

# **Willamette Water Supply System Commission**

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**Board Meeting**  
**Thursday, November 4, 2021**  
**12:00 PM**

**Microsoft Teams Meeting**

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# Willamette Water Supply System Commission

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**Willamette Water Supply System Commission  
Board Meeting Agenda  
Thursday, November 4, 2021 | 12:00 – 1:30 PM  
Microsoft Teams Meeting**

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If you wish to attend via conference call and need dial-in information, please contact [annette.rehms@tvwd.org](mailto:annette.rehms@tvwd.org) or call 971-222-5957 by 10:00 a.m. on November 4, 2021. If you wish to address the WWSS Board, please request the Public Comment Form and return it 48 hours prior to the day of the meeting. **All testimony is electronically recorded.**

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**EXECUTIVE SESSION – 11:30 AM**

*An executive session of the Board is called under ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection and ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed*

**REGULAR SESSION – 12:00 PM**

**CALL TO ORDER**

**1. GENERAL MANAGER'S REPORT – Dave Kraska**

*Brief presentation on current activities relative to the WWSS Commission*

**2. PUBLIC COMMENT**

*This time is set aside for persons wishing to address the Board on items on the Consent Agenda, as well as matters not on the agenda. Additional public comment will be invited on agenda items as they are presented. Each person is limited to five minutes unless an extension is granted by the Board. Should three or more people testify on the same topic, each person will be limited to three minutes.*

**3. CONSENT AGENDA**

*These items are considered to be routine and may be approved in one motion without separate discussion. Any Board member may request that an item be removed by motion for discussion and separate action. Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Board has approved those items which do not require discussion.*

- A. Approve the October 7, 2021, meeting minutes

**4. BUSINESS AGENDA**

- A. Adopt PLM\_1.3 Resolution of Need (fourth supplemental approval) – *Joelle Bennett*
- B. Adopt RES\_1.0 WCLUT Grabhorn Road Realignment IGA – *Dave Kraska*
- C. Adopt PLM\_4.4 WCLUT Construction IGA – *Mike Britch*

**5. INFORMATION ITEMS**

- A. Planned December Business Agenda Items – *Joelle Bennett*
- B. The next Board meeting is scheduled on December 2, 2021, via Microsoft Teams

**6. COMMUNICATIONS AND NON-AGENDA ITEMS**

- A. None scheduled

**ADJOURNMENT**

# Willamette Water Supply System Commission

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**GENERAL MANAGER'S REPORT**

**To:** WWSS Board of Commissioners  
**From:** David Kraska, P.E., WWSS General Manager  
**Date:** November 4, 2021  
**Subject:** Willamette Water Supply System General Manager's Report

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This report provides an overview of current work efforts in the development of the Willamette Water Supply System (WWSS) under the direction of this Commission, beginning with a Safety Minute presentation.

**1. Permitting and Communications Updates** – The WWSP permitting efforts remain very active. Attached to this General Manager's Report is a tabulation of the permits and approvals recently granted, and the status of those currently in process. Noteworthy this month is the full execution of the settlement agreement between the WWSS, City of Hillsboro, and Metro to secure a permanent easement through the Orenco Woods Nature Park, which is jointly owned by the City of Hillsboro and Metro. This concludes a year of negotiations by the parties on the terms and conditions for the easement. The agreed upon terms include:

- WWSP will have a one-year period to install the pipeline through the park, this period begins when site clearing commences
- WWSP will design, permit, and install onsite restoration that replaces the disturbed riparian and upland habitat, including trees, shrubs, and other plants
- Once restoration has occurred, WWSP will monitor for a five-year period following substantial completion to ensure that the restoration work is successful
- The WWSP will design, permit, and construct pedestrian travel improvements within the park including
  - 320 linear feet of gravel trail
  - 340 linear feet of boardwalk

These improvements will be completed within six months of substantial completion of the pipeline.

The Communications Team finished production of the second COVID-compliant video tour of the Raw Water Facilities (RWF\_1.0) project and presented it to the Willamette Intake Facilities (WIF) Commission at its Board meeting on the evening of October 25, 2021. This [video tour](#) highlights the replacement of the intake screens and the structural work which will increase the reliability and resiliency of the Willamette Intake Facilities. The video has been posted to the [OurReliableWater.org](http://OurReliableWater.org) website to inform the public of the important seismic resiliency work that is critical to meeting our mission of providing a reliable and resilient water supply to our customers. The video also contains a brief summary of the regional water supply planning and coordination efforts happening among the WIF Commission members (Tualatin Valley Water District and the cities of Hillsboro, Beaverton, Sherwood, Tigard, and Wilsonville).

**2. Design Status Updates** – Five pipeline projects remain in the final stages of the design effort and are proceeding according to plan. One of the five is preparing for bidding. All above-ground facilities design work is complete.

- 3. Construction Status Updates** – Attached to this General Manager's Report is a tabulation of the projects in construction and their current status; a few highlights are included here.
- Notice to Proceed was issued on the MPE\_1.2 Pipeline project. The contractor has mobilized field offices and begun early sitework and traffic control activities
  - Earthwork and paving activities were completed in the park area of the RWF\_1.0 Project, allowing Arrowhead Creek Drive and the park to be reopened to the public before the October 31, 2021, deadline
  - More than 50% of the 66-inch welded steel pipeline has now been installed on the PLW\_1.3 Project
- 4. Steel Market Exposure Update** – Though the price of steel remains high relative to cost from one year ago, current market data indicate that the rate of increase is slowing. The market price of hot rolled band, the material used to fabricate WWSS transmission pipe, increased by approximately 9.0 percent during quarter three 2021. Multiple indices for hot rolled band are beginning to show price stability, with a less than one percent change over the past month. Market forecasters project steel prices to decrease into 2022. Staff are continuing to monitor the steel market and are not recommending a change in construction procurement plans and strategies at this time.
- 5. Quarterly Financial Reports** – Task 4.d. of the Annual Work Plan requires the Managing Agency to prepare quarterly financial reports and provide them to the WWSS Board as part of the packet. Attached to this General Manager's report is the WWSS quarterly financial statement for the period ending September 30, 2021.

**Willamette Water Supply Program Permits and Approvals – Recent Actions and Status**

Date of Report: October 21, 2021

**Permits and Approvals Recently Granted**

Agency	Projects Involved	Permit or Approval Granted
Washington County	MPE_1.2	ROW Access (Whitford Staging Site)
City of Hillsboro and Metro	PLW_1.2	Orenco Woods Nature Park Settlement Agreement

**Permits and Approvals Submitted**

Agency	Projects Involved	Permit or Approval Submitted
Washington County	WTP_1.0	Facility Permit
City of Sherwood	WTP_1.0	Grading and Erosion Control Permit
DEQ	RES_1.0 & PLM_5.3	1200-C (combined permit for both projects)
Washington County	RES_1.0 & PLM_5.3	Grading Permits
TriMet	PLW_2.1	ROW License
City of Beaverton	MPE_1.2	Completeness Items for Land Use Permit for PFC Facility

**Permits and Approvals in Progress**

Agency	Projects Involved	Permit or Approval in Progress
Washington County	MPE_1.2	Grading permit
Washington County	MPE_1.3	Land Use Permit for Lancaster Staging Area
City of Sherwood	WTP_1.0	Final Site Plan Approval, Engineering Permit, Building Permits, Mechanical Permits

**Anticipated Approvals**

Agency	Projects Involved	Permit or Approval Anticipated
DEQ	MPE_1.2	1200-C Phase 2 for bulk of project (excluding staging areas and OR-217 work)
City of Beaverton	MPE_1.2	Temporary use permit for the Whitford School Staging Area

**Willamette Water Supply Program Projects Construction – Recent Status Update**

Date of Report: October 21, 2021

Project	Description	Progress Since Last Month
1. RWF_1.0	Raw Water Facilities project located at the Willamette River Water Treatment Plant	<ul style="list-style-type: none"> <li>- Continued backfill around vertical pipe in both tunnel shafts</li> <li>- Continued 66" pipe installation</li> <li>- Completed installation and backfill of electrical duct bank and vaults to Upper Site</li> <li>- Continued installation of 8" PW line and preparing for final testing and connection to existing CoW system</li> <li>- Completed finish grading and asphalt pathway through park area</li> <li>- Continued structural seismic modifications work on RWPS</li> <li>- Continued work on 24" bypass back to the caisson, PRV, orifice plate, and vault</li> <li>- Continued in-water work and installation of seismic retrofit of intake pipe</li> <li>- Began landscaping work at river pathway</li> </ul>
2. PLM_4.1	Finished water pipeline project being completed in partnership with Washington County's Highway 99 Crossing Pipeline and Tualatin Sherwood Road – Langer Farms Parkway to Borchers Drive	<ul style="list-style-type: none"> <li>- Mobilization and early site activities planning</li> <li>- WWSP submittals and RFIs</li> </ul>
3. PLM_5.1	Finished water pipeline project being completed in partnership with Washington County's Roy Rogers Road project	<ul style="list-style-type: none"> <li>- Cathodic protection system testing</li> <li>- Mainline disinfection</li> <li>- Tie-in to PLM_5.2</li> </ul>
4. PLW_1.3	Finished water pipeline project in South Hillsboro from SW Farmington Road to SE Blanton Street	<ul style="list-style-type: none"> <li>- Continue 66-inch open cut pipe installation (approx. 3400 LF installed)</li> <li>- Backfill North tunnel shaft and start open cut 66" pipe installation toward Kinnaman Rd.</li> <li>- Set vertical pipe in South shaft and backfill</li> <li>- Began retaining wall construction for Butternut Creek turnout vaults (near South shaft)</li> </ul>
5. MPE_1.1/ COB_1.1	Finished water pipeline project being completed in partnership with the City of Beaverton's SW Western Avenue project	<ul style="list-style-type: none"> <li>- Roadway demolition and tree clearing</li> <li>- Embankment grading for roadway and storm drainage</li> <li>- Joint utility trench construction</li> <li>- WWSP submittals and RFIs</li> </ul>
6. MPE_1.2/ COB_1.2	Finished water pipeline project in Beaverton from SW Scholls Ferry Road at Greenway to SW Allen Boulevard at Western Avenue	<ul style="list-style-type: none"> <li>- Submittals and RFIs</li> <li>- NTP issued October 14, 2021</li> <li>- Mobilization and trailer setup</li> <li>- Clearing, grubbing, and ESC near Hwy 217</li> </ul>



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## Safety Minute: Smoke Alarm Maintenance

WWSS Commission Board Meeting  
November 4, 2021

1

**JUST A LITTLE**  
*Reminder*

Daylight savings time ends  
Sunday, November 7, at 2:00 AM

**Remember to change the batteries in  
your smoke alarms**



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2

It takes about 3 minutes to go from this...



Willamett  
Our Reliable

3

TO THIS!



Willamett  
Our Reliable

4

## Recommended Smoke Alarm Maintenance

- Test your smoke alarms once a month
- Replace the batteries twice a year
- Replace the device every 10 years
- Regular vacuuming or dusting of your smoke alarms can help keep them working properly



Source: nfpa.org

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# Willamette Water Supply System Commission

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Willamette Water Supply System  
 For the annual budget period ending June 30, 2022  
 For the quarter ended September 30, 2021

<i>Activity for the Quarter</i>			<i>Unaudited</i>	<i>Annual</i>				
<i>Budget</i>	<i>Actual</i>	<i>Variance</i>	<i>Resources</i>	<i>Annual Budget</i>	<i>Budget To date</i>	<i>Actual</i>	<i>Variance</i>	<i>Remaining Budget</i>
\$ 348,166	\$ 99,927	(248,239)	Revenues					
\$ 35,153,472	\$ 12,697,757	(22,455,715)	Admin Services	\$ 1,392,665	\$ 348,166	\$ 99,927	(248,239)	\$ 1,292,738
\$ 35,501,639	\$ 12,797,684	(22,703,954)	Capital contributions	140,613,861	35,153,472	12,697,757	(22,455,715)	127,916,104
				142,006,526	35,501,638	12,797,684	(22,703,954)	129,208,842
			Beginning Fund Balance	-	-	169,399,044	(169,399,044)	(169,399,044)
<b>\$ 35,501,639</b>	<b>\$ 182,196,728</b>	<b>\$ (192,102,998)</b>	<b>Total Resources</b>	<b>\$ 142,006,526</b>	<b>\$ 35,501,638</b>	<b>\$ 182,196,728</b>	<b>\$ (192,102,998)</b>	<b>\$ (40,190,202)</b>
			Requirements					
\$ 316,416	\$ 102,505	\$ 213,911	Materials and Services	\$ 1,265,665	\$ 316,416	\$ 102,505	\$ 213,911	\$ 1,163,160
\$ 35,153,472	\$ 12,697,757	\$ 22,455,715	Capital Outlay	140,613,861	35,153,472	12,697,757	22,455,715	127,916,104
31,750		31,750	Contingency	127,000	31,750	-	31,750	127,000
\$ 35,501,639	\$ 12,800,262	\$ 22,701,376	Total Expenditures	142,006,526	35,501,639	12,800,262	22,701,376	129,206,264
			Ending Fund Balance	-	-	169,396,466	169,401,622	(169,396,466)
<b>\$ 35,501,639</b>	<b>\$ 182,196,728</b>	<b>\$ 192,102,998</b>	<b>Total Requirements</b>	<b>\$ 142,006,526</b>	<b>\$ 35,501,639</b>	<b>\$ 182,196,728</b>	<b>\$ 192,102,998</b>	<b>\$ (40,190,202)</b>

# Willamette Water Supply System Commission

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**DRAFT**

**Willamette Water Supply System Commission  
Board Meeting Minutes  
Thursday, October 7, 2021**

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**Commissioners present:**

City of Beaverton:	Marc San Soucie ( <i>alternate</i> )
City of Hillsboro:	David Judah
Tualatin Valley Water District (TVWD):	Jim Duggan

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**Committee Members present:**

City of Beaverton:	Chad Lynn David Winship
City of Hillsboro:	Niki Iverson Lee Lindsey Eric Hielema Jessica Dorsey
TVWD:	Carrie Pak

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**Managing Agency Staff present:**

WWSS Commission General Manager / Willamette Water Supply Program (WWSP) Director	Dave Kraska
TVWD General Counsel	Clark Balfour
WWSP Assistant Director	Joelle Bennett
WWSP Program Manager	Bill Van Derveer
WWSP Engineering and Construction Manager	Mike Britch
WWSP Permitting and Outreach Manager	Christina Walter
WWSP Finance Manager	Toby LaFrance
WWSS Commission Recorder / WWSP Administrative Assistant	Annette Rehms

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**Other Attendees present:**

TVWD Asset Management Division Manager	Matt Oglesby
TVWD Water Resources Division Manager	Joel Cary
TVWD Engineering Division Manager	Nick Augustus
City of Hillsboro-JWC Water Treatment Manager	Chris Wilson

**REGULAR SESSION – 12:00 PM****CALL TO ORDER**

Chairman Judah called the regular Willamette Water Supply System (WWSS) Commission meeting to order at 12:01 p.m.

**ROLL CALL**

Ms. Rehms administered the roll call and noted attendance.

## 1. GENERAL MANAGER'S REPORT

Mr. Kraska presented a safety minute on the importance of cleaning your cell phone. *(presentation on file)*  
 The General Manager's report included permitting and communications, design, construction, and steel market exposure updates as well as the delivery of the 2021 WWSS Audit Planning and Engagement Letters.

## 2. PUBLIC COMMENT

There were no public comments.

## 3. CONSENT AGENDA

- A. Approve the September 2, 2021, meeting minutes.

Motion was made by San Soucie, seconded by Duggan, to approve the Consent Agenda as presented. The motion passed unanimously with San Soucie, Duggan, and Judah voting in favor.

## 4. BUSINESS AGENDA

- A. Adopt MPE\_1.3 Resolution of Need – *Joelle Bennett*

Ms. Bennett described the project location and reported that the project has progressed the design of this pipeline section to enable identification of property requirements for construction and long-term operation and maintenance of the pipeline. She explained the proposed resolution enables the WWSS Commission's agents, including the WWSP team, to begin negotiating with respective property interest holders. Today's proposed resolution defines the needs for a temporary easement on a specific property where the project's construction staging area will be located. Estimated costs are included in the baseline budget. *(presentation on file)*

Motion was made by San Soucie, seconded by Duggan, to adopt Resolution No. WWSS-23-21 declaring public necessity to acquire property interests over, upon, under, and through real property for pipeline section MPE\_1.3 for the Willamette Water Supply System. The motion passed unanimously with San Soucie, Duggan and Judah voting in favor.

