

RESOLUTION NO. 5206-14

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE INTERGOVERNMENTAL AGREEMENTS WITH TUALATIN VALLEY WATER DISTRICT AND THE CITY OF PORTLAND FOR AN EMERGENCY WATER SYSTEM INTERTIE

WHEREAS, Tualatin Valley Water District (TVWD) has sources of water from the City of Portland and the Joint Water Commission; and

WHEREAS, Portland has its source water from the Bull Run system and the Columbia South Shore Well Field; and

WHEREAS, the City of Tualatin is a wholesale water purchaser from Portland; and

WHEREAS, TVWD and Tualatin wish to design, construct and operate a 10 mgd emergency pump station to create an emergency water supply connection between TVWD's Joint Water Commission water source and its Metzger Service Area and Tualatin; and

WHEREAS, the 5 mgd that Tualatin can receive through this water connection can be used to supply water to the citizens of Tualatin during an emergency situation.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute the final design and construction Intergovernmental Agreements.

Section 2. This resolution is effective upon adoption.

Adopted by the City Council this 13th day of October, 2014.

CITY OF TUALATIN, OREGON

BY: 

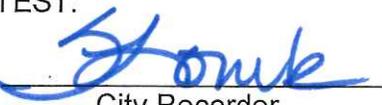
Mayor

APPROVED AS TO FORM

BY: 

City Attorney

ATTEST:

BY: 

City Recorder

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("IGA") is effective upon the day of its last signature, by and between Tualatin Valley Water District, a domestic water supply water district organized under ORS Chapter 264 ("TVWD"), the City of Portland, a municipal corporation ("Portland"), and the City of Tualatin, a municipal corporation ("Tualatin"). These entities may also be referred to herein as "Party" or "Parties".

RECITALS

1. The Parties are duly authorized and formed by City Charter and under the laws of the State of Oregon and are authorized to enter into agreements to provide for domestic water service.
2. TVWD presently has sources of water from the City of Portland and the Joint Water Commission ("JWC"). Portland has its source of water from the Bull Run system and the Columbia South Shore Well Field. Tualatin is a wholesale water purchaser from Portland.
3. TVWD and Tualatin wish to design and construct a 10 mgd emergency pump station to create an emergency water supply connection between TVWD's JWC water source and its Metzger Service Area and Tualatin.
4. TVWD believes that the station would best be located in an existing vault located near SW Beaverton Hillsdale Highway and SW Scholls Ferry Road. The vault currently houses piping and a meter owned by the City of Portland. The meter serves to measure water deliveries from the Portland system to the TVWD system under their Regional Water Sales Agreement.
5. The Parties acknowledge that the Portland meter has not for some time accurately measured the flow of water from Portland to TVWD and should be replaced with a revised piping design and a new meter. In addition, the Parties recognize that the proposed modifications to accommodate the temporary pumping facilities may affect the accuracy and calibration of the existing meter.
6. TVWD has solicited a proposal from consultants to provide services for design and construction of a 10 mgd emergency pump station that would connect to the water piping system at the Portland meter vault. In addition, at Portland's request TVWD has solicited a proposal from consultants to provide services for design and construction of modifications to provide for a more accurate metering facility. Sharing of the design costs has been delineated in a previous IGA that is being processed concurrent with this IGA. Appendix A provides a summary of the contracted costs for the engineering design services and service during construction, contractor bid cost and the allocation of cost to each Party of this IGA.

7. The Parties would be mutually benefited if the construction of TVWD's and Tualatin's pump station were coordinated with and proceeded at the same time as piping modifications to allow installation of a more accurate meter.

8. TVWD and Tualatin acknowledge they must have the City's permission to alter the piping in the vault.

9. The Parties therefore enter this agreement to participate in and jointly fund the construction of altered vault piping, temporary pumping facilities, and new meter facilities at the vault. It is currently anticipated that, at a minimum, the design will incorporate the installation of smaller pipe to hold the meter running parallel to the existing piping that will remain in the vault, but will be placed in an "out of service" mode. It is also expected that pumping facilities will involve the use of trailer mounted, engine driven temporary pumps, stored off-site, which shall be transported to the WCSL meter facility and connected using portable piping for operation if and when needed.

TERMS AND CONDITIONS

Now, therefore, the Parties agree as follows:

1. Recitals. The recitals above are incorporated by reference and made a part of this agreement.

2. Retention of Contractor. The plans and specifications prepared by the design consultant ("Contract Documents") shall incorporate the altered vault piping, temporary pumping facilities, and new meter facilities agreed upon by TVWD, Portland and Tualatin to attain their joint goals. TVWD has solicited bids to perform the work specified in the Contract Documents.

