

# 41-01500

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FEB 14 2008  
FIELD SERVICES  
DRINKING WATER PROGRAM

SHIELD CREST WATER COMPANY  
AGREEMENT FOR WATER SERVICES

THIS AGREEMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Shield Crest Water Company, an Oregon corporation ("Water Company"), and the undersigned Party ("Lot Owner").

RECITALS: \

1. Water Company has constructed and is operating a water system ("Water System") designed to provide domestic water to twenty seven (27) lots located in Tracts 1172, 1245, and 1257 Shield Crest, First Addition to Shield Crest and the re-subdivision of Shield Crest, Klamath County, Oregon (see attached Exhibit 1).

2. Lot Owner has agreed to purchase or has purchased a lot in Shield Crest, which can be served by the Water System. Lot Owner desires, or will desire, to receive water from the Water Company.

3. Water Company is willing to provide domestic water on the terms and conditions set forth below.

AGREEMENT:

The parties covenant and agree as follows:

1. Provision of Domestic Water. During the terms of this Agreement, Water Company shall deliver, by pressurized water main to Lot Owner's property line, at the point shown on the design drawing available at the water company, domestic water in reasonably sufficient quantities for Lot Owner's domestic residential use, including landscaping and lawn irrigation.
2. Maintenance and Repair of Water System. In the event of a malfunction of Water Company's system, Water Company shall, as soon as reasonably possible, repair and cure the malfunction and reestablish water deliveries to Lot Owner. During such periods of malfunction, Lot Owner shall curtail its use of water and shall otherwise cooperate with Water Company, in rationing the available supply to and with the other users of the Water System. Water Company shall not be liable to Lot Owner for loss or damage resulting from its temporary inability to deliver water to Lot Owner, except where Water Company has acted in a grossly negligent manner. Water Company shall exercise reasonable care to maintain the Water System in good operating condition.

3. Compliance with Health Regulations. Water Company shall operate the Water System in reasonable compliance with federal, state, and local laws, rules, and regulations. Lot Owner shall cooperate in any testing, flushing, or other activities reasonably required to operate the Water System in a reasonable manner.
4. Cross Connections. The Water Company will protect the water supply from contamination or pollution from cross connections and assure that approved backflow prevention assemblies are tested when put into service and as required by the State of Oregon. Water service to any Lot Owner will be contingent upon the Lot Owner providing appropriate cross connection control. It is the Lot Owner's responsibility to maintain and perform necessary repairs to its backflow prevention assemblies. Water Service may be refused or terminated to any Lot Owner where unprotected cross connections may allow contamination or pollutants to backflow into the water system. Each Lot Owner will allow authorized representatives of either Klamath County or the Water Company, with proper identification, to have free access to all areas of its Lot, to conduct yearly hazard assessment surveys and test backflow prevention assemblies in accordance with Oregon Administrative Rules 333-061-0070 and 333-061-0071, and the Uniform Building Code as adopted by the State of Oregon.
5. Operating Fee. For each lot that is connected to the water system, Lot Owner shall pay to the Water Company, during the term of This Agreement, a semi-annual Operating Fee. The Operating Fee shall be billed on January 15<sup>th</sup> and July 15<sup>th</sup> of each year, payable in advance, and shall be due and payable on the first day of the following month (February 1<sup>st</sup> and August 1<sup>st</sup>). The initial amount of the Operating Fee shall be \$150 per period. Water Company may increase the fee, or adjust the billing cycle, as needed based on the cost of maintaining, testing, and operating the water system. Water Company shall provide a fee statement to Lot Owner not less than 10 days before the fee is due. All fees which are not paid within 15 days of the due date shall be assessed a \$20 administrative charge. If a fee is 30 days delinquent, Water Company may disconnect Lot Owner's lot from the Water System. Lot Owner shall not be entitled to reconnect to the system until Lot Owner has paid to Water Company all charges and fees then due, plus a \$100 reconnection fee. If the charges and fees remain unpaid for a period of 90 days from the date the Operating Fee was due, then all of Lot Owner's rights and



interest arising under This Agreement shall terminate without further notice or act of the Water Company. All fee statements and other notices from Water Company to Lot Owner shall be mailed by first class mail to the last address provided in writing to Water Company by Lot owner. All fee statements and notices shall be deemed delivered when deposited, postage prepaid, in the U. S. Mail by Water Company.

