



March 24, 2016

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with
 City Of Gladstone and Clackamas County Service District #1
for Environmental Monitoring and Laboratory Services

Purpose/Outcomes	Provide environmental monitoring and laboratory analysis required for Gladstone to meet their permit requirements as an MS 4 co-permittee.
Dollar Amount and Fiscal Impact	Annual revenue of \$ 2,000.
Funding Source	NA -No County General Funds are involved.
Duration	Effective upon signature and expires on June 30, 2017
Previous Board Action	None.
Strategic Plan Alignment	1. Supports Key Results for Environmental Monitoring 2. Supports the goal of ensuring ratepayers have a properly functioning infrastructure that supports healthy waterways
Contact Person	Mona LaPierre, Monitoring and Compliance Manager, WES – 503-557-2830
Contract No.	NA

BACKGROUND:

Clackamas County Service District #1 requests the approval of an Intergovernmental Agreement (“IGA”) with the City of Gladstone.

Clackamas County Service District No. 1 (“CCSD#1”) and the City of Gladstone are co-permittees on Phase I municipal separate storm sewer system permits (“MS4 Permits”) issued by the Oregon Department of Environmental Quality (“Department”). Requirements of the permit include monitoring and laboratory analysis in the MS 4 permitted area.

Five of the co-permittees have developed a Comprehensive Clackamas County Monitoring Plan dated June 2013. The Oregon Department of Environmental Quality adopted the plan, and the City of Gladstone wishes to have an agreement so that sampling and laboratory analysis will be performed by CCSD#1 staff and reimbursed based upon time and materials.

Staff assessed the impact of the arrangement and determined that it could be accommodated without significant impact our current regulatory and district obligations. In addition, coordinating these services

between the co-permittees will allow for a holistic approach in data analysis for the County's MS 4 system. This IGA is based upon labor costs and cost of analyses.

County Counsel reviewed this document.

RECOMMENDATION:

Staff recommends the Board approve this agreement.

Respectfully submitted,

Gregory Geist
WES- Director

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
CITY OF GLADSTONE**

This Intergovernmental Agreement (“Agreement”) is entered into by and between the **City of GLADSTONE** (“City”), a political subdivision of the State of Oregon, and **Clackamas County Service District No. 1** (“District”), a county service district formed under Oregon Revised Statutes chapter 451, for the provision of stormwater quality monitoring services. This Agreement is authorized pursuant to ORS 190.110.

1. **Effective Date and Duration.** This Agreement shall become effective upon signature by District representative. Unless earlier terminated or extended, this Agreement shall expire on June 30, 2017 (“Expiration Date”). This Agreement shall automatically renew for one (1) additional two-year period, unless otherwise terminated by the parties pursuant to Section 9 below. This Agreement may be otherwise extended by mutual written agreement of the parties at any time prior to its Expiration Date.
2. **Statement of Work.** The statement of work (the “Work”) is contained in Attachment 1, attached hereto and incorporated by reference into this Agreement. District agrees to perform the Work in accordance with the terms and conditions of this Agreement.
3. **MS4 Compliance.** The City remains responsible for compliance with all of its Municipal Separate Storm Sewer System (“MS4”) requirements. The District assumes no liability regarding any fees, fines, or other costs that may arise from a failure of the City to meet its MS4 requirements.
4. **Consideration.** The City agrees to pay District based upon time and materials for the tasks as referenced in Attachment 1.
5. **Schedule of Performance.** The delivery schedule for the provision of these services is also contained in Attachment 1, attached hereto and incorporated by reference into this Agreement.
6. **Project Site.** The Project site location is provided in Attachment 1.
7. **Project Managers; Notice.** Each party has designated a project manager to be the formal representative for this Agreement. All reports, notices, and other communications required under or relating to this Agreement shall be directed to the appropriate individual. To be effective, any notice required to be given under this Agreement may be given by personal delivery to the address below or may be sent by certified mail, return receipt requested and if sent via certified mail return receipt requested such notice will be deemed delivered three (3) business days after postmark. Notice may also be given by overnight delivery service, effective upon receipt of such delivery.

