

DRAFT
CITY OF PORTLAND AND CLEAN WATER SERVICES
PRETREATMENT PROGRAM IMPLEMENTATION AGREEMENT

This agreement is entered into pursuant to ORS 190.010 and ORS 454.165 between the City of Portland (Portland) and Clean Water Services (District). Portland is a municipal corporation of the State of Oregon and District is a county service district. This agreement is entered into for the purposes set forth below.

I. PURPOSE AND INTENT OF AGREEMENT

- A. To provide authority for Portland to administer its pretreatment program for industrial users located within the District that drain to Portland (Exhibits A, A1, A2, A3, A5);
- B. To provide authority for District to administer its pretreatment program for industrial users located within Portland that drain to District (Exhibits A, A4, A5);
- C. To ensure that Portland and District comply with existing and future federal and state pretreatment program requirements as well as with Portland and District industrial waste code requirements which are applicable to and binding on Portland and District;
- D. To provide authority for Portland to recover industrial waste program costs from industrial users located in District that discharge into Portland's wastewater treatment system;
- E. To provide authority for District to recover industrial pretreatment program costs from industrial users located in Portland that discharge into District's wastewater treatment system.

II. DEFINITIONS

A. Director

For Portland, Director means the Director of the Bureau of Environmental Services or designee. For District, Director means General Manager or designee.

B. Code

For Portland, Code means Chapters 17.34 and 17.36 of the Code of the City of Portland, as amended from time to time. The original is on file with the Auditor's Office of the City of Portland.

For District, Code means Ordinance No. 27 and Resolution and Order No. 09-1, as amended from time to time. The original is on file with District's General Counsel.

C. Industrial User

Industrial user means any user that discharges industrial waste to Portland's or District's wastewater treatment system.

D. Industrial Waste

Industrial waste means any liquid, solid, or gaseous substance, or combination thereof, resulting from or used in connection with any process of industry, manufacturing, commercial food processing, business, agriculture, trade or research, including but not limited to the development, recovering or processing of natural resources and leachate from landfills or other disposal sites.

III. PRETREATMENT PROGRAM RESPONSIBILITIES

A. Pretreatment Program Requirement

1. Portland owns and operates a wastewater collection, transport, and treatment system. District owns and operates a wastewater collection, transport, and treatment system.
2. Both Portland and District are required to implement and enforce pretreatment programs to control discharges from industrial users of their wastewater treatment systems pursuant to requirements set forth in their NPDES Waste Discharge Permits and the General Pretreatment Regulations (40 CFR Part 403).

B. Industrial User Survey Administration

In certain instances, industrial users located within one party's jurisdiction contribute industrial waste to the other party's wastewater treatment system. To ensure appropriate identification of all industrial users, District and Portland agree to the following:

1. District shall perform industrial user surveying in those areas of the District that drain to Portland's sewer system under normal circumstances. District shall:
 - a. Implement industrial user surveying procedures consistent with Portland's approved pretreatment program procedures.

- b. Notify Portland prior to connection of any potential industrial users, as defined by Portland's Code, which are required to have Industrial Wastewater Discharge Permits. District shall not allow such users to connect without specific authorization by Portland's Director.
 - c. Provide, as requested by Portland, a copy of District's Industrial User Survey of those areas of District that drain to Portland. At a minimum, District will provide to Portland an annual update on or before February 1st of each year for that portion of District discharging into Portland's sewer system.
 - d. Pay all costs which it incurs in implementing the requirements of this section.
 2. Portland shall perform industrial user surveying in those areas of Portland that drain to District's sewer system under normal circumstances. Portland shall:
 - a. Implement industrial user surveying procedures consistent with District's approved pretreatment program procedures.
 - b. Notify District prior to connection of any potential industrial users, as defined by District's Code, which are required to have Industrial Wastewater Discharge Permits. Portland shall not allow such users to connect without specific authorization by District's Director.
 - c. Provide, as requested by District, a copy of Portland's Industrial User Survey of those areas of Portland that drain to District. At a minimum, Portland will provide to District an annual update on or before February 1st of each year for that portion of Portland discharging to District's sewer system.
 - d. Pay all costs which it incurs in implementing the requirements of this section.

