

RESOLUTION

A RESOLUTION UPDATING PARK AND RECREATION SYSTEM DEVELOPMENT CHARGES ON NEW DEVELOPMENT APPLICABLE AT THE TIME OF APPLICATION FOR A BUILDING PERMIT.

WHEREAS, future growth should contribute its fair share to the cost of improvements and additions to Willamalane Park and Recreation District (the “District”) that are required to accommodate the needs of such growth; and

WHEREAS, ORS 223.297 - 223.314, adopted in 1989, authorizes local governments to impose system development charges (“SDCs” or “SDC” as the context requires); and

WHEREAS, SDCs provide a source of revenue to fund the construction or improvement of District facilities necessitated by growth; and

WHEREAS, The District adopted an updated Park and Recreation Comprehensive Plan, dated March 2004, which included additional capital facilities that were not considered in the assumptions, conclusions and findings of the 1995 system development charges report and SDC rates adopted by Resolution 94-95-23; and

WHEREAS, The District has performed a review and prepared an updated SDC methodology report, including updated SDC rates required to fund growth required needs identified in the District’s 2004 Park and Recreation Comprehensive Plan; and

WHEREAS, SDCs are charges incurred upon the decision to develop property at a specific use, density or intensity, and the incurred charge equals, or is less than the actual cost of providing public facilities commensurate with the needs of the chosen use, density, or intensity; and

WHEREAS, decisions regarding uses, densities, and/or intensities cause direct and proportional changes in the amount of the incurred charge; and

WHEREAS, SDCs are separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or other fee provided by law or imposed as a condition of development; and

WHEREAS, SDCs are fees for services because they are based upon a development's receipt of services considering the specific nature of the development; and

WHEREAS, SDCs are imposed on the activity of development, not on the land, owner, or property, and, therefore, are not taxes on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section;

NOW, THEREFORE, the District hereby adopts the report entitled "Willamalane Park & Recreation District System Development Charges Methodology Update", dated October 4, 2006 and incorporates herein by this reference the assumptions, conclusions and findings in the report, which refer to the determination of costs of capital improvements and the rates for the SDCs for these capital improvements, and updates the District's SDCs as outlined herein, and replaces Resolution No. 92-93-20, No. 94-95-17, and No. 94-95-23 with this Resolution No. 06-07-6.

Section 1. Scope and Purpose.

- (a) New Development within the District contributes to the need for capacity increases and upgrades to capital improvements for parks and recreation facilities and, therefore, New Development should contribute to the funding for such capital improvements. This SDC will fund a portion of the needed capacity increases for parks and recreation facilities as identified in the District's Park and Recreation Comprehensive Plan, dated March 2004.
- (b) The funding provided by this Resolution constitutes a mandatory collection method based upon ORS 223.297 through 223.314 to assure the construction of capacity-increasing improvements to parks and recreation facilities as contemplated in the Park and Recreation Comprehensive Plan, and the list of projects, referred to as the SDC Capacity Improvement Projects List, to be funded with money collected under this Resolution and incorporated as Appendix A to the Willamalane Park and Recreation District System Development Charges Methodology Update, dated October 4, 2006.
- (c) This Resolution is intended to be a mechanism for financing only that portion of the needed capacity-increasing parks and recreation facilities associated with New Development and does not represent a means to fund maintenance of existing facilities or the elimination of existing deficiencies.
- (d) The District hereby adopts the report entitled "Parks and Recreation System Development Charges Methodology Update", dated October 4, 2006, and incorporates herein by this reference the assumptions, conclusions and findings in the report, which refer to the determination of anticipated costs of capital improvements required to accommodate growth and the rates for the District's SDCs for these capital improvements. This report is hereinafter referred to as "SDC Methodology Report." The District may from time to time amend or adopt a new SDC Methodology Report by resolution.

Section 2. Definitions.

