



Gregory L. Geist
Director

September 10, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

One year extension of the Intergovernmental Agreement between Water Environment Services and the Clackamas River Water Providers for Clackamas River Watershed Activities

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| Purpose/Outcomes | Board approval of the extension of the Intergovernmental Agreement (IGA) for one year will allow Water Environment Services (WES) and the Clackamas River Water Providers (CRWP) to continue joint-funding of the following mutually beneficial Clackamas River watershed activities: a) spill prevention and spill response planning, b) watershed studies and monitoring of water quality and river flow, and c) watershed health public education and outreach. The current IGA expires on June 30, 2020. |
| Dollar Amount and Fiscal Impact | IGA's cost is \$10,000 per fiscal year. Funding for the 2020-2021 fiscal year will be in WES' proposed budget. |
| Funding Source | Surface water fees paid by property owners in WES' service area. No County General Funds are requested. |
| Duration | Through June 30, 2021 |
| Previous Board Action/Review | A previous 5-year IGA with CRWP was approved by the Board under Consent Agenda item 020311, VI.1. |
| Counsel Review | 1. Date of Counsel review: 8/16/2020 Initials: Amanda Keller <i>AK</i> |
| Procurement Review | 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> If no, provide brief explanation: The adoption of this IGA Amendment is not within the scope of items required to be processed through Procurement. |
| Strategic Plan Alignment | 1. The IGA supports multiple results in the Department's Strategic Plan including, making sure members of communities served by WES are aware of their impact on water quality (Communications), and making sure District streams are healthy (Watershed Protection). 2. The IGA supports the County's strategic priority to 'Honor, utilize, promote and invest in our natural resources'. |
| Contact Person | Ron Wierenga, Surface Water Manager x4581, rwierenga@clackamas.us |
| Contract No. | N/A |

BACKGROUND:

The Clackamas River Water Providers (CWRP) is an intergovernmental entity which was created in 2007 under ORS Chapter 190 that represents the Cities of Estacada, Gladstone, Lake Oswego, and Tigard, the Clackamas River Water District, the Oak Lodge Water Services District, the South Fork Water Board (serving the cities of Oregon City and West Linn), and the

Sunrise Water Authority (serving a large unincorporated area and the City of Happy Valley). The CRWP was created to coordinate efforts regarding water resource planning, management, conservation and development of the waters of the Clackamas River on a sustainable basis; to fund and manage water conservation programs and public outreach and education programs which reduce water pollution; to fund, manage, and/or support innovative efforts to reduce levels of pollution in the watershed; to monitor water quality and flow; and to fund administrative staff to implement CRWP activities and programs.

In partnership with the CRWP, WES has been jointly funding successful projects and programs through Board-approved agreements since 2000, and WES wishes to continue to jointly fund the following types of Clackamas River Watershed Activities which are beneficial to WES: a) spill prevention and spill response planning, b) watershed studies and monitoring of water quality and flow, and c) watershed health public education and outreach.

These activities also support WES' compliance with state and federal water pollution regulations, including the Municipal Separate Storm Sewer System (MS4) Permit program and the Willamette River Total Maximum Daily Load (TMDL).

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff recommends the Board of County Commissioners of Clackamas County, acting as the governing body of WES, approve the extension of the IGA between WES and the CRWP for Clackamas River Watershed Activities for one year, establishing June 30, 2021 as the new expiration date for the IGA.

Respectfully submitted,

A handwritten signature in blue ink that reads "Greg Geist". The signature is written in a cursive style with a long horizontal stroke at the end.

Greg Geist, Director
Water Environment Services

**AMENDMENT No. 1
TO THE
INTERGOVERNMENTAL AGREEMENT BETWEEN
WATER ENVIRONMENT SERVICES AND
CLACKAMAS RIVER WATER PROVIDERS FOR
CLACKAMAS RIVER**

This Amendment No. 1 to the Intergovernmental Agreement for Clackamas River Watershed Activities (this "Amendment No. 1") is made and entered into on Feb. 5, 2020, by and between Water Environment Services, an intergovernmental entity formed pursuant to ORS Chapter 190 ("District"), and the Clackamas River Water Providers, an intergovernmental entity formed pursuant to ORS Chapter 190 ("CRWP").

