

RESOLUTION 2026-02
RAINBOW WATER DISTRICT
A RESOLUTION OPTING TO LIMIT LIABILITY FOR CERTAIN CLAIMS ARISING
FROM THE USE OF PUBLIC TRAILS OR STRUCTURES IN PUBLIC EASEMENTS
AND UNIMPROVED RIGHTS-OF-WAY PURSUANT TO ORS 105.668

WHEREAS, Rainbow Water District (the “District”) is a domestic water supply district organized under Oregon Revised Statutes (ORS) Chapter 264, and ORS 264.410 provides that “the power and authority given to districts is vested in and shall be exercised by a board of five commissioners, each of whom shall be an elector of the district”, and

WHEREAS, Rainbow Water District, constructs and maintains access roads (used as trails) and other structures, both on District-owned property and in public easements or unimproved rights-of-way, within the District’s geographic boundaries in and around Springfield, Oregon; and

WHEREAS, the District encourages (1) property owners to grant easements for public trail use and (2) private groups and their volunteers to construct and maintain trails and other structures in public easements or unimproved rights-of-way; and

WHEREAS, ORS 105.672 to 105.688 provides certain immunities from liability for owners of publicly or privately owned land (as well as to holders of easements on such land) who allow such land to be used, without charge, for recreational purposes; and

WHEREAS, ORS 105.668(2) provides that a personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on an equine or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against: (1) a city with a population of 500,000 or more, (2) the officers, employees or agents of the city to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285, (3) the owner of land abutting the public easement or unimproved right-of-way in the city, or (4) a nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way; and

WHEREAS, ORS 105.668(3) allows cities with a population of less than 500,000 to opt into the trail use immunity by ordinance, resolution, rule, order or other regulation; and

WHEREAS, 2025 Oregon Laws Chapter 220, Section 1 (SB 179) amended ORS 105.668(3) to extend these opt-in rights to any “Local government,” as defined in ORS 174.116, including any domestic water supply district organized under ORS Chapter 264; and

WHEREAS, the public uses of the District’s access roads (trails) for recreational purposes includes, but is not limited to, outdoor activities such as fishing, walking, running, bicycling, or nature study, as well as for non-recreational purposes (e.g., commuting); and

WHEREAS, the District believes it is important to protect and support the activities of the District, property owners, community groups, and volunteers that make trails available for public use; and

WHEREAS, the District desires to adopt the immunity from liability provided under ORS 105.668 to further the public interest by protecting and supporting the efforts and activities of the District, property owners, and other parties who construct and maintain trails and make such trails as well as unimproved right of ways available for public use.

NOW, THEREFORE, the Board of Commissioners of the District resolves as follows:

1. Findings. The above-stated findings contained in this Resolution No. 2026-02 (this “**Resolution**”) are hereby adopted.

2. Limitation on Liability. Pursuant to ORS 105.668(3), the District hereby adopts the limitation on liability provided under ORS 105.668(2). Without otherwise limiting the generality of the immediately preceding sentence, a personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on an equine or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against any of the following: (a) the District; (b) the officers, employees or agents of the District to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285; (c) the owner of land abutting the public easement or unimproved right of way in the District; or (d) a nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right-of-way. For purposes of this Resolution, “structures” means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on equine or on a bicycle or other nonmotorized vehicle or conveyance; “unimproved right-of-way” means a platted or dedicated public right of way over which a street, road or highway has not been constructed to the standards and specifications of the local government with jurisdiction over the public right of way and for which the local government has not expressly accepted responsibility for maintenance.

3. Exceptions. This Resolution does not grant immunity from liability: (a) except as provided in Section 2(b), to a person that receives compensation for providing assistance, services or advice in relation to conduct that leads to personal injury or property damage; (b) for personal injury or property damage resulting from gross negligence or reckless, wanton, or intentional misconduct; or (c) for an activity for which the actor is strictly liable without regard to fault.

4. Severability; Effective Date. For purposes of this Resolution, the singular includes the plural, and the plural includes the singular; the word “or” is not exclusive, and the words “include,” “includes,” and “including” are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this Resolution are severable. If any section, subsection, sentence, clause, or portion of this Resolution is for any reason held invalid, unenforceable, or unconstitutional, such invalid, unenforceable, or unconstitutional section, subsection, sentence, clause, or portion will (a) yield to a construction permitting enforcement to

the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, or constitutionality of the remaining portion of this Resolution. This Resolution will be in full force and effect from and after its approval and adoption.

ADOPTED by the Board of Commissioners of the District on this 11th day of March, 2026.

President, Board of Commissioners

Attest:

Secretary-Treasurer, Board of Commissioners