

**INTERGOVERNMENTAL AGREEMENT  
FOR THE  
DESIGN AND CONSTRUCTION OF PUBLIC SEWER – SW TERWILLIGER BLVD.**

Agreement No. \_\_\_\_\_

This Intergovernmental Agreement (IGA) is entered into by and between the City of Portland hereafter called "CITY" and the City of Lake Oswego hereafter called "AGENCY".

This IGA is authorized pursuant to ORS 190.110 and becomes effective upon full execution of this document.

**PURPOSE**

CITY and AGENCY desire to work together to design and construct 8" sewer extensions at two locations along the new SW Terwilliger Boulevard sanitary-only public sewer to serve areas of unincorporated Multnomah and Clackamas counties located within the AGENCY'S sanitary service area. Refer to Exhibit A.

By this IGA, CITY agrees to provide the necessary personnel, equipment and expertise to perform the services identified in the Statement of Work, and AGENCY agrees to reimburse CITY for costs associated with the provision of these services as described in this document.

Upon CITY acceptance, AGENCY will own and operate these sewers as a part of AGENCY'S sewer collection system.

**GENERAL PROVISIONS**

1. Effective Date and Duration. This IGA is effective from the date of execution by both parties. Unless earlier terminated or extended, this IGA shall expire either when the AGENCY accepts ownership of the new sewer or July, 2017, whichever occurs first.
2. Statement of Work. The scope of work, (the "Work") including the delivery schedule and budget for such Work, is identified in the STATEMENT OF WORK below. CITY agrees to perform the Work in accordance with the terms and conditions of this IGA.
3. Consideration. AGENCY agrees to reimburse CITY a sum not to exceed \$78,800 as allocated in the STATEMENT OF WORK.
4. Project Representatives. Each party has designated a project manager to be the formal representative for this project. A party's designated project manager named below may be changed without necessity of amendment of this IGA by that party's written notice to the other party with the name and contact information of the party's new project manager. All reports, notices, and other communications required under or relating to this IGA shall be directed to the appropriate individual.

**CITY**

Project Manager: John Houle  
 Organization: City of Portland, BES  
 Address: 1120 SW Fifth Ave. Suite 1000  
 Portland, OR 97204  
 Phone: (503) 823-7216  
 Email: john.houle@portlandoregon.gov

**AGENCY**

Project Manager: Erica Rooney, PE  
 Organization: City of Lake Oswego  
 Address: 380 A Avenue  
 Lake Oswego, OR 97034  
 Phone: (503) 635-0264  
 Email: erooney@ci.oswego.or.us

5. Subcontracts. CITY shall not enter into any additional subcontracts for work that is not already underway without obtaining prior written consent from AGENCY's Project Manager.

6. Amendments. The terms of this IGA shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
7. Reimbursement.
  - A. CITY shall submit itemized invoices to AGENCY for reimbursement of services performed; noting the project number, CITY and AGENCY contract numbers, and the allocation of costs in accordance with line items identified in the corresponding Work.
  - B. Non-itemized or incomplete billings shall be detained for payment processing until CITY has supplied correct information to AGENCY.
  - C. CITY shall submit to AGENCY a quarterly invoice for costs incurred during the preceding quarter period no later than 45 days following the end of that performance period.
  - D. Invoices shall be submitted in duplicate, identifying the CITY and AGENCY contract numbers to AGENCY's Project Manager.
  - E. AGENCY shall pay all approved invoices within 30 days.
  - F. The parties recognize and agree that some of the activities and obligations for reimbursement addressed in this IGA have or will commence or arise prior to the effective date of this IGA. Upon the IGA's effective date, the terms of this IGA shall retroactively apply to the performed activities.
8. Termination.
  - A. The parties may agree to an immediate termination of this IGA or at a time certain upon mutual written consent.
  - B. Either party may terminate this IGA effective not less than 30 days from delivery of written notice.
  - C. Either party may terminate this IGA effective not less than 10 days from written notice or at such other date as may be established by both parties under any of the following conditions:
    - 1) If funding is not obtained and continued at levels sufficient to allow for purchase of the specified services. When possible, and when agreed upon, the IGA may be modified to accommodate a reduction in funds.
    - 2) If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this IGA, or are no longer eligible for the funding proposed for payments authorized by this IGA.
  - D. Either party may terminate this IGA in the event of a breach by the other party. Prior to such termination, however, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the party has not cured the breach within 10 days or a longer period as granted in the cure notice, the party seeking compliance may terminate this IGA.
9. Funds Available and Authorized. Both parties certify that, as of this IGA's date of execution, sufficient funds are available and authorized for expenditure to finance the costs of this IGA within either party's current appropriation or limitation. Both parties understand and agree that payment of amounts under this IGA attributable to work performed after the last date of the current budget period is contingent on either party receiving appropriations, limitations, or other expenditure authority.

