

**BYLAWS OF THE  
ORCHARD CITY IRRIGATION DISTRICT**

**ARTICLE I  
NAME**

This District shall be known as “The Orchard City Irrigation District”.

**ARTICLE II  
BOARD OF DIRECTORS**

**SECTION 1. DISTRICT POWERS.** The District powers shall be exercised by a Board of Directors composed of five qualified landowners, who shall have been duly elected as Directors of the District.

**SECTION 2. POWERS OF THE BOARD OF DIRECTORS.** The Board of Directors shall exercise the following powers:

1. To manage, maintain, operate, build, construct, alter, repair or supervise any and all dams, ditches, canals or other rights or property owned by the District~~;~~
2. To levy assessments at such times and in such amounts as to the Board shall deem necessary~~;~~
3. To issue notes, bonds, debentures, mortgages, trust deeds or any other instruments including instruments necessary to pledge, hypothecate or assign any or all of its revenues~~;~~ (In the event of any bond or in the event of a promissory note or other such instrument of debt in the amount of more than ~~\$20,000~~one hundred thousand dollars (\$100,000.00) , such transaction must be approved by the qualified landowners as provided by law.)
4. To have general supervision of the affairs of the District~~;~~
5. To call meetings of the qualified landowners whenever they deem it necessary, giving notice as provided in paragraphs 2 and 4 of Section 5 herein~~;~~ ~~and they shall call meetings of the qualified landowners at any time upon a written request of persons representing either one-third of the acreage of the qualified landowners within the District or one third of the qualified landowners within the District.~~
- ~~5.6.~~ 6. To appoint and remove at will employees and agents of the District, prescribe their duties, fix their compensation and require ~~them from~~from them security for the faithful performance of their duties~~;~~
- ~~6.7.~~ 7. To enter into agreements with the Butte Ditch Company and the Fogg Ditch Company regarding common irrigation services;

8. To make rules and regulations ~~not inconsistent~~consistent with the laws of the State of Colorado ~~or and the act of incorporation of these bylaws~~Bylaws (1) for the guidance of the officers and management of the affairs of the District and (2) for such other purposes as may be required for the benefit of the District and the qualified ~~landholders~~ landowners: (The record of the rules and regulations shall be kept up to date and shall be available for inspection by such qualified ~~landholders~~landowners.)

7.9. To levy, assess and collect assessments upon the lands in said District annually to meet the maintenance, operating and current expenses of the District and to discharge any contract with the United States in accordance with the Federal Reclamation Laws and the public notices, orders, and regulations issued thereunder and in compliance with any contracts made by the United States with any owners of said lands and in accordance further with the contracts between the District and the United States: (Expenses of the District shall include all expenses incurred by the District pursuant to the agreements regarding common irrigation services entered into by the District and Butte Ditch Company and the District and Fogg Ditch Company.)

8.10. To select and designate, from time to time by resolution, the depository wherein the Treasurer shall be required to deposit and keep all moneys belonging to the District-;

9.11. To acquire by use, appropriation, purchase or condemnation, property or rights of any kind, including rights of way, canals, dams, or reservoirs, either projected, partly constructed or constructed, or the part or whole of any contemplated, projected, partly completed system of irrigation or water works, water rights, or any other property or right necessary or useful for carrying out the objects of ~~said irrigation the~~ District-;

10.12. To contract for the annual rental of any water available for use in said District, provided such contract shall not interfere with the rights of any qualified landowner within said District to first use waters available for irrigation within the said District-; and further provided ~~that~~ all water rental contracts shall require full payment of rental charges before delivery of water shall be made thereunder-;

11.13. To require qualified landowners within the District to pay in advance of the delivery of water in any year such toll or other charges as the Directors may deem necessary for the purpose of raising revenue to meet the obligations and expenses of said District for said year including any bond payment, principal, ~~or~~ interest, or contract payments to the United States.