C. Code Authorization

1. District authorizes Portland to implement and enforce Portland's Code and discharge standards contained in Portland's Code for industrial users located in District that discharge to Portland's wastewater collection and treatment system under normal circumstances, regardless of which party's system actually receives the discharges.
2. Portland authorizes District to implement and enforce District's Code and discharge standards contained in District's Code for industrial users located in Portland that discharge to District's wastewater collection and treatment

system under normal circumstances, regardless of which party's system actually receives the discharges.

3. Each party will implement and enforce its own Code and discharge standards for industrial users located within its own jurisdiction that discharge to its own wastewater collection and treatment system under normal circumstances, regardless of which party's system actually receives the discharges.

D. Pretreatment Program Administration

1. Portland agrees to serve as District's agent to implement Portland's pretreatment program in the areas of District that discharge into Portland's wastewater treatment system under normal circumstances, regardless of which party's system actually receives the discharges. Portland agrees to perform technical and administrative duties necessary to implement and enforce Portland's Code for users located in such areas. Therefore, Portland shall:
 - a. Issue and administer permits or other discharge control mechanisms to all industrial users required by Portland to obtain a permit or discharge control mechanism.
 - b. Conduct inspections, sampling, and analyses to determine industrial user compliance.
 - c. Take all appropriate enforcement actions as outlined in Portland's approved enforcement response plan.
 - d. Take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass-through, or biosolids contamination.
 - e. Perform any other technical or administrative duties the parties deem appropriate.
 - f. Pay all costs it incurs in implementing and enforcing this section.
2. District agrees to serve as Portland's agent to implement District's pretreatment program in the areas of Portland that discharge into District's wastewater treatment system under normal circumstances, regardless of which party's system actually receives the discharges. District agrees to perform technical and administrative duties necessary to implement and enforce District's Code for users located in such areas. Therefore, District shall:

- a. Issue and administer permits or other discharge control mechanisms to all industrial users required by District to obtain a permit or discharge control mechanism.
 - b. Conduct inspections, sampling, and analyses to determine industrial user compliance.
 - c. Take all appropriate enforcement actions as outlined in District's approved enforcement response plan.
 - d. Take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass-through, or biosolids contamination.
 - e. Perform any other technical or administrative duties the parties deem appropriate.
 - f. Pay all costs it incurs in implementing and enforcing this section.
3. Each party will implement its own pretreatment program for industrial users located within its own jurisdiction that discharge to its own wastewater collection and treatment system under normal circumstances, regardless of which party's system actually receives the discharges.

E. Permit Fees

1. District authorizes Portland to recover pretreatment program administrative costs through permit fees or other charges from industrial users located in the District that discharge to Portland's wastewater treatment system under normal circumstances, regardless of which party's system actually receives the discharges. The fees and charges shall be based on those that Portland charges industrial users located in Portland.
2. Portland authorizes District to recover pretreatment program administrative costs through permit fees or other charges from industrial users located in Portland that discharge to District's wastewater treatment system under normal circumstances, regardless of which party's system actually receives the discharges. The fees and charges shall be based on those that District charges industrial users located in District.

F. Revisions and Amendments

1. The parties agree to periodically review and revise this agreement to ensure compliance with the federal Clean Water Act (42 U.S.C. 1251 et seq.) and the

rules and regulations issued thereunder, as necessary. At a minimum, the parties will review this agreement annually on or before February 1st.

