



**Oak Lodge Water District Office
14496 SE River Road
Oak Grove, OR 97267
December 5, 2017 at 6:00 p.m.**

Call to Order and Flag Salute

1. Call for Public Testimony

Members of the public are welcome to testify for a maximum of three minutes on each agenda item.

2. Bond Advanced Refunding
3. Sanitary Lateral Ownership Conversation
4. Public Comment
5. Business from the Board

Adjourn



AGENDA ITEM

Agenda Item: Call for Public Testimony
Item No.: 1
Presenters: N/A

Background:

Members of the public are invited to identify agenda items on which they would like to comment or provide testimony. The Board may elect to limit the total time available for public comment or for any single speaker depending on meeting length.



STAFF REPORT

To: Board of Directors
From: Kelly Stacey, Finance Director
Agenda Item: Bond Advance Refunding
Item No.: 2
Date: December 5, 2017

Background

Pending federal tax legislation would eliminate the ability of municipal borrowers to issue advance refunding bonds for savings after December 31, 2107. Staff has been working with Kieu-Oanh and Gulgun Mersereau to expedite refunding all or a portion of the District's 2010 General Obligation (GO) Bonds.

Kieu-Oanh presented an RFP to several banks and financial institutes with two options. One would be a bank placement of under \$10 million and the second would be a revenue bond refunding the entire amount. The deadline for submitting proposals is 12:00 pm on Monday December 4.

By meeting time on December 5, 2017, the refunding team will have reviewed the proposals. Kieu-Oanh will put together term sheets to clearly lay out the options available through the proposals submitted.

Action Requested

Staff recommends the Board approve authorize the General Manager or the Finance Director to act on behalf of the District as outlined in the attached resolution to refund the bonds.

Suggested Motion

"I move that the Board approve the attached Resolution authorizing the General Manager or the Finance Director to refund the GO Bonds."

Attachments

1. Master Declaration
2. Resolution

**FORM OF MASTER WASTEWATER
SYSTEM REVENUE BOND
DECLARATION**

Oak Lodge Water Services, Oregon

Wastewater Revenue Bonds

Series 2017

Executed by the District Official of the Oak Lodge Water Services, Oregon

As of the __ day of _____, 2017

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MASTER WASTEWATER SYSTEM REVENUE BOND DECLARATION

THIS MASTER WASTEWATER SYSTEM REVENUE BOND DECLARATION is executed as of December __, 2017, by a District Official of the Oak Lodge Water Services, Oregon to establish the terms under which the District's 2017 Wastewater System Loan Agreement and other obligations secured by liens on the Net Revenues of the District's Wastewater System may be issued.

Section 1. Findings.

The District finds:

- 1.1. The Oak Lodge Sanitary District, which merged into the Oak Lodge Water Services, issued its General Obligation Bonds, Series 2010A (the "2010 Bonds") to finance wastewater system improvements.
- 1.2. The District has entered into the 2017 Wastewater System Loan Agreement (the "2017 Agreement") with [Lender] to refund and pay a portion of the District's outstanding 2010 Bonds. Refunding the 2010 Bonds with the 2017 Agreement will reduce the District's debt service expense.
- 1.3. The 2017 Agreement is a "bond" as defined in ORS 287A.001(3)(a), and the District is authorized by ORS 287A.360 to 287A.375 and ORS 271.390 to issue bonds to refund outstanding District bonds.
- 1.4. The District now executes this Master Declaration to establish the terms under which the District will operate its Wastewater System and pay the 2017 Agreement and any obligations on a parity with the 2017 Agreement.

Section 2. Definitions.

Unless the context clearly requires otherwise, capitalized terms that are used in this Master Declaration and are defined in this Section 2 shall have the meanings defined for those terms in this Section 2.

"2010 Bonds" means the District's General Obligation Bonds, Series 2010A, which are refunded by the 2017 Agreement.

"2017 Agreement" means the District's 2017 Wastewater System Loan Agreement that is dated as of December __, 2017 and is executed by the District and the Bank. The 2017 Agreement is a "Bond" under this Master Declaration.

"Adjusted Coverage Revenues" means the Coverage Revenues, adjusted for purposes of Section 7.1.C(ii) as provided in Section 7.3.

"Annual Bond Debt Service" means in any Fiscal Year the amount of principal and interest required to be paid in that Fiscal Year on all Outstanding Bonds, calculated as follows:

- (a) Interest which is to be paid from Bond Proceeds shall be subtracted;
- (b) Bonds which are subject to scheduled, noncontingent redemption or tender shall be deemed to mature on the dates and in the amounts which are subject to mandatory redemption or tender, and only the amount scheduled to be Outstanding on the final maturity date shall be treated as maturing on that date;
- (c) Interest subsidies shall be subtracted from the interest due on Interest Subsidy Bonds as provided in Section 6.5;
- (d) Bonds which are subject to contingent redemption or tender shall be treated as maturing on their stated maturity dates; and,
- (e) Each Balloon Payment shall be assumed to be paid according to its Balloon Debt Service Requirement.

“Auditor” means a person authorized by the State Board of Accountancy to conduct municipal audits pursuant to ORS 297.670.

“Balloon Debt Service Requirement” means the Committed Debt Service Requirement for a Balloon Payment or, if the District has not entered into a firm commitment to sell Bonds or other obligations to refund that Balloon Payment, the Estimated Debt Service Requirement for that Balloon Payment.

“Balloon Payment” means any principal payment for a Series of Bonds which comprises more than twenty-five percent of the original principal amount of that Series, but only if that principal payment is designated as a Balloon Payment in the closing documents for the Series.

“Bank” means [Lender], the lender under the 2017 Agreement.

“Base Period” means the alternative selected by the District from the following two options: (a) any twelve consecutive months selected by the District or Qualified Consultant out of the most recent eighteen months preceding the delivery of a Series of Parity Bonds; or (b) the most recently completed fiscal year for which audited financial statements are available.

“Bond” or “Bonds” means the 2017 Agreement and any Parity Bonds.

“Bond Counsel” means a law firm selected by the District and having knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds.

“Bond Reserve Account” means the Bond Reserve Account in the Wastewater Fund described in Section 5.3 of this Master Declaration.

“Business Day” means any day except a Saturday, a Sunday, a legal holiday, a day on which the offices of banks in Oregon or New York are authorized or required by law or executive order to remain closed, or a day on which the New York Stock Exchange is closed.

“Closing” means the date on which a Series of Bonds is delivered in exchange for payment.

“Code” means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated thereunder.

“Committed Debt Service Requirement” means the schedule of principal and interest payments for a Series of Bonds or other obligations which refund a Balloon Payment, as shown in the documents evidencing the District’s firm commitment to sell that Series. A “firm commitment to sell” means a bond purchase agreement or similar document which obligates the District to sell, and obligates a purchaser to purchase, the Series of refunding Bonds or other obligations, subject only to the conditions which customarily are included in such documents.

“Coverage Revenues” means the Net Revenues less systems development charges.

“Credit Facility” means a letter of credit, a municipal bond insurance policy, standby bond purchase agreement or other credit enhancement device which is obtained by the District to secure payment in full of Bonds, and which is issued or provided by a Credit Provider.

“Credit Provider” means the person or entity that is: (i) obligated to make or guarantee payments under a Credit Facility; and (ii) whose long-term debt obligations or claims-paying ability (as appropriate) are rated, at the time the Credit Facility is issued, in one of the three highest rating categories by a Rating Agency that has issued a rating on Outstanding Bonds. Under rating systems in effect on the date of this Master Declaration, a rating in one of the three highest rating categories by a Rating Agency would be a rating of “A” or better.

“Debt Service Account” means the Debt Service Account described in Section 5.2 of this Master Declaration.

“District” means Oak Lodge Water Services in Clackamas County, Oregon, a municipal corporation of the State of Oregon.

“District Board” means the Board of Directors of the District, or its successors.

“District Official” means the _____ or the person designated by the _____ to act on behalf of the District under this Master Declaration.

“Estimated Debt Service Requirement” means the schedule of principal and interest payments for a hypothetical Series of Bonds that refunds a Balloon Payment, that is prepared by the District Official and that meets the requirements of Section 6.4.

“Event of Default” means any event specified in 11.2 of this Master Declaration.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or as otherwise defined by State law.

“Fitch” means Fitch Investors Service, Inc., its successors and assigns.

