



Gregory L. Geist  
Director

August 19, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with Wolf Water Resources, Inc. for the Watershed Protection- Benthic Macroinvertebrate and Geomorphological Monitoring**

<b>Purpose/Outcome</b>	<i>This contract is to conduct monitoring of stream health at selected sites in streams within Clackamas Water Environment Services' surface water districts.</i>
<b>Dollar Amount and Fiscal Impact</b>	Contract Value \$159,530.00
<b>Funding Source</b>	<i>WES surface water operating fund. The City of Lake Oswego will fund \$21,050 of the work through a subsequent IGA, if approved.</i>  <i>No County General funds are required.</i>
<b>Duration</b>	Contract Execution through June 30, 2022
<b>Previous Board Action/Review</b>	Reviewed in Issues meeting on August 10, 2021.
<b>Strategic Plan Alignment</b>	Supports the WES strategic result that streams within WES' jurisdiction meet or exceed water quality standards.  Supports the Board's Strategic Priorities to Build a Strong Infrastructure, and Honor, Utilize, Promote and Invest in our Natural Resources
<b>Counsel Review</b>	1. Date of Counsel review: 4/8/2021 2. Initials of County Counsel performing review: AK
<b>Procurement Review</b>	Was this project processed through Procurement? Yes.
<b>Contact Person</b>	Ron Wierenga, Environmental Services Manager, 503-742-4581
<b>Contract No.</b>	4093

**Background:**

WES is responsible for stormwater management in its surface water districts. In an effort to better understand the effects of its management activities on stream health, the District periodically monitors the biological and physical condition in streams. The work has been conducted on a roughly 3-year basis since 2009. The results of the study will be used to help evaluate the success of ongoing water quality management activities, and help prioritize future actions to improve stream health. Monitoring will include measurements

of stream insects, water chemistry and in-stream physical attributes (such as bank erosion). This work also supports compliance with WES's and the County's NPDES Municipal Stormwater Permits and the Willamette Mercury TMDL Implementation Plans.

WES is partnering with the City of Lake Oswego, which has similar regulatory requirements, to include stream monitoring sites within the city. Lake Oswego has agreed to reimburse WES for their portion of the work, which is \$21,050 through a separate IGA. No work will be conducted on the city's behalf until this agreement is in place.

The District is contracting with Wolf Water Resources, Inc. to conduct this assessment following standard methods.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on May 11, 2021. Proposals were opened on June 3, 2021. The County received two (2) proposals: Wolf Water Resources and Waterways Consulting. An evaluation committee of WES personnel scored Wolf Water Resources the highest. Upon contract award, the scope of work was negotiated and deliverables were finalized.

**Recommendation:**

Staff respectfully recommends that the Board approve and sign this contract with Wolf Water Resources, Inc. for the Watershed Protection- Benthic Macroinvertebrate and Geomorphological Monitoring

Respectfully submitted,

  
\_\_\_\_\_  
Greg Geist (Aug 5, 2021 09:57 PDT)

Greg Geist  
Director, WES

Placed on the \_\_\_\_\_ Agenda by the Procurement Division.



WATER ENVIRONMENT SERVICES
PERSONAL SERVICES CONTRACT
Contract #4093

This Personal Services Contract (this "Contract") is entered into between Wolf Water Resources, Inc. ("Contractor"), and Water Environment Services, a political subdivision of the State of Oregon ("District").

ARTICLE I.

- 1. Effective Date and Duration. This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on June 30, 2022.
2. Scope of Work. Contractor shall provide the following personal services: Watershed Protection-Benthic Macroinvertebrate and Geomorphological Monitoring ("Work"), further described in Exhibit A.
3. Consideration. The District agrees to pay Contractor, from available and authorized funds, a sum not to exceed one hundred fifty-nine thousand five hundred thirty dollars (\$159,530.00), for accomplishing the Work required by this Contract.
4. Invoices and Payments. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed.

Invoices shall reference the above Contract Number and be submitted to: wes-ap@clackamas.us

- 5. Travel and Other Expense. Authorized: [X] Yes [ ] No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the Clackamas County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: https://www.clackamas.us/finance/terms.html.
6. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, and Exhibit A.

7. Contractor and District Contacts.

Table with 2 columns: Contractor and District. Contractor: Administrator: Marjorie Wolfe, PE, CFM; Phone: 503-207-6688; Email: MWolf@wolfwaterresources.com. District: Administrator: Gail Shaloum; Phone: 503-793-4264; Email: gshaloum@clackamas.us

Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. District and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the District in its sole administrative discretion.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
5. **COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
6. **GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between District and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the District of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
7. **RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the District and Clackamas County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of District or any department of Clackamas County (“County”), nor purport to act as legal representative of District or County, without first receiving from the Clackamas County Counsel’s



Office authority to act as legal counsel for District or County, nor shall Contractor settle any claim on behalf of District or County without the approval of the Clackamas County Counsel's Office. District or County may, at its election and expense, assume their own defense and settlement.

- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the District reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, District cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of District for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to District employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirements outlined below do not in any way limit the amount or scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the District and Clackamas County as an additional insureds on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.

The policy(s) shall be primary insurance as respects to the District. Any insurance or self-insurance maintained by the District shall be excess and shall not contribute to it. Any obligation that District agree to a waiver of subrogation is hereby stricken.

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.
- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to District, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during District's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of District. District and Contractor intend that such Work Product be deemed “work made for hire” of which District shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to District all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as District may reasonably request in order to fully vest such rights in District. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, District shall have no rights in any pre-existing Contractor intellectual property provided to District by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for District use only.
- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to District that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, and 29, and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the District’s right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the District, which shall be granted or denied in the District’s sole discretion. In addition to any provisions the District may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16, and 27 as if the subcontractor were the Contractor. District’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle District to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the

termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.

- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the District (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the District fails to receive funding, appropriations, or other expenditure authority as solely determined by the District; or (B) if contractor breaches any Contract provision or is declared insolvent, District may terminate after thirty (30) days written notice with an opportunity to cure.

Upon receipt of written notice of termination from the District, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to District all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon District's request, Contractor shall surrender to anyone District designates, all documents, research, objects or other tangible things needed to complete the Work

- 20. REMEDIES.** If terminated by the District due to a breach by the Contractor, then the District shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the District, less any setoff to which the District is entitled.

- 21. NO THIRD PARTY BENEFICIARIES.** District and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.

- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

- 24. FORCE MAJEURE.** Neither District nor Contractor shall be held responsible for delay or default caused by events outside the District or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

- 25. WAIVER.** The failure of District to enforce any provision of this Contract shall not constitute a waiver by District of that or any other provision.

- 26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against District on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.



**EXHIBIT A**  
**PERSONAL SERVICES CONTRACT**  
**SCOPE OF WORK AND BUDGET**

Wolf Water Resources (W2r) proposes this work to conduct technical aspects of stream monitoring and stream health assessments in Clackamas County watersheds regulated under their MS4 permit. The general proposal is to work with Clackamas Water Environment Services (WES) staff to revise the current monitoring protocol and plan this round of field efforts, conduct geomorphic and macroinvertebrate sampling field work, conduct associated analysis and modeling, and assess/summarize watershed health.

W2r will conduct this work in partnership with CASM, Inc., who will lead macroinvertebrate components of the scope of work (SOW).

Specific tasks, work elements, and budget are outlined below.

**Task 1 – Plan and Revise Monitoring Approach**

W2r-CASM will work directly with WES to establish a monitoring protocol that addresses permit criteria as well as meets broader County objectives for stream corridor and stormwater management. Work elements include:

- Review existing monitoring protocols, site distributions, and data to identify efficiencies and potential revisions (for both geomorphic and macroinvertebrate aspects).
- Up to two conference meetings with WES staff to discuss protocol changes, monitoring sites, and potential reference stations.
- Brief technical memorandum (TM) outlining proposed monitoring protocol (draft and final versions provided) and sampling sites/reaches selected for detailed v. distributed monitoring approaches.

*Task 1 Deliverables:*

- Meeting notes from two meetings (.doc)
- Draft and final TM outlining protocol and proposed sampling sites/reaches by monitoring approach (.doc)

*Task 1 Assumptions:*

- One round of comments from WES on draft TM with changes tracked and addressed in document comments.
- Throughout process, WES Staff will provide insight into the feasibility of monitoring protocols (considering factors like property access and permitting requirements)

*Task 1 Estimated timeline:*

- Conducted during summer (2021) to allow monitoring to commence in September and October.

**Task 2 – Field Data Acquisition**

The Contractor team will acquire field data in line with the approach and monitoring coverage established in Task 1. Work elements include:

- Develop GIS-based database for field data entry using ArcGIS Online and related interface.
- Coordination of field activities

- Field work using distributed geomorphic monitoring protocol and base macroinvertebrate sampling. For geomorphic monitoring, W2r geomorphologists and scientists will walk the creek or access it at available points, making observations including (but not limited to) stream substrate and measurements of channel dimensions in a manner that informs the relative degree of incision and widening (informing stream evolution in the context of Cluer and Thorne's (2014) stream evolution model and similar). Macroinvertebrate sampling to be conducted at 24 sites as detailed below.
- Detailed geomorphic measurements (with streamlined protocol) to allow for comparison to previous data at 8 status and trends sites selected in Task 1. General assumptions about the specific measurements are outlined below. Specific protocols applied will be established in Task 1 through collaboration with WES staff. – This effort was identified as an optional task in our original proposal
- Macroinvertebrate sample processing by outside lab (total 26 samples including QAQC samples)
- Initial data checks and QAQC

#### Task 2 Macroinvertebrate Specifics:

Physical habitat and water chemistry data and macroinvertebrate samples will be collected in designated habitat/flow types in delineated sample reaches. Reach lengths will be calculated as in prior years (20X the average wetted width or 75 m [245 ft.], whichever is greater) and located at the same sites as prior years, unless new factors such as barriers to access or unanticipated stream drying require sliding the reach. Physical habitat and water chemistry data (dissolved oxygen, conductivity, temperature) will be collected in conjunction with macroinvertebrate sampling. In past years, measured or visually estimated variables included valley type, channel unit gradient; wetted, bankfull, and flood prone width and bankfull and flood prone heights; mean water depth; percent representation of different habitat unit types in the reach (rapid, riffle, glide, pool); substrate composition and embeddedness; large wood tally; riparian buffer cover, width, and composition; bank condition; and surrounding land use..

Macroinvertebrate collection will be done as in prior years, according to the ORDEQ Benthic Macroinvertebrate Protocol for Wadeable Rivers and Streams (ORDEQ 2009), to maintain a standardized technique across time. Each site sample will be a composite of eight individual samples obtained using a D-frame kicknet (12in. [30 cm] mouth, 500 µm nitex mesh) within a 1 ft<sup>2</sup> (900 cm<sup>2</sup>) area. In accordance with ORDEQ protocols, duplicate samples will be collected at 10% of the sampling sites as a quality control measure to assess the degree of within-reach sample variability. Compositing samples will be rinsed, preserved in 80% ethanol, randomly sub-sampled to 500 individuals, and identified to the lowest practical taxonomic level recommended by the Pacific Northwest Aquatic Monitoring Partnership (PNAMP, 2015).