6. Annual Reserve Assessment. At an annual meeting of the Water Company, the shareholders of the company determined that it would be prudent to establish a reasonable reserve account for unforeseen equipment repairs. Because a working water system provides value for all lot owners, each Lot Owner, whether connected or not, shall pay to the Water Company, during the term of This Agreement, an Annual Reserve Assessment, as established by the Water Company at its annual shareholder meeting. If needed, the Annual Reserve Assessment will be billed on July 15<sup>th</sup> of each year, payable in advance, and shall be due and payable on the first day of the following month (August 1<sup>st</sup>). The initial amount of the Annual Reserve Assessment shall be \$100 per year. The Annual Reserve Assessment will be applied to each lot owner's equity account and will reflect the lot owner's investment in the Water Company. Water Company shall provide a fee statement to Lot Owner not less than 10 days before the fee is due. All fees which are not paid within 15 days of the due date shall be assessed a \$20 administrative charge. If the charges and fees remain unpaid for a period of 90 days from the date the Annual Reserve Assessment was due, then all of Lot Owner's rights and interest arising under this Agreement shall terminate without further notice or act of the Water Company. All fee statements and other notices from Water Company to Lot Owner are as described in section 5.
7. Emergency Assessments. In the event that a failure of the water system costs more than the available resources of the Water Company, the Water Company Board of Directors will call a special shareholder meeting to discuss the severity of the problem and recommend a course of action, which may include a one-time Emergency Assessment to provide the resources needed to correct the problem. Emergency Assessments will be billed and due as decided at the special shareholder meeting.
8. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, successors, and assigns.

9. Assignment. This Agreement shall be freely assignable.
10. Attorney Fees. If any suit or action is filed by any party to enforce this Agreement or otherwise with respect to the subject matter of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees incurred in reparation or in prosecution or defense of such suit or action as fixed by the trial court, and if any appeal is taken from the decision of the trial court, reasonable attorney fees as fixed by the appellate court.
11. Amendments. This Agreement may be amended only by an instrument in writing executed by all the parties.
12. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.
13. Severability. If any provision of this Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.
14. Waiver. A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.
15. Time of Essence. Time is of the essence of each and every provision of this Agreement.
16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Oregon.

17. Arbitration. Any controversy or claim arising out of relating to this Agreement, including, without limitation, the making, performance, or interpretation of this Agreement, shall be settled by arbitration in Klamath County, Oregon, in accordance with ORS 36.300-36.365, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy.

WITNESS the signatures of the parties:

SHIELD CREST WATER COMPANY

LOT OWNER(s):

Lot \_\_\_\_\_ Block \_\_\_\_\_

\_\_\_\_\_  
President

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Telephone: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

Address for mailing notices

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_



## SHIELD CREST WATER COMPANY Revision to By-Laws

The purpose of this policy is to protect the water supply of Shield Crest Water Company from contamination or pollution from any cross connections; and to assure that approved backflow prevention assemblies are tested when put into service and at least on an annual basis thereafter. This ordinance is in compliance with Oregon Administrative Rule (OAR) 333-061-0070 and 333-061-0071 and the Uniform Plumbing Code (UPC) as adopted by the State of Oregon.

The installation or maintenance of any unprotected cross connection which would endanger the water supply of Shield Crest Water Company is prohibited. Any such cross connection now existing or hereafter installed is hereby declared unlawful and shall be immediately protected or eliminated.

The control or elimination of cross connection and the criteria from determining degree of hazard and prescribing appropriate levels of protection shall be in accordance with the UPC and the OAR's.

Water service to any premise shall be contingent upon the customer providing appropriate cross connection control if determined necessary. Determinations and enforcement shall be the responsibility of the Board of Shield Crest Water Company, in conjunction with Klamath County plumbing/building inspector. Water service may be refused or terminated to any premises where an unprotected cross connection may allow contamination or pollutants to backflow into the public drinking water system.

Authorized employees of either Klamath County or Shield Crest Water Company, with proper identification, shall have free access at reasonable hours of the day, to all areas of a premise or building to which drinking water is supplied for the purpose of conducting hazard assessment surveys. Water service may be refused or terminated, or maximum backflow protection may be required, to the premise where access to perform surveys is denied, where unprotected cross connections are located, or in the event that installed assemblies are not tested and maintained as required by State and local regulations.

Before any water service is terminated, a "due process" of notifying the customer and providing a reasonable time for compliance to be achieved will be observed according to the operating procedures of Shield Crest Water Company. However, in the event of an actual backflow incident which endangers the public health, water service may be terminated immediately and not be restored until the cross connection is either eliminated or adequately protected.