10. Captions. The captions or headings in this IGA are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this IGA.
11. Choice of Law and Venue. Oregon law shall govern this IGA and all rights, obligations and disputes arising out of the IGA. Venue for all disputes and litigation shall be in Multnomah County, Oregon.
12. 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.
13. Ownership of Work Product.
  - A. Data Products: All work products, including reports and research data in hard copy or electronic form that result from this IGA are the joint property of CITY and AGENCY.
  - B. Sewers and Manholes: All sewers and manholes shown in Exhibit A beginning from the first pipe joint outside of the manhole connection to these manholes (e.g. MH-11 & MH-14) located in SW Terwilliger Boulevard shall become the property of the AGENCY following CITY acceptance.
14. Access to Records. Both parties and their duly authorized representatives shall have access to the books, documents, papers, and records which are directly pertinent to this IGA for the purpose of making audits, examinations, excerpts, and transcripts.
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.
16. No Third Party Beneficiary. CITY and AGENCY are the only parties to this IGA and as such, are the only parties entitled to enforce its terms. Nothing contained in this IGA 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.
17. Indemnification. To the extent allowed under the Oregon Constitution and within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 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 for damage or injury to persons or property arising out of or resulting from the acts or omissions of the indemnitor, its employees, agents or representatives and sustained in connection with this IGA or the conditions created hereby.
18. Merger Clause. This IGA constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this IGA 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 IGA.



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## **STATEMENT OF WORK**

### **Scope of Work**

This Project will construct a new City sanitary-only public collector sewer on SW Terwilliger Boulevard between SW Northgate Avenue and SW Riverside Drive (State Highway 43). The sewer services both existing and future residents living in the Urban Sanitary Service areas of the Cities of Portland and Lake Oswego.

The following paragraphs outline the responsibilities of CITY and AGENCY staffs to fulfill their individual obligations under this IGA.

#### **1) AGENCY Responsibilities:**

- Reimburse CITY for work items and services described in this IGA.
- Assign a representative who will represent the AGENCY throughout the project.
- Provide Inspection services, as needed, for those portions of the Work that will be owned and operated by AGENCY. Coordinate these activities through the CITY Construction Manager.
- Attend and participate in weekly Project meetings, as needed.
- Provide timely communications and documentation to CITY.
- Upon notification by City, an AGENCY representative will meet with a City representative to determine whether or not the AGENCY's sewer improvements appear to meet the construction contract requirements and is ready for acceptance from the contractor.

#### **2) CITY Responsibilities:**

- Administer Construction Contract for the Project including all communications, negotiations, paperwork, and including change orders, field directives, etc.
- Manage and monitor the project scope, schedule, and budget for the Work covered by this IGA.
- Obtain approval from AGENCY Project manager for any changes affecting AGENCY's sewer improvements.
- Timely delivery of submittal information related to AGENCY's sewer improvements. Provide AGENCY staff 1-week to complete a review.
- Submit progress payment documentation to AGENCY Project Manager for review.
- Invite AGENCY staff to meetings with Contractor when discussing AGENCY facilities
- Perform testing and material evaluation for all completed Work. CITY Material Testing Laboratory (MTL) staff will provide these services.
- Perform Public Involvement and information outreach. Inform AGENCY Public Involvement staff of planned activities and noticing.
- Prior to acceptance of the AGENCY's sewer improvements, City shall notify AGENCY and arrange for a mutually acceptable meeting date and time for City and AGENCY representatives to determine whether or not the AGENCY's sewer improvements meet the construction contract requirements and the work is ready for acceptance from the contractor. Following concurrence by AGENCY that the AGENCY's sewer improvements are ready for acceptance from the contractor, City shall thereafter accept the AGENCY's sewer improvements from contractor.

#### **3) Schedule**

The following dates are key Project Milestones related to Work described in this IGA.

