



Nick Fish, Commissioner  
Michael Stuhr, P.E., Administrator  
1120 SW 5<sup>th</sup> Avenue, Room 600  
Portland, Oregon 97204-1926  
Information: 503-823-7404  
[www.portlandoregon.gov/water](http://www.portlandoregon.gov/water)



## Exhibit A

### INTERGOVERNMENTAL AGREEMENT

188434

City OF PORTLAND AGREEMENT NO.: **30005863**

This Intergovernmental Agreement (IGA or Agreement) is entered into by and between the City of Portland, Oregon, acting by and through its Water Bureau, hereafter called "City" and the Rockwood Water People's Utility District, hereafter called Rockwood. This IGA is authorized pursuant to ORS 190.110 and City Charter Section 2-105(4).

#### RECITALS

- A. The City has sewer customers inside its Portland City Limits who reside within Rockwood's boundaries. The City needs individual customer water meter reading information in order to produce metered sewer billings for its customers.
- B. The purpose of the project is for Rockwood to read all City customer water meters located within Rockwood boundaries and provide the City weekly reports of all meters read inside the City limits. This City and Rockwood agree that Rockwood will provide necessary customer meter reading information to the City for use in its metered sewer billings.
- C. The City agrees to pay Rockwood an annual sum not to exceed \$40,000 for FY 2017-18, an annual sum not to exceed \$50,000 for FY 2018-19 through FY 2020-21, an annual sum not to exceed \$55,000 for FY 2021-22 and an annual sum not to exceed \$60,000 for FY 2022-23 for this Agreement.

#### NOW, THEREFORE, THE PARTICIPANTS AGREE AS FOLLOWS:

*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.*

#### 1. STATEMENT OF WORK

**Rockwood shall provide the City the services set out below:**

- a. Read all City customer water meters located within Rockwood boundaries.
- b. Provide City weekly reports of all meters read inside City limits during the week.
- c. Provide to the best of their knowledge and based upon reasonable efforts, new service, customer and meter information.
- d. Transmit information to City in electronic format, as requested, within District's software capabilities.

## 2. TERM

Work shall commence on the effective date of this Agreement. The effective date of this Agreement shall be the earlier date of (1) July 1, 2017, or (2) the date of the last signature by the parties. The expiration date of this agreement shall be June 30, 2023.

## 3. BILLING PROCEDURES AND COMPENSATION

- A. The City has authorized a total not to exceed amount of \$305,000 to fund the program and enter into a formal Agreement for a period of six (6) years. Funding of \$40,000 is available in the Fiscal Year 2017-18 Budget. For each Fiscal Year thereafter, the City agrees to pay the Rockwood up to and not to exceed amount of \$50,000 for FY 2018-19 through FY 2020-21, up to and not to exceed amount of \$55,000 for FY 2021-22 and up to and not to exceed amount \$60,000 for FY 2022-23. The City's Fiscal Year is defined as July 1 through June 30 of each year.
- B. Funding for this project shall be disbursed only upon City Council approval via City Ordinance authorizing payment. In the event this Agreement is terminated pursuant to Section 5, all unexpended funds shall be returned to the City within 60 days of said termination
- C. The City's policy is to pay its invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, Rockwood shall execute the City's standard ACH Vendor Payment Authorization Agreement which is available on the City's website at <http://www.portlandoregon.gov/bfs/article/409834?>.

Upon verification of the data provided, the Payment Authorization Agreement shall authorize the City to deposit payment for services rendered directly into Rockwood accounts with financial institutions. All payments shall be in United States currency. The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any bill, however, does not preclude the City from later determining that an error in payment was made and from withholding the disputed sum from the next progress payment until the dispute is resolved.

- D. By the 15<sup>th</sup> of the month following the end of the previous quarter after the effective date of this Agreement, the Grantee shall submit to the City an invoice for work performed during the previous quarter.
- E. Invoices shall only be submitted to the Portland Water Bureau Finance Office electronically to: [wbaps@portlandoregon.gov](mailto:wbaps@portlandoregon.gov)
- F. Rockwood shall fully cooperate with a City Audit of the records at any time. Rockwood shall also fully cooperate with an audit to account for all expenses if necessary.

## 4. NOTICES

Unless otherwise stated in this Agreement, the designees named below shall be the contact for all activities relating to the Work/Services to be performed under this Agreement.

### Rockwood (Technical Contact):

Name: Cathy Middleton  
 Address: 19601 NE Halsey Street  
 Portland, OR 97230  
 Phone: (503) 665-4179  
 Email: [cmiddleton@rwpud.org](mailto:cmiddleton@rwpud.org)

### City (Technical Contact/Project Manager):

Name: LeAnne Tumbaga  
 Address: 1120 SW 5<sup>th</sup> Ave. Portland, OR 97204  
 Phone: 503-865-2550  
 Email: [leanne.tumbaga@portlandoregon.gov](mailto:leanne.tumbaga@portlandoregon.gov)

**Rockwood (Administrative):**

Name: Brian R. Stahl  
Address: 19601 NE Halsey Street  
Portland, OR 97230  
Phone: (503) 674-4507  
Email: bstahl@rwpud.org

**City (Contract Administration):**

Name: Corrina Rodriguez  
Address: 1120 SW 5<sup>th</sup> Avenue, Portland, OR 97204  
Phone: 503.823.7550  
Email: corrina.rodriguez@portlandoregon.gov

**5. TERMINATION**

This Agreement may be terminated by either party. The City on thirty (30) days written notice may terminate this Agreement. Rockwood on thirty (30) days written notice may terminate this Agreement.