#### Task 2 Deliverables:

- Shared map of distributed geomorphic monitoring measurements (ArcGIS Online map). Underlying GIS layers (shapefiles and rasters, as appropriate) will be provided to WES at the end of the project to ensure the underlying data are available
- Raw macroinvertebrate lab results/reports (pdf)

#### Task 2 Assumptions:

- WES staff to coordinate property access.
- Distributed geomorphic monitoring to be conducted on 12 creeks (Athey, Carli, Cow, Fields, Kellogg, Mt. Scott, Pecan, Richardson, Rock, Saum, Sieben, and Wilson Creeks), totaling about 36 total miles of stream. The budget assumes the monitoring team of two will cover roughly 4.5 miles per day of field work. Property access will dictate the stream segments that can be walked versus those that can only be observed from public access points. The outlined budget assumes a mix of these situations. Budget assumes that

distributed geomorphic measurements can be completed with simple tape measure/field tools (without the need of survey equipment such as total station/GPS/rod and level) and will be augmented with geospatial analysis of LiDAR and vegetation conditions.

- Detailed geomorphic monitoring at 8 stations to allow for continued status and trends assessment of a subset of previous monitoring stations. Although exact methods employed can be established in task 1, the methods employed are assumed to be streamlined relative to previous protocols. Specific assumptions below outline some key areas for streamlining effort based initial assessments of value (effort v. suitability for detecting long-term change).
  - Cross-section surveys and measurements of bankfull dimensions will be conducted at previously monumented sections. Contractor will conduct one-day monument finding reconnaissance (guided by previous field notes and the Program Guide) covering the 8 sites at outset of monitoring effort. Where section monuments cannot be found within that effort, the Contractor will request additional help from WES staff or establish new monuments at the estimated locations of missing monuments.
  - Sediment sizes: visual assessment only (no bulk sample analysis or pebble counts based on variability and difficulty in change detection)
  - No stream profile surveys due to common alignment issues and typical inadequacy for detecting change.
  - In addition to cross-section surveys, Contractor will develop qualitative observations of site, measure bankfull dimensions, and will photograph sites in a consistent fashion to enable future comparison.
- Macroinvertebrate sampling at 24 Clackamas County sites with two additional duplicate/control samples (26 total samples submitted for lab analysis). Macroinvertebrate sampling will be done at individual sites as close as possible to the same sampling date(s) in prior years.
- Macroinvertebrate and geomorphic monitoring will be done at the same sites.
- Some changes may be made to physical habitat data collected to reduce redundancy with geomorphic monitoring.
- Consistency of macroinvertebrate sampling protocol is desirable to maintain continuity with prior years.

*Task 2 Estimated timeline:*

- Field work conducted in Fall 2021 (targeting September for consistency with prior surveys).
- Initial geomorphic data (collected using distributed methods) to be provided shortly after completion of field work (within one week)
- Macro-invertebrate and detailed geomorphic data provided November or December 2021

**Task 2a – Macroinvertebrate monitoring of Lake Oswego sites**

The Contractor will conduct macroinvertebrate monitoring of 10 sites within Lake Oswego. Geomorphic monitoring will include only the measurements needed to inform macroinvertebrate monitoring and analysis. Limited reporting of these sites will be conducted and integrated into the broader Task 4 deliverable without associated watershed health analyses. Many aspects of this work will be conducted in tandem or parallel with the broader project scope of work. All these efforts specific to Lake Oswego streams, however, are condensed into this single task for clarity.

The Contractor will meet with City staff to discuss monitoring goals, information needs, and agency reporting requirements. Appropriate survey methodology (riffle-targeted vs. multihabitat) will be determined in consideration of the amount and distribution of habitat units in survey reaches, the ability of each approach to broadly assess stream health and reveal meaningful shifts in macroinvertebrate

community composition related to management actions, and requirements for data reporting to agencies such as ORDEQ.

Sampling sites will be selected based on City data needs, land ownership, site accessibility, and existence of any macroinvertebrate sampling data from prior years. Potential reference streams/reaches can be identified as part of this process, and any desired physical habitat or water chemistry sampling in conjunction with macroinvertebrate sample collection will be determined.

Macroinvertebrate samples will be collected from designated reaches and habitat units. Macroinvertebrates will be identified to the lowest practical taxonomic level in accordance with current PNAMP (Pacific Northwest Aquatic Monitoring Partnership) recommendations. Where appropriate (i.e., riffle-targeted samples), ORDEQ models including the PREDATOR predictive model and associated stressor models and the Invertebrate-based Index of Biotic Integrity (I-IBI) will be applied to the data. Contractor will consult with ORDEQ regarding application of the new Biological Condition Gradient (BCG), the final version of which is anticipated by the end of 2021. Individual metrics in the IBI and/or BCG models will be calculated for samples taken in reaches that lack riffle habitat to provide a basis for comparison between sites and identification of potential stressors.

ORDEQ model results will be translated into measures of biological health. Macroinvertebrate community composition and characteristics will be further assessed using both taxonomic (i.e., genus/species) and ecological (i.e., functional feeding group, voltinism, water temperature and flow associations) traits, and multivariate and univariate statistical analyses will be applied to reveal patterns and identify potential stressors, and to provide a baseline for comparison with any sampling done in future years.

A summary of overall trends in macroinvertebrate community composition will be presented. Individual site model scores, sample community characteristics, and probable stressors will also be described. Statistical analyses will be summarized in figures accompanied by clear text. Aspects of community composition, ecological traits, and model scores will be reported from the standpoint of their implications for stream health and management practices.

*Task 2a Deliverables:*

- Notes from meetings with City discussing monitoring approach and reporting requirements.
- GIS-based map of sampling sites
- Document outlining proposed monitoring protocols and metrics to be reported.
- Macroinvertebrate taxonomic database
- Model scores
- scores for ORDEQ PREDATOR and stressor models, I-IBI, and/or BCG Index in each sample reach
- Macroinvertebrate taxonomic and ecological community characteristics at each site and their implications for probable stressors or environmental filters
- Summary report of macroinvertebrate community characteristics of target stream reaches.

*Task 2a Estimated timeline:*

Lake Oswego monitoring, analysis, and reporting efforts will mimic the broader project timeline.

*Task 2a Assumptions:*

- Lake Oswego to coordinate property access.
- Macroinvertebrate sampling at 10 sites with one additional duplicate/control sample (11 total samples submitted for lab analysis).
- One W2r team member will accompany CASM on field visit for safety and identification of habitat units required for macroinvertebrate sampling.



- Final task 4 report will provide limited discussion of Lake Oswego monitoring, with only basic summary of macroinvertebrate monitoring/analysis results and mapping of monitoring site locations.

### **Task 3 – Data Analysis and Watershed Health Assessment**

The Contractor will analyze field data and conduct geospatial analysis to inform integrated understanding of watershed health. Work elements include:

- GIS analysis of general stream attributes, likely including stream profiles, valley confinement, and riparian buffer widths/conditions. Analyses will make use of the most recent LiDAR data and imagery readily available through public sources. Outputs will be intended to provide context for field measurements and stream diversity as well as map-based and visual representations of data.
- Data analysis and modeling will be conducted to assess general stream health conditions. Contractor will work with WES to identify preferred set of metrics of watershed health. Macroinvertebrate-specific modeling and analysis are described below.
- General identification of at-risk reaches from the perspective of stream degradation and/or infrastructure risk.
- Analysis of survey data collected at eight (8) sites selected for status and trends level monitoring. Analysis will include basic processing of data, representation of select stream cross-sections, and extraction of metrics selected for status and trends analysis. – This effort was identified as an optional task in the original proposal
- Historical status and trends analysis of previous and new detailed monitoring data. Contractor will identify a subset of metrics with greatest suitability for trends analysis and conduct trends analysis at 24 sites. For geomorphic data, targeted trends are likely to relate to bed change (incision v. aggradation) and width change (widening v. narrowing) in the context of stream evolution. – This effort was identified as an optional task in the original proposal

#### **Task 3 Macroinvertebrate Specifics:**

Macroinvertebrate community data from samples taken in riffles will be run through the ORDEQ PREDATOR and stressor models, multimetric IBI, and the new BCG (when finalized). The degree of correlation between these scores and the biological condition classes they reflect will be assessed. Because these models were developed from riffle communities, they cannot be applied to samples taken in slower water (glides and pools). However, calculation of individual metrics in the IBI and BCG will be done to investigate potential stressors and allow between-site comparison. Additional non-parametric statistical analysis of community taxonomic data (SIMPER, CLUSTER, Principal Component Analysis, non-metric multidimensional scaling) and ecological trait data (i.e., voltinism, functional feeding guild, water temperature associations, flow associations) will be done to assess type and direction of community changes, and spatial and temporal trends. Model and analysis results will be examined for their relationship to watershed trends identified by geomorphic monitoring as well as to ongoing restoration or management actions.

#### **Task 3 Deliverables:**

- Summary GIS map/info sheet for each stream reach, presenting GIS- and field-based results in watershed context, with at-risk reaches identified. The identification of “at-risk” reaches will be categorized relative to broad stream management objectives such as risks to infrastructure and habitat.
- Tabular and graphical summaries of results by stream
- Data summaries and field notes from detailed status and trends sites (n=8)

- Summary graphs of historic status and trends (summary in the context of watershed health to be provided in Task 4.

*Task 3 Estimated timeline:*

- Analysis and modeling to be conducted in Winter and Spring 2021-2022

*Task 3 Assumptions:*

- WES will provide County-level geospatial data layers (likely formats include shapefiles and rasters, depending on the type of geospatial data being requested) that are not readily available online, including but not limited to parcel boundaries, streets, storm-sanitary sewer lines and other data that may be deemed useful during the assessment.
- For historic status and trends analysis, WES will provide data in digital form as possible and available. Contractor will conduct limited digitizing of historic data.
- Water quality data to be collected and/or provided by WES.
- Availability of the new BCG and accompanying taxa database used in calibration (highly sensitive, intermediate sensitive, intermediate tolerant, and tolerant taxa)
- Access to complete taxonomic database for WES stream sites sampled in prior years for comparing model results and performance.

**Task 4 – Summary Figures and Reporting**

The Contractor team will develop a streamlined report summarizing monitoring and stream health assessments using combined narrative, graphic/map, and data/scoring components. The main report body will emphasize summary and understanding for diverse stakeholder groups (technical and non-technical) relative to permitting, stream health, and infrastructure considerations. Raw data and methods will be presented in appendixes in a more limited fashion than in previous monitoring efforts. The data and methods will be presented to enable reproducibility and further analysis in the future, if desired (however, all data may not be presented as graphs and figures in the same manner as previous reports). The overarching goal is to streamline reporting efforts so that relevant take-aways and conclusions are clear and distinguishable from all the underlying measurements and analysis.

*Task 4 Macroinvertebrate Specifics:*

Data from the current sampling year will be assessed in conjunction with all prior sampling years to ascertain any trends in stream health and macroinvertebrate community composition over time. Statistical analyses will be summarized in figures accompanied by clear text. Trends in community composition, ecological traits, and model scores will be reported from the standpoint of their implications for stream health and efficacy of management practices and integrated with geomorphological reporting and will inform Contractor recommendations for future actions.