- B. Adopt PLM\_1.3 Resolution of Need (third supplemental approval) – *Joelle Bennett*

Ms. Bennett described the project location and reported that the project has progressed to the point where additional property requirements are known for construction as well as the long-term operation and maintenance of the pipeline. She explained the proposed resolution enables the WWSS Commission's agents, including the WWSP team, to begin negotiation with respective property interest holders, and authorizes the acquisition of the property interests by eminent domain, to the extent negotiations fail. Today's proposed resolution updates the declared real property needs for the project on two properties. Estimated costs are included in the baseline budget. *(presentation on file)*

Motion was made by Duggan, seconded by San Soucie, to adopt Resolution WWSS-24-21 declaring public necessity to acquire property interests over, upon, under, and through real property for pipeline section PLM\_1.3 for the Willamette Water Supply System. The motion passed unanimously with San Soucie, Duggan and Judah voting in favor.



C. Adopt WCLUT Master Coordination IGA Amendment 1 – *Dave Kraska*

Mr. Kraska provided a background overview of the Washington County Land Use and Transportation (WCLUT) Master Coordination IGA, stating that the IGA governs the overall cooperation with WCLUT on several projects including: PLW\_1.2; PLM\_4.1, 4.2 and 4.4; and PLM\_5.1. Today's proposed Amendment One corrects a typographical error found in the original IGA, updates the maximum mobilization fee from 8.5% to 10%, and adds a new term conferring eminent domain authority to WCLUT for the WWSS property needs on partnered projects. (*presentation on file*)

In response to questions, staff said significant effort in collaboration with Washington County has been put into traffic control plans, including the use of temporary signals at the county's direction.

Motion was made by Duggan, seconded by San Soucie, to adopt Resolution WWSS-25-21 approving Amendment One to the Intergovernmental Agreement between Washington County and the Willamette Water System Commission joint design and joint construction of transportation improvements and water infrastructure projects for Tualatin-Sherwood Road, Roy Rogers Road, and Cornelius Pass Road. The motion passed unanimously with San Soucie, Duggan and Judah voting in favor.

## 5. INFORMATION ITEMS

A. Planned November Business Agenda Items – *Joelle Bennett*

Ms. Bennett presented information on business agenda items planned for the November 4, 2021, WWSS Commission Board meeting. She noted that the "Approvals and Procurement Forecast" that has been previously attached to the General Manager's Report will now be attached to the monthly Planned Business Agenda Staff Report.

Staff anticipates recommending approval of:

1. Adopt PLM\_1.3 Resolution of Need (fourth supplemental approval)
2. Adopt RES\_1.0 WCLUT Grabhorn Road Realignment IGA
3. Adopt PLM\_4.4 WCLUT Roy Rogers Road Construction IGA

B. The next Board meeting is scheduled on November 4, 2021, 12:00 PM via Microsoft Teams.

## 6. COMMUNICATIONS AND NON-AGENDA ITEMS

A. None scheduled.

## ADJOURNMENT

There being no further business, Chairman Judah adjourned the meeting at 12:23 p.m.

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David Judah, Chair

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James Duggan, Vice Chair

# Willamette Water Supply System Commission

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**STAFF REPORT**

**To:** Board of Commissioners

**From:** Joelle Bennett, P.E., WWSP Assistant Program Director

**Date:** November 4, 2021

**Subject:** Supplemental Resolution Declaring Public Necessity to Acquire Property Interests Over, Upon, Under, and Through Real Property for Pipeline Section PLM\_1.3 for the Willamette Water Supply System

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**Requested Board Action:**

Consider adopting a resolution declaring public necessity to acquire property interests over, upon, under, and through real property for pipeline section PLM\_1.3 for the Willamette Water Supply System (WWSS).

**Key Concepts:**

The WWSS includes a section of pipeline generally along SW Kinsman Road, SW Boeckman Road, SW 95<sup>th</sup> Avenue, and SW Ridder Roads, referred to as PLM\_1.3.

- The Willamette Water Supply Program (WWSP) has progressed the design of this pipeline section to enable identification of property requirements for construction and long-term operation and maintenance of the pipeline.
- After consideration of various alignments and alternatives, the identified route will be located in a manner that will be most compatible with the greatest public good and the least injury to private property owners.
- This supplemental resolution declares the public need for additional property interests and enables the WWSS Commission's agents, including the WWSP team, to begin negotiating with respective property interest holders. The preceding resolutions declaring property needs for PLM\_1.3 were adopted on May 6, August 5, September 2, and October 7, 2021.

**Background:**

The WWSS includes Pipeline Section PLM\_1.3, a section of pipeline along SW Kinsman Road, SW Boeckman Road, SW 95<sup>th</sup> Avenue, and SW Ridder Roads. The PLM\_1.3 project is located within the City of Wilsonville. The project area is shown in the attached map. The pipeline will be 66-inch diameter welded steel pipe.

The WWSP has progressed the design of this pipeline section to enable identification of property requirements for construction and long-term operation and maintenance of the pipeline. The PLM\_1.3 pipeline alignment requires permanent and temporary easements to fulfill WWSP standard construction work zone requirements.

This resolution declares the real property need for a temporary construction staging area.

Resolution Declaring Public Necessity to Acquire Property Interests for WWSP Pipeline Section PLM\_1.3

November 4, 2021

Page 2 of 3

#### Resolution Summary

The WWSS Commission has authority to acquire real property for the WWSS. The pipeline section PLM\_1.3 requires the acquisition of temporary and permanent easements on private property. The PLM\_1.3 pipeline alignment was selected through an extensive alternatives evaluation, and the preferred location was selected based on the best interests of the public and the least injury to private property owners. The resolution enables the initiation of the property acquisition process, including negotiations with interest holders, and also authorizes the acquisition of the property interests by eminent domain, to the extent negotiations fail.

#### **Budget Impact:**

The WWSP real estate team has completed an estimate that represents, in the professional judgment of the real estate team, the budget-level cost required to acquire the easements. Funds for purchase of the easements described in the resolution are included in the WWSP baseline budget.

#### **Staff Contact Information:**

Dave Kraska, P.E., WWSS General Manager, 503-941-4561, david.kraska@tvwd.org

Joelle Bennett, P.E., WWSP Assistant Program Director, 503-941-4577, joelle.bennett@tvwd.org

#### **Attachments:**

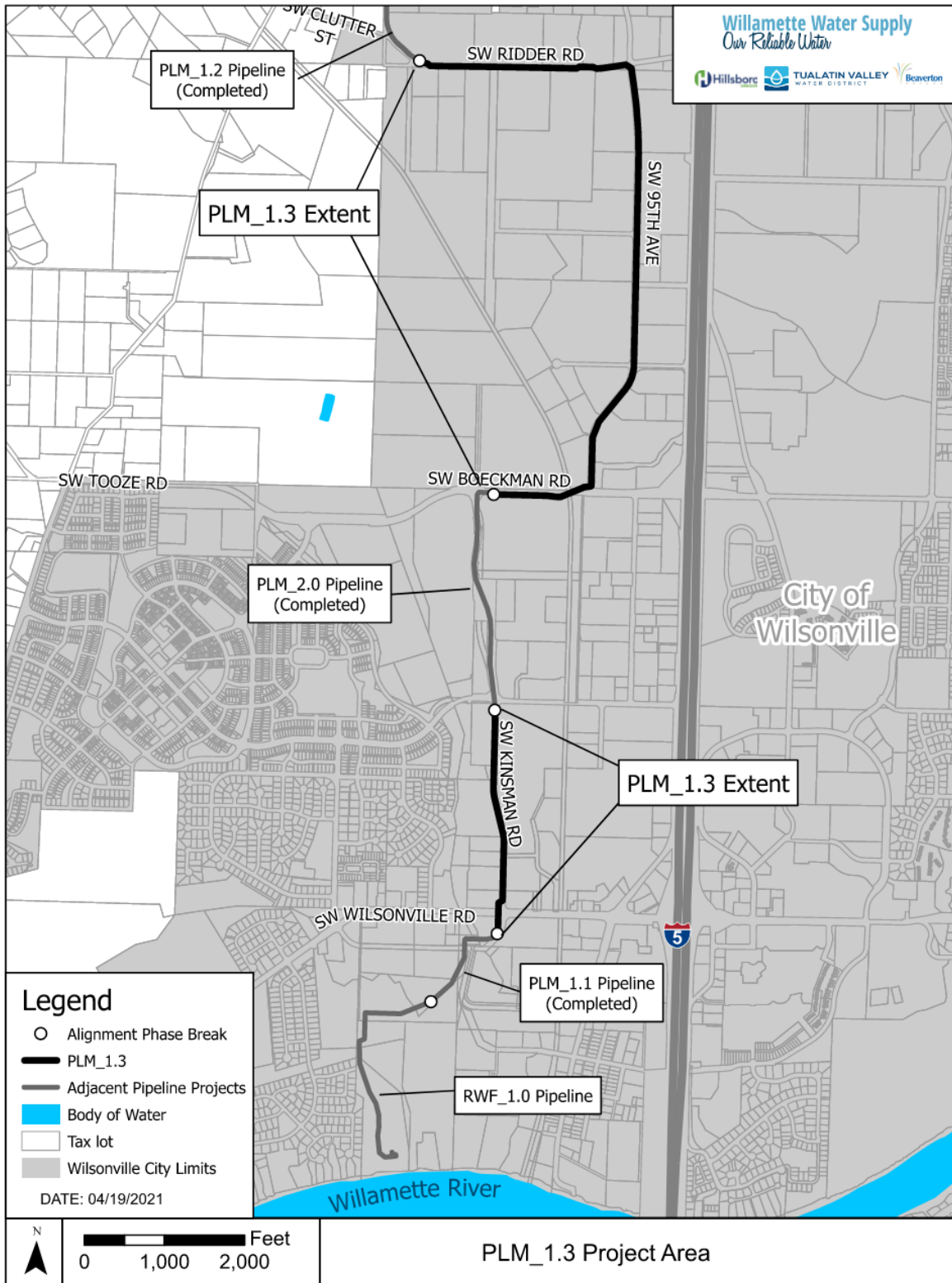
- Project area map
- Proposed Resolution
- Exhibit 1: Property Interests (including Exhibit A Legal Descriptions and Exhibit B Acquisition Maps)

Resolution Declaring Public Necessity to Acquire Property Interests for WWSP Pipeline Section PLM\_1.3

November 4, 2021

Page 3 of 3

Project area map:



# Willamette Water Supply System Commission

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**RESOLUTION NO. WWSS-26-21**

RESOLUTION DECLARING PUBLIC NECESSITY TO ACQUIRE PROPERTY INTERESTS OVER, UPON, UNDER AND THROUGH REAL PROPERTY FOR PIPELINE SECTION PLM\_1.3 FOR THE WILLAMETTE WATER SUPPLY SYSTEM.

WHEREAS, the above-entitled matter came before the Willamette Water Supply System Commission (WWSS Commission) at its regular meeting on November 4, 2021; and,

WHEREAS, the Willamette Water Supply System Intergovernmental Agreement (Agreement) between Tualatin Valley Water District (TVWD), the City of Hillsboro (Hillsboro), and the City of Beaverton (Beaverton) (collectively, Members) created the WWSS Commission, an ORS Chapter 190 intergovernmental entity, effective July 1, 2019, to exercise the powers and duties set forth in the Agreement; and,

WHEREAS, pursuant to the Agreement, TVWD has been designated as the Managing Agency of the WWSS Commission; and,

WHEREAS, the Willamette Water Supply System (WWSS) includes, but is not limited to, an expanded and improved water intake on the Willamette River in the City of Wilsonville currently owned by TVWD and the City of Wilsonville, along with a new raw water pipeline, potable water treatment plant, finished water pipelines, pumping, storage, and other necessary water system facilities to enable the WWSS to utilize existing water rights to provide water system ownership and reliability to the Members' water system users; and,

WHEREAS, the WWSS Commission has been delegated authority by its Members under the Agreement and ORS Chapter 190 pursuant to City Charters, ORS 223.005 to 223.105, ORS 264.240 and Oregon Revised Statutes Chapter 35 to acquire real property by purchase or through eminent domain proceedings; and,

WHEREAS, the WWSS Commissioners determine, consistent with the powers and purposes of the WWSS Commission, that it is necessary for the economic well-being, public health, safety and welfare of the WWSS Commission and the Members' water system users, to acquire fee title to certain real property, as well as necessary rights-of-way, easements, and other property interests, in order to design, locate, construct, operate, and implement the WWSS; and,

WHEREAS, after investigation of various routes for a water pipeline and related water system facilities, the WWSS Commission has determined that certain property interests are necessary for the construction, location, and operation of the WWSS, and in particular, pipeline section PLM\_1.3, and that such use is planned and located in a manner that is most compatible with the greatest public benefit and the least injury to private property owners; and,

WHEREAS, such property interests are preliminarily described on Exhibit A and depicted for illustration purposes only on Exhibit B attached hereto and incorporated by reference, with final legal descriptions and easement documents to be determined by TVWD staff, including the Willamette Water

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Supply Program (WWSP) and its consultants, as the Managing Agency and on behalf of the WWSS Commission, to be reasonably necessary to accommodate the design and operation of the WWSS (the Easement Interests); and,

WHEREAS, the WWSS Commission finds that declaration by resolution to acquire the Easement Interests for the WWSS is necessary and being so advised.

NOW, THEREFORE, BE IT RESOLVED BY THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION THAT:

Section 1: The above recitals shall form an integral part of this resolution and shall have the same force and effect as if fully stated herein.

Section 2: It is necessary for the preservation of economic well-being, public health, safety and welfare of the public served by the Members and the WWSS that the WWSS Commission commence the acquisition process for the Easement Interests through exercise of the power of eminent domain.

Section 3: TVWD staff, including the WWSP, and counsel are authorized to retain real estate appraisers, negotiators, and other consultants, with said appraisals to be prepared under the auspices of WWSS Commission counsel, for initiation of proceedings as described below.

Section 4: TVWD staff, including WWSP, consultants, and counsel, are authorized to negotiate in good faith necessary agreements to acquire the Easement Interests on behalf of and in the name of the WWSS Commission and to pay just compensation and applicable compensable damages in accordance with applicable law without necessity of further approval by the WWSS Commission.

Section 5: TVWD staff, including WWSP, and counsel, are authorized to file complaints in condemnation, on behalf of and in the name of the WWSS Commission, and to take other steps as they determine necessary as the Managing Agency, and to prosecute to final determination such actions to acquire title to the Easement Interests if negotiations fail.

Section 6: Upon the trial of any suit or action instituted to acquire the Easement Interests, counsel acting for and on behalf of the WWSS Commission are authorized to make such stipulation, agreement or admission as in their judgment may be for the best interest of the WWSS Commission and to take possession of the Easement Interests at such time as appropriate in their judgment without necessity of further WWSS Commission approval.

Approved and adopted at a regular meeting held on the 4<sup>th</sup> day of November 2021.

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David Judah, Chair

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James Duggan, Vice Chair



## Exhibit A

Willamette Water Supply  
October 22, 2021

ECT REBCO PROPERTIES LLC  
BET REBCO PROPERTIES LLC  
Portion of 31W11A 00800

### Temporary Construction Easement

A tract of land in the Northeast One-Quarter of Section 11, Township 3 South, Range 1 West, said tract being a portion of that property conveyed to ECT REBCO PROPERTIES LLC, an Oregon limited liability company, as to an undivided 50% interest, and BET REBCO PROPERTIES LLC, an Oregon limited liability company, as to an undivided 50% interest, each as tenants in common and described as Parcels I & II in Document Number 2021-057079, Clackamas County Deed Records; said tract being described as follows:

**Commencing** at a 5/8" Iron Rod with yellow plastic cap marked "PLS 1332" in a monument box, set in PS-25910, Clackamas County Survey Records, at the centerline of 95<sup>th</sup> Avenue at the centerline-centerline intersection of 95<sup>th</sup> Avenue and Freeman Court; thence along said centerline of 95<sup>th</sup> Avenue, South 01°18'38" West a distance of 236.87 feet; thence leaving said centerline, South 88°41'22" East a distance of 31.00 feet to a point on the East right of way line of said 95<sup>th</sup> Avenue and the **Point of Beginning**; thence along said East right of way line, South 01°18'38" West a distance of 40.00 feet; thence leaving said East right of way line, South 88°39'53" East a distance of 245.48 feet; thence North 50°12'20" East a distance of 35.14 feet; thence North 01°33'12" East a distance of 224.31 feet; thence North 88°46'16" West a distance of 257.91 feet; thence South 01°18'38" West a distance of 206.94 feet; thence North 88°39'53" West a distance of 15.00 feet to the **Point of Beginning**.

Bearings and distances are based on grid, Oregon State Plane Coordinate System of 1983, North Zone.

