

NEHALEM BAY WASTEWATER AGENCY

RESOLUTION NO. 2020-01

A RESOLUTION AUTHORIZING DECLARATIONS OF A STATE OF EMERGENCY AND CERTAIN ACTIONS DURING A STATE OF EMERGENCY.

WHEREAS, the Board of Directors (“Board”) of the Nehalem Bay Wastewater Agency (“Agency”) has all of the powers and duties of a sanitary sewer district provided under ORS Chapters 264, 450, and 198; and

WHEREAS, the Board has delegated administrative functions of the Agency to a Manager, who manages the daily operations of the Agency and implements Board policy; and

WHEREAS, the Board has reserved for itself all actions and legislative functions that are properly reserved to the governing body of a sanitary sewer district; and

WHEREAS, the Board acknowledges that during a state of emergency the Board or the Manager may be unavailable or unable to perform necessary administrative, operational, and legislative functions for the Agency; and

WHEREAS, the Board desires to define the circumstances that may constitute a state of emergency and to designate a line of succession whereby immediate and appropriate action may be taken to minimize, respond to, or recover from the emergency and to continue District operations during a state of emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF NEHALEM BAY WASTEWATER AGENCY THAT:

Section 1. Emergency Defined. An “emergency” means a human created or natural event or circumstance that causes or threatens widespread loss of life, injury to person or property, human suffering, interruption of services, or financial loss. The events or circumstances causing an emergency may include, but are not limited to: fire, explosion, flood, severe weather, landslides, drought, earthquake, volcanic activity, spills or releases of oil or hazardous materials, disease, contagion, civil disturbance, riot, acts of terrorism, and war.

Section 2. Emergency Declaration. A “state of emergency” exists when the events or circumstances constituting an emergency are present and a declaration is made that the Agency is in a state of emergency.

A. Except as otherwise provided in this Section, a declaration of a state of emergency shall be made by the Board of Directors (“Board”)

1. If a quorum of the Board is unable or unavailable to convene, the declaration may be made by the President of the Board, or the President’s then-designated successor (“President”), in consultation with the Manager. If the President is unable or unavailable to consult with the Manager, any two members of the Board, jointly and in consultation with the Manager, may make the declaration.

2. In the event that neither the President nor two members of the Board are able or available to consult with the Manager, the Manager may make the declaration of a state of emergency.

3. If the Manager is unable or unavailable for a consultation under this Section, the consultation shall occur with the next in the line of succession to the Manager, as provided in Section 3 of this Resolution.

B. In the event a declaration of a state of emergency is made pursuant to Section 2(A)(1) or Section 2(A)(2), the Board shall convene as soon as is reasonably practicable to consider the declaration and to ratify or modify the declaration as the Board deems necessary.

C. A declaration of a state of emergency shall contain the following:

1. Findings by the declarant that an emergency exists, including the events or circumstances forming the basis for the emergency; and

2. The actions authorized during the emergency, which may be any or all of the functions and actions identified in this Resolution; and
3. The period of time that the state of emergency is anticipated to exist during which the actions will be authorized; and
4. A statement that the declaration of the state of emergency, and any actions authorized pursuant to the declaration, must be ratified by the Board as soon as practicable.

Section 3. Authorized Actions. When a state of emergency has been declared, the Manager, or the Manager's successor, shall have the authority to perform any or all of the following actions, so long as such action is for the purpose of reducing loss of life, disruption of services, damage to Agency property or assets, or financial loss, or for the purpose of protecting any portion of the Agency's jurisdiction from threat or hazard, or to assist another federal, state, or local governmental entity upon request:

- A. Divert funds and resources appropriated for other purposes to meet immediate needs; and
- B. Enter into contracts of a duration that shall last no longer than the conclusion of the then-existing state of emergency, without regard to any spending limit otherwise imposed by the Agency's procurement rules; and
- C. Authorize local emergency operations plans; and
- D. Implement protective measures, which may include limiting physical access by the public to District staff and offices, including during public meetings or hearings of the Board; and
- E. Call an emergency meeting of the Board; and
- F. Coordinate or assist local communities and state agencies to alleviate disaster or emergency conditions, including by entering into agreements and the sending or receiving of resources; and
- G. Any action that the Manager reasonably believes is necessary to protect the Agency's sanitary sewer, or systems, or sources.

Section 4. Line of Succession. During a state of emergency, if the Manager is unable or unavailable to perform the Authorized Actions, the Executive Assistant shall have the authority of the Manager to perform such Authorized Actions. The Executive Assistant shall only be so authorized after receiving notification by the Manager or the President of such authorization.

Section 5. Ratification. Within 30 days after a declared state of emergency has concluded, the Manager, or the authorized agent in the line of succession, who has taken any Authorized Action pursuant to this Resolution, shall prepare a report for the Board of the actions taken on the Agency's behalf, the reason for which the action was required, the alternative actions considered, and the results of the action that was taken. Within 60 days after a declared state of emergency has concluded, the Board shall meet to approve and ratify any Authorized Actions taken by the Manager or line of succession on behalf of the Agency during the state of emergency.

INTRODUCED AND ADOPTED THIS 15TH DAY OF APRIL 2020, EFFECTIVE AS OF THE DATE OF ADOPTION.

NEHALEM BAY WASTEWATER AGENCY

By 
Mike Sims, Chairman

By 
Bruce Halverson, Manager