*Task 4 Deliverables:*

- Monitoring and stream health summary report (including recommendations related to stream health and broad priorities in terms of stream management) and stream info sheets with methods and raw data tables in appendix. One draft will be provided for WES comment. Comments/responses to be tracked in the document prior to finalization.
- All raw data (macroinvertebrate counts, field sheets/documents, and water quality data) collected in support of the summary report formatted as flat files, excel files (.xls), or as scanned copies (.pdf).

*Task 4 Estimated timeline:*

- Final report to be delivered by June 30, 2022.

*Task 4 Assumptions:*

- Summary report is not intended as a detailed prioritization document, although the outcomes may inform WES’s effort to prioritize watershed management actions.

### Project Budget

The total budget estimated for this project is \$159,530, as detailed in the table below. The specific budget estimates for the Clackamas County and Lake Oswego components are \$138,480 and \$21,050, respectively.

Task No.	Task Description	Macroinvertebrate and Geomorph Monitoring Clackamas County WES								Subtotal Labor Hours Per Task	Subtotal Labor Fee Per Sub-Task	Reimbursable Expenses (travel, equipment, sampling)	Total Cost
		Principal Engineer/Scientist	Senior Geomorphologist/PM	Invert. Ecologist (Sub - CASM)	Hydrologist	Landscape Ecologist	Fisheries Biologist	Jr. Env. Scientist	Jr. Geomorphologist				
		\$210	\$155	\$65	\$110	\$145	\$155	\$95	\$115				
<b>1</b>	<b>Work with County to Plan and Revise Monitoring Approach</b>										\$16,570	\$0	\$16,570
	Review Existing Info		4		4				4	12	\$1,520	\$0	\$1,520
	Review/Revise Sampling Sites and Reference Locations		4	8	8				8	28	\$2,940	\$0	\$2,940
	Revised Sampling Protocol	8	8	12		4	4		12	48	\$6,280	\$0	\$6,280
	Project PM/Coordination	4	18							22	\$3,630	\$0	\$3,630
	Meetings (2)	2	4	4	4				4	18	\$2,200	\$0	\$2,200
<b>2</b>	<b>Field Data Acquisition</b>										\$48,070	\$14,120	\$62,190
	Field Coordination		4		16					20	\$2,380	\$0	\$2,380
	Field Database Development (Online GIS Platform)		4		4	8			16	32	\$4,060	\$0	\$4,060
	Field Data Acquisition		24	100				80	80	284	\$27,020	\$12,092	\$39,112
	Compile/QAQC Data		2					8	4	14	\$1,530	\$0	\$1,530
	Detailed Geomorphic Measurement at 8 Status and Trend Sites (Data Collection and Initial Processing)		8		16			48	48	120	\$13,080	\$2,028	\$15,108
<b>2a</b>	<b>Monitoring of Lake Oswego Sites</b>										\$16,655	\$4,395	\$21,050
	Field monitoring and macro lab analysis at 10 Lake Oswego sites		10	131				50	16	207	\$16,655	\$4,395	\$21,050
<b>3</b>	<b>Data Analysis and Watershed Health Assessment</b>										\$48,180	\$0	\$48,180
	GIS-Based Characterization (Slope, Confinement, Vegetation)		4		8	16			72	100	\$12,100	\$0	\$12,100
	Data Analysis/Modeling		4	48			4	16	16	88	\$7,720	\$0	\$7,720
	Identify At-Risk Reaches, Stressors, Priorities	2	8	16		4	4	8	16	58	\$6,500	\$0	\$6,500
	Analysis of Detailed Status and Trend Data collected at 8 Status and Trend sites		4					16	40	60	\$6,740	\$0	\$6,740
	Historical Trends Analysis and Reporting	4	16	32	16		8	32	32	140	\$15,120	\$0	\$15,120
<b>4</b>	<b>Summary of Findings and Recommendations</b>										\$11,540	\$0	\$11,540
	Report/Narratives	2	16	16		16	4	20	24	98	\$11,540	\$0	\$11,540
	<b>Total</b>	<b>22</b>	<b>142</b>	<b>367</b>	<b>76</b>	<b>48</b>	<b>24</b>	<b>278</b>	<b>392</b>	<b>1349</b>	<b>\$141,015</b>	<b>\$18,515</b>	<b>\$159,530</b>

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/19/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).


PRODUCER <b>USI Insurance Services NW PR</b> 601 Union Street, Suite 1000 Seattle, WA 98101	CONTACT NAME: <b>Please See Below:</b>
	PHONE (A/C, No, Ext): <b>206 441-6300</b> FAX (A/C, No): <b>610-362-8530</b> E-MAIL ADDRESS: <b>Seattle.PLCertRequest@usi.com</b>
INSURED  <b>Wolf Water Resources Inc.</b> 1001 SE Water Ave., Suite 180 Portland, OR 97214	INSURER(S) AFFORDING COVERAGE      NAIC #
	INSURER A : <b>Charter Oak Fire Insurance Company</b> <b>25615</b>
	INSURER B : <b>Travelers Casualty and Surety Company</b> <b>19038</b>
	INSURER C : <b>XL Specialty Insurance Company</b> <b>37885</b>
	INSURER D : <b>Travelers Indemnity Company</b> <b>25658</b>
	INSURER E : INSURER F :

COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	6807H5597452147	03/03/2021	03/03/2022	EACH OCCURRENCE      \$ <b>2,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence)      \$ <b>1,000,000</b> MED EXP (Any one person)      \$ <b>10,000</b> PERSONAL & ADV INJURY      \$ <b>2,000,000</b> GENERAL AGGREGATE      \$ <b>4,000,000</b> PRODUCTS - COMP/OP AGG      \$ <b>4,000,000</b> \$
D	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	BA4R5269462147G	03/03/2021	03/03/2022	COMBINED SINGLE LIMIT (Ea accident)      \$ <b>1,000,000</b> BODILY INJURY (Per person)      \$ BODILY INJURY (Per accident)      \$ PROPERTY DAMAGE (Per accident)      \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED      RETENTION \$						EACH OCCURRENCE      \$ AGGREGATE      \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?    Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			UB2K99602A2147G (Incl. USL&H)	03/03/2021	03/03/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT      \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE      \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT      \$ <b>1,000,000</b>
C	Professional Liability (Incl. Pollution)		X	DPR9974055	03/03/2021	03/03/2022	\$ <b>2,000,000 per claim</b> \$ <b>4,000,000 annl aggr.</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
**RE: Contract No. 4093; Watershed Protection - Benthic Macroinvertebrate and Geomorphological Monitoring.**  
 The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to Water Environment Services, a political subdivision of the State of Oregon (District) and Clackamas County, only when there is a written contract that requires such status, and only with regard to work performed by or on behalf of the named insured. The General Liability policy contains a special endorsement with Primary and Noncontributory wording, when required by written contract.

CERTIFICATE HOLDER  <b>Water Environment Services</b> 150 Beaver Creek Road Oregon City, OR 97045	CANCELLATION  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **AUTO COVERAGE PLUS ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><b>A. BLANKET ADDITIONAL INSURED</b></li> <li><b>B. EMPLOYEE HIRED AUTO</b></li> <li><b>C. EMPLOYEES AS INSURED</b></li> <li><b>D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</b></li> <li><b>E. TRAILERS – INCREASED LOAD CAPACITY</b></li> <li><b>F. HIRED AUTO PHYSICAL DAMAGE</b></li> <li><b>G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</b></li> </ul> | <ul style="list-style-type: none"> <li><b>H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT</b></li> <li><b>I. WAIVER OF DEDUCTIBLE – GLASS</b></li> <li><b>J. PERSONAL PROPERTY</b></li> <li><b>K. AIRBAGS</b></li> <li><b>L. AUTO LOAN LEASE GAP</b></li> <li><b>M. BLANKET WAIVER OF SUBROGATION</b></li> </ul> |
|---|---|

**A. BLANKET ADDITIONAL INSURED**

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

**B. EMPLOYEE HIRED AUTO**

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while

performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

**b.** For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1)** Any covered "auto" you lease, hire, rent or borrow; and
- (2)** Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

**C. EMPLOYEES AS INSURED**

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

## COMMERCIAL AUTO

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

### D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph **C.1.** of **SECTION I – COVERED AUTOS**:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

### F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

#### Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:

(a) \$50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

### G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

### H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph **C.1.b.** of **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted.

### I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

### J. PERSONAL PROPERTY

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

#### Personal Property Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

**K. AIRBAGS**

The following is added to Paragraph **B.3., Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

**L. AUTO LOAN LEASE GAP**

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

**Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles**

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

**(2) Any:**

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

**M. BLANKET WAIVER OF SUBROGATION**

The following replaces Paragraph **A.5., Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

**5. Transfer Of Rights Of Recovery Against Others To Us**

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.



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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |  |  |
|--|--|
| <p><b>A.</b> Non-Owned Watercraft – 75 Feet Long Or Less</p> <p><b>B.</b> Who Is An Insured – Unnamed Subsidiaries</p> <p><b>C.</b> Who Is An Insured – Retired Partners, Members, Directors And Employees</p> <p><b>D.</b> Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees</p> <p><b>E.</b> Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies</p> <p><b>F.</b> Blanket Additional Insured – Controlling Interest</p> <p><b>G.</b> Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers</p> | <p><b>H.</b> Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises</p> <p><b>I.</b> Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</p> <p><b>J.</b> Incidental Medical Malpractice</p> <p><b>K.</b> Medical Payments – Increased Limit</p> <p><b>L.</b> Amendment Of Excess Insurance Condition – Professional Liability</p> <p><b>M.</b> Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement</p> <p><b>N.</b> Contractual Liability – Railroads</p> |
|--|--|

### **PROVISIONS**

#### **A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS**

1. The following replaces Paragraph (2) of Exclusion **g.**, **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

- (2) A watercraft you do not own that is:
- (a) 75 feet long or less; and
  - (b) Not being used to carry any person or property for a charge;

2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:

- e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

#### **B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

## COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

### C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

- (1) "Bodily injury":
  - (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
  - (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
  - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

#### (2) "Personal injury":

- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

#### (3) "Property damage" to property:

- (a) Owned, occupied or used by; or
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
- you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

**D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

**E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES**

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

**F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST**

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

**G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS**

The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

COMMERCIAL GENERAL LIABILITY

subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
  - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

**H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

**I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS**

The following is added to **SECTION II – WHO IS AN INSURED:**

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

**J. INCIDENTAL MEDICAL MALPRACTICE**

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED:**

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a), (b), (c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

(b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

**Sale Of Pharmaceuticals**

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

**K. MEDICAL PAYMENTS – INCREASED LIMIT**

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE:**

7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- a. \$10,000; or
- b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

**L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY**

The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

**M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT**

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal and advertising injury" caused by an offense that is committed; subsequent to the signing of that contract or agreement.