- (a) "Accessory dwelling unit" means a secondary, self-contained dwelling that may be allowed only in conjunction with a detached single-family dwelling. An accessory dwelling unit is subordinate in size, location, and appearance to the primary detached single-family dwelling. An accessory dwelling unit generally has its own outside entrance and always has a separate kitchen, bathroom and sleeping area. An accessory dwelling unit may be located within, attached to, or detached from the primary single-family dwelling.
- (b) "Administrator" means that person, or persons, appointed within the District to manage and implement this parks and recreation SDC program.
- (c) "Alternative System Development Charge" means an SDC established pursuant to Section 7.
- (d) "Applicant" means the person who applies for a building permit.
- (e) "Building Official" means that person, or designee, certified by the State and designated as such to administer the State Building Codes for the City or County.
- (f) "Building Permit" means that permit issued by a Building Official pursuant to the State of Oregon Structural Specialty Code Section 301 or as amended, and the State of Oregon One and Two Family Dwelling Code Section R-109 or as amended. In addition, "Building Permit" means a Manufactured Home Installation Permit issued by the Building Official, relating to the placement of manufactured homes in the District.
- (g) "City" means the City of Springfield, Oregon.
- (h) "City Manager" means that person appointed by City to the position of City Manager.
- (i) "Condition of Development Approval" is any requirement imposed on an Applicant by a City or County land use or limited land use decision, or site plan approval.
- (j) "Congregate Care Facility" means a building or a portion of a building consisting of one or more rooms including sleeping and plumbing facilities, and NOT including cooking facilities, arranged and designed as living quarters for one or more elderly or infirm persons. This definition also includes, but is not limited to "nursing facility".
- (k) "Construction Cost Index" means the Engineering News Record (Seattle) Construction Cost Index.

- (l) "Cooking Facilities" means a kitchen or similar facility, generally including a vented stove, range, or oven and cooktop; a refrigerator; and a sink. A microwave or toaster oven is NOT a cooking facility.
- (m) "County" means Lane County, Oregon.
- (n) "Credit" means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Resolution.
- (o) "Development" means a building or other land construction, or making a physical change in the use of a structure or land, in a manner that increases the usage of parks and recreation capital improvements or which may contribute to the need for additional or enlarged parks and recreation capital facilities.
- (p) "Dwelling Unit," means a building or a portion of a building consisting of one or more rooms including sleeping, cooking, and plumbing facilities arranged and designed as permanent living quarters for one family or household.
- (q) "Dwelling Unit, Attached Single Family" means a portion of a building consisting of one or more rooms including sleeping, cooking, and plumbing facilities arranged and designed as permanent living quarters for one family or household; and which is attached to one or more dwelling units by one or more common vertical walls. This definition also includes, but is not limited to "duplex", "zero lot line dwelling", "townhouse", and "row house". With the exception of duplexes, Attached Single Family Dwelling Units typically are separately owned.
- (r) "Dwelling Unit, Detached Single Family" means a building or a portion of a building consisting of one or more rooms including sleeping, cooking, and plumbing facilities arranged and designed as permanent living quarters for one family or household; and not attached to any other dwelling unit or building.
- (s) "Dwelling Unit, Duplex" means one-half of a single building consisting of two dwelling units, each including one or more rooms including sleeping, cooking, and plumbing facilities arranged and designed as permanent living quarters for one family or household; and which is attached to one dwelling unit by one or more common vertical walls.
- (t) "Dwelling Unit, Multi-Family" means a portion of a building consisting of one or more rooms including sleeping, cooking, and plumbing facilities arranged and designed as permanent living quarters for one family or household; and which is attached to two or more dwelling units by one or more common vertical walls. Typically, the units are in an apartment building or complex, and are not separately owned.

- (u) "Dwelling Unit, Single Room Occupancy" means a portion of a building consisting of one or more rooms including sleeping facilities with a shared or private bath, and shared cooking facilities and shared living/activity area. This definition also includes, but is not limited to "assisted living facility".
- (v) "Improvement Fee" means a fee for costs associated with capital improvements to be constructed after the effective date of this Resolution.
- (w) "Manufactured Housing" means a Dwelling Unit constructed off-site that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.
- (x) "New Development" means development for which a Building Permit is required.
- (y) "Non-Residential Development" means any development that does not include one or more Dwelling Units.
- (z) "Over-capacity" means that portion of an improvement that is built larger or with greater capacity than is necessary to serve the Applicant's New Development or mitigate for parks and recreation system impacts attributable to the Applicant's New Development.
- (aa) "Permit" means a Building Permit.
- (bb) "Previous use" means the most intensive use conducted at a particular property within the past 18 months prior to the date of application for a building permit. Where the site was used simultaneously for several different uses (mixed use) then, for the purposes of this Resolution, all of the specific use categories shall be considered. Where the previous use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole use of the property.
- (cc) "Proposed use," means the use proposed by the Applicant for the New Development. Where the Applicant proposes several different uses (mixed use) for the New Development then, for purposes of this Resolution, all of the specific use categories shall be considered. Where the proposed use is composed of a primary use with one or more ancillary uses that support the primary proposed use and are owned and operated in common, that primary use shall be deemed to be the sole proposed use of the property.