“Fund” or “Account” refers to any fund, account, or other accounting concept that permits the District to account accurately for amounts that are credited to it under this Master Declaration. A “Fund” in this Master Declaration does not need to appear as a “fund” in the District’s budget and an “Account” in this Master Declaration does not need to appear as an “account” in the District’s budget.

“Government Obligations” means (a) direct, noncallable obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury and principal-only and interest-only strips that are issued by the U.S. Treasury); or (b) noncallable obligations the principal of and interest on which are secured by the full faith and credit of the United States of America or are unconditionally guaranteed by the United States of America.

“Gross Revenues” means all fees and charges and other revenues that are properly accrued under generally accepted accounting principles as revenues of the Wastewater System, including systems development charges but only to the extent Oregon law allows those systems development charges to be used to pay Bonds, revenues from product sales, and interest earnings on Gross Revenues in the Wastewater Fund. Gross Revenues shall be increased by any withdrawals from the Rate Stabilization Account as provided in Section 5.6.B, and shall be reduced by any deposits to the Rate Stabilization Account as provided in Section 5.6.A. However, the term “Gross Revenues” shall not include:

- (a) The interest income or other earnings derived from the investment of any escrow fund established for the defeasance or refunding of outstanding indebtedness of the District;
- (b) Any gifts, grants, donations or other amounts received by the District from any State or Federal Agency or other person if such amounts are restricted by law or the grantor to uses inconsistent with the payment of Bonds;
- (c) The proceeds of any borrowing;
- (d) The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues);
- (e) The proceeds of any casualty insurance which the District intends to utilize for repair or replacement of the Wastewater System;
- (f) The proceeds derived from the sales of assets pursuant to Section 10.9 of this Master Declaration;
- (g) Any ad valorem or other taxes imposed by the District (except charges or payments for Wastewater System services which become “taxes” within the meaning of Article XI, Section 11b of the Oregon Constitution only because they are imposed on property or property owners);
- (h) Any income, fees, charges, receipts, profits or other amounts derived by the District from its ownership or operation of any Separate Utility System;
- (i) Installment payments of District line and branch charges, connection fees, or local improvement district assessments that have been pledged as security for a borrowing other than a Bond; or
- (j) Any federal interest subsidies the District receives for Interest Subsidy Bonds.

“Interest Payment Date” means any date on which Bond interest is scheduled to be paid, and any date on which Bonds are called for redemption.

“Interest Subsidy Bonds” means Bonds for which the District is eligible to receive federal interest rate subsidies that are similar to the interest subsidies that were available for Build America Bonds.

“Master Declaration” means this Master Wastewater System Revenue Bond Declaration, including any amendments made pursuant to Section 12.

“Maximum Annual Bond Debt Service” means the greatest amount of Annual Bond Debt Service that is due in any Fiscal Year, beginning with the Fiscal Year for which the calculation is made, and ending with the last Fiscal Year in which Outstanding Bonds are scheduled to be paid.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns.

“Net Revenues” means the Gross Revenues less the Operating Expenses.

“Operating Expenses” means all costs which are properly treated as expenses of operating and maintaining the Wastewater System under generally accepted accounting principles. However, Operating Expenses do not include:

- (a) Any rebates or penalties paid from Gross Revenues under Section 148 of the Code;
- (b) Payments of judgments against the District and payments for the settlement of litigation;
- (c) Depreciation and amortization of property values or losses, and other non-cash expenses;
- (d) All amounts eligible to be treated for accounting purposes as payments for capital expenditures;
- (e) Interest and other debt service payments, paying agent fees, broker-dealer fees and similar charges for the maintenance of borrowings;
- (f) The expenses of owning, operating or maintaining any Separate Utility System;
- (g) Expenditures made from any liability insurance proceeds;
- (h) Expenditures made from any casualty insurance proceeds used to pay for costs of repairing or replacing portions of the Wastewater System;
- (i) Expenditures made from grant funds, regardless of whether such grant funds are dedicated to a specific purpose or available for the general operation, maintenance and repair or replacement of the Wastewater System;
- (j) Extraordinary, non-recurring expenses of the Wastewater System; or
- (k) Expenditures allocable to any other funding source which does not constitute Gross Revenues of the Wastewater System.

“ORS” means the Oregon Revised Statutes.

“Outstanding” refers to all Bonds except Bonds that have been paid, defeased pursuant to Section 13 of this Master Declaration, and bearer Bonds that have matured and not been presented for payment (provided sufficient funds to pay those Bonds have been transferred to their paying agent).

“Owner” means a registered owner of a Bond. As of the date of Closing of the 2017 Agreement, the Owner of the 2017 Agreement is the Bank.

“Parity Bond” means any obligation that is secured by the Net Revenues on an equal basis with the Bonds and is issued in accordance with Section 7.

“Payment Date” means a Principal Payment Date or an Interest Payment Date.

“Permitted Investments” means any investments which the District is permitted to make under the laws of the State.

“Principal Payment Date” means any date on which any Bonds are scheduled to be retired, whether by virtue of their maturity or by mandatory sinking fund redemption prior to maturity, and the redemption date of any Bonds which have been called for redemption.

“Qualified Consultant” means an independent engineer, an independent auditor, an independent financial advisor, or similar independent professional consultant of recognized standing and having experience and expertise in the area for which such person or firm is retained by the District for purposes of performing activities specified in this Master Declaration or any Supplemental Declaration.

“Rate Stabilization Account” means the Rate Stabilization Account established in the Wastewater Fund pursuant to Section 5.6.

“Rating Agency” means Fitch, Moody’s, S&P, or any other nationally recognized financial rating Agency which has rated Outstanding Bonds or a Credit Facility at the request of the District.

“Reserve Credit Facility” means any arrangement in which the District pays a fee in exchange for an agreement of a Credit Provider to advance money to the District in the future that the District will use in lieu of using cash or Permitted Investments credited to a subaccount in the Bond Reserve Account. “Reserve Credit Facility” does not include guaranteed investment contracts, master repurchase agreements and similar Permitted Investments.

“Reserve Requirement” means a set of rules for funding a subaccount in the Bond Reserve Account. Each Reserve Requirement shall indicate the amount that is required to be credited to the subaccount, the dates by which that amount must be credited to the subaccount, and the requirements for restoring amounts to the subaccount if amounts are withdrawn to pay Bonds that are secured by the subaccount. The 2017 Agreement is not secured by the Bond Reserve Account or any subaccount therein.

“S&P” means S&P Global Ratings, a corporation organized and existing under the laws of the State of New York, its successors and their assigns.

“Separate Utility System” means any utility property which is declared by the District to constitute a system which is distinct from the Wastewater System in accordance with Section 9.

“Series” refers to all Bonds authorized by a single ordinance or declaration and delivered in exchange for payment on the same date, regardless of variations in maturity, interest rate or other provisions, unless the closing documents for the Series provide otherwise.

“State” means the State of Oregon.

“Subordinate Obligations” means obligations having a lien on the Net Revenues which is subordinate to the lien of the Bonds. Restrictions on Subordinate Obligations are described in Section 8. On the date of this Master Declaration, the District has two borrowings outstanding

with a lien on the Net Revenues which is subordinate to the lien of the Bonds: [the Clean Water State Revolving Fund Loan Agreement No. R70030 between the State acting by and through its Department of Environmental Quality and the District, dated January 2010 and outstanding in the principal amount of [\$_____] as of the Closing date of the 2017 Agreement; and the Clean Water State Revolving Fund Loan Agreement No. R70031 between the State acting by and through its Department of Environmental Quality and the District, dated December 2010 and outstanding in the principal amount of [\$_____] as of the Closing date of the 2017 Agreement].

“Subordinate Obligations Account” means the Subordinate Obligations Account of the Wastewater Fund which is described in Section 5.5.

“Supplemental Declaration” means any declaration, resolution or other document which supplements or amends this Master Declaration, entered into by the District in compliance with Section 12.

“Wastewater Fund” means the collection of funds and accounts used by the District to hold the Gross Revenues and the proceeds of Bonds.

“Wastewater System” means all utility property now or hereafter used by the District for the collection, treatment and management of wastewater. . However, the Wastewater System does not include any Separate Utility System or the surface water system.

Section 3. Rules of Construction.

In determining the meaning of the provisions of this Master Declaration, the following rules shall apply unless the context clearly requires application of a different meaning:

- A. References to section numbers shall be construed as references to sections of this Master Declaration.
- B. References to one gender shall include all genders.
- C. References to the singular include the plural, and references to the plural include the singular.