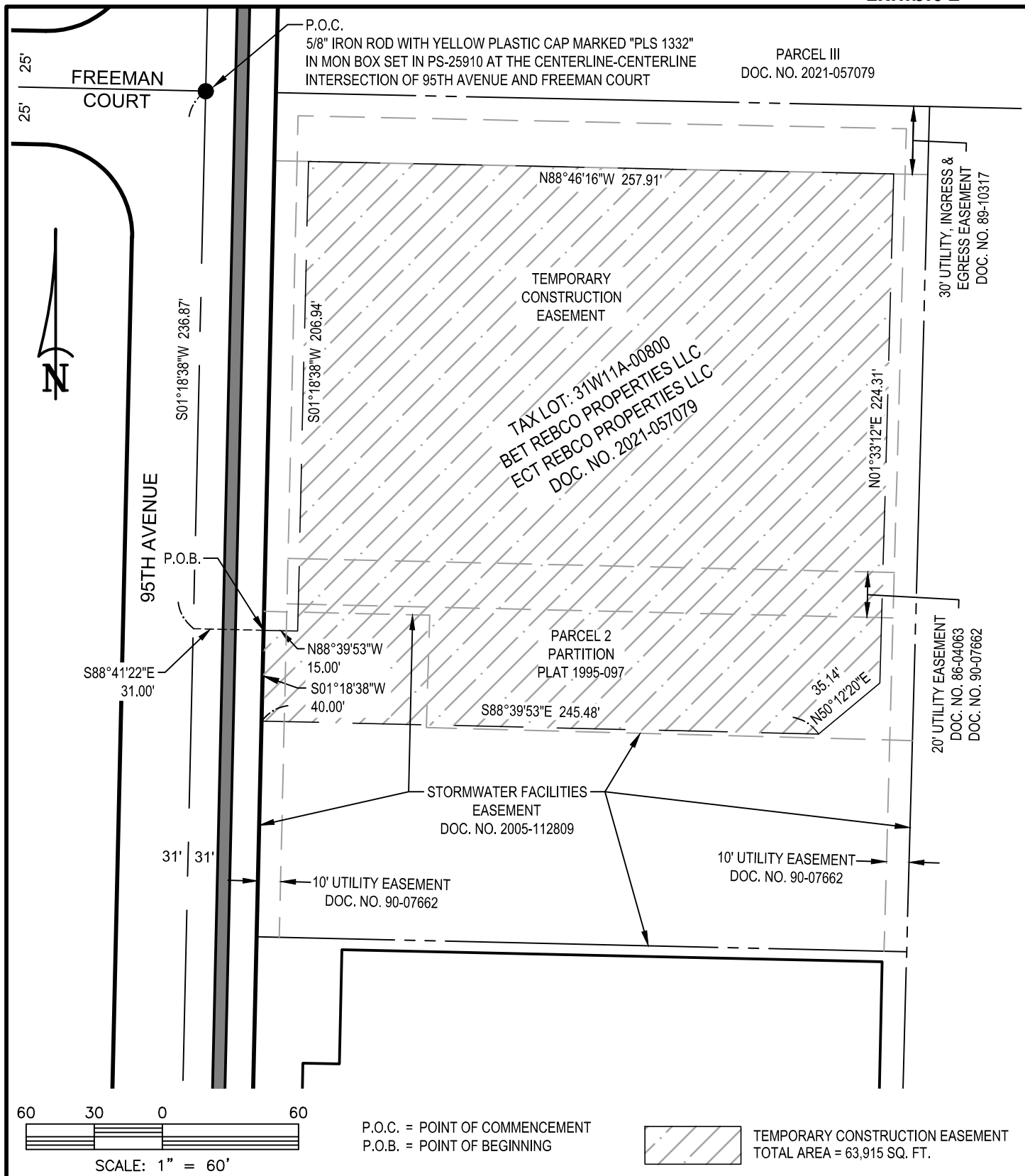
This tract of land contains 63,915 square feet, more or less.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

Digitally Signed  
2021.10.22 15:46:29-07'00'

OREGON  
JANUARY 12, 2002  
JON M. YAMASHITA  
53760LS

RENEWS 6/30/2022



**Willamette Water Supply**  
*Our Reliable Water*  
 WILLAMETTE WATER SUPPLY PROGRAM  
 1850 SW 170th Avenue  
 Beaverton, Oregon 97003  
 Phone: (503) 941-4563

**TEMPORARY CONSTRUCTION EASEMENT**  
 NE1/4 S11 T3S R1W - TAX LOT 800  
 PAGE 1 OF 1

DATE 10/22/2021	DRAWN BY DAC	CHECKED BY JMY
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**Otak**  
 808 SW 3rd Ave., Ste. 800  
 Portland, Oregon 97204  
 Phone: (503) 287-6825  
 www.otak.com  
 project: 18341

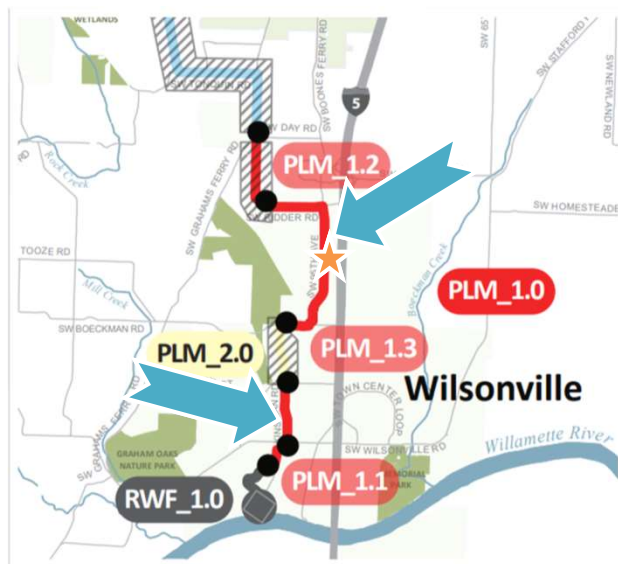
# Willamette Water Supply *Our Reliable Water*

## 4.A. Approve PLM\_1.3 Resolution of Need (fourth supplemental approval) – Joelle Bennett

WWSS Commission Board Meeting  
November 4, 2021

1

### PLM\_1.3 Wilsonville Road to Garden Acres Road Project



2

**QUESTIONS?**

Willamette Water Supply  
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3

#### 4.A. Requested Board Action

Consider adopting Resolution No. WWSS 26-21 declaring public necessity to acquire property interests over, upon, under, and through real property for pipeline section PLM\_1.3 for the Willamette Water Supply System (WWSS).

Willamette Water Supply  
*Our Reliable Water*

4

**STAFF REPORT**

**To:** Board of Commissioners

**From:** Mike Britch, P.E., WWSP Engineering and Construction Manager

**Date:** November 4, 2021

**Subject:** Approve an Intergovernmental Agreement between Washington County and the Willamette Water Supply System Future Grabhorn Road/Stonecreek Drive Realignment

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**Requested Action:**

Consider adopting a resolution approving an Intergovernmental Agreement between Washington County and the Willamette Water Supply System for the Future Grabhorn Road/Stonecreek Drive Realignment.

**Key Concepts:**

- The Willamette Water Supply Program (WWSP) has strategically partnered with Washington County Land Use and Transportation (WCLUT) to deliver coordinated pipeline and roadway projects at various locations in the region.
- The Willamette Water Supply System (WWSS) Commission resolved to continue the WWSP partnership with WCLUT through a Master Project Coordination Intergovernmental Agreement (Partnering IGA), in January 2020.
- WCLUT is planning to realign Grabhorn Road adjacent to the WWSS reservoirs (RES\_1.0) project site, onto property owned by the WWSS Commission.
- Although not a pipeline/roadway partnership project, entering into the agreement benefits both parties by coordinating future projects and their operation in a constrained area.

**Background:**

Establishing effective partnerships has been an objective for the WWSP since its inception. With the support of the WWSS partner agencies, WWSP has established a strong partnership with WCLUT, allowing for the design and construction of multiple pipeline projects in conjunction with WCLUT roadway projects.

An additional project partnership has been identified by WCLUT and WWSP at the intersection of SW Grabhorn Road and SW Stonecreek Drive, adjacent to the RES\_1.0 site. A future roadway project is planned at this intersection to realign Grabhorn Road, and this realignment will be located on property owned by the WWSS Commission. Both WCLUT and WWSS Commission recognize that coordinating now for the use of public right of way and WWSS Commission-owned property, will support the success of both agency's projects. Additionally, the agreement satisfies condition of approval IV.A. in the SU/D Approval (County casefile no. 18-435-SU/D) related to WWSS granting right of way to the County for the Grabhorn/Stonecreek roadway realignment.

Intergovernmental Agreement between Washington County and the Willamette Water Supply System  
Future Grabhorn Road/Stonecreek Drive Realignment  
November 4, 2021  
Page 2 of 3

The terms of the agreement allow for the following:

- WCLUT will perform a feasibility study to define the road realignment and include WWSP in design reviews, both for the SW Grabhorn Road and SW Stonecreek Drive intersection as well as for the SW Grabhorn Road s-curves south of that intersection
- Defined schedule, allowing WWSP to utilize the staging area as planned
- WWSP can leave the staging area site without returning it to pre-existing grades, and engineered fill placed by WWSP can be utilized by WCLUT as road fill
- Establishes the location of the waterline facilities in coordination with the planned County roadway realignment
- WWSS Commission will grant right of way to the County for the Grabhorn/Stonecreek realignment
- The WWSS Commission will petition for vacation and to take possession of the unused portions of existing right of way at Grabhorn/Stonecreek

The term of this agreement is ten years or until completion of the commitments, unless mutually agreed to by both parties in writing. The agreement can be extended for periods of up to one year with no limit on the number of extensions.

**Budget Impact:**

There is no budgetary impact to WWSS from adopting the Agreement.

**Staff Contact Information:**

Dave Kraska, P.E., WWSS General Manager, 503-941-4561, david.kraska@tvwd.org

Mike Britch, P.E., WWSP Engineering and Construction Manager, 503-941-4565, mike.britch@tvwd.org

**Attachments:**

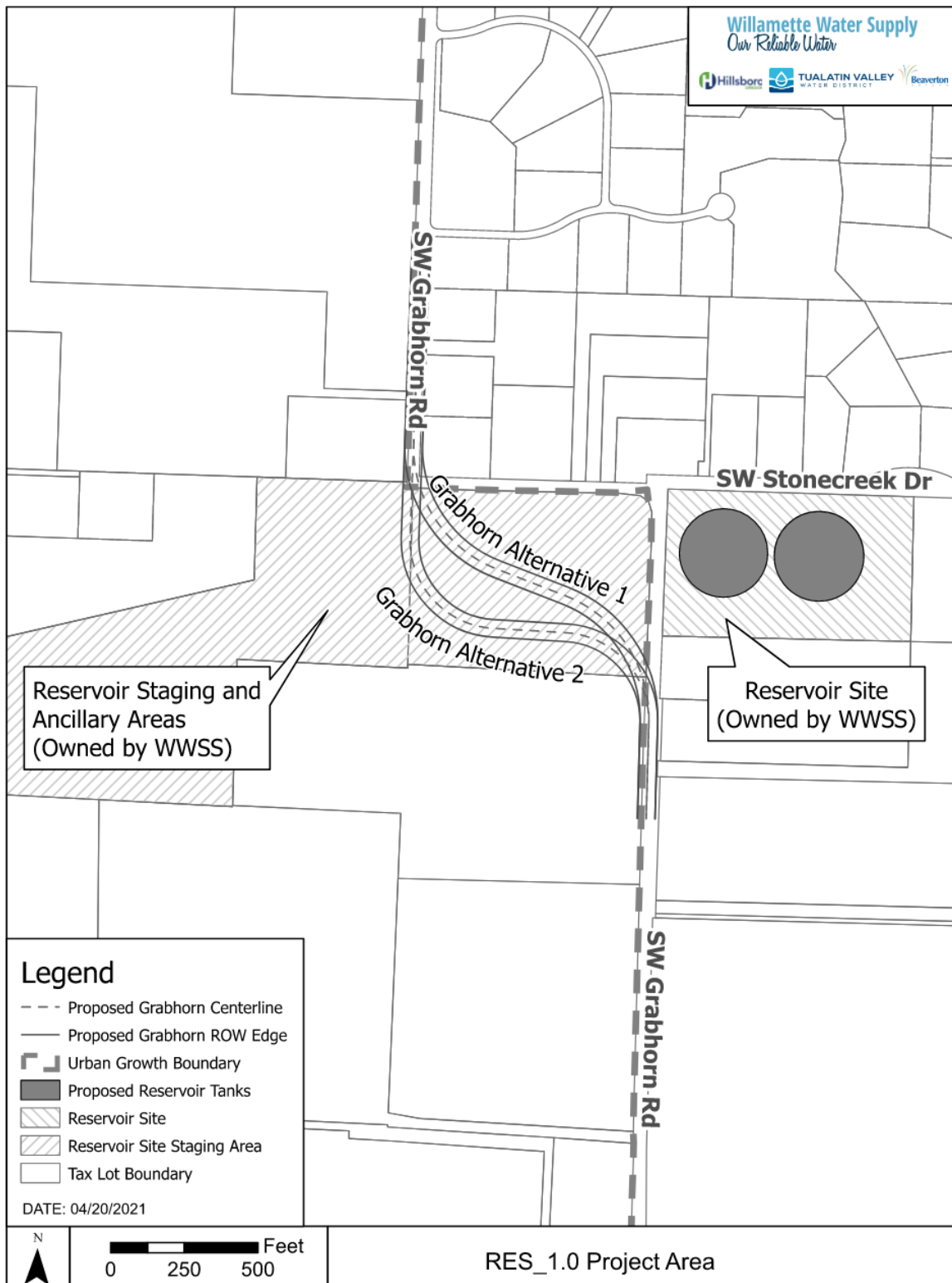
- Project Area Map
- Proposed Resolution
- Exhibit 1: Intergovernmental Agreement between Washington County and the Willamette Water Supply System for the Future Grabhorn Road/Stonecreek Drive Realignment

Intergovernmental Agreement between Washington County and the Willamette Water Supply  
Future Grabhorn Road/Stonecreek Drive Realignment

November 4, 2021

Page 3 of 3

**Project Area Map:**



# Willamette Water Supply System Commission

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**RESOLUTION NO. WWSS-27-21**

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN WASHINGTON COUNTY AND THE WILLAMETTE WATER SUPPLY SYSTEM FUTURE GRABHORN ROAD/STONECREEK DRIVE REALIGNMENT.

WHEREAS, in November of 2016, the Willamette Water Supply Program (“WWSP”), acting through the Tualatin Valley Water District and the City of Hillsboro, entered into a memorandum of understanding with Washington County Land Use and Transportation (“WCLUT”) for WWSP and WCLUT to deliver coordinated pipeline and roadway projects at various locations in the region (the “Partnering MOU”); and

WHEREAS, the Partnering MOU has been assigned to the Willamette Water Supply System Commission (“Commission”); and

WHEREAS, the Commission and WCLUT refined and reconfirmed the partnership through execution of a Master Project Coordination Intergovernmental Agreement for Project Coordination, executed January 21, 2020; and

WHEREAS, the parties desire to further coordinate projects, specifically a future WCLUT project to realign Grabhorn Road adjacent to the WWSS RES\_1.0 project site, onto property owned by the Commission, providing both parties confidence in the mutual acceptability of each other’s future plans;

NOW, THEREFORE, BE IT RESOLVED BY THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION THAT:

Section 1: The Intergovernmental Agreement between Washington County and Willamette Water Supply System Commission Future Grabhorn Road/Stonecreek Drive Realignment, attached hereto as Exhibit 1 and incorporated herein by this reference, is approved.

Section 2: The General Manager is hereby directed to work with the Commission’s legal counsel to finalize the agreement, including by making any non-substantive changes to the form and format, and is authorized to execute the Agreement on behalf of the Commission.

Approved and adopted at a regular meeting held on the 4<sup>th</sup> day of November 2021.

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David Judah, Chair

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James Duggan, Vice Chair

# Willamette Water Supply System Commission

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**INTERGOVERNMENTAL AGREEMENT**  
**BETWEEN**  
**WASHINGTON COUNTY AND**  
**THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION**  
**FUTURE GRABHORN ROAD/STONECREEK DRIVE REALIGNMENT**

THIS INTERGOVERNMENTAL Agreement ("Agreement") is made and entered into between Washington County, a political subdivision of the State of Oregon, acting by and through its Board of County Commissioners, hereinafter referred to as "COUNTY" and the Willamette Water Supply System Commission ("WWSS Commission"), an Oregon intergovernmental entity. Each entity may be referred to hereinafter individually as a "Party" or jointly as "Parties."