**N. CONTRACTUAL LIABILITY – RAILROADS**

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:
  - c.** Any easement or license agreement;
2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# **TOTAL AGGREGATE LIMIT OTHER THAN PROJECTS AND DESIGNATED PROJECT AND LOCATION AGGREGATE LIMITS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

## **SCHEDULE – LIMITS OF INSURANCE AND DESIGNATED PROJECTS AND LOCATIONS**

### **LIMITS OF INSURANCE**

<b>Total Aggregate Limit (Other Than Projects and Products-Completed Operations)</b>	<b>\$ 4,000,000</b>
<b>Designated Location Aggregate Limit (Other Than Products-Completed Operations)</b>	<b>\$ 4,000,000</b>
<b>Designated Project Aggregate Limit (Other Than Products-Completed Operations)</b>	<b>\$ 4,000,000</b>
<b>General Aggregate Limit (Other Than Products-Completed Operations)</b>	<b>\$ 4,000,000</b>

#### **Designated Projects:**

Each "project" for which you have agreed, in a written contract which is in effect during this policy period, to provide a separate General Aggregate Limit, provided that the contract is signed by you before the "bodily injury" or "property damage" occurs.

#### **Designated Locations:**

All locations listed in Item 3. of the Common Policy Declarations or in any Master Pac Account Exposure Endorsement included in this policy.

### **PROVISIONS**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>The General Aggregate Limit (Other Than Products-Completed Operations) shown in the Declarations is replaced by the Limits of Insurance shown in the Schedule – Limits Of Insurance And Designated Projects And Locations.</li> <li>The following replaces Paragraph 1. of <b>SECTION III – LIMITS OF INSURANCE:</b></li> </ol> | <ol style="list-style-type: none"> <li>The Limits of Insurance shown in the Declarations or the Schedule – Limits Of Insurance And Designated Projects And Locations, whichever apply, and the rules below fix the most we will pay regardless of the number of:             <ol style="list-style-type: none"> <li>Insureds;</li> <li>Claims made or "suits" brought;</li> </ol> </li> </ol> |
|--|---|



COMMERCIAL GENERAL LIABILITY

- c. Persons or organizations making claims or bringing "suits"; or
  - d. "Projects" or "locations".
3. The following replaces Paragraph 2. of **SECTION III – LIMITS OF INSURANCE:**
- 2. a. The Total Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations is the most we will pay for the sum of all amounts under the Designated Location Aggregate Limit and all amounts under the General Aggregate Limit. This includes:
    - (1) Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
    - (2) Damages under Coverage B; and
    - (3) Medical expenses under Coverage C.
  - b. The Designated Project Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations applies and is further subject to all of the following provisions:
    - (1) The Designated Project Aggregate Limit is the most we will pay for the sum of:
      - (a) Damages under Coverage A because of "bodily injury" and "property damage" caused by "occurrences"; and
      - (b) Medical expenses under Coverage C for "bodily injury" caused by accidents;that can be attributed only to operations at a single "project".
    - (2) The Designated Project Aggregate Limit applies separately to each "project".
    - (3) The Designated Project Aggregate Limit does not apply to damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph 3. below applies to such damages.
    - (4) The Designated Project Aggregate Limit does not apply to damages

under Coverage B. Instead, the General Aggregate Limit described in Paragraph 2.d. below applies to such damages.

- (5) Any payments made for damages or medical expenses to which the Designated Project Aggregate Limit applies will reduce the Designated Project Aggregate Limit for the applicable "project". Such payments will not reduce the Total Aggregate Limit, the General Aggregate Limit described in Paragraph 2.d. below, the Designated Project Aggregate Limit for any other "project" or the Designated Location Aggregate Limit.
- c. Subject to the Total Aggregate Limit described in Paragraph 2.a. above, the Designated Location Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations applies and is further subject to all of the following provisions:
    - (1) The Designated Location Aggregate Limit is the most we will pay for the sum of:
      - (a) Damages under Coverage A because of "bodily injury" and "property damage" caused by "occurrences"; and
      - (b) Medical expenses under Coverage C for "bodily injury" caused by accidents;that can be attributed only to operations at a single "location".
    - (2) The Designated Location Aggregate Limit applies separately to each "location".
    - (3) The Designated Location Aggregate Limit does not apply to damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph 3. below applies to such damages.
    - (4) The Designated Location Aggregate Limit does not apply to damages under Coverage B. Instead, the General Aggregate Limit described in

Paragraph **2.d.** below applies to such damages.

- (5) Any payments made for damages or medical expenses to which the Designated Location Aggregate Limit applies will reduce:

- (a) The Total Aggregate Limit; and
- (b) The Designated Location Aggregate Limit for the applicable "location".

Such payments will not reduce the General Aggregate Limit described in Paragraph **2.d.** below, the Designated Project Aggregate Limit or the Designated Location Aggregate Limit for any other "location".

- d. Subject to the Total Aggregate Limit described in Paragraph **2.a.** above, the General Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations applies and is further subject to all of the following provisions:

- (1) The General Aggregate Limit is the most we will pay for the sum of:

- (a) Damages under Coverage **A** because of "bodily injury" and "property damage" caused by "occurrences", and medical expenses under Coverage **C** for "bodily injury" caused by accidents, that cannot be attributed only to operations at a single "project" or a single "location"; and
- (b) Damages under Coverage **B**.

- (2) The General Aggregate Limit does not apply to damages for "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph **3.** below applies to such damages.

- (3) Any payments made for damages or medical expenses to which the

General Aggregate Limit applies will reduce:

- (a) The Total Aggregate Limit; and
- (b) The General Aggregate Limit.

Such payments will not reduce the Designated Project Aggregate Limit for any "project" or the Designated Location Aggregate Limit for any "location".

4. The following replaces Paragraph **3.** of **SECTION III – LIMITS OF INSURANCE:**

3. The Products-Completed Operations Aggregate Limit shown in the Declarations is the most we will pay under Coverage **A** for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Any payments made for such damages will not reduce the Total Aggregate Limit, the General Aggregate Limit, the Designated Project Aggregate Limit for any "project" or the Designated Location Aggregate Limit for any "location".

5. The following is added to the **DEFINITIONS** Section:

"Location" means any designated location shown in the Schedule – Limits Of Insurance And Designated Projects and Locations that is owned by or rented to you. For the purposes of determining the applicable aggregate limit of insurance, each "location" that includes a premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or waterway, or by a right-of-way of a railroad, will be considered a single "location".

"Project" means any designated project shown in the Schedule – Limits Of Insurance And Designated Projects And Locations that is away from premises owned by or rented to you and at which you are performing operations pursuant to a contract or agreement. For the purposes of determining the applicable aggregate limit of insurance, each "project" that includes a premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or waterway, or by a right-of-way of a railroad, will be considered a single "project".

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# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

venture or limited liability company that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership, joint venture or limited liability company that otherwise qualifies as an insured under Section II – Who Is An Insured.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and "advertising injury" sustained by any one person or organization.

5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C; because of all "bodily injury" and "property damage" arising out of any one "occurrence".

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part; or
- b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part.

7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

#### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

#### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

## COMMERCIAL GENERAL LIABILITY

- (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
- e. The following provisions apply to Paragraph a. above, but only for purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:
- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, or limited liability company), any of your trustees who is an individual (if you are a trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.
  - (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
    - (a) Any individual who is:
      - (i) A partner or member of any partnership or joint venture;
      - (ii) A manager of any limited liability company;
    - (iii) An executive officer or director of any other organization; or
    - (iv) A trustee of any trust;that is your partner, joint venture member, manager or trustee; or
  - (b) Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.
- (3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraph e.(1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.
- However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.
- ### 3. Legal Action Against Us
- No person or organization has a right under this Coverage Part:
- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
  - b. To sue us on this Coverage Part unless all of its terms have been fully complied with.
- A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

#### 4. Other Insurance

If valid and collectible other insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as described in Paragraphs **a.** and **b.** below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (i) Another insurance company;
- (ii) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit provision of Paragraph **5.** of Section **III** – Limits Of Insurance or the Non cumulation of Personal and Advertising Injury Limit provision of Paragraph **4.** of Section **III** – Limits of Insurance applies because the Amendment – Non Cumulation Of Each Occurrence Limit Of Liability And Non Cumulation Of Personal And Advertising Injury Limit endorsement is included in this policy;
- (iii) Any risk retention group; or
- (iv) Any self-insurance method or program, in which case the insured will be deemed to be the provider of other insurance.

Other insurance does not include umbrella insurance, or excess insurance, that was bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

As used anywhere in this Coverage Part, other insurer means a provider of other insurance. As used in Paragraph **c.** below, insurer means a provider of insurance.

##### a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below, except when Paragraph **d.** below applies.

##### b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is insurance for "premises damage";

(iii) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to any exclusion in this Coverage Part that applies to aircraft, "autos" or watercraft;

(iv) That is insurance available to a premises owner, manager or lessor that qualifies as an insured under Paragraph **4.** of Section **II** – Who Is An Insured, except when Paragraph **d.** below applies; or

(v) That is insurance available to an equipment lessor that qualifies as an insured under Paragraph **5.** of Section **II** – Who Is An Insured, except when Paragraph **d.** below applies.

- (b) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured, or is any other insured that does not qualify as a named insured, under such other insurance.
- (2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
  - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
  - (b) The total of all deductible and self-insured amounts under all that other insurance.
- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**d. Primary And Non-Contributory Insurance If Required By Written Contract**

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

**6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V – DEFINITIONS**

- 1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.



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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

**Names of Additional Insured Person(s) or Organization(s):**

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part, provided that such written contract was signed by you before, and is in effect when, the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.

**Location of Covered Operations:**

Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies.

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

**A.** Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring, or "personal injury" or "advertising injury" arising out of an offense committed, after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS – OREGON**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name Of Additional Insured Person(s) Or Organization(s):**

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the "products-completed operations hazard", provided that such contract was signed by you before, and is in effect when, the "bodily injury" or "property damage" occurs.

**Location And Description Of Completed Operations:**

Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at

the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# **DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION OR NONRENEWAL PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

**SCHEDULE**

**CANCELLATION:** Number of Days Notice: 30

**WHEN WE DO NOT RENEW (Nonrenewal):** Number of Days Notice: 30

**PERSON OR ORGANIZATION:**

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OR NONRENEWAL OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OR NONRENEWAL OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

**ADDRESS:**

THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

**PROVISIONS**

A. If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.

B. If we do not renew this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for When We Do Not Renew (Nonrenewal) in the Schedule above, we will mail notice of nonrenewal to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for When We Do Not Renew (Nonrenewal) in such Schedule before the effective date of nonrenewal.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# **DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION OR NONRENEWAL PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

**SCHEDULE**

**CANCELLATION:** Number of Days Notice: 30

**WHEN WE DO NOT RENEW (Nonrenewal):** Number of Days Notice: 30

**PERSON OR ORGANIZATION:**

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OR NONRENEWAL OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OR NONRENEWAL OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

**ADDRESS:**

THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

**PROVISIONS**

**A.** If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.

**B.** If we do not renew this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for When We Do Not Renew (Nonrenewal) in the Schedule above, we will mail notice of nonrenewal to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for When We Do Not Renew (Nonrenewal) in such Schedule before the effective date of nonrenewal.



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**PROFESSIONAL, ENVIRONMENTAL AND NETWORK SECURITY LIABILITY  
POLICY –  
ARCHITECTS, CONSULTANTS AND ENGINEERS**

THIS IS A “CLAIMS-MADE AND REPORTED” POLICY. THIS POLICY REQUIRES THAT A CLAIM BE MADE AGAINST THE INSURED DURING A POLICY YEAR AND REPORTED TO THE COMPANY, IN WRITING, DURING THAT POLICY YEAR OR AUTOMATIC EXTENDED REPORTING PERIOD.