**The above enumeration of powers is descriptive only and not exclusive, and in addition to such powers ~~said the~~ District shall have the full right, power and authority to do any and all acts conferred by law.**

### **SECTION 3. DUTIES OF THE BOARD OF DIRECTORS.**

It shall be the duty of the Board of Directors:

1. To call meetings of the qualified landowners at any time upon a written request of persons representing either one-third of the acreage of the qualified landowners within the District or one-third of the qualified landowners within the District;

~~1.2. To cause to be kept~~keep a complete record of all their meetings, ~~and acts, and also of the proceedings of the qualified and owners~~landowners; To present a full statement at the regular annual meeting of the qualified landowners, showing the assets and liabilities of the District, and ~~generally the general~~ general condition of ~~its the District's~~ the District's affairs; (A similar statement shall be presented at any other meeting of the qualified landowners when ~~thereto previously~~ thereto previously requested, fourteen (14) days in advance of the meeting, by persons representing either one-third of the acreage of the qualified landowners ~~with the District~~ or one-third of the qualified landowners within the District.)

2.3. To supervise all the acts of the officers and employees, require the Secretary and Treasurer to keep full and accurate books and accounts, and to prescribe the form and mode of keeping such books;

3.4. To obtain an independent audit of all accounts of the District as required by law;

4.5. To review and adjust all bills and accounts against the District; To authorize the Secretary and one Board member to issue a check for payment of any bill less than ~~\$2,000.00~~ ten thousand dollars (\$10,000.00), provided, however, that such payment shall in all events be reviewed thereafter by the Board of Directors at its next meeting following the issuance of the check; (Any check or payment made for ~~\$2,000~~ ten thousand dollars (\$10,000.00) or more must be approved by the Board of Directors before its issuance ~~by the Board of Directors~~.)

~~5.6. The Board of Directors may be entitled to a per diem payment and associated travel expenses for each meeting attended outside of Delta County of behalf of the District. The amount of such per diem entitlement and travel reimbursement shall be established by the qualified landowner of O.C.I.D. and shall only be changed thereafter by the qualified landowners of O.C.I.D.~~

~~6.7. The Board of Directions shall To~~ fix the compensation of the Superintendent, Secretary and other appointees of the Board;

1.8. To review and act on the application of any qualified landowner seeking to withdraw his land from the District, or seeking to include his land in the District, as long as the District does not exceed 2760 acres.

#### SECTION 4. BOARD MEMBER PER DIEM PAYMENT AND EXPENSE REMIBURSEMENT

The Board of Directors may be entitled to a per diem payment and associated travel expenses for each meeting attended outside of Delta County on behalf of the District. The amount of such per diem entitlement and travel reimbursement shall be established by the

qualified landowners of the District and shall only be changed thereafter by the qualified landowners of the District.

#### **SECTION 45. QUALIFICATIONS FOR BOARD OF DIRECTORS.**

1. Each Director must (a) be a qualified landowner within the District as reflected on the books of the District in his individual name or (b) be

a) An appointee of a corporation, which is a qualified landowner in the District;

b) A partner of a partnership, which is a qualified landowner in the District; or

c) A member of a limited liability ~~District company~~ or partner of a limited liability partnership ~~owning a stock of the corporation~~, which is a qualified landowner within the District.

2. No more than one individual per corporation, partnership, ~~or~~ limited liability ~~District company~~ or limited liability partnership can serve on the Board of Directors at any one time.

~~3. Each Director of the Board shall execute an official bond in the amount of \$3,000 which shall be approved by the County Judge, Delta County, Colorado and recorded in the office of the Delta County Clerk and Recorder. The District shall pay the cost of the bond and all recording costs of such bond.~~

#### **SECTION 56. ELECTION OF BOARD OF DIRECTORS.**

1. The election of Directors, provided for in Section 1 of Article II, shall be held in January of each year at the annual landowners' meeting on a date as determined by the Board of Directors.

2. The election for Directors shall be held at such location in Delta County, Colorado, as designated by the Board of Directors, and public notice of the time and place of holding such election shall be published not less than ~~30~~ thirty (30) days previous thereto, in one of the weekly newspapers printed in ~~the said~~ Delta County, Colorado. This election shall be made by such of the qualified landowners as shall attend for that purpose, either in person or by proxy.

3. At such meeting, the qualified landowners shall proceed to nominate the number of Directors to be elected, each qualified landowner having the right to nominate. The election shall be by ballot, which shall contain the name of the person for whom the ballot is cast, the name of the voter and, if by proxy, the name of both the qualified landowner and proxy and the number of votes cast. Each qualified landowner may cast as many votes as he has in acres of land or portions thereof within the District. Such votes may be cast all for one candidate or, if there is more than one board vacancy to be filled, the qualified landowner may use his votes totally for each of the candidates. The persons receiving the greatest number of votes shall be Directors. The President of said meeting shall appoint at such meeting for the election of Directors three

disinterested persons to act as tellers, who shall receive and count the votes cast and announce the same to the President.