**RECITALS**

- A. WHEREAS, ORS 190.003 - 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all activities and functions that a party to the agreement has the authority to perform; and
- B. WHEREAS, COUNTY, by and through its Department of Land Use and Transportation, manages and maintains a network of major roads serving countywide travel needs; and
- C. WHEREAS, COUNTY is planning a future realignment of SW Grabhorn Road and SW Stonecreek Drive (collectively referred to as "Grabhorn Realignment"), as shown generally on the attached Map in Exhibit 1 and Preliminary Design in Exhibit 2, attached hereto and incorporated by reference; and
- D. WHEREAS, the WWSS Commission was formed by an intergovernmental agreement ("IGA") between Tualatin Valley Water District ("TVWD"), the City of Hillsboro, and the City of Beaverton to permit, design, and construct the Willamette Water Supply System, including intake and transmission facilities, a water treatment plant, and reservoir facilities ("Water System Facilities") to provide potable water and to increase regional water supply reliability; and
- E. WHEREAS, under the IGA, TVWD was named the Managing Agency and is responsible for the day-to-day administration for the WWSS Commission; and
- F. WHEREAS, TVWD conducts its work as the WWSS Commission Managing Agency through a group of employees and contractors who are publicly identified as the Willamette Water Supply Program ("WWSP"); and
- G. WHEREAS, the WWSS Commission is constructing water storage tanks, a large diameter water supply transmission line, and related improvements for the Water System Facilities on both sides of and across SW Grabhorn Road at its intersection with Stonecreek Drive and in the same vicinity as the Grabhorn Realignment; and

- H. WHEREAS, COUNTY has issued a Special Use and Development approval, under Casefile 18-435-SU/D and dated May 3, 2019, for a portion of the Water System Facilities (“SU/D Approval”); and
- I. WHEREAS, the WWSS Commission desires to fulfill condition of approval IV.A. of the SU/D Approval by coordinating jointly with COUNTY upon a future dedication of right-of-way (“ROW”) for the Grabhorn Realignment at properties owned by the WWSS Commission (“Taxlot 1S2350000100” and “Taxlot 1S2360000304”); and
- J. WHEREAS, COUNTY has also issued a Special Use, Development Review and Drainage Hazard Area alteration approval, under Casefile L2000319-SU/D/DHA and dated April 7, 2021, authorizing the WWSS Commission to place fill and to retain stormwater facilities on Taxlot 1S2360000304 until SW Grabhorn Road is realigned (“PLM\_5.3 Approval”); and
- K. WHEREAS, under such understanding and authority, it is the mutual desire of Parties to enter into this Agreement to cooperate and seek to maximize public benefits resulting from this collaboration with the allocation of responsibilities as detailed below.

## **AGREEMENT**

NOW, THEREFORE, the premise being in general as stated in the foregoing recitals, which are incorporated here by this reference, and in consideration of the terms, conditions, and covenants set forth below, the Parties agree as follows:

### **ARTICLE I - AGREEMENT GOALS**

- 1.1. Parties are undertaking coordinated planning for the Grabhorn Realignment and Water System Facilities to maximize the benefits to their constituents and the community at large. COUNTY and the WWSS Commission desire to work in collaboration and as integrated work groups where possible to achieve the Agreement goals.
- 1.2. The Agreement is intended to achieve the following goals:
  - 1.2.1. COUNTY: To plan for, and acquire necessary rights-of-way and ancillary easements, and seek funding needed for future construction of the Grabhorn Realignment to increase the safety of the roadway.
  - 1.2.2. WWSS Commission: To construct, operate, and maintain the Water System Facilities to further the objectives of the WWSS Commission in increasing water supply, reliability, redundancy, and resiliency to its member service areas.
  - 1.2.3. Parties: To cooperate and coordinate to ensure full satisfaction of the condition of approval IV.A. in the SU/D Approval (County casefile no. 18-435-SU/D), in conformance with the COUNTY’s decision in the PLM\_5.3 Approval.
  - 1.2.4. Parties: To enable a portion of the future Grabhorn Realignment to be located and constructed on Taxlots 1S2350000100 and 1S2360000304 and upon suitable fill materials from Water System Facilities construction.

- 1.3. Parties are undertaking implementation of this Agreement as shown on the attached schedule in Exhibit 3, attached hereto and incorporated by reference.

## ARTICLE II - COUNTY COMMITMENTS

- 2.1. COUNTY hereby designates Russell Knoebel, P.E., Principal Engineer, as COUNTY representative responsible for coordination with WWSP pursuant to this Agreement.
- 2.2. COUNTY shall prepare a preliminary feasibility design study for the potential Grabhorn Realignment ("Feasibility Study"), including potential realignment of Stonecreek Drive, and roadway grade and alignment drawings that incorporate provisions to ensure WWSS Commission access to the Water System Facilities on Grabhorn Road and/or Stonecreek Drive. The Feasibility Study shall also incorporate recommendations for potential vacation of existing right-of-way following the completion of construction of the Grabhorn Realignment. Following the future Grabhorn Realignment, the cover above the Water System Facilities shall be a minimum of 5 feet to avoid buoyancy and a maximum of 10 feet to prevent deformation, as measured from the top of the pipe; unless otherwise approved by WWSS Commission.
- 2.3. COUNTY shall provide the WWSS Commission with the draft Feasibility Study for review and comment and allow fifteen (15) business days for review. COUNTY shall consider WWSS Commission comments and incorporate WWSS Commission comments that do not unreasonably impact the potential Grabhorn Realignment schedule or budget. County shall provide a copy of said final Feasibility Study to the WWSS Commission.
- 2.4. COUNTY shall prepare any ROW dedication-related documents ("ROW Dedication Documents"), including any easements (e.g., sight distance, slope, drainage or other road-related easements), that may be necessary to complete the ROW dedication for the Grabhorn Realignment.
- 2.5. COUNTY shall provide the WWSS Commission with draft ROW Dedication Documents for comment and allow WWSS Commission fifteen (15) business days for review and comment. COUNTY shall incorporate WWSS Commission comments that do not unreasonably impact the County's use, control or jurisdiction of the ROW in final ROW Dedication Documents. COUNTY shall provide a copy of Final ROW Dedication Documents to the WWSS Commission.
- 2.6. COUNTY shall allow the WWSS Commission to utilize the area currently preserved for future ROW dedication pursuant to the SU/D Approval along the current SW Grabhorn Road alignment, on the western boundary of the property identified as Taxlot 1S2360000200 (the WWSS Commission water storage tank site), for construction and operation of Water System Facilities (Exhibit 1).
- 2.7. After construction of the Grabhorn Realignment is completed and upon COUNTY receipt of a ROW vacation petition from the WWSS Commission, COUNTY staff shall process the vacation petition and recommend that the Board of Commissioners vacate all portions of existing SW Grabhorn Road and/or Stonecreek Drive ROW (as shown on Exhibit 1) that are found to be in the public interest. Doing so is intended to help avoid creating an unusable 'orphan' parcel between the old and new road alignments.
- 2.8. COUNTY acknowledges that WWSP can stockpile spoil from Water System Facilities

construction in the future anticipated ROW dedication area for the Grabhorn Realignment on a staging site at Taxlot 1S2360000304 during Water System Facilities construction.

- 2.9. Notwithstanding anything to the contrary in Section IV of the Conditions of the SU/D Approval:
  - 2.9.1. COUNTY shall allow WWSP to complete grading on the staging site at Taxlot 1S2360000304 at new topography that is consistent with the future Grabhorn Realignment and with the PLM\_5.3 Approval. Such grading shall include a topography that will allow WWSS Commission to access and to maintain the stormwater facilities on Taxlot 1S2360000304 until those facilities are modified as part of the Grabhorn Realignment.
  - 2.9.2. COUNTY shall review and comment on WWSP's proposed plan for grading the staging site at Taxlot 1S2360000304 ("Post-construction Grading Plan") through the Grading permit review process within twelve (12) weeks of receiving the plan documents.
  - 2.9.3. In the event that COUNTY's Feasibility Study is not complete at the time a Post-construction Grading Plan is submitted for review or approval, COUNTY shall rely on its reasonable judgment and the best available data to enable timely review and approval of the Post-construction Grading Plan so as to avoid impacting the Water System Facilities construction schedule.
- 2.10. COUNTY agrees that without prior WWSS Commission consent or unless otherwise stipulated herein, WWSS Commission shall not be responsible for design, permitting, right-of-way and easement acquisition, and outreach associated with the Grabhorn Realignment project, including, but not limited to, impacts to resources located on the western portion of the WWSP staging site at Taxlot 1S2360000304. COUNTY and WWSS Commission shall coordinate the Grabhorn Realignment design to avoid relocation of, or other impacts to completed Water System Facilities.
- 2.11. COUNTY shall make all reasonable efforts to ensure the WWSS Commission is included in the final design process for construction of the Grabhorn Realignment; that WWSS Commission is provided draft design documents for a fifteen (15) business day WWSS Commission review; and that WWSS Commission comments that do not unreasonably impact the Grabhorn Realignment budget or schedule are incorporated in the design.
- 2.12. COUNTY shall make all reasonable efforts to ensure the WWSS Commission is included in the design process to establish and construct the future realignment of SW Grabhorn Road at the two existing 90-degree curves located approximately 2,000 feet south of the WWSS Commission's property identified as Taxlot 1S2360000304, between SW Stonecreek Drive and SW Tile Flat Road; that WWSS is provided draft design documents for a fifteen (15) business day WWSS Commission review; and that WWSS Commission comments that do not unreasonably impact the future realignment budget or schedule are incorporated in the design.
- 2.13. COUNTY shall, at the same time as the ROW dedication for Grabhorn Realignment, or as part of the ROW Dedication Documents contemplated in Section 2.4, issue to the WWSS Commission a ROW Utility permit that allows for occupancy for the Water

System Facilities within the ROW for the Grabhorn Realignment. Among other things, the permit shall expressly recognize:

- 2.13.1. WWSS Commission ownership of the Water System Facilities;
  - 2.13.2. Water System Facilities may occupy COUNTY ROW where constructed;
  - 2.13.3. COUNTY agrees to avoid requiring WWSS Commission to relocate or adjust the Water System Facilities and related appurtenances to the extent possible; however, in the event COUNTY determines following rigorous analysis conducted in cooperation with WWSS Commission that relocation or adjustment of the waterline or related appurtenances is necessary and unavoidable, COUNTY will provide WWSS Commission written notice as follows:
    - Relocation or adjustment involving appurtenances (air-relief valves, blow-offs, manways, etc.) within existing COUNTY ROW: minimum two (2) years notice prior to required completion.
    - Vertical pipeline relocations within existing COUNTY ROW: minimum five (5) years notice prior to required completion.
    - Horizontal pipeline relocations within existing COUNTY ROW: minimum five (5) years notice prior to required completion.
    - Pipelines or appurtenances existing within the COUNTY ROW requiring relocations or adjustments to locations outside of existing COUNTY ROW: minimum seven (7) years notice prior to required completion.
  - 2.13.4. WWSS Commission shall be financially responsible for all costs of relocation, if such relocation is necessary for any reason as set forth in Section 2.13.3, including future work by COUNTY;
  - 2.13.5. The WWSS Commission shall have reasonable access to the Water System Facilities at all times and immediate access in case of an emergency;
  - 2.13.6. As owners, the WWSS Commission shall be authorized to construct, inspect, operate, maintain, repair, and replace the Water System Facilities;
  - 2.13.7. Until a mutually agreeable ROW permit is issued, this Agreement shall act as the WWSS Commission ROW permit that allows for occupancy of the current or realigned Grabhorn Road ROW at Taxlot 1S2350000100 and Taxlot 1S2360000304); and
- 2.14. In the event any party petitions COUNTY to vacate all or a portion of the COUNTY ROW or the COUNTY initiates a ROW vacation proceeding, COUNTY staff will not recommend that the Board of County Commissioners approve such vacation request for the portion of the ROW where any portion of the Water System Facilities are located without first allowing the WWSS Commission a reasonable opportunity to first secure a recorded permanent easement for the purpose of controlling grading or other alterations of the surface above the Water System Facilities. Notwithstanding the above, COUNTY cannot ensure dedication of said easements. Nor shall COUNTY have any obligation to secure

future easements on behalf of WWSS Commission. COUNTY shall provide the WWSS Commission with notice of the initiation of any ROW vacation proceeding for any ROW that is part of the Grabhorn Realignment.

- 2.15. COUNTY agrees that WWSS Commission's fulfillment of its commitments and obligations pursuant to this Agreement shall fully satisfy condition of approval IV.A. in the SU/D Approval (County casefile no. 18-435-SU/D).

### **ARTICLE III - WWSS COMMISSION OBLIGATIONS**

- 3.1. WWSP hereby designates Mike Britch, P.E., Engineering and Construction Manager, as the WWSS Commission representative responsible for coordination with COUNTY pursuant to this Agreement.
- 3.2. The WWSS Commission shall review and comment on COUNTY's draft Feasibility Study within fifteen (15) business days of receiving the draft documents.
- 3.3. The WWSS Commission shall review and comment on COUNTY's draft ROW Dedication Documents within fifteen (15) business days of receiving the draft documents.
- 3.4. The WWSS Commission shall manage stockpiling and grading of Water System Facilities construction spoil on the staging site at Taxlot 1S2360000304 in a manner consistent with future roadway ROW use, as contemplated by this Agreement, and as follows:
  - 3.4.1. The WWSS Commission shall prepare a draft Post-construction Grading Plan that establishes topography of the staging site after construction of the Water System Facilities, identifies planned fill placement, and describes planned fill compaction. Any fill intended to remain within the anticipated Grabhorn Realignment ROW should be placed and compacted in such a way that it will be suitable for future roadway construction.
- 3.5. The WWSS Commission shall dedicate ROW, including necessary easements as described in Section 2.4, as needed for the Grabhorn Realignment in accordance with the final ROW Dedication Documents.
- 3.6. The WWSS Commission shall, except as provided under Section 2.13, cease its use of the Grabhorn Realignment ROW area upon dedication of any ROW required pursuant to Section 3.5.
- 3.7. After dedication of ROW for the Grabhorn Realignment (pursuant to Section 3.5) and construction of the Grabhorn Realignment, the WWSS Commission shall petition Board of County Commissioners to vacate unused portions of existing Grabhorn ROW to avoid creating an unusable 'orphan' parcel between the old and new road alignments on Taxlots 1S2360000304 and/or 1S2360000200; the WWSS Commission shall take ownership of vacated ROW that accrues to it following vacation.

### **ARTICLE IV - JOINT OBLIGATIONS**

- 4.1. Parties shall adhere to the schedule established in Exhibit 3 unless changes are mutually agreed in writing.



- 4.2. Parties shall agree in writing on the final locations and dimensions of ROW and easements for the Grabhorn Realignment before any ROW dedication pursuant to Section 3.5.
- 4.3. In the event the Parties cannot agree upon final locations and/or dimensions of ROW and easements for the Grabhorn Realignment, the WWSS Commission shall dedicate ROW on the existing Grabhorn Road and Stonecreek Drive alignments based on current COUNTY Transportation System Plan requirements except that the ultimate ROW dedication would be to the west of the existing Taxlot 1S2360000200 property line (meaning the dedication would be offset to the west from the current legal centerline), to provide a total ROW width up to one hundred two (102) feet to accommodate a potential future five-lane cross-section for Grabhorn Road and preserve space on the west side of existing Taxlot 1S2360000200 for the WWSS Commission's Water System Facilities.
- 4.4. Parties agree to work together diligently to identify and jointly resolve any issues with the implementation of this Agreement at the earliest possible stage. When such issues arise, Parties agree to work together to find mutually acceptable solutions in furtherance of the stated Agreement goals.

#### **ARTICLE V - COMPENSATION**

- 5.1. The Parties agree that each Party shall be responsible for its own costs associated with implementing this Agreement and that neither Party shall seek compensation from the other Party.

#### **ARTICLE VI - GENERAL PROVISIONS**

- 6.1. Laws of Oregon

The Parties agree to abide by all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be governed by the laws of the State of Oregon.

- 6.2. Default

Either Party shall be deemed to be in default if it fails to comply with any provision of this Agreement. Parties agree time is of the essence in the performance of any of the obligations within this Agreement. The non-defaulting Party shall provide the other Party with written notice of default and allow thirty (30) days within which to cure or diligently commence to cure the defect within a reasonable time.

- 6.3. Indemnification

This Agreement is for the benefit of the Parties only. Subject to the limitations related to government agencies under the Oregon Constitution, each Party agrees to indemnify and hold the other harmless, to include their respective officers, employees, agents, and representatives, from and against all claims, demands and causes of action, and suits of any kind or nature for personal injury, death, or damage to property on account of or rising out of services performed, the omission of services, or in any way resulting from the acts or omissions of the Parties so indemnifying and/or its officers, employees, agents, or representatives. Indemnification is subject to and shall not exceed the limits of

liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each Party shall be solely responsible for any contract claims, delay damages, permit compliance or permit violations, or similar items arising from or caused by the action or inaction of the Party.