2. If the authority of Portland to act as agent for District under this agreement is legally challenged by an industrial user, court of law, or otherwise, District will take whatever action is necessary to ensure the implementation and enforcement of Portland's Code on behalf of Portland and/or by amending this agreement to clarify Portland's authority. This agreement is in accord with provisions of ORS 190.010.
3. If the authority of District to act as agent for Portland under this agreement is legally challenged by an industrial user, court of law, or otherwise, Portland will take whatever action is necessary to ensure the implementation and enforcement of District's Code on behalf of the District and/or by amending this agreement to clarify the District's authority. This agreement is in accord with provisions of ORS 190.010.
4. The Directors for Portland and District may supplement this agreement to reflect changes to pretreatment program requirements or to clarify questions involving exercise of authority conferred under Section III of this agreement. The Directors for Portland and District may agree to update the exhibits in Section I.A of this agreement to reflect changing conditions in each party's sewer collection system. Supplements, clarifications and updates authorized by this section shall be in writing, and do not require formal approval by the City Council of Portland or District's Board of Directors.

IV. TERM OF AGREEMENT AND EFFECT

- A. This agreement shall be in effect upon the last date of signature of the parties and be in effect in perpetuity or until terminated by either party. Either party may terminate this agreement by giving the other party six months' written notice. After such notice is given, this agreement shall automatically terminate at the end of the six-month period. Either party may reopen negotiations of any or all terms of the agreement by giving the other party six months' written notice of its desire to renegotiate this agreement.
- B. This agreement supersedes all previous agreements between Portland and District relating to pretreatment provisions.

V. SEVERABILITY

In the event any of the provisions of this agreement are held to be impossible, invalid, or unenforceable, the remaining provisions shall be valid and binding upon the parties hereto.

VI. WAIVER

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185709

Approved as to form:

CITY OF PORTLAND

City Attorney

Commissioner-in-Charge

By: Auditor

Approved as to form:

CLEAN WATER SERVICES

General Counsel

General Manager

By:

One or more waivers by either party of any provision, condition, or covenant shall not be construed by the other party as a waiver or subsequent breach of same by the other party. This waiver provision shall not be construed to allow waiver of any obligation by any industrial user regulated by this agreement.

VII. INTERPRETATION

This agreement was drafted as a joint effort of Portland and the District. It, therefore, shall not be construed against either party, but shall be construed as if both parties had prepared it.