- (dd) "Qualified Public Improvement" means any parks and recreation system capital facility or conveyance of an interest in real property that increases the capacity of the District's parks and recreation system, and is:
- (1) Required as a condition of development approval;
  - (2) Identified in the District's SDC Capacity Improvement Projects List; and
  - (3)
    - (i) Not located on or contiguous to property that is the subject of development approval, or
    - (ii) Located in whole or in part on or contiguous to property that is the subject of development approval and, in the opinion of the Administrator, is required to be built larger or with greater capacity (over-capacity) than is necessary for the Applicant's New Development or to mitigate for parks and recreation system impacts attributable to the Applicant's New Development.
- (ee) "Reimbursement fee" means a fee for costs associated with capital improvements already constructed or under construction on the effective date of this resolution.
- (ff) "Remodel" or "remodeling" means to alter, expand or replace an existing structure.
- (gg) "Residential Facility" means a home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. This definition also includes, but is not limited to "residential facilities", "residential care facilities", "residential treatment facilities" and "residential training facilities".
- (hh) "Residential Home" means a home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. This definition also includes, but is not limited to "residential treatment homes", "residential training homes", and "adult foster homes".
- (ii) "SDC Capacity Improvement Projects List" means the District program set forth in Appendix A to the SDC Methodology Report that identifies all of the major parks and recreation improvements projected to be funded with SDC revenues through 2022, and includes the estimated cost, timing, and percentage of costs eligible for funding from SDC revenues for each project.

(jj) “SDC Debt Service Credit” means the estimated value of future tax payments for debt service identified in Table 4.3 of the SDC Methodology Report.

(kk) "SDC Methodology Report" means the District report entitled Parks and Recreation System Development Charges Methodology Update, dated October 4, 2006.

### Section 3. Rules of Construction.

For the purposes of administration and enforcement of this Resolution, unless otherwise stated in this Resolution, the following rules of construction apply:

(a) In case of any difference of meaning or implication between the text of this Resolution and any caption, illustration, summary table, or illustrative table, the text shall control.

(b) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(c) Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

(d) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".

(e) Where a regulation involves two or more connected items, conditions, provisions, or events:

(1) "And" indicates that all the connected terms, conditions, provisions or events shall apply;

(2) "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.

(f) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(g) The word “structure” includes the word “building”.

(h) The words “land”, “property”, “site”, “lot” and “premises” are used interchangeably unless the context clearly indicates to the contrary.

- (i) The words “proposal”, “application”, and “request” are used interchangeably unless the context clearly indicates to the contrary.

Section 4. Application.

This Resolution applies to all New Development throughout the District. The amount of the District SDC shall be calculated according to this Section, with rates as outlined herein and in the SDC Methodology Report.

- (a) Except as otherwise provided in this Resolution, the District SDC set forth herein shall be imposed upon all New Development for which a technically complete Building Permit application is filed on or after the effective date of this Resolution. Except as provided in subsection (g) of this Section, the rates per dwelling unit as outlined in the SDC Methodology Report shall be phased in over a period of five years, effective January 1 of each year, as follows:

	<u>2007</u>	<u>2008*</u>	<u>2009*</u>	<u>2010*</u>	<u>2011*</u>
Single Family, Detached	\$2,303	\$2,447	\$2,591	\$2,735	\$2,879
Single Family, Attached	\$2,426	\$2,578	\$2,730	\$2,881	\$3,033
Multi-Family	\$2,032	\$2,159	\$2,286	\$2,413	\$2,540

\* beginning January 1, 2008, these rates shall be adjusted as provided in subsection (g) of this Section.

