

AN ORDINANCE TO LEVY AN ASSESSMENT AGAINST PROPERTY FOR INDUSTRIAL SEWER SYSTEM DEVELOPMENT CHARGES FOR PROPERTY DESCRIBED AS TAX LOT 1400, OF PARCEL 11S-03W-19A, AND SITE ADDRESS 101 41ST AVE SE; AND DECLARING AN EMERGENCY.

WHEREAS, industrial sewer customers are required to pay the City Sewer System Development Charges based on demands (flows and loads) that are placed on the sewer system; and

WHEREAS, in calendar year 2006, Best Pots Inc, an Oregon Corporation, DBA Eco-Flo Environmental Services, exceeded the projected flows and loads that had been established in their Sanitary Sewer Systems Development Charge Agreement with the City dated October 29, 2003; and

WHEREAS, Sewer System Development Charges and the assessments for the same will be levied according to the provisions of Albany Municipal Code, Chapter 15.16.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The additional cost of the Sewer System Development Charge excess flows and loads to be assessed for Best Pots, Inc, DBA Eco-Flo Environmental Services, located at 101 41st Avenue SE, for 2006 is \$50,305.63.

Section 2: The City Recorder is hereby directed to enter a statement of the assessment as above provided in the docket of the City liens and give notice thereof as provided by law.

Section 3: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health and safety of the City of Albany, Oregon, an emergency is hereby declared to exist, and this ordinance will be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Passed by the Council: July 11, 2007

Approved by the Mayor: July 11, 2007

Effective Date: July 11, 2007


Mayor

ATTEST:


City Clerk

SEWER SYSTEM DEVELOPMENT CHARGE

07/03/07 10:50:43

| Name/Address | Description | | |
|--------------------------|------------------|-------------------|-----------|
| RHODABACK, CAROL A CO TR | MARION INDUS PK | 11-03W-19A -01400 | |
| RHODABACK, HOMER L CO TR | | 101 41ST AVE SE | |
| PO BOX 444 | 07/11/07 0713095 | 12385 | |
| ALBANY OR 97321 | SSDC567601* | | 50,305.63 |

Report total... 50,305.63



November 13, 2003

CITY HALL
333 Broadalbin SW
P.O. Box 490
Albany, OR 97321-0144
www.ci.albany.or.us

(541) 917-7500

Chris Rhodaback
Best Pots, Inc.
101 41st Avenue SW
Albany, OR 97321

ADMINISTRATIVE SERVICES

**City Manager/
Human Resources**
(541) 917-7501
FAX (541) 917-7511

Finance/Recorder
(541) 917-7520
FAX (541) 917-7511

Municipal Court
(541) 917-7740
FAX (541) 917-7748

Water/Sewer Billing
(541) 917-7547
FAX (541) 917-7511

**COMMUNITY
DEVELOPMENT
Planning**
(541) 917-7550
FAX (541) 917-7598

Building Inspection
(541) 917-7553
FAX (541) 917-7598

FIRE ADMINISTRATION
(541) 917-7700
FAX (541) 917-7716

**PARKS & RECREATION
ADMINISTRATION**
(541) 917-7777
FAX (541) 917-7776

**PUBLIC WORKS
Engineering**
(541) 917-7676
FAX (541) 917-7573

Transit
(541) 917-7667
FAX (541) 917-7573
TDD (541) 917-7678

Dear Chris:

**SANITARY SEWER SYSTEMS DEVELOPMENT CHARGE (SDC)
AGREEMENT**

Enclosed is a fully-executed copy of the above-referenced agreement for your records. Thank you for your patience and willingness to work with us.

If you have any questions or would like to discuss any aspect of the agreement, please call me at (541) 917-7635.

Sincerely,

Chip Ullstad, P.E.
Utility Engineer

CU:cmr

Enclosure

c: Mark Yeager, P.E., Principal Utilities Engineer
Herb Hoffer, Environmental Services Supervisor

**BEST POTS INC.
SANITARY SEWER SYSTEMS DEVELOPMENT CHARGE (SDC)
AGREEMENT**

This Agreement is entered into between the City of Albany, Oregon, a municipal corporation, hereafter referred to as "City," and Best Pots, Inc., an Oregon Corporation, hereafter referred to as "Best Pots."

