of the demand for a Coordinated Housing Access (CHA) for homeless services, CDBG funds were awarded to the Social Services Division to provide staffing to the CHA system until other funds can be identified. The CoC application for funding in FY2016 included re-allocated funds to support the CHA system to provide information to the CoC Steering committee and additional assistance to CoC programs. Action Plan staff meet with the Continuum of Care members to discuss housing and community development needs and resources. CoC members are invited to attend public meetings and public hearings to provide testimony on homeless and homeless housing needs in Clackamas County.

For the 2018 Action Plan, HCD staff presented and discussed recommended funding for CDBG and ESG projects with CoC members on March 28, 2018. HCD staff discussed ESG and CoC funding allocations, performance standards, outcomes, policies and procedures as well as the annual consultation process which occurs in March of every year. CoC members were invited to submit testimony at the April 12th public hearing.

AP-12 Participation – 91.105, 91.200(c)

**1. Summary of citizen participation process/Efforts made to broaden citizen participation
Summarize citizen participation process and how it impacted goal-setting**

The Citizen Participation process for this Action plan began in 2016 with a community needs assessment, small group meetings with stakeholders, an online survey, public meetings and public hearings. The first public meeting for the 2018 Action Plan was held on February 21, 2018. The public hearing with the Board of County Commissioners was held on April 12, 2018.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

Clackamas County Housing and Community Development Division works closely with the Housing Authority of Clackamas County, the County Behavioral Health Program, the Continuum of Care, non-profit agencies and the local County Social Service agencies to secure and administer many sources of funding for services, programs and rent assistance to benefit low-income residents of Clackamas County.

As of March 19, 2018, HUD has not determined the funding levels for Clackamas County for program year 2018 (July 1, 2018 to June 30, 2019).

These expected resources are estimates based on historical funding trends, amounts to be matched and leveraged.

HOME Project-Related Soft Costs

When HOME funds are allocated to an affordable housing project (as opposed to TBRA or CHDO operating), Clackamas County will have the option of charging reasonable and necessary staff and overhead support to the project as project-related soft costs. These may include:

- Processing of applications for HOME funds
- Appraisals required by HOME regulations
- Preparation of work write-ups, specifications, and cost estimates or review of these items if an owner has had them

independently prepared

- Project underwriting
- Construction inspections and oversight
- Project documentation preparation
- Costs associated with a project-specific environmental review
- Relocation and associated costs
- Costs to provide information services such as affirmative marketing and fair housing information to prospective tenants
- Staff and overhead costs related any of the above actions

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	1,991,474	0	0	1,991,474	6,000,000	The FY 2018 program year is the 2nd year of the 5-year Consolidated Plan. The expected amount available is based on the assumption that funds will be cut by 2-5% each year. Program income includes \$XX,XXXX of CDBG program income.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA	741,738	0	0	741,738	2,200,000	The FY 2018 program year is the 2nd year of the 5-year Consolidated Plan. The expected amount available is based on the assumption that funds will be cut by 2-5% each year. The HOME match requirement of 25% will be met either by eligible contributions, computing the value of annual property tax exemptions, or by drawing down the required match amounts from the county's excess HOME match reserve of approximately \$1.3 million.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
ESG	public - federal	Conversion and rehab for transitional housing Financial Assistance Overnight shelter Rapid re-housing (rental assistance) Rental Assistance Services Transitional housing	162,411	0	0	162,411	487,233	The FY 2018 program year is the 2nd year of the 5-year Consolidated Plan. The expected amount available is based on the assumption that funds will be cut by 2-5% each year

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

CDBG Program: Resources reasonably expected to be made available to supplement CDBG funds include local matching to be contributed by project sponsors. Matching contributions (cash or in-kind) equivalent in value to a minimum of 20% of the project cost are required by County policies. It is anticipated that funding available to finance community development activities from local

matching sources will total at least \$2,000,000. CDBG anticipates approximately \$50,000 of program income per year from the Housing Rehabilitation program loan repayments and \$XXX,XXX of prior year funds will support annual projects. For FY 2018, CDBG program income is \$XX,XXX and \$XXX,XXX of NSP program income that was converted to CDBG program income for a total of \$XXXXXX.

The **Continuum of Care application** process will renew at least \$2,400,000 of funding annually for homeless services, programs and rent assistance for homeless individuals and families. In 2017 HUD awarded the Clackamas Continuum a total of \$2,420,021 which includes additional funding due to increased Fair Market Rent (FMR) rates and additional funds for the Housing Our Heros homeless veterans and families housing assistance program.

HOME Program Income

HOME Program Income (PI) is generated from the repayment of HOME loans that the county has made to affordable housing projects. As provided for in the 2016 HOME Interim Rule, Clackamas County will retain HOME PI that is received during the program year, and allocate it to a specific project or projects in the subsequent program year. For the program year ending June 30, 2017, the county anticipates that it will retain approximately \$XXXXXX of HOME PI, and will allocate the PI to a HOME multi-family housing project in the upcoming program year.

HOME Match Funds: The HOME match requirement of 25% will be met either by eligible contributions, computing the value of annual property tax exemptions, or by drawing down the required match amounts from the county's excess HOME match reserve of approximately \$1.3 million

ESG funds will be matched using private donations, local and state homeless prevention funds (EHA).

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

Clackamas County use Development Agency land to locate a Homeless Veterans Village.

Discussion

The Housing and Community Development Division will continue to partner with the Housing Authority of Clackamas County, the County Behavioral Health Program, the County Health Centers, the Continuum of Care, non-profit agencies, for profit housing developers and the local County Social Service agencies to explore new programs, services and financial resources for programs and services that benefit our low-income and special needs residents.

Anticipated Resources amounts are based on anticipated funding levels, anticipated program income, prior year funds carried forward and expected matching funds on individual community projects.

HOME Program Income

For the program year ending June 30, 2018, the county anticipates that it will retain approximately \$XXXXXXX of HOME PI, and will allocate the PI to a HOME multi-family housing project in the upcoming program year.

For FY 2018, \$XXXXX of NSP program income funds have been converted to CDBG program income.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Affordable Housing	2017	2021	Affordable Housing	Countywide	Affordable Housing	HOME: \$2,000,000	Rental units constructed: 300 Household Housing Unit Rental units rehabilitated: 100 Household Housing Unit Direct Financial Assistance to Homebuyers: 25 Households Assisted Tenant-based rental assistance / Rapid Rehousing: 100 Households Assisted
2	Housing Rehabilitation	2017	2021	Affordable Housing	Countywide	Affordable Housing	CDBG: \$1,000,000	Rental units rehabilitated: 50 Household Housing Unit Homeowner Housing Rehabilitated: 100 Household Housing Unit
3	Public Services	2017	2021	Non-Homeless Special Needs	Countywide	Non-housing Community Development	CDBG: \$1,000,000	Public service activities other than Low/Moderate Income Housing Benefit: 10000 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
4	Homeless Assistance	2017	2021	Homeless	Countywide	Homelessness	ESG: \$600,000	Homeless Person Overnight Shelter: 1750 Persons Assisted
5	Public Facilities Improvements	2017	2021	Non-Housing Community Development	Countywide	Non-housing Community Development	CDBG: \$1,000,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 7500 Persons Assisted
6	Community Infrastructure Improvements	2017	2021	Non-Housing Community Development	Countywide	Non-housing Community Development	CDBG: \$1,500,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 10000 Persons Assisted
7	AFH Goal: Develop new housing units	2017	2021	AFH Goal 1	Countywide	Affordable Housing		Other: 500 Other
8	AFH Goal: Increase accessibility to housing	2017	2021	AFH Goal 2	Countywide	AFH: 1. Lack of affordable, accessible housing in AFH: 6. Housing accessibility modifications		Other: 1 Other
9	AFH Goal: Housing access for protected classes	2017	2021	AFH Goal 3	Countywide	Affordable Housing AFH: 1. Lack of affordable, accessible housing in AFH: 2. Availability of affordable units		Other: 1 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
10	AFH Goal: Fair Housing laws and Increase public	2017	2021	AFH Goal 4	Countywide	AFH: 7. Private discrimination AFH: 8. Lack of public fair housing enforcement AFH: 9. Lack resources for fair housing agencies		Other: 400 Other
11	AFH Goal: Coordinate Fair Housing efforts	2017	2021	AFH Goal 5	Countywide	AFH: 7. Private discrimination AFH: 8. Lack of public fair housing enforcement		Other: 1 Other
12	AFH Goal: Healthy and Habitable Housing	2017	2021	AFH Goal 6	Countywide	AFH: 2. Availability of affordable units		Other: 1 Other

Table 6 – Goals Summary

Goal Descriptions

1	Goal Name	Affordable Housing
	Goal Description	Affordable Housing projects will be completed in partnership with non-profit and private housing developers.

2	Goal Name	Housing Rehabilitation
	Goal Description	Housing Rehabilitation for home owners and renters will be provided by the Housing Rehabilitation program and in partnership with non-profit housing developers.
3	Goal Name	Public Services
	Goal Description	Public Services will be provided in partnership with social services agencies, mental health organizations, employment training agencies and non-profit organizations.
4	Goal Name	Homeless Assistance
	Goal Description	Homeless assistance is provided through Emergency Solutions Grants and Continuum of Care funding and services. The estimated goals are based on the assumption that annual funding will remain at current year levels.
5	Goal Name	Public Facilities Improvements
	Goal Description	Public Facilities will be built or improved in partnership with non-profit agencies and cities.
6	Goal Name	Community Infrastructure Improvements
	Goal Description	Community Infrastructure needs will be resolved in partnership with communities.
7	Goal Name	AFH Goal: Develop new housing units
	Goal Description	AFH Goal 1. Develop new housing units with long-term affordability for a broad range of low-income households with an emphasis on dispersal of affordable housing. Metrics, milestones and timeframes: Construct 500 new units of affordable (rent restricted units) housing over the next 5 years in areas of high opportunity.

8	Goal Name	AFH Goal: Increase accessibility to housing
	Goal Description	<p>Metrics, milestones and timeframes:</p> <p>By 2018 begin collecting data on persons with disabilities access to home ownership and rental units in the jurisdiction.</p> <p>Beginning in 2017 promote the availability of any new affordable housing units directly to persons with disabilities and female head of households.</p>
9	Goal Name	AFH Goal: Housing access for protected classes
	Goal Description	<p>Race and National Origin are protected classes. Both the Hispanic population and the LEP population (a subset of the National Origin protected class) is growing in the region and in the jurisdiction. The jurisdiction plans to provide more information about housing programs directly to LEP populations in additional languages including Russian and Chinese.</p> <p>Metrics, milestones and timeframes:</p> <p>By 2018, provide information to housing programs in 2 additional languages for the Housing Rehabilitation program.</p>

10	Goal Name	AFH Goal: Fair Housing laws and Increase public
	Goal Description	<p>Private discrimination in access to housing continues to occur in the jurisdiction and the region. Clackamas County has the Housing Rights and Resources (HRR) Program to increase public awareness about fair housing and to provide tenants and landlords information about their rights and responsibilities in fair housing. When staff determine that a potential housing discrimination has occurred a referral is made to Legal Aid or to Fair Housing Council for further exploration. Between July 1, 2015 and June 30, 2016, more than 2000 people called this program for housing information. More than 800 callers were assisted with rights and responsibilities information. 80 of the callers were calling with a specific discrimination issue which was clarified by HRR staff and as appropriate, callers were referred to Legal Aid Services of Oregon. The HRR program serves a vital function to screen appropriate cases to Legal Aid services. The jurisdiction will explore funding and partnership options to expand these legal services.</p> <p>Metrics, milestones and timeframes:</p> <p>Annually, at least 400 landlords and renters will receive information on fair housing laws and training on rights and responsibilities of tenants and landlords. (2000 people over 5 years).</p> <p>The number of potential discrimination referrals to Legal Aid and Fair Housing Council by Housing Rights and Resources program will be compiled and reported to HUD in CAPER reports.</p>
11	Goal Name	AFH Goal: Coordinate Fair Housing efforts
	Goal Description	<p>Regional partners continue to coordinate efforts to promote and expand fair housing laws and improve housing choice for all protected classes. Regional partners are coordinating efforts with the Fair Housing Council of Oregon to collect discrimination complaint data for examination and dissemination to local jurisdictions. Improved data collection will boost efforts to make the public more aware of the persistent discrimination that occurs in the private rental housing market.</p> <p>Metrics, milestones and timeframes:</p> <p>By 2019 each jurisdiction in the region will have at least one shared goal regarding fair housing.</p>

12	Goal Name	AFH Goal: Healthy and Habitable Housing
	Goal Description	<p>Substandard housing conditions including fire danger, mold, rodents and bedbugs may have a disparate impact on protected classes that are more likely to occupy private low rent housing.</p> <p>Metrics, milestones and timeframes:</p> <p>Jurisdiction/County Adoption of a Residential Rental Maintenance Standard by 2020.</p>

Projects

AP-35 Projects – 91.220(d)

Introduction

These FY 2018 projects were awarded in February 2017 after a competitive application process conducted in November and December of 2016.

Contingency Provisions for 2018 CDBG, HOME and ESG Allocations

Entitlement jurisdictions are not allowed to submit their Action Plan until the actual amounts are known and included in the Action Plan. HUD has instructed entitlement jurisdictions to include contingency provisions in its 2018 Action Plan that describes how it will make adjustments to the estimated allocations that have been provided for public comment, once the actual allocations are known. These contingency provisions are only applicable to the 2018 Action Plan. The contingency provisions for each program is described below:

CDBG (non-Public Services) –The county has identified the CDBG administration (2018/0002), the Housing Rehabilitation program (2018/0001), the Tiny Houses Community (2018/0010) and the Optional Emergency Assistance (2018/0008) as projects that will be increased or decreased based on the actual funding levels determined by HUD. If the actual CDBG allocation is less than anticipated, these activities will be reduced by the amount of the reduction for non-PS activities. If the CDBG allocation is increased above anticipated amounts, funding for CDBG administration (2018/0002), the Housing Rehabilitation program (2018/0001), the Tiny Houses Community (2018/0010) and the Optional Emergency Assistance (2018/0008) projects will be increased proportionally to match the actual allocation.

CDBG (Public Services) – The Jackson Transitional Housing has been identified as an activity with anticipated 2018 funding of \$67,000. If the CDBG PS funding amount is less than anticipated, this activity will absorb up to \$11,000 of the reduction to match the actual allocation. Any additional reduction will be applied to the other PS activities proportionally to match the actual allocation. There will be no increase to the available PS funding; any increase to the CDBG allocation will be applied to the non-PS

2018 CDBG projects listed above to match the actual allocation.

HOME – Any increase or decrease in HOME funding relative to the amount anticipated in the Action Plan will be applied to the HOME Administration (2018/0003) and the Multi-Family Housing Project (2018/0018) to match the actual allocation.

ESG – Any decrease or increase of ESG funding relative to the amount anticipated in the Action Plan will be applied to the ESG Administration, ESH HMIS and the ESG NHA HomeBase Rapid rehousing Program to match the actual allocation.

Projects

#	Project Name
1	Housing Rehabilitation 2018
2	CDBG Grant Administration 2018
3	HOME Grant Administration 2018
4	N. Pine Pedestrian and Street Improvements Canby
5	E. Clarendon St. 2017 Gladstone
6	Southeast Sandy ADA Improvements
7	Mobile/Manufactured Home Roofing Project 2018
8	Optional Emergency Assistance 2018
9	Head Start Classrooms 2018
10	Tiny Houses Community 2018
11	Employment Investment Program 2018
12	Housing Rights and Resources 2018
13	Jackson Transitional Housing 2018
14	Mentor Athletics 2018
15	Homeless Count Planning 2021

#	Project Name
16	Tenant Base rental Assistance 2018
17	CHAP Homebuyer Assistance Program 2018
18	HOME Multifamily Housing Project
19	HOME CHDO Operating funds 2018
20	Emergency Solutions Grant Program 2018

Table 7 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The allocation priorities are based on consultation with community members, cities and non-profit agencies providing services throughout the county.

AP-38 Project Summary

Project Summary Information

1	Project Name	Housing Rehabilitation 2018
	Target Area	Countywide
	Goals Supported	Housing Rehabilitation AFH Goal: Increase accessibility to housing
	Needs Addressed	Affordable Housing AFH: 1. Lack of affordable, accessible housing in
	Funding	CDBG: \$400,000
	Description	Housing Rehabilitation Programs provide needed home-repair assistance to low income households throughout Clackamas County.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	35 low income Households will benefit from housing rehabilitation services.
	Location Description	County-wide services
	Planned Activities	Housing Rehabilitation Program staff provide needed home-repair assistance grants and loans to low income households throughout Clackamas County. Total funding of \$400,000 of FY2018 CDBG entitlement, and an estimated \$XXXXXXX of program income.
2	Project Name	CDBG Grant Administration 2018
	Target Area	Countywide
	Goals Supported	Affordable Housing Housing Rehabilitation Public Services Homeless Assistance Public Facilities Improvements Community Infrastructure Improvements
	Needs Addressed	Affordable Housing Homelessness Non-housing Community Development
	Funding	CDBG: \$356,095
	Description	CDBG grant administration, planning, monitoring and reporting.
	Target Date	7/30/2020

	Estimate the number and type of families that will benefit from the proposed activities	Not applicable
	Location Description	County-wide
	Planned Activities	CDBG grant administration, planning, monitoring and reporting. Total funding of \$356,095 of FY2018 entitlement and an estimated \$000,000 from program income.
3	Project Name	HOME Grant Administration 2018
	Target Area	Countywide
	Goals Supported	Affordable Housing Housing Rehabilitation
	Needs Addressed	Affordable Housing AFH: 1. Lack of affordable, accessible housing in AFH: 2. Availability of affordable units
	Funding	HOME: \$67,689
	Description	HOME Grant administration, contract monitoring and reporting.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	Not applicable
	Location Description	Not applicable
	Planned Activities	Total funding of \$67,689 includes FY2018 HOME and \$00,000 of estimated program income. HOME Grant administration, contract monitoring and reporting.
4	Project Name	N. Pine Pedestrian and Street Improvements Canby
	Target Area	Countywide
	Goals Supported	Public Facilities Improvements Community Infrastructure Improvements
	Needs Addressed	Non-housing Community Development AFH 11. Inaccessible sidewalks, pedestrian crossin
	Funding	CDBG: \$220,000

	Description	Street, Drainage and Pedestrian Improvements in Canby. Construct sidewalks on both sides of the street, drainage and street improvements on N Pine between NE 10th Ave. and NE 8th Ave
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	1000 low income persons in this low income neighborhood will benefit
	Location Description	North Pine Street in Canby, Oregon
	Planned Activities	Construct sidewalks on both sides of the street, drainage and street improvements on N Pine between NE 10th Ave. and NE 8th Ave
5	Project Name	E. Clarendon St. 2017 Gladstone
	Target Area	Countywide
	Goals Supported	Public Facilities Improvements Community Infrastructure Improvements
	Needs Addressed	Non-housing Community Development
	Funding	CDBG: \$255,000
	Description	Improvements to East Clarendon Street between Portland & Union Avenues, including waterline, sewer, storm drains, new curbs, sidewalks, & new street surface
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	
	Location Description	East Clarendon Street in Gladstone, Oregon.
	Planned Activities	Improvements to E. Clarendon Street between Portland & Union Avenues, including waterline, sewer, storm drains, new curbs, sidewalks, & new street surface
6	Project Name	Southeast Sandy ADA Improvements
	Target Area	Countywide
	Goals Supported	Public Facilities Improvements Community Infrastructure Improvements
	Needs Addressed	Non-housing Community Development

	Funding	CDBG: \$75,000
	Description	Funding to re-construct a minimum of 30 (thirty) existing ADA wheelchair ramps on public streets in the city of Sandy, Oregon.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	500 low-income families
	Location Description	The city of Sandy, Oregon
	Planned Activities	Funding to re-construct a minimum of 30 (thirty) existing ADA wheelchair ramps on public streets in the city of Sandy.
7	Project Name	Mobile/Manufactured Home Roofing Project 2018
	Target Area	Countywide
	Goals Supported	Housing Rehabilitation AFH Goal: Increase accessibility to housing
	Needs Addressed	Affordable Housing AFH: 1. Lack of affordable, accessible housing in AFH: 2. Availability of affordable units AFH: 3. Displacement of residents due to economic
	Funding	CDBG: \$70,000
	Description	Roof Replacement for owner occupied mobile/manufactured homes located in parks throughout Clackamas County.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	40 low income households
	Location Description	low-income households countywide
	Planned Activities	Roof Replacement for owner occupied mobile/manufactured homes located in parks throughout Clackamas County.
8	Project Name	Optional Emergency Assistance 2018
	Target Area	Countywide
	Goals Supported	Affordable Housing Homeless Assistance

	Needs Addressed	Affordable Housing Homelessness AFH: 2. Availability of affordable units AFH: 3. Displacement of residents due to economic
	Funding	CDBG: \$25,000
	Description	Emergency assistance to individuals or agencies for emergency assistance due to a fire, landslide, snowstorm, flood or other such emergency. Funding and assistance with relocation of residents and/or associated expenses to mitigate the effects of the emergency
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	30 low income households
	Location Description	countywide
	Planned Activities	Emergency assistance to individuals or agencies for emergency assistance due to a fire, landslide, snowstorm, flood or other such emergency. Funding and assistance with relocation of residents and/or associated expenses to mitigate the effects of the emergency
9	Project Name	Head Start Classrooms 2018
	Target Area	Countywide
	Goals Supported	Public Facilities Improvements Community Infrastructure Improvements AFH Goal: Housing access for protected classes
	Needs Addressed	Non-housing Community Development AFH: 3. Displacement of residents due to economic
	Funding	CDBG: \$175,000
	Description	Funding to increase capacity to serve from 40 to 60 additional Head Start children and their families by completing the River Road complex. Completion of this project will add 1 classroom and free up another to serve at risk young children.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	40-60 low income students/ households

	Location Description	16518 SE River Road, Milwaukie, OR 97267
	Planned Activities	Funding to increase capacity to serve from 40 to 60 additional Head Start children and their families by completing the River Road complex. Completion of this project will add 1 classroom and free up another to serve at risk young children.
10	Project Name	Tiny Houses Community 2018
	Target Area	Countywide
	Goals Supported	Homeless Assistance Public Facilities Improvements
	Needs Addressed	Homelessness Non-housing Community Development AFH: 1. Lack of affordable, accessible housing in
	Funding	CDBG: \$100,000
	Description	Funding for land acquisition, site planning, site preparation and other associated costs of creating a Tiny Houses Community for up to 10 homeless adults in Clackamas County, including eligible costs for a community facility and 10 tiny homes.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	10 homeless households
	Location Description	To be determined - Clackamas County, Oregon
	Planned Activities	Funding for land acquisition, site planning, site preparation and other associated costs of creating a Tiny Houses Community for up to 10 homeless adults in Clackamas County, including eligible costs for a community facility and 10 tiny homes.
11	Project Name	Employment Investment Program 2018
	Target Area	
	Goals Supported	Public Services
	Needs Addressed	Homelessness AFH: 3. Displacement of residents due to economic
	Funding	CDBG: \$45,000

	Description	Clackamas County Employment Investment Program assists 30 low-income Clackamas County residents per year with significant barriers to employment to increase self-sufficiency, with additional outreach contacts to public housing residents.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	30 persons will benefit
	Location Description	Countywide
	Planned Activities	Clackamas County Employment Investment Program assists low-income Clackamas County residents per year with significant barriers to employment to increase self-sufficiency, with additional outreach contacts to public housing residents.
12	Project Name	Housing Rights and Resources 2018
	Target Area	Countywide
	Goals Supported	Public Services Homeless Assistance AFH Goal: Fair Housing laws and Increase public AFH Goal: Coordinate Fair Housing efforts
	Needs Addressed	Homelessness AFH: 7. Private discrimination AFH: 9. Lack resources for fair housing agencies
	Funding	CDBG: \$140,000
	Description	Housing Rights & Resources is a partnership between Clackamas County Social Services, Legal Aid & Fair Housing Council. It actively addresses & promotes fair housing & furthers housing opportunity for all, focusing on homeless & low-income residents.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	1000 People will benefit
	Location Description	countywide

	Planned Activities	Housing Rights & Resources is a partnership between Clackamas County Social Services, Legal Aid & Fair Housing Council. It actively addresses & promotes fair housing & furthers housing opportunity for all, focusing on homeless & low-income residents. Telephone calls, public presentations and training events for landlords and renters.
13	Project Name	Jackson Transitional Housing 2018
	Target Area	Countywide
	Goals Supported	Public Services Homeless Assistance
	Needs Addressed	Homelessness
	Funding	CDBG: \$67,000
	Description	Jackson Transitional Housing provides 6 housing units with supportive services for primarily homeless adults or childless couples, works with participants to increase income and address and overcome barriers to permanent housing placement.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	Jackson Transitional Housing provides 6 housing units with supportive services for primarily homeless adults or childless couples, works with participants to increase income and address and overcome barriers to permanent housing placement.
	Location Description	Jackson Street, Oregon City
	Planned Activities	Jackson Transitional Housing provides 6 housing units with supportive services for primarily homeless adults or childless couples, works with participants to increase income and address and overcome barriers to permanent housing placement.
14	Project Name	Mentor Athletics 2018
	Target Area	Countywide
	Goals Supported	Public Services
	Needs Addressed	Non-housing Community Development
	Funding	CDBG: \$25,000
	Description	Maintain/create new mentored relationships between low-income housing youth and an athletic Coach/Mentor providing meaningful sports/recreational opportunities to engage in physical activity, healthy lifestyle choices and life skill building.

	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	15 low income youth
	Location Description	Low income youth living in public housing in Oregon City and Milwaukie, Oregon.
	Planned Activities	Maintain/create new mentored relationships between low-income housing youth and an athletic Coach/Mentor providing meaningful sports/recreational opportunities to engage in physical activity, healthy lifestyle choices and life skill building. Low income youth living in public housing in Oregon City and Milwaukie, Oregon.
15	Project Name	Homeless Count Planning 2021
	Target Area	Countywide
	Goals Supported	Homeless Assistance
	Needs Addressed	Homelessness
	Funding	CDBG: \$20,000
	Description	Planning, implementation, data collection, reporting and evaluation for 2019 homeless count, a HUD mandated activity. Planning for 2021 homeless count. Special efforts made to reach underserved populations, veterans, unaccompanied youth & rural homeless.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	Not applicable
	Location Description	Countywide
	Planned Activities	Planning, implementation, data collection, reporting and evaluation for 2019 homeless count, a HUD mandated activity. Planning for 2021 homeless count. Special efforts made to reach underserved populations, veterans, unaccompanied youth & rural homeless.
16	Project Name	Tenant Base rental Assistance 2018
	Target Area	Countywide
	Goals Supported	Homeless Assistance AFH Goal: Housing access for protected classes

	Needs Addressed	Homelessness AFH: 1. Lack of affordable, accessible housing in AFH: 2. Availability of affordable units
	Funding	HOME: \$50,000
	Description	The TBRA Program will assist individual households who are homeless or at risk of becoming homeless. Maximum assistance is 24 months and may be used for rent, utility costs, security deposits, and/or utility deposits.
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	10 low income families/households
	Location Description	Scattered site housing
	Planned Activities	The TBRA Program will assist individual households who are homeless or at risk of becoming homeless. Maximum assistance is 24 months and may be used for rent, utility costs, security deposits, and/or utility deposits.
17	Project Name	CHAP Homebuyer Assistance Program 2018
	Target Area	Countywide
	Goals Supported	
	Needs Addressed	
	Funding	\$50,000
	Description	This project will assist low-income first-time homebuyers in purchasing single-family homes by providing funds for down payment and closing costs
	Target Date	7/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	5 low income households
	Location Description	Countywide
	Planned Activities	This project will assist low-income first-time homebuyers in purchasing single-family homes by providing funds for down payment and closing costs

18	Project Name	HOME Multifamily Housing Project
	Target Area	Countywide
	Goals Supported	Affordable Housing AFH Goal: Develop new housing units
	Needs Addressed	Affordable Housing AFH: 1. Lack of affordable, accessible housing in AFH: 2. Availability of affordable units
	Funding	HOME: \$458,201
	Description	HOME Multifamily Housing Project and location to be determined.
	Target Date	7/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	30 units of housing for low-income households. HOME Multifamily Housing Project to be determined.
	Location Description	TBD
	Planned Activities	HOME Multifamily Housing Project to be determined.
19	Project Name	HOME CHDO Operating funds 2018
	Target Area	
	Goals Supported	Affordable Housing
	Needs Addressed	Affordable Housing AFH: 1. Lack of affordable, accessible housing in
	Funding	HOME: \$26,000
	Description	HOME Community Housing Development Organization (CHDO) Operating funds
	Target Date	7/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	Not Applicable
	Location Description	Not Applicable
	Planned Activities	HOME Community Housing Development Organization (CHDO) Operating funds
	Project Name	Emergency Solutions Grant Program 2018

20	Target Area	Countywide
	Goals Supported	Homeless Assistance AFH Goal: Increase accessibility to housing
	Needs Addressed	Homelessness AFH: 1. Lack of affordable, accessible housing in
	Funding	ESG: \$162,411
	Description	Emergency Solutions Grant (ESG) grant administration, contract monitoring and reporting, Emergency Shelters, ESG Homeless Management Information System (HMIS) and ESG Rapid Rehousing
	Target Date	
	Estimate the number and type of families that will benefit from the proposed activities	300 homeless persons will benefit
	Location Description	Countywide
	Planned Activities	Emergency Solutions Grant (ESG) grant administration, contract monitoring and reporting, Emergency Shelters, ESG Homeless Management Information System (HMIS) and ESG Rapid Rehousing ESG Admin: \$12,181, ESG HMIS: \$36,552, ESG Shelters: \$61,000 and ESG Rapid Rehousing: \$52,678

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

No geographic areas in Clackamas County were targeted. Assistance is directed throughout the county.

The 2017 median annual income for the Portland-Metro MSA, which includes Clackamas County, is \$74,700 for a household of 4 people. Low income (50% of AMI) persons and households have an income of less than \$37,350 per year or \$3,112 per month for a family of 4. For a single person the median income per year is \$52,300. A low income adult person would have an income of less than \$26,150 per year or less than \$2,179 per month.

Nine and a half percent (9.5%) of Clackamas County residents are living below the official poverty level in Clackamas County based on the 2005-2009 American Community Survey results. Female householders with children had the highest rates of poverty, and nearly half of female householders with children under the age of five were found to be living below poverty.

The United States Department of Housing and Urban Development (HUD) has generated a series of standards that can be used to determine if a Census Tract Block Group has a minority concentration or a concentration of low-income households. To determine if a low-income concentration exists, the Area Median Income (AMI) of a block group must be below 50% of the Area Median Income for the Metropolitan Statistical Area (MSA).

Geographic Distribution

Target Area	Percentage of Funds
Countywide	90

Table 8 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

No geographic areas in Clackamas County were targeted except to the extent that projects serving an area must be located in a qualified census tract or area with at least 43.44% low- and moderate-income residents. Clackamas County has a 43.44% low-and moderate income

exception.

Discussion

Clackamas County Housing and Community Development Division reviewed both race and ethnic information from the 2010 Census Bureau to determine minority ranking. The 22 block groups with the highest minority ranking represent 10 percent of all the block groups in Clackamas County. A total of 37,379 persons were living in these high concentrations of minority areas.

Concentrations of Both high Low to Moderate Income and high Minority

22 block groups are approximately 10% of the total number of block groups in Clackamas County. These nine (9) block groups rank in the top 22 for both minority and LMI, and represent the block groups with the highest concentrations of poverty and minorities.

Five (5) of the high concentration (HC) block groups are located in the North Clackamas Area. One (1) of the HC block groups is in Milwaukie and two (2) of the HC block groups is in Canby. A total of 13, 855 people live in these areas of concentrated minority and poverty.

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

Clackamas County Housing and Community Development has 2 goals and 2 grants that support affordable housing. The Housing Rehabilitation Goal will be funded with CDBG funds to assist at least 30 households per year. HOME funds will assist 120 households per year through building new units, preserving existing units, providing Tenant Base Rental Assistance and homebuyer financial assistance.