- (b) Manufactured housing shall be charged at the single-family (detached) dwelling unit SDC rate.
- (c) Accessory dwelling units shall be charged at one-half the single-family (detached) dwelling unit SDC rate.
- (d) Single Room Occupancy dwelling units shall be charged at one-half the multi-family dwelling unit SDC rate.
- (e) The Applicant shall at the time of Building Permit application provide the Administrator with the information requested on an SDC worksheet regarding the previous and proposed use(s) of the New Development, including the number and type (i.e., single family, detached, multi-family, etc.) of dwelling units for the previous and proposed use(s) of the New Development.
- (f) Except as may otherwise be provided in this Resolution, the amount of the SDC shall be determined by calculating the SDC amount that would have been imposed for the previous use(s) of the property and the SDC amount for the proposed use(s).

- (g) ORS 223.304(8) allows for periodic adjustments in SDC rates based on changes in District-adopted cost indices. Therefore, the District shall adjust the dollar amounts of the SDC rates set forth in the SDC Methodology Report on or about January 1st of each year to account for changes in the expected costs of debt service and of acquiring and constructing facilities.
- (1) The District shall adjust SDC rates to account for changes in valuation that may affect future tax revenues (the “Debt Service Credit”).
- (i) On or about December 1 of each year, the District shall access information from the local Regional Multiple Listing Service (RMLS) to obtain the current average assessed valuation for single family, detached dwelling units constructed during the prior twelve month period.
- (ii) Using the current average RMLS valuation, the District shall calculate an updated Debt Service Credit per single family, detached dwelling unit reflecting any change in the net present value of expected future tax payments for debt service included in Table 4.3 of the SDC Methodology Report.
- (iii) The District shall calculate an updated total SDC per single family, detached dwelling unit by subtracting the updated Debt Service Credit from the Improvement Fee per Dwelling Unit for a Dwelling Unit Detached, Single Family as shown in Table 4.4 of the SDC Methodology Report.
- (2) The District shall adjust SDC rates to account for changes in the cost of acquiring land and developing parks and recreation facilities (the “Acquisition and Development Cost Adjustment”). The Acquisition and Development Cost Adjustment factor shall be used to adjust the District’s SDCs, unless otherwise adjusted by the District based on either: 1) adoption of an updated methodology, or 2) other adjustments or modifications made in accordance with ORS 223.309(2).
- (i) On or about December 1 of each year, the District shall access 1) information from the Lane County Tax Assessor to obtain the percentage change in the average assessed valuation for vacant, residential land, during the most recent twelve month period for which records are available; and 2) The Engineering News Record (ENR) to obtain the percentage change in the ENR Construction Cost Index (CCI) for Seattle, Washington, during the most recent twelve month period for which records are available.

(ii) The Acquisition and Development Cost Adjustment factor shall be weighted as follows:

- 1) Change in Land Value Multiplied by 28%  
(land portion of SDC-Eligible CIP)
- + 2) Change in CCI Multiplied by 72%  
(facilities portion of SDC-Eligible CIP)
- = 3) System Development Charges Adjustment Factor

(iii) The Acquisition and Development Cost Adjustment factor shall be applied as follows:

- 1) System Development Charges Adjustment Factor
- X 2) Total SDC Per Dwelling Unit (following any Debt Service  
Credit adjustment)
- = 3) Adjusted Total SDC Per Dwelling Unit

#### Section 5. Partial and Full Exemptions.

The uses listed and described in this Section are exempt, either partially or fully, from payment of the District's SDC. Any Applicant seeking an exemption under this Section shall specifically request that exemption, in writing, no later than the time of application for the Building Permit. Where New Development consists of only part of one or more of the uses described in this Section, only that/those portion(s) of the New Development that qualify under this Section are eligible for an exemption. The balance of the New Development that does not qualify for any exemption under this Section shall be subject to the full SDC. Should the Applicant dispute any decision by the District regarding an exemption request, the Applicant must apply for an alternative exemption calculation under Section 7. The Applicant has the burden of proving entitlement to any exemption so requested.