WHEREAS, Best Pots is an existing commercial sewer customer and is installing a wastewater treatment system at 101 41st Avenue SW, Albany, Oregon, Linn County Assessor's map 11S 03W 19A 01 00400, Tax Lot 400; and

WHEREAS, Best Pots will be a new industrial customer for purposes of calculating sewer SDCs; and

WHEREAS, industrial sewer customers are required to pay the City sewer SDC charges based on demands (flows and loads) that are placed on the sewer system. The method of calculating industrial SDC charges is based on the following four characteristics:

- Average daily process wastewater flow, measured in millions of gallons per day (MGD)
- Peak daily flow, measured in MGD
- Maximum monthly biochemical oxygen demand (BOD), measured in pounds per day
- Maximum monthly total suspended solids (TSS), measured in pounds per day; and

WHEREAS, the City and Best Pots acknowledge that both parties are uncertain what actual wastewater flows and loads will result following construction and operation of Best Pots' facilities; and

WHEREAS, Best Pots anticipates the ultimate discharge from the treatment facility may be 30,000 gallons per day; and

WHEREAS, the City has limited pump station capacity serving this area and cannot accommodate flows from this site greater than 30,000 gallons per day distributed uniformly over a twenty-four hour period; and

WHEREAS, Best Pots has estimated initial flows and loads from their processing facility will be as shown below:

| | <u>Projected flows/loads</u> |
|-----------------------|---------------------------------|
| • Average Daily Flow: | <u>0.010</u> MGD |
| • Peak Daily Flow: | <u>0.010</u> MGD |
| • Maximum monthly BOD | <u>83.4</u> pounds per day |
| • Maximum monthly TSS | <u>1.25</u> pounds per day; and |

WHEREAS, the estimated flows and loads shown above result in a sewer SDC fee of \$114,653.15; and

WHEREAS, Best Pots anticipates that construction of their facilities will be completed and operational on or about July 31, 2004.

NOW, THEREFORE, Best Pots and the City agree to the following:

1. Best Pots agrees to pay sewer SDC charges or to finance these charges through the City within 30 calendar days of the effective date of this agreement. The amount of the SDC fee is based on Best Pots' projected flows and loads as shown above.
2. The City and Best Pots agree that the SDC fee shall be recalculated at the conclusion of a twelve-month evaluation period. The evaluation period shall begin following written notice from Best Pots that the aforementioned treatment facility is complete and fully operational or by July 31, 2004,

whichever is earlier. The evaluation period shall be completed twelve months from the date the facility becomes fully operational or by July 30, 2005, whichever is earlier. Best Pots may request a delay in the onset of the evaluation period if the City receives a written request no later than July 15, 2004.

3. The City and Best Pots agree that SDC fees will be adjusted, up or down, at the conclusion of the evaluation based on differences between actual and projected flows and loads. The SDC fee shall be recalculated at the conclusion of the evaluation period using the following methodology:

Average daily flows shall be the average metered wastewater flow for each calendar day during the evaluation period, expressed as a rate in MGD;

Peak daily flow shall be the maximum metered wastewater flow for any calendar day during the evaluation period, expressed as a rate in MGD;

Maximum monthly (30 continuous day) BOD and TSS loads over the evaluation period, expressed as a rate in pounds per day, shall be calculated by averaging individual BOD and TSS loadings, expressed in pounds per day, over any continuous 30-day interval during the evaluation period. Individual BOD and TSS loadings shall be calculated by multiplying the metered wastewater flow for the test date, measured in MGD, by the BOD and TSS concentrations, measured in milligrams per liter (mg/L), and multiplied by a conversion factor of 8.34.

4. A revised SDC fee shall be calculated at the conclusion of the evaluation period using actual flows and loads as described above and based on SDC rates in effect at that time. The estimated SDC fee paid or financed at the onset of this agreement shall be adjusted up or down based on the calculated SDC fee using these actual flows and loads.
5. Best Pots agrees to install flow monitoring and recording equipment approved by the City and to testing process wastewater a minimum of two times per month. Best Pots further agrees that the City may require, or Best Pots may voluntarily, increase the testing frequency as needed to ensure BOD and TSS samples are representative of Best Pots' total process wastewater loading. If the City increases testing frequency requirements, the City agrees to provide a written notice stating the testing frequency requirement and the basis for the increase. Written notice of the increased testing frequency requirement will be provided two-weeks before increased testing will begin. Best Pots agrees to be fully responsible for all BOD and TSS testing expenses required under this agreement. Best Pots acknowledges responsibility for additional testing expenses as required through Part II, Section F, Subsection 2 of the industrial wastewater discharge permit.
6. Best Pots acknowledges and agrees to pay additional sewer SDC charges after the twelve-month evaluation period if flows and loads increase above those used to determine SDC fees as part of this agreement. The amount of the additional sewer SDC charge shall be calculated in accordance with the methodology and rates in effect at the time the flows and/or loads are determined to be exceeded.
7. Best Pots acknowledges that effluent from their facility exceeds the average discharge rate expected from light industrial zoned properties. Best Pots further acknowledges that this site is tributary to the Marion Street sewage pump station and that the capacity of this pump station is limited. Best Pots agrees to limit the average discharge to the sanitary sewer system to no greater than 21 gallons per minute (gpm) during each calendar day in recognition of this limited capacity. The City acknowledges that pumping rates may vary during the course of a calendar day and has established maximum discharge rates as described in Part II, Section B, Subsections 1, 2 and 3 of the industrial wastewater discharge permit for this facility. Violation of these maximum discharge rates results in a violation of the wastewater discharge permit and shall be enforced by the terms and conditions of the permit.