CERTAIN STATES MANDATE SPECIFIC WARNINGS, EXCEPTIONS OR CONDITIONS MODIFYING THE TERMS AND CONDITIONS OF THIS POLICY. PLEASE READ THIS POLICY CAREFULLY, INCLUDING THE DECLARATIONS AND ALL ENDORSEMENTS.

THIS POLICY CONTAINS PROVISIONS THAT LIMIT THE AMOUNT OF CLAIM EXPENSES THE COMPANY IS RESPONSIBLE TO PAY IN CONNECTION WITH CLAIMS. CLAIM EXPENSES SHALL BE SUBJECT TO ANY APPLICABLE DEDUCTIBLE AMOUNT. THE PAYMENT OF CLAIM EXPENSES WILL REDUCE THE LIMITS OF LIABILITY STATED IN ITEM 3. OF THE DECLARATIONS.

In consideration of the payment of the Policy Premium stated in Item 5. of the Declarations, and in reliance upon the statements contained in the Application and any other supplemental materials and information submitted to the Company with respect to this Policy, and subject to all the terms and conditions of this Policy, the Company agrees with the NAMED INSURED as follows:

**I. INSURING AGREEMENTS**

**A. Professional Liability**

The Company agrees to pay on behalf of the INSURED all sums in excess of the Deductible, subject to the Policy Limits of Liability, that the INSURED becomes legally obligated to pay as DAMAGES and/or CLAIM EXPENSES as a result of any CLAIM(S) first made against the INSURED during a POLICY YEAR and first reported to the Company, in writing, during that POLICY YEAR or within sixty (60) days after the end of that POLICY YEAR, provided that:

1. The CLAIM(S) arises out of a WRONGFUL ACT;
2. Such WRONGFUL ACT was committed or alleged to have been committed on or after the applicable Retroactive Date(s) stated in Item 6. of the Declarations; and
3. Prior to the ANNIVERSARY DATE stated in Item 7. of the Declarations, none of the INSURED’S directors, officers, principals, partners or insurance managers knew or should have known that such WRONGFUL ACT might give rise to a CLAIM(S).

**B. Contractors Pollution Legal Liability**

The Company agrees to pay on behalf of the INSURED all sums in excess of the Deductible, subject to the Policy Limits of Liability, that the INSURED becomes legally obligated to pay as DAMAGES and/or CLAIM EXPENSES as a result of any CLAIM(S) first made against the INSURED during a POLICY YEAR and first reported to the Company, in writing, during that POLICY YEAR or within sixty (60) days after the end of that POLICY YEAR, provided that:

1. The CLAIM(S) is for POLLUTION CONDITIONS arising out of the performance of CONTRACTING SERVICES rendered by or on behalf of the INSURED;
2. The CONTRACTING SERVICES out of which the POLLUTION CONDITIONS arise were performed on or after to the applicable Retroactive Date(s) stated in Item 6. of the Declarations; and

2. The specific nature and extent of the injury or damage that has been sustained; and
3. How the INSURED first became aware of such CIRCUMSTANCE(S),

then any CLAIM(S) that may subsequently be made against the INSURED arising out of such reported CIRCUMSTANCE(S) shall be deemed to have been made on the date first written notice of the CIRCUMSTANCE(S) was received by the Company. This right conferred upon the INSURED in this Paragraph shall terminate at the end of the POLICY PERIOD and shall not exist during the Automatic Extended Reporting Period or Optional Extended Reporting Period.

## **XI. OTHER CONDITIONS**

### **A. Cancellation**

This Policy may be canceled by the NAMED INSURED by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This Policy may be canceled by the Company by mailing to the NAMED INSURED, at the address stated in Item 1. of the Declarations, written notice stating when, not less than thirty (30) days thereafter (or ten (10) days thereafter for non-payment of premium), such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD. Delivery of such written notice either by the NAMED INSURED or by the Company shall be equivalent to mailing.

If this Policy is canceled, earned premium shall be computed in accordance with the Company's guidelines with respect to cancellation. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

### **B. Action Against The Company**

No action may be brought against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, nor until the amount of the INSURED'S obligation to pay shall have been finally determined either by judgment against the INSURED in a contested proceeding after final judgment has been rendered and any appeal decided, or by written agreement of the INSURED, the claimant and the Company. No person or organization shall have any right under this Policy to join the Company as a party to any action against the INSURED to determine the INSURED'S liability, nor shall the INSURED or the INSURED'S legal representative join the Company in such action. Bankruptcy or insolvency of the INSURED or the INSURED'S estate shall not relieve the Company of any of its obligations hereunder.

### **C. Assignment**

This Policy may not be assigned or transferred without written consent of the Company.

### **D. Subrogation**

In the event of any payment under this Policy, the Company shall be subrogated to all the INSURED'S rights of recovery therefor against any person or organization, and the INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing after a CLAIM(S) to prejudice such rights.

However, it is agreed that the Company waives its rights of subrogation under this Policy against clients of the INSURED as respects any CLAIM(S) arising from PROFESSIONAL SERVICES, or CONTRACTING SERVICES under the client's contract requiring waiver of subrogation, but only to the extent required by written contract.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ARCHITECTS, ENGINEERS AND SURVEYORS PROPERTY ENHANCEMENT**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS PROPERTY COVERAGE SPECIAL FORM

- A.** The BUSINESSOWNERS PROPERTY COVERAGE SPECIAL FORM is changed as follows:
1. The following replaces Section **A.2.p** and **q**.  
Property Not Covered.
    - p.** "Electronic Data Processing Equipment" (not including "stock") except as provided in the Electronic Data Processing Coverage Extension or Business Personal Property Off Premises Coverage Extension;
    - q.** "Electronic Data Processing Data and Media" (not including "stock") except as provided in the:
      - (1) Electronic Data Processing Coverage Extension;
      - (2) Accounts Receivable Coverage Extension; or
      - (3) Business Personal Property Off Premises Coverage Extension.
  2. With respect to Business Income and Extra Expense, the time frame referenced in Paragraph **A.3.c.(2)(b)** is increased from sixty consecutive days to ninety consecutive days.
  3. Paragraph **A.5.a (1)** under **Limitations** is deleted.
  4. The limit applicable to the **Additional Coverage – Claim Data Expense** is increased from \$5,000 to \$10,000.
  5. The limit applicable to the **Additional Coverage – Fine Arts** is increased by \$75,000.
  6. With respect to the **Additional Coverage – Fine Arts**, Paragraph **A.6.f.(3)(d)** and Paragraph **A.6.f.(3)(k)** are deleted.
  7. The limit applicable to the **Additional Coverage – Newly Acquired or Constructed Property for Buildings** is increased from \$500,000 to \$1,000,000.
  8. The limit applicable to the **Additional Coverage – Newly Acquired or Constructed Property for Business Personal Property** is increased from \$250,000 to \$500,000.
  9. The limit applicable to the **Additional Coverage – Ordinance or Law** is increased by \$225,000.
  10. With respect to the **Additional Coverage-Ordinance or Law**, coverage is extended to include tenant's improvements and betterments as described in Paragraph **A.1.b.(3)** if:
    - a. You are a tenant; and
    - b. A Limit of Insurance is shown in the Declarations for Business Personal Property at the described premises.
  11. The limit applicable to the **Additional Coverage – Outdoor Trees, Shrubs, Plants and Lawns** is increased from \$3,000 to \$5,000.
  12. The following **Additional Coverages** are added:
    - a. **Contract Penalty Clause**
      - (1) We will pay contract penalties you incur as a result of your failure to deliver your products or services within the time required by such contract, if the failure is solely due to direct physical loss of or damage to property at the described premises caused by or resulting from a Covered Cause of Loss.
      - (2) The most we will pay under this Additional Coverage is \$5,000 for the sum of all covered contract penalties arising out of all Covered Causes of Loss occurring during each separate 12 month period of this policy beginning with the effective date of this endorsement.
    - b. **Identity Fraud Expense**

- (c) \$50,000 for the sum of all covered interruptions arising out of all Covered Cause of Loss occurring away from the described premises during each separate 12 month period of this policy beginning with the effective date of this policy.
- n. The limit applicable to the **Coverage Extension – Ordinance or Law – Increased "Period of Restoration"** is increased from \$25,000 to \$50,000.
- o. With respect to the **Coverage Extension – Valuable Papers and Records**, Paragraph **A.7.s.(1)** is replaced by the following:
  - (1) When a Limit of Insurance is shown in the Declarations for Business Personal Property at the described premises, you may extend that insurance to apply to direct physical loss of or damage to "valuable papers and records" at or away from the described premises, that:
    - (a) You own, or
    - (b) Are owned by others, but in your care, custody, or control;  
caused by or resulting from a Covered Cause of Loss.
- p. With respect to the **Coverage Extension – Valuable Papers and Records**, Paragraph **A.7.s.(4)** is deleted.
- q. With respect to the **Coverage Extension– Valuable Papers and Records**, Paragraph **A.7.s.(5)** is replaced by the following:
  - (5) The most we will pay under this Coverage Extension for loss of or damage to "valuable papers and records" in any one occurrence is the greater of:
    - (a) \$100,000, regardless of the number of described premises involved; or
    - (b) The sum of the valuable papers and records limits stated on the Businessowners Property Coverage Declarations for each described premises.
- r. The following is added to the **Coverage Extension – Valuable Papers and**

**Records:**

With respect to property of others covered under this Coverage Extension, the owner may have other insurance covering the same property as this insurance. This insurance is intended to be primary, and not contribute with such other insurance.

14. The following **Coverage Extensions** are added:

**a. Business Income – Billable Hours Option**

When the Declarations show that you have coverage for Business Income and Extra Expense, you may choose to have a covered business income loss paid on a Billable Hours basis. If you do so, the following applies under this Coverage Extension with respect to such loss:

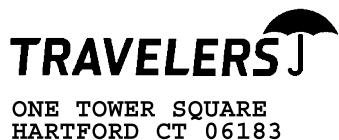
- (1) Paragraph **A.3.a.(1)** is replaced by the following:

(1) Business Income means:

- (a) The income that would have been generated from Billable Hours normally charged by you to your clients for services performed by you or your employees if no physical loss or damage occurred; and
- (b) Other income of your business that would have been earned or incurred if no physical loss or damage occurred;

minus expenses which do not necessarily continue;

- (2) Within Paragraph **E.5.**, the term Billable Hours replaces the term Net Income as referenced within such provision;
- (3) Billable Hours means the dollar value assigned to one hour of service you normally charge to a client for work performed by you or your employees including time charged for support functions such as copying and typing;
- (4) The most we will pay for loss of business income under this Coverage Extension in any one occurrence is \$25,000; and
- (5) This option is not available for any



**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**ENDORSEMENT WC 00 03 13 (00) - 001**

POLICY NUMBER: UB-2K99602A-21-47-G

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

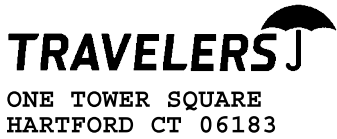
**SCHEDULE**

**DESIGNATED PERSON:**

**DESIGNATED ORGANIZATION:**

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS WAIVER.