- (a) Non-residential uses are fully exempt.
- (b) Temporary uses are fully exempt so long as the New Development use or structure will be used for not more than 180 days in a single calendar year.
- (c) Alteration permits for tenant improvements are fully exempt.
- (d) Congregate Care Facilities are fully exempt.
- (e) Any Residential Facility or Residential Home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 is fully exempt.

- (f) New Development that, in the Administrator's opinion, will not create demands on the parks and recreation system greater than those of the present use of the property are fully exempt.

## Section 6. SDC Credits

The District shall grant a credit against the District's SDC ("SDC Credit"), which is otherwise assessed for a New Development, for any Qualified Public Improvement(s) constructed or dedicated as part of that New Development. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.

- (a) To obtain an SDC Credit, the Applicant must specifically request, in writing, a credit prior to the City's issuance of a building permit for the New Development. In the request, the Applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement. The Applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the Administrator's opinion, the improvement(s) is a Qualified Public Improvement, and the Administrator concurs with the proposed value of the improvement(s), an SDC Credit shall be granted. The value of the SDC Credits under this Section shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of land dedicated, as follows:
  - (1) For dedicated lands, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;
  - (2) For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought;
  - (3) For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the Applicant;
- (b) The Administrator shall respond to the Applicant's request in writing within 21 days of receipt of a technically complete request. The Administrator shall provide a written explanation of the decision on the SDC Credit request.

- (c) If the Applicant disputes the Administrator's decision with regard to an SDC Credit request, including the amount of the credit, the Applicant may seek an alternative SDC Credit calculation under Section 7. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request.
- (d) Where the amount of an SDC Credit approved by the Administrator under this Section exceeds the amount of the SDC assessed by the District upon a New Development, the excess credit may be applied against SDCs that accrue in subsequent phases of the original development project. Any excess credit must be used not later than ten years from the date the credit is given.

Section 7. Alternative Calculation for SDC Rate, Credit, or Exemption.

An applicant may request an alternative SDC rate calculation, alternative SDC Credit determination, or alternative SDC exemption if: 1) the Applicant believes that the impact on parks and recreation facilities resulting from the New Development is, or will be, less than that contemplated in the SDC Methodology Report, and for that reason, the Applicant's SDC should be lower than that calculated by the District, 2) the Applicant believes the District improperly excluded from consideration a Qualified Public Improvement that would qualify for credit under Section 6, or the District accepted for credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the credit, or 3) the Applicant believes the District improperly rejected a request for an exemption under Section 5.

(a) Alternative SDC Rate Request:

- (1) If an Applicant believes that the assumptions for the class of structures that includes the New Development are not appropriate for the subject New Development, the Applicant must request, in writing, an alternative SDC rate calculation, under this Section, no later than the time of issuance of a Building Permit for the New Development. Alternative SDC rate calculations for occupancy must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular New Development.
- (2) In support of the alternative SDC rate request, the Applicant must provide complete and detailed documentation, including verifiable data, analyzed and certified by a suitable and competent professional. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The proposed alternative SDC rate calculation shall include an explanation with particularity why the rate established in the SDC Methodology does not accurately reflect the New Development's impact on the District's capital improvements.

- (3) The Administrator shall apply the alternative SDC rate if, in the Administrator's opinion, the following are found:
  - (i) The evidence and assumptions underlying the alternative SDC rate are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section, and
  - (ii) The calculation of the proposed alternative SDC rate was by a generally accepted methodology, and
  - (iii) the proposed alternative SDC rate better or more realistically reflects the actual impact of the New Development than the rate set forth in the SDC Methodology Report.
- (4) If, in the Administrator's opinion, all of the above criteria are not met, the Administrator shall provide the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative SDC rate.

(b) Alternative SDC Credit Request:

- (1) If an Applicant has requested an SDC Credit pursuant to Section 6 and that request has been denied by the District, the Applicant may request, in writing, an alternative SDC Credit calculation, under this Section, no later than the time of application for a building permit.
- (2) In support of the alternative SDC Credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the Applicant is seeking credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis, and techniques of analysis as a means of supporting the proposed alternative SDC Credit.
- (3) The Administrator shall apply the alternative SDC Credit if, in the Administrator's opinion, the following are found:
  - (i) The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s), and

(ii) The evidence and assumptions underlying the Applicant's alternative SDC Credit request are reasonable, correct, and credible and were gathered and analyzed by an appropriate competent professional in compliance with generally accepted principles and methodologies, and

(iii) the proposed alternative SDC Credit is based on realistic, credible valuation or benefit analysis.