6.4. Documents are Public Records

All records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models, that are prepared or developed in connection with this Project shall be subject to the applicable provisions of the Oregon public records law.

6.5. Modification of Agreement

No waiver, consent, modification, or change of terms of this Agreement shall bind either Party unless in writing, signed by both Parties. Such waiver, consent, modification, or change, if made, shall be effective only in specific instances and for the specific purpose given.

6.6. Dispute Resolution

The Parties shall attempt to informally resolve any dispute concerning any Party's performance or decision under this Agreement, or regarding the terms, conditions, or meaning of this Agreement. A written description of the dispute shall be delivered by the complaining Party to the other. The Parties agree that disputes shall be attempted to be resolved by the Parties' designated representatives. If the designated representatives are unable to resolve the dispute the Parties agree to escalate the dispute to the Director level. A neutral third party may be used to mediate if the Parties agree to facilitate such negotiations. The mediator shall be mutually chosen within thirty (30) days of the original date of written notice of the dispute. Impasse shall be declared if the Parties cannot agree on a mediator within the thirty-day (30-day) period above, or the Parties cannot resolve the matter through mediation within forty-five (45) days after selection of the mediator. In the event of any impasse in the resolution of any dispute, the issues shall be submitted to the governing bodies of both Parties for a recommendation or resolution within thirty (30) days after submission. Thereafter, any Party may pursue available legal or equitable remedies as set forth in Section 6.7.

6.7. Remedies

Subject to the provisions of ARTICLE V - COMPENSATION and the dispute resolution process set forth in Section 6.6, any Party may institute legal action to cure, correct, or remedy any default, to enforce any covenant or agreement, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Washington County Circuit Court. The Parties, by signature of their authorized representative below, consent to the personal jurisdiction of that court.

6.8. Severability

If any term(s) or provision(s) of this Agreement or the application thereof to any person or circumstance shall, to any extent, be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application of those terms and

provisions shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

6.9. Nondiscrimination

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination, or suspension in whole or in part by COUNTY or the WWSS Commission.

6.10. Excused Performance

In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the Parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance that are not within the reasonable control to the Party to be excused.

6.11. Integration

This Agreement includes the entire agreement of the Parties and supersedes any prior discussions or agreements regarding the same subject. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement or its subject matter.

## ARTICLE VII - TERM OF AGREEMENT

7.1. The term of this Agreement shall be from the date of execution for ten (10) years or upon completion of all of the Parties' commitments under this Agreement, whichever is earlier, unless mutually agreed to by both Parties in writing.

7.2. This Agreement may be amended or extended for periods of up to one (1) year by mutual written consent of the Parties, subject to provisions of this Agreement. Except for breach, it may be canceled or terminated for any reason beyond the control of the Parties. Termination or cancellation shall be effective thirty (30) days after written notice to the other Party, or at such time as the Parties may otherwise agree. The Parties shall, in good faith, agree to such reasonable provisions for completing their respective work.

IN WITNESS WHEREOF, the Parties hereto have set their hands as of the day and year hereinafter written.

**WASHINGTON COUNTY, OREGON**

**WILLAMETTE WATER SUPPLY  
SYSTEM COMMISSION**

By \_\_\_\_\_

By \_\_\_\_\_

Print Name: Ruth Osuna,  
As Its Deputy County Administrator

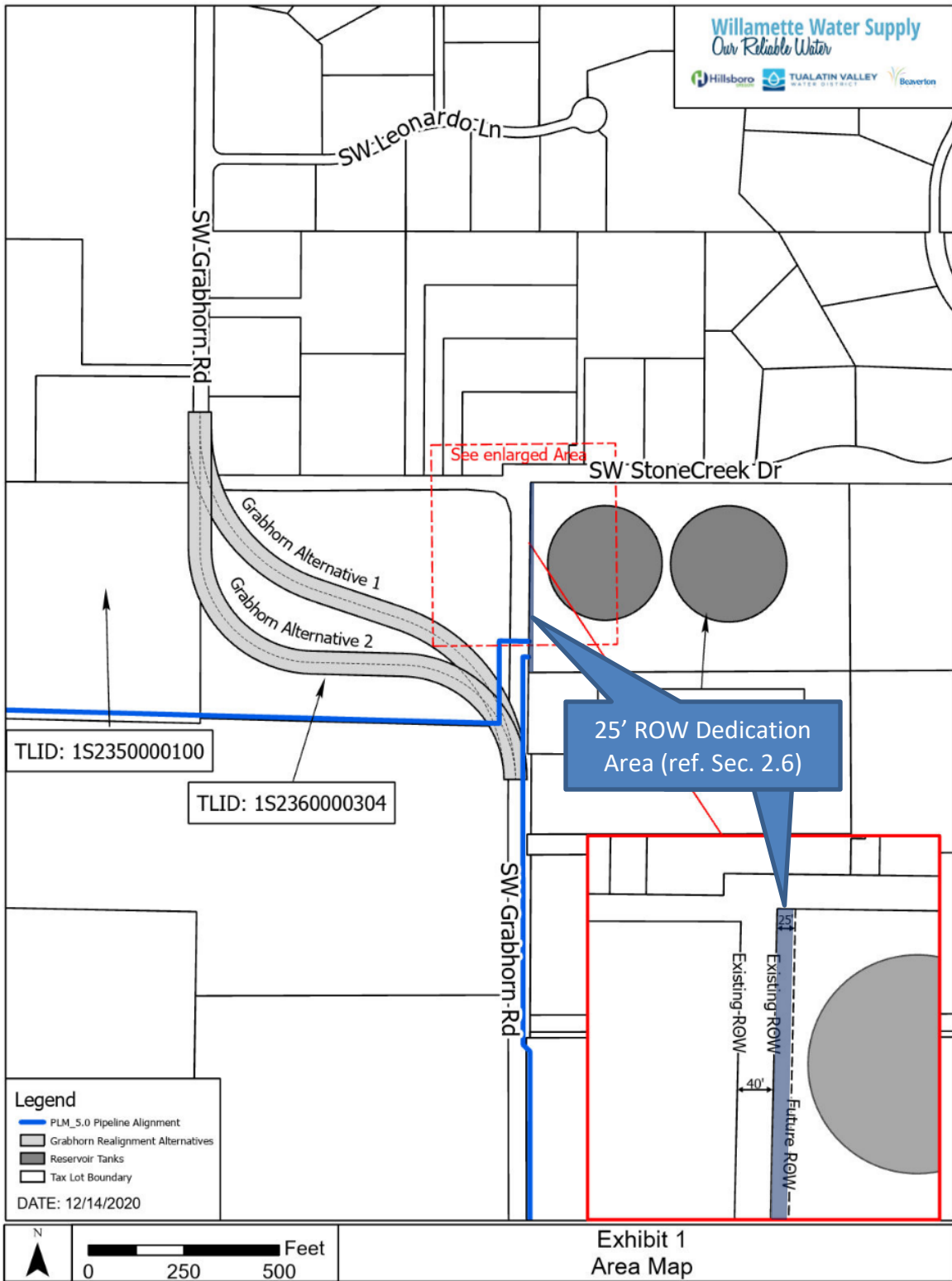
Print Name: David Kraska,  
As Its General Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

DRAFT

### Exhibit 1 Map





**Exhibit 3**  
**Implementation Schedule**

<b>Milestones</b>	<b>Target Date</b>
COUNTY Feasibility Study (Draft)	September 2021
COUNTY Feasibility Study (Final)	December 2021
WWSS submittal of Post-construction Grading Plan to COUNTY for review	September 2021
COUNTY approval of WWSS Post-construction Grading Plan	January 2022
COUNTY Grabhorn Realignment Design Development	Dependent on funding
COUNTY and WWSS agree on final locations and dimensions of ROW and easements for the Grabhorn Realignment	In conjunction with Grabhorn Realignment Design Development
COUNTY ROW Dedication Documents (Draft)	As soon as practicable following completion of Grabhorn Realignment Design Development
COUNTY ROW Dedication Documents (Final)	As soon as practicable following review of Draft ROW Dedication Documents
WWSS ROW Dedication for Grabhorn Realignment and COUNTY Issue Joint ROW Permit to WWSS	As soon as practicable following completion of Water System Facilities construction
COUNTY Grabhorn Realignment Construction	Dependent on funding
WWSS Petition to Vacate Existing ROW	As soon as practicable following completion of Grabhorn Realignment construction

# Willamette Water Supply System Commission

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**Willamette Water Supply**  
*Our Reliable Water*

**4.B. Adopt RES\_1.0 WCLUT Grabhorn Road  
 Realignment IGA – Dave Kraska**

**WWSS Commission Board Meeting  
 November 4, 2021**

1

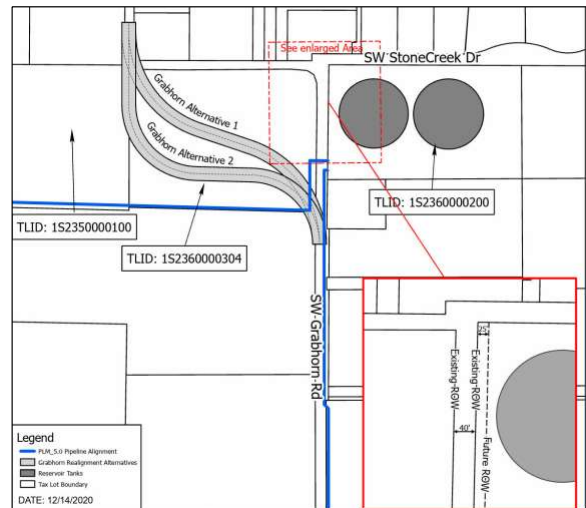
**RES\_1.0 Grabhorn IGA**

**Key Concepts:**

- WWSP has strategically partnered with WCLUT to deliver coordinated pipeline and roadway projects
- WCLUT is planning a future realignment of Grabhorn Road adjacent to RES\_1.0
- The agreement benefits both parties

**Requirement:**

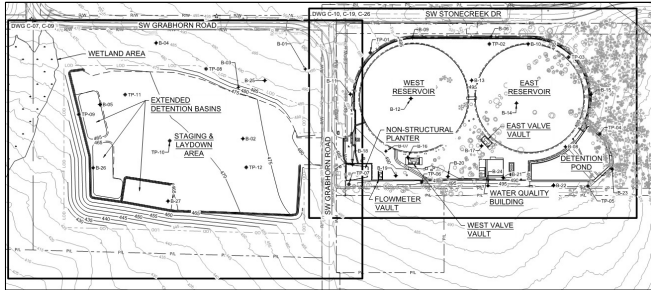
- Agreement satisfies condition of land use approval regarding WWSS granting right of way to the County for roadway realignment



2

2

## Key Terms



- WCLUT perform feasibility study to define the road realignment and include WWSP in design reviews
- Defined schedule, allowing WWSP to utilize the staging area as planned
- WWSP leaves staging area with fill and without returning it to pre-existing grades
- Requires WCLUT to involve WWSS in any future road design and provides time for relocation if necessary
- WWSP grants of right of way to WCLUT
- The Commission will petition for vacation and possession of the unused existing right of way

3

## QUESTIONS?

4

## 4.B. Requested Board Action

Consider adopting Resolution No. WWSS 27-21 approving an Intergovernmental agreement between Washington County and the Willamette Water Supply System future Grabhorn Road/Stonecreek Drive realignment.

# Willamette Water Supply System Commission

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**STAFF REPORT**

**To:** Board of Commissioners  
**From:** Mike Britch, P.E., WWSP Engineering and Construction Manager  
**Date:** November 4, 2021  
**Subject:** Intergovernmental Agreement with Washington County for Construction of PLM\_4.4

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**Requested Action:**

Consider adopting a resolution approving an Intergovernmental Agreement between Washington County and the Willamette Water Supply System Commission for the Joint Construction of PLM\_4.4 SW Roy Rogers Road – Borchers Drive to Chicken Creek Projects.

**Key Concepts:**

- The Willamette Water Supply Program (WWSP) has strategically partnered with Washington County Land Use and Transportation (WCLUT) to deliver coordinated pipeline and roadway projects at various locations in the region.
- The Willamette Water Supply System (WWSS) Commission resolved to continue the WWSP partnership with WCLUT through a Master Project Coordination Intergovernmental Agreement (Partnering IGA), in January 2020.
- WCLUT is planning to widen SW Roy Rogers Road from SW Borchers Drive to Chicken Creek as part of the WCLUT ongoing capital program for improving roads of countywide significance.
- The pipeline project and the WCLUT road project have been designed in coordination, administered through the IGA between Washington County and Tualatin Valley Water District and the City of Hillsboro for the Willamette Water Supply Program Joint Design of PLM\_4.4 SW Roy Rogers Road – Borchers Drive to Chicken Creek Projects, executed in February 2020.
- The attached intergovernmental agreement (IGA) defines areas of cooperation and responsibility, defines cost share details, and establishes schedule milestones for the construction phase of the project.

**Background:**

Establishing effective partnerships has been an objective for the WWSP since its inception. With the support of the WWSS partner agencies, WWSP has established a strong partnership with WCLUT, allowing for the design and construction of multiple pipeline projects in conjunction with WCLUT roadway projects. The desire to partner was memorialized in a Memorandum of Understanding established in November of 2016, and reconfirmed in the Partnering IGA in January 2020, each documenting the agencies' intentions to partner on road and waterline projects along SW Tualatin-Sherwood Road and SW Roy Rogers Road.

As stipulated in the Partnering IGA, a new project-specific agreement is necessary for the construction phase of the PLM\_4.4 project. This agreement outlines the responsibilities for each party, how work will be coordinated or shared, and how the costs of common items will be divided. Washington County will

## Intergovernmental Agreement with Washington County for Construction of PLM\_4.4

November 4, 2021

Page 2 of 4

be the lead agency and manage the procurement of the construction contractor, with a requirement that the pipeline contractor be included on the WWSP's current prequalified contractors list. The PLM\_4.4 construction IGA's term of agreement is four years from date of execution, unless modified (up to a one-year extension) or terminated by both WCLUT and WWSS.

**Budget Impact:**

WCLUT prepared an overall cost estimate for the project by combining opinions of probable construction cost for the road and waterline work. The WWSP negotiated administrative and estimated shared costs of \$496,000 (including County's Design costs) and \$1,894,473 (including mobilization), respectively, based on WCLUT's overall estimate for the work described in this IGA and as shown in Exhibit 2. WWSP will make a payment of \$2,167,773 for road restoration costs pursuant to the Partnering IGA.

The WWSP will also be responsible for waterline construction costs. A majority of the aforementioned costs are accounted for in the WWSP baseline budget. However, up to \$2,000,352 of funds from the Management Reserve budget would be required if the actual total project bid is as high as the current WCLUT estimate.

Item	Amount
Baseline 6.1 Budget: PLM_4.4	\$10,625,566
<b>Total Baseline Budget</b>	<b>\$10,625,566</b>
PLM_4.4 Project Costs	
100% OPCC + Shared Project Costs (estimates)	\$11,587,904
Payments to WCLUT (administration and engineering services)	\$496,000
<b>Estimated PLM_4.4 Project Costs Subtotal</b>	<b>\$12,083,904</b>
PLM_4.4 Project Contingency	\$542,013
<b>Total Estimated PLM_4.4 Costs</b>	<b>\$12,625,917</b>
<b>Potential Draw on Management Reserve</b>	<b>\$2,000,352</b>

The table below shows the estimated distribution of Exhibit 2 costs based on ownership percentages within the WWSS IGA (7/1/19).