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**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**ENDORSEMENT WC 99 03 76 ( A) - 001**

**POLICY NUMBER: UB-2K99602A-21-47-G**

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS  
ENDORSEMENT – CALIFORNIA  
(BLANKET WAIVER)**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

The additional premium for this endorsement shall be 2.00 % of the California workers' compensation premium.

**Schedule**

**Person or Organization**

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS WAIVER.

**Job Description**

ENGINEERS PLAN

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective Insured

Policy No.

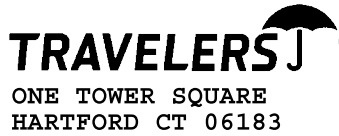
Endorsement No. Premium

Insurance Company

Countersigned by \_\_\_\_\_



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POLICY NUMBER: UB-2K99602A-21-47-G

NOTICE OF CANCELLATION TO DESIGNATED PERSONS OR ORGANIZATIONS

The following is added to PART SIX – CONDITIONS :

Notice Of Cancellation To Designated Persons Or Organizations

If we cancel this policy for any reason other than non-payment of premium by you, we will provide notice of such cancellation to each person or organization designated in the Schedule below. We will mail or deliver such notice to each person or organization at its listed address at least the number of days shown for that person or organization before the cancellation is to take effect.

You are responsible for providing us with the information necessary to accurately complete the Schedule below. If we cannot mail or deliver a notice of cancellation to a designated person or organization because the name or address of such designated person or organization provided to us is not accurate or complete, we have no responsibility to mail, deliver or otherwise notify such designated person or organization of the cancellation.

SCHEDULE

Table with 2 columns: Name and Address of Designated Persons or Organizations; Number of Days Notice. Row 1: ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF: 1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY, AND 2. WE RECEIVED SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE. 30

ADDRESS: THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Insured Policy No. Endorsement No. Premium \$

Insurance Company Countersigned by \_\_\_\_\_

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# Watershed Protection 2021

Final Audit Report

2021-08-05

Created:	2021-08-05
By:	Lauren Haney (LHaney@clackamas.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA4adpKbxh_HXFrEohjtUazfn7dfOlaoO5

## "Watershed Protection 2021" History

-  Document created by Lauren Haney (LHaney@clackamas.us)  
2021-08-05 - 4:50:45 PM GMT- IP address: 174.204.214.40
-  Document emailed to Greg Geist (ggeist@clackamas.us) for signature  
2021-08-05 - 4:51:16 PM GMT
-  Email viewed by Greg Geist (ggeist@clackamas.us)  
2021-08-05 - 4:56:37 PM GMT- IP address: 45.41.142.128
-  Document e-signed by Greg Geist (ggeist@clackamas.us)  
Signature Date: 2021-08-05 - 4:57:05 PM GMT - Time Source: server- IP address: 198.245.132.3
-  Agreement completed.  
2021-08-05 - 4:57:05 PM GMT



Gregory L. Geist  
Director

August 19, 2021

Water Environment Services Board  
Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement between Water Environment Services and the City of Oregon City, for the Transfer of Ownership of Two Sanitary Sewer Manholes and Two Sanitary Sewer Pipe Segments.**

<b>Purpose/Outcome</b>	Solve confusion regarding sanitary sewer maintenance responsibilities by formalizing the ownership of two sanitary sewer manholes and two sections of sanitary sewer pipe.
<b>Dollar Amount and Fiscal Impact</b>	This action will have no direct financial impact to Water Environment services or Clackamas County.
<b>Funding Source</b>	N/A
<b>Duration</b>	In perpetuity
<b>Previous Board Action/Review</b>	Reviewed in Issues meeting on August 10, 2021.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This project supports the County's Strategic Plan to build public trust through good government.</li> <li>2. This project supports the WES Strategic Plan to focus on infrastructure strategy and performance.</li> </ol>
<b>Counsel Review</b>	This IGA was reviewed and approved by County Counsel on July 7, 2021.
<b>Contact Person</b>	Nathan Seaver (503) 679-5709
<b>Contract No.</b>	N/A

**BACKGROUND:**

In 1984, the Tri-City Service District ("TCSD") constructed a portion of the collection system within the City of Oregon City (City), located near Dunes Drive and McLaughlin Boulevard, adjacent to Clackamette Park. The construction connected the City's existing collection system to WES' new interceptor sewer, constructed as part of the same project, and allowed for the decommissioning of the Oregon City Sewer Treatment Plant. The City manages and maintains the overall collection system within its boundaries; however, there was no clear transfer of ownership over this portion of the collection system to the City. In January 2021, it was discovered that WES and the City have been completing regular inspection and maintenance on this portion of the collection system concurrently. It is believed that these independent activities have been occurring since 1984.

On July 1, 2017, TCSD transferred all of its right, title and interest in all tangible and intangible assets over to WES, as a part of its formation as an intergovernmental entity under Oregon

Revised Statutes Chapter 190. WES desires to transfer to the City, and the City agrees to accept, ownership and responsibility for the collection system assets described in this Agreement.

**PROCUREMENT PROCESS:**

The IGA was drafted by County Counsel and reviewed by Oregon City staff prior to the final version being delivered to Josh Wheeler, Assistant City Engineer at the City of Oregon City, on June 6<sup>th</sup>, 2021. The City's Commission approved the IGA at their meeting on June 16<sup>th</sup>, 2021 and the IGA was signed by the City on June 17<sup>th</sup>, 2021.

**RECOMMENDATION:**

Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of Water Environment Services, approve and execute the Intergovernmental Agreement between Water Environment Services and the City of Oregon City, for the transfer of ownership of two sanitary sewer manholes and two sanitary sewer pipe segments.

Respectfully submitted,



Greg Geist (Aug 5, 2021 09:58 PDT)

Greg Geist  
Director, WES

Placed on the \_\_\_\_\_ Agenda by the Procurement Division.

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN WATER ENVIRONMENT SERVICES  
AND THE CITY OF OREGON CITY**

THIS AGREEMENT (this "Agreement") is entered into and between Water Environment Services ("WES"), an intergovernmental entity formed pursuant to ORS Chapter 190, and the City of Oregon City ("City"), a political subdivision of the State of Oregon, collectively referred to as the "Parties" and each a "Party."

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments 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.

In 1984, the Tri-City Service District ("TCSD") constructed a portion of the collection system within the City, located near Dunes Drive and McLaughlin Boulevard, adjacent to Clackamette Park. The construction connected the City's existing collection system to WES' new interceptor sewer, constructed as part of the same project, and allowed for the decommissioning of the Oregon City Sewer Treatment Plant. The City manages and maintains the overall collection system within its boundaries; however, there was no clear transfer of ownership over this portion of the collection system to the City. In January 2021, it was discovered that WES and the City have been completing regular inspection and maintenance on this portion of the collection system concurrently. It is believed that these independent activities have been occurring since 1984.

On July 1, 2017, TCSD transferred all of its right, title and interest in all tangible and intangible assets over to WES, as a part of its formation as an intergovernmental entity under Oregon Revised Statutes Chapter 190. WES desires to transfer to the City, and the City agrees to accept, ownership and responsibility for the collection system assets described in this Agreement.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Effective Date.** This Agreement shall take effect when executed by both Parties (the "Effective Date").
2. **Property.** WES hereby transfers to City all of WES's right, title, and interest in and to the items of property (the "Property") listed below:

Two sanitary sewer manholes and two sanitary sewer pipelines further described in Exhibit A and depicted in Exhibit B, both attached hereto and incorporated by reference.

3. **Consideration.** The consideration for the transfer of the Property is other such good and valuable consideration, receipt of which is hereby acknowledged by WES.
4. **Transfer of Ownership.** City will take ownership of the Property on the Effective Date.
5. **Representations and Warranties.**

- A. *City Representations and Warranties:* City represents and warrants to WES that City has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of City enforceable in accordance with its terms.
- B. *WES Representations and Warranties:* WES represents and warrants to City that WES has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of WES enforceable in accordance with its terms.
- C. Except as otherwise expressly stated above, WES makes no warranties or representations with respect to the Property. City accepts the Property AS IS, WHERE IS, in its present condition, including all defects and with all faults, and there are no warranties of merchantability or of fitness for a particular purpose with respect to the Property.
- D. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. **Termination.** Reserved.

7. **Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, WES agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the WES or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the WES has a right to control, occurring prior to the Effective Date of this Agreement.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the WES, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control, occurring after the Effective Date of this Agreement.

8. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication



or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information by giving prior written notice thereof to the other Party at its then current notice address.

A. Nathan Seaver or their designee will act as liaison for the WES.

**Contact Information:**

150 Beaver Creek Rd Suite 430  
Oregon City, OR 9704  
[nseaver@clackamas.us](mailto:nseaver@clackamas.us)  
Office: 503-742-4573  
Mobile: 503-679-5709

Josh Wheeler or their designee will act as liaison for the City.

**Contact Information:**

625 Center St. Oregon City, OR 97045  
[jwheeler@orc.org](mailto:jwheeler@orc.org)  
Office: 503-657-0891  
Mobile: 971-322-9745

**10. General Provisions.**

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon, and the ordinances of Clackamas County and WES without giving effect to the conflict of law provisions thereof. Any claim between WES and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the WES of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. City, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not

preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** Reserved.
- E. **Work Product.** Reserved.
- F. **Hazard Communication.** Reserved.
- G. **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.
- H. **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.
- I. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. 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 either Party unless in writing and signed by both 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 either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- J. **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.
- K. **Independent Contractor.** Reserved.
- L. **No Third-Party Beneficiary.** City and WES are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- M. **Assignment.** City may assign or transfer this Agreement, in whole or in part, or any right or obligation hereunder, at any time and shall provide written notice of such assignment to WES within thirty (30) days of such assignment or transfer.


- N. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **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.
- Q. **Time is of the Essence.** City agrees that time is of the essence in the performance this Agreement.
- R. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- S. **Force Majeure.** Reserved.
- T. **Confidentiality.** Reserved.
- U. **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.

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

**Water Environment Services**

**City of Oregon City**

\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

6-17-21

## Exhibit A

The four structures are located in Oregon City, Oregon. They are generally located between McLoughlin Boulevard and Clackamette Park, in the area north of Dunes Drive. The four structures are connected to each other in series with the system connected to Oregon City's sanitary sewer infrastructure on the south end and Water Environment Services' sanitary sewer infrastructure on the north end.

- **Manhole SSMH-006694**: The most upstream structure is ssMH-006694, situated in the northeast quadrant of a grassy area located at the northwest corner of McLoughlin Boulevard and Dunes Drive. Manhole SSMH-006694 is a 48" diameter concrete manhole, is approximately 10.5 feet deep, has one inlet pipe from the south, a 30-inch pipe owned by the Oregon City, and one outlet pipe to the west, ssPP-002710.
- **Pipe ssPP-002710**: A reinforced concrete pipe that extends approximately 185 feet west from ssMH-006694 and terminates manhole ssMH-002571.
- **Manhole ssMH-002571**: Situated in the northwest quadrant of the grassy area located at the northwest corner of McLoughlin Boulevard and Dunes Drive, near the sidewalk that parallels the east side of Clackamette Drive. Manhole ssMH-002571 is a 48" diameter concrete manhole, is approximately 11.6 feet deep, has one inlet pipe from the east, ssPP-002710, and one outlet pipe to the north, ssPP-002709.
- **Pipe ssPP-002709**: A 12-inch reinforced concrete pipe that extends approximately 633 feet north, paralleling Clackamette Drive, and terminates at manhole ssMH-002570. Manhole ssMH-002570 is part of the Willamette Interceptor, is owned and maintained by WES and will continue to be operated by WES indefinitely.