Section 4. Deposit, Pledge and Use of Gross Revenues.

- 4.1. All Gross Revenues shall be deposited to and maintained in the Wastewater Fund, and shall be used only as described in this Section as long as any Bonds remain Outstanding. The District shall apply Gross Revenues in the Wastewater Fund on or before the following dates for the following purposes in the following order of priority:
 - A. At any time to pay Operating Expenses which are then due;
 - B. At least one Business Day prior to each Payment Date, to transfer Net Revenues to the Debt Service Account in an amount sufficient (with amounts available in the Debt Service Account) to pay in full all Bond principal, interest and premium, if any, which is due to be paid on that Payment Date;

- C. On the Closing date for a Series of Bonds and on the first day of the months specified in the provisions creating the subaccounts in the Bond Reserve Account, if the balance in any subaccount of the Bond Reserve Account is determined to be less than the applicable Reserve Requirement, to transfer Net Revenues to the Bond Reserve Account in the amounts required by the provisions creating the subaccounts in the Bond Reserve Account until the balances in all subaccounts of the Bond Reserve Account are equal to their Reserve Requirement;
 - D. On the day on which any rebates or penalties for Bonds are due to be paid to the United States pursuant to Section 148 of the Code, an amount of Net Revenues that is sufficient, with other available funds, to pay the amounts due to the United States;
 - E. On the dates specified in any proceedings authorizing Subordinate Obligations, the District shall transfer to the Subordinate Obligations Account the Net Revenues required by those proceedings; and,
 - F. On any date, the District may transfer Net Revenues to the Rate Stabilization Account or spend Net Revenues for any other lawful purpose relating to the Wastewater System, but only if all deposits and payments that are required to be made on or before that date and that have a higher priority under this Section have been made.
- 4.2. The District hereby pledges the Net Revenues and federal interest subsidies the District receives for Interest Subsidy Bonds to the payment of principal of, premium (if any) and interest on all Bonds. Pursuant to ORS 287A.310, this pledge made by the District shall be valid and binding from the Closing of the 2017 Agreement. The Net Revenues and federal interest subsidies so pledged and hereafter received by the District shall immediately be subject to the lien of such pledge without any physical delivery or further act. The lien of these pledges shall be superior to all other claims and liens except liens and claims for the payment of Operating Expenses. The District covenants and agrees to take such action as is necessary from time to time to perfect or otherwise preserve the priority of the pledge.
- 4.3. If Bonds issued after the 2017 Agreement are secured by a subaccount in the Bond Reserve Account, and the rules for funding that subaccount allow that subaccount to be funded with Reserve Credit Facilities, the District may pledge the Net Revenues available for transfer to that subaccount to pay amounts due under those Reserve Credit Facilities.

Section 5. Bond Funds and Accounts.

- 5.1. So long as Bonds are Outstanding, the District shall maintain the Debt Service Account and the Bond Reserve Account as discrete accounts in the Wastewater Fund.
 - 5.2. **Debt Service Account.** The District shall hold the Debt Service Account. Until all Bonds are paid or defeased, amounts in the Debt Service Account shall be used only to pay Bonds.
- A. After the transfer described in Section 4.1.B, if the balance in the Debt Service Account is less than the amount of Bond principal, premium and interest that is due on that

Payment Date, the District shall credit to the Debt Service Account an amount equal to the deficiency from any Net Revenues in the Subordinate Obligations Account.

- B. If, after the credit described in Section 5.2.A, the amounts available to pay Debt Service Account is not sufficient to pay all amounts due on the Payment Date, the District shall allocate the available amounts:
 - (i) First, to pay Bond interest, and pro rata based on the amount due on Bonds if the available amount is not sufficient to pay all Bond interest that is due on that Payment Date; and,
 - (ii) Second, to pay Bond principal and premium that is due on that Payment Date, and pro rata based on the amount of principal and premium due on each Bond if the available amount is not sufficient to pay all Bond principal and premium that is due on that Payment Date.
- C. If, after the allocation described in Section 5.2.B, there is not enough to pay all principal, interest and premium allocated to pay Bonds that are secured by a subaccount in the Bond Reserve Account, the District shall apply any amounts available in the subaccounts in the Bond Reserve Account, but only to pay the principal, interest and premium on the Bonds that are secured by those subaccounts.
- D. The District shall transfer amounts available in the Debt Service Account to the paying agent in time to permit the paying agent to pay Bond principal, interest and premium (if any) when due.
- E. Amounts in the Debt Service Account shall be invested only in Permitted Investments. Earnings on the Debt Service Account shall be credited to the Wastewater Fund.

5.3. Bond Reserve Account.

- A. The Bond Reserve Account shall be held by the District. The District may create one or more subaccounts in the Bond Reserve Account to secure Series of Bonds and covenant to make deposits into any subaccounts it creates; however, the District is not obligated to create any subaccounts in the Bond Reserve Account, and is not obligated to secure any Series of Bonds with a subaccount in the Bond Reserve Account.
- B. When a subaccount in the Bond Reserve Account is created, the District shall determine whether the subaccount will secure one or more Series of Bonds. If the District creates a subaccount in the Bond Reserve Account, the District shall, when it issues the first Series of Bonds that is secured by that subaccount: a) establish the Reserve Requirement for that subaccount; b) pledge amounts credited to that subaccount to pay the Bonds that are secured by that subaccount; and c) determine if the Reserve Requirement for that subaccount may be funded with Reserve Credit Facilities and the requirements for those Reserve Credit Facilities, the valuation and replenishment provisions that apply to that subaccount, and how debt service on Interest Subsidy Bonds is calculated for purposes of the Reserve Requirement.

- C. The District shall not create any subaccounts in the Bond Reserve Account for any purpose except securing Bonds in accordance with this Master Declaration.
 - D. The 2017 Agreement is not secured by the Bond Reserve Account or any subaccount therein.
- 5.4. **Subordinate Obligations Account.** The District shall create and maintain the Subordinate Obligations Account as long as Subordinate Obligations are Outstanding. The Subordinate Obligations Account may be divided into subaccounts, and the District may establish priorities for funding the subaccounts in the Subordinate Obligations Subaccount. Net Revenues shall be deposited into the Subordinate Obligations Account only as permitted by Section 4.1.E. Earnings on the Subordinate Obligations Account shall be credited as provided in the proceedings authorizing the Subordinate Obligations. On the date of this Master Declaration, the District has two borrowings outstanding with a lien on the Net Revenues which is subordinate to the lien of the Bonds: [the Clean Water State Revolving Fund Loan Agreement No. R70030 between the State acting by and through its Department of Environmental Quality and the District, dated January 2010 and outstanding in the principal amount of [\$_____] as of the Closing date of the 2017 Agreement; and the Clean Water State Revolving Fund Loan Agreement No. R70031 between the State acting by and through its Department of Environmental Quality and the District, dated December 2010 and outstanding in the principal amount of [\$_____] as of the Closing date of the 2017 Agreement].
- 5.5. **Rate Stabilization Account.** The District may create a Rate Stabilization Account in the Wastewater Fund and if created will maintain that account as long as Bonds are Outstanding. Net Revenues may be transferred to the Rate Stabilization Account at the option of the District as permitted by Section 4.1.F. Money in the Rate Stabilization Account may be withdrawn at any time and used for any purpose for which the Gross Revenues may be used.
- A. Deposits to the Rate Stabilization Account decrease Gross Revenues in the Fiscal Year for which the deposit is made.
 - B. Withdrawals from the Rate Stabilization Account increase Gross Revenues in the Fiscal Year for which the withdrawal is made.
 - C. The District may adjust deposits to and withdrawals from the Rate Stabilization Account for a Fiscal Year at any time prior to the date on which the audit for that Fiscal Year is finalized.
 - D. Earnings on the Rate Stabilization Account shall be credited to the Wastewater Fund.

Section 6. Rate Covenant; Calculations Relating to Balloon Indebtedness and Interest Subsidy Bonds.

- 6.1. The District covenants for the benefit of the Owners that it will establish and maintain rates and charges in connection with the operation of the Wastewater System which are sufficient to permit the District to pay all Operating Expenses and all lawful charges

against the Net Revenues, and to make all transfers required by this Master Declaration to the Debt Service Account, the Bond Reserve Account and the Subordinate Obligations Account.