Effective this 1st day of November 2003.

IN WITNESS WHEREOF, the Grantors have hereunto fixed their hands and seals the day and year above written.

BEST POTS, INC.:

Homer Rhodaback
By: Homer Rhodaback
Pres.
Title: President

BEST POTS, INC.:

Chris Rhodaback
By: Chris Rhodaback
V.P.
Title: Vice-president

STATE OF OREGON)

County of Linn) ss.
City of Albany)

The foregoing instrument was acknowledged before me this 29th day of October 2003, by Homer Rhodaback, President, of Best Pots, Inc., an Oregon Corporation, on behalf of the corporation.

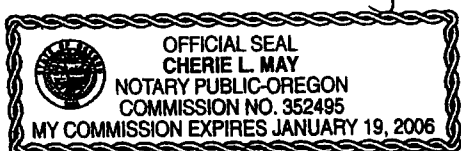
STATE OF OREGON)

County of Linn) ss.
City of Albany)

The foregoing instrument was acknowledged before me this 29th day of October 2003, by Chris Rhodaback, Vice-president, of Best Pots, Inc., an Oregon Corporation, on behalf of the corporation.

Cherie L. May
Notary Public for Oregon
My Commission Expires: January 19, 2006

Cherie L. May
Notary Public for Oregon
My Commission Expires: January 19, 2006



CITY OF ALBANY:

STATE OF OREGON)

County of Linn) ss.
City of Albany)

I, Steve Bryant as City Manager of the City of Albany, Oregon, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 5th day of November 2003.

Steve Bryant
City Manager

ATTEST:

[Signature]
City Recorder

APPROVED AS TO FORM:

[Signature]
City Attorney

Estimated Sewer SDC/User Fee Charge

Company: Best Pots / A&B Septic Service

Estimate Based On

| | | |
|----------------------------|---------------------|-----------------|
| Average Day on max. month | 10,000 gpd = | 0.01000 MGD |
| Average Day Flow | 10,000 gpd = | 0.01000 MGD |
| Average Days Discharge/Mo. | 24.5 discharges/mo. | |
| Average Monthly Flow | | 245,000 GALLONS |
| Peak Day Flow | 10,000 gpd = | 0.01000 MGD |
| BOD Concentration | 1,000 mg/L = | 83.40 LBS/DAY |
| TSS concentration | 15 mg/L = | 1.25 LBS/DAY |

Estimated SDC Fee

| Calculate EDU | Flow / Load (MG/lbs/day) | Residential Unit (MG/lbs/day) | EDU |
|--------------------|--------------------------|-------------------------------|--------|
| Average Daily Flow | 0.010000 | 0.000420 | 23.81 |
| Peak Daily Flow | 0.010000 | 0.000690 | 14.49 |
| Max. Month BOD | 83.40000 | 0.357000 | 233.61 |
| Max. Month TSS | 1.251000 | 0.357000 | 3.50 |

| Calculate SDC-R | Unit Cost | Industrial Flow/Load | Cost |
|----------------------|--------------|----------------------|-------------------|
| Average Daily Flow | \$156,620.00 | 0.010000 | \$1,566.20 |
| Peak Daily Flow | \$0.00 | 0.010000 | \$0.00 |
| BOD | \$17.00 | 83.400000 | \$1,417.80 |
| TSS | \$51.00 | 1.251000 | \$63.80 |
| SDC-R Total = | | | \$3,047.80 |

| Calculate SDC-I | Unit Cost | Industrial Flow/Load | Cost |
|----------------------|----------------|----------------------|---------------------|
| Average Daily Flow | \$1,090,615.00 | 0.010000 | \$10,906.15 |
| Peak Daily Flow | \$1,486,114.00 | 0.010000 | \$14,861.14 |
| BOD | \$1,283.00 | 83.400000 | \$107,002.20 |
| TSS | \$1,344.00 | 1.251000 | \$1,681.34 |
| SDC-I Total = | | | \$134,450.83 |

| Calculate Debt Credit | Unit Credit | EDU | Credit |
|----------------------------|-------------|--------|--------------------|
| Average Daily Flow | \$46.00 | 23.81 | \$1,095.24 |
| Peak Daily Flow | \$176.00 | 14.49 | \$2,550.72 |
| BOD | \$81.00 | 233.61 | \$18,922.69 |
| TSS | \$79.00 | 3.50 | \$276.83 |
| Debt Credit Total = | | | \$22,845.48 |

2002-03 Rates

TOTAL SDC = \$114,653.15

Unit costs and credits are based on SDC Rate Resolution 4696 dated 6/12/02, effective 7/01/02.