Exhibit B

ASSET MAPS



# Exhibit B

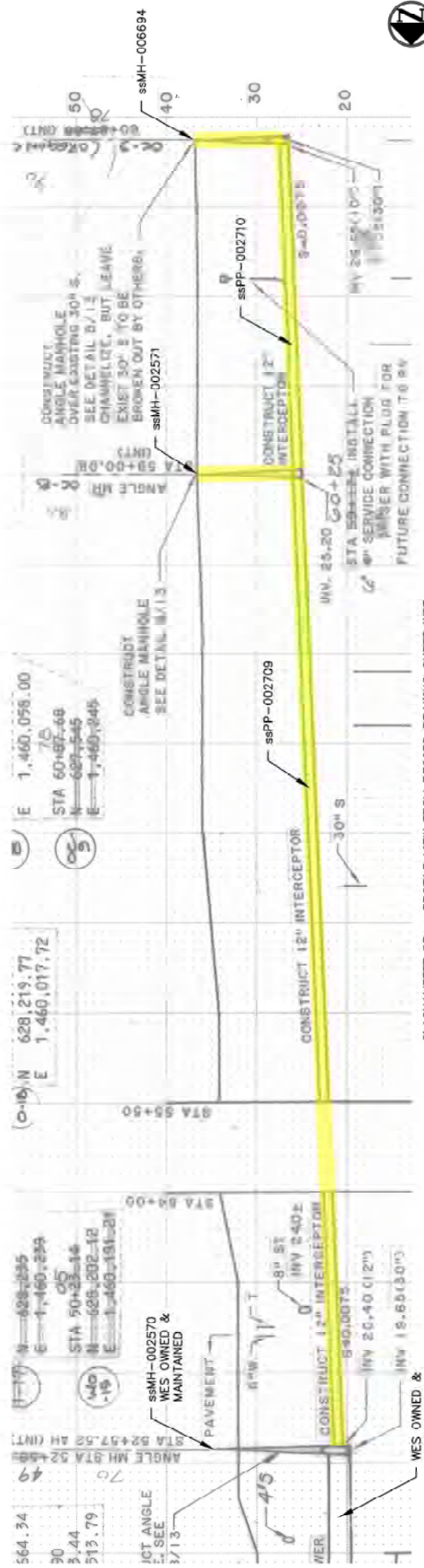


- GENERAL NOTES**
- THIS DRAWING HIGHLIGHTS IN YELLOW THE FOUR ASSETS IN QUESTION, TWO SANITARY SEWER MANHOLES AND TWO LENGTHS OF SANITARY SEWER PIPE.
  - ASSET INFORMATION GATHERED FROM WES MAPS (<https://web.clackamas.us/maps/wesmaps>) AND OCWEBMAPS (<https://www.ocwebmaps.org/maps/ocwebmaps>) ON 08 FEB 2021
  - RECORD DRAWING INFORMATION TAKEN FROM SHEET WR7 OF THE FEB 1984 TRI-CITY SERVICE DISTRICT (NOW CLACKAMAS WATER ENVIRONMENT SERVICES (WES)) PRODUCT: WILLAMETTE INTERCEPTOR 1A, OUTFALL, OREGON CITY INTERCEPTOR

STANDARD 48" CONCRETE SANITARY SEWER PIPE  
 BUILT: 1984  
 LENGTH: APPROX. 185 FT  
 WES LUCITY ID: ssPP-002710  
 OREGON CITY PIPE NUMBER: 400502

STANDARD 48" CONCRETE SANITARY SEWER MANHOLE  
 BUILT: 1984  
 DEPTH: 11.6 FT  
 WES LUCITY ID: ssMH-002571  
 OREGON CITY MANHOLE #: 1002B

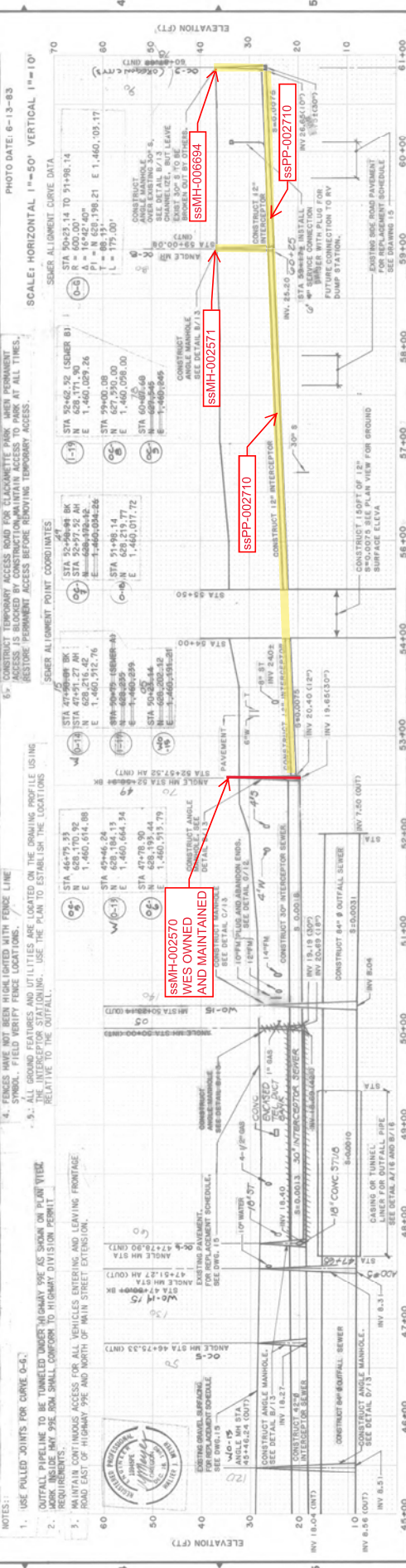
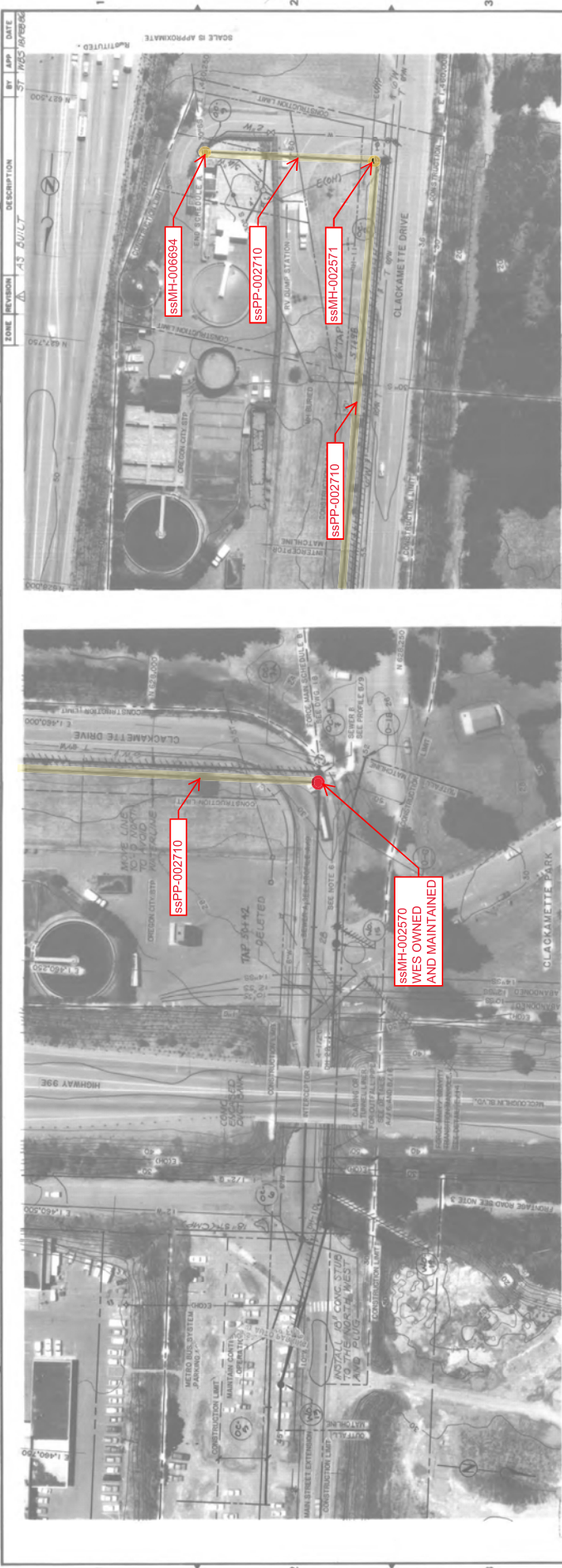
CLACKAMETTE DRIVE - SATELLITE IMAGE CIRCA 2018



CLACKAMETTE DR - PROFILE VIEW FROM RECORD DRAWING SHEET WR7

NO.		DATE BY	REVISIONS	DESIGNED BY:	DRAWN BY:	DRAWING NO.
				INS	INS	80-000000
				CHECKED BY:	SCALE:	SHEET NO.
				N.T.S.		1 of 1
				DATE:	PROJECT NO.	
				FEBRUARY 2021		
				<p>Water Environment Services                  18000 SW 10th Street, Suite 200, Portland, OR 97205                  Phone: 503.281.1111 Fax: 503.281.1112</p>		

**Exhibit B**  
**WES RECORD DRAWING WR7**



NOTES:

- USE PULLED JOINTS FOR CURVE 0-2.
- OUTFALL PIPELINE TO BE TUNNELED UNDER HIGHWAY USE OF SHIELD OR IN-TRENCH REQUIREMENTS. CONTACT 324.50M SHALL COOPERATE TO HIGHWAY DIVISION PERMIT.
- MAINTAIN CONTINUOUS ACCESS FOR ALL VEHICLES ENTERING AND LEAVING FRONTAGE ROAD EAST OF HIGHWAY 93E AND NORTH OF MAIN STREET EXTENSION.
- FENCES HAVE NOT BEEN HIGHLIGHTED WITH FENCE LINE SYMBOL. FIELD VERIFY FENCE LOCATIONS. RELATIVE TO THE OUTFALL.
- ALL GROUND FEATURES AND UTILITIES ARE LOCATED ON THE DRAWING PROFILE USING THE PHOTO DATE: 6-13-83. CONSTRUCT TEMPORARY ACCESS ROAD FOR CLACKAMETTE PARK WHEN PERMANENT ACCESS IS BLOCKED BY CONSTRUCTION. MAINTAIN ACCESS TO PARK AT ALL TIMES. RESTORE PERMANENT ACCESS BEFORE REMOVING TEMPORARY ACCESS.