**6. NON-DISCRIMINATION**

In carrying out activities under this contract, neither party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, age handicap, familial status or national origin. Either party shall take affirmative actions to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color religion, sex, age, handicap, familial status or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff of termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**7. ACCESS TO RECORDS**

Both parties and their duly authorized representatives shall have access to the books, documents, and records which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts and transcript.

**8. INDEMNIFICATION**

Subject to the conditions and limitations of the Oregon Constitution and Oregon Tort Claims Act, ORS 30.260 through 30.300, Rockwood shall indemnify, defend and hold harmless the City from and against all liability, loss and costs arising out of or resulting from the negligent or intentionally wrongful acts of Rockwood, its officers, employees and agents in the performance of this Agreement.

Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 9, and the Oregon Tort Claims Act (ORS 30.260 to 30.300) City shall indemnify, defend and hold harmless Rockwood from and against all liability, loss and costs arising out of or resulting from the negligent or intentionally wrongful acts of City, its officers, employees and agents in the performance of this Agreement.

**9. INSURANCE**

Rockwood as an agency of the State of Oregon is self-insured through the State Insurance Fund, administered by Risk Management Division, Department of Administrative Services. All Rockwood personnel, officers and employees, acting within the scope of their employment are covered by ORS 30.270. Rockwood is a subject employer under the Oregon Workers' Compensation law in compliance with ORS 656.017, and shall maintain workers' compensation insurance through the duration of this Agreement.

**10. SUBCONTRACTING AND ASSIGNMENT**

Rockwood may subcontract its work under this Agreement, provided such subcontracts are performed subject to applicable State laws related to the procurement of the contracted service. Rockwood shall notify the City of their intent to subcontract, so the City may have an opportunity to provide input. Rockwood shall assure that all subcontractors used to perform the services under this Agreement meet applicable City's Codes pertaining to permits, workmen's compensation, licensing, and all other legal requirements.

**11. DISPUTES**

The signatories to this Agreement shall expend their best efforts to amicably resolve any dispute that may arise under this Agreement. Any dispute that the signatories are unable to resolve shall be submitted to the Director of the Rockwood or his/her designee and the City of Portland Water Bureau Administrator or his/her designee for resolution.

**12. OREGON LAWS AND FORUM**

This Agreement shall be construed according to the laws of the State of Oregon. Any litigation between the City and Rockwood arising under this contract or out of work performed under this contract shall occur, in the state courts, in the Multnomah County Court having jurisdiction thereof and if in the federal Courts, in the United States District Court for the State of Oregon.

**13. FUNDS AVAILABLE AND AUTHORIZED**

The City certifies that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within current appropriation and limitation. In the event of any extension or non-appropriation, the City shall notify Rockwood its intent to terminate this Agreement. The City's contribution for the each Fiscal Year of the Agreement is contingent upon receipt of approval by City Council and upon continuation of funding.

**14. SEVERABILITY**

If any term or provision of this Agreement 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 Agreement did not contain the particular term or provision held to be invalid.

**15. COMPLIANCE WITH APPLICABLE LAW**

Both parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this IGA. Without limiting the generality of the foregoing, parties expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; (v) Any applicable sections of ORS Chapter 279, and (vi) all other applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations.

**16. FORCE MAJEURE**

Neither Party shall be held responsible for delay or default caused by fire, riot, acts of God and war which are beyond its reasonable control. The affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

**17. NO THIRD PARTY BENEFICIARY**

The City and Rockwood are the only parties to this Agreement and 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.

**18. 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.

**19. AMENDMENTS**

The City and Rockwood may amend this Agreement at any time only by written amendment executed by the City and Rockwood. The City's Water Bureau Administrator, upon approval by City Council, is authorized to approve amendments for the City to this Agreement that do not increase the total contract amount above 25% of the original Agreement amount. Rockwood shall submit a written request to the City's Technical Contact/Project Manager prior to any amendments to the Agreement. Any amendment to the Agreement shall require the signature of both parties approving authorities.

**20. OWNERSHIP OF DOCUMENTS**

- A. The City and Rockwood shall jointly own any and all data, documents, plans copyrights, specifications, working papers, and any other materials transmitted to the City by Rockwood in connection with this Agreement.
- B. Rockwood upon request by the City shall provide the City copies of the materials referred to above, including any electronic files containing the materials.

**21. SEVERABILITY/SURVIVAL**

If any of the provisions contained in this IGA are held unconstitutional or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this IGA for any cause.

**22. CONFLICTS OF INTEREST**

No City Officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct, or indirect, in this Agreement or the proceeds thereof. No board of director member or employee of Rockwood during his or her tenure or for one year thereafter, shall have any direct financial interest in the Agreement or the proceeds thereof. No City Officer or employees who participated in the award of this agreement shall be employed by Rockwood during this Agreement.

**23. CONTRIBUTION**

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which Rockwood, is jointly liable with the City (or would be if joined in the Third Party Claim ), Rockwood shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the City in such proportion as is appropriate to reflect the relative fault of on the one hand and of the Rockwood on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of on the one hand and of the City on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Rockwood contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

**24. COUNTERPARTS**

This Agreement may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

**25. EFFECTIVE DATE AND DURATION**

Work shall commence on the effective date of this Agreement. The effective date of this Agreement shall be the earlier date of (1) July 1, 2017. The expiration date of this agreement shall be June 30, 2023.

**CITY OF PORTLAND****APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael Stuhr, P.E.  
Portland Water Bureau Administrator

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City of Portland  
City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ROCKWOOD WATER PEOPLE'S UTILITY DISTRICT**

\_\_\_\_\_  
Brian R. Stahl, General Manager  
Rockwood Water PUD

\_\_\_\_\_  
Date