- 6.2. The District covenants for the benefit of the Owners of all Bonds that it shall charge rates and fees in connection with the operation of the Wastewater System which, when combined with other Gross Revenues are adequate to generate Coverage Revenues each Fiscal Year at least equal to one hundred twenty percent (120%) of Annual Bond Debt Service due in that Fiscal Year.
- 6.3. Not later than six months after the end of each Fiscal Year, the District shall prepare a report that demonstrates whether the District has complied with Section 6.2 during that Fiscal Year and shall file that report in the District records. If the report demonstrates that the District has not complied with Section 6.2 during that Fiscal Year, it shall not constitute a default under this Master Declaration if, within thirty (30) days after the report is filed, the District files a certificate of a District Official that specifies the actions that the District has taken and will take within the next ninety (90) days to permit the District to comply with Section 6.2 for the remainder of the Fiscal Year in which the report is filed, and for the succeeding Fiscal Year, and the District takes the actions specified by the District Official, or actions having a comparable effect.
- 6.4. The Estimated Debt Service Requirement for Balloon Indebtedness shall be calculated in accordance with this Section 6.4.
 - A. For the Rate Covenants: For each Balloon Payment that is Outstanding on May 1 of any Fiscal Year, the District Official shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds that Balloon Payment in accordance with Section 6.4.D. The District Official shall prepare that schedule as of that first day of May, and that schedule shall be used to determine compliance with the rate covenant in Section 6.2 for the following Fiscal Year.
 - B. For Parity Bonds: Whenever a Balloon Payment will be Outstanding on the date a Series of Parity Bonds is issued, the District Official shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds each Outstanding Balloon Payment in accordance with Section 6.4.D. The District Official shall prepare that schedule as of the date the Parity Bonds are sold, and that schedule shall be used to determine compliance with the tests for Parity Bonds in Section 7.1.
 - C. For the Reserve Requirement: Whenever a Series of Bonds that contains a Balloon Payment is issued, the District Official shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds each Balloon Payment in that Series in accordance with Section 6.4.D. The District Official shall prepare that schedule as of the date the Series is sold, and that schedule shall be combined with the schedule for payment of any debt service on Bonds that are secured by the same subaccount, and that combined schedule shall be used to determine the Reserve Requirement as long as that Series is Outstanding.

D. Each hypothetical Series of refunding Bonds shall be assumed to be paid in equal annual installments of principal and interest that are sufficient to amortize the principal amount of the Balloon Payment over the term selected by the District Official; however, the District Official shall not select a term that exceeds the lesser of: 30 years from the date the Balloon Payment is originally scheduled to be paid; or, the District's estimate of the remaining weighted average useful life (expressed in years and rounded to the next highest integer) of the assets which are financed with the Balloon Payment. The annual installments shall be assumed to be due on the anniversaries of the date the Balloon Payment is originally scheduled to be paid, with the first installment due on the first anniversary of the date the Balloon Payment is scheduled to be paid. Each installment shall be assumed to bear interest at a rate that is estimated by the District from the Bond Buyer Revenue Bond Index (or if the Bond Buyer Revenue Bond Index is not available, a reasonably comparable index selected by the District) for a revenue bond with a term that is equal to the term of the installment. When the District prepares a schedule described in Section 6.4.A, Section 6.4.B or Section 6.4.C, the District shall use the index that is available to the District on the date the District is required to prepare that schedule.

6.5. Interest Subsidy Bonds. The amounts assumed to be paid on Interest Subsidy Bonds shall be calculated as follows:

A. When calculating Annual Bond Debt Service for the rate covenant in Section 6.2, the District shall subtract from interest to be paid on Interest Subsidy Bonds the federal interest subsidies on Interest Subsidy Bonds that the District reasonably expected, at the beginning of the Fiscal Year, to receive during that Fiscal Year.

B. When calculating Annual Bond Debt Service and Maximum Annual Bond Debt Service for the tests for issuing Parity Bonds in Section 7, the District shall subtract from the scheduled payments of interest on Interest Subsidy Bonds the amount of federal interest subsidies that the District reasonably expects, at the time the Parity Bonds are issued, to receive.

C. When calculating a Reserve Requirement, pursuant to the provisions established under Section 5.3.B.

Section 7. Parity Bonds.

7.1. The District may issue Parity Bonds to provide funds for any purpose relating to the Wastewater System, but only if:

A. No Event of Default under this Master Declaration or any Supplemental Declaration has occurred and is continuing;

B. At the time of the issuance of the Parity Bonds there is no deficiency in the Debt Service Account and all required deposits to all subaccounts in the Bond Reserve Account have been made;

C. There shall have been filed with the District either:

- (i) A certificate of the District Official stating that the Coverage Revenues (adjusted as provided in Section 7.2) for the Base Period were not less than one hundred twenty percent (120%) of Maximum Annual Bond Debt Service on all then Outstanding Bonds, calculated as of the date the Parity Bonds are issued and with the proposed Parity Bonds treated as Outstanding; or
- (ii) A certificate or opinion of a Qualified Consultant:
 - (a) Stating the amount of the Adjusted Coverage Revenues for each of the five Fiscal Years after the last Fiscal Year for which interest on the Parity Bonds is, or is expected to be, capitalized, or, if interest will not be capitalized, for each of the five Fiscal Years after the proposed Parity Bonds are issued; and
 - (b) Concluding that the respective amounts of Adjusted Coverage Revenues in each of the first four Fiscal Years described in Section 7.1.C(ii)(a) are at least equal to one hundred twenty percent (120%) of the Annual Bond Debt Service for each of those respective Fiscal Years on all Outstanding Bonds, with the proposed Parity Bonds treated as Outstanding; and,
 - (c) Concluding that the amount of Adjusted Coverage Revenues in the fifth Fiscal Year described in Section 7.1.C(ii)(a) is at least equal to one hundred twenty percent (120%) of the Maximum Annual Bond Debt Service, calculated for the period beginning with that fifth Fiscal Year on all then Outstanding Bonds, with the proposed Parity Bonds treated as Outstanding.

7.2. The District may adjust Coverage Revenues for purposes of Section 7.1.C(i) by adding any Coverage Revenues the District Official calculates the District would have had during the Base Period because of increases in Wastewater System rates, fees and charges which have been adopted by the District and are in effect on or before the date the Parity Bonds are issued. The District shall adjust Coverage Revenues for the Base Period by eliminating the effect of any withdrawals from or deposits to the Rate Stabilization Account.

7.3. The Qualified Consultant shall calculate Adjusted Coverage Revenues for purposes of Section 7.1.C(ii) as provided in this Section 7.3:

A. The District shall provide the Qualified Consultant with the following information:

- (i) The Base Period, the Coverage Revenues for the Base Period and the amounts of any withdrawals from or deposits to the Rate Stabilization Account for Fiscal Years that are included in the Base Period;
- (ii) Information regarding any Wastewater System utility properties that are being acquired with Parity Bonds and that have an earnings record;

- (iii) Any changes in rates and charges which have been adopted by the District since the beginning of the Base Period and the dates on which they are scheduled to take effect;
 - (iv) Any changes in customers since the beginning of the Base Period; and,
 - (v) A description of any extensions or additions to the Wastewater System that were in the process of construction at the beginning of the Base Period or commenced construction after the beginning of the Base Period, the expected date of completion of those extensions or additions, the estimated operating and capital costs of those extensions or additions, and any other changes to the Gross Revenues or Operating Expenses that the District reasonably expects to result from the completion and operation of those extensions or additions.
- B. Using the information provided by the District pursuant to Section 7.3.A and any additional information the Qualified Consultant determines is necessary, the Qualified Consultant shall adjust the Coverage Revenues for the Base Period to eliminate the effect of any withdrawals from or deposits to the Rate Stabilization Account in the manner described in Section 7.2 and may adjust the Coverage Revenues for the Base Period:
- (i) To reflect any changes that the Qualified Consultant projects will result from the acquisition of Wastewater System utility properties that are being financed with the Parity Bonds and that have an earnings record;
 - (ii) To reflect any changes in rates and charges which have been adopted by the District and which are scheduled to take effect during the period described in Section 7.1.C(ii)(a), or which increase rates and charges for inflation at a level which the Qualified Consultant determines is reasonable;
 - (iii) To reflect any changes in customers of the Wastewater System that occurred after the beginning of the Base Period and prior to the date of the Qualified Consultant's certificate; and
 - (iv) To reflect any changes to Coverage Revenues not included in the preceding paragraphs that are projected to result from the completion and operation of additions and extensions to the Wastewater System that were under construction at the beginning of the Base Period, or commenced construction after the beginning of the Base Period.
- 7.4. The District may issue Parity Bonds to refund Outstanding Bonds without complying with Section 7.1 if the refunded Bonds are legally or economically defeased on the date of delivery of the refunding Parity Bonds and if the Annual Bond Debt Service on the refunding Parity Bonds does not exceed the Annual Bond Debt Service on the refunded Bonds in any Fiscal Year by more than \$5,000.
- 7.5. Bonds shall be treated as "legally defeased" for purposes of Section 7.4 if they are defeased as provided in Section 13. Bonds shall be treated as "economically defeased" for purposes of Section 7.4 if they have been irrevocably called for redemption within