Recitals

On May 12th, 2016, Clackamas County Service District No. 1 ("CCSD#1") and CRWP entered into an intergovernmental agreement to establish an agreement regarding joint funding of certain Clackamas River watershed activities (the "Agreement").

On July 1, 2018, CCSD#1 assigned the Agreement to the District pursuant to the Assignment and Assumption of Contracts ("Assignment Agreement"), attached hereto as Exhibit A and incorporated herein.

The Agreement is scheduled to terminate on June 30, 2020 and the parties desire to extend the term for an additional year as provided for in the Agreement.

Terms

1. To reflect the assignment of the Agreement to District from CCSD#1, all references in the Agreement to CCSD#1 are hereby changed to District.
2. To reflect the extension of the Agreement term for one additional year, the termination date in Section 1, Term is hereby changed to June 30, 2021.

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect.

[Signature Page Follows]

By signature below, the parties agree to this Amendment No. 1, effective upon the date of the last signature below.

Clackamas River Water Providers



[Authorized Signatory]

JOHN COLLINS

Name

2-5-2020

Date

Water Environment Services

Chair

Date

Recording Secretary

Approved as to Form



County Counsel

12

**INTERGOVERNMENTAL
BETWEEN CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 and
CLACKAMAS RIVER WATER PROVIDERS for
CLACKAMAS RIVER WATERSHED ACTIVITIES**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made and entered into between the CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 (hereafter called "DISTRICT"), a county service district formed pursuant to ORS Chapter 451, and the CLACKAMAS RIVER WATER PROVIDERS ("CRWP"), an intergovernmental entity created under ORS Chapter 190 that represents the following organizations: the cities of Estacada, Lake Oswego, and Tigard; Clackamas River Water; the North Clackamas County Water Commission; South Fork Water Board; and Sunrise Water Authority.

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform;

WHEREAS, cost effective and efficient watershed management requires cooperative planning, management, and financial participation; and

WHEREAS, the CRWP wishes to partner with the DISTRICT on joint funding of certain Clackamas River Watershed Activities.

WHEREAS, greater knowledge of the Clackamas River and its tributaries is needed for improved long-term management of the watershed; and

WHEREAS, the United States Geological Survey ("USGS"), the DISTRICT, and the CRWP have determined that monitoring, assessment, research studies, and support of the Clackamas River would further provide meaningful data for the management of the watershed; and

WHEREAS, the signatories to this Agreement recognize that the existing requirements and long term objective of the CRWP requires a phased-in program meeting the mutual objectives of all citizens and local governments; and

WHEREAS, the CRWP's members have agreed to enter into this Agreement to jointly provide for a portion of the matching funds needed for the USGS and other local agencies that conduct water quality improvement studies, and to fund other programs and projects as noted herein.

NOW, THEREFORE, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. **Term.** This Agreement shall be effective upon execution and through June 30, 2020. This Agreement may be renewed for two (2) additional one (1) year periods upon written agreement between DISTRICT and CRWP.
2. **Obligation of CRWP.**
 - A. CRWP shall partner with DISTRICT on projects/programs which are described in more detail in the scope of work at Exhibit A, attached hereto and incorporated by reference.
3. **Obligation of the DISTRICT.**
 - A. DISTRICT shall pay an amount not to exceed TEN THOUSAND DOLLARS (\$10,000.00) per fiscal year to the CRWP, as its share of the cost of performing certain Clackamas River Watershed Activities. Notwithstanding anything else to the contrary herein, no changes in

the amount not to exceed above shall be made without prior written approval of the DISTRICT. The CRWP will invoice the DISTRICT at the beginning of each fiscal year.

4. Work Plan and Scheduling of Work.

- A. CRWP will implement the projects outlined in Exhibit A through June 30, 2020. DISTRICT acknowledges that said schedule is dependent on many conditions and may be subject to change. CRWP will provide prompt notice to DISTRICT of any anticipated delays in the schedule.
- B. Nothing herein shall prevent the parties from meeting to mutually to discuss the projects outlined in Exhibit A. Each party shall use best efforts to coordinate with the other to minimize conflicts. No adjustment shall be made which obligates the DISTRICT to fund in excess of \$10,000.00 annually.

