

10.0 FINANCIAL ASSURANCES

10.1 Policy. It is the policy of the District to protect and conserve the water resources of the District by assuring that land disturbance within the District complies with the District's Rules, and to require a permittee to maintain financial assurances conditioned on compliance so that the District need not expend general public funds to gain compliance.

10.2 Form and Conditions of a Letter of Credit, Surety Bond or Cash Escrow.

10.2.1 The District may require a letter of credit, surety bond or cash escrow in a form approved by the District for an activity regulated under these Rules. A commercial assurance shall be from an issuer licensed to issue such assurances in Minnesota. The principal for a letter of credit or bond need not be the permittee but the District's access to the assurance may not be impeded by a claim that the principal is not responsible for permit non-compliance.

10.2.2 The assurance shall be in favor of the District and conditioned on the permittee's performance of the activities authorized in the permit in compliance with the District Rules and governing law, the terms and conditions of the permit, and payment when due of any fees or other charges authorized by law. The assurance shall state that in the event the conditions of the assurance are not met, the District may make a claim against it.

10.2.3 The assurance must be valid and in force for at least the permit term.

10.2.4 The form of the assurance shall be as follows:

(a) Cash deposit - The first \$5,000 of the financial assurance, and any additional amount as the permittee elects, shall be by cash deposit to the District. The cash will be held by District in an escrow account but may be commingled with other escrows and the permittee will not be entitled to interest. In conjunction with the deposit, the permittee will sign an escrow agreement acceptable to the District.

(b) Security deposit - Letter of credit or bond provide to the District, as beneficiary, an original of an irrevocable standby letter of credit or a negotiable permit bond.

10.3 Assurance Amount. A standard assurance schedule shall be set and revised from time to time by resolution of the Board of Managers as the amount the Board deems necessary to cover the following potential costs to the District:

(a) Application, field inspection, monitoring and related fees authorized under Minn. Stat. § 103D.345;

(b) The cost of maintaining and implementing protective measures set forth in or incorporated into the permit; and

(c) The cost of remedying damage resulting from permit noncompliance or for which the permittee otherwise is responsible.

- 10.4 Use of Assurance.** The District may obtain and use funds in accordance with the procedures stated here and those stated in the bond, letter of credit or cash escrow agreement. The District may apply the proceeds of any financial assurance it holds to reimburse its reasonable costs incurred for purposes set forth in paragraph 10.3. If the District's reasonable costs exceed the proceeds of financial assurances, the property owner will be responsible for the outstanding amount.
- 10.5 Managing the Financial Assurance.** If at any time during the course of the work the balance of the assurance falls below 50% of the total required deposit, the District may require the permittee to restore the assurance to the required amount. The District notice may provide that if the permittee does not do so within seven days after receipt of notice, work under the permit must be suspended.
- 10.6 Release of Financial Assurance.** On written notification of completion of a project, the District will inspect the project to determine if the project is constructed in accordance with the terms of the permit and District Rules. If the project is completed in accordance with the terms of the permit and District Rules and there is no outstanding balance for unpaid review, inspection fees, and remedial work, the District will issue a letter of compliance and release the assurance. The original letter of credit or bond will be destroyed and the permittee so advised, unless the permittee instructs that it be returned. If the District has not inspected the project and made a determination of project completion within sixty (60) days of District receipt of written notification, the assurance is deemed released. In this event, the District will provide a written letter releasing the assurance if needed to meet the issuer's requirements.