one year after the date on which the refunding Bonds are issued, and the District has irrevocably deposited money or Government Obligations with the paying agent for the refunded Bonds or Owner of the refunded Bond, or in escrow with an independent trustee or escrow agent, and the money and any amounts to be received from the Government Obligations have been calculated to be sufficient, without reinvestment, to pay the Bonds that are economically defeased.

- 7.6. All Parity Bonds issued in accordance with this Section 7 shall have a lien on the Net Revenues which is equal to the lien of all other Outstanding Bonds.
- 7.7. A Supplemental Declaration describing a Series of Parity Bonds may provide that the Series will be paid through a paying agent, and may specify the type of authentication, registration, transfer, redemption and other administrative provisions that apply to that Series.

Section 8. Subordinate Obligations.

The District may issue Subordinate Obligations only if:

- 8.1. The Subordinate Obligations are payable solely from amounts permitted to be deposited in the Subordinate Obligations Account pursuant to Section 4.1.E;
- 8.2. The Subordinate Obligations state clearly that they are secured by a lien on or pledge of the Net Revenues which is subordinate to the lien on, and pledge of, the Net Revenues for the Bonds.

Section 9. Separate Utility System.

The District may declare property which the District owns and is part of the Wastewater System (but has a value of less than five percent of the Wastewater System at the time of the declaration), and property which the District has not yet acquired but would otherwise become part of the Wastewater System, to be part of a Separate Utility System. The District may pay costs of acquiring, operating and maintaining Separate Utility Systems from Net Revenues, but only if there is no deficit in the Debt Service Account or the Bond Reserve Account. The District may issue obligations which are secured by the revenues produced by the Separate Utility System, and may pledge the Separate Utility System revenues to pay those obligations. In addition, the District may issue Subordinate Obligations to pay for costs of a Separate Utility System, and may pledge the revenues of the Separate Utility System to pay the Subordinate Obligations.

Section 10. General Covenants.

The District hereby covenants and agrees with the Owners of all Outstanding Bonds as follows:

- 10.1. The District shall promptly cause the principal, premium, if any, and interest on the Bonds to be paid as they become due in accordance with the provisions of this Master Declaration and any Supplemental Declaration.

- 10.2. The District shall maintain complete books and records relating to the operation of the Wastewater System and all District funds and accounts in accordance with generally accepted accounting principles, shall cause such books and records to be audited annually at the end of each Fiscal Year, and shall have an audit report prepared by the Auditor and made available for the inspection of Owners.
- 10.3. The District shall not issue obligations which have a lien on the Net Revenues that is superior to the lien of the Bonds except for obligations to pay Operating Expenses.
- 10.4. The District shall promptly deposit the Gross Revenues and other amounts described in this Master Declaration into the funds and accounts specified in this Master Declaration.
- 10.5. The District shall work in good faith to cause the Wastewater System to be operated at all times in a safe, sound, efficient and economic manner in compliance with all health, safety and environmental laws, regulatory body rules, regulatory body orders and court orders applicable to the District's operation and ownership of the Wastewater System.
- 10.6. The District shall maintain the Wastewater System in good repair, working order and condition.
- 10.7. The District shall not enter into any new agreements or arrangements or make any new offers to provide Wastewater System products or services at a discount from published rate schedules or provide free Wastewater System products or services except: a) in case of emergencies, b) where the District exchanges services with other Wastewater systems, or c) where in the reasonable judgment of the District such action does not materially reduce the Gross Revenues received by the District.
- 10.8. The District shall at all times maintain with responsible insurers all such insurance on the Wastewater System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties.
 - A. The net proceeds of insurance against material accident to or material destruction of the Wastewater System shall be used to repair or rebuild the damaged or destroyed Wastewater System, and to the extent not so applied, will be applied to the payment or redemption of the Bonds.
 - B. The insurance described in Section 10.8 shall be in the form of policies or contracts for insurance with insurers of good standing and shall be payable to the District, or in the form of self-insurance by the District. The District shall establish such fund or funds or reserves which it deems are necessary to provide for its share of any such self-insurance.
- 10.9. The District shall not, nor shall it permit others to, sell, mortgage, lease or otherwise dispose of or encumber all or any portion of the Wastewater System except:
 - A. The District may dispose of all or substantially all of the Wastewater System, only if the District pays all Bonds or defeases them pursuant to Section 13.

- B. Except as provided in Section 10.9.C, the District will not dispose of any part of the Wastewater System in excess of 5% of the value of the Wastewater System in service unless prior to such disposition either:
- (i) There has been filed with the District a certificate of a Qualified Consultant stating that such disposition will not impair the ability of the District to comply with the rate covenants contained in Sections 6.1 and 6.2 of this Master Declaration; or
 - (ii) Provision is made for the payment, redemption or other defeasance of a principal amount of Bonds equal to the greater of the following amounts:
 - (a) An amount which will be in the same proportion to the net principal amount of Bonds then Outstanding (defined as the total principal amount of Bonds then Outstanding less the amount of cash and investments in the Debt Service Account, the Bond Reserve Account, and the Subordinate Obligations Account) that the Gross Revenues attributable to the part of the Wastewater System sold or disposed of for the 12 preceding months bears to the total Gross Revenues for such period; or
 - (b) An amount which will be in the same proportion to the net principal amount of Bonds then Outstanding that the book value of the part of the Wastewater System sold or disposed of bears to the book value of the Wastewater System immediately prior to such sale or disposition.
- C. The District may dispose of any portion of the Wastewater System that has become unserviceable, inadequate, obsolete, or unfit to be used or no longer necessary for use in the operation of the Wastewater System.
- D. If the ownership of all or part of the Wastewater System is transferred from the District through the operation of law, the District shall to the extent authorized by law, reconstruct or replace such transferred portion using any proceeds of the transfer unless the District reasonably determines that such reconstruction or replacement is not in the best interest of the District and the Owners, in which case any proceeds shall be used for the payment, redemption or defeasance of the Bonds.

Section 11. Events of Default and Remedies.

- 11.1. **Continuous Operation Essential.** The District Board hereby finds and determines that the continuous operation of the Wastewater System and the collection, deposit and disbursement of the Net Revenues in the manner provided in this Master Declaration and in any Supplemental Declaration are essential to the payment and security of the Bonds, and the failure or refusal of the District to perform the covenants and obligations contained in this Master Declaration or any such Supplemental Declaration will endanger the necessary continuous operation of the Wastewater System and the application of the Net Revenues to the operation of the Wastewater System and the payment of the Bonds.
- 11.2. **Events of Default.** The following shall constitute “Events of Default”:

- A. If the District shall fail to pay any Bond principal or interest when due.
- B. Except as provided in Section 11.3, if the District shall default in the observance and performance of any other of its covenants, conditions and agreements in this Master Declaration and the default continues for ninety (90) days after the District receives a written notice, specifying the Event of Default and demanding the cure of such default, from a Credit Provider or from the Owners of not less than 25% in aggregate principal amount of the Bonds Outstanding.
- C. If the District shall sell, transfer, assign or convey any properties constituting the Wastewater System in violation of Section 10.9.
- D. If an order, judgment or decree shall be entered by any court of competent jurisdiction:
 - (i) Appointing a receiver, trustee or liquidator for the District or the whole or any part of the Wastewater System;
 - (ii) Approving a petition filed against the District seeking the bankruptcy, arrangement or reorganization of the District under any applicable law of the United States or the State; or
 - (iii) Assuming custody or control of the District or of the whole or any part of the Wastewater System under the provisions of any other law for the relief or aid of debtors and such order, judgment or decree shall not be vacated or set aside or stayed (or, in case custody or control is assumed by said order, such custody or control shall not be otherwise terminated) within sixty (60) days from the date of the entry of such order, judgment or decree.
- E. If the District shall:
 - (i) Admit in writing its inability to pay its debts generally as they become due;
 - (ii) File a petition in bankruptcy or seeking a composition of indebtedness under any state or federal bankruptcy or insolvency law;
 - (iii) Consent to the appointment of a receiver of the whole or any part of the Wastewater System; or
 - (iv) Consent to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the District or of the whole or any part of the Wastewater System.