Specific Projects in 2018:

- Housing Rehabilitation Program
- Tenant Based rental Assistance
- CHAP homebuyer assistance program
- HOME Multifamily housing - (NHA Campus Family Housing: 37 units)
- Pleasant Ave Veterans Housing: 24 units

One Year Goals for the Number of Households to be Supported	
Homeless	20
Non-Homeless	120
Special-Needs	10
Total	150

Table 9 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	20
The Production of New Units	60
Rehab of Existing Units	50
Acquisition of Existing Units	20
Total	150

Table 10 - One Year Goals for Affordable Housing by Support Type

Discussion

Affordable housing preservation and new unit development continues to be a priority for the county and the state.

AP-60 Public Housing – 91.220(h)

Introduction

The Housing Authority of Clackamas County (HACC) is a part of the county's Health, Housing and Human Services (H3S) Department.

Actions planned during the next year to address the needs to public housing

- *Provide service coordination through the ROSS grant for 540 public housing units*
- *Coordinate with local Workforce organizations to connect residents with employment and training opportunities*
- *Coordinate with CTEC Youth Services to provide unengaged teens with mentoring, employment and education opportunities.*
- *Coordinate with Mentor Athletics to provide youth sports, recreation and mentoring opportunities for HACC youth*
- *Provide service coordination and support to residents facing eviction.*
- *Coordinate with Public Health to provide for health, mental health and service coordination for most vulnerable residents.*
- *Manage community gardens in the Oregon City and Milwaukie neighborhoods, encourage resident participation and leadership. Provide opportunities for continuing garden and nutrition education.*
- *Manage the Hillside Community Food Basket in coordination with the Oregon Food Bank*
- *Maintain and manage community computers available for resident use*
- *Promote resident engagement and leadership through the HACC Resident Advisory Board*
- *Promote available community resources and opportunities available to residents through a quarterly newsletter.*

Actions to encourage public housing residents to become more involved in management and participate in homeownership

Public housing residents are encouraged to participate in PHA (HACC) management through participation in the activities of the Resident Advisory Board (RAB).

Public housing residents are encouraged to participate in home ownership. HACC residents are provided information about the Clackamas Homebuyer Assistance Program (CHAP) and the IDA Program.

HACC offers a range of economic empowerment strategies to assist public housing residents to become economically self-sufficient. Under the HUD Resident Opportunity for Self-Sufficiency Grant

(ROSS), HACC has a full-time Service Coordinator available to coordinate supportive services and other activities designed to help PHA residents attain economic and housing self-sufficiency.

Effective Partnership with Regional Workforce Agencies Connecting Residents to Employment and Training Opportunities: HACC collaborates with regional work force agencies including the Clackamas Workforce Partnership, Community Solutions of Clackamas County and WorkSource to connect residents with employment and training opportunities. Through these collaborative partnerships residents get basic soft skills instruction, participate in workshops and get support in job search activities, have opportunities to participate in paid on the job training, access training in targeted high growth industries such as construction, manufacturing, health care and technology.

Asset Building through Individual Development Accounts: Through the IDA program, HACC residents are provided with the opportunity to save for post-secondary education, to grow a business or to purchase a home using an IDA matched savings account. IDA matched savings accounts match every \$1 a participant saves with \$3. IDA savers must complete a 10 hour financial education workshop where they learn about budgeting, credit repair and credit building, debt management and avoiding predatory lending. IDA savers are also required to complete 6 hours of asset specific training related to their goal. Through the IDA program, residents are also linked to other financial empowerment resources such as free tax preparation sites, referrals to non-profit credit counseling agencies, home ownership counseling and opportunities to access low-interest emergency loans. HACC residents are also provided information about the Clackamas Homebuyer Assistance Program, a HOME funded downpayment assistance program. By providing access to the IDA Program and the CHAP, Clackamas County encourages public housing residents to participate in homeownership.

HACC encourages Public Housing residents to engage in management through a Resident Advisory Board (RAB). RAB membership is comprised of public housing and Section 8 Housing Choice Voucher (HCV) leaders that represent residents served by HACC. The RAB convenes not fewer than two times per year to develop, approve, review and evaluate HACC's Annual Plan. The RAB is also consulted for input and approval of any significant amendment or modification to the Annual Plan. A member of the RAB has a permanent seat on the County's Housing Advisory Board.

If the PHA is designated as troubled, describe the manner in which financial assistance will be

provided or other assistance

The Housing Authority of Clackamas County (HACC) is not designated as a troubled PHA.

Discussion

Clackamas County has formed a Housing Advisory Board to provide affordable housing policy guidance to the Housing Authority and the Board of County Commissioners. The Housing Advisory Board (HAB) is an eight member body that convenes once each month to discuss topics and issues pertaining to the development, preservation and promotion of affordable housing of all types in Clackamas County.

Currently, Board of County Commissioners has developed a Housing Leadership Committee (HLC). The HLC will be a high level task force that will make recommendations to the BCC on policies, tool kit opportunities (Construction Excise Tax,, Inclusionary Zoning, etc.) and funding sources to encourage affordable housing solutions in Clackamas County. The Housing Advisory Board (HAB) will re-focus on the Housing Authority efforts to redeveop land and improvements in public housing and the Housing Choice Voucher program.

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

The H3S Housing and Community Development Division (HCD) coordinates most of the homeless and other special needs activities through its partnerships with non-profit service providers, the Social Services Division, Continuum of Care, the Housing Authority of Clackamas County public housing agency. Activities include: CoC coordination, CoC Homeless Point in Time count, ESG coordination, CoC Homeless Outreach and Discharge Planning.

Housing Assistance for Alcohol and Drug Recovery: The Behavioral Health Division (BHD) of Clackamas County has developed supportive housing for those in alcohol and drug recovery. BHD, through CODA, has implemented housing assistance and services program for Clackamas County residents in alcohol and drug recovery. The program has three main components: substance abuse recovery, finding any retaining permanent housing, and increasing income by connecting people with benefits and/or employment options. Direct client dollars can be used for, but not limited to, moving costs, rent assistance, application fees, deposits, and paying off previous debts. The target population for this program is individuals participating in alcohol and drug recovery at or below 50% Median Family Income, homeless, or at risk of homelessness.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

Households with dependent children: Locally funded HomeBase (RRH and homelessness prevention) expanded last year, reaching 459 people & plans to increase capacity next year. The locally funded Bridges to Housing Program stabilizes housing for high need homeless families serving 38 families & 63 children last year. Through the Rent Well-RRH project 25 families from the streets/emergency shelter will be assisted. Clackamas Womens Services and a network of churches and faith-based organizations in North Clackamas are working to address family homelessness in their community.

Survivors/Victims of domestic violence: The CoC includes a TH and a PSH project focused on domestic violence survivors and their families. This provider operates an ESG funded DV emergency shelter which recently doubled its beds, a homelessness prevention program, Beyond Shelter, and the newly opened Family Justice Center. The projects involve a wide range of on-site services from over 12 public safety and services agencies, funded by more than 24 public and private entities. Victims in Clackamas County can now access an advocate, plan for their safety, talk to a police officer, meet with a prosecutor, receive medical assistance, file a protective order in a video court, receive information on shelter and

get help with transportation—all in one location on a drop-in basis.

Unaccompanied youth: Springwater is a CoC TH for youth 16- 21 funded with CoC, ESG, local government & private funds. HomeSafe is a CoC TH for pregnant and parenting youth 6 – 21 funded with CoC, local and state grants. Host Homes is funded with local, state and private grants. The program is for 16- 18 year olds attending school houses up to six unaccompanied youth with families. The Outside In program funded with local government grants links with school Homeless Liaisons to provide health services to unaccompanied youth 16-17 in the school & community.

Persons who routinely sleep on the streets or in other places not meant for human habitation:

Clackamas County has a range of services for persons sleeping on the streets or in other places not meant for human habitation. Two major service centers (Clackamas Services Center and Father’s Heart) provide hot meals, clothing, medical services, and severe weather shelter, and are close to where many unsheltered homeless reside. Several smaller agencies also provide basic needs and outreach to homeless on the streets and places not meant for habitation.

Compassion events, similar to Project Homeless Connect, are held throughout the year to provide a “one stop” for basic services, such as food, clothing, medical care, veterans’ services and housing options. A new severe weather winter shelter opened in 2013 in a rural area with a significant homeless camping population.

Homelessness among veterans: Housing Authority of Clackamas County has housed 25 homeless veterans using VASH vouchers. The Veterans Services Office conducts veteran outreach with free medical screenings, warm clothing, information on compensation and other veterans’ benefits, employment, housing, counseling and other services. Clackamas County is part of a new SSVF grant and is providing office space and supplemental rental assistance using state funds for a nonprofit provider of outreach, homeless placement and homeless prevention for veterans. This grant has streamlined access to the regional Grant Per Diem program for vets who are working on permanent housing placement either through VASH, SSVF or other programs.

Addressing the emergency shelter and transitional housing needs of homeless persons

The activities to address emergency shelter needs within the County will be funded through the Emergency Solutions Grants (ESG) program. 1000 Households will receive HESG program services from July 1, 2018 to June 30, 2019. The FY 2018 ESG allocation will be supplemented by matching funds at least equal to its amount.

Primary emphasis will continue to be on payment of emergency shelter operations expenses including utilities, maintenance, insurance, and staff salary costs. The purpose of emphasizing payment of operations expenses is to provide some predictability and stability to the operation of the shelters by

assuring that their most basic expenses are met. This assures the continued operation of the facilities in times of scarce and fluctuating resources, and it compliments specific fundraising efforts for special projects.

Northwest Housing Alternatives' Annie Ross House and Clackamas Women's Services' Evergreen House, provide emergency shelter to homeless families with children and survivors of domestic violence, respectively. Independent living services are provided through The Inn's Springwater program, which targets assistance to the homeless youth population. Los Ninos Cuenten's Casa Hogar provides emergency shelter services to Hispanic/Latino homeless families and individuals who have survived domestic violence. Case management at each program improves vocational and coping skills to make the transition from homelessness to independent living. Continuum of Care funds Also provide 49 beds of transitional housing for homeless households, including families, singles, and youth.

Clackamas County's Coordinated Housing Access system provides a one-stop option for homeless individuals and families to be assessed and matched with all homeless programs in the County for which they are eligible.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Chronically homeless individuals and families: In 2014, The Continuum of Care increased the number of beds for chronically homeless persons in Clackamas County. The CoC did this by leveraging Housing Authority Housing Choice Vouchers, converting Permanent Supportive Housing (PSH) beds to chronically homeless beds, reaching out to PSH providers to prioritize beds for chronically homeless persons and using Medicaid to provide enhanced services for chronically homeless persons in PSH beds.

Families with children: The CoC increased capacity and worked on outreach goals to end homelessness among households with dependent children. The HomeBase program utilized multiple funding sources to expand and become the largest RRH and homelessness prevention program in the County. Through the reallocated Rent Well RRH project, the CoC will be able to stabilize housing for 15 families from the streets/emergency shelter. The locally-funded Bridges to Housing (B2H) Program stabilizes housing for high-need homeless families and assisted 136 persons last year. Outreach plan includes referrals from different geographic parts of the county. An outreach strategy adopted by the HPC educates landlords

on housing choice vouchers.

B2H serves high-needs homeless families with children, with a capacity of 30 families at a time. These homeless families have multiple complex needs which often include but are not limited to housing barriers, domestic violence, addictions, mental health issues and disabling conditions. B2H families receive longer term housing subsidies and intensive services designed to support their income self-sufficiency and permanent housing stability as well as the children's and adult's educational success.

Veterans and their families: Housing Authority of Clackamas County has housed 45 homeless veterans using VASH vouchers. The Veterans Services Office coordinates with Social Services to conduct veteran outreach with free medical screenings, warm clothing, information on compensation and other veterans' benefits, employment, housing, counseling and other services. Clackamas County is part of an SSVF grant and provides office space for a nonprofit provider of outreach, homeless placement and homeless prevention for veteran families. This grant has streamlined access to the regional Grant Per Diem program for vets who are working on permanent housing placement either through VASH, SSVF or other programs.

Unaccompanied youth: Springwater Transitional Housing for youth 18-23 is funded with CoC, ESG, local government, and private funds. Case management, vocational education services, physical and mental health support, supervision and shelter are provided to youth.

HomeSafe Transitional Housing for pregnant and parenting youth 16 – 21 is funded with CoC, local and state grants. Youth have access to rent assistance in scattered apts., case management, referral and linkages to mainstream services.

Independent Living Plans (ILPs) are funded with state and local govt. funds for independent living services to youth transitioning from foster care. Case management is provided for youth discharged from Child Welfare at 18 or 19 years old without permanent housing. Case managers refer and link ex-foster youth to programs and services.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

These discharge plans have been confirmed through the Continuum of Care application and planning

process.

Foster Care: The Oregon Department of Human Services (DHS), dictates the Foster Care Discharge Policy in which the County actively participates. DHS refers willing children to a Continuum of Care provider for a Life Skills/Transition Readiness Assessment. This results in: 1. Identification of resources and linkages needed to assist the child in transitioning to independent living, including life skills training, housing subsidies, college tuition, and health insurance and 2. Preparation of an individualized Comprehensive Transition Plan which must be approved by a Family Court Judge every 6 months until the child is successfully transitioned to independent living.

Youth can access Chafee rental subsidies to help them secure an apartment. They can secure tuition-free access to a state college along with Chafee grants to assist with room and board. Youth with developmental disabilities and/or mental illness exiting the foster care system continue to receive an array of services including options such as adult foster care and supported housing that are based on unique client needs. Each option is designed to ensure that youth exiting the foster care system are not routinely discharged into homelessness.

Health Care: The discharge planning for low-income and disabled people has historically resided with the State through the Medicaid program. With the advent of the Affordable Care Act (ACA) and the expansion of Oregon's Medicaid program, discharge planning is shifting to local control. All Medicaid providers are joined in Coordinated Care Organizations (CCOs) covering specific geographic areas. The CCOs integrate physical, mental and dental health services. The ACA Medicaid expansion has been structured to align the financial incentives with clinical outcomes/housing status of patients. This has begun to persuade hospital systems and health care providers to plan and act outside their silo, to begin discussions with CoCs about effective liaison and resource sharing.

Mental Health: The Discharge Policy in place for persons being discharged from a mental health facility is ensured by Clackamas County Behavioral Health Department (CCBH). As part of Health Share, the area's Medicaid Coordinated Care Organization, CCBH has both financial and clinical incentives to ensure that no county residents are discharged from a psychiatric hospital without housing and services. In addition, Oregon is under an U. S. Dept. of Justice 4 year plan to provide better community outcomes for people with mental illness. Specific mandates are subcontracted by the State to CCBH. The local Discharge Policy, which is monitored and enforced by the State, requires all adults leaving a psychiatric hospital be housed consistent with their level of care needs and personal wishes.

Corrections: The purposeful effort to structure successful community re-entry for inmates is a local mandate spearheaded by the Clackamas County Sheriff's Office (CCSO) which participates on the CoC governing board. Because community safety is its #1 priority, CCSO promotes post-discharge services with housing to reduce recidivism. Likewise, the Clackamas County Behavioral Health (CCBH) is a provider in the local Medicaid program, Health Share. CCBH understands that successful re-entry will

reduce incidence and cost of ER visits and hospitalization.

Discussion

Our Jurisdiction receives no HOPWA funding. Our jurisdiction works with Cascade Aids Project (CAP) a service agency which provides housing and services for persons that are HIV positive in our three-county area that is referred to as the Portland Metro Area.

AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

The majority of resident feedback during Assessment of Fair Housing community meetings in 2016 was that most people liked where they lived, however, many people including persons with disabilities felt that it was very difficult to find another affordable unit should they want to move. Current state law provides a mechanism to ensure that a certain percentage of new development is reserved for low-income tenants (known as “inclusionary housing” or “inclusionary zoning”). Clackamas will be evaluating the feasibility and the various options for implementing inclusionary zoning within the county.

Update for 2018.....

Zoning Issues: Multi-family housing developments are typically restricted to areas that are zoned as high or medium density residential in each community and throughout the jurisdiction. Communities have many requirements for multifamily housing including: amenities such as onsite parking, fire access, buildings that “match” the character of the neighborhood and traffic impact studies, etc. All these requirements of multifamily housing projects increase the initial cost and result in affordable housing that is expensive to build and maintain. The State of Oregon has a land use plan (Goal 10) that requires all communities to allocate land for multifamily developments however some communities are more compliant than others. State and regional housing advocates are beginning to challenge communities to meet the Goal 10 requirements to provide land for multi-family housing developments. In 2015 Housing Land Advocates joined the Coalition for Affordable and Safe Housing to repeal Oregon’s ban on inclusionary zoning, and allow Oregon communities access to this important tool for creating affordable housing in areas of opportunity. The ban was lifted in 2016 with the passage of HB1533 which became effective June 2, 2016.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

As mention in AP-60 Public Housing the Clackamas County has formed a Housing Advisory Board to provide affordable housing policy guidance to the Housing Authority and the Board of County Commissioners. The Housing Advisory Board (HAB) is an eight member body that convenes once each month to discuss topics and issues pertaining to the development, preservation and promotion of affordable housing of all types in Clackamas County.

Currently, Board of County Commissioners has developed a Housing Leadership Committee (HLC). The

HLC will be a high level task force that will make recommendations to the BCC on policies, tool kit opportunities (Construction Excise Tax,, Inclusionary Zoning, etc.) and funding sources to encourage affordable housing solutions in Clackamas County. The Housing Advisory Board (HAB) will re-focus on the Housing Authority efforts to redevelop land and improvements in public housing and the Housing Choice Voucher program.

In Clackamas County, many of the existing patterns of sprawl, decentralization and homogenous housing developments resulted from commuter demand for housing. Homogeneity, whether exclusively single family or multifamily, can result in limited housing choice suitable to needs and incomes of County residents. Undefined or subjective design standards can also make it difficult to meet affordable housing needs within built-out communities.

Access to affordable and adequate housing for households with lowest incomes has been restricted over the years. Since 2000, median renter income in the U.S. has fallen relative to contract rents. Utility costs have been increasing, as has the price of commuting to work. Quality of housing, particularly at the lowest rent levels, is at risk if property owners do not have assets to maintain units. The result is that lowest income tenants, in addition to the burden of finding housing at all, may be forced to live in unsuitable or unsafe housing.

A range of suitable housing choices should ideally be available to fit the entire range of household incomes, providing choices for all residents, including those who work in the community.

Households with extremely low incomes, especially those needing support services, find very few options. The Clackamas County 2017-2021 Comprehensive Plan, recognizes the goal of providing a variety of housing types and densities to meet the needs of County residents.

Discussion:

No additional information.

AP-85 Other Actions – 91.220(k)

Introduction:

Clackamas County Housing and Community Development Division (HCD) proposed the following actions in program year 2018 that address obstacles to meeting underserved needs, foster and maintain affordable housing, develop institutional structure, encourage public housing residents to become more involved in management and encourage public housing residents to attain home ownership. HCD continues to request proposals from housing development organizations for the development and preservation of multi-family affordable rental housing projects that serve lower income households. Funding available to support these activities included: HOME funds, Housing Choice Vouchers and Public Housing Replacement Funds.

In FY2018 potential special needs housing projects include: the Tiny Houses Community project with a location yet to be determined.

Actions planned to address obstacles to meeting underserved needs

Clackamas County HCD will address obstacles to meeting underserved needs in FY2018 through these activities:

1. Leverage available program funds by requiring sponsor contributions.
2. Seek additional funding from public and private sources to finance program activities.
3. Continue a program to assist renters and homeowners who need safety and accessibility adaptations in order to remain in their own homes.
4. Investigate the development and implementation of an inspection program to enforce habitability standards in multi-family housing projects.
5. Promote and assist the development of additional transitional housing which will be available to low- and very low-income individuals and families.
6. Promote and assist the development of affordable housing which will be available to very low, low-,

and moderate-income individuals and families.

7. Increase capacity to assist Homeless Families with Children.

8. Develop a set of program policies to create a 15 percent set-aside in all new affordable housing developments specifically to assist the targeted special need populations.

9. Promote the use of Section 8 Project Based Vouchers into the development of any new affordable housing project.

Actions planned to foster and maintain affordable housing

HOME funds will be used primarily to develop affordable housing units for rental by low-income individuals and families. HOME funds will also be used to assist Community Housing Development Organizations (CHDOs) with grants for operating costs allowed by 24 CFR 92.208. HCD ensures that HOME-assisted rental housing remains affordable by monitoring projects during the period of affordability for compliance with the HOME regulations at 24 CFR Part 92.

Clackamas County ensures the long-term affordability of HOME-assisted homebuyer properties during the period of affordability by monitoring to verify that the home remains owner-occupied. Monitoring activities include both desk and on-site monitoring.

For FY2018 HOME funded multifamily housing projects have yet to be determined due to the federal funding uncertainties and the ripple effect on the Low Income Housing Tax Credit program administered by the State of Oregon.

Actions planned to reduce lead-based paint hazards

Clackamas County contracts with a professional firm to provide lead hazard evaluation services at no cost to the owners and buyers participating in its housing rehabilitation and homebuyer programs. When such hazards are discovered, they are addressed in a manner consistent with procedures approved by HUD, the State Health Division and the Department of Environmental Quality. However, the County does not anticipate using HOME funds for its housing rehabilitation programs in the next year. The HOME-funded project will be new construction

and will not involve lead-paint hazards.

Actions planned to reduce the number of poverty-level families

The Housing and Community Development Division (HCD) coordinates efforts with the Social Services Division (SSD) to reduce the number of households below the poverty line. SSDs activities include:

- Participation in and staffing of the Continuum of Care in Clackamas County as well as the Continuum of Care Steering Committee (Governing Board) and the Homeless Policy Council.
- Coordination and maintenance of liaison relationships with McKinney Vento funded homeless liaisons that support the educational success of homeless children. These include each of the School Districts in the county, all Clackamas Educational Service District offices, and the State of Oregon Department of Higher Education.
- Contracting with a community based organization for a Homeless Student Success Project that enhances the capacity of the homeless liaison at the highest poverty school district in Clackamas County.
- Participation as one of the four lead agencies on the regional steering committee for the Rent Well tenant education program.
- Participation in the operations of the Janssen Transitional Housing Project (JTHP). SSD currently provides case management for the families living at Janssen. This HUD funded project, sponsored by the Housing Authority of Clackamas County, has been in operation for more than 20 years. JTHP provides seven (7) transitional housing units, intensive and comprehensive case management, flexible assistance to support residents increasing their income and housing stability, and other supportive services for homeless families with children.
- Maintain the Housing Rights and Resources Program which responds to the general public regarding emergency housing, housing discrimination, landlord-tenant concerns, low-cost housing, rent assistance and a variety of other housing-related issues.
- Maintain a contractual relationship with Legal Aid Services of Oregon and the Fair Housing Council of Oregon to support the delivery of Fair Housing services to Clackamas County residents. This contractual relationship hastens service delivery for people experiencing

potential discrimination and/or fair housing violations.

Actions planned to develop institutional structure

The Housing and Community Development Division coordinates efforts with the Social Services Division (SSD) to develop institutional structure to strengthen the services system in Clackamas County.

SSD and CD worked together with Continuum of Care partners to develop and implement a county wide Coordinated Housing Access system. This system provides centralized access, eligibility screening and prioritization, using HUD guidelines, to all HUD funded homeless services and housing programs within the County. Three non-HUD funded homeless housing programs also elected to join the new coordinated system.

SSDs activities include: - Operation of the State of Oregon Housing and Community Services Low Income Rental Housing Fund (LIRHF). LIRHF provides time-limited rental payment assistance to caseload-managed clients of SSD.

- Administration of State Homeless Assistance Program (SHAP) funds sub-granted to the Annie Ross House family shelter and Clackamas Women's Services domestic violence shelter.

- Initial screening and intake for families wanting to enter the Annie Ross House shelter and two interfaith hospitality shelter networks (SON and LOTSM).

- Administration of the federal Emergency Food and Shelter Program (EFSP) and contracts with local shelters to provide night of shelter to homeless persons.

- Local administration of the state Emergency Housing Account (EHA). These funds support case management to families accessing the two interfaith hospitality network shelters. EHA funds are also used to support shelter bed nights at Clackamas Women's Service's, Annie Ross House, and the Inn Home emergency shelters.

- Operation of a locally funded Bridges to Housing program that provides high needs homeless families a longer term housing subsidy and intensive, comprehensive case management that

focus on permanent housing stability and increasing income.

- Operation of the Rent Well tenant education program, providing year-round, ongoing tenant education in Spanish and English as well as case management to help homeless families with barriers to housing placement locate and access permanent housing units.
- Operation of the Jackson Transitional program for adults who are homeless.
- Operation of the HSP program for families who are homeless or at imminent risk of homelessness needing short term rental assistance and supportive services in order to stabilize.
- Severe Weather Warming Centers at three sites, providing a total of 99 low barrier shelter beds for homeless persons on cold winter nights. These sites provide important linkages for the community efforts to identify and re-house chronically homeless persons.

Actions planned to enhance coordination between public and private housing and social service agencies

The Housing and Community Development Division coordinates activities between public housing and assisted housing agencies through funding and reporting outcomes to state and federal agencies. The HOME program provides vital funding to private assisted housing providers that also apply for state tax credit funding. HOME funding is one of few sources of funds for affordable housing units in our rural urban county. Housing Rights and Resources program is an H3S program in the Social Services Division that provided housing referral and information services on all available housing services. H3S , HCD and HACC will coordinate on the following action items:

1. Coordinate with the Countys Community Health and Social Services Divisions to maximize utilization of resources available to meet the needs of the homeless and persons with mental illness who need housing services.
2. Maintain the CCSS partnership with the State of Oregon Department of Human Services to operate the Housing Stabilization Program in the county. Now in its seventh year, the program serves families with children for up to 12 months. CCSS provides families intensive case management services with a goal of locating and maintaining safe, stable and affordable housing.
3. Maintain the partnership with SSD, Clackamas Women's Services, and Northwest Housing Alternatives to administer and operate the Homeless Prevention and Rapid Re-Housing Program. The program includes 3 elements: Rent Subsidy Program designed to provide short term (3 months) and medium term (up to 6 months) of rent subsidies to low- and moderate-income renters. A Rapid Re-Housing

Program designed to provide housing placement, short-term rental assistance, case management and other support services to families with dependent children who have been living in emergency shelters or on the streets for at least seven days. Counseling and Housing Stabilization Services including case management, outreach, housing search and placement, legal services, and Credit Repair.

4. Maintain the CCSS partnership with HACC and Mental Health to operate the HUD funded Shelter-Plus-Care Program. Shelter Plus Care provides rent assistance to case managed clients of Social Services and Mental Health who are homeless.

5. Coordinate with SSD and Northwest Housing Alternative to ensure the continued success of the HomeBase Program homeless prevention and rapid rehousing services. This coordination will include sharing of information concerning case management best practices, and consistent and accurate data entry into the Homeless Management Information System.

Discussion:

Clackamas County Housing and Community Development Division (HCD) works in conjunction with the Housing Authority of Clackamas County, the Social Services Division, the Behavioral Health Division, Community Health Centers and community non-profit housing providers and private non-profit social services providers to address obstacles to meeting underserved needs, foster and maintain affordable housing, develop institutional structure, encourage public housing residents to become more involved in management and encourage public housing residents to attain home ownership.

In 2018 HCD is funding several affordable housing projects, an employment training program, a fair housing rights and information program, homeless prevention and rapid rehousing services, and a youth mentoring program for youth in public housing.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(I)(1,2,4)

Introduction:

The Clackamas Homebuyer Assistance Program (CHAP), a down payment assistance program for first-time homebuyers will be available for low-income residents. More information about the CHAP can be found here: <http://www.clackamas.us/communitydevelopment/chap.html>

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	0

Other CDBG Requirements

1. The amount of urgent need activities	1
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	90.00%

HOME Investment Partnership Program (HOME)

Reference 24 CFR 91.220(I)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is	
Annual Action Plan	71
2018	

as follows:

The County does not anticipate offering any other forms of investment of HOME funds beyond those described in 24 CFR 92.205(b) in the 2016 program year.

The County will ensure that matching contributions from non-federal sources are made to housing that qualifies as affordable housing under the HOME program in 2016-2017. Matching funds will be in amount not less than 25 percent of the funds required to be matched per 24 CFR 92.218. We anticipate that eligible match will come primarily from non-federal cash contributions such as the State Housing Trust Fund, the value of foregone local fees or taxes and the value of donated voluntary labor and professional services.

HOME Project-Related Soft Costs

When HOME funds are allocated to an affordable housing project (as opposed to TBRA or CHDO operating), Clackamas County will have the option of charging reasonable and necessary staff and overhead support to the project as project-related soft costs. These may include:

- Processing of applications for HOME funds
- Appraisals required by HOME regulations
- Preparation of work write-ups, specifications, and cost estimates or review of these items if an owner has had them independently prepared
- Project underwriting
- Construction inspections and oversight
- Project documentation preparation
- Costs associated with a project-specific environmental review
- Relocation and associated costs
- Costs to provide information services such as affirmative marketing and fair housing information to prospective tenants
- Staff and overhead costs related any of the above actions

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

The Clackamas Homebuyer Assistance Program (CHAP) provides funds to low-income first

time homebuyers for downpayment and reasonable closing costs. In accordance with 24 CFR 92.254(a)(4), the period of affordability is five years.

Should the CHAP property be voluntarily or involuntarily sold or title transferred, or should the owner no longer use the property as the primary residence, the entire amount of HOME funds invested in the project shall become immediately due and payable to the County. However, if the sale of the property occurs during the five-year period of affordability, and there are no net proceeds from the sale of the property, or the net proceeds are insufficient to repay the entire HOME investment due, the amount of HOME funds recaptured will be based on the net proceeds available from the sale, if any. The net proceeds are defined as the remainder of the final sale price of the property minus any superior non-HOME loan repayment and closing costs. *24 CFR §92.254(a)(5)*

During the five-year period of affordability, the County may permit a subsequent low-income purchaser of a CHAP property to assume the existing CHAP loan and HOME recapture obligation entered into by the original buyer when, a) no additional HOME assistance is provided to the subsequent homebuyer, and, b) the subsequent low-income homebuyer meets all of the eligibility requirements of the CHAP. In cases in which the subsequent homebuyer needs (and qualifies for) HOME assistance in excess of the balance of the original CHAP loan, the HOME subsidy to the original homebuyer must be recaptured. A separate CHAP loan shall be provided to the new homebuyer, and a new HOME affordability period shall be established based on that assistance to the buyer. *24 CFR §92.254(a)(5)(ii)*

More information is available at
<http://www.clackamas.us/communitydevelopment/chap.html>.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

Clackamas County intends to use the HOME affordable homeownership limits for the area provided by HUD. The County further ensures the long-term affordability of HOME-assisted homebuyer properties by enforcing resale and recapture provisions and by monitoring to verify that the home remains owner-occupied during the period of affordability. More

information is available at <http://www.clackamas.us/communitydevelopment/chap.html>.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

The County does not anticipate using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds in the 2017 program year.

Emergency Solutions Grant (ESG) Reference 91.220(l)(4)

1. Include written standards for providing ESG assistance (may include as attachment)

Clackamas County has had several meetings with ESG providers and members of the CoC to develop CoC and ESG policies and performance standards. ESG policies have been developed in consultation with both ESG and CoC providers starting in January 2014 and on an ongoing basis. HCD staff consulted with CoC Steering Committee members on March 8, 2018 to discuss using ESG funds for Rapid Rehousing in 2018.

HCD staff consulted with CoC Homeless Council members on March 28, 2018 to discuss using ESG funds for Rapid Rehousing in 2018. CoC members and CoC Steering Committee has added an equity performance measure in 2018.

HCD staff have attended CoC meetings for the last few years to discuss using ESG funds for HMIS ESG and CoC data collection efforts. CoC members have been aware and informed on the ESG program changes and funding. CoC members continue to be involved in developing performance measurement standards and priorities for both CoC and ESG funding.