SCALE: HORIZONTAL 1"=50' VERTICAL 1"=10'

SEWER ALIGNMENT CURVE DATA

STATION	CHORD BEARING	CHORD LENGTH	ARC BEARING	ARC LENGTH	ANGLE
STA 50+33.14 TO 51+95.14	N 62°17'11" W	160.00'	N 16°42'40" E	160.00'	179.00'
STA 52+00.00 TO 52+00.00	N 62°17'11" W	160.00'	N 16°42'40" E	160.00'	179.00'
STA 52+00.00 TO 52+00.00	N 62°17'11" W	160.00'	N 16°42'40" E	160.00'	179.00'
STA 52+00.00 TO 52+00.00	N 62°17'11" W	160.00'	N 16°42'40" E	160.00'	179.00'

DATE: 2.7.18  
SUBMITTED: [Signature]  
DESIGNED: [Signature]  
CHECKED: [Signature]  
DATE: 2.28.18  
DATE: 2.28.18

BROWN AND CALDWELL  
CONSULTING ENGINEERS  
EUGENE OREGON

CLACKAMETTE PARK  
WILLAMETTE INTERCEPTOR 1A  
OUTFALL  
OREGON CITY INTERCEPTOR

OREGON CITY INTERCEPTOR AND OUTFALL  
PLAN AND PROFILE  
STA 45+00 TO STA 60+87.68 (INT)  
STA 45+00 TO STA 52+00 (OUT)

DRAWING NUMBER 8  
SHEET 8 OF 21





**Exhibit B**

OCWebMaps Screenshot

Transfer manhole from Water Environment Services to City of Oregon City

Transfer pipe from Water Environment Services to City of Oregon City








# IGA Sanitary Sewer Asset Ownership Transfer

Final Audit Report

2021-08-05

Created:	2021-08-05
By:	Lauren Haney (LHaney@clackamas.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAArB4ezigAp2NvoJPz9OXnIbXPcbLy36Ob

## "IGA Sanitary Sewer Asset Ownership Transfer" History

-  Document created by Lauren Haney (LHaney@clackamas.us)  
2021-08-05 - 4:49:01 PM GMT- IP address: 174.204.214.40
-  Document emailed to Greg Geist (ggeist@clackamas.us) for signature  
2021-08-05 - 4:49:57 PM GMT
-  Email viewed by Greg Geist (ggeist@clackamas.us)  
2021-08-05 - 4:57:18 PM GMT- IP address: 45.41.142.228
-  Document e-signed by Greg Geist (ggeist@clackamas.us)  
Signature Date: 2021-08-05 - 4:58:23 PM GMT - Time Source: server- IP address: 198.245.132.3
-  Agreement completed.  
2021-08-05 - 4:58:23 PM GMT



August 19, 2021

Water Environment Services Board  
 Board of County Commissioners  
 Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement between Water Environment Services and the Clackamas River Water Providers for Clackamas River Watershed Activities**

<b>Purpose/Outcomes</b>	Board approval of this Intergovernmental agreement 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.
<b>Dollar Amount and Fiscal Impact</b>	The IGA authorizes up to \$10,000 per fiscal year, with a total not to exceed amount of \$50,000. Funding for fiscal year 2021-2022 is in the proposed WES budget.
<b>Funding Source</b>	WES Surface Water Operating Fund. No General Funds are impacted.
<b>Duration</b>	The IGA expires on June 30, 2026, with an option for two extensions of one year each.
<b>Previous Board Action/Review</b>	Presented to the Board at Issues on August 17, 2021.
<b>Counsel Review</b>	The IGA was approved by Counsel on July 20, 2021.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Supports the WES strategic result that streams within WES' jurisdiction meet or exceed water quality standards.</li> <li>2. Supports the Board's Strategic Priorities to Build a Strong Infrastructure, and Honor, Utilize, Promote and Invest in our Natural Resources</li> </ol>
<b>Contact Person</b>	Ron Wierenga, Environmental Services Manager, 503-742-4581
<b>Contract No.</b>	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 Cities of Damascus and 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.

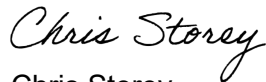
In partnership with the CRWP, Water Environment Services (WES) has been jointly funding successful projects and programs through Board-approved agreements since 2000, and WES wishes to continue to jointly fund the following types of Clackamas River Watershed Activities which are beneficial to watershed health and water quality: 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 and Clackamas County's compliance with state and federal water pollution regulations, including implementation of the Municipal Separate Storm Sewer System (MS4) Permit and water quality actions in the Willamette River Total Maximum Daily Load (TMDL) Implementation Plan.

**RECOMMENDATION:**

WES staff recommends the Board, acting as the governing body of Water Environment Services, approve the Intergovernmental Agreement between Water Environment Services and the Clackamas River Water Providers for Clackamas River Watershed Activities.

Respectfully submitted,



Chris Storey  
Assistant Director, Water Environment Services

Attachments: Intergovernmental Agreement between Water Environment Services and Clackamas River Water Providers.

## INTERGOVERNMENTAL AGREEMENT BETWEEN WATER ENVIRONMENT SERVICES AND CLACKAMAS RIVER WATER PROVIDERS

THIS AGREEMENT (this "Agreement") is entered into and between **Water Environment Services** ("District"), an intergovernmental entity formed under ORS Chapter 190, and **Clackamas River Water Providers** ("Agency"), an intergovernmental entity formed under ORS Chapter 190, collectively referred to as the "Parties" and each a "Party."

### RECITALS

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments 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.

The Agency is an intergovernmental entity created in 2007, which 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 cities of Damascus and Happy Valley). The Agency 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 that 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 Agency activities and programs.

In partnership with the Agency, District has been jointly funding successful projects and programs through Board-approved agreements since 2000, and District wishes to continue to jointly fund the following types of Clackamas River Watershed Activities, which are beneficial to watershed health and water quality: 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 District and Clackamas County's compliance with state and federal water pollution regulations, including implementation of the Municipal Separate Storm Sewer System ("MS4") Permit and water quality actions in the Willamette River Total Maximum Daily Load ("TMDL") Implementation Plan.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### TERMS

1. **Term.** This Agreement shall be effective upon execution by both Parties and shall expire on **June 30, 2026**, with the option for two, one-year renewals upon agreement of the Parties in writing.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").

3. **Consideration.** The District agrees to pay Agency, from available and authorized funds, a sum not to exceed **Fifty Thousand Dollars (\$50,000)** for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, the Agency shall submit annual invoices for Work performed. Payments shall be made to Agency following the District's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the District will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
  - A. *Agency Representations and Warranties:* Agency represents and warrants to District that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
  - B. *District Representations and Warranties:* District represents and warrants to Agency that District has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of District enforceable in accordance with its terms.
  - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
6. **Termination.**
  - A. Either the District or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
  - B. Either the District or the Agency 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. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
  - C. The District or the Agency 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 is of the same nature as that waived.
  - D. The District may terminate this Agreement in the event the District fails to receive expenditure authority sufficient to allow the District, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way

that either the Project under this Agreement is prohibited or the District is prohibited from paying for such work from the planned funding source.

E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

7. **Indemnification.** Agency shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Agency, its subcontractors, agents, or employees. The Agency agrees to indemnify, hold harmless and defend the District and Clackamas County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Agency or the Agency's employees, subcontractors, or agents.

However, neither Agency nor any attorney engaged by Agency shall defend the claim in the name of District or Clackamas County ("County"), nor purport to act as legal representative of District or County, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for District or County, nor shall Agency settle any claim on behalf of District or County without the approval of the Clackamas County Counsel's Office. District or County may, at their election and expense, assume their own defense and settlement.

8. **Insurance.** The Agency agrees to furnish the County with evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of Clackamas County, and their officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Agreement. If self-insured, Agency shall provide documentation to the County of Agency's self-insured status by completing the Self-Insurance Certification form provided by the County.

9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

A. Ron Wierenga or their designee will act as liaison for the District.

**Contact Information:**



Ron Wierenga, Environmental Services Manager  
Water Environment Services  
150 Beaver Creek Road  
Oregon City, OR 97045  
503-742-4581  
[rwierenga@clackamas.us](mailto:rwierenga@clackamas.us)

- B. Kim Swan or their designee will act as liaison for the Agency.

**Contact Information:**

Kim Swan, Water Resource Manager  
Clackamas River Water Providers  
14275 S. Clackamas River Drive  
Oregon City, OR 97045  
(503) 723-3510  
[kims@clackamasproviders.org](mailto:kims@clackamasproviders.org)

**10. General Provisions.**

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon, and the ordinances of the District and Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between District and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the District of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the District’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Work Product.** Reserved.
- F. **Hazard Communication.** Reserved.
- G. **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.
- H. **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.
- I. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. 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 either Party unless in writing and signed by both 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 either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- J. **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.
- K. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint



venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- L. **No Third-Party Beneficiary.** Agency and District are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- M. **Assignment.** Agency shall not assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the District, which shall be granted or denied in the District's sole discretion.
- N. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **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.
- Q. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- R. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- S. **Force Majeure.** Neither Agency nor District shall be held responsible for delay or default caused by events outside of the Agency or District's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- T. **Confidentiality.** Reserved.
- U. **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.

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

**Water Environment Services**

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**Clackamas River Water Providers**



Authorized Signatory Todd Heidgerken

Chair

\_\_\_\_\_

7-26-2021

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Exhibit A

**Scope of Work for WES-CRWP IGA  
Fiscal Years 2021-22 through 2025-2026**

The Clackamas River Water Providers (“CRWP”) and Clackamas Water Environment Services (“WES”) 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, WES' ratepayers and the Clackamas River watershed will both benefit. Working together, the CRWP and WES can leverage their limited resources, provide consistent messaging to citizens, and avoid duplicating efforts. The CRWP currently implements a number of programs that WES has identified that also meet programmatic needs in WES' Surface Water Management (“SWM”) service area. These are outlined below. In recognition of this work, WES will contribute \$10,000 annually to support and ensure the continuation of these efforts.

WES acknowledges that these funds support a portion of larger CRWP watershed programs, and therefore will not be earmarked for specific projects.

This Scope of Work has multiple tasks:

<b>Task #</b>	<b>Program/Project</b>	<b>WES' Annual Contribution</b>
Task 1	<i>Spill Prevention and Spill Response Planning, including but not limited to:</i> <ul style="list-style-type: none"><li>• Implementation of the Clackamas River watershed's Geographic Response Plan (GRP)</li><li>• Emergency preparedness and response planning</li><li>• Spill Response Notification: Advocate for improvements to the existing spill response notification system</li></ul>	\$2,500
Task 2	<i>Watershed Studies and Monitoring, including but not limited to:</i> <ul style="list-style-type: none"><li>• Continuous monitoring of the Clackamas River's water quality &amp; flow by the U.S. Geological Survey</li><li>• Watershed characterization including riparian area assessments and prioritization</li><li>• Water quality and biological monitoring</li></ul>	\$6,000
Task 3	<i>Watershed Health Public Education &amp; Outreach, including but not limited to:</i> <ul style="list-style-type: none"><li>• Watershed lessons provided to children in school classrooms</li></ul>	\$1,500

	<ul style="list-style-type: none"> <li>• Printing and distribution of material that provides information to home and business owners about protecting water quality</li> </ul>	
	<b>Total Annual Cost to WES</b>	<b>\$10,000</b>