VIII. INDEMNIFICATION

A. Indemnification by Portland

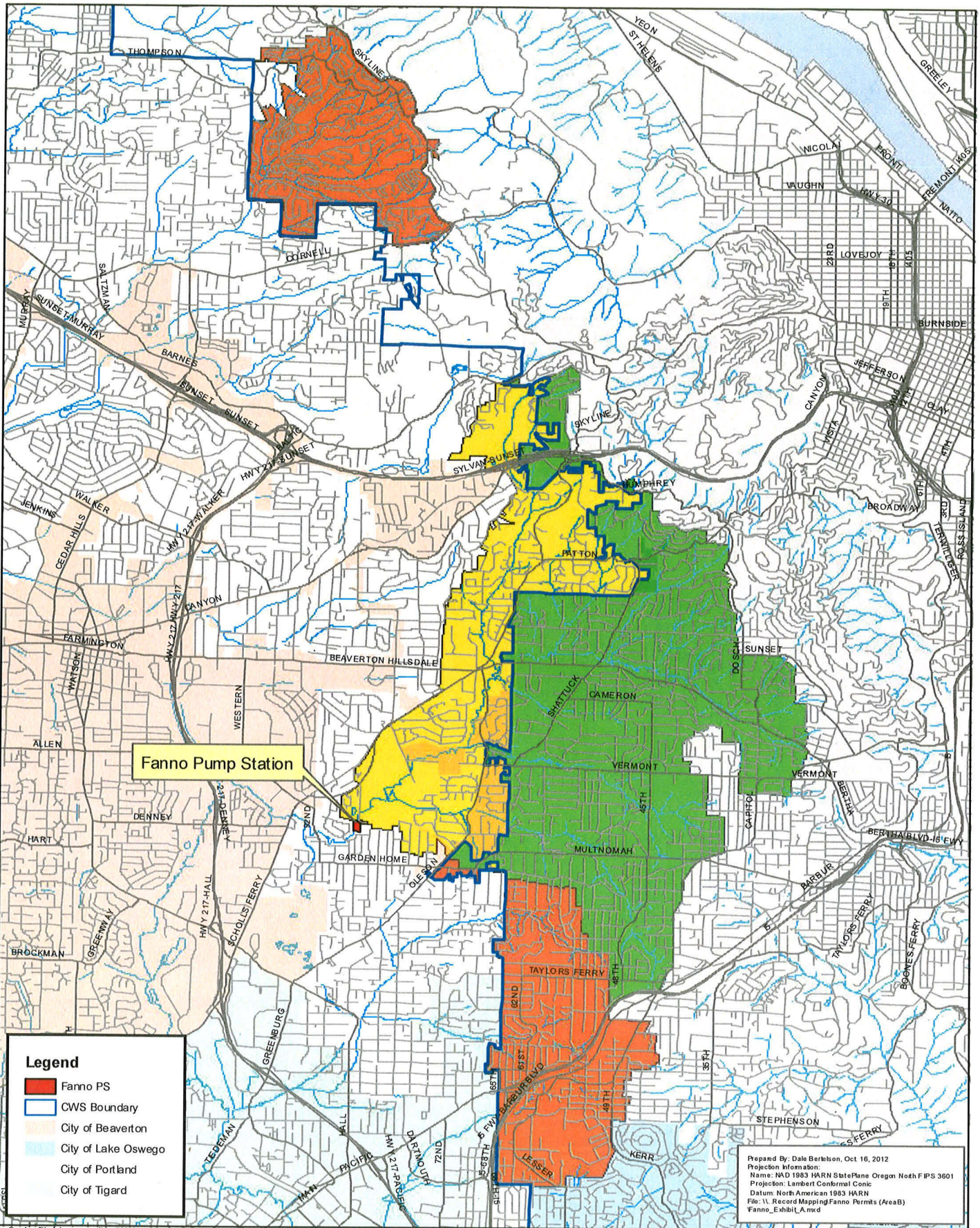
To the maximum extent permitted by law, Portland shall hold harmless District, its officers and employees and shall indemnify District, its officers and employees for any claims or damages to property or injury to persons or for any penalties or fines which may be occasioned in whole or in part by Portland's failure to fully perform the obligations undertaken by Portland in this agreement.

B. Indemnification by District

To the maximum extent permitted by law, District shall hold harmless Portland, its officers and employees and shall indemnify Portland, its officers and employees, for any claims or damages to property or injury to persons or for any penalties or fines which may be occasioned, in whole or in part, by District's failure to fully perform the obligations undertaken by District in this agreement.

IX. COUNTERPARTS AND EXECUTION

This agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. For the convenience of the parties, the execution pages of any executed counterpart may be detached and reattached to any other executed counterpart to form one or more documents that are fully executed. This agreement shall not be effective until all parties have executed this agreement or a counterpart of this agreement. Execution of this agreement may be accomplished by electronic means.



A Water Services Disclaimer regarding GIS data:
 This product and its associated data is for informational purposes only and was derived from several databases. It was not prepared for, and is not suitable for legal, engineering or surveying purposes. Users of this information should review or consult the primary data and information sources to ensure accuracy. Clean Water Services cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties for this product. Mainlines and service lateral locations are depicted using best available information but must be field verified before digging. Service laterals are marked in the field as "Unlocatable underground facilities" as defined in OR 95300 1-0010 (20). Easement data is not currently completed. Utilities-wide and should be used for general reference only. All sanitary or storm sewer data, with the exception of sanitary lines 24" and larger located within the city limits of Beaverton, Cornelius, Forest Grove, Hillsboro, Lake Oswego, Portland, Sherwood, Tigard or Tualatin need to be verified by contacting the individual city. Notification of any errors would be appreciated. Clean Water Services, Development Services, 2550 SW Hillsboro Highway, Hillsboro OR 97123, (503) 681-5100

Clean Water Services
 Our commitment is clear.

Exhibit A

1 in = 5,000 ft

Fanno Sub-Basins

- Area A
- Area B
- Area C