2. If the Continuum of Care has established centralized or coordinated assessment system that meets HUD requirements, describe that centralized or coordinated assessment system.

A CoC working group of providers met in 2013 to implement coordinated assessment process. The result was a tool designed and agreed on by all affected programs with the intention of obtaining the most relevant information to make an appropriate referral. The

Coordinated Housing Access (CHA) was launched on January 1, 2015 using a telephone call-in system and the HMIS system. CoC agencies and providers are reviewing processes to improve and streamline the intake process. The planning process involved identifying resources in our region and how resources are accessed by homeless persons and families. The system will cover the entire geographic region using a “hub” system as much as possible, though large portions of the county are rural and sparsely populated. The system will be easily accessed, primarily through our Housing Rights and Resources line, a one-stop number for housing information. This number is made available through 2-1-1, the county’s website, flyers and referring agencies.

3. Identify the process for making sub-awards and describe how the ESG allocation available to private nonprofit organizations (including community and faith-based organizations).

Currently ESG funds are allocated to four (4) nonprofit providers and the County as the HMIS administrator. The process for making sub-awards was to advertise the availability of ESG funding in 2016 as part of the 2017-2019 funding cycle. Four applications to provide Emergency Shelter services were received and reviewed. All four nonprofits were funded for homeless emergency shelter services. One of the shelters (ARH) was not be funded for the FY2017 and 2018 years because the shelter is being re-build as part of a campus re-design project. A Rapid Rehousing and Homeless prevention program will also be funded in FY2018. The contracts will be renewed annually at level funding. ESG and CoC providers are engaged in homeless services planning and ESG allocations. In FY2018 we anticipate that the ESG funding level will be decreased by 5% each year, the HMIS project will be decreased or increased based on th eanticipated funding levels.

4. If the jurisdiction is unable to meet the homeless participation requirement in 24 CFR 576.405(a), the jurisdiction must specify its plan for reaching out to and consulting with homeless or formerly homeless individuals in considering policies and funding decisions regarding facilities and services funded under ESG.

The CoC has a formerly homeless person on the CoC Steering Committee governing board.

5. Describe performance standards for evaluating ESG.

ESG providers are evaluated using the CoC national performance measurements standards. Agencies that provide only emergency shelter services are evaluated by examining one measure of success: What percentage of persons leaving shelter are going to permanent housing?

The ESG program has not yet set a minimum percentage for shelters to meet. After another year of collecting data the ESG program staff and the CoC Steering Committee will meet to review the results and set a minimum standard. Since each shelter is population specific the performance can vary greatly.

In 2018 the ESG program will continue funding Rapid Rehousing and or Homeless prevention activities that were funded for the first time in 2014.

ESG program staff are working closely with the Continuum of Care for homeless programs to coordinate efforts, implement a coordinated assessment process, update CoC and ESG program policies and establish performance measures.

For the 2018 Action Plan, HCD staff presented and discussed recommended funding for CDBG and ESG projects with CoC members on March 28, 2018. HCD staff discussed ESG and CoC funding allocations, performance standards, outcomes, policies and procedures as well as the annual consultation process which occurs in March of every year. CoC members were invited to submit testimony on the funding levels and projects in the 2018 Action Plan at the Feb 21st public meeting and the April 12th public hearing.

Funding Recommendations

for the
2017-2019 Community Development Block Grant Program
and the
2017-2019 HOME and Emergency Shelter Grant Programs

2017 Grant Funds	2018 Grant Funds	2019 Grant Funds
---------------------	---------------------	---------------------

Community Development Block Grant City Projects

Canby

- | | | |
|---|-----------|--|
| 1. N Pine Pedestrian, Storm and Street Improvements | \$220,000 | |
| Construct sidewalks on both sides of the street, drainage and street improvements on N Pine between NE 10th Ave. and NE 8th Ave | | |

Colton

- | | | |
|---|-----------|--|
| 2. Colton Water District - Virgil Rd. Waterline Replacement | \$135,000 | |
| Replace approximately 1,200 feet of old 4" waterline with 6" C900 PVC and add a fire hydrant at the north end of Virgil Rd. | | |

Estacada

- | | | |
|---|-----------|----------|
| 3. Shafford Street Reconstruction Phase 1 (SE 4th - NE 2nd) | \$150,000 | |
| Reconstruction of roadway surface, new curbs and sidewalks, ADA ramps and stormwater conveyance system in Estacada. | | |
| 4. Heat Pump Replacement/Roof Resurfacing | \$75,000 | \$25,000 |
| Funding to replace 6 aged Heat Pumps on the Estacada Community Center | | |

Gladstone

- | | | |
|---|-----------|--|
| 5. E. Clarendon St. 2017 | \$255,000 | |
| Improvements to E. Clarendon St between Portland & Union Avenues, including waterline, sewer, storm drains, new curbs, sidewalks, & new street surface. | | |

Sandy

- | | | |
|--|----------|--|
| 6. Southeast Sandy ADA Improvements | \$75,000 | |
| Funding to re-construct a minimum of 30 (thirty) existing ADA wheelchair ramps on public streets in th ecity of Sandy. | | |

Unincorporated/Countywide Projects

Clackamas

- | | | | |
|------------|-----------|--|--|
| 7. WeBUILT | \$140,000 | | |
|------------|-----------|--|--|
- Funding to design and build a road and sidewalk from SE 90th to the road end west on Tolbert St, and place a new fire hydrant at 8909 SE Tolbert. This location will develop permanent multi-family housing for people with disabilities.

Countywide

- | | | | |
|------------------------------------|-----------|-----------|-----------|
| 8. Housing Rehabilitation Programs | \$400,000 | \$400,000 | \$400,000 |
|------------------------------------|-----------|-----------|-----------|
- Housing Rehabilitation Programs provide needed home-repair assistance to low income households throughout Clackamas County.
- | | | | |
|---|----------|----------|-----------|
| 9. Mobile/Manufactured Home Roofing Project | \$40,000 | \$70,000 | \$100,000 |
|---|----------|----------|-----------|
- Roof Replacement for owner occupied mobile/manufactured homes located in parks throughout Clackamas County.
- | | | | |
|-----------------------------------|----------|----------|----------|
| 10. Optional Emergency Assistance | \$25,000 | \$25,000 | \$25,000 |
|-----------------------------------|----------|----------|----------|
- Emergency assistance to individuals or agencies for emergency assistance due to a fire, landslide, snowstorm, flood or other such emergency. Funding and assistance with relocation of residents and/or associated expenses to mitigate the effects of the emergency conditions.

Jennings Lodge

- | | | | |
|---------------------------|--|-----------|----------|
| 11. Head Start Classrooms | | \$175,000 | \$75,000 |
|---------------------------|--|-----------|----------|
- Funding to increase capacity to serve from 40 to 60 additional Head Start children and their families by completing the River Road complex. Completion of this project will add 1 classroom and free up another to serve at risk young children. (Tier 2 funding project)

Molalla

- | | | | |
|----------------------------------|----------|--|-----------|
| 12. Arbor Terrace Rehabilitation | \$50,000 | | \$150,000 |
|----------------------------------|----------|--|-----------|
- Arbor Terrace farmworker housing needs substantial rehabilitation. The Housing Authority of Clackamas County owns Arbor Terrace Apartments, a farmworker affordable housing development in Mollala, Oregon.

Oregon City

- | | | | |
|--------------------------------------|-----------|--|--|
| 13. Pleasant Avenue Veterans Housing | \$255,000 | | |
|--------------------------------------|-----------|--|--|
- Funding to design and build a 22-units of housing on Pleasant Avenue in Oregon City. This affordable housing project will provide formerly homeless veterans and veteran families a safe, stable and affordable place to live.

TBD

- | | | | |
|---|----------|-----------|-----------|
| <p>14. Tiny Houses Community
Funding for land acquisition, site planning, site preparation and other associated costs of creating a Tiny Houses Community for up to 10 homeless adults in Clackamas County, including eligible costs for a community facility and 10 tiny homes.</p> | \$50,000 | \$100,000 | \$35,000 |
| <p>15. Cottage Housing Cluster for Affordable Homeownership
Funding to purchase one or more vacant parcels of land to be developed with clusters of affordable, modestly-sized cottage land trust houses for low income homebuyers.</p> | | | \$227,000 |

Public Service Projects

Countywide

- | | | | |
|---|-----------|-----------|-----------|
| <p>16. Clackamas County Employment Investment Program
Clackamas County Employment Investment Program assists 67 low-income Clackamas County residents per year with significant barriers to employment (201 total) to increase self-sufficiency, with additional outreach contacts to public housing residents.</p> | \$50,000 | \$45,000 | \$40,000 |
| <p>17. Housing Rights and Resources
Housing Rights & Resources is a partnership between Clackamas County Social Services, Legal Aid & Fair Housing Council. It actively addresses & promotes fair housing & furthers housing opportunity for all, focusing on homeless & low-income residents.</p> | \$140,000 | \$140,000 | \$140,000 |
| <p>18. Jackson Transitional Housing
Jackson Transitional Housing provides 6 housing units with supportive services for primarily homeless adults or childless couples, works with participants to increase income and address and overcome barriers to permanent housing placement. (includes additional Tier 2 funding)</p> | \$63,000 | \$67,000 | \$67,000 |

Milwaukie

- | | | | |
|---|----------|----------|----------|
| <p>19. Sports Mentorship for Low-Income Youth
Maintain/create new mentored relationships between low-income housing youth and an athletic Coach/Mentor providing meaningful sports/recreational opportunities to engage in physical activity, healthy lifestyle choices and life skill building.</p> | \$30,000 | \$25,000 | \$20,000 |
|---|----------|----------|----------|

Planning and Admin

Countywide

20. 2019 and 2021 Homeless Count Planning Planning, implementation, data collection, reporting and evaluation for 2019 homeless count, a HUD mandated activity. Planning for 2021 homeless count. Special efforts made to reach underserved populations, veterans, unaccompanied youth & rural homeless.	\$10,000	\$20,000	\$10,000
21. CDBG Grant Administration and Planning CDBG grant administration, planning, monitoring and reporting.	\$385,889	\$356,095	\$347,290
Community Development Block Grant Sub-Total	\$1,998,889	\$1,973,095	\$1,661,290

HOME Investment Partnership Act Unincorporated/Countywide Projects

Countywide

22. Tenant Based Rental Assistance The TBRA Program will assist individual households who are homeless or at risk of becoming homeless. Maximum assistance is 24 months and may be used for rent, utility costs, security deposits, and/or utility deposits.	\$75,000	\$75,000	\$75,000
23. CHAP Homebuyer Assistance Program This project will assist low-income first-time homebuyers in purchasing single-family homes by providing funds for down payment and closing costs.	\$50,000	\$50,000	\$50,000
24. HOME Grant Administration HOME Grant administration, contract monitoring and reporting.	\$71,252	\$67,689	\$64,305

Planning and Admin

25. HOME Multifamily Housing Project HOME Multifamily Housing Project to be determined.	\$490,265	\$458,201	\$427,741
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Countywide

26. HOME CHDO Operating funds HOME funds for CHDO Operating Funds	\$26,000	\$26,000	\$26,000
HOME Investment Partnership Act Sub-Total	\$712,517	\$676,890	\$643,046

Emergency Solutions Grant Unincorporated/Countywide Projects

Suppressed

27. Los Ninos Casa Hogar Shelter Los Ninos Cuentan, Casa Hogar provides emergency shelter for 30-60 days to homeless families in the Clackamas	\$10,000	\$10,000	\$10,000
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Public Service Projects

28. NHA Annie Ross House Emergency Shelter Operations ESG funding to support NHA Annie Ross House Emergency Shelter operations that serves families with children who are currently experiencing homelessness.			\$31,000
29. NHA HomeBase Rapid Rehousing program ESG funding to support NHA's HomeBase program to provide homelessness prevention and rapid re-housing to those most in need.	\$56,678	\$52,678	\$20,678

Clackamas

30. Springwater ESG Shelter Funding for an emergency youth shelter. Springwater provides temporary housing and support services to young people (ages 16 to 22) experiencing homelessness in Clackamas County in a staffed, co-ed home setting.	\$11,000	\$11,000	\$11,000
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Suppressed

31. CWS Emergency Shelter for Domestic Violence Victims Funding to continue the operation of emergency shelter services for homeless households fleeing domestic and/or sexual violence. These core services include emergency shelter, case management, housing referrals, mental health counseling,	\$40,000	\$40,000	\$40,000
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Planning and Admin

Administration

32. Emergency Solutions Grant Administration Emergency Solutions Grant (ESG) grant administration, contract monitoring and reporting	\$13,635	\$12,181	\$11,572
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	2017 Grant Funds	2018 Grant Funds	2019 Grant Funds
Countywide			
33. Emergency Solutions Grant HMIS Funding for ESG Homeless Management Information System (HMIS) to maintain data quality, user training and reporting requirements to HUD.	\$50,528	\$36,552	\$30,041
Emergency Solutions Grant Sub-Total	\$181,841	\$162,411	\$154,291
Continuum of Care Public Service Projects			
Countywide			
34. CoC Planning 2017 CoC funding to coordinate and coordinate the homeless count efforts across the county and submit annual funding applications for over \$2 million of HUD Continuum of Care (CoC) funding for county agencies and non-profit providers of services and housing to homeless persons in Clackamas County.	\$61,095	\$61,095	\$61,095
35. CoC HMIS CoC funding to operate the Homeless Management Information System (HMIS), train users, collect data, validate data and report data to HUD.	\$70,862	\$70,862	\$70,862
Continuum of Care Sub-Total	\$131,957	\$131,957	\$131,957
Grand Total	\$3,025,204	\$2,944,353	\$2,590,584

2017 GRANT YEAR NOTES: 2017 Action Plan Amendment #1 effective 12/12/2017

April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Construction Contract with SUBCOM Excavation & Utilities, LLC for the
Clackamas County Veterans' Village Site Improvements Project

Purpose/ Outcome	The Construction Contract will allow for the Housing and Community Development Division to hire SUBCOM Excavation & Utilities, LLC (SUBCOM) for construction services for the Veterans' Village Site Improvements Project. The work will consist of earthwork, rock compaction, asphalt work, plumbing work, and electrical service from the public-right-of-way on to the site while working with hired engineer AKS engineers of Tigard to ensure a complete project. Permits are being processed through County Offices. The work will occur on County owned properties adjacent to S.E. 115 th Avenue off S.E. Jennifer Street, Clackamas, Oregon.
Dollar Amount and Fiscal Impact	The SUBCOM Construction Contract will be in the amount of \$444,645.
Funding Source	Funds to be identified by County Administrator.
Duration	April 18, – June 29, 2018, Planned Construction Schedule.
Previous Board Action/ Review	April 3, 2018 – Policy Session
Strategic Plan Alignment	Provide sustainable and affordable housing. Ensure safe, healthy and sure communities.
Contact Person(s)	Steve Kelly – Housing and Community Development: Ext. 5665 Emily Klepper – Commission Policy Advisor, Senior: Ext. 5933
Contract No.	H3S 8750

BACKGROUND:

The Housing and Community Development Division of the Health, Housing and Human Services Department requests the approval of this Construction Contract with SUBCOM for the Veterans' Village Site Improvements Project. The Construction Contract determines the roles of SUBCOM and the County regarding contract administration, project management as well as the duties of the hired engineer (AKS Engineers) during project construction. The Contract was reviewed and approved by County Counsel on February 6, 2018.

RECOMMENDATION: We recommend the approval of this Contract and that Richard Swift H3S Director be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,

Richard Swift, Director
Health, Housing Human Services

ABBREVIATED CONTRACT FOR CONSTRUCTION WORK

OWNER:

Clackamas County
Community Development Division
2051 Kaen Road, Suite 245
Oregon City, OR 97045

CONTRACTOR:

SUBCOM Excavation & Utilities, LLC
PO Box 4055
Hillsboro, OR 97123

Project Engineer: AKS Engineering & Forestry, LLC

Project Architect: Communitecture, LLC

Project Coordinator: Steve Kelly

1. WORK
2. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
3. CONTRACT PRICE
4. PROGRESS PAYMENT & TAX LAWS
5. ENUMERATION OF CONTRACT DOCUMENTS
6. DEFINITIONS
7. OWNER'S RESPONSIBILITIES AND RIGHTS
8. CONTRACTOR'S RESPONSIBILITIES
9. BONDS AND INSURANCE
10. CHANGES IN THE WORK
11. CHANGE OF CONTRACT PRICE OR TIME
12. CORRECTION OF WORK
13. PAYMENTS AND COMPLETION
14. TERMINATION OF THE CONTRACT
15. MISCELLANEOUS PROVISIONS

ARTICLE 1: WORK

1.1 The Contractor shall furnish all labor, material, equipment and services needed to complete all work as specified or indicated in the Contract Documents. The Work: site excavation in designated areas, building stormwater swales with aggregate rock, the placement of 15 housing pods, a community restroom and laundry (mobile building), and a kitchen and common building (mobile building). No plumbing or electrical work will be done inside mobile buildings. Civil improvements include a gravel parking area, woodchip pathways, stormwater management facilities, installing domestic water services and sanitary sewer service, as well as electrical work with 3 panels for two small buildings, pole lights, and provide overhead lights to pods housing area, electrical outlets in central area of pods, fencing with privacy slats.

ARTICLE 2: DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

2.1 The date of commencement is the date of the Notice to Proceed issued by the Owner.

2.2 The Contractor shall achieve Substantial Completion of entire Work not later than **67 days** from receiving Notice to Proceed (**April 18, 2018**). Punch-List Items shall be included within this **71 days** of work schedule. The General Contractor must be off the site by 4pm of (**Friday, June 29, 2018**). There are no exceptions, unless the Owner allows for unforeseen conditions to extend the time schedule of work.

2.3 The Parties agree that the following provision for liquidated damages for the Contractor's failure to achieve substantial completion within the Contract Time is a genuine pre-estimate of injury the Owner will sustain and is not in the nature of a penalty. The Contractor's failure to achieve substantial completion within the Contract Time will cause harm to the Owner that is presently very difficult of accurate estimation, as it will cause public inconvenience. The Parties agree that a reasonable forecast of the just compensation for the harm that will be caused by such a breach is **200 dollars** per day and fix that amount as agreed damages for the Contractor's failure to achieve Substantial Completion within the Contract Time. The Substantial Completion is (**Monday, June 25, 2018**).

2.4 The Contractor will be held to the timeline of the project, once the project begins. Unforeseen conditions that may cause a delay will be reviewed and determined by the Owner and the Project Coordinator and or Project Engineer. Additional work days may be granted to the Contractor

ARTICLE 3: CONTRACT PRICE

3.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Price of:

Four Hundred Forty Four Thousand Six Hundred Forty Five Dollars and Cents, (\$444,645.00), subject to additions and deductions as provided in the Contract Documents.

3.2 The Contract Price is based upon the following alternates which are described in the Contract Documents and are hereby accepted by the Owner: *(insert alternates, if any; delete 3.2 if no alternates are included in the Contract.)*

3.3 Unit prices are as follows: **See Bid Proposal provided by SUBCOM Excavation & Utilities, LLC, dated: 4/3/2018, Estimate #: 10455.**

ARTICLE 4: PROGRESS PAYMENT (4.1 – 4.3) & TAX LAWS (4.4 – 4.5)

4.1 Based upon acceptable Applications for Payment submitted to the Owner by the Contractor the Owner shall make progress payments on account of the Contract Price to the Contractor. The period covered by each Application for Payment shall be one calendar month ending on the last

ABBREVIATED CONSTRUCTION CONTRACT - AGREEMENT
PROJECT NAME: VETERANS' VILLAGE SITE IMPROVEMENTS

day of the month. The Owner will withhold retainage in the amount of five percent (5%) from each progress payment and will pay all retainage to the Contractor upon completion of the Work.

4.2 Final payment, constituting the entire unpaid balance of the Contract Price, shall be made by the Owner to the Contractor when the Work has been completed, the Contract fully performed, and all Work under the Contract has been accepted by the Owner.

4.3 Release of Retainage, The final release of all Construction Contract funds held by OWNER. Authorization must be also approved by the Project Coordinator and or Project Engineer. These funds can be; Change Orders, Final payments, retainage held to be released by OWNER.

4.4 The CONTRACTOR shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work as described in Attachment A under this Contract. CONTRACTOR must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of CONTRACTOR'S warranty, in this Contract that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle OWNER to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to OWNER'S setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. OWNER shall be entitled to recover any and all damages suffered as the result of CONTRACTOR'S breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and OWNER may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

4.5. The CONTRACTOR represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

ABBREVIATED CONSTRUCTION CONTRACT - AGREEMENT
PROJECT NAME: VETERANS' VILLAGE SITE IMPROVEMENTS

This Agreement containing Articles 1 through 15 is entered into between the Owner and Contractor as of the date it is signed by the Owner.

CONTRACTOR

SUBCOM Excavation & Utilities, LLC

By: 
Joe Mallory, Owner

4-3-18
Date Signed

45 - 3862276
Contractor's Federal Tax Identification No.
or Social Security No. (if individual)

195965
Oregon Commercial Contractor's Board No.

OWNER

Clackamas County, Oregon

Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader

By: _____
Richard Swift, Director
Health, Housing and Human Services
Department

Date Signed

April 12, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #06 to the Intergovernmental Agreement with the State of Oregon,
acting by and through its Oregon Health Authority for Operation as the
Local Public Health Authority for Clackamas County

Purpose/Outcomes	Amendment #6 increases the funding for Program Element 07 – HIV Prevention Services, adds Attachment A – Program Element Description, adds Attachment B – Financial Assistance Award, and Attachment C - Federal Award CFDA information data sheet.
Dollar Amount and Fiscal Impact	PE07 HIV Prevention Services by \$11,440,
Funding Source	Funding provided by the State of Oregon - Oregon Health Authority. No County General Funds are involved.
Duration	Effective upon signature and terminates on June 30, 2019
Previous Board Action	The Board previously reviewed and approved this agreement on October 26, 2017 Agenda item 102617-A6, June 22, 2017, Agenda item 062217-A3 and October 5, 2017, Agenda item 100517-A2
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Contact Person	Dawn Emerick, Public Health Director – (503) 655-8479
Contract No.	8327-06

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #06 to the Intergovernmental Agreement with State of Oregon, Oregon Health Authority. Amendment #6 increases the funding for Program Element 07 – HIV Prevention Services, adds Attachment A – Program Element Description, adds Attachment B – Financial Assistance Award, and Attachment C - Federal Award CFDA information data sheet. Bringing the Contract maximum value to \$3,236,053.00. It allows the CCPHD to provide public health related services to Clackamas County residents.

This contract is effective upon signature and continues through June 30, 2019. This contract has been reviewed by County Counsel on April 03, 2018.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing, and Human Services

Agreement #154103



**SIXTH AMENDMENT TO OREGON HEALTH AUTHORITY
2017-2019 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Sixth Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2017 (as amended the "Agreement"), is between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and Clackamas County, acting by and through its Public Health Department ("LPHA"), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County.

RECITALS

WHEREAS, OHA and LPHA wish to add to the set of Program Element Descriptions set forth in Exhibit B of the Agreement..

WHEREAS, OHA and LPHA wish to modify the Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200;

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows

AGREEMENT

- Exhibit A "Definitions", Section 16 "Program Element" is amended to add Program Element titles and funding source identifiers as follows:

<u>PE NUMBER AND TITLE</u> • SUB-ELEMENT(S)	<u>FUND TYPE</u>	<u>FEDERAL AGENCY/ GRANT TITLE</u>	<u>CFDA#</u>	<u>HIPAA RELATED (Y/N)</u>	<u>SUB-RECIPIENT (Y/N)</u>
PE 04 Sustainable Relationships for Community Health (SRCH)	FF	CDC through NACCD/Technical Assistance	93.283	N	Y
		CDC/State and Local Public Health Actions to Prevent Obesity, Diabetes, Heart Disease and Stroke (PPHF)	93.757		
		CDC/Organized Approaches to Increase Colorectal Cancer Screening	93.945		
		CDC/Environmental Public Health and Emergency Response	93.070		

OHA - 2017-2019 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES

2. Exhibit B Program Element #04 "Sustainable Relationships for Community Health (SRCH)" is added in its entirety by Attachment A attached hereto and hereby incorporated into the Agreement by this reference. This change is effective September 21, 2017.
3. Section 1 of Exhibit C entitled "Financial Assistance Award" of the Agreement is hereby superseded and replaced in its entirety by Attachment B attached hereto and incorporated herein by this reference. Attachment B must be read in conjunction with Section 3 of Exhibit C, entitled "Explanation of Financial Assistance Award" of the Agreement.
4. Exhibit J "Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200" is amended to add to the federal award information datasheet as set forth in Attachment C, attached hereto and incorporated herein by this reference.
5. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 2 of Exhibit E of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
6. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
7. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
8. The parties expressly ratify the Agreement as herein amended.
9. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.
10. This Amendment becomes effective on the date of the last signature below.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

11. Signatures.

By: _____
Name: /for/ Lillian Shirley, BSN, MPH, MPA
Title: Public Health Director
Date: _____

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: _____
Name: Richard Swift
Title: Director, Health, Housing and Human Services
Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Agreement form group-approved by D. Kevin Carlson, Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on July 25, 2017, copy of email approval in Agreement file.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

By: _____
Name: Mai Quach (or designee)
Title: Program Support Manager
Date: _____

April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Service Agreement with Walmart pharmacies partnering
with Clackamas County Health Centers Division
in participation with Pharmacy Services Agreement

Purpose/Outcomes	The intent of the Service Agreement is to facilitate Clackamas County Health Centers Division (CCHCD) pharmacy services to clients of the clinics.
Dollar Amount and Fiscal Impact	The Agreement has no maximum value as it will generate revenue for Clackamas County’s Federally Qualified Health Center (FQHC). This will enter CCHCD and Walmart into a “ship to/bill to” arrangement wherein Walmart will dispense prescription drugs on behalf of CCHCD, and then charge and collect fees for such drugs.
Funding Source	No County General Funds are involved. This is revenue generating through the fees for pharmacy services.
Duration	Effective upon signature and terminates one year from execution.
Strategic Plan Alignment	1. Provide patient-centered health center services to vulnerable populations so they can experience improved health. 2. Ensure safe, healthy and secure communities
Previous Board Action	There has been no previous board action on this item.
Contact Person	Deborah Cockrell, FQHC Director – 503-742-5495
Contract No.	8592

BACKGROUND:

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of a Service Agreement for the of Walmart pharmacies. Participation in the service agreement allows the purchase of prescription drugs for CCHCD patients.

This Agreement is effective upon signature, and continues through one year from execution. This was approved by County Counsel on March 8, 2018.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and authorizes Richard Swift, H3S Director, to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing, and Human Services

340B Pharmacy Services Agreement

#8592

Walmart Inc., and its pharmacies operating in the U.S. and its territories under chain code 0229 (“**Walmart**”), and Clackamas County, by and through its Health, Housing, and Human Services Department, Health Centers Division, a Federally Qualified Health Center with principal offices at with principal offices at 2051 Kaen Road Suite 367, Oregon City, OR 97045 (“**Covered Entity**”) enter into this 340B Pharmacy Services Agreement (“**Agreement**”) upon signature by both parties (the “**Effective Date**”).

Covered Entity is a covered entity as defined in Section 340B of the federal Public Health Services Act, 42 USC 256b, (“**Section 340B**”), and is eligible to purchase certain outpatient drugs at reduced prices for use by patients of Covered Entity from drug manufacturers who enter into drug purchasing agreements with the United States Department of Health and Human Services and/or the manufacturers’ wholesalers.

Covered Entity and Walmart desire to enter into a “ship to/bill to” arrangement pursuant to which Walmart will dispense such drugs on behalf of Covered Entity to eligible Covered Entity patients and Covered Entity will purchase drugs from drug manufacturers and/or Walmart’s current wholesaler to replenish drugs dispensed by Walmart to eligible Covered Entity patients and arrange for shipment of such drugs directly to Walmart.

Covered Entity has retained 340B Processor (as hereinafter defined) to coordinate, manage and facilitate patient eligibility, formulary, 340B drug price management, disbursements to Covered Entity, and other related services.

Covered Entity and Walmart mutually acknowledge that their intent in entering into this Agreement is solely to facilitate Covered Entity’s participation in the drug purchasing program established under Section 340B (the “**340B Program**”). The services provided each to the other are only those necessary in order to fulfill this intent.

The parties therefore agree as follows:

1. DEFINITIONS

1.1 “**340B Covered Drug**” means a “covered outpatient drug” as defined in Section 1927(k) of the Social Security Act, 42 U.S.C. 1396r-8(k)(2) and (3), that is approved by 340B Processor for an Eligible Patient and dispensed by Walmart to an Eligible Patient in accordance with this Agreement and replenished or eligible for replenishment under the 340B Program. It excludes drugs designated as “orphan drugs” under section 526 of the Federal Food Drug and Cosmetic Act if Covered Entity is one of the new categories of hospitals described in paragraphs M, N and O of section 340B, except for children’s hospitals.

1.2 “**340B Processor**” means the 340B processor identified on **Schedule A** of this Agreement.

1.3 “**Claim**” means claims for prescriptions that are submitted by Walmart to 340B Processor to determine whether such prescriptions are eligible for replenishment under the 340B Program. Such Claims may include insured prescriptions paid for by Third Party Payers and uninsured prescriptions.

1.4 “**Co-Payment**” means any co-payment, deductible or coinsurance amount that Walmart is required to collect from an Eligible Patient.

1.5 “**Fill Fee**” means the Fill Fee set forth on **Schedule A** of this Agreement.

1.6 “**Eligible Patients**” are individuals who Covered Entity warrants are patients of Covered Entity and who satisfy the requirements for status as a “patient” as defined at 61 FR 207, pp 55156 to 55158, or in any guidelines, rules or regulations hereafter published, issued or promulgated in amendment, supplement or replacement thereof.

1.7 “**Office of Pharmacy Affairs**” means the division of the United States Health Resources and Services Administration that is responsible for administering the 340B Program.

1.8 “**Third Party Payer**” means a payer of Eligible Patient Claims, other than Covered Entity, a state Medicaid program or a Medicaid managed care organization.

1.9 “**Wholesaler**” means Walmart’s designated pharmaceutical wholesaler listed in Schedule A.

2. OBLIGATIONS OF WALMART.

2.1 340B Processor Agreement. Walmart shall enter into an agreement with 340B Processor to process Claims; provided that if Walmart and 340B Processor are not able to agree on the terms of any such contract or in the event of termination of any such contract, Walmart may terminate this Agreement upon written notice to Covered Entity.

2.2 Office of Pharmacy Affairs Registration. Walmart will cooperate with Covered Entity in registering Walmart with the Office of Pharmacy Affairs as a contract pharmacy of Covered Entity.

2.3 Provision of 340B Covered Drugs. Walmart shall dispense 340B Covered Drugs to Eligible Patients who are identified as such and verified and approved by 340B Processor through retrospective third party claims analysis. Walmart shall monitor its inventory of drugs and maintain sufficient supplies to meet the day-to-day needs of Eligible Patients.

2.4 Comprehensive Pharmacy Services. In addition to dispensing to Eligible Patients, Walmart shall provide comprehensive pharmacy services on behalf of Covered Entity, including recordkeeping, maintaining patient profiles and counseling patients.

2.5 Claims Submission. Walmart shall submit to the applicable Third Party Payer, on a timely basis, Claims for reimbursement for all 340B Covered Drugs dispensed to Eligible Patients.

2.6 Fill Fees. Walmart shall be entitled to the Fill Fee set forth on **Schedule A** for each prescription for 340B Covered Drugs dispensed for an Eligible Patient under this Agreement.