4. In addition to the published notice required in Section 2 of this Article, a written notice to each qualified landowner shall be mailed at least thirty (30) days before such meeting. ~~The notice shall be~~ signed by the President or Secretary, stating the time and object of said meeting ~~by delivering and delivered~~ personally or ~~depositing deposited~~ in the post office addressed to ~~his the qualified landowner's~~ last known post office address.

**SECTION 67. BOARD OF DIRECTORS – TERMS OF OFFICE.** Each Director shall be elected to a three-year term of office unless other~~wise~~ provided by statute. ~~For purposes of this section the ending date of the term of office of each member of the present Board of Directors is as follows:~~

<del>DIRECTOR</del>	<del>TERM EXPIRATION</del>
<del>Director I (Gage)</del>	<del>January, 2013</del>
<del>Director II (Wick)</del>	<del>January, 2011</del>
<del>Director III (Kirkpatrick)</del>	<del>January, 2011</del>
<del>Director IV (Buhrdorf)</del>	<del>January, 2012</del>
<del>Director V (Thomas)</del>	<del>January, 2012</del>

**SECTION 78. OFFICERS OF THE BOARD OF DIRECTORS.**

1. The Directors shall elect one of their number as President and one of their number ~~of~~ ~~as~~ Vice-President, who together, with the remaining Directors, shall constitute the “Board of Directors”. The Board shall appoint a Secretary/Treasurer and a ~~superintendent Superintendent~~ who need not be members of the Board.

2. **DUTIES AND POWERS OF THE PRESIDENT.** The President shall preside at all meetings of the qualified landowners and directors; sign notes and contracts of the District, may call special meetings of the qualified landowners, and shall do so on request of a majority of the Directors or upon a written request of persons representing one-third of the acreage of qualified landowners within the District; shall exercise supervision and authority in cases not provided for by ~~the bylaws-Bylaws~~ or ~~by~~ resolution; and shall cause the accounts of the District to be independently audited as provided by law.

3. **DUTIES AND POWERS OF THE VICE PRESIDENT.** The Vice President shall perform the duties and exercise the authority of the President in case of the inability or refusal of the President to act.

4. **DUTIES AND POWERS OF THE SECRETARY/TREASURER.** The Secretary/Treasurer shall keep the minutes of all qualified landowners and Directors’ meetings; attest by his/her signature and affix the district seal to all contracts and conveyance requiring the

same; keep an accurate ledger of all qualified landowners and other books of account of the business of the District; collect assessments and other sums due the District.

The Secretary/Treasurer shall safely keep all money and funds of the District and disburse the same only as directed by the Board of Directors or its designee ~~ad as~~ provided in paragraph 4, Section 3 herein; ~~he/she~~ The Secretary/Treasurer shall keep an accurate account of all money received and disbursed and report the same to the qualified landowners at each annual meeting and to the Board of Directors at least monthly in such form as directed by the Board of Directors.

5. **SUPERINTENDENT.** The Superintendent, who shall not be deemed to be an officer of the District, shall have the management of the ~~Ditch-ditch~~ of the District and the distribution of water therein. At the discretion of the Board of Directors the Superintendent may be authorized to incur debt on behalf of ~~O.C.I.D~~ the District for routine expenses incurred in his management of the ditch in an amount of up to two thousand (\$2,000) provided however that such expenditure shall be reported immediately to the Treasurer, ~~and which expense shall be reported by the Treasurer as provided at Paragraph 4 Section 7.~~ who shall report the expense to the Board and to the landowners as required by Paragraph 4 of this Section.

## **SECTION 89. MEETINGS OF THE BOARD OF DIRECTORS.**

1. The Board of Directors shall meet at least four times per year on the call of the President or ~~of~~ a majority of the members of the Board of Directors. Notice of such meeting shall be given as provided by law. At least one of those meetings must be for the purpose of setting a budget for the following year. The time and notice provisions for such budget meeting shall be as prescribed by statute.

2. A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business.

3. Any special meetings of the Board must be preceded by at least five (5) days notice. The call for such meeting must state specifically the business to be transacted.

4. All meetings shall be held within Delta County, Colorado.

**SECTION 910. VACANCIES ON THE BOARD OF DIRECTORS.** In case any vacancy shall happen among the Directors, ~~by~~ death, resignation or otherwise, it shall be filled by the Board of Directors for the remainder of the term for which that previous Director had been elected.