3. Implementation of Construction Contract.

- a. The construction cost for the TVWD/Tualatin construction and the Portland construction will be segregated by separate bid schedule or other method to clearly delineate that cost. Bids have been received and TVWD has entered into a contract with the lowest responsible bidder ("Contractor").
- b. The Parties agree that each shall pay a share of the Contractor's construction cost, with all shares adding to 100% of the costs. TVWD and Tualatin shall each pay 50 percent of the costs of all construction work related to the pump station and piping modifications required by the pump station. Appendix A delineates the total authorized amount of cost for each party, including a 10 percent construction

contingency. Portland shall pay the cost of construction work related to meter installation and piping modification required for meter installation. The authorized amount of cost for metering modification for Portland, including a 10 percent construction contingency, is also shown in Appendix A. The TVWD Project Manager will notify the Parties to this IGA if a change to the work is required and the increased cost amount to each Party.

- c. The Parties shall share other costs tied to both purposes, such as Consultant Services during construction based on percentages determined to be fair and equitable by TVWD's design consultant taking into account the parties to be benefitted by the installed work. Consultant services during construction will be separated from Contractor costs in invoices to the Parties.
- d. TVWD shall direct the Contractor and Consultant to invoice TVWD monthly for their work. TVWD will ensure that the monthly invoices identify each party's share of cost. TVWD will send a copy of the invoice to Portland and Tualatin. Within 30 days of receipt of an invoice from TVWD, Portland and Tualatin shall pay TVWD their share of the cost shown on the monthly invoice. TVWD shall pay the Contractor and Consultant the total monthly invoice amount. Tualatin and Portland will not pay the Contractor or Consultant directly.

TVWD shall submit monthly invoices to Portland electronically to wbaps@portlandoregon.gov. The invoice will contain Portland's IGA Number, Portland Bureau Name (Water Bureau), Portland's project manager's name and set out all items for payment including, but not limited to, TVWD's Construction Contractor's performance period, deliverable/work performed, the percentage of work successfully completed for the project, and the percentage of work still required with Portland's remaining funding available. At Portland's request, TVWD will provide any additional information requested by Portland via hard copy or by email. Portland 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 Portland 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.

Invoices submitted to Tualatin shall be submitted electronically to khofmann@ci.tualatin.or.us

- e. TVWD is the Agency managing the project and designates its Program Manager in Section 4, below. As Project Manager, TVWD will oversee the execution of all tasks, manage the construction contract, and ensure that all work at the Portland Meter Vault is complete by November 30, 2014. Time is of the essence. The TVWD Project Manager will communicate with the Project Managers from Portland and Tualatin to provide them with Project information and allow for their comment and meaningful input to TVWD so that the design and construction contract can be implemented in a timely and cost effective manner. TVWD shall provide project information, including material submittals, schedule information for site inspections, and draft O&M manuals, in addition to any other documentation requested by the Parties. Any delay, claim or cost resulting from failure by a Party to timely respond or act shall be allocated to that Party. If TVWD acts in a manner that attributes additional costs to a Party, the Party reserves all rights to dispute allocation of that cost to it through the dispute resolution procedures outlined in Section 10 (Breach, Default and Disputes).

4. Program and Project Managers. Stewart Davis of TVWD will be the project manager and responsible for all direction to the Contractor. Portland designates Stan VandeBergh as its project manager, and Tualatin designates Kaaren Hofmann as its project manager.

5. Compliance with Law. TVWD shall be solely responsible to comply with all statutes and rules regarding the contract with the Consultant and the Contractor.

6. Documents. TVWD shall provide Portland and Tualatin with a pdf copy of the executed Contract Documents together with any addenda that may be issued during the bid phase. These documents will be provided within 10 days following the effective date of this IGA. TVWD shall provide Portland and Tualatin with signed as-builts and final O&M manual upon completion of construction.

7. Indemnity. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300), each party agrees to indemnify, defend and hold the other parties harmless from any liability

claim or injury arising from that party's negligence in connection with the performance of this Agreement.

8. Contractor Indemnity. TVWD shall require its contractor to indemnify, defend, save and hold harmless TVWD, Portland, and Tualatin and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the Contractor or any of the Contractor's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the parties that parties shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the parties, be indemnified by the Contractor's subcontractors from and against any and all Claims.

9. Insurance. TVWD shall require the Contractor, prior to beginning any work, to maintain in full force and effect for the duration of the contract, and at the Contractor's expense, comprehensive general liability insurance to include bodily injury and property damage on a combined single limit per occurrence aggregate basis; automobile liability with a combined single limit coverage to include bodily injury and property damage; and other insurance in the amount of \$2,000,000 minimum or greater. The named insured on any policy shall be the Contractor, The Contractor shall name City of Portland, City of Tualatin and TVWD their elected appointed officials, officers, agents, employees and volunteers and Weston Investment Company (land owner where the meter vault resides by easement) as additional insureds. The policy shall be primary to and non-contributory with any insurance or self-insurance carried by the Parties and issued by a company authorized to do business in the State of Oregon. The Contractor shall provide TVWD written notice within 30 days of cancellation or material modification of the insurance contract at the addresses listed below. The Contractor shall provide certificates of insurance and additional insured policy endorsement to TVWD prior to commencement of any work under the contract. TVWD shall provide copies of the Contractor's insurance certificates to the City of Portland, and City of Tualatin Project Managers once approved as to form by their Attorney. The Contractor hired by TVWD shall be financially responsible for all pertinent deductibles, self-insured retention and or self-insurance used to satisfy these requirements.