2.7 Acceptance of Replenishment Orders. Walmart shall accept all inventory replenishment for 340B Covered Drugs dispensed by Walmart to Eligible Patients from Wholesaler, provided that such Covered Drugs have the same eleven digit national drug code number (NDC#) as those dispensed by Walmart. Walmart reserves the right to return to Wholesaler 340B Covered Drugs received from Wholesaler which have an expiration date of less than eighteen (18) months from the

date of receipt. In the event that Walmart returns any 340B Covered Drugs to Wholesaler pursuant to the previous sentence, Covered Entity shall be responsible for the replacement of returned items by reordering 340B Covered Drugs with the same eleven digit NDC#. Walmart is not responsible for any fee associated with the delivery of 340B Covered Drugs from Wholesaler.

2.8 Collection of Third Party Payments and Co-Payments. Walmart shall collect any required Co-Payments for 340B Covered Drugs dispensed to Eligible Patients. Upon receipt of inventory replenishment for 340B Covered Drugs dispensed to Eligible Patients, Walmart shall remit to 340B Processor for distribution to Covered Entity (i) any Co-Payments collected by Walmart from Eligible Patients with respect to those 340B Covered Drugs; and (ii) any payments received by Walmart from Third Party Payers with respect to those 340B Covered Drugs ("Third Party Payments") less any Fill Fees due to Walmart. In the event that Walmart receives inventory replenishment for 340B Covered Drugs that constitutes only a portion of the amount dispensed to an Eligible Patient for a particular prescription, Walmart shall pro-rate the amount of funds remitted to Covered Entity accordingly. Remittances to 340B Processor shall occur once each calendar month on or around the sixteenth day of the calendar month. Walmart reserves the right, in its sole discretion, to adjust the timing of remittances provided that remittances shall occur no less than once each calendar month.

2.9 Maintenance of Records. Walmart shall maintain accurate, complete, up-to-date, and otherwise in conformance with generally accepted standards and good pharmacy practice auditable records for services provided to Eligible Patients. Walmart agrees to retain such records in compliance with any applicable state law and regulations, but for a period of at least five years from the date of service. Upon reasonable request by Covered Entity, Walmart will cause 340B Processor or its duly authorized representative to provide reports, on Walmart's behalf, to Covered Entity provided that such reports are directly related to the services provided by Walmart under this Agreement and are reasonably necessary to verify compliance by Walmart with the terms of this Agreement and the requirements of the 340B Program.

2.10 Electronic Tracking System. Walmart will engage 340B Processor to maintain an electronic tracking system that is capable of tracking 340B Covered Drugs dispensed to Eligible Patients. Such system will provide standard 340B Program reports, which detail Eligible Patient utilization, health care provider prescribing, 340B Covered Drug replenishment activity and Claim details.

2.11 Audits. Throughout the term of this Agreement and for one (1) year thereafter, subject to all laws, rules and regulations applicable to patient confidentiality, Walmart grants Covered Entity or 340B Processor, drug manufacturers, the Office of Pharmacy Affairs, and their authorized agents the right to audit such records and prescription files of Walmart directly related to the services provided by Walmart under this Agreement as may be reasonably necessary to verify compliance with the terms of this Agreement and the requirements of the 340B Program. Any such audit shall be conducted at Covered Entity's sole cost and expense, during Walmart's regular business hours, upon reasonable prior written notice, and in a manner so as not to interfere with the conduct of Walmart's business. Subject to Office of Pharmacy Affairs requirements that would require otherwise, no audit shall be performed at a Walmart pharmacy (I) during the first three calendar days of each month, (II) on Mondays, Fridays, weekends, or any day after a holiday, or (III) during the months of December and January of each year.

2.12 Insurance. Each party shall maintain appropriate professional malpractice and general liability insurance in amounts not less than one million dollars (\$1,000,000) per occurrence and two million

dollars (\$2,000,000) in the aggregate, which may be provided in whole or in part by self-insurance, and shall provide proof of such insurance to the other party upon request during the term of this Agreement.

2.13 Medicaid Prescriptions. To ensure that a drug is not subject to both a 340B discount and a Medicaid rebate, 340B Covered Drugs will not be utilized to fill prescriptions paid for by state Medicaid programs or Medicaid Managed Care organizations.

2.14 Prohibition on Resale or Transfer. Walmart agrees that it will not resell or transfer a 340B Covered Drug to an individual who is not an Eligible Patient and has not been approved by 340B Processor.

2.15 Patient Choice. Walmart understands and agrees that Eligible Patients may elect not to use Walmart for pharmacy services. In the event that an Eligible Patient elects not to use Walmart for such services, the Eligible Patient may fill the prescription at the pharmacy provider of his or her choice.

2.16 Covered Entity Location(s) Serviced. Walmart agrees it will provide pharmacy services contracted for under this Agreement at the contract pharmacy locations specified in **Schedule A**.

3. OBLIGATIONS OF COVERED ENTITY.

3.1 Eligibility. Covered Entity shall contract with 340B Processor to evaluate Claims and determine 340B eligibility. Covered Entity represents and warrants that it shall maintain appropriate controls and safeguards to prevent prescriptions that are otherwise ineligible for 340B from being labeled as 340B eligible. Walmart shall have no responsibility to independently evaluate or audit the 340B eligibility of individual prescriptions deemed 340B eligible by Covered Entity and/or the 340B Processor.

3.2 Replenishment of Walmart Drug Inventory. Covered Entity shall purchase drugs to replenish 340B Covered Drugs dispensed by Walmart to Eligible Patients under this Agreement during such month from Wholesaler, and shall arrange for the shipment of such drugs from Wholesaler directly to Walmart. Covered Entity shall arrange to be billed directly for the costs of such drugs, including any shipping or other costs. Replenishment of Walmart's inventory shall be by eleven digit national drug code number ("NDC#") and quantity used. No substitution of equivalent drugs or package sizes shall be permitted. A drug shall be eligible for replenishment after the total quantity units of a bottle, package or vial has been dispensed by Walmart to Eligible Patients, provided that the timing of such replenishment shall be coordinated by Walmart to prevent any excess inventory of such drug at the applicable Walmart pharmacy location.

3.3 Payment of Fill Fees to Walmart by Covered Entity. Covered Entity shall pay Walmart Fill Fees as set forth in Section 2.6 and Walmart may deduct such Fill Fees from amounts otherwise due to Covered Entity in accordance with Section 2.8.

3.4 Reports to Walmart. On an ongoing basis, Covered Entity, through 340B Processor, shall provide to Walmart or Walmart's designee all reports necessary for Walmart's participation in this Agreement. Reports and data specifications shall be provided by Walmart or Walmart's designee and may be modified by Walmart from time to time as determined by Walmart in its sole discretion.

3.5 Responsibility for Professional Services. Covered Entity shall be solely responsible for all professional advice and health care services rendered by it to Eligible Patients.

3.6 Medicaid Prescriptions. Covered Entity shall be responsible for determining and identifying any Covered Entity patients whose prescriptions are paid for by a state Medicaid program or a Medicaid Managed Care organization and prohibiting the designation of any such patients as Eligible Patients. Covered Entity shall not identify as Eligible Patients to Walmart any Covered Entity patients whose prescriptions are paid for by a state Medicaid program or a Medicaid Managed Care organization. To ensure that a drug is not subject to both a 340B discount and a Medicaid rebate, Covered Entity will require 340B Processor to exclude patients whose prescriptions are paid for by a state Medicaid program or a Medicaid Managed Care organization from its 340B qualification criteria and processing.

4. OVER/UNDERPAYMENTS

4.1 Over/Underpayments.

(a) In the event that either party believes that there has been an overpayment or underpayment to Covered Entity, such party shall provide written notice of the purported overpayment or underpayment to the other party, together with reasonable supporting documentation. The other party shall have thirty days to dispute the purported overpayment or underpayment. In the event that the other party does not dispute the purported overpayment or underpayment within such thirty day period, then (i) in the event of an overpayment to Covered Entity, Walmart shall be entitled to withhold the amount of the overpayment from any future amounts due from Walmart to Covered Entity; and (ii) in the event of an underpayment to Covered Entity, Walmart shall be required to add the amount of the underpayment to any future amounts due from Walmart to Covered Entity under this Agreement.

(b) In the event of any dispute between the parties with respect to any purported overpayment or underpayment, the parties will use best efforts to resolve the dispute within an additional thirty day period. In the event that the parties are unable to resolve the dispute, either party may bring a legal action to recover such overpayment or underpayment in accordance with Section 12.3 of this Agreement.

5. TERM AND TERMINATION.

5.1 Term. This Agreement will commence on the Effective Date and continue for an initial term of one year. Thereafter, this Agreement will automatically renew for additional one (1) year renewal terms, upon written approval provided by Covered Entity to Walmart within 90 (ninety) days of term, or unless this Agreement is terminated in accordance with Section 5.2.

5.2 Termination. This Agreement may be terminated by:

(a) Mutual agreement of the parties;

(b) Either party without cause upon ninety days' prior written notice to the other party;

#8592 WalMart, Inc.

Page 6 of 10

(c) Covered Entity immediately upon a material breach of this Agreement by Walmart and failure to cure such breach within ten days of written notice of such breach. Without limiting Covered Entity's right to assert any other act or failure to act as constituting a material breach by Walmart;

(d) Walmart immediately upon a material breach of this Agreement by Covered Entity and failure to cure such breach within ten days of written notice of such breach. Without limiting Walmart's right to assert any other act or failure to act as constituting a material breach by Covered Entity, classification of an individual as 340B eligible who is not an Eligible Patient or any other diversion of a 340B Covered Drug will be deemed to be a material breach;

(e) Either party, immediately upon written notice to the other, in the event that Covered Entity no longer qualifies as a covered entity for Section 340B purposes;

(f) Either party, immediately upon written notice to the other, in the event there has been a change in any law or regulation or guidance interpreting applicable provisions of the 340B Program that would have a material impact on the terms of and anticipated benefits of this Agreement; or

(g) Walmart pursuant to Section 2.1.

5.3 Effect of Termination. Within thirty days of termination of this Agreement, the parties will conduct a reconciliation of Covered Drugs dispensed by Walmart to Eligible Patients prior to the effective date of termination against 340B Covered Drugs ordered for replenishment by Covered Entity and delivered to Walmart. Any discrepancy will be reconciled in accordance with the procedures set forth in Section 4.1. The parties shall reconcile all payments due within thirty days of termination of this Agreement.

6. NOTICES. All notices provided for in this Agreement will be in writing and be deemed to have been duly given if personally delivered or if mailed through U.S. Postal Services registered or certified mail, by overnight courier, or electronic mail, to the parties at the following addresses:

If to Covered Entity:

Clackamas County - Health, Housing, and Human Services
Department Director
2051 Kaen Road
Oregon City, OR 97045
Phone: 503-650-5694

If to Walmart:

Senior Vice President and GMM
Health & Wellness Division
Walmart Inc.
Mail Stop #0230
702 Southwest 8th Street
Bentonville, Arkansas, 72716-0230

With a copy to:

#8592 WalMart, Inc.

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Senior Vice President and General Counsel
Walmart U.S.
Walmart Inc.
Mail Stop #0185
702 Southwest 8th Street
Bentonville, Arkansas, 72716-0185

or such other address as may be provided to the other party in the same manner as that provided for the giving of any notice.

7. REPRESENTATIONS AND WARRANTIES.

7.1 Representations and Warranties of Walmart. Walmart represents and warrants that (a) it has full right, power, and authority to enter into this Agreement; (b) professional pharmaceutical services rendered by Walmart to Eligible Patients shall only be rendered by licensed pharmacists; (c) each prescription ordered shall be dispensed in accordance with a lawful prescriber's directions; (d) it is a pharmacy duly licensed under the pharmacy laws of each state in which it provides services under this Agreement; (e) it is not on probation with any state board of pharmacy in any state in which it provides services under this Agreement; and (f) it is not excluded from participation under federal health care programs pursuant to 42 U.S.C. 1320a-7, and is not the subject of any pending exclusion proceeding under that section and has not been adjudicated or determined to have committed any action that would subject it to mandatory or permissive exclusion under that section for which such an exclusion has not been implemented.

7.2 Representations and Warranties of Covered Entity. Covered Entity represents and warrants that (a) it has full right, power, and authority to enter into this Agreement; (b) it is a covered entity for purposes of the 340B Program; (c) it will screen and remove or cause 340B Processor to screen and remove and not include as eligible, any patients whose prescriptions are paid for by state Medicaid programs or Medicaid Managed Care organizations so that such patients are not identified as Eligible Patients for purposes of this Agreement; (d) it, or 340B Processor, will apply all current 340B program patient eligibility regulations and criteria accurately and consistently in the determination of prescription eligibility for patients who receive pharmacy services from Walmart under this Agreement and (e) it is not excluded from participation under federal health care programs pursuant to 42 U.S.C. 1320a-7, is not the subject of any pending exclusion proceeding under that section and has not been adjudicated or determined to have committed any action that would subject it to mandatory or permissive exclusion under that section for which such an exclusion has not been implemented.

7.3 No Other Representations and Warranties. No representations or warranties have been made or relied upon other than those expressly set forth in this Agreement.

8. RELATIONSHIP BETWEEN PARTIES. Walmart is an independent contractor and shall exercise its own professional judgment on all questions of professional practice. Walmart shall have the right to refuse to serve any Eligible Patient where such service would violate any applicable laws or regulations or professional standards applicable to the services provided by Walmart.

9. CONFIDENTIALITY. Neither party shall disclose the terms of this Agreement, including *Schedule A*, to any third party other than the Office of Pharmacy Affairs without the prior written consent of the other party, except as required by Oregon Public Records laws. When Covered Entity receives a

public records request it will provide Walmart with written notice of the request and an opportunity to seek a protective order prior to disclosure. This prohibition will survive any termination of this Agreement.

10. COMPLIANCE WITH LAWS.

10.1 Generally. Each party will comply with all applicable laws, rules and regulations, including but not limited to the rules and regulations of the applicable state board of pharmacy, all laws of the applicable state, Section 340B and all applicable laws and regulations amending or implementing Section 340B and implementing regulations of the Department of Health and Human Services.

10.2 HIPAA Compliance. The parties recognize that each may be a healthcare provider and a covered entity within the meaning of the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and therefore responsible for compliance with HIPAA standards.

11. FEDERAL CONTRACTOR STATUS. Covered Entity represents and warrants that this Agreement is not a federal contract or subcontract and that there is no underlying or prime agreement that could bring this Agreement, the arrangement hereunder, or the parties within the jurisdiction of OFCCP. Walmart may terminate this Agreement immediately, if it reasonably determines in its sole discretion that this Agreement is, or is likely to be, a government contract or subcontract.

12. MISCELLANEOUS PROVISIONS.

12.1 Entire Agreement. This Agreement, together with **Schedule A**, constitutes the entire understanding between the parties hereto and will not be altered or amended except in writing signed by both parties. In the event any provision or part thereof contained in the Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability or any other provision or part thereof contained in this Agreement.

12.2 Waiver. Either party’s waiver or failure to take action with respect to the other party’s failure to comply with any term or provision of this Agreement will not be deemed a waiver of the first party’s right to insist on future compliance with such term or provision.

12.3 Governing Law; Venue. This Agreement shall be governed by and interpreted according to the laws of the state of Delaware without giving any effect to any choice of law or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the state of Delaware. The parties agree that any claim or suit between the parties relating to or arising under or in connection with this Agreement may only be brought in and decided by the state or federal courts located in the state of Delaware, such courts being a proper forum in which to adjudicate such claim or suit, and each party hereby waives any objection to each such venue and waives any claim that such claim or suit has been brought in an inconvenient forum.

12.4 Assignment. This Agreement may not be assigned or transferred without the prior written consent of the parties. Such consent is within the sole discretion of the party whose consent is sought. Without waiver of the foregoing provisions, all of the rights, benefits, duties, liabilities, and

#8592 WalMart, Inc.

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obligations of the parties shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

12.5 Counterparts. This Agreement may be executed in one or more counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Agreement. A facsimile or .pdf signature, or a scanned image of an original signature, of any part to this Agreement is binding upon that party as if it were an original.

12.6 Press Releases. Neither party will issue press releases of any kind referencing the other party, this Agreement or the parties' conduct under this Agreement without the express written permission of the other party. If the parties do agree to issue (or allow the other party to issue) any such press release, then such press release will be subject to each party's prior written approval of both the content and the type of release. Without limiting the generality of the foregoing, a party may not use the other party's stock ticker symbol or logos without the other party's express prior written consent. In no event will a party be entitled to use the other party's logo or other trademarks without such party's prior written consent, and if such consent is given, such use must be in accordance with the fashion and style and usage as approved by such party.

12.7 Debt Limitation. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

12.8 Compliance with Tax Law. If required by applicable law, Walmart shall pay all taxes owed to a public body, as defined in ORS 174.109, and attests to compliance with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620, and ORS Chapters 316, 317 and 318. Walmart will continue to comply with the tax laws of this state or a political subdivision of the state during the term of this contract. Failure to comply with this contract term is a default for which the County may terminate the contract and seek damages and other relief available.

12.7 Schedule A. **Schedule A** is attached and incorporated in to this Agreement as referenced.

Clackamas County Board of
Commissioners signed,

By: _____

Richard Swift
Director – Health, Housing & Human
Services

Date: _____

WALMART INC.,

DocuSigned by:
By Jodi Prohofsky
BCC18361292C406...

Jodi Prohofsky
Sr Director Payer Relations

Date: March 29, 2018

#8592 WalMart, Inc.

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340B PHARMACY SERVICES AGREEMENT

Schedule A

Walmart Locations:

The locations at which Walmart will provide services pursuant to the Agreement are:

Store Number	Address
10-3144	15600 SE McLoughlin Blvd, Milwaukeee, OR 97267
10-5440	10000 SE 82nd Ave, Happy Valley, OR 97266
10-2670	608 Spring Hill Dr. #3 Ste 300, Spring, TX 77389
10-5997	9600 Parksouth Court Ste 100, Orlando, FL 32837

Fill Fee:

The Fill Fee is \$24.00 for each eligible Brand Claim processed. Generics excluded.

Wholesaler:

The wholesaler is McKesson

340B Processor:

The 340B Processor for Covered Entity is CaptureRx

Covered Entity Locations:

Location Name	Address
Clackamas County Community Health Centers	2051 Kaen Road Ste 367, Oregon City, OR 97045
	This agreement also applies to all registered and eligible child sites of the covered entity.



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

**Authorization to Purchase Rodda Paint
For Road Striping Paint**

Purpose / Outcome	Approval to purchase Rodda Paint utilizing Washington State, County of Spokane cooperative Contract #P10162
Dollar Amount and Fiscal Impact	Up to \$250,000.00 215-7433-00-424710
Funding Source	Clackamas County Department of Transportation – Transportation Maintenance Division
Duration	To begin upon signature, completion date June 30, 2023
Previous Board Action/Review	n/a
Strategic Plan Alignment	To build and maintain a strong infrastructure
Contact Person	Everett Hay, 503-650-3205

Background:

The Transportation Maintenance Division has requested to purchase up to two hundred fifty thousand dollars (\$250,000.00) of striping paint in white and yellow. This white and yellow waterborne traffic paint is used to stripe County roads and we also contract with cities to stripe roads within their jurisdiction.

This will allow Clackamas County to stripe County roads with Swarco Paint, which is distributed from Rodda Paint. In the past, we have used a different paint, which has been having quality issues, including plugged totes.

Approval of this purchase is being requested under the Local Contract Review Board Rule C-046-0400, Authority of Cooperative Procurements. The purchase will be made off cooperative contract #P10162 with the County of Spokane, State of Washington, Cooperative Purchasing Agreement through Rodda Paint Company. A notice of intent to purchase up two hundred fifty thousand dollars (\$250,000.00) was issued on March 5, 2018. No comments were received by the time of closing on March 12, 2018.

Recommendation:

Staff recommends the Board of County Commissioners approve this purchase.

Sincerely,

Abigail Churchill
Clackamas County Procurement

Placed on the Board Agenda of April 12, 2018 by the Procurement Division.



MARC GONZALES
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution for a Clackamas County Supplemental Budget
(Less Than Ten Percent) for Fiscal Year 2017-2018

Purpose/Outcome	Supplemental Budget changes for Clackamas County FY 2017-2018
Dollar Amount and fiscal Impact	The effect has an increase in appropriation of \$1,148,100
Funding Source	Fund Balance, State Operating Grants and Interfund Transfer.
Safety Impact	N/A
Duration	July 1, 2017-June 30, 2018
Previous Board Action/Review	Budget Adopted June 29, 2017, and amended August 10, October 12, and December 14, 2017
Strategic Plan Alignment	Build public trust through good government
Contact Person	Diane Padilla, 503-742-5425

BACKGROUND:

Each fiscal year it is necessary to allocate additional sources of revenue and appropriate additional expenditures to more accurately meet the changing requirements of the operating departments. The attached resolution reflects such changes requested by departments in keeping with a legally accurate budget. These changes are in compliance with O.R.S. 294.480 which allows for governing body approval of supplemental budget changes of less than ten percent of qualifying expenditures in the fund(s) being adjusted.

The Community Corrections Fund is recognizing Justice Reinvestment state grant revenue and budgeting to support the programs associated with this funding source.

The Fleet Management Fund is recognizing additional fund balance and budgeting an increase in contingency.

The DTD Capital Projects Fund is reducing its interfund transfer revenue from the Road Fund and adjusting construction costs accordingly.

The effect of this Resolution is an increase in appropriations of \$1,148,100 including revenues as detailed below:

Fund Balance	\$ 8,483.
State Operating Grants	1,169,617.
Interfund Transfer	<u>(30,000.)</u>
Total Recommended	<u>\$ 1,148,100.</u>

RECOMMENDATION:

Staff respectfully recommends adoption of the attached Resolution Order and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Diane Padilla
Budget Manager

In the Matter of Providing Authorization
Regarding Adoption of a Supplemental
Budget for Items Less Than 10
Percent of the Total Qualifying Expenditures
and Making Appropriations for Fiscal
Year 2017-18

Resolution No

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, a supplemental budget for the period of July 1, 2017 through June 30, 2018 inclusive, has been prepared, published and submitted to the taxpayers as provided by statute;

WHEREAS; the funds being adjusted are:

- . Community Corrections Fund
- . Fleet Management Fund
- . DTD Capital Projects Fund;

It further appearing that it is in the best interest of the County to approve this less than 10 percent appropriations for the period of July 1, 2017 through June 30, 2018.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.471, the supplemental budget be adopted and appropriations established as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

Dated this ____ day of _____, 2018

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

SUMMARY OF SUPPLEMENTAL BUDGET
Exhibit A
CHANGES OF LESS THAN 10% OF BUDGET
April 12, 2018

Recommended items by revenue source:

Fund Balance	\$ 8,483
State Operating Grants	1,169,617
Interfund Transfers	(30,000)
Total Recommended	<u>\$ 1,148,100</u>

COMMUNITY CORRECTIONS FUND

Revenues:	
State Operating Grant	\$ 1,169,617
Total Revenue	<u>\$ 1,169,617</u>
Expenses:	
Public Protection	\$ 974,038
Not Allocated to Organizational Unit	
Special Payments	195,579
Total Expenditures	<u>\$ 1,169,617</u>

Community Corrections Fund is recognizing Justice Reinvestment state grant revenue and budgeting to support the programs associated with this funding source.

FLEET MANAGEMENT FUND

Revenues:	
Fund Balance	\$ 8,483
Total Revenue	<u>\$ 8,483</u>
Not Allocated to Organizational Unit	
Contingency	\$ 8,483
Total Expenditures	<u>\$ 8,483</u>

Fleet Management Fund is recognizing additional fund balance and budgeting an increase in contingency.

DTD CAPITAL PROJECTS FUND

Revenues:	
Interfund Transfer	\$ (30,000)
Total Revenue	<u>\$ (30,000)</u>
Expenses:	
Public Ways and Facilities	\$ (30,000)
Total Expenditures	<u>\$ (30,000)</u>

DTD Capital Projects Fund is reducing its interfund transfer revenue from the Road Fund and adjusting construction costs accordingly.



MARC GONZALES
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution for Clackamas County for Budgeting of
New Specific Purpose Revenue for Fiscal Year 2017-2018

Purpose/Outcome	Budget change for Clackamas County FY 2017-2018
Dollar Amount and Fiscal Impact	The effect is an increase in appropriations of \$1,285,886.
Funding Source	Includes Federal and State Operating Revenue, Local Government and Other Agencies and Charge for Services
Duration	July 1, 2017-June 30, 2018
Previous Board Action/Review	Budget Adopted June 29, 2017 and amended August 10, October 12 and November 8, 2017
Strategic Plan Alignment	Build public trust through good government
Contact Person	Diane Padilla, 503-742-5425

BACKGROUND:

Each fiscal year it is necessary to appropriate additional expenditures and allocate additional sources of revenue to more accurately meet the changing requirements of the operating departments of the County. The attached resolution reflects those changes that departments have requested which pursuant to O.R.S. 294.338, qualify as grants in trust for specific purposes in keeping with legally accurate budget.

The District Attorney Fund is recognizing additional Multi-Disciplinary Team revenue and budgeting for program costs and is also re-aligning its budget to better reflect actuals.

The Behavioral Health Fund is recognizing additional Oregon Health Authority and Oregon Health Plan revenue and budgeting for residential treatment costs and to add two full-time Mental Health Services Coordinators for the Children's Wraparound Program.

The Community Solutions for Clackamas County Fund is recognizing state revenue and budgeting it for the home weatherization program projects.

The Children, Youth and Families Fund is recognizing Department of Education and internal grant revenue and budgeting for program costs and aligning budget to better reflect actuals.

The Public Health Fund is recognizing additional agency revenue and budgeting to add two full-time Human Services Coordinators and one full-time Public Health Analyst position to support the Early Intervention Outreach Program and Public Health Modernization Program.

The Clackamas Health Centers Fund is recognizing revenue from CareOregon ED Utilization Agreement and charge for services and budgeting to increase a current part-time Nurse to full-time and add a full-time limited term Certified Medical Assistant, two full-time Administrative Assistants, a part-time Nurse Practitioner and a part-time Nutritionist.

The Juvenile Fund is recognizing additional Bureau of Land Management revenue and budgeting for program costs.

The effect of this Board Order is an increase in appropriations of \$1,285,886 including new revenues as detailed below:

Federal Operating Grant Revenue	\$ 186,563.
State Operating Grant Revenue	551,838.
Local Government and Other Agencies Revenue	346,581.
Charge for Services	<u>200,904.</u>
Total Recommended	<u>\$ 1,285,886.</u>

RECOMMENDATION:

Staff respectfully recommends adoption of the attached Resolution Order and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Diane Padilla
Budget Manager

In the Matter of Providing
Authorization to Appropriate Grants
For Specific Purposes within the Fiscal
Year 2017-18

Resolution No.

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, appropriation of grants entrusted for specific purposes within Clackamas County budget for the period of July 1, 2017 through June 30, 2018, inclusive is necessary to authorize the expenditure of funds, for the needs of Clackamas County residents;

WHEREAS; the fund being adjusted is:

- . District Attorney Fund
- . Behavioral Health Fund
- . Community Solutions for Clackamas County
- . Children, Youth and Families Fund
- . Public Health Fund
- . Clackamas Health Centers Fund
- . Juvenile Fund;

It further appearing that it is in the best interest of the County to approve these grants entrusted for specific purpose of appropriations for the period of July 1, 2017 through June 30, 2018.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.338, appropriation of specific purpose grants is authorized as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

Dated this ____ day of _____, 2018

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

NEW SPECIFIC PURPOSE REVENUE REQUESTS

Exhibit A

April 12, 2018

Recommended items by revenue source:

Federal Operating Grants	\$ 186,563
State Operating Grants	551,838
Local Government and Other Agencies	346,581
Charge for Services	200,904
Total Recommended	<u>\$ 1,285,886</u>

DISTRICT ATTORNEY FUND

Revenues:

State Operating Grants	\$ 54,024
Total Revenue	<u>\$ 54,024</u>

Expenses:

Public Protection	\$ (305,976)
Not Allocated to Organizational Unit	
Special Payments	360,000
Total Expenditures	<u>\$ 54,024</u>

District Attorney Fund is recognizing additional Multi-Disciplinary Team revenue and budgeting for program costs and is also re-aligning its budget to better reflect actuals.

BEHAVIORAL HEALTH FUND

Revenues:

State Operating Grants	\$ 93,720
Total Revenue	<u>\$ 93,720</u>

Expenses:

Health and Human Services	\$ 93,720
Total Expenditures	<u>\$ 93,720</u>

Behavioral Health Fund is recognizing additional Oregon Health Authority and Oregon Health Plan revenue and budgeting for residential treatment costs and to add two full-time Mental Health Services Coordinators for the Children's Wraparound Program.

COMMUNITY SOLUTIONS for CLACKAMAS COUNTY FUND

Revenues:	
State Operating Grants	\$ 350,000
Total Revenue	<u>\$ 350,000</u>

Expenses:	
Health and Human Services	\$ 350,000
Total Expenditures	<u>\$ 350,000</u>

Community Solutions for Clackamas County Fund is recognizing state revenue and budgeting it for the home weatherization program projects

CHILDREN, YOUTH AND FAMILIES FUND

Revenues:	
Federal Operating Grants	\$ 176,563
Local Government and Other Agencies	(66,000)
Charge for Services	116,000
Total Revenue	<u>\$ 226,563</u>

Expenses:	
Health and Human Services	\$ 3,597,743
Not Allocated to Organizational Unit	
Special Payments	(3,371,180)
Total Expenditures	<u>\$ 226,563</u>

Children, Youth and Families Fund is recognizing Department of Education and internal grant revenue and budgeting for program costs and aligning budget to better reflect actuals.

PUBLIC HEALTH CENTERS

Revenues:	
Local Government and Other Agencies	\$ 369,488
Charge for Services	4,784
Total Revenue	<u>\$ 374,272</u>

Expenses:	
Health and Human Services	\$ 374,272
Total Expenditures	<u>\$ 374,272</u>

Public Health Fund is recognizing additional agency revenue and budgeting to add two full-time Human Services Coordinators and one full-time Public Health Analyst position to support the Early Intervention Outreach Program and Public Health Modernization Program

CLACKAMAS HEALTH CENTERS FUND

Revenues:

State Operating Grant	\$ 54,094
Local Government and Other Agencies	43,093
Charge for Services	80,120
Total Revenue	<u>\$ 177,307</u>

Expenses:

Health and Human Services	\$ 177,307
Total Expenditures	<u>\$ 177,307</u>

Clackamas Health Centers Fund is recognizing revenue from CareOregon ED Utilization Agreement and charge for services and budgeting to increase a current part-time Nurse to full-time and add a full-time limited term Certified Medical Assistant, two full-time Administrative Assistants, a part-time Nurse Practitioner and a part-time Nutritionist.

JUVENILE FUND

Revenues:

Federal Operating Grant	\$ 10,000
Total Revenue	<u>\$ 10,000</u>

Expenses:

Public Protection	\$ 10,000
Total Expenditures	<u>\$ 10,000</u>

Juvenile Fund is recognizing additional Bureau of Land Management revenue and budgeting for program costs.



April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution for Clackamas County for
Transfer of Appropriations for Fiscal Year 2017-2018

Purpose/Outcome	Budget change FY 2017-2018
Dollar Amount and Fiscal Impact	No fiscal impact. Transfer of existing appropriations.
Funding Source	Includes Interfund Transfers
Duration	July 1, 2017-June 30, 2018
Previous Board Action/Review	Budget Adopted June 29, 2017 and amended on August 10, October 12, November 8 and December 14, 2017
Strategic Plan Alignment	Build public trust through good government
Contact Person	Diane Padilla, 503-742-5425

BACKGROUND: Periodically during the fiscal year it is necessary to transfer appropriations to more accurately reflect the changing requirements of the operating departments.

Transfers are a method of moving budgeted appropriations during the fiscal year as required by state budget law per ORS 294.463. There is no financial impact incurred as a result of transfers as appropriations for these amounts have been accomplished through the initial budget process.

The attached resolution accomplishes the above mentioned changes as requested by the following operating departments in keeping with a legally accurate budget.

The General Fund – Transportation and Development Program is adjusting its budget to better align with the department’s program initiative.

The Planning Fund is correcting interfund transfer by moving it from the Transportation and Development program in the General Fund (Surveyor) to the Road Fund.