**SECTION 1011. INDEMNIFICATION.** Orchard City Irrigation District agrees to indemnify or reimburse all officers, directors, and the superintendent for any and all costs, attorney's fees, expenses and amounts of any judgment and interest thereon incurred by said officers, directors or superintendent ~~and~~ arising out of their conduct relating or connected to any

decision, acts or failure to act as an officer, directors, or superintendent of the District. The organization may undertake the defense of any such officer, director, or superintendent, or said officer, director, or superintendent may obtain counsel of his own choice, with the approval of the Directors. This indemnification provision shall not pertain to or cover any willful or malicious acts, ~~or~~ intentional torts or matters as to which the officer, directors, or superintendent is adjudged in ~~such any court~~-action, suit, or proceeding to be liable for ~~negligence or~~ misconduct in performance of their duty to the District.

### **ARTICLE III ASSESSMENTS**

**SECTION 1. ASSESSMENTS.** The Board of Directors shall at their annual budget meeting determine the assessment for the ensuing year and levy the same, as provided for in Article II, Section 2, and said assessment shall become due prior to the date when the irrigation water of the District is provided to landowners. Pursuant to C.R.S. 37-42-128, the county treasurer shall receive in the county treasurer's official capacity all District assessments collected and paid to the county treasurer, and the county treasurer is responsible for the safekeeping, disbursement, and payment of such assessments. The county treasurer shall remit to the District all money collected or received by him or her on account of the District. District assessments collected by the county treasurer are subject to the statutes, rules, and procedures governing the county treasurer. The District Secretary ~~shall~~ may also give written notice to each qualified landowner of the amount of the assessment and the time when the same will be due, ~~which notice~~ Such notice shall be given by delivering the same personally to such qualified landowner or mailing the same to the address of the qualified landowner as shown by the books of the District.

### **ARTICLE IV SUBDIVISIONS**

**Section 1. RESPONSIBILITIES OF THE DEVELOPER.** Many of the agricultural fields originally receiving District irrigation water have been developed into subdivisions. When a property is subdivided it is the responsibility of the developer to install a system to deliver irrigation water within the subdivision. The homeowners are then responsible for the operation and maintenance of the delivery system within the subdivision. Irrigation water allocated to a lot may be limited and may not be sufficient to water the parcel to the extent desired by the lot owner. In some cases, the developer chose not to establish an irrigation delivery system within the development, and homeowners were left without delivery of raw irrigation water. In these cases, the homeowners are still responsible for their assessment to the District but maintain the option of acquiring their water at the historical point of delivery for the pre-subdivided property.

### **SECTION 2. COMPLIANCE WITH ORCHARD CITY'S SUBDIVISION REGULATIONS**

For any subdivision creating a lot less than 35 acres, the developer of the subdivision must comply with Orchard City's subdivision regulations. Such regulation currently require the developer to show:

- i. the amount of District water available;
- ii. the acreage of each lot to be served;
- iii. the proposed acre-share of such water to each of the lots;
- iv. the proposed means of distribution of the water;
- v. the appropriate diversion structures and flow measuring devices to each lot;
- vi. that the proposed irrigation distribution plan will flow and provide the water as designated;
- viii. the total District water rights designated are equal to the total District water available to the original property;
- ix. that the Board of Directors of the District does not object to the assignment per lot of the proposed acre share(s) of irrigation water.

**SECTION 3. POOLING OF SUBDIVISION WATER.** Landowners owning lots in existing subdivisions are encouraged to enter into agreements with other lot owners to pool their District water. Landowners owning lots in existing subdivisions are encouraged to order their water as a subdivision through its homeowner’s association or other designated agent.

**ARTICLE V**  
**OWNERSHIP OF SHARES OF BUTTE OR FOGG DITCH**

District water shall not be delivered to any landowner unless the landowner owns shares of the Butte Ditch Company or Fogg Ditch Company.

CERTIFICATE

I hereby certify that the foregoing Bylaws, consisting of \_\_\_\_\_ pages, including this page, constitute the Bylaws of Orchard City Irrigation District as of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Secretary



STATE OF COLORADO    )  
  ) ss  
COUNTY OF DELTA     )

Subscribed and sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, as Secretary  
of the Orchard City Irrigation District.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_