IGA Exhibit 2 Amount		\$12,625,917
<i>TVWD Estimated Share<sup>1</sup></i>	\$7,439,598	
<i>Hillsboro Estimated Share<sup>1</sup></i>	\$4,556,911	
<i>Beaverton Estimated Share<sup>1</sup></i>	\$629,408	

1. Based on overall project ownership percentage from Baseline 6.1 budget and WWSS IGA

Intergovernmental Agreement with Washington County for Construction of PLM\_4.4

November 4, 2021

Page 3 of 4

**Staff Contact Information:**

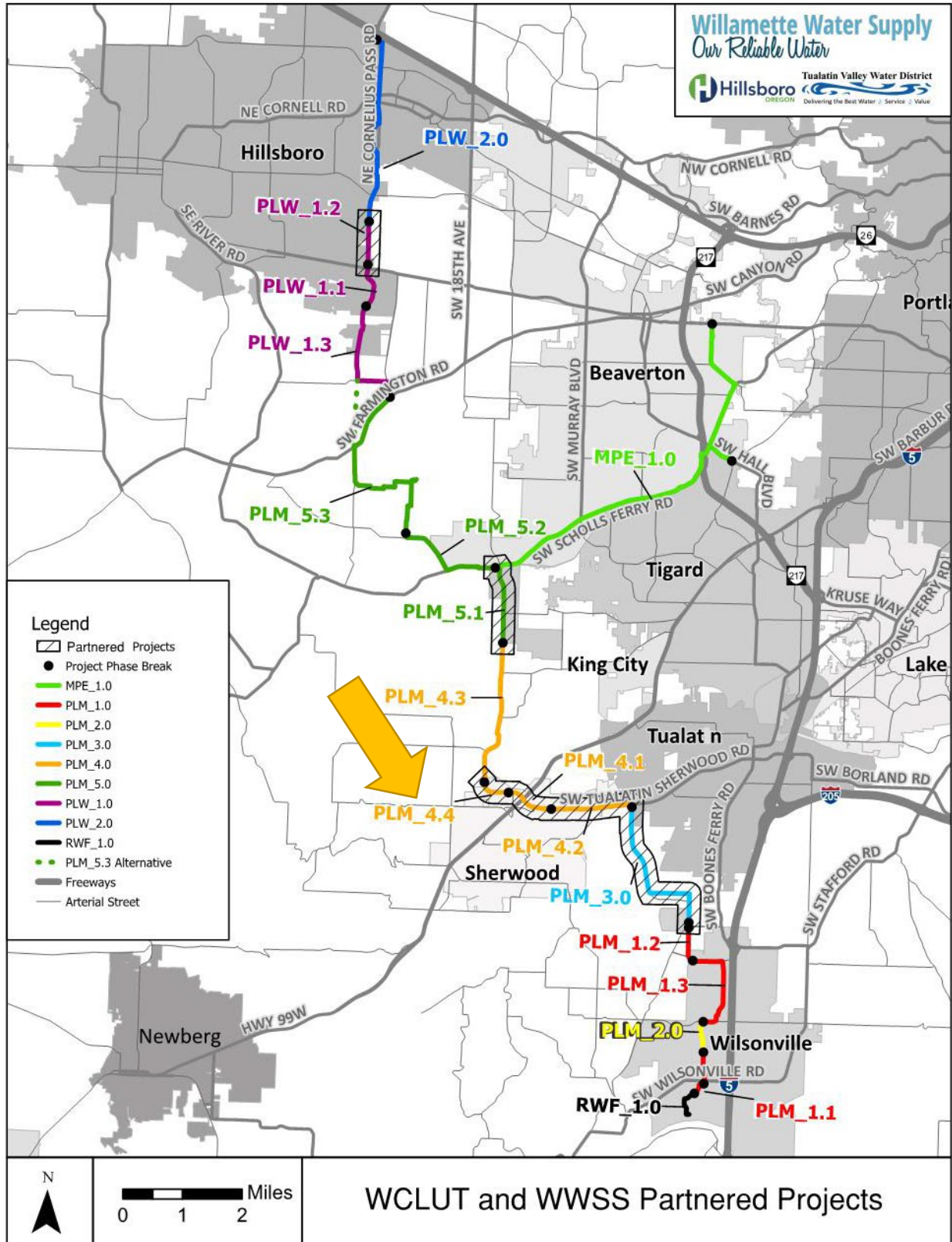
Dave Kraska, P.E., WWSS General Manager, 503-941-4561, david.kraska@tvwd.org

Mike Britch, P.E., WWSP Engineering and Construction Manager, 503-941-4565, mike.britch@tvwd.org

**Attachments:**

- Project Area Map
- Proposed Resolution
- Exhibit A: Intergovernmental Agreement between WCLUT and the WWSS Commission Joint Construction of PLM\_4.4 SW Roy Rogers Road – Borchers Drive to Chicken Creek Projects
  - Exhibit 1: Vicinity Map
  - Exhibit 2: Cost Breakdown Table
  - Exhibit 3: Net Spend Report

Project Area Map:



WCLUT and WWSS Partnered Projects



**RESOLUTION NO. WWSS-28-21**

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN WASHINGTON COUNTY AND THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION JOINT CONSTRUCTION OF PLM\_4.4 SW ROY ROGERS ROAD – BORCHERS DRIVE TO CHICKEN CREEK PROJECTS

WHEREAS, in November of 2016, the Willamette Water Supply Program (“WWSP”), acting through the Tualatin Valley Water District and the City of Hillsboro, entered into a memorandum of understanding with Washington County Land Use and Transportation (“WCLUT”) for WWSP and WCLUT to deliver coordinated pipeline and roadway projects at various locations in the region (the “Partnering MOU”); and

WHEREAS, pursuant to the Partnering MOU, in February of 2020, WWSP and WCLUT entered into an intergovernmental agreement for the joint design of PLM\_4.4 SW Roy Rogers Road – Borchers Drive to Chicken Creek Projects (“IGA for Joint Construction of PLM\_4.4”); and

WHEREAS, the Partnering MOU and IGA for Joint Construction of PLM\_4.4 have been assigned to the Willamette Water Supply System Commission (“Commission”); and

WHEREAS, the Parties reconfirmed the intent of the Commission and WCLUT to work together by coordinating pipeline and roadway projects through execution of the Master Project Coordination Intergovernmental Agreement in January of 2020; and

WHEREAS, the parties desire to proceed with the joint construction of PLM\_4.4 pipeline and the roadway project, as provided in the proposed IGA for Joint Construction of PLM\_4.4, detailing responsibilities for costs, schedule, and project management.

NOW, THEREFORE, BE IT RESOLVED BY THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION THAT:

Section 1: The Intergovernmental Agreement between Washington County and the Willamette Water Supply System Commission Joint Construction of PLM\_4.4 SW Roy Rogers Road – Borchers Drive to Chicken Creek Projects, attached hereto as Exhibit A and incorporated herein by this reference, is approved.

Section 2: The General Manager is hereby directed to work with the Commission’s legal counsel to finalize the agreement, including by making any non-substantive changes to the form and format, and is authorized to execute the Agreement on behalf of the Commission.

Section 3: The General Manager is hereby authorized to approve updates to the Agreement exhibits to negotiate cost shares and schedule commitments as the project progresses.

Approved and adopted at a regular meeting held on the 4<sup>th</sup> day of November 2021.

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David Judah, Chair

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James Duggan, Vice Chair

# Willamette Water Supply System Commission

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**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**WASHINGTON COUNTY AND  
THE WILLAMETTE WATER SUPPLY SYSTEM COMMISSION**

**JOINT CONSTRUCTION OF**

**PLM\_4.4 SW ROY ROGERS ROAD – BORCHERS DRIVE TO CHICKEN CREEK  
PROJECTS**

THIS INTERGOVERNMENTAL Agreement ("Agreement") is made and entered into between Washington County, a political subdivision of the State of Oregon, acting by and through its Board of County Commissioners, hereinafter referred to as "COUNTY" and the Willamette Water Supply System Commission ("WWSS Commission"), an Oregon intergovernmental entity. Each entity may be referred to hereinafter individually as a "Party" or jointly as "Parties."

**RECITALS**

- A. WHEREAS, ORS 190.003 - 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all activities and functions that a Party to the agreement has the authority to perform; and
- B. WHEREAS, COUNTY, by and through its Department of Land Use and Transportation, referred to as "WCLUT," manages and maintains a network of major roads serving countywide travel needs; and
- C. WHEREAS, COUNTY Board of County Commissioners has approved and funded a project to construct road improvements on Southwest Roy Rogers Road from approximately Southwest Borchers Drive to approximately 200 feet south of the Roy Rogers Bridge over Chicken Creek, hereafter referred to as "Road Work" and as shown generally on the attached Project Map in Exhibit 1, attached hereto and incorporated by reference; and
- D. WHEREAS, the WWSS Commission was formed by an intergovernmental agreement ("IGA") entered into by Tualatin Valley Water District ("TVWD"), City of Hillsboro, and the City of Beaverton to permit, design, and construct the Willamette Water Supply System, including intake and transmission facilities, a water treatment plant, and reservoir facilities ("WWSS") to provide potable water and to increase system reliability; and
- E. WHEREAS, under the IGA, TVWD was named the Managing Agency and is responsible for the day-to-day administration for the WWSS Commission; and
- F. WHEREAS, TVWD conducts its work as the WWSS Commission Managing Agency through a group of employees and contractors who are publicly identified as the Willamette Water Supply Program ("WWSP"); and
- G. WHEREAS, WWSS Commission desires to construct a large diameter water supply transmission line and related improvements in association with the Road Work, and said WWSP improvements are hereinafter referred to as "Waterline Work" which is generally coincident with the Road Work alignment; and

- H. WHEREAS, COUNTY and WWSS Commission have entered into an intergovernmental agreement for joint design of the Road Work and Waterline Work, executed on or about February 3, 2020 and subsequently amended; and
- I. WHEREAS, COUNTY and WWSS Commission have entered into an Intergovernmental Agreement for Joint Design and Joint Construction of Transportation Improvements and Water Infrastructure Improvements on Tualatin-Sherwood Road, Roy Rogers Road, and Cornelius Pass Road on December 17, 2019 (Partnering IGA); and
- J. WHEREAS, WWSS Commission has requested that the construction of the Waterline Work be incorporated into the Road Work and WWSS Commission agrees to pay for such requested improvement work and a proportionate share of other Road Work costs as provided herein; and
- K. WHEREAS, under such understanding and authority, it is the mutual desire of Parties to enter into this Agreement to cooperate in the construction of the Waterline Work in conjunction with the Road Work with the allocation of responsibilities as detailed below.

### **AGREEMENT**

NOW, THEREFORE, the premise being in general as stated in the foregoing recitals, and in consideration of the terms, conditions, and covenants set forth below, the Parties hereto agree as follows:

#### **ARTICLE I - PROJECT GOALS**

- 1.1. Parties are undertaking Road Work and Waterline Work in collaboration to maximize the benefits to their constituents and the community at large. Road Work and Waterline Work shall hereinafter be referred to jointly as the "Project." COUNTY and WWSS Commission desire to work in collaboration and as integrated work groups where possible to achieve Project goals.
- 1.2. The Project is intended to achieve the following goals:
  - 1.2.1. COUNTY: To construct Road Work to increase the safety and capacity of the roadway as part of COUNTY's ongoing capital program for improving roads of countywide significance.
  - 1.2.2. WWSS Commission: To have portions of the water transmission pipeline constructed to further the objectives of WWSS Commission in increasing water supply, reliability, redundancy, and resiliency to its member service areas. The construction work under this Agreement is part of that effort.
- 1.3. The Parties understand that, consistent with Section 2.2 of the Partnering IGA, if COUNTY is unable to proceed in accordance with the target construction milestones identified in this Agreement such that the WWSS Commission, in its sole judgement, determines that this circumstance jeopardizes timely completion and operation of the WWSS, the WWSS Commission retains the right to move forward with its Waterline Work independent of the Road Work. In the event separate construction activities are required for the Waterline Work and the Road Work as set forth in this section, the Parties agree that each Party will proceed in a manner reasonably calculated not to impede or interfere with the other Party's remaining work or remaining milestones.

## ARTICLE II - PROJECT DESCRIPTION

- 2.1. COUNTY Road Work shall include all aspects of road construction, curbs, sidewalks, bike facilities, street lighting, drainage, landscaping, and traffic control for Road Work on that section of the roadway as depicted in Exhibit 1.
- 2.2. The WWSS Commission Waterline Work consists of design and construction of a large diameter water transmission line and appurtenances according to design, plans, and technical specifications within the Road Work limits as depicted in Exhibit 1.

## ARTICLE III - COUNTY OBLIGATIONS FOR CONSTRUCTION

- 3.1. COUNTY hereby designates Matt Meier, PE as COUNTY Project Manager and Construction Manager for the Road Work and COUNTY representative responsible for coordination of the Waterline Work with WWSP pursuant to this Agreement. Russ Knoebel, PE, is COUNTY's Principal Engineer for this Project to handle dispute resolution.
- 3.2. COUNTY shall be responsible for the management and administration of the Project. COUNTY shall perform or cause to be performed all tasks needed for the construction of the Project. Except as otherwise provided in this Agreement, COUNTY is responsible for right of way (ROW) and easement acquisition; regulatory and land use permits and approvals, permit compliance, mitigation measures, and permit enforcement; public information; and contract administration for the Project. This provision does not apply to any permits and approvals which are solely necessary for construction of the Waterline Work. COUNTY shall be responsible for monitoring and compliance of any permits County obtains under this provision.
- 3.3. COUNTY is responsible for engineering, inspection, construction management, and administration for the Road Work.
- 3.4. COUNTY, its consultants, and its contractors shall coordinate with WWSP and its consultants, including jointly attending regular construction coordination meetings, regular permitting and environmental team meetings, public information and outreach meetings, and other meetings as required for successful coordination and completion of the Project. COUNTY and WWSP Project Managers shall mutually determine the anticipated frequency and timing of meetings depending on the needs of the Project.
- 3.5. COUNTY, its consultants, and its contractors shall coordinate and work collaboratively with WWSP and its consultants in developing Project milestones, constraints, work sequences, construction administration requirements, quality control and assurance requirements, and other activities as required for successful coordination and completion of the Project.
- 3.6. COUNTY shall manage the Project schedule, subject to the provisions of this Agreement. COUNTY shall provide contractors' baseline schedule and monthly schedule updates for WWSP review and comments. COUNTY shall consider and incorporate WWSP review comments that do not significantly impact Road Work costs or Project schedule. COUNTY shall notify WWSP of COUNTY's decision to decline to incorporate Waterline Work changes that significantly impact the Project schedule.
- 3.7. COUNTY shall provide WWSP five (5) calendar days to evaluate the bid results for the Waterline Work prior to issuing notice of intent to award for the Project during

COUNTY's evaluation period. The evaluation period may be extended by mutual agreement of the Parties.

- 3.8. COUNTY shall receive, catalog, and route to WWSP requests for information (RFIs), requests for substitutions, submittals, and any other documents pertaining to the Waterline Work for review and comment using the mutually agreed upon Program Management Information System (PMIS), as provided in Section 5.4. COUNTY shall defer to WWSP for the disposition and/or response for all RFIs, substitutions, and submittals related to the Waterline Work. COUNTY shall also provide WWSP the opportunity to review and comment on Road Work submittals and RFIs that impact the Waterline Work. COUNTY shall provide access to all Project documents, including but not limited to Road Work submittals, RFIs, contract correspondence, QA/QC, daily reports, and photos.
- 3.9. COUNTY shall make all Road Work information available to WWSP and its consultants for use in furthering the Waterline Work and coordinating with the Road Work. Such information shall include: design files; permitting plans, applications, and permit documents; and stakeholder input and other information as required for successful coordination and collaboration.
- 3.10. COUNTY shall cause the contractor to name and endorse WWSS Commission, TVWD, their elected or appointed officials, staff, employees, and agents as additional insureds on all policies provided by the contractor under the contract. The endorsements to policies shall provide for not less than thirty (30) days written notice of cancellation. COUNTY shall provide WWSP a copy of the certificates for its records. COUNTY shall cause the contractor to extend indemnity and hold harmless provisions to WWSS Commission, TVWD, its members, officers, boards, agents, and employees.
- 3.11. COUNTY shall have overall responsibility for Project administration and inspection of Road Work and at all times be responsible to monitor and manage the contractor's work as provided in the construction contract documents. With respect to the Waterline Work, the COUNTY shall defer to the Waterline Construction Manager all decisions, recommendations, and interpretations regarding the construction of the Waterline Work to meet the quality and performance of the water system design as provided by the contract documents. Notwithstanding Section 3.6, the Parties acknowledge and agree that COUNTY shall have no liability or responsibility for any delayed or missed milestones which result from decisions, recommendations, or interpretations made by the Waterline Construction Manager regarding the construction of the Waterline Work. COUNTY shall communicate and direct the contractor in the Waterline Work performance in accordance with the decisions of the Waterline Construction Manager. COUNTY shall have sole and total decision-making authority on Road Work.
- 3.12. COUNTY acknowledges that the Waterline Construction Manager or designated onsite inspectors may stop the contractor's work if they observe, in their sole judgment, a situation involving safety issues that threaten life or bodily harm. Further, the Waterline Construction Manager may stop the Waterline Work based on observations that the Waterline Work is not being performed according to the contract documents. The Waterline Construction Manager or designated inspectors shall use reasonable efforts to notify COUNTY Project Manager of the need to stop work but may act as he/she deems appropriate under the circumstances to stop work.
- 3.13. COUNTY shall receive the monthly estimate of Waterline Work performed by the contractor prepared by the Waterline Construction Manager and onsite inspectors based

on the Waterline Construction Manager and onsite inspectors' inspection of the work performed to date, the method of payment and schedule of values specified in the contract, materials delivered to the site but not incorporated into the work, and other matters deemed appropriate for payment. The monthly estimate shall be provided to COUNTY for COUNTY to meet its periodic pay request process under the construction contract.