The Road Fund is transferring from contingency and budgeting to add a full-time Right of Way Technician, and two full-time Engineering Technicians to advance current projects in a timely matter. This fund is also realigning its revenue sources and adjusting program costs to better reflect actuals.

The Code Enforcement Resource Conservation & Solid Waste Fund is transferring from contingency and budgeting to increase temporary worker costs and other anticipated program costs.

In the Matter of Providing Authorization
To Transfer Appropriations Within
the Fiscal Year 2017-18

Resolution No.

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from appropriation category to another;

WHEREAS, transfer of appropriations for the period of July 1, 2017 through June 30, 2018, inclusive is necessary to continue to prudently manage the distribution of those expenditures for the needs of Clackamas County residents;

WHEREAS; the funds being adjusted are:

- . General Fund- Transportation and Development Program
- . Planning Fund
- . Road Fund
- . Code Enforcement Resource Conservation & Solid Waste Fund
- . Behavioral Health Fund
- . Children, Youth and Families Fund
- . Telecommunications Services Fund
- . Technology Services Fund
- . Central Dispatch Fund;

It further appearing that it is in the best interest of the County to approve this transfer of appropriations for the period of July 1, 2017 through June 30, 2018.

BE RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.463, transfer of appropriation within the fiscal year budget is authorized as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

Dated this ____ day of _____, 2018

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

The Behavioral Health Fund is re-aligning its budget to better reflect actual costs.

The Children, Youth and Families Fund is adjusting its budget to add a part-time Program Planner position.

The Telecommunications Services Fund is adjusting its budget to add a full-time IT Administrator position.

The Technology Services Fund is adjusting its budget to add a full-time IS Software Specialist position.

The Central Dispatch Fund is transferring from contingency and budgeting for special payments for the CAD project.

RECOMMENDATION:

Staff respectfully recommends adoption of the attached Resolution Order and Exhibit A in keeping with a legally accurate budget.

Sincerely,

Diane Padilla, Budget Manager

TRANSFER REQUEST
Exhibit A
April 12, 2018

GENERAL FUND - TRANSPORTATION AND DEVELOPMENT PROGRAM

Revenues:	
Charge for Services	\$ 100,000
Interfund Transfers	(100,000)
Total Revenues	<u>\$ -</u>
Expenses:	
Transportation and Development	\$ (75,000)
Not Allocated to Organizational Unit	
Interfund Transfers	75,000
Total Expenditures	<u>\$ -</u>

General Fund – Transportation and Development Program is adjusting its budget to better align with the department’s program initiative.

PLANNING FUND

Expenses:	
Not Allocated to Organizational Unit	
Interfund Transfers	-
Total Expenditures	<u>\$ -</u>

Planning Fund is correcting interfund transfer by moving it from the Transportation and Development program in the General Fund (Surveyor) to the Road Fund.

ROAD FUND

Revenues:	
State Operating Grants	\$ (175,000)
Interfund Transfers	175,000
Total Revenues	<u>\$ -</u>
Expenses:	
Public Ways and Facilities	\$ 134,164
Not Allocated to Organizational Unit	
Contingency	(134,164)
Total Expenditures	<u>\$ -</u>

Road Fund is transferring from contingency and budgeting to add a full-time Right of Way Technician, and two full-time Engineering Technicians to advance current projects in a timely matter. This fund is also realigning its revenue sources and adjusting program costs to better reflect actuals.

CODE ENFORCEMENT RESOURCE CONSERVATION & SOLID WASTE FUND

Expenses:	
General Government	\$ 250,000
Not Allocated to Organizational Unit	
Special Payments	20,000
Contingency	(270,000)
Total Expenditures	<u><u>\$ -</u></u>

Code Enforcement Resource Conservation & Solid Waste Fund is transferring from contingency and budgeting to increase temporary worker costs and other anticipated program costs.

BEHAVIORAL HEALTH FUND

Expenses:	
Health and Human Services	\$ (100,000)
Not Allocated to Organizational Unit	
Special Payments	395,172
Contingency	(295,172)
Total Expenditures	<u><u>\$ -</u></u>

Behavioral Health Fund is re-aligning its budget to better reflect actual costs.

CHILDREN, YOUTH AND FAMILIES FUND

Expenses:	
Health and Human Services	<u>\$ -</u>
Total Expenditures	<u><u>\$ -</u></u>

Children, Youth and Families Fund is adjusting its budget to add a part-time Program Planner position.

TELECOMMUNICATIONS SERVICES FUND

Expenses:	
General Government	<u>\$ -</u>
Total Expenditures	<u><u>\$ -</u></u>

Telecommunications Services Fund is adjusting its budget to add a full-time IT Administrator position.

TECHNOLOGY SERVICES FUND

Expenses:

General Government	\$ -
Total Expenditures	<u>\$ -</u>

Technology Services Fund is adjusting its budget to add a full-time IS Software Specialist position.

CENTRAL DISPATCH FUND

Expenses:

Not Allocated to Organizational Unit

Special Payments	\$ 278,558
Contingency	(278,558)
Total Expenditures	<u>\$ -</u>

Central Dispatch Fund is transferring from contingency and budgeting for special payments for the CAD project.

DRAFT

Approval of Previous Business Meeting Minutes:

March 8, 2018

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

<http://www.clackamas.us/bcc/business.html>

Thursday, March 8, 2018 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner Jim Bernard, Chair
Commissioner Ken Humberston
Commissioner Sonya Fischer
Commissioner Paul Savas
Commissioner Martha Schrader

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. PRESENTATION (Following are items of interest to the citizens of the County)

1. Presentation of the Dee Lewitz Community Commitment Award
Bill Stewart, Deputy District Attorney gave information regarding the Dee Lewitz award. The 2017 Award is given to the Overland Park Coalition: Norbert Loske, Mary Renfrow, Don Rowley, Joyce Winkelhake and Caroline Conner.
The Board thanked these members for their time and commitment to Clackamas County.

II. CITIZEN COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

1. Les Poole, Gladstone – Chair Bernard’s conduct.
2. Tim Lussier, Estacada – Commented on Chair Bernard’s violation of County Resolution 2017-93, asked Bernard to resign.
3. Traci Hensley, Representing the Republican Party in Clackamas County. Comments of Chair Bernard FB post.
4. Kathy Gordon, Lake Oswego – Thanked the Board for their service to the County.
5. Clair Clark, Soil & Water Conservation – Wanted to thank the Board for their support of the Land Use process.

~Board Discussion~

III. CONSENT AGENDA

Chair Bernard asked the Clerk to read the consent agenda by title, he then asked for a motion. The Clerk mistakenly read last week’s consent agenda and re-read the correct agenda for this week. Chair Bernard asked for a motion.

MOTION:

Commissioner Humberston: I move we approve the consent agenda.
Commissioner Fischer: Second.
all those in favor/opposed:
Commissioner Humberston: Aye.
Commissioner Fischer: Aye.
Commissioner Savas: Aye.
Commissioner Schrader: Aye.
Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

A. Health, Housing & Human Services

1. Approval of Intergovernmental Agreement No. 154752-1 with the State of Oregon, Department of Human Services, Aging and People with Disabilities Division for the Provision of Services to Clackamas County Residents age 60 and over – *Social Services*

B. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

C. Business & Community Services

1. Approval to Apply for a Grant with State of Oregon to Study Potential Formation of Land Bank Authority in Clackamas County

IV. COUNTY ADMINISTRATOR UPDATE

<http://www.clackamas.us/bcc/business.html>

V. COMMISSIONERS COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

MEETING ADJOURNED - 11:15 AM

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.
www.clackamas.us/bcc/business.html



Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Request by the Clackamas County Sheriff's Office to enter into an
Intergovernmental Agreement with
North Clackamas School District for School Resource Officers in the 2017-18 School Year

Purpose/Outcome	The Sheriff's Office will provide two Sheriff's Deputies to serve as School Resource Officers during the 2017-18 school year.
Dollar Amount and Fiscal Impact	The total billable amount under this agreement is \$230,898.00. Law enforcement activities will be billed hourly.
Funding Source	The North Clackamas School District is the source of funds for this agreement as billed by the Clackamas County Sheriff's Office.
Safety Impact	This agreement provides for the presence of one School Resource Officer at both Clackamas and Rex Putnam High Schools.
Duration	The agreement encompasses the school year beginning September 5, 2017 through June 13, 2018.
Previous Board Action/Review	The Board of County Commissioners has approved similar requests in prior fiscal years
Contact Person	Jeff Smith, Captain – Office (503) 785-5008
Contract No.	None

BACKGROUND:


The Sheriff's Office will provide two Sheriff's Deputies to serve as School Resource Officers during the 2017-18 school year. This is a continuation of an existing agreement between Clackamas County and the North Clackamas School District. Both Clackamas and Rex Putnam High Schools will be assigned one School Resource Officer.

This agreement reimburses the Sheriff's Office for the actual cost of the Deputies.

RECOMMENDATION:

Staff recommends the Board approve and sign this cooperative intergovernmental agreement and authorizes Craig Roberts, Sheriff, or his designee, to sign on behalf of Clackamas County.

Respectfully submitted,


Matt Ellington,
Undersheriff

"Working Together to Make a Difference"

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY
AND THE
NORTH CLACKAMAS SCHOOL DISTRICT
FOR
SCHOOL RESOURCE OFFICER**

I. Purpose

This agreement is entered into between Clackamas County (COUNTY) through the Clackamas County Sheriff and the North Clackamas School District (NCSD) for the cooperation of units of local government under the authority of ORS 190.010. This agreement provides the basis for a cooperative relationship for the purpose of the COUNTY providing to NCSD, a Deputy Sheriff to act as School Resource Officer as described in "Attachment A" to this agreement.

II. Scope of Service

- A. The COUNTY agrees to provide two Deputy Sheriff beginning September 5, 2017 through June 13, 2018 to serve as a School Resource Officer (SRO). The scope of service is detailed in "Attachment A" to this agreement.
- B. NCSD agrees at their expense to provide the COUNTY office space and equipment at Rex Putnam and Clackamas High Schools where the SRO will be assigned.

III. Personnel

- A. The COUNTY agrees to provide two Deputy Sheriff on a full-time basis. However, in the event of an emergency situation determined by the Sheriff, the Sheriff may rely upon the SRO's as a resource to respond to an emergency; compensation under this agreement shall not be affected. In such an event the Liaison for NCSD will be notified and informed of the SRO leaving the school campus.
- B. Supervision and training of SRO personnel will be the responsibility of the COUNTY.

IV. Compensation

NCSO will pay the COUNTY compensation as described in "Attachment A" for the contract year. The COUNTY agrees to bill NCSO quarterly. NCSO agrees to pay within 30 days of the receipt of the COUNTY'S invoice.

V. Liaison Responsibility

A Clackamas County Patrol Division Lieutenant will act as liaison for the COUNTY on issues relating to supervision, scheduling, and SRO responsibilities; an Undersheriff will act as liaison on all other matters relating to this Agreement. The North Clackamas School District Superintendent or a designee will act as liaison for NCSO.

VI. Liability

- A. Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, the COUNTY shall indemnify, defend and hold harmless NCSO, its officers, employees and agents from all claims, suits, actions or expenses of any nature resulting from or arising out of the acts, errors, omissions or negligence of COUNTY personnel acting pursuant to this agreement.
- B. Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, NCSO shall indemnify, defend and hold harmless the COUNTY, its officers, employees and agents from all claims, suits, actions or expenses of any nature resulting from or arising out of the acts, errors, omissions or negligence of NCSO personnel acting pursuant to this agreement.

VII. Debt Limitation

This agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein, which conflict with law, are deemed inoperative to that extent.

VIII. **Termination – Amendment**

- A. This agreement may be terminated by either party upon thirty (30) days written notice to the other.
- B. This agreement and any amendments to it will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County.
- C. This agreement supersedes and cancels any prior agreements between the parties hereto for similar services.

IX. **Term of Agreement**

This agreement is for services beginning September 5, 2017 through June 13, 2018, and becomes effective upon the signatures of both parties.

By their signatures below, the parties to this agreement agree to the terms, conditions, and content expressed herein.

BOARD OF CLACKAMAS COUNTY

NORTH CLACKAMAS SCHOOL DISTRICT

Jim Bernard,
Chair, Clackamas County Board
Date:




Kerensa Mauck,
Director of Business Services

Recording Secretary
Date:

3/20/18

Date:



Sheriff Craig Roberts
Date:

See attached email approval.

Approved as to form - County Counsel

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY
AND THE
NORTH CLACKAMAS SCHOOL DISTRICT
FOR
SCHOOL RESOURCE OFFICER**

"ATTACHMENT A"

SCOPE OF WORK / SCHOOL RESOURCE OFFICERS

The duty of a School Resource Officer may include the following:

The investigation and documentation of criminal activity at the schools; help provide a safe environment for students, staff, and parents on school property; work with administrators and staff on issues surrounding school safety and protection of the students and staff on campus; monitor and enforce traffic related matters in and around the school property; when authorized work with school staff in the enforcement of District and school policy; assist school staff in any emergency or disaster related events on school property; assist in reporting and investigating incidents that may have occurred off campus but are reported at the school; work with staff to provide information about law enforcement related topics and upon request act as a resource for teachers.

Salary formula per Deputy Sheriff:

\$79.62 (hourly rate) X 10 hours per day X 145 school days= \$115,449.00
(This is a 0.0% hourly rate increase over the 2016-2017 school year.)

Cost: 1 Deputy Sheriff position @ Clackamas High School / 145 days:	<u>\$115,449.00</u>
1 Deputy Sheriff position @ Rex Putnam High School / 145 days:	<u>\$115,449.00</u>

Total: \$230,898.00

(Costs to be reconciled by actual hours worked.)

Artmann, Nancy

From: Madkour, Stephen
Sent: Tuesday, April 03, 2018 12:45 PM
To: Artmann, Nancy
Cc: Gordon, Mandy
Subject: RE: Please Review Attached IGA for Form

Nancy, this is approved. Just to confirm this is from 9/17 to 6/18.

From: Artmann, Nancy
Sent: Tuesday, April 03, 2018 8:18 AM
To: Madkour, Stephen <SMadkour@co.clackamas.or.us>
Cc: Gordon, Mandy <MGordon@co.clackamas.or.us>
Subject: Please Review Attached IGA for Form

Good Morning Stephen,

The attached file contains an IGA between the Clackamas County Sheriff's Office and the North Clackamas School District for School Resource Officer services. The document is identical to last year's agreement except for the change in dates. I would appreciate your reviewing the attached for form. Apologies for the short turnaround time; I am hoping to have this to the BCC tomorrow for inclusion on next week's business meeting agenda.

Thank you for your help!
Nancy

Nancy Artmann

Finance Manager

Clackamas County Sheriff's Office

☎: (503) 785-5012 | 📠: (503) 785-5027

📍: 2223 Kaen Rd, Oregon City, OR 97045



John S. Foote, District Attorney for Clackamas County

Clackamas County Courthouse, 807 Main Street, Room 7, Oregon City, Oregon 97045
503 655-8431, FAX 503 650-8943, www.co.clackamas.or.us/da/

April 12, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of
Victims of Crime Act 2018-2019 Support Services & Training Grant Award

Purpose/Outcomes	The primary purpose of VOCA grants are to extend and enhance services to victims. The intent of this one-time VOCA grant opportunity is to meet program needs that are not currently met through the 'regular' non-competitive grant process.
Dollar Amount and Fiscal Impact	The County will receive a maximum of \$60,300. This grant does not allow for additional personnel. The funds will support Emergency Services (\$7,400), Training (\$6,717.40), Mental Health Services (\$23,091.30), and Legal Services (\$23,091.30).
Funding Source	State of Oregon Department of Justice
Duration	Effective January 1, 2018 and terminates September 30, 2019
Previous Board Action/Review	None
Strategic Plan Alignment	The use of these grant funds will support the expansion or enhancement of the delivery of direct services to victims of crime and/or ensure the health and safety of victims.
Contact Person	Carrie Walker, Victim Assistance Program Director – District Attorney's Office, 503-655-8616

BACKGROUND:

The Victims of Crime Act of 1984 (VOCA) is the only federal grant program supporting direct assistance services to victims of all types of crimes. Federal VOCA funds are passed through the Oregon Department of Justice to victim service organizations throughout the state to extend and enhance services to victims of crime.

The objectives of this VOCA one-time grant is to support the expansion and enhancement of delivery of direct services to victims of crime and to ensure the health and safety of victims. The stated objectives will be met through financial assistance for victims to access mental health and civil legal services as well as emergency service resources and trainings that will assist with direct victim services at the VAP main office, Family Justice Center, crime scenes, hospital emergency rooms, and command post of a mass fatality response event.

RECOMMENDATION:

Staff recommends the Board approve this grant award and authorizes John S Foote, District Attorney, to sign on behalf of Clackamas County.

Respectfully submitted,

John S. Foote
District Attorney



DEPARTMENT OF JUSTICE
CRIME VICTIMS' SERVICES DIVISION

MEMORANDUM

DATE: March 16, 2018

TO: 2018-2019 VOCA Support Services & Training Non-Competitive Grant Recipients

FROM: CVSD Fund Coordinators

Attached is your agency's 2018-2019 VOCA Support Services & Training Non-Competitive Grant Agreement. Please download the entire document and have your authorized official sign the following pages:

- The final page of the Grant Agreement;
- Exhibit A – Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, and Drug-Free Workplace Requirements;
- Exhibit B – Standard Assurances;
- Exhibit C – Single Audit Certification Letter;
- Exhibit D – Certification of Compliance with Regulations, Office for Civil Rights, Office of Justice Programs for Subgrants issued by the Oregon Department of Justice; and
- Exhibit E – Victims of Crime Act Special Conditions.

Once the Grant Agreement and Exhibits are signed, if you haven't already please upload a copy of the entire signed Grant Agreement and Exhibits in the "Grantee Signed Grant Agreement" upload field on the "Grant Agreement Upload" page in your application in E-Grants and then **change the application status in CVSD E-Grants to "Application Accepted."**

Once the signed Grant Agreement and Exhibits have been uploaded in E-Grants, a copy of the Grant Agreement signed by both your authorized official and CVSD Director Shannon Sivell will be uploaded into E-Grants and the status of your application will be changed to "Grant Awarded." You will find the uploaded copy of your grant agreement under the "Agreement Upload" form on the Forms Menu of your application.

If you have any questions regarding this agreement please contact Terri Johnson, VOCA Grant Specialist, at 503-378-4578 or your CVSD Fund Coordinator.

DEPARTMENT OF JUSTICE
Crime Victims' Services Division

VICTIMS OF CRIME ACT
2018-2019 VOCA NON-COMPETITIVE
GRANT AWARD COVER SHEET

<p>1. Grantee Name and Address:</p> <p>Clackamas County, acting by and through its District Attorney's Office 2051 Kaen Rd Oregon City, OR 97045</p> <p>Contact Name: Ms. Carrie Walker Telephone: 503-655-8616 E-mail: carriewal@co.clackamas.or.us</p>	<p>2. Special Conditions:</p> <p>This grant Project is approved subject to such conditions or limitations as set forth the attached Grant Agreement.</p> <p>3. Statutory Authority for Grant:</p> <p>Federal Victims of Crime Act of 1984, as amended, 34 U.S.C. 20101 <i>et. seq.</i> and ORS 147.231 (1)</p>								
<p>4. Award Number: VOCA-SST-2018-ClackamasCo.DAVAP-00055</p>	<p>5. Award Date: January 1, 2018</p>								
<p>6. Grantee Tax Identification Number: 93-6002286</p>	<p>7. DUNS Number: 096992656</p>								
<p>8. Type of Party Receiving Funds:</p> <p><input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor</p>	<p>8. Program Period: January 1, 2018 – September 30, 2019</p>								
<p>9. VOCA Category: General Victim Assistance</p>	<p>10. Total VOCA Grant Award Amount / Match Amount: \$ 60,300.00/ \$ 15,075.00</p>								
<p>11. VOCA CFDA Number: CFDA 16-575</p>	<p>12. Indirect Cost Rate: Waived</p>								
<p>13. VOCA Annual Narrative Report:</p> <p>October 31, 2018 October 31, 2019 (final)</p>	<p>14. Financial and PMT Report Due Dates:</p> <table border="0"> <tr> <td>April 30, 2018</td> <td>January 31, 2019</td> </tr> <tr> <td>July 20, 2018</td> <td>April 30, 2019</td> </tr> <tr> <td>October 31, 2018</td> <td>July 20, 2019</td> </tr> <tr> <td></td> <td>October 31, 2019 (final)</td> </tr> </table>	April 30, 2018	January 31, 2019	July 20, 2018	April 30, 2019	October 31, 2018	July 20, 2019		October 31, 2019 (final)
April 30, 2018	January 31, 2019								
July 20, 2018	April 30, 2019								
October 31, 2018	July 20, 2019								
	October 31, 2019 (final)								
<p>This award is contingent upon the Grantee agreeing to the terms of award for the grant entitled "2018-2019 VOCA Support Services & Training Grant". The grant agreement document must be signed by an authorized official in order to validate the acceptance of this award.</p>									

**OREGON DEPARTMENT OF JUSTICE
VOCA INTERGOVERNMENTAL GRANT AWARD**

**2018-2019 VOCA NON-COMPETITIVE GRANT AGREEMENT
VOCA-SST-2018-CLACKAMASCo.DAVAP-00055**

BETWEEN: State of Oregon, acting by and through its (Grantor)
Department of Justice,
1162 Court St. NE
Salem, Oregon 97301-4096

AND: Clackamas County, acting by and through its (Grantee)
District Attorney's Office
2051 Kaen Rd
Oregon City, OR 97045

PROGRAM START DATE: January 1, 2018

**SECTION 1
LEGAL BASIS AND DESCRIPTION OF AWARD**

Section 1.01. Legal Basis of Award. Pursuant to the federal Victims of Crime Act of 1984, as amended, 34 U.S.C. 20101 *et.seq.* ("VOCA"), and ORS 147.231, Grantor is authorized to enter into a grant agreement and to make an award, from funds received under VOCA, to Grantee for the purposes set forth herein.

Section 1.02. Agreement Parties. This Grant Award Agreement, hereafter referred to as Agreement, is between the Grantor and the forenamed Grantee.

Section 1.03. Effective Date. When all parties have duly executed this Agreement, and all necessary approvals have been obtained, this Agreement shall be effective, and have a Project start date of as of **January 1, 2018.**

Section 1.04. Agreement Documents. This Agreement includes the following documents listed in descending order of precedence and incorporated into this Agreement. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control.

- (a) This Agreement without any Exhibits;
- (b) Exhibits A through E as described in Section 2.04 (d); and
- (c) Exhibit F.

This Agreement is also subject to the terms of the following documents, to the extent they do not conflict with the Agreement. In the event of a conflict between two or more of the following documents, the language in the document with the higher precedence shall control.

- (d) The most current versions of the VOCA Guidance available at https://www.doj.state.or.us/wp-content/uploads/2017/09/voca_allowable_and_unallowable_costs_and_services.pdf ("VOCA Guidance").

- (e) The most current versions of the VOCA Grant Management Handbook available at https://www.doj.state.or.us/wp-content/uploads/2017/06/voca_grant_management_handbook.pdf ("VOCA Grant Management Handbook").
- (f) 2018-2019 VOCA Support Services & Training Grant and any Amendments ("VOCA SST").
- (g) Grantee's VOCA Application from the VOCA SST to include the following and collectively referred to as the Grantee's "VOCA Application."
 - (i) Form A, Cover Page;
 - (ii) Form B, Services Checklist;
 - (iii) Form F, Project Description;
 - (iv) As appropriate, Form H, Memorandum of Understanding and Contractual Services;
 - (v) Form I, Attachments to Upload; and
 - (vi) Forms J-O, the budget forms ("VOCA Budget").
- (h) For Grantee's receiving VOCA funds for the first time, the Grantee's VOCA Application from the VOCA SST shall include the Grantee's VOCA Application as defined in Section 1.04 (c) herein and the following and collectively referred to as Grantee's "VOCA Application."
 - (i) Form C, Crime Victim Compensation Information;
 - (ii) Form D, Volunteer Information; and
 - (iii) Form E, Organization/Program Revenue.

Section 1.05. Requirements for Pass-Through Entities. Information required by 2 CFR 200.331 for pass-through entities to include on all subawards is contained herein or available for VOCA at: https://justice.oregon.gov/crime-victims/pdf/voca_pass_through_agreement_requirements.pdf.

SECTION 2 GRANT AWARD

Section 2.01. Grant. In accordance with the terms and conditions of this Agreement, Grantor shall provide Grantee maximum not-to-exceed amount of \$ **60,300.00** (the "Grant"), less any recovery of unspent funds, from VOCA fund(s) in the category(ies) outlined below to financially support and assist Grantee's implementation of the Grantee's VOCA Application, as described in Section 1.04, all of which are incorporated herein by this reference and collectively referred to as the "Project".

Fund	Category	Total Maximum Funds
VOCA	Emergency Services	\$ 7,400.00
VOCA	Training	\$ 6,717.40
VOCA	Mental Health Services	\$ 23,091.30
VOCA	Legal Services	\$ 23,091.30

Section 2.02. Grant Award. In accordance with the terms and conditions of this Agreement, Grantee shall implement the VOCA as described in the Project.

Section 2.03. Disbursement of Grant Money. Subject to Sections 2.04, 2.05, and 2.06, Grantor shall disburse the Grant money to Grantee on a quarterly eligible expense reimbursement basis after this Agreement is fully executed by all necessary parties and all required approvals, if any, obtained and when Grantor has received from Grantee a quarterly financial report (as described in Section 5.07) appropriately describing the expenses for which the reimbursement is claimed until the earlier of (i) the entire Grant amount has been disbursed, (ii) the Availability Termination Date as defined in Section 2.06 or (iii) this Agreement terminates as provided herein.

Section 2.04. Conditions Precedent to Each Disbursement. Grantor's obligation to disburse Grant money to Grantee pursuant to Section 2.03 is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- (a) Grantor has received sufficient funds under VOCA to allow the Grantor, in the reasonable exercise of its administrative discretion, to make the disbursement;
- (b) Grantor has received sufficient funding, appropriations, limitations, allotments and other expenditure authorizations to allow Grantor, in the reasonable exercise of its administrative discretion, to make the disbursement;
- (c) Grantor has received a copy of the Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, and Drug-Free Workplace Requirements; Standard Assurances; Single Audit Certification Letter; Certification of Compliance with Regulations, Office for Civil Rights, Office of Justice Programs for Subgrants Issued by the Oregon Department of Justice; Victims of Crime Act Special Conditions; and Subcontractor Insurance Requirements, all in the form attached hereto as **Exhibits A - F** respectively, and incorporated herein by this reference, duly executed and delivered on behalf of Grantee by an authorized official of Grantee;
- (d) Grantee certifies insurance coverage is in full force for the duration of this Agreement;
- (e) If Grantee expends \$750,000 or more in federal funds from all sources in a fiscal year beginning December 26, 2014 or later, Grantee has submitted the most recent single organization-wide audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F;
- (f) If Grantee agency does not claim an exemption from the EEOP requirement (Grantee is an educational, medical or non-profit institution or an Indian Tribe; or Grantee has less than 50 employees; or Grantee was awarded less than \$25,000 in federal U.S. Department of Justice funds), Grantee has prepared, maintained on file, submitted to the Office for Civil Rights for review (if receiving a single award of \$500,000 or more), and implemented an EEOP;
- (g) Grantee is current in all reporting requirements of all active or prior VOCA grants including, but not limited to:
 - (i) Grantor has received from Grantee a quarterly financial report as described in Section 5.07 appropriately describing the expenses for which the reimbursement is claimed;
 - (ii) Grantor has received the completed Annual VOCA Narrative Report as described in in Section 5.07; and
 - (iii) Grantor has received the completed quarterly VOCA Performance Measurement Tool Report and the Client Feedback Form and Outcome Measure Report as described in in Section 5.07.
- (h) No default as described in Section 6.03 has occurred; and

- (i) Grantee's representations and warranties set forth in Section 4 are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

Section 2.05. Supplemental Grant Agreement Conditions. If Grantee fails to satisfy any of the following conditions, Grantor may withhold disbursement:

None

Section 2.06. Grant Availability Termination. The availability of Grant money under this Agreement and Grantor's obligation to disburse Grant money pursuant to Section 2.03 shall end on **September 30, 2019** (the "Availability Termination Date"). Grantor will not disburse any Grant money after the Availability Termination Date. Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate when Grantor accepts Grantee's completed reports, as described in Section 5.07, or on **September 30, 2019**, whichever date occurs first, exclusive of financial and narrative reports which are due no later than 30 days after the Availability Termination Date. Agreement termination shall not extinguish or prejudice Grantor's right to enforce this Agreement with respect to any default by Grantee that has not been cured.

SECTION 3 USES OF GRANT

Section 3.01. Eligible Uses of Grant. Grantee's use of the Grant money is limited to those expenditures necessary to implement the Project and that are eligible under applicable federal and State of Oregon law, and as described in the most recent versions of the VOCA Guidance. Furthermore, Grantee's expenditure of Grant money must be in accordance with the Project budget and narrative (the "Budget") set forth in the Grantee's VOCA Application.

Section 3.02. Ineligible Uses of Grant. Notwithstanding Section 3.01, Grantee shall not use the Grant money for (i) indirect costs defined in 2 CFR 200.56 in excess of a federally-approved Negotiated Indirect Cost Rate, or in excess of ten percent (10%) if Grantee does not have a federally approved Negotiated Indirect Cost Rate, (ii) unallowable costs as listed in 2 CFR Part 200, (iii) to provide services to persons other than those described in Section 5.15(a), (iv) for any purpose prohibited by any provision of this Agreement, or (v) to retire any debt or to reimburse any person or entity for expenditures made or expenses incurred prior to the date of this Agreement. A detailed list of unallowable costs can be found in the most recent versions of the VOCA Guidance.

Section 3.03. Unexpended Grant Money. Any VOCA Grant money disbursed to Grantee, or any interest earned by Grantee on the VOCA Grant money, that is not expended by Grantee in accordance with this Agreement by the earlier of the Availability Termination Date or the date this Agreement is terminated shall be returned to Grantor. Grantee may, at its option, satisfy its obligation to return unexpended VOCA funds under this Section 3.03 by paying to Grantor the amount of unexpended funds or permitting Grantor to recover the amount of the unexpended funds from future payments to Grantee from Grantor. If Grantee fails to return the amount of the unexpended VOCA funds within fifteen (15) days after the earlier of the Availability Termination Date or the date this Agreement is terminated, Grantee shall be deemed to have elected the deduction option and Grantor may deduct the amount demanded from any future payment from Grantor to Grantee, including but not limited to, any payment to Grantee from Grantor under this Agreement and any payment to Grantee from Grantor under any contract or agreement, present or future, between Grantor and Grantee.

SECTION 4 GRANTEE'S REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants to Grantor as follows:

Section 4.01. Existence and Power. Grantee is political subdivision of the State of Oregon. Grantee has full power and authority to transact the business in which it is engaged and full power, authority, and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.

Section 4.02. Authority, No Contravention. The making and performance by Grantee of this Agreement (a) have been duly authorized by all necessary action of Grantee, (b) do not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative agency, or any provision of Grantee's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Grantee is a party or by which Grantee or any of its properties are bound or affected.

Section 4.03. Binding Obligation. This Agreement has been duly authorized, executed and delivered on behalf of Grantee and constitutes the legal, valid, and binding obligation of Grantee, enforceable in accordance with its terms.

Section 4.04. Approvals. No authorization, consent, license, approval of, filing or registration with, or notification to, any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement.

SECTION 5 GRANTEE'S AGREEMENTS

Section 5.01. Project Commencement. Grantee shall cause the Project to be operational no later than 60 days from the date of this Agreement. If the Project is not operational by that date, Grantee must submit a letter to Grantor describing steps taken to initiate the Project, reasons for delay, and the expected Project starting date. If the Project is not operational within 90 days of the date of this Agreement, the Grantee must submit a second letter explaining the additional delay in implementation, and the Grantor may, after reviewing the circumstances, consider the Grantee in default in accordance with Section 6.03 and may terminate the Agreement in accordance with Section 6.02.