5. Early Termination of Agreement

- A. The DISTRICT and CRWP, by mutual written agreement, may terminate this Agreement effective at the end of any fiscal year by delivering written notice not less than ninety (90) days prior to the end of that fiscal year. The fiscal year of CRWP shall begin July 1 and end June 30 of each year. Early withdrawal during the fiscal year is not allowed as it may have a negative impact on current activities of CRWP.
- B. Either the DISTRICT or CRWP may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give the other party written notice of the breach and of the party's intent to terminate. If the breaching party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination.

6. Indemnification. The CRWP agrees to indemnify, save harmless and defend the DISTRICT, its officers, commissioners, agents and employees from and against all claims and action, and all expenses incidental to the investigation and defense thereof (including attorney's fees), arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the CRWP or the CRWP's employees or agents.

7. Funds. The DISTRICT certifies that sufficient funds are available and authorized for expenditure pursuant to this Agreement in Fiscal Year 2015-2016. The funds needed for the balance of the Agreement are subject to appropriate by the Board of County Commissioners, acting as the governing body of the DISTRICT, during the budget processes. If the District Board does not appropriate funds for subsequent fiscal years for the balance of this Agreement, the District may immediately terminate this Agreement by giving written notice of termination to the CRWP. The CRWP shall not be entitled to compensation for any work performed after the date of such written termination notice.

8. Oregon Law and Forum. This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

9. Severability. If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such

provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

10. **Integration.** This Agreement contains the entire agreement between the DISTRICT and CRWP and supersedes all prior written or oral discussions or agreements.
11. **Amendments.** The DISTRICT and CRWP may amend this Agreement at any time only by written amendment executed by the DISTRICT and CRWP.
12. **Waiver.** The DISTRICT and CRWP shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

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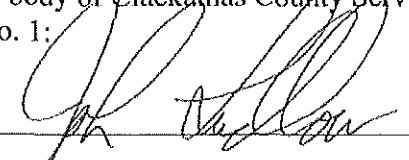
IN WITNESS HEREOF, the parties have executed this Agreement by the date set forth opposite their names below.

CLACKAMAS RIVER WATER PROVIDERS


Chair

4-6-16
Date

BOARD OF COUNTY COMMISSIONERS of CLACKAMAS COUNTY, acting as the governing body of Clackamas County Service District No. 1:



Chair

5-12-16 VI.1
Date

Mary Raetke
Recording Secretary

Date: 5-12-16 VI.1.

Approved as to Form:


County Counsel

Scope of Work for CCSD#1-CRWP IGA Fiscal Years 2015-16 through 2019-20

The Clackamas River Water Providers (CRWP) and Clackamas County Service District No. 1 (CCSD#1) are both committed to assisting with the cooperative management of water resources in the Clackamas River watershed. By participating with the CRWP on various water quality protection, monitoring, and educational activities, CCSD#1's ratepayers and the Clackamas River watershed will both benefit. Working together, the CRWP and CCSD#1 can leverage their limited resources, provide consistent messaging to citizens, and avoid duplicating efforts. The CRWP currently implements a number of programs that CCSD#1 has identified that also meet programmatic needs in CCSD#1. These are outlined below. In recognition of this work the CCSD#1 will contribute \$10,000 annually to support and ensure the continuation of these efforts.

The CCSD#1 realizes that \$10,000 is a small portion of the CRWP's annual revenue and that these funds only support a small piece of larger CRWP programs and therefore will not be earmarked for specific projects.

This Scope of Work has multiple tasks:

| Task # | Program/Project | CCSD#1 Annual Contribution |
|---------------|--|-----------------------------------|
| Task 1 | <i>Spill Prevention and Spill Response Planning, including but not limited to:</i> <ul style="list-style-type: none"> • Development of a Geographic Response Plan (GRP) • Emergency preparedness and response planning • Spill Response Notification: Advocate for improvements to the existing spill response notification system | \$2,500 |
| Task 2 | <i>Watershed Studies and Monitoring, including but not limited to:</i> <ul style="list-style-type: none"> • Continuous monitoring of the Clackamas River's water quality & flow by the U.S. Geological Survey • Watershed characterization including riparian area assessments and prioritization • Water quality and biological monitoring | \$6,000 |
| Task 3 | <i>Watershed Health Public Education & Outreach, including but not limited to:</i> <ul style="list-style-type: none"> • Watershed lessons provided to children in school classrooms • Printing and distribution of material that provides information to home and business owners about protecting water quality | \$1,500 |
| | | |
| | Total Annual Cost to CCSD#1 | \$10,000 |