City of GLADSTONE
Jim Whynot
525 Portland Ave
Gladstone, OR 97027
(503) 656-7957

Clackamas County Service District No. 1

Mona LaPierre

c/o Water Environment Services

150 Beavercreek Road

Oregon City, OR 97045

(503) 557-2830

8. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
9. **Payment.**
 - A. Within forty-five (45) days of conducting a sampling event on behalf of City, District shall submit an itemized invoice to City for reimbursement of services performed during the sampling event, which shall include a description of the project and District contract number, and the allocation of costs.
 - B. City shall pay all invoices within thirty (30) days of the District receiving the invoice.
10. **Termination.**
 - A. The parties may agree to an immediate termination of this Agreement or at a time certain upon mutual written consent.
 - B. Either party may terminate this Agreement effective not less than thirty (30) days from delivery of written notice for any reason. City shall be responsible for any costs of Work done on its behalf prior to the effective date of the termination.
 - C. Either party may terminate this Agreement in the event of a breach by the other party. However, prior to such termination, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the breaching party has not cured the breach within ten (10) days or a longer period as granted in the cure notice, the party seeking compliance may terminate this Agreement.
11. **Funds Available and Authorized.** Both parties certify that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within each party's current appropriation and limitation through fiscal year 2015-2016. Both parties understand and agree that payment of amounts under this Agreement attributable to Work performed after the end of the current fiscal year is contingent on either party receiving appropriations, limitations, or other expenditure authority.
12. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.
13. **Access to Records.** Both parties and their duly authorized representatives shall have access to the documents, papers, and records which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcript.

14. **Compliance with Applicable Law.**
- a. Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Both party's performance under this Agreement is conditioned upon either parties compliance with the provisions of the Oregon Revised Statutes, including but not limited to ORS 279A, B, and C, which are incorporated by relevant reference herein.
 - b. The City is and remains responsible for compliance with its MS4 Permit obligations. The District assumes no liability regarding any fees, fines, or other costs related to meeting those permit obligations by entering into this Agreement.
15. **No Third Party Beneficiary.** The District and City are the only parties to this Agreement and as such, are the only parties entitled to enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
16. **Indemnification.** Within the limits of the Oregon Tort Claims Act (ORS 30.260 to 30.300), each party agrees to indemnify and defend the other and its officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this Agreement, including the cost of defense, attorney fees arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, subcontractors or representatives.
17. **Merger Clause.** This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
18. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
19. **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.

[Signature Page Follows]

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

City of GLADSTONE

**Clackamas County Board of County
Commissioners Acting as the Governing
Body for Clackamas County Service District
No. 1 by:**

[Insert Name],

Chair

Date

Date

Recording Secretary

Approved as to Form:

County Counsel

ATTACHMENT #1
Clackamas County Service District #1 and City of Gladstone
Stormwater Quality Monitoring Project
Statement of Work

PURPOSE

The purpose of this attachment (the “Attachment”) is to define the specific responsibilities of the City of Gladstone (“City”) and Clackamas County Service District No. 1 (“District”). City desires to obtain stormwater quality monitoring and laboratory services from District in order to comply with its Phase I MS4 NPDES permit (“Permit”) monitoring requirements.

PROJECT DESCRIPTION AND SITE

The project (“Project”) involves the collection of sample(s) for analyses from outfall monitoring site(s) located in the City of Gladstone as specified in the Comprehensive Clackamas County Stormwater Monitoring Plan dated June, 2013 (“Plan”).

PROJECT COSTS

The cost of the Project will be based upon time and materials and established laboratory fees plus an 8% premium. This data will be captured through the Water Environment Services Time Card and Financial Systems. Rates are adjusted annually and effective July 1.

RESPONSIBILITIES/STATEMENT OF WORK/SCHEDULE OF PERFORMANCE

Monitoring

The District Shall:

1. Collect field and lab samples at the City outfall site for three storm events prior to July 1, 2016. There after three samples from July 1, 2016 and prior to June 30, 2017. District will attempt to collect these samples during the same events when it is collecting its own samples to meet MS4 NPDES permit requirements.
2. An attempt should be made to collect lab samples that are composites representing three individual samples collected throughout the event and separated by a minimum of one hour. The time and date when these samples are collected should also be documented.
3. Analyze the composite samples in the lab for total and dissolved copper, total and dissolved lead, total and dissolved zinc, total hardness, E. Coli, ammonia, nitrate, total phosphorus, ortho-phosphate, total solids, total suspended solids, and total dissolved solids as specified in the Plan.
4. Analyze outfall discharges in the field for specific conductivity, pH, temperature, dissolved oxygen, and depth of flow as specified in the Plan. The time and date when these samples are collected should also be documented.
5. Collect adequate samples such as field blanks and duplicates in order to conduct the required quality assurance and quality control reviews of the data.
6. Provide hard copy and digital copy results of the field and laboratory analyses to City.

City Shall:

1. Submit payment to the District for City’s share of the Project cost within thirty (30) days of receipt of invoice from the District.
2. Notify the District if there are changes within the Permit.