Section 5.02. Project Completion. Grantee shall complete the Project no later than **September 30, 2019** provided, however, that if the full amount of the Grant is not available because one or both of the conditions set forth in Sections 2.04 (a) and (b) are not satisfied, Grantee shall not be required to complete the Project.

Section 5.03. Federal Assurances and Certifications. Grantee will comply with all of the federal requirements, including, but not limited to, those set forth in Exhibits A – E (Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements; Standard Assurances; Single Audit Certification Letter; Certification of Compliance with Regulations, Office for Civil Rights, Office of Justice Programs for Subgrants Issued by the Oregon Department of Justice; and Victims of Crime Act Special Conditions) attached hereto.

Section 5.04. Civil Rights and Victim Services.

- (a) Grantee shall collect and maintain statutorily required civil rights statistics on victim services as described in the most recent version of the VOCA Grant Management Handbook.
- (b) Grantee shall comply with the following Oregon Department of Justice, Crime Victims' Services Division ("CVSD") policies for addressing discrimination complaints,
 - (i) *Procedures for Responding to Discrimination Complaints from Employees of the Oregon Department of Justice, Crime Victims' Services Division's Subrecipients under U.S.*

Department of Justice Grant Programs, available at https://justice.oregon.gov/crime-victims/pdf/civil_rights_complaints_employees.pdf; and

- (ii) *Procedures for Responding to Discrimination Complaints from Clients, Customers, Program Participants, or Consumers of the Oregon Department of Justice, Crime Victims' Services Division and the Oregon Department of Justice, Crime Victims' Services Division Subrecipients* available at https://justice.oregon.gov/crime-victims/pdf/civil_rights_complaints_participants.pdf.
- (c) Grantee shall complete and certify completion of civil rights training as described under Training on CVSD Civil Rights Requirements web page available at <https://www.doj.state.or.us/crime-victims/for-grantees/civil-rights-requirements>. Grantee shall conduct periodic training to Grantee employees on the procedures set forth in the policies referenced in subsection (b) of this Section.
- (d) Grantee shall prominently display at locations open to the public and shall include on publications, websites, posters and informational materials a notification that Grantee is prohibited from discriminating on the basis of race, color, national origin, religion, sex, age or disability and the procedures for filing a complaint of discrimination as described in the "Civil Rights Fact Sheet" developed by CVSD and available at https://justice.oregon.gov/crime-victims/pdf/civil_rights_fact_sheet.pdf.

Section 5.05. Volunteers. Grantee organization will use volunteers in implementation of the VOCA Project unless a waiver has been obtained from CVSD.

Section 5.06. Training Requirements.

- (a) Grantee shall ensure that grant-funded direct service staff, volunteers and members of the board of directors, or governing body or designated leaders with direct responsibility for domestic violence and sexual assault programs attend training that meets the requirements adopted by the Department of Human Services ("DHS") Advisory Committee: https://justice.oregon.gov/crime-victims/pdf/cvds_dvsa_training_requirements.pdf. The recommended training format is group training, but Grantees may choose to use the Oregon Coalition Against Domestic & Sexual Violence (OCADSV) web-based advocacy training course to supplement in-person training: <http://www.ocadsv.org/resources/online-core-advocacy-training>.
- (b) Grantee shall ensure that grant-funded staff providing direct attends the Oregon Basic State Victim Assistance Academy (SVAA) training: http://law.lclark.edu/centers/national_crime_victim_law_institute/projects/OR_SVAA/. Alternatively, organizations may submit a 40-hour training plan for CVSD approval that covers topics relevant to the grant-funded staff position(s), which may be from SVAA, DHS Advisory Committee adopted training requirements described in subsection (a) of this Section, VAT *Online* described in subsection (c) of this Section, and additional population-specific topics.
- (c) Volunteers and interns providing grant-funded direct services are required to successfully complete the Office for Victims of Crime (OVC) Victims Assistance Training *Online* (VAT *Online*) or a training program that minimally covers the topics included in VAT *Online*: https://www.ovcttac.gov/views/TrainingMaterials/dspOnline_VATOnline.cfm. Alternatively, organizations may submit a training plan for CVSD approval that covers topics relevant to volunteer position(s), which may be from VAT *Online*, DHS Advisory Committee adopted training requirements described in subsection (a) of this Section, SVAA described in subsection (b) of this Section, and additional population-specific topics.

- (d) Grant-funded staff providing direct services is encouraged to attend the CVSD-sponsored Crime Victims Compensation Training at least once every four years.
- (e) Grantee shall notify the CVSD when any staff training is completed by updating the Staff Roster in the CVSD web-based grant application and reporting system (“CVSD E-Grants”). Grantee shall document training completed by volunteers, interns and members of the board of directors, or governing body or designated leaders.
- (f) Grantee shall attend all appropriate CVSD-sponsored training unless specific written permission excusing attendance has been obtained from CVSD.

Section 5.07. Reporting Requirements.

- (a) Grantee shall submit the following reports as described in the VOCA Grant Management Handbook:
 - (i) Quarterly Financial Reports. No later than 30 days after the end of the calendar quarters ending March 31, September 30, and December 31, and no later than July 20 for the calendar quarter ending June 30, Grantee shall provide Grantor with quarterly financial reports.
 - (ii) Quarterly Performance Measurement Tool Reports. No later than 30 days after the end of the calendar quarters ending March 31, September 30, and December 31, and no later than July 20 for the calendar quarter ending June 30, Grantee shall provide Grantor with quarterly performance measurement tool reports.
 - (iii) Annual Narrative Reports. No later than 31 days after the end of each calendar quarter ending September 30, Grantee shall prepare and submit to Grantor an Annual Narrative Report covering the reporting periods from January 1, 2018 through September 30, 2018 and October 1, 2018 through September 30, 2019.

Section 5.08. Procurement Standards. Grantee shall follow the same policies and procedures it uses for procurement from any other state or federal funds. Grantee shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable federal and state law and standards as noted in 2 CFR 200.317 through 2 CFR 200.326.

Section 5.09. VOCA Matching Funds. Grantee shall obtain and expend VOCA Project matching funds as identified in the Budget and Narrative. Grantee is required to provide matching funds equal to 25% of the VOCA Grant funds received unless a match waiver has been requested and approved.

Section 5.10. Nondisclosure of Confidential or Private Information. In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking and their families, Grantee shall protect the confidentiality and privacy of persons receiving services.

- (a) The term “personally identifying information”, “individual information”, or “personal information” means individually identifying information for or about an individual victim of domestic violence, dating violence, sexual assault, or stalking, including (1) a first and last name; (2) a home or other physical address; (3) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number); (4) a social security number; and (5) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information would serve to identify any individual.

- (b) Grantee may share (1) non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements; (2) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and (3) law-enforcement and prosecution-generated information necessary for law enforcement and prosecution purposes.
- (c) Grantee shall not disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through Grantee's programs, regardless of whether the information has been encoded, encrypted, hashed or otherwise protected. This applies to:
 - (i) Information being requested for a Federal, State, tribal, or territorial grant program; and
 - (ii) Disclosure from the Grantee's organization, agency, or government, including victim and non-victim services divisions or components and leadership of the organization, agency or government; and
 - (iii) Disclosure from victim services divisions or components of an organization, agency, or government to the leadership of the organization, agency, or government (e.g., executive director or chief executive). Such executive shall have access without releases only in extraordinary and rare circumstances. Such circumstances do not include routine monitoring and supervision.
- (d) Personally identifying information or individual information collected in connection with services requested, utilized, or denied through Grantee's programs may not be released except under the following circumstances:
 - (i) The victim signs a release as provided below;
 - (ii) Release is compelled by statutory mandate, which includes mandatory child abuse reporting laws; or
 - (iii) Release is compelled by court mandate, which includes a legal mandate created by case law, such as a common-law duty to warn.
- (e) Victim releases must meet the following criteria:
 - (i) Releases must be informed, written, reasonably time-limited. Grantee may not use a blanket release and must specify the scope and limited circumstances of any disclosure. At a minimum, Grantee must: discuss with the victim why the information might be shared, who would have access to the information, and what information could be shared under the release; reach agreement with the victim about what information would be shared and with whom; and record the agreement about the scope of the release. A release must specify the duration for which information may be shared. The reasonableness of this time period will depend on the specific situation.
 - (ii) Grantee may not require consent to release of information as a condition of service.
 - (iii) Releases must be signed by the victim unless the victim is a minor who lacks the capacity to consent to release or is a legally incapacitated person and has a court-appointed guardian. Except as provided in paragraph (c)(iv) of this section, in the case of an unemancipated

minor, the release must be signed by the minor and a parent or guardian; in the case of a legally incapacitated person, it must be signed by a legally-appointed guardian. Consent may not be given by the abuser of the minor or incapacitated person or the abuser of the other parent of the minor. If a minor is incapable of knowingly consenting, the parent or guardian may provide consent. If a parent or guardian consents for a minor, the grantee or subgrantee should attempt to notify the minor as appropriate.

- (iv) If the minor or person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may consent to release information without additional consent.
- (f) If release of information described in the previous paragraph is compelled by statutory or court mandate, Grantee shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and Grantee shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.
- (g) Fatality reviews. Grantee may share personally identifying information or individual information that is collected as described in paragraph (a) of this section about deceased victims being sought for a fatality review to the extent permitted by their jurisdiction's law and only if the following conditions are met:
 - (i) The underlying objectives of the fatality review are to prevent future deaths, enhance victim safety, and increase offender accountability;
 - (ii) The fatality review includes policies and protocols to protect identifying information, including identifying information about the victim's children, from further release outside the fatality review team;
 - (iii) The Grantee makes a reasonable effort to get a release from the victim's personal representative (if one has been appointed) and from any surviving minor children or the guardian of such children (but not if the guardian is the abuser of the deceased parent), if the children are not capable of knowingly consenting; and
 - (iv) The information released is limited to that which is necessary for the purposes of the fatality review.
- (h) Inadvertent release. Grantee is responsible for taking reasonable efforts to prevent inadvertent releases of personally identifying information or individual information that is collected as described in paragraph (a) of this section.
- (i) Grantee shall notify the Department promptly after receiving a request from the media for information regarding a recipient of services funded with Grant money.

Section 5.11. Criminal History Verification. Grantee shall obtain a criminal history record check on any employee, potential employee or volunteer working with victims of crime as follows:

- (a) By having the applicant as a condition of employment or volunteer service, apply for and receive a criminal history check from a local Oregon State Police Office and furnish a copy thereof to Grantee; or

- (b) As the employer, by contacting a local Oregon State Police office for an “Oregon only” criminal history check on the applicant/employee/volunteer; or
- (c) By use of another method of criminal history verification that is at least as comprehensive as those described in sections (a) and (b) above.

A criminal record check will indicate convictions of child abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an employee or volunteer scheduled to work with victims of crime.

Grantee shall develop a policy or procedures to review criminal arrests or convictions of employees, applicants or volunteers. The review will examine: (1) the severity and nature of the crime; (2) the number of criminal offenses; (3) the time elapsed since commission of the crime; (4) the circumstances surrounding the crime; (5) the subject individual’s participation in counseling, therapy, education or employment evidencing rehabilitation or a change in behavior; and (6) the police or arrest report confirming the subject individual’s explanation of the crime.

Grantee shall determine after receiving the criminal history check whether the employee, potential employee or volunteer has been convicted of one of the crimes described in this Section, and whether based upon the conviction the person poses a risk to working safely with victims of crime. If Grantee intends to hire or retain the employee, potential employee or volunteer, Grantee shall confirm in writing the reasons for hiring or retaining the individual. These reasons shall address how the applicant/employee/volunteer is presently suitable or able to work with victims of crime in a safe and trustworthy manner, based on the policy or procedure described in the preceding paragraph of this Section. Grantee will place this explanation, along with the applicant/employee/ volunteer’s criminal history check, in the employee/volunteer personnel file for permanent retention.

Section 5.12. Maintenance, Retention and Access to Records; Audits.

- (a) Maintenance and Retention of Records. Grantee agrees to maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and the standards of the Office of the Chief Financial Officer (“OCFO”) set forth in the most recent version of the Office of Justice Programs (“OJP”) DOJ Grants Financial Guide, including 2 CFR Part 200, subpart F (if applicable), and 2 CFR Part 2800. All financial records, supporting documents, statistical records and all other records pertinent to this grant or agreements under this Grant shall be retained by the Grantee for a minimum of six years following termination or expiration of this Agreement for purposes of State of Oregon or federal examination and audit provided, however, that if there is any audit issue, dispute, claim or litigation relating to this Agreement or the Grant, Grantee shall retain and keep accessible the books of account and records until the audit issue, dispute, claim or litigation has been finally concluded or resolved. It is the responsibility of the Grantee to obtain a copy of the DOJ Grants Financial Guide from the OCFO available at <https://ojp.gov/financialguide/DOJ/index.htm> and apprise itself of all rules and regulations set forth.
- (b) Access to Records. Oregon Department of Justice/CVSD, Oregon Secretary of State, the Office of the Comptroller, the General Accounting Office (“GAO”) or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of Grantee and any contractors or subcontractors of Grantee, which are pertinent to the Grant, in order to make audits, examinations, excerpts, and transcripts. The right of access is not limited to the required retention period but shall last as long as the records are retained.
- (c) Audits. Grantee shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.

If Grantee expends \$750,000 or more in federal funds (from all sources) in its fiscal year, Grantee shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Part 200, subpart F. Copies (electronic or URL address) of all audits must be submitted to CVSD within 30 days of completion. If Grantee expends less \$750,000 in its fiscal, Grantee is exempt from federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in subsection (b) of this Section.

- (d) **Audit Costs.** Audit costs for audits not required in accordance with 2 CFR Part 200, subpart F are unallowable. If Grantee did not expend \$750,000 or more in federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to this Grant.

Section 5.13. **Compliance with Laws.** Grantee shall comply with (and when required cause its subgrantees to comply with) all applicable federal, state, and local laws, regulations, executive orders and ordinances related to expenditure of the Grant money and the activities financed with the Grant money. Without limiting the generality of the foregoing, Grantee expressly agrees to comply with:

- (a) **Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.** (prohibiting discrimination in programs or activities on the basis of race, color, and national origin) and the **Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. §3789d(c)(1)** (prohibiting discrimination in employment practices or in programs and activities on the basis of race, color, religion, national origin, age, disability, and sex in the delivery of services).
- (i) These laws prohibit discrimination on the basis of race, color, religion, national origin, age, disability, and sex in the delivery of services.
- (ii) In the event a federal or state court, or a federal or state administrative agency, makes a finding of discrimination after a due process hearing on the grounds of race, color, national origin, sex, age, or disability against the Grantee, the Grantee shall forward a copy of the finding to the Oregon Department of Justice, CVSD, 1162 Court Street N.E., Salem, OR 97301-4096 and the Office for Civil Rights, OJP, U.S.D.O.J. 810 7th Street N.W., Washington D.C. 20531.
- (b) **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et. Seq.** (prohibiting discrimination in employment practices or in programs and activities on the basis of disability).
- (c) **Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131** and ORS 659.425 (prohibiting discrimination in services, programs, and activities on the basis of disability), the **Age Discrimination Act of 1975, 42 U.S.C. § 6101-07** (prohibiting discrimination in programs and activities on the basis of age); and **Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et. seq.** (prohibiting discrimination in educational programs or activities on the basis of gender); as well as all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws prohibit discrimination on the basis of race, color, religion, national origin and sex in the delivery of services. In the event a federal or state court, or a federal or state administrative agency, makes a finding of discrimination after a due process hearing on the grounds of race, color, national origin, sex, age, or disability, against the Grantee, the Grantee shall forward a copy of the finding to the Oregon Department of Justice, Crime Victims' Services Division, 1162 Court Street N.E., Salem, Oregon 97301-4096.
- (d) **The Federal Funding Accountability and Transparency Act (FFATA) of 2006**, which provisions include, but may not be limited to, a requirement for Grantee to have a Data Universal Numbering System (DUNS) number and maintain a current registration in the System for Award Management (SAM) database.

- (e) **Services to Limited English-Proficient Persons (LEP)** which includes national origin discrimination on the basis of limited English proficiency. Grantee is required to take reasonable steps to ensure that LEP persons have meaningful access to its programs. Meaningful access may entail providing language assistance services, including interpretation and translation services, where necessary. Grantee is encouraged to consider the need for language services for LEP persons served or encountered both in developing its proposals and budgets and in conducting its programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. The U.S. Department of Justice (USDOJ) has issued guidance for grantees to assist them in complying with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov.
- (f) **Equal Treatment for Faith-Based and Community Organizations**, codified at 28 C.F.R. Part 38, and Executive Order 13279, regarding Equal Protection of the Laws for Faith-Based and Community Organizations (ensuring equal treatment for faith-based organizations and non-discrimination of beneficiaries on the basis of religious belief) ensures that no organization will be discriminated against in a USDOJ funded program on the basis of religion and that services are available to all regardless of religion. Executive Order 13279 ensures a level playing field for the participation of faith-based organizations as well as other community organizations.
- (g) All regulations and administrative rules established pursuant to the foregoing laws, and other regulations as provided at <https://ojp.gov/funding/Explore/SolicitationRequirements/index.htm>.
- (h) The **Uniform Administrative Requirements, Cost Principles, and Audit Requirements** in 2 CFR Part 200, as adopted and supplemented by the United States Department of Justice in 2 CFR Part 2800.
- (i) Further, Grantee shall not retaliate against any individual for taking action or participating in action to secure rights protected by these laws and agrees to report any complaints, lawsuits, or findings from a federal or state court or a federal or state administrative agency to the Oregon Department of Justice, CVSD, 1162 Court Street N.E., Salem, OR 97301-4096 and the Office for Civil Rights, OJP, U.S.D.O.J. 810 7th Street N.W., Washington D.C. 20531.

Section 5.14. **VOCA Eligibility Requirements.** Grantee will comply with the federal eligibility criteria established by VOCA and the Office of Justice Programs Financial Guide in order to receive VOCA funds as described in the Grantee's VOCA Application.

Section 5.15. **Assurances.** The Grantee assures that it will:

- (a) Utilize Grant funds only to provide authorized services to victims of crime;
- (b) Obtain prior approval from the Oregon Department of Justice, CVSD for:
 1. Movement of funds that total more than \$1,000 in the Personnel, Services and Supplies, or Other Services categories; OR
 2. To add a budget category or line item that did not exist in the original budget; OR
 3. Delete an existing category.
- (c) Comply with the requirements of the current version of the Office of Justice Programs, DOJ Grants Financial Guide, available at: <http://ojp.gov/financialguide/DOJ/index.htm>; and
- (d) Comply with the terms of the most recent versions of the VOCA Guidance and the VOCA Grant Management Handbook.

SECTION 6
TERMINATION AND DEFAULT

Section 6.01. Mutual Termination. This Agreement may be terminated by mutual consent of both parties.

Section 6.02. Termination by Either Party or by Grantor. Either party may terminate this Agreement, for any reason, upon 30 days advance written notice to the other party. In addition, Grantor may terminate this Agreement effective immediately upon written notice to Grantee, or effective on such later date as may be established by Grantor in such notice, under any of the following circumstances: (a) Grantor fails to receive sufficient appropriations or other expenditure authorization to allow Grantor, in the reasonable exercise of its administrative discretion, to continue making payments under this Agreement, (b) Grantor fails to receive sufficient federal funds under VOCA to allow Grantor, in the reasonable exercise of its administrative discretion, to continue making payments under this Agreement, or (c) there is a change in federal or state laws, rules, regulations or guidelines so that the Project funded by this Agreement is no longer eligible for funding, or (d) in accordance with Section 6.04.

Section 6.03. Default. Either party shall be in default under this Agreement upon the occurrence of any of the following events:

- (a) Either party shall be in default if either party fails to perform, observe or discharge any of its covenants, agreements or obligations contained herein or in any exhibit attached hereto; or
- (b) Any representation, warranty or statement made by Grantee herein or in any documents or reports relied upon by Grantor to measure progress on the Program, the expenditure of Grant monies or the performance by Grantee is untrue in any material respect when made; or
- (c) Grantee (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) is adjudicated a bankrupt or insolvent, (v) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect), or (viii) takes any action for the purpose of effecting any of the foregoing; or
- (d) A proceeding or case is commenced, without the application or consent of Grantee, in any court of competent jurisdiction, seeking (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Grantee, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of Grantee or of all or any substantial part of its assets, or (iii) similar relief in respect to Grantee under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty (60) consecutive days, or an order for relief against Grantee is entered in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect).

Section 6.04. Remedies Upon Default. If Grantee's default is not cured within fifteen (15) days of written notice thereof to Grantee from Grantor or such longer period as Grantor may authorize in its sole discretion, Grantor may pursue any remedies available under this Agreement, at law or in equity. Such remedies include, but are not limited to, termination of this Agreement, return of all or a portion of the

Grant money, payment of interest earned on the Grant money, and declaration of ineligibility for the receipt of future VOCA awards. If, as a result of Grantee's default, Grantor demands return of all or a portion of the Grant money or payment of interest earned on the Grant money, Grantee may, at Grantee's option, satisfy such demand by paying to Grantor the amount demanded or permitting Grantor to recover the amount demanded by deducting that amount from future payments to Grantee from Grantor. If Grantee fails to repay the amount demanded within fifteen (15) days of the demand, Grantee shall be deemed to have elected the deduction option and Grantor may deduct the amount demanded from any future payment from Grantor to Grantee, including but not limited to, any payment to Grantee from Grantor under this Agreement and any payment to Grantee from Grantor under any other contract or agreement, present or future, between Grantor and Grantee.

SECTION 7 MISCELLANEOUS

Section 7.01. No Implied Waiver, Cumulative Remedies. The failure of Grantor to exercise, and any delay in exercising any right, power, or privilege under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

Section 7.02. Governing Law; Venue; Consent to Jurisdiction. This Agreement 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 (collectively, "Claim") between Grantor (and/or any other agency or department of the State of Oregon) and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. GRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURT.

Section 7.03. Notices. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto pertaining to this Agreement or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to Grantee or Grantor at the address or number set forth on page 1 of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this section. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

Section 7.04. Amendments. This Agreement may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties or as described and certified through CVSD E-Grants and no term of this Agreement may be waived unless the party against whom such waiver is sought to be enforced has given its waiver in writing.

Section 7.05. Subawards, Contracts, Successors and Assignments.

- (a) Grantee shall not enter into any Subawards, as defined in 2 CFR 200.92, for any of the Project activities required by this Agreement without Grantor's prior written consent. Grantee shall require any Subrecipients, as defined in 2 CFR 200.93, to comply in writing with the terms and conditions of this Agreement and provide the same assurances as the Grantee must in its use of federal funds. Grantor's consent to any Subaward shall not relieve Grantee of any of its duties or obligations under this Agreement.

- (b) Grantee shall not enter into any Contracts, as defined in 2 CFR 200.22, required by this Agreement without Grantor's prior written consent. Grantee shall comply with procurement standards as defined in Section 5.08 when selecting any subcontractor. Grantee shall require any subcontractor to comply in writing with the terms of an Independent Contractor Agreement as described in the most recent version of the VOCA Grants Management Handbook. Grantor's consent to any Contract shall not relieve Grantee of any of its duties or obligations under this Agreement.
- (c) This Agreement shall be binding upon and inure to the benefit of Grantor, Grantee, and their respective successors and assigns, except that Grantee may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of Grantor.

Section 7.06. Entire Agreement. This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

Section 7.07. Contribution and Indemnification.

- (a) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.
- (b) With respect to a Third Party Claim for which the Grantor is jointly liable with the Grantee (or would be if joined in the Third Party Claim), the Grantor shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of the Grantor on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantor on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantor's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the Grantor had sole liability in the proceeding.
- (c) With respect to a Third Party Claim for which the Grantee is jointly liable with the Grantor (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantor in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of the Grantor on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of the Grantor on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement

amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- (d) **Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- (e) **Indemnification by Subcontractors.** Grantee shall take all reasonable steps to cause each of its contractors that are not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the gross negligence or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
- (f) **Subcontractor Insurance Requirements.** Grantee shall require each of its first tier contractors that is not a unit of local government as defined in ORS 190.003, if any, to: i) obtain insurance complying with the requirements set forth in Exhibit F, attached hereto and incorporated by reference herein, before the contractor performs under the contract between Grantee and the contractor (the "Subcontract"), and ii) maintain such insurance in full force throughout the duration of the Subcontract. The insurance must be provided by an insurance company or entity that is authorized to transact the business of insurance and issue coverage in the State of Oregon and that is acceptable to Grantor. Grantee shall not authorize contractor to begin work under the Subcontract until the insurance is in full force. Thereafter, Grantee shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Grantee shall incorporate appropriate provisions in each Subcontract permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing a stop work order (or the equivalent) until the insurance is in full force or terminating the Subcontract as permitted by the Subcontract, or pursuing legal action to enforce the insurance requirements. In no event shall Grantee permit a contractor to work under a Subcontract when the Grantee is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the Grantee directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

Section 7.08. False Claim Act. Grantee will refer to the Grantor any credible evidence that a principal, employee, agent, sub-grantee contractor, contractor or other person has submitted a false claim under the False Claims Act (31 USC 3729-3733; ORS 180.750-180.785) or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving funds provided under this Grant Agreement.

Section 7.09. Time is of the Essence. Grantee agrees that time is of the essence with respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

Section 7.10. Survival. All provisions of this Agreement set forth in the following sections shall survive termination of this Agreement: Section 3.03, Unexpended Grant Money; Section 5.12, Maintenance, Retention and Access to Records; Audits; and Section 7, MISCELLANEOUS and any other provisions that by their terms are intended to survive.

Section 7.11. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

Section 7.12. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

Section 7.13. Relationship of Parties. The parties agree and acknowledge that their relationship is that of independent contracting parties and neither party hereto shall be deemed an agent, partner, joint venturer or related entity of the other by reason of this Agreement.

Section 7.14. Headings. The section headings in this Agreement are included for convenience only, do not give full notice of the terms of any portion of this Agreement and are not relevant to the interpretation of any provision of this Agreement.

Section 7.15. No Third Party Beneficiaries. Grantor and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the dates set forth below their respective signatures.

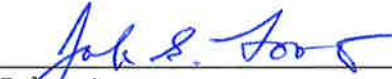


STATE OF OREGON

Acting by and through its Department of Justice

By: _____
Name: Shannon L. Sivell
Title: Director, Crime Victims' Services Division
Date: _____

CLACKAMAS COUNTY, ACTING BY AND THROUGH ITS DISTRICT ATTORNEY'S OFFICE

By: 
Name: John S. Foote
Title: District Attorney for Clackamas County
Date: 3/21/17



CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing

a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check here if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check here if the State has elected to complete OJP Form 4061/7.

**DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to:
Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 Seventh Street NW., Washington, DC 20531

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Clackamas County acting by and through it's District Attorney's Office

1. Grantee Name and Address: 807 Main St, Suite 7, Oregon City OR 97045

VOCA-SST-2018-ClackamasCo.DAVAP-00055

93-6002286

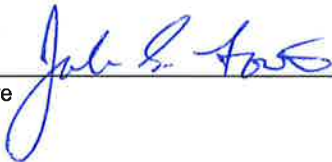
2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

John S. Foote, District Attorney for Clackamas County

4. Typed Name and Title of Authorized Representative

5. Signature



3/21/17
6. Date



OMB APPROVAL NUMBER 1121-0140

As modified by the Office of Criminal Justice Services
Pursuant to request of the OJP Office of Civil Rights

STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; 2 CFR Part 200; Ex. Order 12372 (intergovernmental review of federal programs); and 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give the awarding agency or the General Accounting Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63, and the award term in 2 C.F.R. § 175.15(b).
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include:
 - Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d);
 - Victims of Crime Act (34 U.S.C. § 20110);
 - Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b));
 - Civil Rights Act of 1964 (42 U.S.C. § 2000d);
 - Rehabilitation Act of 1973 (29 U.S.C. § 794);
 - Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34);
 - Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86);
 - Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07);
 - Ex. Order 13279 (equal protection of the laws for faith-based and community organizations);
 - Equal Treatment for Faith-Based Organization (28 C.F.R. pt. 38); and
 - Nondiscrimination, Equal Employment Opportunity, Policies and Procedures (28 C.F.R. pt. 42).

In accordance with federal civil rights laws, the subrecipient shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

Additionally, all grant recipients (including subgrantees or contractors) agree to report any complaints, lawsuits, or findings from a federal or state court or a federal or state Administrative Agency regarding a civil rights finding.

7. If a governmental entity:


a. it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and

b. it will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

John S. Foote

Print Name of Authorized Official

Signature of Authorized Official



District Attorney

Title

Date

3/21/17

SINGLE AUDIT CERTIFICATION LETTER

March 16, 2018

Ms. Carrie Walker
Clackamas County, acting by and through its District Attorney's Office
2051 Kaen Rd
Oregon City, OR 97045

RE: Subrecipient Audit Requirements of 2 CFR Part 200, Subpart F for audits of Grant Agreement between the Oregon Department of Justice and for the period of January 1, 2018 – September 30, 2019 under the VOCA Support Services & Training Grant Award/CFDA#16-575 /\$ 60,300.00.

Dear Ms. Carrie Walker,

The Oregon Department of Justice is subject to the requirements of Office of Management and Budget (OMB) 2 CFR Part 200, subpart F. As such, the Oregon Department of Justice is required to monitor our subrecipients of federal awards and determine whether they have met the audit requirements and whether they are in compliance with federal laws and regulations. A copy of 2 CFR Part 200, Subpart F can be found at the following web address: <https://www.ecfr.gov/cgi-bin/text-idx?SID=704835d27377ef5213a51c149de40cab&node=2:1.1.2.2.1&rgn=div5#sp2.1.200.f>.

Accordingly, we are requesting that you check one of the following, provide all appropriate documentation regarding your organization's compliance with the audit requirements (CVSD will only accept the URL address for your organization's audit or an electronic copy), sign and date the letter and return this letter along with your Grant Agreement and Exhibits A, B, D, and E.

- 1. We have completed our single audit for our most recent fiscal year, ending 06/30/17. The URL address indicated below or an electronic copy of the audit report and a schedule of federal programs by major program have been provided. (If material exceptions were noted, the responses and corrective actions taken have also been provided.)
URL address for single Audit: http://www.clackamas.us/finance/financearchive.html
- 2. We expect our single audit for our most recent fiscal year, ending _____, to be completed by _____. The URL address or an electronic copy of our audit report and a schedule of federal programs by major program will be forwarded to the Oregon Department of Justice within 30 days of receipt of the report. (If material exceptions are noted, a copy of the responses and corrective actions taken will be included.)
- 3. We are not subject to the single audit requirement because:
 We are a for-profit organization.
 We expend less than \$750,000 in federal funds annually.
 Other (please explain) _____

Marc Gonzales
Print Name of Fiscal Officer

Director of Finance for
Title Clackamas County


Signature of Fiscal Officer

3/22/18
Date

Please address all correspondence to:
Oregon Department of Justice, CVSD
1162 Court Street NE
Salem, OR 97301-4096

Oregon Department of Justice – Crime Victims’ Services Division
CERTIFICATION OF COMPLIANCE WITH REGULATIONS
OFFICE FOR CIVIL RIGHTS, OFFICE OF JUSTICE PROGRAMS
FOR SUBGRANTS ISSUED BY THE OREGON DEPARTMENT OF JUSTICE

INSTRUCTIONS: Complete the identifying information, which is found on the Grant Award face sheet, in the table below. Read the form completely, identifying, under "I," the person responsible for reporting civil rights findings; and checking only the one certification under "II" that applies to your agency. Have your Authorized Official sign as appropriate on page 2, forward a copy to the person you identified under "I", keep a copy for your records, and return the original to the Oregon Department of Justice, Crime Victims' Services Division, 1162 Court Street NE, Salem, OR 97301-4096 along with your Grant Agreement and Exhibits A, B, C, and E.