(4) If, in the Administrator's opinion, any one or more of the above criteria is not met, the Administrator shall deny the request and provide to the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative SDC Credit proposal.

(c) Alternative SDC Exemption Request:

(1) If an Applicant has requested a full or partial exemption under Section 5 and that request has been denied, the Applicant may request, in writing, an alternative SDC exemption under this Section, no later than the time of application for a Building Permit for the New Development.

(2) In support of the alternative SDC exemption request, the Applicant must provide complete and detailed documentation demonstrating that the Applicant is entitled to one of the exemptions described in Section 5.

(3) The Administrator shall grant the exemption if, in the Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 5.

(4) Within 21 days of receipt of the Applicant's technically complete request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

Section 8. Due Date of Payment of SDC Charges.

Except as may be required by ORS 223.205 – 223.295 (Bancroft Bonding Act), the SDC required by this Resolution is due and payable in full at the time the building permit is issued. The SDCs may be collected by the City and/or other local governments with whom the District may enter into agreement for such collection.

Section 9. Refunds.

Refunds may be given by the Administrator upon finding that there was a clerical error in the calculation of the SDC. Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an alternative SDC rate calculation under Section 7 at the time of submission of an Application for a Building Permit. The District shall refund to the Applicant any SDC revenues collected from Applicant, but not expended within ten (10) years of receipt.

Section 10. Dedicated Accounts, Appropriate Use of Accounts, and Accounting.

All monies derived from the District Improvement Fee SDC shall be placed in a District SDC Improvement Fee account and shall be used solely for the purpose of providing capacity-increasing capital improvements as identified in the SDC Capacity Improvement Projects List as it currently exists or as hereinafter amended, and eligible administrative costs.

- (a) Any capital improvement being funded wholly or in part with revenues from the District's Improvement Fee SDC shall be included in the District's SDC Capacity Improvement Projects List and shall include, for each project, the estimated cost, timing and percentage of costs eligible to be funded with revenues from the Improvement Fee SDC.
- (b) The SDC Capacity Improvement Projects List may be modified at any time. If the District's Improvement Fee SDC will be increased by a proposed modification of the list to include one or more SDC-eligible capacity-increasing capital improvements:
  - (1) The District shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice.
  - (2) If the District receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption, the District shall hold a public hearing.
  - (3) If the District does not receive a written request for a public hearing, none is required, and the proposed modification and increase in the SDC may be adopted.
  - (4) Any decision of the District to increase the SDC by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100.
- (c) SDC revenues may be used for purposes that include, but are not limited to, the following:
  - (1) design and construction plan preparation;

- (2) permitting;
  - (3) land and materials acquisition, including any costs of acquisition or condemnation;
  - (4) construction of parks and recreation capital improvements;
  - (5) design and construction of new streets, sanitary sewers, drainage facilities, or other public improvements required by the construction of parks and recreation capital improvements and structures;
  - (6) relocating utilities required by the construction of improvements;
  - (7) landscaping;
  - (8) construction management and inspection;
  - (9) surveying, soils and material testing;
  - (10) acquisition of capital equipment that is an intrinsic part of a facility;
  - (11) demolition that is part of the construction of any of the improvements on this list;
  - (12) payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the District to provide money to construct or acquire parks and recreation facilities;
  - (13) direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement program; and the costs of collecting and accounting for system development charges expenditures.
- (d) Money on deposit in the District's SDC account shall not be used for:
- (1) any expenditure that would be classified as a maintenance or repair expense; or
  - (2) costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or

- (3) costs associated with acquisition or maintenance of rolling stock.