11.3. **Exception.** It shall not constitute an Event of Default under 11.2.B if the default cannot practicably be remedied within ninety (90) days after the District receives notice of the default, so long as the District promptly commences reasonable action to remedy the default after the notice is received, and continues reasonable action to remedy the default until the default is remedied.

11.4. **Remedies.** If an Event of Default occurs, any Owner may exercise any remedy available at law or in equity including mandamus where applicable. However, the Bonds shall not be subject to acceleration.

A. Books of District Open to Inspection.

(i) The District covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the District and all other records relating to the Wastewater System shall at all reasonable times be subject to the inspection and use of the Bank while it is the owner of the 2017 Agreement, and any persons holding at least twenty percent (20%) of the principal amount of Outstanding Bonds and their respective agents and attorneys.

(ii) The District covenants that if the Event of Default shall happen and shall not have been remedied, the District will continue to account, as a trustee of an express trust, for all Net Revenues and other amounts, securities and funds pledged under this Master Declaration.

B. Appointment of Trustee. Whenever any Event of Default exists, Owners representing 51 percent or more of the Outstanding Bonds may appoint a commercial bank with a reported capital and surplus in excess of \$50 million as trustee (the "Trustee") to represent the interests of the Owners.

11.5. Trustee Duties Upon Default.

A. Upon the occurrence of an Event of Default the Trustee may pursue any other available remedy at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the outstanding Bonds, and to enforce any rights of the Trustee under or with respect to the Master Declaration.

B. In addition, upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under the Master Declaration, the Trustee will be entitled, as a matter of right to the fullest extent permitted by Oregon law, to the appointment of a receiver or receivers of the Net Revenues and other amounts pledged under the Master Declaration, pending such proceedings, with such powers as the court making such appointment may confer.

C. If an Event of Default has occurred and is continuing and if requested so to do by the Owners of at least 25% in aggregate principal amount of Outstanding Bonds and indemnified as provided in the Master Declaration, the Trustee will be obligated to exercise any of the rights and powers conferred by this Master Declaration, as the Trustee, being advised by counsel, deems most expedient in the interest of the Owners.

D. If a Trustee has been appointed pursuant to 11.4.B, no Owner of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under the Master Declaration, unless:

- (i) such Owner has previously given to the Trustee written notice of the occurrence of an Event of Default;
 - (ii) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding have requested the Trustee in writing to exercise its powers under the Master Declaration;
 - (iii) said Owners have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and
 - (iv) the Trustee has refused or failed to comply with such request for a period of 60 days after such written request has been received by the Trustee and said tender of indemnity is made to the Trustee.
- E. If the Trustee takes any judicial or other action in an Event of Default the Trustee has full power in its direction with respect to any continuance, discontinuance, withdrawal, compromise, settlement or other disposition of such action, unless opposed by the written request of the Owners of a majority in aggregate principal amount of the Outstanding Bonds. The Trustee is appointed attorney-in-fact of the Owners for the purpose of bringing any suit action or proceedings in an Event of Default.
- F. Waivers of Event of Default.
- (i) No delay or omission of any Owner or of the Trustee to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or to be an acquiescence therein; and every power and remedy given by this Section 11 to the Owners and to the Trustee may be exercised from time to time and as often as may be deemed expedient by the Owners and/or the Trustee as applicable.
 - (ii) The owners of not less than fifty percent (50%) in principal amount of the affected Bonds that are at the time Outstanding, or their attorneys-in-fact duly authorized, or the Trustee may, on behalf of the Owners of all of affected Bonds, waive any past default under this Master Declaration with respect to such Bonds and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.
 - (iii) If a default occurs under Section 6 and that default has not become an Event of Default, that default shall be deemed waived at the end of the first Fiscal Year following that default in which the District has complied with Section 6.

11.6. Remedies Granted in Master Declaration Not Exclusive.

No remedy by the terms of this Master Declaration conferred upon or reserved to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Master Declaration or existing at law or in equity or by statute on or after the date of adoption of this Master Declaration.

Section 12. Amendment of Master Declaration.

- 12.1. This Master Declaration may be amended by Supplemental Declaration without the consent of any Owners for any one or more of the following purposes:
- A. To cure any ambiguity or formal defect or omission in this Master Declaration;
 - B. To add to the covenants and agreements of the District in this Master Declaration, other covenants and agreements to be observed by the District which are not contrary to or inconsistent with this Master Declaration as theretofore in effect;
 - C. To authorize issuance of Bonds or Subordinate Obligations as permitted by this Master Declaration;
 - D. To modify, amend or supplement this Master Declaration or any Supplemental Declaration to qualify this Master Declaration under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any of the states of the United States of America;
 - E. To confirm, as further assurance, any security interest or pledge created under this Master Declaration or any Supplemental Declaration;
 - F. To make any change which, in the reasonable judgment of the District, does not materially and adversely affect the rights of the owners of any Outstanding Bonds;
 - G. So long as a Credit Facility is in full force and effect with respect to the Bonds affected by such Supplemental Declaration, to make any other change which is consented to in writing by the issuer of such Credit Facility other than any change which:
 - (i) Would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies;
 - (ii) Changes the maturity (except as permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility;
 - (iii) Materially and adversely affects the rights and security afforded to the Owners of any Outstanding Bonds not secured by such Credit Facility; or

- H. To modify any of the provisions of this Master Declaration or any Supplemental Declaration in any other respect whatever, as long as the modification shall take effect only after all affected Outstanding Bonds cease to be Outstanding.
- 12.2. This Master Declaration may be amended for any other purpose only upon consent of Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding; provided, however, that no amendment shall be valid without the consent of Owners of 100 percent (100%) of the aggregate principal amount of the Bonds Outstanding which:
 - A. Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Owner; or
 - B. Reduces the percent of Owners required to approve Supplemental Declarations.
- 12.3. For purposes of Section 12.2, and subject to Section 12.4, the initial purchaser of a series of Bonds may be treated as the Owner of that Series at the time that series of Bonds is delivered in exchange for payment.
- 12.4. Except as otherwise expressly provided in Section 12.5, Section 12.6 or a Supplemental Declaration, as long as a Credit Facility securing all or a portion of any Outstanding Bonds is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by such Credit Facility for the purpose of the execution and delivery of a Supplemental Declaration of any amendment, change or modification of this Master Declaration or the initiation by Owners of any action which under this Master Declaration requires the written approval or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected Bonds at the time Outstanding, or following an Event of Default for all other purposes.
- 12.5. The issuer of a Credit Facility shall not be deemed to be an Owner for purposes of any amendment, change or modification of this Master Declaration which:
 - A. Would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or
 - B. Changes the maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or
 - C. Reduces the percentage or otherwise affects the classes of affected Bonds, the consent of the Owners of which is required to effect any such modification or amendment.
- 12.6. No issuer of a Credit Facility shall be entitled to act as an Owner after the occurrence of any of the following:

- A. the issuer of the Credit Facility is in default in its obligation to make payments under (i) any Credit Facility, (ii) any Reserve Credit Facility, or (iii) any other municipal bond insurance policy or debt service reserve surety policy issued by the issuer of the Credit Facility when due and such failure shall continue for 30 days unless the obligation of the issuer of the Credit Facility to pay is being contested by the issuer of the Credit Facility in good faith by appropriate proceedings;
 - B. the Credit Facility or a Reserve Credit Facility provided by that issuer shall at any time for any reason cease to be valid and binding on the issuer of the Credit Facility, or shall be declared to be null and void, in each case by a final, non-appealable order of a court of competent jurisdiction, or the validity or enforceability of any provision thereof is being contested by the issuer of the Credit Facility or any governmental agency or authority acting as a receiver or similar capacity for the issuer of the Credit Facility, or if the issuer of the Credit Facility is denying further liability or obligation under the Credit Facility or a Reserve Credit Facility;
 - C. a proceeding has been instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect of the issuer of the Credit Facility under Article 16 of the Insurance Law of the State of New York or any successor provision thereto or similar provision of law and such proceeding is not terminated for a period of 90 consecutive days or such court enters an order granting the relief sought in such proceeding; or
 - D. the Series of Bonds secured by the Credit Facility are no longer Outstanding and any amounts due or to become due to the issuer of the Credit Facility have been paid in full; provided that to the extent that the issuer of the Credit Facility has made any payment of principal of or interest on the Bonds under the relevant Credit Facility or any Reserve Credit Facility, it shall retain its rights of subrogation and reimbursement under this Master Declaration and the related Insurance Agreement.
- 12.7. For purposes of determining the percentage of Owners consenting to, waiving or otherwise acting with respect to any matter that may arise under this Master Declaration, the Owners of Bonds which pay interest only at maturity, and mature more than one year after they are issued shall be treated as Owners of Bonds in an aggregate principal amount equal to the accreted value of such Bonds as of the date notice requesting consent, waiver or other action is sent as provided herein.