Grant Award: VOCA-SST-2018-ClackamasCo.DAVAP-00055		Grant Title: VOCA Non-Competitive Grant Award	
Grantee Name (Funded Entity): Clackamas County, acting by and through its District Attorney's Office			
Address: 2051 Kaen Rd, Oregon City, OR 97045			
Program Period: Start Date: 1/1/2018 End Date: 9/30/2019		Award Amount: \$ 60,300.00	
Contact Name, Phone # & E-mail address: Ms. Carrie Walker, 503-655-8616, carriewal@co.clackamas.or.us			

AUTHORIZED OFFICIAL’S CERTIFICATION: As the Authorized Official for the above Grantee, I certify, by my signature below, that I have read and am fully cognizant of our duties and responsibilities under this Certification.

I. REQUIREMENTS OF SUBGRANT RECIPIENTS: All subgrant recipients (regardless of the type of entity or the amount awarded) are subject to prohibitions against discrimination in any program or activity, and must take reasonable steps to provide meaningful access for persons with limited English proficiency.

◆ I certify that this agency will maintain data (and submit when required) to ensure that: our services are delivered in an equitable manner to all segments of the service population; our employment practices comply with Equal Opportunity Requirements, 28 CFR 42.207 and 42.301 *et seq.*; our projects and activities provide meaningful access for people with limited English proficiency as required by Title VI of the Civil Rights Act, (*See also*, 2000 Executive Order #13166).

◆ I also certify that the person in this agency or unit of government who is responsible for reporting civil rights findings of discrimination will submit these findings, if any, to the Oregon Department of Justice within 45 days of the finding, and/or if the finding occurred prior to the grant award beginning date, within 45 days of receipt of this form. A copy of this Certification will be provided to this person, as identified here:

Person responsible for reporting civil rights findings of discrimination:
 Evelyn Minor Lawrence, Director of Human Resources
 2051 Kaen Rd, Oregon City OR 97045

I certify that Clackamas County acting through the DA's Office [Grantee] will comply with applicable federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

John S. Foote, District Attorney
 Print or Type Name and Title

John S. Foote
 Signature

3/21/17
 Date

II. EQUAL EMPLOYMENT OPPORTUNITY PLAN (EEOP) CERTIFICATIONS:

The federal regulations implementing the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, require some recipients of financial assistance from the U.S. Department of Justice subject to the statute’s administrative provisions to create, keep on file, submit to the Office for Civil Rights (OCR) at the Office of Justice Programs (OJP) for review, and implement an Equal Employment Opportunity Plan (EEOP). *See* 28 C.F.R. pt. 42, subpt. E. Check the box before **ONLY THE ONE APPROPRIATE CERTIFICATION** (A, B or C below) that applies to this Grantee agency during the period of the grant duration noted above.

CERTIFICATION A: Declaration Claiming Complete Exemption from the EEOP Requirement

Please check all the following boxes that apply:

- Grantee is an educational, medical or non-profit institution or an Indian Tribe; and/or
- Grantee has less than 50 employees; and/or
- Grantee was awarded less than \$25,000 in federal U.S. Department of Justice funds.

I, _____ [authorized official],
certify that _____ [Grantee]
is not required to prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R § 42.302.

Print or Type Name and Title

Signature

Date

CERTIFICATION B: Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review

If a recipient agency has fifty or more employees and is receiving a single award of \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to the OCR for review as long as it certifies the following (42 C.F.R. § 42.305):

I, John S. Foote, District Attorney [authorized official],
certify that Clackamas County acting through the DA's Office [Grantee],
which has fifty or more employees and is receiving a single award for \$25,000 or more, but less than \$500,000,
has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E. I further certify that within the last
twenty-four months, the proper authority has formulated and signed into effect the EEOP and, as required
by applicable federal law, it is available for review by the public, employees, DOJ/CVSD, and the Office for
Civil Rights, Office of Justice Programs, U.S. Department of Justice. The EEOP is on file at the following office:

Clackamas County District Attorney's Office [organization],

807 Main St, Suite 7, Oregon City OR 97045 [address].

John S. Foote, District Attorney

Print or Type Name and Title

Signature

Date

John S. Foote 3/21/17

CERTIFICATION C: Declaration Stating that an EEOP Short Form Has Been Submitted to the Office for Civil Rights for Review

If a recipient agency has fifty or more employees and is receiving a single award of \$500,000 or more, then the recipient agency must send an EEOP Short Form to the OCR for review.

I, _____ [authorized official],
certify that _____ [Grantee],
which has fifty or more employees and is receiving a single award of \$500,000 or more, has formulated an EEOP
in accordance with 28 CFR pt. 42, subpt. E, and sent it for review on _____ [date] to the Office for
Civil Rights, Office of Justice Programs, U.S. Department of Justice.

Print or Type Name and Title

Signature

Date

* * * * *

This original signed form must be returned to the Oregon Department of Justice, Crime Victims' Services Division, 1162 Court Street NE, Salem, OR 97301-4096, along with your Grant Agreement and Exhibits A, B, C, and E. You must also forward a signed copy to the person you identified under "I" on page 1. Electronically scan the signed document and send the signed document to EEOPForms@usdoj.gov with EEOP Certification in the subject line. Please retain a copy for your records.

For more information regarding EEOP requirements, please access the Office for Justice Programs, Office for Civil Rights web page at: <http://www.ojp.usdoj.gov/ocr>.

VICTIMS OF CRIME ACT SPECIAL CONDITIONS

1. Requirement of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the Grantee that relates to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Oregon Department of Justice, Crime Victims' Services Division ("CVSD") taking appropriate action with respect to the Grantee and the award. Among other things, the CVSD may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including the Office of Justice Programs ("OJP"), also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 42 U.S.C. 3795a), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this award.

For more information and resources on the Part 200 Uniform Requirements as they relate to CVSD awards and subawards ("subgrants"), see the Office of Justice Programs (OJP) website at <http://ojp.gov/funding/Part200UniformRequirements.htm> (page under construction as of 10/1/2017).

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the Grantee is to contact CVSD promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

The Grantee agrees to comply with the Department of Justice Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance.

4. Requirements related to "de minimis" indirect cost rate

A Grantee that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise CVSD of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

5. Requirement to report potentially duplicative funding

If the Grantee currently has other active awards of federal funds, or if the Grantee receives any other award of federal funds during the period of performance for this award, the Grantee promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the Grantee must promptly notify the awarding agency (CVSD and OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) or grant amendment to eliminate any inappropriate duplication of funding.

6. Requirements related to System for Award Management and Unique Entity Identifiers

The Grantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <http://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The Grantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the Grantee) the unique entity identifier required for SAM registration.

The details of the Grantee's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <http://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

7. All subawards ("subgrants") must have specific federal authorization

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <http://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award Condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

8. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site <http://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.

9. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and CVSD authority to terminate award)

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of the Grantee, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the Grantee or of any subrecipient ("subgrantees").

The details of the Grantee's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <http://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by Grantees and subgrantees related to trafficking in persons (including reporting requirements and CVSD authority to terminate award)), and are incorporated by reference here.

10. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

11. Requirement for data on performance and effectiveness under the award

The Grantee must collect and maintain data that measure the performance and effectiveness of activities under this award. The data must be provided to CVSD in the manner (including within the timeframes) specified by CVSD in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act, and other applicable laws.

12. OJP Training Guiding Principles

Any training or training materials that the Grantee -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with CVSD award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <http://ojp.gov/funding/ojptrainingguidingprinciples.htm>.

13. Effect of failure to address audit issues

The Grantee understands and agrees that the awarding agency may withhold award funds, or may impose other related requirements, if (as determined by the awarding agency) the Grantee does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of CVSD awards.

14. Potential imposition of additional requirements

The Grantee agrees to comply with any additional requirements that may be imposed by CVSD during the period of performance for this award, if the Grantee is designated as "high risk" for purposes of the DOJ high-risk grantee list.

15. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

17. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to Grantee and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to Grantees and subgrantees that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

18. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a Grantee (or subgrantee) would or might fall within the scope of this prohibition, the Grantee is to contact CVSD for guidance, and may not proceed without the express prior written approval of CVSD.

19. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2017, are set out at <https://ojp.gov/funding/Explore/FY17AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a Grantee (or a subgrantee) would or might fall within the scope of an appropriations-law restriction, the Grantee is to contact CVSD for guidance, and may not proceed without the express prior written approval of CVSD.

20. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

The Grantee and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <http://www.usdoj.gov/oig>.

21. Restrictions and certifications regarding non-disclosure agreements and related matters

No Grantee or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the Grantee--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the Grantee does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the Grantee's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from

reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

22. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The Grantee (and any subgrantee at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The Grantee also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the Grantee is to contact CVSD for guidance.

23. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages Grantees and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

24. Requirement to disclose whether Grantee is designated "high risk" by a federal grant-making agency outside of DOJ

If the Grantee is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to CVSD by email to Shannon.Sivell@doj.state.os.us. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the Grantee's past performance, or other programmatic or financial concerns with the Grantee. The Grantee's disclosure must include the following: 1. The federal awarding agency that currently designates the Grantee high risk, 2. The date the Grantee was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

25. The Grantee authorizes Office for Victims of Crime ("OVC") and/or the Office of the Chief Financial Officer ("OCFO"), and its representatives, access to and the right to examine all records, books, paper or documents related to the VOCA grant. The State will further ensure that all VOCA subgrantees will authorize representatives of OVC and OCFO access to and the right to examine all records, books, paper or documents related to the VOCA grant.

26. VOCA Requirements

The Grantee, and any subrecipient ("subgrantee") at any tier, must comply with the conditions of the Victims of Crime Act (VOCA) of 1984, sections 1404(a)(2), and 1404(b)(1) and (2), 34 U.S.C. 20103(a)(2) and (b)(1) and (2) (and the applicable program guidelines and regulations), as required. Specifically, the Grantee certifies that funds under this award will:

a) be subawarded only to eligible victim assistance organizations, 34 U.S.C. 20103(a)(2);

b) not be used to supplant State and local public funds that would otherwise be available for crime victim assistance, 34 U.S.C. 20103(a)(2), if a government-based organization; and

c) be allocated in accordance with program guidelines or regulations implementing 34 U.S.C. 20103(a)(2)(A) and 34 U.S.C. 20103(a)(2)(B) to, at a minimum, assist victims in one or more of the following categories: sexual assault, child abuse, domestic violence, and underserved victims of violent crimes as identified by CVSD.

27. Demographic Data

The Grantee, and any subrecipient ("subgrantee") at any tier, must collect and maintain information on race, sex, national origin, age, and disability of victims receiving assistance, where such information is voluntarily furnished by the victim.

28. Discrimination Findings

The Grantee assures that in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the ground of race, religion, national origin, sex, or disability against a recipient of victim assistance formula funds under this award, the Grantee will forward a copy of the findings to CVSD.

29. The Grantee understands that all OJP awards are subject to the National Environmental Policy Act (NEPA, 42 U.S.C. section 4321 et seq.) and other related Federal laws (including the National Historic Preservation Act), if applicable. The Grantee agrees to assist OJP in carrying out its responsibilities under NEPA and related laws, if the Grantee plans to use VOCA funds (directly or through subaward or contract) to undertake any activity that triggers these requirements, such as renovation or construction. (See 28 C.F.R. Part 61, App. D.) The Grantee also agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this award.

30. The Grantee understands and agrees that it has a responsibility to monitor its subrecipients' ("subgrantees") compliance with applicable federal civil rights laws.

31. The Grantee agrees to submit (and, as necessary, require subgrantees to submit) quarterly performance reports on the performance metrics identified by CVSD, and in the manner required by CVSD. This information on the activities supported by the award funding will assist in assessing the effects that VOCA Victim Assistance funds have had on services to crime victims within the jurisdiction.

32. Grantee integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

If the total value of the Grantee's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the Grantee must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, Grantees of OJP awards are required to report information about such

proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIS").

The details of Grantee obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIS") within SAM are posted on the OJP web site at <http://ojp.gov/funding/FAPIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIS), and are incorporated by reference here.

Certification: I certify that I have read and reviewed the above assurances and links to referenced Award Conditions and certify that the Grantee will comply with all provisions of the Victims of Crime Act of 1984 (VOCA), as amended, and all other applicable Federal laws.

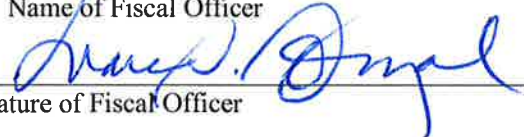
John S. Foote
Print Name of Authorized Official


Signature of Authorized Official


District Attorney for
Title Clackamas County

3/21/17
Date

Marc Gonzales
Print Name of Fiscal Officer


Signature of Fiscal Officer

Finance Director for
Title Clackamas County

3/22/18 
Date

SUBCONTRACTOR INSURANCE REQUIREMENTS

A. REQUIRED INSURANCE. Subcontractor shall obtain at Subcontractor's expense the insurance specified in this section prior to performing under this Agreement and shall maintain it in full force and at its own expense throughout the duration of this Agreement. Subcontractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Grantor.

i. **WORKERS COMPENSATION.** All employers, including Subcontractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

ii. **EMPLOYERS' LIABILITY.**

Required by Agency **Not required by Agency.**

If Subcontractor is a subject employer, as defined in ORS 656.023, Subcontractor shall obtain employers' liability insurance coverage.

iii. **PROFESSIONAL LIABILITY**

Required by Agency **Not required by Agency.**

If in the conduct and implementation of the Subcontract, Subcontractor provides professional advice or services, Subcontractor shall obtain and maintain Professional Liability Insurance in a form and with coverages that are satisfactory to the State covering any damages caused by an error, omission or any negligent acts related to the professional services to be provided under this Agreement.

iv. **COMMERCIAL GENERAL LIABILITY.**

Required by Agency **Not required by Agency.**

Subcontractor shall obtain and maintain Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to the State. This insurance shall include personal injury liability, products, and completed operations. Coverage shall be written on an occurrence basis.

v. **AUTOMOBILE LIABILITY INSURANCE: AUTOMOBILE LIABILITY.**

Required by Agency **Not required by Agency.**

If in the conduct and implementation of the Subcontract, Subcontractor provides transportation for or transports individuals in automobiles, Subcontractor shall obtain and maintain Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability").

B. ADDITIONAL INSURED. The Commercial General Liability insurance and Automobile Liability insurance required under this Agreement shall include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to Subcontractor's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. "TAIL" COVERAGE. If any of the required professional liability insurance is on a "claims made" basis, Subcontractor shall either maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement, for a minimum of 24 months following Subcontractor's completion and Grantor's acceptance of all performance required under this Agreement. Notwithstanding the foregoing 24-month requirement, if Subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace for the coverage required under this Agreement. Subcontractor shall provide to Grantee or Grantor, upon Grantee or Grantor's request, certification of the coverage required under this Exhibit F.

D. CERTIFICATE(S) OF INSURANCE. Subcontractor shall provide to Grantee Certificate(s) of Insurance for all required insurance before performance required under this Agreement. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Subcontractor shall pay for all deductibles, self-insured retention and self-insurance, if any. **The Subcontractor shall immediately notify the Grantee of any material change in insurance coverage.**

Grant Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

** CONCEPTION **

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Lead Department: District Attorney's Office Application for: Subrecipient funds Direct Grant
Grant Renewal? Yes No

Name of Funding Opportunity: Oregon Department of Justice 2018-2019 VOCA Support Services & Training Grant (SST

Funding Source: Federal State Local: _____

Requestor Information (Name of staff person initiating form): Carrie Walker

Requestor Contact Information: 503-655-8616/carriewal@co.clackamas.or.us

Department Fiscal Representative: Carrie Walker or Robert Wilson

Program Name or Number (please specify): _____

Brief Description of Project:

This grant opportunity is for a 21 month non-competitive award to meet agency or program needs that are not currently met through the regular non-competitive or competitive grants. These funds will be used to support the enhancement of the delivery of direct services to crime victims and/or ensure the health and safety of victims. The funds will be awarded in 4 categories: staff training, emergency services for victims, legal services for victims and mental health services for victims. Through this grant, the DA-VAP would be able to provide training to staff to continue to ensure that victims receive advocacy based on the most recent research and best practices. The funds would also allow the program to respond to emergency situations for victims which will help ensure their safety as well as assist them in accessing civil legal services and mental health support and counseling that is not covered by other means.

Name of Funding (Granting) Agency: Victims of Crime Act (VOCA)

Agency's Web Address for Grant Guidelines and Contact Information:

<https://www.doj.state.or.us/crime-victims/grant-funds-programs/victims-of-crime-act-voca-assistance-fund/>

OR

Application Packet Attached: Yes No

Completed By: Carrie Walker, DA-VAP Director Date: 1/9/2018

** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE **

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Grant Non-Competing Grant/Renewal Other Notification Date: 1/1/2018

CFDA(s), if applicable: _____

Announcement Date: 11/27/2017

Announcement/Opportunity #: _____ Not stated

Grant Category/Title: _____

Max Award Value: \$60,300

Allows Indirect/Rate: _____

Match Requirement: 25% non-federal grant funding

Application Deadline: 12/29/2017

Other Deadlines: Deadline extended to 2/9/18

Grant Start Date: 1/1/2018

Other Deadline Description: _____

Grant End Date: 09/31/2019

Completed By: Carrie Walker, DA-VAP Director

Pre-Application Meeting Schedule: _____

Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. How does the grant support the Department's Mission/Purpose/Goals?

The mission of the Clackamas County District Attorney's Office-Victim Assistance Program is to treat all victims as individual; always remembering that each case is important. Each victim will be treated with respect and courtesy, while being provided prompt victim rights notification and comprehensive victim service assistance. In meeting this mission statement, the program provides direct victim services to all victims of all crimes, child or adult victim,

2. How does the grant support the Division's Mission/Purpose/Goals? (If applicable)

The mission of the Clackamas County District Attorney's Office is to uphold the public's trust in the pursuit of justice and the enforcement of the law. The office is dedicated to the vigorous and impartial prosecution of those who commit crimes within Clackamas County and to providing the highest quality of service to victims, witnesses, law enforcement and the citizens of Clackamas County. This grant supports the mission of the District Attorney's Office

3. What, if any, are the community partners who might be better suited to perform this work?

Clackamas County is served by Clackamas Womens Services (CWS) who provide services to victims of domestic violence and sexual assault. There is also a limited legal resource through Oregon Legal Services (Legal Aid). The Clackamas County District Attorney's Office - Victim Assistance Program is the only prosecution-based victim service program in the county.

4. What are the objectives of this grant? How will we meet these objectives?

The objective of this grant is to support the expansion of enhancement of the delivery of direct services to crime victims and/or ensure the health and safety of victims. The funds will be awarded in 4 categories: staff training, emergency services for victims, legal services for victims and mental health services for victims. These objectives will be met by (1) identifying appropriate training for staff to enhance services to victims, (2) identifying emergency needs of victims and

5. Does the grant proposal fund an existing program? If yes, which program? If no, what should the program be called and what is its purpose?

No, this is a 21 month grant to provide funds to enhance the direct services provided to victims of crime in Clackamas County. This grant will augment the resources that Advocates have available to assist victims. The program is called VOCA -Support Services and Training Grant.

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If yes, what types of staff are required?

If no, can staff be hired within the grant timeframe?

Yes. No additional staff is needed for this grant funding.

2. Is there partnership efforts required? If yes, who are we partnering with, what are their roles and responsibilities, and are they committed to the same goals?

This grant may require partnership with other agencies or individuals that can provide civil legal services or mental health services. This decision has not been finalized yet. If a partnership is necessary, agencies or individuals would provide direct services for civil legal assistance or mental health services and would be committed to the same goals.

3. If this is a pilot project, what is the plan for sunseting the program or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

This is not a pilot program. The grant period is from 1/1/2018 to 9/30/2019. There are no staff positions paid for by this grant.

4. If funding creates a new program, does the department intend that the program continue after initial funding is exhausted? If so, how will the department ensure funding (e.g. request new funding during the budget process, discontinue or supplant a different program, etc.)?

While this funding creates a new program for services, the program would not be continued after the grant period unless the funding were extended.

Collaboration

1. List County departments that will collaborate on this award, if any.

Finance

Reporting Requirements

1. What are the program reporting requirements for this grant?

Funds will be on a reimbursement following quarterly financial (QFR), statistical and narrative reporting with an annual report required.

2. What is the plan to evaluate grant performance? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

The Clackamas County District Attorney's Office - Victim Assistance Program uses a web-based case management system titled PROSECUTOR BY KARPEL (PBK) which has the capacity to pull statistics and capture narrative case status notes.

3. What are the fiscal reporting requirements for this grant?

Program reporting requirements will be quarterly Federal financial reports.

Fiscal

1. Will we realize more benefit than this grant will cost to administer?

Yes.

2. What other revenue sources are required? Have they already been secured?

No additional revenue sources are required.

3. Is there a match requirement? If yes, how much and what type of funding (CGF, Inkind, Local Grant, etc.)?

Yes. 25% of the grant award (up to \$60,300) is required which will be met by non Federal grant funds currently awarded to Clackamas County District Attorney's Victim Assistance Program.

4. Is this continuous or one-time funding? If one-time funding, how will program funding be sustained?

This is one time funding. Funds will be spent during the grant award cycle without need for sustainable funding.

5. Does this grant cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

No indirect costs will be incurred.

Program Approval:

Carrie B. Walker

1/9/18

Carrie B. Walker

Name (Typed/Printed)

Date

Signature

**** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR ****

Section IV: Approvals

DIVISION DIRECTOR OR ASSISTANT DIRECTOR (or designee, if applicable)		
<i>John S. Foote</i>	<i>9/9/17</i>	<i>John S. Foote</i>
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR		
<i>Carrie B. Walker</i>	<i>1/9/18</i>	<i>Carrie B. Walker</i>
Name (Typed/Printed)	Date	Signature

IF APPLICATION IS FOR FEDERAL FUNDS, PLEASE SEND COPY OF THIS DOCUMENT BY EMAIL TO FINANCE (FinanceGrants@clackamas.us). ROUTE ORIGINAL OR SCANNED VERSION TO COUNTY ADMIN.

Section V: Board of County Commissioners/County Administration

*(Required for all grant applications. All grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

For applications less than \$150,000:

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

For applications greater than \$150,000 or which otherwise require BCC approval:

BCC Agenda item #: Date:

OR

Policy Session Date:

County Administration Attestation

County Administration: re-route to department contact when fully approved.

Department: keep original with your grant file.

**APPENDIX B: 2018-2019 VOCA SUPPORT SERVICES & TRAINING GRANT
ALLOCATIONS**

Crime Victim Services Agencies (Category allocations are minimum amounts - not flexible funds)	Training	Emergency Services	Legal Services	Mental Health	Flexible Funds	Total
	Range: \$3,925-\$7,850					
Bradley-Angle House	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Call To Safety	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Canyon Crisis and Resource Center	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
CARES Northwest	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Center for Hope and Safety	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Children's Center	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
City of Beaverton	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
City of Eugene	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
City of Hillsboro	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Clackamas County District Attorney	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Clackamas Women's Services	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Domestic Violence Resource Center, Inc.	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Dougy Center Inc.	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Ecumenical Ministries of Oregon/ROSS	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Elders in Action	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
El Programa Hispano Católico	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
HASL, Project DART	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Immigrant and Refugee Community Organization	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Impact NW	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Janus Youth Programs	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Kids FIRST, Friends of the Child Advocacy Center	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Lane County District Attorney	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Liberty House	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Marion County District Attorney	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Multnomah County District Attorney	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Native American Youth and Family Center	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Northwest Human Services, Inc.	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Parents of Murdered Children	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Raphael House of Portland	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Relief Nursery, Inc.	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Salem Police Department	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Salvation Army	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Self Enhancement Inc.	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Sexual Assault Resource Center	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Sexual Assault Support Services	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00
Siuslaw Outreach Services	\$3,925.00	\$3,925.00	\$11,150.00	\$11,150.00	\$30,150.00	\$60,300.00

SECTION III: SUPPORT SERVICES & TRAINING FUNDING CRITERIA

A. CRITERIA BY CATEGORY

The intention of the VOCA Support Services & Training grant opportunity is to meet agency/program needs that are not currently met through the “regular” non-competitive or the competitive process. Applicants must be able to demonstrate how these support services and training funds will support the expansion or enhancement of the delivery of direct services to crime victims and/or ensure the health and safety of victims.

Applicants may apply for funding in the following four categories:

1. Training
2. Emergency Services (not to include Legal or Mental Health Services)
3. Legal Services (includes a special allocation to statewide legal service providers)
4. Mental Health Services

B. ALLOCATIONS FOR EACH FUNDING CATEGORY

Appendix B of this RFA provides an allocation table for the distribution of funds among these four categories plus an allocation for flexible funds. Each category has a minimum level of funds that are earmarked for category-specific activities as described below. These minimum amounts cannot be moved to another category, that is, these minimum amounts are “use or lose minimums.” The allocation table indicates these minimum amounts by category. In addition, the Training and Emergency Services categories have maximum amounts that can be budgeted for activities in these specific categories. All of the flexible funds must be distributed to each of the four categories within the described parameters. Following are examples for how applicants would distribute funds:

Training allocation:

- The minimum allocation must be included in the budget or relinquished;
- If less than the minimum allocation is included in the budget, these unbudgeted funds are relinquished (for example, the minimum is \$2000, the budget includes \$1500, the difference between the minimum allocation and the budget, \$500, is no longer available to the applicant); and
- Flexible funds may be included in the Training budget up to the maximum allocation.

Emergency Services:

- The minimum allocation must be included in the budget or relinquished;
- If less than the minimum allocation is included in the budget, these unbudgeted funds are relinquished; and
- Flexible funds may be included in the Emergency Services budget up to the maximum allocation.

Legal Services:

- The minimum allocation must be included in the budget or relinquished;
- If less than the minimum allocation is included in the budget, these unbudgeted funds are relinquished; and
- Flexible funds may be included in the Legal Services budget up to the desired amount as long as the total project budget does not exceed the total allocation (less any possible relinquished funds).

Mental Health Services:

- The minimum allocation must be included in the budget or relinquished;
- If less than the minimum allocation is included in the budget, these unbudgeted funds are relinquished; and
- Flexible funds may be included in the Mental Health Services budget up to the desired amount as long as the total project budget does not exceed the total allocation (less any possible relinquished funds)

Appendix C of this RFA provides an allocation table for the statewide legal services providers. All funds are flexible, but applicants are expected to provide training to applicant staff and/or other providers delivering legal services to victims of crime at a level commensurate with the identified need.

C. Service Criteria for each Funding Category

The following criterion applies to this RFA for each eligible category.

1. Emergency Services

Proposed spending in this category should not include Legal Services or Mental Health Services as they will be separate line items.

- a. VOCA current guidelines around emergency services apply.
- b. Detailed guidance on allowable emergency services is available in the VOCA Guidelines (included in the Application Menu in E-Grants).
- c. Examples of eligible emergency services:
 - Purchase of emergency food, clothing, transportation, housing and shelter, etc.;
 - Purchasing items for a “clothes closet” (contact your Fund Coordinator for guidance); and
 - Translation and interpretation services (contact your Fund Coordinator for guidance).
- d. Applicants requesting funds for this category should have policies and procedures regarding the disbursement and accounting of these funds. Written policies must be uploaded in E-Grants if these funds are to be used to provide gift cards or to provide transitional housing or relocation/housing assistance for longer than 3 months.
- e. During the grant cycle, applicants receiving funding from this category must track and report on victims (no names) receiving assistance through these funds and the type and amount of financial assistance provided.

2. Training

- a. VOCA current guidelines around training apply.
- b. Detailed guidance on allowable training is available in the VOCA Guidelines (included in the Application Menu in E-Grants).
- c. Training can include both attending a training event and delivering training. In both cases, the training must be for developing the skills of direct service providers (refer to the VOCA Guidelines included in the Application Menu in E-Grants for a detailed list of individuals who may participate in VOCA-funded training).
- d. Applicants who choose to contract with a professional to deliver training must follow federal procurement guidelines.
- e. Training costs must be prorated if the training includes topics that are not allowed under VOCA rules (prevention, prosecution, investigation, management, etc.)
- f. **LEGAL SERVICES PROVIDERS:** Applicants are expected to offer training to applicant staff and/or other providers delivering direct legal services to victims of crime at a level commensurate with the identified need.

3. Legal Services

CVSD is allocating legal services funds to all direct services Grantees currently receiving funding from CVSD, including four regional/statewide legal services providers: Oregon Law Center (OLC), Legal Aid Services of Oregon (LASO), Victim Rights Law Center (VRLC), and Oregon Crime Victims Law Center (OCVLC). Legal services were identified as one of the top gaps in services for victims of crime in Oregon in the VOCA survey conducted in 2015. **This funding stream is intended to expand the availability of legal services for victims of crime throughout the state, to provide access to legal consultation, and to establish or maintain prioritized interagency referrals.** All VOCA funded legal services must be for services directly related to the victimization.

a. Legal Services for DV/SA, VAP, CAIC and other victim assistance programs

- a. VOCA current guidelines around legal services apply.
- b. Detailed guidance on allowable legal services is available in the VOCA Guidelines (included in the Application Menu in E-Grants).
- c. Examples of eligible projects:
 - Subcontracts for specialized professional civil legal services;
 - FTE to provide direct legal services or coordinate legal services as it relates to this funding; and
 - Court fees, filing fees, and other associated fees related to interventions necessary as a direct result of the victimization.

b. Legal Services for statewide legal service providers

- i. VOCA current guidelines around legal services apply.
- ii. Detailed guidance on allowable legal services is available in the VOCA Guidance (included in the Application Menu in E-Grants).
- iii. Applicants are required to budget for the provision of legal services throughout an established service area, regional or statewide.

- iv. Applicants are expected to offer assistance on legal issues to CVSD Grantees at a level commensurate with the identified need.
- v. Applicants are required to establish and maintain a clear referral process and to prioritize referrals from CVSD Grantees.
- vi. Expenditures in Emergency Services are allowable but not required.

4. Mental Health Services

- a. VOCA current guidelines around mental health services apply.
- b. Detailed guidance on mental health services is available in the VOCA Guidelines (included in the Application Menu in E-Grants).
- c. Examples of eligible projects (costs must be pro-rated if not exclusive to victims of crime):
 - Contracts for specialized professional mental health services;
 - FTE to provide direct mental health services or coordinate mental health services as it relates to this funding;
 - Outpatient therapy/counseling (may include tele-therapy/counseling);
 - Traditional, cultural, and/or alternative therapy/healing (e.g. art therapy, yoga); and
 - Therapy/emotional support animals in shelters, court, child abuse intervention centers, and in therapeutic settings for victims of crime.



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

March 29, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Service Level Agreement Amendment #3 between
Clackamas Broadband eXchange and LS Networks

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for amendment #3 of a Service Level Agreement (SLA) with LS Networks (LSN) for an additional dark fiber connection.
Dollar Amount and Fiscal Impact	Wave Broadband will pay a non-recurring fee of \$785.00 for the new fiber construction and a recurring annual fee of \$3,060.00.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by Wave Broadband.
Duration	Effective upon signature by the board and the SLA is effective for three (3) years with automatic annual extensions unless terminated by either party.
Previous Board Action	Board previously approved CBX to build and maintain a dark fiber network for the City of Oregon City.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

CBX is proposing to complete a new fiber connection for LS Networks. LS Networks requested an additional connection to provide connectivity for one of their customers.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this new fiber connection with LS Networks. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This Service Level Agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings
CIO Technology Services

Clackamas County

FIBER OPTIC SERVICE LEVEL AGREEMENT

LightSpeed Networks, Inc. d.b.a. LSN
(Customer Name)

1. Recitals

WHEREAS, Clackamas County (County) desires to provide to LightSpeed Networks, Inc. d.b.a. LSN (Customer) the Services set forth in this Agreement, between the specified Customer sites listed in Appendix A, and at the price contained in Appendix A; and

WHEREAS, Customer desires to use the Services; and

WHEREAS, the Parties desire to set forth herein their respective rights and obligations with respect to the provision of Services;

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and promises set forth herein, intending to be legally bound, the Parties agree as follows.