- 3.14. COUNTY shall attempt to invoice WWSS Commission monthly but no later than a quarterly basis for the Waterline Work and other cost shares as shown in Exhibit 2. WWSS Commission shall reimburse COUNTY as provided in Article VI, Compensation, below. COUNTY's invoice shall show the actual cost and percentage allocation between WWSS Commission and COUNTY for each shared cost item. The initial invoice from COUNTY shall be submitted following completion of the first month's work by the contractor.
- 3.15. COUNTY shall provide a final cost accounting for the Waterline Work and WWSP's proportion of shared cost items, including all internal and external costs, to WWSP within forty-five (45) days of final acceptance of the Project and payment to the contractor. The parties may extend this time by mutual consent.
- 3.16. COUNTY shall require the contractor to complete and submit Exhibit 3, Quarterly Net Spend Report for the Waterline Work. This report shall include, at a minimum, the following information:
  - 3.16.1. Total amount spent by contractor and each subcontractor, vendor, and supplier for the quarter;
  - 3.16.2. Subcontractor/subconsultant name, address, and type of service(s) provided; and
  - 3.16.3. Other business attributes that may be required by WWSP.

COUNTY shall require the contractor to submit the Quarterly Net Spend Report to COUNTY by the 15th day of the last month for each calendar quarter for the entire duration of its contract. COUNTY shall forward the contractor's Quarterly Spend Report to WWSP when it receives it from the contractor.
- 3.17. COUNTY shall obtain WWSP approval on any contract construction Change Order, Work Change Directive, or other proposed revisions to Waterline Work as provided in Section 4.11. COUNTY shall endeavor to provide notice of potential Project Change Orders, claims, or disputes at the earliest possible time. A written Change Order or Work Change Directive related to the Waterline Work shall be effective only if executed by the Parties. COUNTY will provide WWSP with all executed documents reflecting changes to the Waterline Work within fifteen (15) days of execution.
- 3.18. COUNTY shall coordinate with WWSP on any disagreements, disputes, delays, or claims with the contractor related to or as a result of the Waterline Work as provided by Section 7.6.
- 3.19. COUNTY shall perform actions regarding compensation as set forth in Article VI, Compensation.
- 3.20. Upon completion of the Waterline Work and acceptance of the Project, COUNTY shall

convey all rights, title, and interest in the Waterline Work to WWSP by a conveyance document acceptable to both Parties. Such conveyance shall not limit COUNTY's normal and customary jurisdiction and control of the right of way. COUNTY shall also assign to WWSS Commission any and all rights under warranties and guarantees and direct rights of action under the contract against the contractors and designers regarding Waterline Work.

- 3.21. COUNTY shall issue to WWSS Commission a joint ROW permit that allows for occupancy for the Waterline Work. Among other things, the permit shall recognize:
  - 3.21.1. WWSS Commission ownership of the Waterline Work;
  - 3.21.2. Waterline Work may occupy COUNTY ROW where constructed;
  - 3.21.3. COUNTY agrees to avoid requiring WWSS Commission to relocate or adjust the waterline and related appurtenances to the extent possible; however, in the event COUNTY determines following rigorous analysis conducted in cooperation with WWSS Commission that relocation or adjustment of the waterline or related appurtenances is necessary and unavoidable, COUNTY will provide WWSS Commission written notice as follows:
    - 3.21.3.1 Relocation or adjustment involving appurtenances (air-relief valves, blow-offs, manways, etc.) within existing COUNTY ROW: minimum two (2) years notice prior to required completion.
    - 3.21.3.2 Vertical pipeline relocations within existing COUNTY ROW: minimum five (5) years notice prior to required completion.
    - 3.21.3.3 Horizontal pipeline relocations within existing COUNTY ROW: minimum five (5) years notice prior to required completion.
    - 3.21.3.4 Pipelines or appurtenances existing within the COUNTY ROW requiring relocations or adjustments to locations outside of existing COUNTY ROW: minimum seven (7) years notice prior to required completion.
  - 3.21.4. WWSS Commission shall be financially responsible for all costs of relocation, if such relocation is necessary for any reason as set forth in Section 3.21.3, including future work by COUNTY;
  - 3.21.5. WWSS Commission shall have access to the Waterline Work;
  - 3.21.6. As owners, WWSS Commission shall be authorized to construct, inspect, operate, maintain, repair, and replace the Waterline Work;
  - 3.21.7. Until a mutually agreeable ROW permit is issued, this Agreement shall act as the WWSS Commission ROW permit that allows for occupancy; and
  - 3.21.8. In the event COUNTY receives any petition to vacate all or a portion of the COUNTY ROW or the COUNTY initiates a ROW vacation proceeding, COUNTY staff will not recommend that the Board of County Commissioners approve such vacation request without first ensuring that WWSS Commission is able to secure a recorded permanent easement for the Waterline Work [the pipeline] approved by WWSS Commission. Notwithstanding the above, COUNTY cannot ensure dedication of easements from adjacent property owners where such easements would extend beyond the then-existing COUNTY ROW boundaries. COUNTY



shall provide WWSS Commission with notice of the initiation of any ROW vacation proceeding that impacts to the Waterline Work for any ROW that is part of the Project.

- 3.22. COUNTY and construction contractor shall participate in WWSP monthly health and safety meetings.
- 3.23. COUNTY shall not authorize or consent to contractor's changes to Waterline Work key milestones without written approval by WWSP.
- 3.24. Claims.
  - 3.24.1. COUNTY shall notify WWSP as soon as any contractor claim or request for Change Order is received. If a claim or request for Change Order would increase the proportionate share of Shared Costs (as described in Section 6.1.2) or if it affects the WWSS Commission-only cost for Waterline Work, WWSP shall respond to COUNTY within ten (10) business days. The response period may be extended by mutual agreement of the Parties. COUNTY cannot resolve or settle a claim for extra compensation or schedule adjustment for such claims without WWSP approval. If COUNTY proceeds to resolve the claim or issue a change order without WWSP approval, the WWSS Commission reserves all rights to contest responsibility for payment and to seek indemnity for all costs and impacts resulting from COUNTY's action.
  - 3.24.2. In the case of a claim or Change Order related to the proportionate share of Shared Costs (as described in Section 6.1.2) or the WWSS Commission-only cost for Waterline Work, the COUNTY as the contract holder may need advice from COUNTY legal counsel. COUNTY shall notify WWSP that they are seeking advice of legal counsel. WWSS Commission will reimburse COUNTY for additional costs COUNTY incurs for counsel advice based on the proportionate share of the responsibility.
- 3.25. Bonds and Warranties. COUNTY agrees to assign all rights under performance and payment bonds, warranties and claims arising out of the construction contract related to the Waterline Work to WWSS Commission so that the WWSS Commission has a direct right of action against the contractor. The assignment under this provision will be effective after written request from WWSS Commission to COUNTY and written assignment by COUNTY.

#### **ARTICLE IV - WWSS COMMISSION OBLIGATIONS FOR CONSTRUCTION**

- 4.1. WWSP shall designate a WWSP Construction Manager. The WWSP Construction Manager shall be the designated point of contact with COUNTY Project Manager and have the authority to represent the WWSP for decisions related to the Waterline Work. COUNTY Project Manager shall have authority to accept and act upon the directions and decisions of the WWSP Construction Manager relating to the Waterline Work during solicitation and construction and to instruct the contractor and incur costs based on those decisions. Mike Britch, P.E., will be the WWSP Principal Engineer and the WWSP representative to handle dispute resolution for this Project.
- 4.2. WWSP shall obtain all necessary permits for the Waterline Work which are not also necessary for the Road Work. WWSP shall obtain environmental permits from the United States Army Corps of Engineers and the Department of State Lands, and other permits from applicable jurisdictions, specific to the Waterline Work. WWSP shall be responsible for monitoring and compliance with any permit obtained under this provision.

- 4.3. WWSP shall monitor and ensure permit compliance to the extent the permit is related solely to the Waterline Work. WWSP shall otherwise communicate with the COUNTY Project Manager concerning permit compliance and coordinate with the COUNTY for all Project management.
- 4.4. WWSP shall review shop drawings, submittals, RFIs, Change Orders, Work Change Directives, requests for contract time extensions, and other requested clarifications related to the Waterline Work. WWSP shall provide a response to COUNTY within the timeframe required by the construction contract.
- 4.5. WWSS Commission shall reimburse COUNTY for all easements, rights-of-way, and associated costs necessary to facilitate the construction of the Waterline Work, beyond those being acquired by COUNTY for the Road Work. WWSS Commission hereby delegates to County the authority to act on behalf of WWSS Commission with respect to the acquisition of any property interest necessary to construct the Waterline Work, including WWSS Commission's power of eminent domain.
  - 4.5.1. In the event COUNTY determines that the COUNTY cannot legally acquire an easement, right-of-way, or other property interest to facilitate the construction of the Waterline Work beyond the needs of the Road Work, without a declaration of necessity for such interest, the COUNTY shall request WWSS Commission to make such declaration prior to proceeding. Upon such request, the Parties will negotiate in good faith to determine the timing of the WWSS Commission declaration.
  - 4.5.2. To the extent allowed by law, WWSS Commission agrees to hold harmless, indemnify, and forever release the COUNTY, the Board of County Commissioners, its officers, employees, and agents from any and all liabilities, judgments, demands, actions, claims, including delay claims, suits, or costs of any kind or nature brought by any person based on a theory that COUNTY lacks property authority and delegation to acquire any property interest for WWSS Commission to facilitate the construction of the Waterline Work beyond the needs of the Road Work.
- 4.6. WWSS Commission shall reimburse COUNTY for mobilization not to exceed ten percent (10%) of the value of the Waterline Work.
- 4.7. WWSP shall provide materials testing, independent of contractor testing requirements of the contract documents, and construction inspection for Waterline Work. WWSP may require additional or corrective work to be completed for the Waterline Work if, in the judgment of WWSP, the work is not complete in accordance with the contract documents, or it is in the public interest to do so. Any additional costs as a result of additional work beyond that required under the contract documents and added through a Change Order or Work Change Directive will be the obligation of WWSP. If WWSP in its sole discretion determines the Waterline Work is not in compliance with the contract documents, the Waterline Construction Manager shall inform COUNTY at the earliest opportunity following discovery, and COUNTY shall direct contractor to perform corrective actions as necessary. The provisions of this Section are independent of the authority granted to WWSP set forth in Section 3.10 above.
- 4.8. WWSP shall provide COUNTY with the following construction documentation in the PMIS:
  - 4.8.1. General daily progress reports;

- 4.8.2. Quantity documentation used for monthly payment estimates; and
- 4.8.3. Project quality documentation and test results as specified in the construction contract.
- 4.9. WWSP shall review invoices for reimbursement from COUNTY. WWSP shall provide notice of any disputed amount within fifteen (15) business days from the day COUNTY provides the invoice to WWSP. The Parties shall then meet to resolve the disputed amounts. Undisputed amounts shall be paid as provided in Article VI, Compensation, and disputed amounts shall be resolved as provided therein. Invoice amounts for materials and equipment delivered onsite or stored offsite but not incorporated into the Waterline Work must be approved in advance by WWSP.
- 4.10. WWSP shall determine at its sole discretion when Waterline Work has achieved substantial completion and final acceptance. The Waterline Construction Manager shall provide a construction punch list to COUNTY upon substantial completion of all Waterline Work and participate with COUNTY Project Manager for inspection and final acceptance of the Waterline Work.
- 4.11. WWSP must review and approve any Change Orders and/or Work Change Directives relating to the Waterline Work prior to issuance to the contractor. Within five (5) business days of receiving the proposed Change Order or Work Change Directive, WWSP shall notify COUNTY of any concerns or disputes with a proposed Change Order or Work Change Directive. The notice period may be extended by mutual agreement of the Parties. In the event the COUNTY provides WWSP with a proposed Field Directive, WWSP will respond as soon as is reasonably practicable under the circumstances. COUNTY may proceed to direct its contractor to perform work if it deems an emergency or other circumstance requires immediate action to prevent adverse health and safety conditions. In such case, WWSS Commission reserves all rights to dispute responsibility for payment of the Change Order or Work Change Directive issued by COUNTY. In no event shall COUNTY authorize any change in the Waterline Work that affects the quality, integrity, or operational attributes of the Waterline Work.
- 4.12. WWSP shall coordinate and participate with COUNTY to resolve any disagreements, disputes, delays, or claims related to, or as a result of, the Waterline Work or WWSS Commission's share of Shared Costs of the Waterline Work (as described in Section 6.1.2) as provided by Section 7.6.
- 4.13. WWSS Commission shall perform actions regarding compensation as set forth in Article VI, Compensation.
- 4.14. Pursuant to Section 3.20, WWSS Commission shall execute such COUNTY permits for use of COUNTY ROW and such permits shall grant WWSS Commission access to COUNTY road ROW to construct, operate, maintain, repair, and replace the Waterline Work within COUNTY's roadway ROW.
- 4.15. WWSP, its consultants, and its contractors shall coordinate with COUNTY and its consultants including jointly attending regular construction coordination meetings, regular permitting and environmental meetings, real estate meetings, public information and outreach meetings, and other meetings as required for successful coordination and completion of the Project. COUNTY Project Manager and WWSP Construction Manager shall mutually determine the anticipated frequency and timing of meetings depending on the needs of the Project.

- 4.16. WWSP shall coordinate or caused to be performed, all necessary design and coordination work to adjust and relocate all public utility lines, structures, and appurtenances in conflict with the Waterline Work prior to commencement of Project construction. COUNTY will authorize certain utility relocation work to occur during the Project construction if, in the judgment of COUNTY, the relocation work is in furtherance of the Project for the Road Work and in the public interest to do so. WWSP shall be solely responsible for all costs and schedule for utility relocation work associated solely with the Waterline Work.
- 4.17. WWSP shall coordinate with COUNTY for all public outreach with adjacent property owners and businesses for the Waterline Work that affects driveways, access points, and side streets. WWSP shall notify property owners and businesses of Waterline Work that will affect driveways and accesses during construction and respond to public complaints. WWSP shall be responsible for obtaining all necessary road closure approvals and noise variance approvals for night work related to the Waterline Work.
- 4.18. WWSP understands and agrees that WWSP's failure to comply with its obligations under this Agreement may result in changes or delays in the Project construction contract between the County and County's contractor and that such changes or delays may result in increased costs or adjustment to contract time that may impact completion of the Project, including the Waterline Work.

#### **ARTICLE V - JOINT OBLIGATIONS FOR CONSTRUCTION**

- 5.1. In order to minimize potential Project schedule delays, contractor cost increases, or other Project issues, Parties agree to work together diligently to identify and jointly resolve any construction issues with the Road Work and Waterline Work at the earliest possible stage including those issues that involve the contractor. When such issues arise, Parties agree to work together to find mutually acceptable solutions in furtherance of the stated Project goals. COUNTY shall lead the resolution with the contractor as mutually agreed by the Parties.
- 5.2. The Parties agree to include health and safety requirements in the contract documents that meet the objectives of both Parties for their portions of the Project.
- 5.3. Parties agree that the contractor shall be required to develop and maintain a Project baseline schedule on which COUNTY Project Manager and WWSP Construction Manager shall collaboratively review and comment. The contractor shall provide monthly schedule updates electronically (in PDF and native format) using Primavera P6 or Microsoft Project. The schedule shall be Critical Path Method and have Type C requirements as defined by the Oregon Department of Transportation. These schedule obligations shall include milestones as jointly agreed upon by the Parties. Parties shall allow the other Party to comment on schedule revisions.
- 5.4. Parties agree to administer Project information, data, submittals, and document management, including but not limited to daily reports, non-conformance notices, and pay applications through the PMIS. The Parties shall jointly develop and maintain the document management system which shall include management of documents, submittals, photographs, and video.
- 5.5. WWSP shall make available the quantity of software licenses, up to five (5) licenses, needed for COUNTY to access and maintain the PMIS as requested at the direct cost of the licenses.