10. Term. This Agreement shall terminate upon approval by all Parties of that final completion has been attained by the Contractor. This Agreement may otherwise be terminated by the Parties by mutual agreement. Any Party may terminate this Agreement upon its declaration that, after good faith negotiations with all other Parties, including the Contractor, it is unable or unwilling to continue the work they were interested in. Upon any such termination, each party shall each pay its respective share of the costs of work

completed prior to termination including actual cost associated with termination. The party terminating the Agreement shall be excused from payment for any work occurs after it terminates this Agreement.

11. Breach, Default and Disputes. If any party breaches this agreement, any nonbreaching party may seek all remedies available at law or equity upon giving thirty (30) days' written notice of the alleged breach. Upon notice of demand for dispute resolution, the Chief Executive Officer of TVWD, the Administrator of the Portland Water Bureau, and the City Manager of Tualatin shall, within 30 days of the notice requesting dispute resolution, or such later date as is mutually agreed by all parties, meet in an effort to resolve the matter. If within 30 days of the notice of dispute resolution, or a later date mutually agreed by all parties, the parties have been unable to resolve the dispute, the non-breaching party or parties may pursue all remedies, in the Circuit Court of the State of Oregon for the County of Washington. If the dispute is resolved, a written agreement memorializing the resolution will be executed.

12. Notices. Notices shall be written and sent by first class mail, postage prepaid, to the following addresses:

Stu Davis, P.E.
Tualatin Valley Water District
1850 SW 170th Avenue
Beaverton, OR 97006

Stan Vandeborgh, P.E.
City of Portland Water Bureau
1120 Southwest 5th Ave., #600
Portland, OR 97204

Kaaren Hofmann, P.E.
Engineering Manager
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062-7092

10. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon any and all successors and assigns of the Parties.

In witness hereof, the parties have executed this Intergovernmental Agreement on the last date set forth below.

[SIGNATURE PAGE TO FOLLOW]

TUALATIN VALLEY WATER DISTRICT

CITY OF PORTLAND

BY: _____
Mark Knudson,
Chief Executive Officer

BY: _____
David G. Shaff, Administrator
Portland Water Bureau

Dated: _____

Dated: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

District Counsel

City Attorney

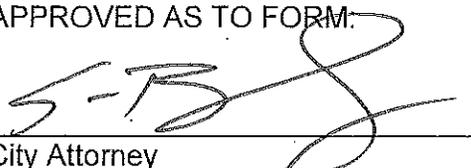
CITY OF TUALATIN

BY: 

Sherilyn Lombos,
City Manager

Dated: 10-13-2014

APPROVED AS TO FORM:



City Attorney

**APPENDIX A
EMERGENCY PUMP STATION
SUMMARY OF PROJECT COSTS**

Appendix A provides a summary of the contracted costs for the engineering design services and services during construction (SDC), contractor bid cost and the allocation of cost to the parties of this IGA. The Design IGA, a separate document, provides the methodology for sharing of the design costs for the project as in this IGA. The following tables summarize the cost of the various elements of the project.

SUMMARY OF ENGINEERING FEES FOR DESIGN & SDC:

TVWD/Tualatin:

Task Order No. 6 for Design	\$119,099.00
Task Order No. 6 for SDC	\$60,931.00
Task Order No. 6 Amendment 1, Additional Design	\$23,971.00
Total Design & SDC Fees	\$204,001.00

Portland:

Task Order No. 7 for Design	\$39,842.00
Task Order No.7 Amendment 1, Additional Design	\$9,764.00
Task Order No. 9 for SDC	\$49,242.00
Total Design & SDC Fees	\$98,848.00

Total Design & SDC Fees	\$302,849.00
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ALLOCATION OF ENGINEERING AND CONSTRUCTION COST:

Design IGA Services Fees:	Total	TVWD	Tualatin	Portland
TVWD/ Tualatin Design & SDC Fee	\$204,001.00	\$102,000.50	\$102,000.50	
Portland Design Fee	\$49,606.00			\$49,606.00
Subtotal Design & SDC Fee	\$253,607.00	\$102,000.50	\$102,000.50	\$49,606.00

Construction IGA Contractor Bid & SDC Fee:

Construction Bid	\$1,321,251.00	\$567,871.50	\$567,871.50	\$185,508.00
Portland SDC Fee	\$49,242.00			\$49,242.00
Total Bid and SDC Fees:	\$1,370,493.00	\$567,871.50	\$567,871.50	\$234,750.00
Construction Contingency (10%)	\$132,125.00	\$56,787.00	\$56,787.00	\$18,551.00
Total Authorized Cost (Including Construction cost, contingency, design & SDC fees)	\$1,756,225.00	\$726,659.00	\$726,659.00	\$302,907.00