(e) Annual Accounting Reports

- (1) The District shall provide an annual accounting, to be completed by January 1 of each year, for SDCs showing the total amount of SDC revenues collected and the projects that were funded in the previous fiscal year.
- (2) The annual accounting shall include:
  - (i) A list of the amount spent on each project funded, in whole or in part, with SDC revenues; and
  - (ii) The amount of revenue collected by the District from SDCs and attributed to the costs of complying with the provisions of ORS 223.297 to 223.314, as described in ORS 223.307.

Section 11. Challenges and Appeals.

- (a) Any citizen or other interested person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure.
- (b) Except where a different time for an Administrator's decision is provided in this Resolution, all Administrator decisions shall be in writing and shall be delivered to the Applicant within 21 days of receipt of a technically complete application or other Applicant request for an Administrator determination. Delivery shall be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the Administrator by certified mail, addressed to the address for notice Applicant has designated in the Application.
- (c) Any person may appeal to the District Board of Directors any decision of the Administrator made pursuant to this Resolution by filing a written request with the Administrator within fourteen (14) days after the delivery of the Administrator's written decision to the Applicant.
  - (1) The appeal to be filed with the District Board of Directors and should contain the following information:
    - (i) The name and address of the applicant;

- (ii) The legal description of the property in question (if applicable);
  - (iii) If issued, the date the building permit was issued;
  - (iv) If paid, the date the system development charges were paid; and
  - (v) A statement of the reasons why the applicant is appealing a decision.
- (2) Upon receipt of such request, the District shall schedule a hearing before the District Board of Directors at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within twenty-one (21) days of the date the appeal was filed.
  - (3) The District Board of Directors shall conduct a hearing in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.
  - (4) Any applicant who appeals a decision pursuant to this Section and desires the immediate issuance of a building permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to Section 4. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights.
  - (5) An applicant may appeal a decision under this Section without paying the applicable system development charges, but no building permit shall be issued until such system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.
  - (6) The District Board of Directors shall decide an appeal within sixty (60) days of the date of the appeal to the District Board of Directors and that decision may be reviewed under ORS 34.010 to 34.100, and not otherwise.

Section 12. District Review of SDC.

No later than every five (5) years as measured from date of adoption of the Resolution, the District shall undertake a review to determine that sufficient money will be available to help fund the SDC

Capacity Improvement Projects List; to determine whether the adopted SDC rates keep pace with inflation, whether the SDC Capacity Improvement Projects List should be modified, and to ensure that such facilities will not be over funded by the SDC receipts.

- (a) In the event that during the review referred to above, it is determined that an adjustment to the SDC is necessary for sufficient funding of the SDC Capacity Improvement Projects List or to ensure that such projects are not over-funded by the SDC, the District Board of Directors may propose and adopt appropriately adjusted SDCs.
- (b) The District may from time to time amend the adopted SDC Methodology Report and rates, amend the SDC Capacity Improvement Projects List, and/or adopt a new SDC Methodology Report by resolution.

Section 13. Time Limit on Expenditure of SDCs.

The District shall expend SDC revenues within ten (10) years of receipt.

Section 14. Implementing Regulations; Amendments.

The Administrator may adopt regulations to implement the provisions of this Resolution.

Section 15. Amendment of the SDC Capacity Improvement Projects List.

Any capital improvement being funded wholly or in part with revenues from the District's parks and recreation Improvement Fee SDC shall be included in the District's adopted SDC Capacity Improvement Projects List (Appendix A to the SDC Methodology Report). This list may be modified at any time. If the District's parks and recreation Improvement Fee SDC will be increased by a proposed modification of the list to include one or more SDC-eligible capacity-increasing capital improvements:

- (a) The District shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice.
- (b) If the District receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption, the District shall hold a public hearing.
- (c) If the District does not receive a written request for a public hearing, none is required, and the proposed modification and increase in the SDC may be adopted.

(d) Any decision of the District to increase the SDC by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100.

Section 16. Severability.

The provisions of this Resolution are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, Section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.

Section 17. Effective Date.

The provisions of this Resolution become effective January 1, 2007.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2006.

WILLAMALANE PARK AND RECREATION DISTRICT

By: \_\_\_\_\_  
Gary P. Ross, President, Board of Directors

ATTEST:

\_\_\_\_\_  
Robert W. Keefer, Superintendent-Secretary