2. Fiber Optic Network Description

County will provide Customer with point-to-point single mode fiber optic network connectivity, including a termination panel for the fiber optic cables at each Customer premises at the Connecting Points specified in Appendix A. At Customer's option, County will provide Customer with access at a Connecting Point (either an aerial or underground splice enclosure or slack location) in the County's network.

3. Service Description

Service provided to Customer by County is physical connectivity of one (or more) strands of optical fiber ("Fiber"), between sites specifically identified in Appendix A on a path designated by the County. Each site listed in Appendix A will have a single mode fiber termination.

4. Construction and Installation Requirements

- a. County will make existing cable slack locations and splice locations (Connecting Points) available for Customer access. If Customer chooses to access the County network at such locations, the Customer will be responsible for all construction up to such Connecting Points, and will hand-off to County a fiber

optic cable for splicing into the County network. County will have responsibility to splice the Customer cable into the County network, and cost recovery for such activity by the County will be handled via the appropriate Appendix A.

- b. County, when installing fiber optic cables on the property of Customer, shall do so in a neat and professional manner. Routing and location of these cables shall be mutually agreed upon between the parties.
- c. Customer shall secure any easements, leases, permits or other agreements necessary to allow County to use existing pathways to, into and within each site to the demarcation point for service. Customer shall provide a path for the fiber optic cable from the point of entry into the site to the termination panel that complies with all applicable building, electrical, fire and related codes.
- d. Subject to the terms of this Agreement, and at no cost to County, Customer shall provide adequate environmentally controlled space and electricity required for installation, operation, and maintenance of the County's fiber optic cables used to provision the service within Connecting Point.
- e. Customer shall provide a clean, secure, relatively dry and cool location (consistent with environmental requirements for fiber optic network connectivity equipment) at each of its premises for necessary equipment.
- f. Customer will provide or arrange for County and its employees, agents, lessees, officers and its authorized vendors, upon reasonable notice, to have reasonable ingress and egress into and out of the Connecting Points in connection with the provision of service.
- g. If the presence of asbestos or other hazardous materials exists or is detected at the Connecting Points, Customer must have such hazardous materials removed immediately at Customer's expense or notify County to install the applicable portion of the fiber optic network in areas of any such site not containing such hazardous material. Any additional expense incurred as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer.
- h. County shall have no obligation to install, operate, or maintain Customer-provided facilities or equipment.
- i. At Customer's expense, County shall construct Fiber into each Connecting Point specified in Appendix A; splice fiber into existing County fiber optic resources; terminate County's optical fiber in each Connecting Point; and provide the appropriate "hand-offs" at each location for Customer utilization. County shall test all Fiber to verify that the Fiber has been installed and operates in accordance with the applicable specifications in Appendix C. County shall provide a copy of the test results to Customer verifying compliance with the applicable specifications. If Customer does not dispute such verification of compliance within five (5) days after receiving the verification, Customer will be deemed to have accepted the Fiber. This date of acceptance of the Fiber will be

the "Service Start Date." If Customer does not accept the Fiber, County shall repair or replace any portion of the Fiber found to be defective and retest the Fiber in accordance with the specifications in Appendix C, and again provide Customer with a copy of the test results verifying compliance. Customer may again choose to accept or reject the Fiber. This cycle of testing, accepting or rejecting the Fiber, taking corrective action, and retesting may occur as many times as necessary to ensure the Fiber is operating in compliance with the applicable specifications.

- j. County warrants that, except with respect to those items supplied or specified by Customer or interruptions due to intervening causes including, but not limited to, fiber cuts, unscheduled maintenance events and force majeure events, the Fiber will comply with the specifications set forth in Appendix C.
- k. Subject to the limitations in section 12, if at any time during the term of this Agreement the Fiber does not meet the warranty under this section, Customer may provide County with written notice of its determination in accordance with the procedures in Appendix B ("Warranty Notice"). After receiving a Warranty Notice from Customer, County shall respond in accordance with the maintenance and repair procedures set forth in Appendix B. In addressing a defect, County, at its expense and in its sole discretion, shall repair or replace any portion of the Fiber found to be defective. When a defect is found and the Fiber is repaired or replaced, County shall retest the Fibers in accordance with the specifications in Appendix C, and provide Customer with a copy of the test results verifying compliance. Customer may again give Warranty Notice of any defect in such Fiber. This cycle of testing, providing Warranty Notice, taking corrective action, and retesting may occur as many times as necessary to ensure the Fiber is operating in compliance with the applicable specifications.

5. Term of Agreement

At such time as County completes installation and connection of the necessary facilities and equipment to provide service herein, County shall then certify and notify Customer in writing that the service is available for use and Customer shall accept or reject the Fiber in accordance with the procedures in subsection 4(i) above. The date of Customer's acceptance of the Fiber under subsection 4(i) shall be called the "Service Start Date." Unless terminated with 90 days' notice for an event of default as herein provided, this agreement shall continue for a period of three years following the Service Start Date, and shall be automatically renewed for successive one-year renewal terms, at the County's then-current rate schedule, unless either party terminates the Agreement by giving written notice to the other party not less than 90 days prior to the end of the initial term or then current renewal term.

6. Rates

In return for County providing the services described in Appendix A for the term indicated herein, Customer shall pay County both nonrecurring construction/installation charges and recurring charges for services as specified in Appendix A

7. Payment Options

a. Semi-Annual Payments

County shall provide an invoice for six months of service (July 1 through December 31 and January 1 through June 30), or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The semi-annual charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to disconnect fiber service.

b. Alternative Payment Frequency

If Customer demonstrates that prepaid billings present a hardship, Customer may prepay quarterly, and in extreme circumstances may pay monthly. County shall provide an invoice for one quarter or month of service, or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The quarterly or monthly charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to disconnect fiber service.

8. Fiber Maintenance

County shall maintain the structural aspects of the Fiber in good operating condition, utilizing sound engineering practices and in accordance with Appendix B, throughout the Agreement Term. In the event the Fiber fails at any time to meet the specifications outlined in Appendix C, County shall restore the Fiber to meet the specification standards in as timely and expedited a manner as reasonably possible.

County may subcontract for testing, maintenance, repair, restoration, relocation, or other operational and technical services it is obligated to provide hereunder.

Customer shall promptly notify County of any matters pertaining to any damage or impending damage to or loss of the use of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber. County shall promptly notify Customer of any matters pertaining to any damage or impending damage to or loss of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber and/or Customer's use thereof.

9. Confidentiality

All Customer data, voice, or video transmission using County fiber optic facilities shall be treated by County as confidential information, to the extent allowable by law. County agrees that this information shall not be made available, in any form, to any party other than County or its agents or contractors as may be necessary to conduct maintenance or repair activity, without written permission of Customer, except as required by law.

10. Content Control and Privacy

Customer shall have full and complete control of, and responsibility and liability for, the content of any and all communications transmissions sent or received using the Fiber.

11. Assignment and Successors

Either party may assign this Agreement upon prior written consent of the other party. Such consent shall not be unreasonably withheld. Upon such assignment, all rights and obligations of County and Customer under this Agreement shall pass in total without modification to any successor(s) regardless of the manner in which the succession may occur. Notwithstanding the foregoing, Customer may assign this Agreement, without County's consent, to any parent, affiliate (an entity in which Customer's parent entity has a direct or indirect ownership interest of 25% or more) or party acquiring all or substantially all of Customer's assets in the communities in which the Fiber is located, provided that in such event Customer shall notify County of the assignment at least 90 days in advance of such assignment.

12. Damage

County shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of the Customer's premises or facilities, which are damaged by County or its agents. Customer shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of County's connectivity equipment or other facilities, located at Customer premises, which are damaged by Customer or its agents.

Customer will reimburse all related Costs associated with damage to the Fiber caused by the negligence or willful misconduct of Customer, its affiliates, employees, agents, contractors or customers, except to the extent caused by the gross negligence or willful misconduct of County, its affiliates, employees, contractors or agents. "Cost(s)", as used herein include the following: (a) labor costs, including wages, salaries, and benefits together with County's reasonable standard percentage allocation of overhead allocable to such labor costs; and (b) other direct costs and out-of-pocket expenses on a pass-through basis (such as equipment, materials, supplies, contract services, sales, use or similar taxes, etc.). The invoices for such costs shall contain a detailed cost breakdown by cost category. In the event of the disagreement regarding the cost reimbursement, the parties shall use good faith efforts to resolve such matter, and if the parties cannot resolve such dispute, they may pursue their legal remedies other than termination of this Agreement for the services provided hereunder.

13. Force Majeure

Neither party hereto shall be deemed to be in default of any provision of this Agreement, for any failure in performance resulting from acts or events beyond the reasonable control of such party. For purposes of this Agreement, such acts shall include, but shall not be limited to, acts of nature, civil or military authority, civil

disturbance, war, strikes, fires, power failure, other catastrophes or other force majeure events beyond the parties' reasonable control, provided however that the provisions of this paragraph and article shall not preclude Customer from cancelling or terminating this Agreement as otherwise permitted hereunder, regardless of any force majeure event occurring to County.

14. Consequential Damages

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER FORSEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, TRANSMISSION INTERRUPTIONS OR DEGRADATION, INCLUDING BUT NOT LIMITED TO DAMAGE OR LOSS OF PROFITS OR EQUIPMENT, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF REPLACEMENT SERVICES OR CLAIMS OF CUSTOMERS, WHETHER OCCASIONED BY ANY REPAIR OR MAINTENANCE PERFORMED BY OR FAILED TO BE PERFORMED BY A PARTY, OR ANY OTHER CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR STRICT LIABILITY.

15. Public Contracting Provisions

The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.

16. Non-Appropriation

Notwithstanding any other provisions of this Agreement, the parties hereby agree and understand that any obligation of Customer to obtain services as provided herein is subject to fund availability and appropriation by Customer for such services through its adoption of an annual budget. Should funds not be appropriated or be available from Customer during the term of this Agreement, the Agreement shall terminate and Customer shall pay County any remaining pro rata rates for services due to the date of such termination payable pursuant to Section 7 of this Agreement.

17. Compliance with Laws

Customer shall comply with all applicable federal, state, county and city laws, ordinances and regulations, including regulations of any administrative agency thereof, heretofore or hereafter adopted or established, during the entire term of this Agreement.

18. Taxes and Assessments

a. Customer agrees to pay any and all applicable national, federal, state, county and local taxes, fees, assessments or surcharges, and all other similar or related charges, which are imposed or levied on the Fiber, or because of Customers use of the Services under this Agreement (collectively, "Taxes), whether or not the

Taxes are imposed or levied directly on the Customer, or imposed or levied on the County because of or arising out of the use of the Services either by the Customer, or its affiliates, or anyone to whom Customer has sold or otherwise granted access to the Services. Customer agrees to pay these Taxes in addition to all other fees and charges as set forth elsewhere in this Agreement.

- b. "Taxes" include, but are not limited to, business and occupation, commercial, district, excise, franchise fee, gross receipts, license, occupational, privilege, Public Utility Commission, right-of-ways, utility user, or other similar taxes, fees surcharges and assessments as may be levied against Customer, or against County and passed through to Customer; but shall not include income or property taxes.

19. Termination

- a. Either party may terminate this Agreement ninety (90) days following written notice to the other party of the other party's uncured default, as set forth in section 20 below. In addition, this Agreement shall terminate ninety (90) days following written notice by either party.
- b. In the event Customer terminates this Agreement based upon County's default or failure to perform as described in this Agreement, County shall reimburse to Customer the pro rata amounts paid on the unexpired term of this Agreement.
- c. If Customer terminates this Agreement for any reason other than that based on non-appropriation or on County's default or failure to perform, County shall be entitled to 5% of the remaining contract amount for the unexpired term of this Agreement.

20. Default

1. Either of the following events shall constitute a default:
 - a. Failure to perform or comply with any material obligation or condition of this Agreement by any party which is not cured within thirty (30) days after notice by the non-defaulting party; or
 - b. Failure to pay any undisputed sums due under this Agreement.
2. Any defaulting party shall have thirty (30) days in which to cure following receipt of written notice of default by the non-defaulting party identifying with reasonable particularity the nature of the default or, if such default cannot reasonably be cured within such 30 day period, the defaulting party shall proceed promptly to diligently and continuously prosecute such cure within thirty (30) days following receipt of written notice of default by the non-defaulting party identifying with reasonable particularity the nature of the default. If the defaulting party fails to cure the default or prosecute such cure in accordance with this subsection 20(2), then the non-defaulting party may terminate this Agreement in accordance with subsection 19(a) above.

21. Amendment

Any amendments to this Agreement shall be in writing and shall be signed by all parties.

22. No recourse Against the Grantor

Other than as provided in this Agreement, Customer shall have no recourse whatsoever against County or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this Agreement or any part thereof is determined to be invalid.

23. Notice

Any notice hereunder shall be in writing and shall be delivered by personal service or by United States certified or registered mail, with postage prepaid, or by facsimile addressed as follows:

Notice to the County

Manager, Clackamas Broadband Express
Clackamas County Technology Services
121 Library Court
Oregon City, Oregon 97045
Fax Number (503) 655-8255

with a copy to

Chief Information Officer
Clackamas County Technology Services
121 Library Court
Oregon City, Oregon 97045
Fax Number: (503) 655-8255

Notice to the Customer

LSN
Attn: Contract Management
921 SW Washington Street, Suite 370
Portland, OR 97205
Fax: 503-227-8585

Either Party, by similar written notice, may change the address to which notices shall be sent.

24. Whole Contract

THE COUNTY AND THE CUSTOMER ARE PARTIES TO SERVICE LEVEL AGREEMENTS DATED May 27th 2014 and August 28th 2017. WITH THE EXCEPTION OF THE AGREEMENT OR AGREEMENTS SPECIFIED HEREIN, THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL OTHER PRIOR AGREEMENTS OR PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SPECIFIC SUBJECT MATTER OF THIS CONTRACT AFFECTING THE CONNECTIONS IDENTIFIED IN APPENDIX A. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT WILL BE BINDING ON EITHER PARTY EXCEPT AS A WRITTEN ADDENDUM SIGNED BY AUTHORIZED AGENTS OF BOTH PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

Clackamas County

By (signature): _____

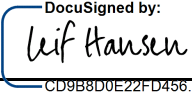
Name: _____

Title: _____

Date: _____

Customer

LightSpeed Networks, Inc. d.b.a. LSN
(Customer Name)

By (signature):  _____
CD9B8D0E22FD456...

Name (print): Leif Hansen

Title: Director Of Engineering

Date: 3/29/2018

APPENDIX A**SERVICE AND RATE SCHEDULE****1. Specified Services and Rates**

The following are the sites, services, and rates agreed to by County and Customer at which Customer shall be provided services on the fiber optic network during the term of the Agreement. It is understood by both parties that service to these sites shall be provided for the rates below, subject to any rate increases otherwise applicable in accordance with terms herein. It is further understood that, during the term of the Agreement, Customer may add services to existing or new locations, or change services and/or locations, but that such changes are subject to the rates for such additional services.

2. Construction, Installation and Activation

For construction, installation and activation work and provision of fiber optic network components, the County shall charge Customer nonrecurring charge(s) as specified in Section 5 of Appendix A. All facilities constructed under this Agreement and Appendix A shall be owned, operated, and maintained by the County.

3. Service Changes and Conversions

Both parties agree that Customer may add or change services during the term of the Agreement, but that such changes are subject to applicable rates, and upgrade and downgrade charges.

4. Semi-Annual Recurring Charges

	From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Monthly Rate (\$)	Customer Initials
1	Clackamas County Aerial splice case at Molalla Ave & Beavercreek Way Oregon City, OR 97045	Clackamas County Vault Adjacent to PGE pole #431 Oregon City, OR 97045	One dark fiber	\$255.00	

5. Nonrecurring Charges

	From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Amount (\$)	Customer Initials
1	Clackamas County Aerial splice case at Molalla Ave & Beavercreek Way Oregon City, OR 97045	Clackamas County Vault Adjacent to PGE pole #431 Oregon City, OR 97045	Construction	\$785.00	

6. Late Payment Interest

Customer will be charged interest for any payment made after its due date (thirty (30) days after receipt of invoice). Interest is charged at a rate of one and a half percent (1.5%) per month, or eighteen percent (18%) annually, or the highest rate allowable in accordance with applicable law, whichever is less, on any installment not paid when due.

7. Annual Consumer Price Index (CPI) Adjustments

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the West Region (West City Size B/C 2.5 Million or less) Consumer Price Index of the US Dept. of Labor, Bureau of Labor Statistics (<https://www.bls.gov/regions/west/data/xg-tables/ro9xg01.htm>), based upon the rate of change as stated from the last month reported to the same month of the preceding year. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

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APPENDIX B

MAINTENANCE AND OPERATIONS SPECIFICATIONS AND PROCEDURES

1. Defined Terms

- a. “Routine Maintenance” is all preventive maintenance activities and repairs.
- b. “Non-Routine Maintenance” is all efforts and activities in response to an emergency circumstance which requires restoration of service.

2. General

- a. County shall operate and maintain a Network Control and Management Center (NCAM) staffed twenty-four (24) hours a day, seven (7) days a week, by trained and qualified personnel. County shall maintain telephone number (503) 742-4219 to contact personnel and NCAM. County’s NCAM personnel shall dispatch maintenance and repair personnel along the fiber optic network to repair problems detected through the NCAM’s remote surveillance equipment, by the Customer, or otherwise.
- b. In the event Customer identifies a circumstance which requires restoration of service, Customer shall provide NCAM personnel the name and address of the facility with the problem, the identification number of the Fiber circuits in question, and the name and telephone numbers of Customer’s personnel to contact for site access and status updates. NCAM personnel shall immediately contact a County technician and provide the Customer contact information. County technician shall contact Customer within one (1) hour of initial call.
- c. If the County’s technician cannot repair the service interruption by telephone, County shall use commercially reasonable efforts to have its first maintenance employee or contractor at the site requiring repair within four (4) hours of the initial call to the NCAM. County will then work continuously until service has been restored.
- d. County shall use commercially reasonable efforts to notify Customer twenty one (21) days prior to the date of any planned non-emergency maintenance activity. In the event that a County planned activity is canceled or delayed for any reason as previously notified, County shall notify Customer as soon as reasonably possible and will comply with the provisions of the previous sentence to reschedule any delayed activity.

3. Fiber Optic Network

- a. County shall maintain the fiber optic network in good and operable condition and shall repair the fiber in a manner consistent with industry standards and using commercially reasonable efforts.
- b. County shall perform appropriate routine maintenance on the fiber optic network in accordance with County's then current preventive maintenance procedures. County's maintenance procedures shall not substantially deviate from industry practice.

4. Restoration

- a. When restoring damaged fiber, the Parties agree to work together to restore all traffic as quickly as possible. County, immediately upon arriving on the site of the damage, shall determine the best course of action to be taken to restore the fiber and shall begin restoration efforts.
- b. It will be the responsibility of County and Customer to report to one another respectively any known environmental or safety hazards which would restrict or jeopardize any maintenance work.
- c. Upon notification of interruption of fiber optic network service, disrepair, impairment or other need for repair or restoration of the fiber and the location of the damaged fiber, County shall pursue commercially reasonable efforts to mobilize technicians to achieve necessary repair or restoration, including, but without limitation, having maintenance personnel at the affected site within four (4) hours after receipt of such notice with the required restoration material and equipment.
- d. In the event that Customer's use of the fiber optic network is interrupted due to an occurrence of a force majeure event, repairs and restoration shall be made as expeditiously as reasonably possible. Customer recognizes that four (4) hour response time represents optimal conditions, and may be impossible to achieve when emergency restoration of fiber optic network integrity is required or when responding to certain remote locations. Actual response times will be influenced by such factors as terrain, weather conditions present at the time the request is made and actual mileage to the fault site.
- e. For purposes of this section, "commercially reasonable efforts" means activities and performances consistent with prudent utility practice, existing contract provisions for County technicians and/or employees, practices required for preserving the integrity of the fiber optic network, and response times that do not jeopardize the health and safety of the employees, contractors and agents of County and Customer.

5. Customer shall be responsible for paying County standard maintenance rates and charges for any calls to County for maintenance issues related to the Fiber that County later confirms as resulting from another source other than functionality of the Fibers.

Remainder of this page intentionally left blank.

APPENDIX C

FIBER SPLICING AND TESTING STANDARDS AND PROCEDURES

1. Fiber and Connector Standards

a. **Connector Standards**

The loss value of any pigtail connector and any associated fiber jumper or pigtail with matching mode field diameters will not exceed .5dB at 1550 nm. The loss value of a connector and its associated jumper with mismatched mode field diameters should not exceed .8 dB.

b. **Field Splice Standards**

The objective for each splice is an averaged loss value of 0.1 dB or less when measured bi-directionally with an OTDR at 1550 nm. In the event of damage and subsequent restoration of the Fibers, commercially reasonable efforts will be made to restore the Fibers to this standard. If after 3 restoration splicing attempts, County is not able to produce a loss value of 0.1 dB or less bi-directionally at 1550 nm, then 0.5 dB or less bi-directionally at 1550 nm will be acceptable. Fibers not meeting the 0.1 dB or less specification will be identified as Out Of Specification (OOS). Documentation of the three attempts (re-burns) to bring the OOS fiber within specification will be provided.

c. **Span Loss**

It is County's responsibility to insure proper continuity of all fibers at the fiber level, not just the pigtail level. Any "frogs" or fibers that cross in the route will be remedied by County. The following span loss calculation will be used:

$$(A * L) + (0.1 * N) + C = \text{Acceptable Span Loss}$$

A = Attenuation per KM at 1550 nm

L = Optical length of cable measured in kilometers (from OTDR Trace)

N = Number of splices in a span

C = Connector loss. The connector loss will not exceed .5dB. The section test will have (2) pigtail connectors/splices under test, so 1.0dB will be allowed for this loss.

Remainder of this page intentionally left blank.



April 12, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Board Order in the Matter of an Extension of the Cable Television Franchise with
Beaver Creek Cooperative Telephone Company

Purpose/Outcome	Extend current cable television franchise to allow time for evaluation and negotiations.
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Effective March 21, 2018 through March 20, 2019
Previous Board Action/Review	The original franchise agreement was approved by the Board Order No. 2008-34 on March 20, 2008 and expired on March 20, 2018.
Strategic Plan Alignment	Building public trust through good government.
Contact Person	Gary Schmidt, Public and Government Affairs, 503-742-5908
Contract No.	N/A

BACKGROUND:

The Beaver Creek Cooperative Telephone Company (Beaver Creek) Cable Franchise Permit Agreement expired on March 20, 2018, but the contract has continued under the same terms and conditions pursuant to applicable law unless and until the county issues a termination of franchise notice. Beaver Creek is currently serving over 1,050 subscribers in the unincorporated area of Clackamas County and the County is currently negotiating a renewal of the cable franchise with Beaver Creek.

This extension, if granted, would not affect either party's rights in the renewal process and includes a provision to preserve the County's right to retroactive PEG funding negotiated in the renewal. The County will evaluate Beaver Creek's legal, technical and financial qualifications to operate the cable system, as well as the community's needs, in its determination of whether to renew the franchise and on what terms and conditions.

This cable franchise agreement extension has been reviewed and approved by County Counsel.

Page 2

Staff Report – Beaver Creek Cooperative Telephone Company

April 12, 2018

RECOMMENDATION:

Staff respectfully recommends the Board approve the extension of the franchise permit agreement to assure that the terms of the current franchise agreement continue to be met through March 20, 2019.

Respectfully submitted,

Gary Schmidt, Director
Public and Government Affairs

In the Matter of Approving an
Extension of the Cable Television
Franchise with Beaver Creek
Cooperative Telephone Company

ORDER NO.

This matter coming before the Clackamas County Board of Commissioners at its regularly scheduled public meeting on April 12, 2018 to consider approving an extension of the cable television franchise with Beaver Creek Cooperative Telephone Company.

WHEREAS, Beaver Creek Cooperative Telephone Company holds a cable television franchise with Clackamas County, which expired on March 20, 2018 but the respective contract has continued under the same terms and conditions pursuant to applicable law unless and until the County issues a termination of franchise notice; and

WHEREAS, County staff and representatives of Beaver Creek Cooperative Telephone Company will evaluate and negotiate terms regarding the renewal of the applicable franchise unless and until the County issues a termination of franchise notice; and

WHEREAS, it is in the public interest to extend the current franchise for an additional period of time to accommodate the renewal process and avoid a potentially unnecessary disruption of service to affected residents.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the franchise granted to Beaver Creek Cooperative Telephone Company shall be extended until and including March 20, 2019, and that all rights and obligations provided the parties under the franchise agreement shall remain in full force and effect during that period, including the rights of the parties under the Cable Communications Policy Act of 1992 and the Telecommunications Act of 1996. Neither Beaver Creek Cooperative Telephone Company nor the County shall assert any claim, denial or defense based upon the original expiration date of the Franchise Agreement, excepting therefrom that the County may assert in negotiations that any increase in PEG funding included in the new franchise agreement shall include the time period covered by this extension. This extension of the franchise is explicitly conditioned upon written acceptance thereof by the Franchisee.

DATED this _____ day of April, 2018

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners
Acting as the Board for the Clackamas County Service District #5
Clackamas County

Members of the Board:

**Approval of a Contract with EC Company for
Construction Services for the
SE McLoughlin Boulevard Phase 2 Street Lighting Improvements**

Purpose/Outcomes	This contract will provide for the construction of street lighting primarily along the east side of McLoughlin Blvd. with several lights also added on the west side.
Dollar Amount and Fiscal Impact	Contract value is \$825,000.
Funding Source	Service District No. 5 (CCSD#5) and Oregon Department of Transportation
Duration	Contract execution through September 30, 2018
Previous Board Action	11/25/2015: BCC approval of the McLoughlin Blvd. street lighting petition. 11/16/2016: Policy Session 06/22/2017: BCC approval of a Design and Engineering Services contract with Harper Houf Peterson Righellis, Inc.
Strategic Plan Alignment	This project will provide strong infrastructure and ensure safe communities by providing street lighting in a heavily populated area of Clackamas County.
Contact Person	Terry Mungenast, Project Manager 503-742-4656

Background:

District No. 5 allows for the installation of street lighting through the District's petition process. On November 25, 2015 the McLoughlin Boulevard street lighting petition was approved by the Board. In response to this approved petition request, the Board authorized district revenues, majority of which are from the sale of district assets, to be directed towards a capital improvement project to light McLoughlin Boulevard in an effort to enhance the safety of the traveling public.

The project will provide lighting on the east and west sides of McLoughlin Boulevard between the cities of Milwaukie and Gladstone and is being constructed in two phases. Phase 1 consisted of Portland General Electric installing new fixtures on the existing wood poles on the west side of McLoughlin Boulevard, this work is complete.

Phase 2 will install new conduit, foundations, aluminum poles and lights along the east side of McLoughlin Blvd. and also add several light poles to the west side to fill gaps in the lighting coverage.

The project work is anticipated to begin immediately following contract signing. Substantial completion will be not later than July 13, 2018 with final completion not later than September 30, 2018.

Procurement Process:

This project advertised in accordance with ORS and LCRB Rules on February 1, 2018. Bids were opened on February 27, 2018. The County received three (3) bids: Aaken Corp, \$842,552.00; North Star Electrical Contractors, Inc., \$874,400.00; and EC Company, \$825,000.00. EC Company was determined to be lowest responsive bidder.

This contract has been reviewed and approved by County Counsel.

Recommendation:

Staff respectfully recommends that the District Board approves and signs this construction services contract with EC Company for the SE McLoughlin Boulevard Phase 2 Street Lighting Improvements Project.

Sincerely,

Terry Mungenast
Project Manager

Placed on the BCC Agenda _____ by Procurement



CLACKAMAS COUNTY PUBLIC IMPROVEMENT CONTRACT

AGREEMENT FORM

This Public Improvement Contract for the **#2018-09 McLoughlin Blvd Street Lighting Project** (the "Contract"), is made by and between Clackamas County, a political subdivision of the State of Oregon, hereinafter called "County," and **EC Company**, hereinafter called the "Contractor" (collectively the "Parties"), shall become effective on the date this Contract has been signed by all the Parties and all County approvals have been obtained, whichever is later.

WITNESSETH:

1. Contract Price, Contract Documents and Work.

The Contractor, in consideration of the sum of **Eight Hundred Twenty-Five Thousand Dollars (\$825,000.00)** (the "Contract Price"), to be paid to the Contractor by County in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Contract Documents as defined in Section 00195 of the Special Provisions, all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents. The Contract Price is the prices fixed in the Contractor's Bid Proposal for said work as set forth herein under the Schedule of Bid Prices.

Also, the following documents are incorporated by reference in this Contract and made a part hereof:

- Notice of Public Improvement Contract Opportunity
- Supplemental Instructions to Bidders
- Bid Bond
- Bid Proposal and Schedule of Prices
- Public Improvement Contract Form
- Instructions to Bidders
- First-Tier Subcontractor Disclosure Form
- Performance Bond and Payment Bond
- Prevailing Wage Rates
- Plans, Special Provisions and Drawings

2. Representatives.

Contractor has named Jo Garcia as its Authorized Representative to act on its behalf.

The County designates Terry Mungenast as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment, authorization, and to carry out the responsibilities of the County.

3. Key Persons.

The Contractor's personnel identified below shall be considered Key Persons and shall not be replaced during the project without the prior written permission of County, which shall not be unreasonably withheld. If the Contractor intends to substitute personnel, a request must be given to County at least 30 days prior to the intended time of substitution. When replacements have been approved by County, the Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the project concurrently. Once a replacement for any of these staff members is authorized, further replacement shall not occur without the prior written permission of County. The Contractor's project staff shall consist of the following personnel:

Project Executive: Jo Garcia shall be the Contractor's project executive, and will provide oversight and guidance throughout the project term.

Project Manager: Zach Young shall be the Contractor's project manager and will participate in all meetings throughout the project term.

Job Superintendent: Greg McLeod shall be the Contractor's on-site job superintendent throughout the project term.

4. Contract Dates.

Project Commencement: Upon issuance of Notice to Proceed ("NTP")

Final Completion: July 13, 2018

Time is of the essence for this Contract. It is imperative that the Work in this Contract reach Second Notification and Third Notification by the above specified dates.

5. Insurance Certificates.

In accordance with Section 00170.70 of Special Provisions (see Addendum #1, issued February 7, 2018), Contractor shall furnish proof of the required insurance naming Clackamas County and the State of Oregon and the Oregon Department of Transportation as an additional insured. Insurance certificates may be returned with the signed Contract or may be emailed to Procurement@clackamas.us.

6. Tax Compliance.

Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

7. Confidential Information.

Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to County or the State of Oregon. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed confidential information of County and of State ("Confidential Information"). Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Contract.

8. Counterparts.

This Contract may be executed in several counterparts, all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

9. Integration.

The Contract Documents constitute the entire agreement between the parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

10. Liquidated Damages

The Contractor acknowledges that the County will sustain damages as a result of the Contractor’s failure to substantially complete the Project in accordance with the Contract Documents and Special Provision Section 00180.85. These damages may include, but are not limited to delays in completion, use of the Project, and costs associated with Contract administration and use of temporary facilities.

In witness whereof, Clackamas County executes this Contract and the Contractor does execute the same as of the day and year first above written.

11. Contractor DATA:

**EC Company
32758 Old Highway 34 SE
Albany, OR 97322**

Contractor CCB # 49737 Expiration Date: 1/15/2020
Oregon Business Registry # 166890-10 Entity Type: DBC State of Formation: Oregon

Payment information will be reported to the IRS under the name and taxpayer ID# provided by the Contractor. Information must be provided prior to contract approval. Information not matching IRS records could subject Contractor to 28 percent backup withholding.

EC Company

Clackamas County Board of County Commissioners

Authorized Signature Date

Chair Date

Name / Title Printed

Recording Secretary

APPROVED AS TO FORM

County Counsel Date