Milestone	Completion Date
Advertisement	June 2016
Issue Notice to Proceed	October 2016
Begin Construction	November 2016

Complete Construction	July 2017
City Acceptance	July 2017
Agency Acceptance	July 2017
Complete Two-year Warranty Work	July 2019

#### 4) Budget

AGENCY agrees to budget funds necessary to reimburse CITY for costs related to the design, contract administration, inspection and other related activities necessary to construct the portion of CITY sewer facilities the AGENCY will own in the future and as described in this IGA. The table below summarizes the estimated budgets for these work items.

Reimbursement Item	Estimated AGENCY Cost
(a) Design	\$7,900
(b) Provide Gravity Service to AGENCY Sanitary Service Area	\$6,450
(c) Construction Administration & Inspection	\$4,800
(d) Construction of AGENCY sewer	\$39,850
(e) Common Construction Items	\$9,800
<b>TOTAL</b>	<b>\$68,800</b>
 (f) AGENCY Contingency	 \$10,000

#### 5) Basis for Establishing and Allocating Reimbursement Costs

The SW Terwilliger Boulevard Sewer includes approximately 7,600 feet of sewer main. Of this total, the CITY designed and constructed for AGENCY ninety eight feet of new sewer pipe and manholes.

CITY will use actual project expenses-at project completion-to calculate AGENCY's reimbursement costs. AGENCY costs will be apportioned using one of the following two methods noted in the next paragraph and applied to tasks (a) through (e) as agreed to and as appropriate:

- Method 1) Apply a proration factor of 1.3% (98 feet / 7,600 feet)
- Method 2) Use Contract unit prices and installed quantities

All presented costs are subject to mutual revision following CITY and AGENCY agreement at project completion.

##### (a) Design-Method 1

The AGENCY's estimated reimbursement cost is \$7,900.

##### (b) Provide Gravity Service to AGENCY Sanitary Service Area-Method 2

To accommodate the AGENCY's need to serve with gravity sewer service properties within the AGENCY's sanitary service area the CITY shall deepen the sewer in SW Terwilliger Boulevard. This final depth is below that required to serve the remainder of the area. This increased depth increased the cost for constructing this portion of the AGENCY's sewer to serve this adjacent area. The AGENCY's estimated reimbursement cost for deepening sewer is \$6,450.

##### (c) Construction Administration and Inspection-Method 2

CITY staff will administer the construction contract for building the new sewer. Generally these costs are 10% of the project construction cost. The project is estimated to cost \$3.7M. The AGENCY's estimated reimbursement cost for construction administration and inspection is \$4,800.

**(d) Construction of AGENCY Sewer to serve Service Area-Method 2**

Bid items that could be needed to complete construction of the AGENCY's sewer include: Video Inspection of Sewers, Mainline; Pothole Excavation; Trench Dam; 8-inch pipe, PVC ASTM D3034 SDR 35 Bedding Type: D; Concrete Manholes, 48 inch, 0-8 feet Depth; Concrete Manholes 48 inch, Deeper than 8 feet. The AGENCY's estimated reimbursement cost for constructing the new sewers is \$39,850.

**(e) Common Construction Items-Method 1**

Common construction elements are those project items that are necessary to complete the project but not easily quantified. These items are generally Lump Sum work items in the project. Common items necessary to complete the work needed to construct the AGENCY's sewer include: Mobilization, temp protection and direction of traffic, traffic control supervisor, flaggers, erosion control, pollution control plan, HASP work plan, clearing and grubbing, engineered shoring, dewatering, temporary trench resurfacing, trench resurfacing, cold plan removal 0-4 in and 4-6 in, MHMAC, aggregate base, and striping is \$9,800.

**(f) Contingency-**It is recommended that the AGENCY set aside \$10,000 to cover unanticipated items encountered during the project related to the new sewer construction.

Approved payment from the AGENCY Reimbursement Budget will be separate and not comingled with or increase the reimbursement amounts paid to CITY described in (5)(a) through (e) above.

This IGA 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.

The parties agree that CITY and AGENCY may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

IGA No.: \_\_\_\_\_

IGA Title: \_\_\_\_\_

**CITY OF LAKE OSWEGO SIGNATURES:**

BY: \_\_\_\_\_  
Name: Scott Lazenby, City Manager

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_

Date: \_\_\_\_\_

Lake Oswego City Attorney's Office

**CITY OF PORTLAND SIGNATURES:**

By: \_\_\_\_\_  
Michael Jordan, Bureau Director

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Nick Fish, Commissioner

Date: \_\_\_\_\_

Approved:

By: \_\_\_\_\_  
Office of City Auditor

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Office of City Attorney

Date: \_\_\_\_\_