Section 13. Defeasance.

- 13.1. The District shall be obligated to pay Bonds which are defeased pursuant to this Section solely from the money and Government Obligations deposited with the escrow agent or trustee, and the District shall have no further obligation to pay the defeased Bonds from any source except the amounts deposited in the escrow. Bonds shall be deemed defeased if the District:

- A. irrevocably deposits money or Government Obligations in escrow with an independent trustee or escrow agent which are calculated to be sufficient without reinvestment for the payment of Bonds which are to be defeased;
- B. files with the escrow agent or trustee an opinion from an independent, certified public accountant to the effect that the money and the principal and interest to be received from the Government Obligations are calculated to be sufficient, without further reinvestment, to pay the defeased Bonds when due; and
- C. files with the escrow agent or trustee an opinion of nationally recognized Bond Counsel that the proposed defeasance will not cause interest on the defeased Bonds to be includable in gross income under the Code.

Section 14. The 2017 Agreement.

Pursuant to the authority of Resolution No. ____ adopted by the District Board on _____, 2017, and this Master Declaration, the District has executed the 2017 Agreement. The 2017 Agreement is a Bond under this Master Declaration. No deposit is required to be made to, or maintained in, the Bond Reserve Account or any subaccount therein in connection with the 2017 Agreement. Proceeds of the 2017 Agreement shall be used to refund the 2010 Bonds, and to pay related costs.

EXECUTED ON BEHALF OF THE OAK LODGE WATER SERVICES BY AN AUTHORIZED CITY OFFICIAL AS OF THE __ day of _____, 2017.

Oak Lodge Water Services, Oregon

By: _____
Authorized Officer

OAK LODGE WATER SERVICES

RESOLUTION NO. 17-15

A RESOLUTION AUTHORIZING WASTEWATER REVENUE BORROWINGS TO REFINANCE OUTSTANDING GENERAL OBLIGATION BONDS

WHEREAS, Oak Lodge Water Services, Oregon (the “District”) issued its General Obligation Bonds, Series 2010A (the “2010 Bonds”) to finance wastewater facility improvements (the “2010 Project”); and

WHEREAS, the 2010 Bonds are outstanding in the approximate principal amount of \$17,545,000; and

WHEREAS, Oregon Revised Statutes (“ORS”) 271.390 and ORS 287A.360 to 287A.375 authorize Oregon governments to refund outstanding borrowings that financed projects that the Board of Directors of the District (the “Board”) determines are needed, as long as the estimated weighted average life of the borrowing does not exceed the estimated dollar weighted average life of the real or personal property that is refinanced with the borrowing; and

WHEREAS, current interest rates may be lower than the interest rates that are payable on the 2010 Bonds and the District may be able to reduce debt service costs by refunding all or a portion of the 2010 Bonds; and

WHEREAS, pursuant to ORS 450.640, the applicable debt limit for the District is governed by ORS 450.900(3), which limits the amount of the District’s outstanding bonds of all types, including improvement bonds, revenue and general obligation bonds, to thirteen percent (13%) of the real market value (“RMV”) of taxable property within the District. The District’s RMV (fiscal year 2018) is not less than \$3,222,142,569. The total amount of borrowings of the District, after issuance of the borrowing authorized by this Resolution and refunding of the 2010 Bonds, is estimated to be \$40,102,087. This amount does not exceed thirteen percent of the District’s RMV, which is \$418,878,534;

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

Section 1. Determination of Need. The Board hereby determines that the Projects were needed at the time they were financed and that they remain needed.

Section 2. Financing Authorized. The City is hereby authorized to enter into one or more financing agreements (the “Financing Agreements”) to refinance all or any portion of the 2010 Project pursuant to ORS Section 271.390, ORS 287A.360 to 287A.375, and other relevant provisions of ORS Chapter 287A. The Financing Agreements may be issued in an amount that is sufficient to refund all or any portion of the 2010 Bonds and to pay estimated costs related to issuing the Financing Agreements and refunding the 2010 Bonds.

Section 3. Delegation. The General Manager, the Finance Director, or the person designated by the General Manager or the Finance Director to act on behalf of the District

under this resolution (each of whom is referred to in this resolution as a “District Official”) may, on behalf of the District and without further action by the Board:

- a. Select all or a portion of the 2010 Bonds to be refunded;
- b. Determine the final principal amount, interest rates, payment dates, maturity dates, prepayment rights and all other terms of the Financing Agreements;
- c. Prepare, finalize the terms of, and execute a master wastewater system revenue bond declaration (the “Master Declaration”), which pledges the District’s wastewater system revenues, contains covenants regarding the levels of fees and charges that the District must impose for its wastewater system, describes the terms under which the District may issue obligations in the future that are secured by the revenues of the District’s wastewater system, specifies the manner in which wastewater system revenues are accounted for and the timing and amount of payments of wastewater system revenues, describes the Financing Agreements and specifies administrative provisions relating to obligations that are secured by the revenues of the District’s wastewater system. The Master Declaration shall be in substantially the form attached to this resolution as Exhibit A, but with such changes as the District Official may approve;
- d. Negotiate, execute and deliver notes to evidence amounts due under the Financing Agreements;
- e. Select a commercial bank or lender with which to negotiate, execute and deliver the Financing Agreements. Subject to the limitations of this Resolution, the Financing Agreements may be in such form and contain such terms as the District Official may approve;
- f. Enter into additional covenants for the benefit of the purchasers of the Financing Agreements that the District Official determines are desirable to obtain more favorable terms for the Financing Agreements;
- g. Enter into escrow deposit agreements and take any other actions to prepay any of the 2010 Bonds;
- h. Engage the services of escrow agents and any other professionals whose services are desirable for the financings and to achieve the refunding;
- i. Covenant for the benefit of the owners of the Financing Agreements to comply with all provisions of the Internal Revenue Code of 1986, as amended (the “Code”), that are required for the interest paid under the Financing Agreements to be excluded from gross income for federal income tax purposes;
- j. Designate each of the Financings Agreements as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Code, if applicable;

- k. Execute and deliver any other certificates or documents and take any other actions that the District Official determines are desirable to carry out this Resolution.

Section 4. Security. The Financing Agreements will constitute special obligations of the District that are secured solely by the revenues of the District's wastewater system and related amounts as provided in the Master Declaration, pursuant to ORS 287A.310.

Section 5. Advanced Refunding Plan. The District Official is hereby authorized to file any required advanced refunding plans related to the 2010 Bonds with the State of Oregon.

Section 6. Effective Date. This Resolution shall be effective upon its approval and adoption.

ADOPTED THIS 5TH DAY OF DECEMBER 2017.

