

**REGIONAL WASTEWATER SYSTEM COOPERATIVE  
INTERGOVERNMENTAL AGREEMENT**

THIS REGIONAL WASTEWATER TREATMENT COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this “Agreement”), is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between Water Environment Services (“WES”) an ORS 190 municipal partnership, and the City of Gladstone, City of Happy Valley, City of Johnson City, City of Milwaukie, City of Oregon City, and City of West Linn, each a municipal corporation (each, a “City” and together, the “City Partners”). Collectively, WES and the City Partners are collectively referred to as the “parties” and individually as a “party.”

WHEREAS, WES is the regional wastewater service provider in Clackamas County and serves the citizens of the City Partners and unincorporated residents, protecting public health and the environment, and supporting economic development through the provision of rate-based services; and

WHEREAS, several of the City Partners own and operate a wastewater collection system; and

WHEREAS, the City Partners, WES, and representatives of unincorporated Clackamas County participated in a regional conversation facilitated by Oregon Consensus to address outstanding issues pertaining to governance of regional wastewater system; and

WHEREAS, as part of that process, WES and the City Partners recognized that the collective systems operated by each of them has an impact on the others as part of an integrated regional system, and that it is important to provide opportunities for information sharing and input regarding the overall condition and operation of key elements of the system(s) to each other; and

WHEREAS, to address the issues identified in the Oregon Consensus process, WES and the City Partners have agreed to work together in a collaborative forum where information regarding WES and City Partners share information regarding activities pertaining to the provision of wastewater services; and

WHEREAS, the parties agree that the WES Advisory Committee (the “Committee”) is the best place to establish that collaborative forum; and

WHEREAS, the City Partners desire specific representation on the Committee to ensure that the interests of their community are considered;

NOW, THEREFORE, WES and the City Partners each covenant and agree to the following:

## **Section 1      Obligations of WES.**

- 1.1 Elected Representative on WES Advisory Committee. Currently some but not all City Partners have an elected representative serving on the Committee. WES shall amend the bylaws of the Committee to allow each city to appoint an elected representative to the WES Advisory Committee. Each City Council or Commission of a City Partner shall designate an elected representative to serve on the Committee. This member shall serve at the discretion of the appointing City only.
  
- 1.2 Information to Committee. WES shall provide sufficient information to the Committee such that the Committee can effectively:
  - A. Review, discuss and make recommendations on wastewater services policy issues such as, rates, financial and budgetary policies, new programs, and capital improvement plans that have the potential to impact the regional wastewater treatment systems;
  
  - B. Provide WES with feedback on new fees, rules and regulations, and other long-range planning initiatives;
  
  - C. Recommend a five-member subcommittee to serve as the WES budget committee, which will perform duties consistent with county practices and state law;
  
  - D. Represent his or her community or interest group to ensure wastewater services projects and policies reflect the community's input and needs; and
  
  - E. Support and assist, where feasible, with implementation of public engagement strategies on issues relating to wastewater services, inflow/infiltration, bio-solids management, and other related topics.

The City Partners through their representatives on the Committee shall have an opportunity to provide feedback and input on the topics listed above, as well as other issues presented by WES or City Partners consistent with the Committee bylaws, and the governing body of WES shall consider such feedback in making a final determination regarding a proposal or course of action.

- 1.3 City Partner Enhanced Committee. If a City Partner determines that a recommendation from the Committee regarding issues such as rates, system development charges, or capital projects is detrimental to the interests or objectives of said City Partner, then said City Partner may request that the City Partners convene the "Elected Officials Enhanced Committee," consisting

exclusively of the City Partner representatives on the Committee. Upon obtaining the support of two other City Partners, the City Partners may hold an Elected Officials Enhanced Committee Meeting. The Elected Officials Enhanced Committee may, by a majority vote, provide a separate recommendation to the WES governing body or a City Partner governing body, as applicable, setting forth a recommendation(s) on such issue. Upon such vote, the staff of a City Partner (as decided by the Elected Official Enhanced Committee) shall draft and transmit the recommendation to the appropriate governing body for due consideration.

**Section 2      Obligations of Each City.**

- 2.1 Member Appointment and Service. Each City Partner shall appoint an elected official<sup>1</sup> currently serving on its governing body as a member of the Committee. This appointment is not subject to WES governing body approval.
  
- 2.2 Information to Committee. Each City Partner shall provide sufficient information to the Committee such that the Committee can effectively:
  - A. Review, discuss and make recommendations on wastewater service policy issues such as rates, financial and budgetary policies, new programs and capital improvement plans that have the potential to impact the regional wastewater or surface water system;
  
  - B. Provide such City Partner with feedback on new fees, rules and regulations, and other long-range planning initiatives;
  
  - C. Represent their community or interest group to ensure wastewater service-related projects and policies reflect the community’s input and needs; and
  
  - D. Support and assist, where feasible, with implementation of public engagement strategies on issues relating to wastewater services, inflow/infiltration, bio-solids management, and other related topics.

The Committee shall provide feedback and input for said topics and the governing body of the City Partner shall consider such feedback in making a final determination regarding a proposal or course of action.

**Section 3      Committee Operation.**

- 3.1 Applicability of Committee Bylaws. The Committee shall operate consistent with its duly adopted Bylaws, as amended to implement this Agreement and the concepts from the Clackamas County Wastewater Infrastructure Governance

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<sup>1</sup> In the case of Johnson City, the elected officials may appoint a city resident or property owner within the city to serve on the Committee.

Collaborative Process as discussed during the process, and as otherwise amended from time to time. The WES Advisory Committee, when fully constituted consistent with this Agreement, shall consider the conforming changes to the Bylaws and adopt as agreed thereby.

#### **Section 4      General Provisions.**

- 4.1 Term. This Agreement shall commence on March 1, 2020 and continue through June 30, 2022. The Parties hereto agree to revisit the commitments and process outlined herein for effectiveness prior to the end of the term and may extend or modify the term as may be agreed at that time.
- 4.2 Relationship to Other Agreements. This Agreement is intended to set forth the entire understanding of the parties only with respect to the matters set forth herein. It is not intended and does not terminate, modify or supersede any other agreement between the parties. Any and all such other agreements between the parties shall be unaffected by this Agreement.
- 4.3 Termination. The parties may agree to terminate this Agreement at any time upon mutual agreement in writing. Any party may withdraw from the Agreement at any time upon 30 days written notice to the other parties.
- 4.4 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.5 Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the parties on the matter at issue. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind all parties unless in writing and signed by all parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of any party to enforce any provision of this Agreement shall not constitute a waiver by such party of that or any other provision.
- 4.6 Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- 4.7 Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

- 4.8 No Attorney Fees. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- 4.9 Necessary Acts. Each party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- 4.10 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.
- 4.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

THE CITY OF GLADSTONE	THE CITY OF HAPPY VALLEY
By: _____	By: _____
Title: _____	Title: _____
ATTEST: _____	ATTEST: _____
THE CITY OF JOHNSON CITY	THE CITY OF MILWAUKIE
By: _____	By: _____
Title: _____	Title: _____
ATTEST: _____	ATTEST: _____
THE CITY OF OREGON CITY	WATER ENVIRONMENT SERVICES
By: _____	By: _____
Title: _____	Title: <u>Chair of BCC as</u> <u>WES Governing Body</u>
ATTEST: _____	ATTEST: _____
THE CITY OF WEST LINN	
By: _____	
Title: _____	
ATTEST: _____	