OAK LODGE WATER SERVICES DISTRICT

Jim Martin, Chair

Sarah Jo Chaplen, General Manager

EXHIBIT A

**FORM OF MASTER WASTEWATER SYSTEM
REVENUE BOND DECLARATION**

OAK LODGE
WATER SERVICES
STAFF REPORT

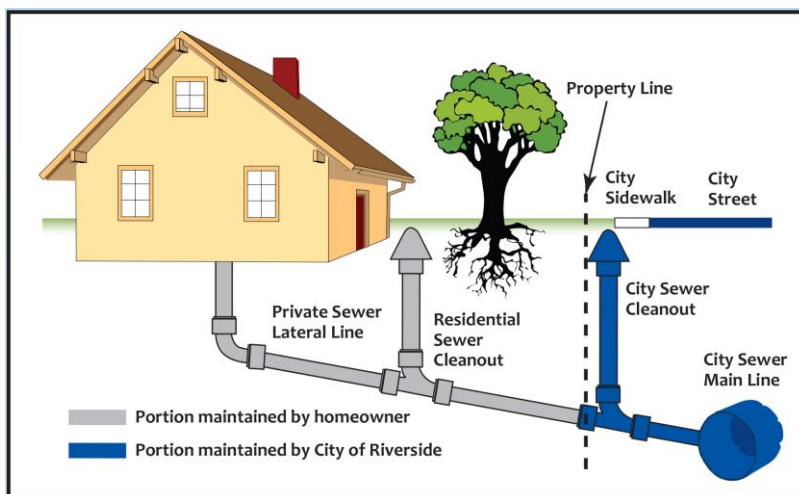
To: Board of Directors
From: Jason Rice, District Engineer
Agenda Item: Sanitary Lateral Ownership Conversation
Item No.: 3
Date: December 1, 2017

Action Requested

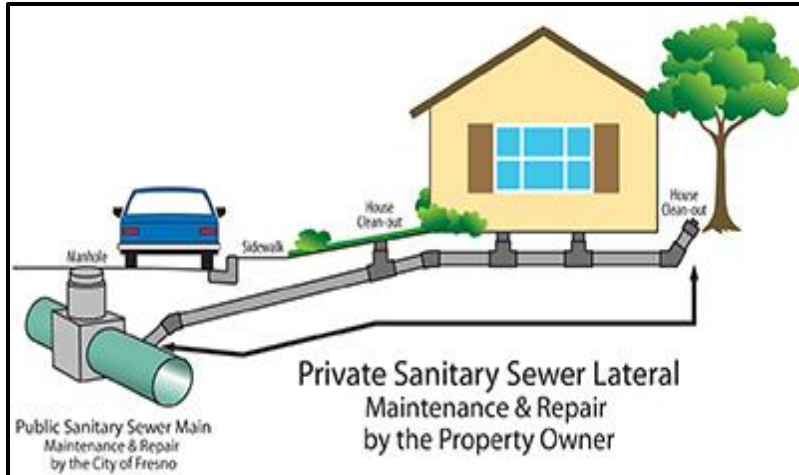
Staff seeks direction from the Board as to whether the District wishes accept ownership of sanitary sewer laterals in the right-of-way. The outcome of this decision will be documented in the District Rules and Regulations and brought before the Board during Public Hearing in January and February of 2018.

Background

Ownership of sanitary sewer laterals within the right-of-way (ROW) tends to be a 50/50 split. Some jurisdictions choose to maintain the laterals, while others choose to place that responsibility on the property owner that the lateral is serving. The former Oak Lodge Sanitary District chose to maintain responsibility for repairs to sanitary sewer laterals in the right-of-way.



*Option 1
District Maintains Laterals in ROW*



Option 2
Private Property Owners Maintain Laterals in ROW

Below is a split of how other local jurisdictions are addressing this ownership of laterals in the ROW:

JURISDICTION	OWNER OF LATERAL IN RIGHT-OF-WAY
City of Hillsboro	Property being served
City of Lake Oswego	Property being served. City will take ownership if owner brings the lateral up to current standards
City of Milwaukie	Property being served
City of Portland	City
City of Tigard	Property being served
City of Tualatin	City
City of West Linn	Property being served
City of Wilsonville	Property being served
Clean Water Services	Property being served
Water Environment Services	District

History

Past practice regarding these laterals has been to not routinely inspect laterals, but to wait until the public either notifies the District of a potential failure or an actual failure occurs. In the past five years, the District was notified 77 times of potential failures. Of these 77 times, 30 repairs were made, while 47 letters were returned stating that the lateral did not need immediate attention and that the lateral would be maintained in the future by the District. An example of that letter has been attached to this report as Attachment 1.

The cost of lateral repairs can vary. In some occasions, only roots need to be removed from the inside of the lateral, which costs approximately \$500. However, in cases when a lateral needs to be replaced in the ROW, costs can exceed \$10,000 depending on a number of factors. Using \$6,000 as an average replacement cost, the cost of replacing all 7,280 laterals in the District

would be \$43,800,000. Concrete laterals have a life expectancy of 100 years and most of the laterals in the District are already 60 years old. To replace all 7,280 laterals within 100 years would cost the District \$438,000 per year. This number does not include replacing the District's 100 miles of sanitary main.

Recommendation

If there is a desire for the District to maintain these laterals in the ROW, the District should intensify its inspection and replacement program. As these pipes age, more failures will occur and relying on failures is not sustainable and insurance rates will likely increase as a result.

Currently the District has a goal of cleaning and inspecting the whole mainline system in 5 years. If laterals were to be added to this inspection list, that goal would need to be adjusted to 8-10 years with current staffing levels.

Attachments

1. Example Response Letter sent by Staff



To: [REDACTED]
From: Trevor Lierman, Field Technician
Date: November 16, 2017
Subject: [REDACTED]

Copy: 17-001145

In response to Oak Lodge Water Services Work Request 17-000170, Field Operations Technicians reviewed a CCTV inspection on the sanitary lateral serving [REDACTED]. This lateral inspection identified a small root intrusion approximately 9 feet from the tap connection on line 2A7 located on SE Jennings. The structural issues identified do not indicate a potential interruption of service at this time.

The root intrusion occurs in a section of the sanitary lateral within the county Right of Way. Oak Lodge Water Services chooses to maintain lateral assets within Right of Ways and established utility easements. Therefore, the responsibility for maintenance or repair of this section of lateral is accepted by Oak Lodge Water Services, and should not be a concern for the current owner, or any prospective buyer of the above-mentioned property.

Any questions can be directed to Trevor Lierman, Field Operations, Oak Lodge Water Services.

Trevor J. Lierman
Field Operations
Oak Lodge Water Services
14611 SE River Rd.
Oak Grove, Oregon 97267
(503) 753-2452
Trevor@olwsd.org



AGENDA ITEM

Agenda Item: Call for Public Comment
Item No.: 4
Presenters: Public

Background:

Members of the public are invited to address the Board on any relevant topic. The Board may elect to limit the total time available for public comment or for any single speaker depending on meeting length.



AGENDA ITEM

Agenda Item: Business from the Board
Item No.: 5
Presenters: Board Members

Background:

The Board of Directors appoints District representatives from time to time to serve as liaisons or representatives of the District to committees or community groups.

Directors assigned specific roles as representatives of the District are placed on the agenda to report to the Board on the activities, issues, and policy matters related to their assignment.

Jennings Lodge CPO Proposal to County about Public Input on Storm Water Planning

To Nancy Gibson <nahgibson@gmail.com> • Kevin Williams <socglfr@comcast.net>

Nancy and Kevin,

As you know, at the October Jennings Lodge CPO meeting, we asked people to let us know (via a dots activity) which of 26 JLCPO previously proposed changes to the Zoning Ordinance were most important to them now. And we said we would submit the top proposals (the ones that got the most dots) to the County Planning Division by their November 29th deadline. I wanted to let you know that the proposal related to public input on storm water planning was one of those top proposals. Below is the language that was submitted to the County.

Karen

Karen Bjorklund

Jennings Lodge Community Planning Organization

From the Jennings Lodge CPO 11-29-2017 Proposals for ZDO Changes

Provide Opportunity for Meaningful Public Input on Storm Water Plans

Currently, development applications are only required to have a preliminary statement of feasibility from a jurisdictional storm water authority, but not an assessment of an actual proposed storm water plan. Assessment of the actual proposed storm water plan usually or frequently occurs *after* a County public hearing takes places on the application, which means the public is deprived of the opportunity to learn about and make comments on the storm water system being worked out with the storm water authority. If not handled properly, development-caused storm water run-off can create local flooding and other negative consequences. So it important to surrounding property owners (who often have more experience with run-off issues in the area than do developers) that the water run-off will be handled in ways that do not negatively impact them. Therefore, **we ask that a requirement be incorporated into ZDO sections 1006 and/or 1008 that jurisdictional storm water authority comments on the actual storm water plan be submitted either *with* the application, or *before* the public hearing, to provide for public comment.**