- 5.6. Upon written receipt of notice from COUNTY that the Project is complete, WWSP shall archive the contents of the PMIS and provide COUNTY with a copy of the archive in a mutually agreeable format.
- 5.7. Parties agree to co-manage complaints, including but not limited to general public complaints and complaints related to environmental and/or land use permitting.
- 5.8. Parties agree to coordinate social media posting and to the following guidelines for handling public/media interactions:
  - 5.8.1. Social media includes all means of communicating or posting information or content of any sort on the Internet, including to one's own or someone else's web log or blog, journal or diary, personal website, social networking or affinity website, web bulletin board, or a chat room, whether or not associated or affiliated with either Party, as well as any other form of electronic communication.
  - 5.8.2. Posting of social media content related to Waterline Work by COUNTY staff, consultants, or construction contractors is prohibited unless approved by WWSP.
  - 5.8.3. Posting of social media content related to Road Work by WWSP staff, consultants, or construction contractors is prohibited unless approved by COUNTY.
- 5.9. Parties agree to coordinate on outreach efforts such as signage, groundbreaking, and ribbon cutting.
- 5.10. Parties acknowledge that the WWSS Commission will, in part, use Water Infrastructure Finance and Innovation Act ("WIFIA") funding for its portion of the Project.
  - 5.10.1. The Waterline Work will be funded in part through WIFIA funding. WIFIA funding requires compliance with certain conditions ("WIFIA Program Requirements"), including, but not limited to, Davis-Bacon and related acts, American Iron and Steel ("AIS") Act, Disadvantaged Business Enterprises Program, regulations governing debarment and suspension, Equal Employment Opportunity Executive Order, civil rights laws, Drug-Free Workplace Act, and restrictions on lobbying.
  - 5.10.2. WWSP will provide the WIFIA Program Requirements to COUNTY and work with COUNTY to include those requirements in applicable bidding and construction documents for the Project.
  - 5.10.3. COUNTY will accommodate and enable WWSP's implementation and enforcement of the WIFIA Program Requirements. The COUNTY's obligations under this Section 5.10.3 will include, but not be limited to: incorporating WIFIA Program Requirements in the terms, conditions, and specifications of Project construction documents for the Waterline Work; providing at least thirty (30) calendar days for construction bidding; and facilitating WWSP's access to prime contractors' and subcontractors' personnel and records. WWSP has confirmed there are no WIFIA Program Requirements applicable to the Shared Costs (as described in Section 6.1.2).
  - 5.10.4. COUNTY will abstain from contracting with a prime contractor for the Project or subcontractor for Waterline Work that has been debarred or suspended by the U.S. government. WWSP will perform a debarment check for the COUNTY's

proposed prime contractor for the Project and subcontractor for Waterline Work and communicate results to COUNTY prior to contracting pursuant to Section 3.6.

- 5.10.5. COUNTY will transmit contractor requests for any AIS waivers to WWSP; provide WWSP with contractor's certified payrolls; abstain from waiving any WIFIA Program Requirement without the express written consent of WWSP; and enable WWSP to resolve any AIS, Davis-Bacon, or other WIFIA Program Requirement issues with the contractor or subcontractors and notify WWSP of any potential WWSS-related litigation. WWSP will verify AIS documentation and apply for AIS waivers from the U.S. Environmental Protection Agency when necessary; review contractor certified payrolls for Davis-Bacon compliance; conduct interviews of construction workers for Davis-Bacon wage compliance checks and verify on-site signage; verify that apprentices and trainees are registered with a United States Department of Labor-approved program; and resolve any AIS, Davis-Bacon, or other WIFIA Program Requirement issues with the contractor.
- 5.10.6. The identification of costs specific to the Waterline Work, including the portion of Shared Costs attributable to the Waterline Work, is intended to ensure that all portions of the Project subject to the WIFIA Program Requirements remain the responsibility of the WWSS Commission. In the event compliance, implementation, or enforcement of WIFIA Program Requirements result in any increased costs for the Road Work, including Shared Costs defined in Section 6.1.2 below, such increases shall be the sole and total obligation of the WWSS Commission, independent and separate from WWSS Commission's other financial obligations provided in this Agreement.
- 5.10.7. In the event that compliance, implementation, or enforcement of WIFIA Program Requirements for the Waterline Work results in a substantial change to the Road Work such that the COUNTY, in its sole judgment, determines that this circumstance jeopardizes timely completion or results in unacceptable cost increases or design changes, the COUNTY may provide notice to WWSP that COUNTY will move forward with the Road Work independent of the Waterline Work and this Agreement shall be terminated as provided in Section 8.2. In the event the COUNTY chooses to exercise its right to move forward with Road Work separately from the Waterline Work, the Restoration Costs owed to the COUNTY as of the date of the decision shall be reduced proportionately and WWSP will be responsible for all road restoration costs associated with the remaining Waterline Work.
- 5.10.8. Upon the completion of the construction of the Work, the Parties shall each deliver to the other Party one set of record drawings and electronic copies (PDF and native format) related to any portion of the Work for which it has the final set of drawings.

## **ARTICLE VI - COMPENSATION**

- 6.1. The Parties agree that there are four main groups of costs associated with construction of the Project as set forth in the Partnering IGA:
  - 6.1.1. "Separate Costs" related solely to the improvements being made by either the COUNTY (Road Work) or the WWSS Commission (Waterline Work).
  - 6.1.2. "Shared Costs", including mobilization, that are common to both Road Work and

Waterline Work construction.

- 6.1.3. "County Administration Costs" that cover COUNTY's management of the general contractor during Road Work and Waterline Work construction.
- 6.1.4. "Restoration Costs" that are a payment by the WWSS Commission to the COUNTY in lieu of pavement, subgrade, and surface restoration costs that would have otherwise been incurred by the WWSS Commission if the Waterline Work was not constructed with the Road Work.
- 6.2. Exhibit 2 summarizes the cost shares for the Project. Parties shall proportion actual cost for construction as shown in Exhibit 2. Shared Costs shall be proportioned based on each Party's share of the overall Project cost.
- 6.3. Parties shall each bear the fully burdened labor costs of their individual staffs on the Road Work and the Waterline Work. Parties agree WWSS Commission shall pay to COUNTY a County Administration Cost as shown in Exhibit 2 to administer the construction contract.
- 6.4. Costs shown in Exhibit 2 are estimates only and are used to determine Project budgets prior to executing construction contracts. Parties shall modify Exhibit 2 when actual bid costs are known and again at completion of the Project when actual construction costs are known.
- 6.5. Pursuant to the Partnering IGA, WWSS Commission will make a Restoration Costs payment to COUNTY as shown in Exhibit 2 for the exclusive use of a future joint project along SW Roy Rogers Road between SW Borchers Drive and the Chicken Creek Bridge. Payment shall be made within thirty (30) days of achieving the substantial completion milestone for the Waterline Work and upon receipt of an invoice from COUNTY. Other terms of the Partnering IGA pertaining to Restoration Costs, including but not limited to Section 4.2.6, shall apply.
- 6.6. COUNTY shall submit invoices as provided by Section 3.13.
- 6.7. COUNTY shall submit a final billing statement within forty-five (45) days of the acceptance of the Project. The parties may extend this time by mutual consent.
- 6.8. WWSS Commission shall pay COUNTY amount due within thirty (30) days of its receipt of billing statement.
- 6.9. Change Orders shall use the following protocol:
  - 6.9.1. Work Change Directives are defined in the construction agreement between COUNTY and contractor whereby COUNTY can direct work that is considered minor. Work Change Directives shall not affect administrative or Shared Costs (as described in Section 6.1.2) and shall be paid according to Exhibit 2. WWSP shall prepare Work Change Directives related to Waterline Work.
  - 6.9.2. All changes that are not Work Change Directives affecting the monetary obligation of any Party shall not be effective until approved by a written Change Order.
  - 6.9.3. Change Orders to the Road Project that do not affect the Waterline Work shall be

managed and approved by COUNTY. COUNTY shall give notice of the proposed change to WWSP of any change that increases their respective shares of the Shared Costs or affects the schedule for completion of the Project. The Party causing the change in Shared Costs (as described in Section 6.1.2) shall be responsible to pay those costs. WWSP must consent to any Change Order that increases its Shared Costs. If WWSP does not consent to the Change Order, COUNTY may still elect to proceed with the Change Order and the Parties reserve all rights to contest and determine responsibility for payment under the dispute resolution and remedy provisions below.

- 6.9.4. As provided in Section 4.10, Change Orders that affect the cost, schedule, quality of performance, workmanship, or material of the Waterline Work must be approved in writing by WWSP. Except as provided in Section 6.9.6, WWSP shall respond with approval or disapproval to COUNTY within five (5) business days following receipt of the proposed change. The response period may be extended by mutual agreement of the Parties. COUNTY may direct the contractor to perform the work if it deems emergency conditions exist or action is necessary to prevent adverse health or safety issues. In emergency circumstances, COUNTY shall provide notice reasonable under the circumstances and WWSP shall respond in a timely manner reasonable under the circumstances. If COUNTY elects to proceed, WWSS Commission reserves all rights to dispute responsibility for payment of the Change Order and to assert claims for diminished performance or value of the Waterline Work and repair and replacement of the water system improvements.
- 6.9.5. WWSP may initiate Change Orders for the Waterline Work by providing COUNTY a requested change with supporting documents to negotiate the cost and time impact with the contractor, which shall be paid by WWSP. The documentation shall include information on whether Project milestones will be adjusted as required and WWSP's consent to the same. COUNTY shall facilitate discussions with the Parties and the contractor to obtain an executed Change Order.
- 6.9.6. Any Change Order that increases the combined cost to WWSS Commission of \$500,000 or more shall require approval by the WWSS Board of Commissioners. No Change Order shall be binding upon WWSS Commission while approval is pending, subject to COUNTY's power under paragraph 6.8.4.
- 6.10. Within ninety (90) days after the final acceptance of the Project by COUNTY, COUNTY shall provide WWSP a final statement of Waterline Work and bill WWSS Commission for any remaining costs in excess of the payments already made or refund any excess to WWSS Commission.

## **ARTICLE VII - GENERAL PROVISIONS**

### **7.1. Laws of Oregon**

The Parties agree to abide by all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be governed by the laws of the State of Oregon. The construction contract shall contain all required public contract provisions of ORS Chapter 279A and 279C.

### **7.2. Default**



Either Party shall be deemed to be in default if it fails to comply with any provision of this Agreement. Parties agree time is of the essence in the performance of any of the obligations within this Agreement. The complaining Party shall provide the other Party with written notice of default and allow thirty (30) days within which to cure or diligently commence to cure the defect within a reasonable time. Parties shall pay for costs incurred for satisfactorily completed and authorized work up to the time of default. Each Party shall be liable for all costs and damages arising from its individual default.

### 7.3. Indemnification

This Agreement is for the benefit of the Parties only. Subject to the limitations related to government agencies under the Oregon Constitution, each Party agrees to indemnify and hold the other harmless, to include their respective officers, employees, agents, and representatives, from and against all claims, demands, and causes of action, and suits of any kind or nature for personal injury, death, or damage to property on account of or rising out of services performed, the omission of services or in any way resulting from the acts or omissions of the Parties so indemnifying and/or its officers, employees, agents, or representatives. Indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each Party shall be solely responsible for any contract claims, delay damages, permit compliance or permit violations, or similar items arising from or caused by the action or inaction of the Party.

### 7.4. Documents are Public Records

All records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models that are prepared or developed in connection with this Project shall be subject to the applicable provisions of the Oregon public records law.

### 7.5. Modification of Agreement

No waiver, consent, modification, or change of terms of this Agreement shall bind either Party unless in writing, signed by both Parties. Such waiver, consent, modification, or change, if made, shall be effective only in specific instances and for the specific purpose given.

### 7.6. Dispute Resolution

The Parties shall attempt to informally resolve any dispute concerning any Party's performance or decision under this Agreement, or regarding the terms, conditions, or meaning of this Agreement. A written description of the dispute shall be delivered by the complaining Party to the other. The Parties agree that disputes shall be attempted to be resolved at the field staff level between onsite Project representatives or inspectors or by the Project and Construction Managers for each Party before escalating to the Principal Engineers. If the Principal Engineers are unable to resolve the dispute the Parties agree to escalate the dispute to the Director level. A neutral third party may be used to mediate if the Parties agree to facilitate such negotiations. The mediator shall be mutually chosen within thirty (30) days of the original date of written notice of the dispute. Impasse shall be declared if the Parties cannot agree on a mediator within the thirty-day (30-day) period above, or the Parties cannot resolve the matter through mediation within forty-five (45) days after selection of the mediator. In the event of any impasse in the resolution of any dispute, the issues shall be submitted to the governing bodies of both Parties for a

recommendation or resolution within thirty (30) days after submission. Thereafter, any Party may pursue available legal or equitable remedies as set forth in Section 7.7.

7.7. Remedies

Subject to the provisions of ARTICLE VI - COMPENSATION and the dispute resolution process set forth in Section 7.6, any Party may institute legal action to cure, correct, or remedy any default, to enforce any covenant or agreement, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Washington County Circuit Court. The Parties, by signature of their authorized representative below, consent to the personal jurisdiction of that court.

7.8. Severability

If any term(s) or provision(s) of this Agreement or the application thereof to any person or circumstance shall, to any extent, be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application of those terms and provisions shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

7.9. Nondiscrimination

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination, or suspension in whole or in part by COUNTY or WWSS Commission.

7.10. Excused Performance

In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the Parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance that are not within the reasonable control to the Party to be excused.

7.11. Integration

This Agreement includes the entire agreement of the Parties and supersedes any prior discussions or agreements regarding the same subject. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement or its subject matter.

7.12. Access to Books, Records, and Accounting

Each Party shall maintain books, records and reports of the Road Project and Waterline Work showing all income, receipts, expenses, and costs. These records shall be maintained for a period of three (3) years following final completion. All such books, records, and reports may be examined, and copies made by the requesting Party at reasonable times upon reasonable notice.

**ARTICLE VIII - TERM OF AGREEMENT**

- 8.1. The term of this Agreement shall be from the date of execution for four (4) years unless mutually agreed to by both Parties in writing.
- 8.2. This Agreement may be amended or extended for periods of up to one (1) year by mutual written consent of the Parties, subject to provisions of this Agreement. Except for breach, it may be canceled or terminated for any reason beyond the control of the Parties. Termination or cancellation shall be effective thirty (30) days after written notice to the other Party, or at such time as the Parties may otherwise agree. The Parties shall, in good faith, agree to such reasonable provisions for completing the Project and paying for any additional costs as necessary.
- 8.3. Notwithstanding Sections 8.1 and 8.2, WWSS Commission shall have the right to make future connections and perform commissioning work for the Waterline. COUNTY shall consider all necessary right-of-way permit requests received to achieve this work. This obligation of COUNTY shall survive expiration of the term of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands as of the day and year hereinafter written.

**WASHINGTON COUNTY, OREGON**

**WILLAMETTE WATER SUPPLY  
SYSTEM COMMISSION**

\_\_\_\_\_  
Print Name: Ruth Osuna  
As Its: Deputy County Administrator

\_\_\_\_\_  
Print Name: David Kraska  
As Its: General Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

PLM\_4.4 SW ROY ROGERS ROAD - BORCHERS DRIVE TO CHICKEN CREEK

Exhibit 1  
Vicinity Map



PLM\_4.4 SW ROY ROGERS ROAD - BORCHERS DRIVE TO CHICKEN CREEK  
Exhibit 2  
Cost Breakdown Table

Task	Description	Lead Agency	Total Item Cost		Shared Cost?	Washington County			WWSP			Notes
			Units	Cost		Quantity	Percentage	Cost Share	Quantity	Percentage	Cost Share	
1.	Partnering IGA Restoration Cost	WWSP	LS	\$ 2,167,773.41	No	n/a	0%	\$ -	1.00	100%	\$ 2,167,773.41	Payment to be made per Section 6.5 of this IGA. Fixed cost item.
2.	Administration Cost (Monthly)	WCLUT	Month	\$ 19,625.00	No	n/a	0%	\$ -	24.00	100%	\$ 471,000.00	Assumes 24 months of Admin at \$19,625/month. Fixed cost per month item. Payment shall commence 3 after construction notice to proceed. COUNTY shall invoice WWSS Commission on a monthly basis.
3.	Engineering Services During Construction by County's Design Consultant	WCLUT	n/a	\$ 25,000.00	No	n/a	0%	\$ -	n/a	100%	\$ 25,000.00	Payment shall be based on actual costs and invoiced as they occur. Amount not to exceed unless previously approved by WWSS Commission.
4.	Shared Costs excluding Mobilization	WCLUT	n/a	\$ 1,626,103.00	Yes	n/a	36.2%	\$ 588,005.53	n/a	63.8%	\$ 1,038,097.47	Shared Costs from 100% cost estimate. Work as shown in the cost estimate (source file: 100389 PLM_4.4 Const IGA Cost Share Summary_101421). Percentages are calculated in the cost estimate file and only one decimal place are shown in this table. Cost will be revised after bid results are available.
5.	Mobilization	WCLUT	LS	\$ 1,490,028.90	Yes	n/a	42.5%	\$ 633,653.37	n/a	57.5%	\$ 856,375.53	WWSP share of mobilization is limited to 10% of the Waterline Work as shown in the cost estimate (source file: 100389 PLM_4.4 Const IGA Cost Share Summary_101221). Percentages are calculated in the cost estimate file and only one decimal place are shown in this table. Cost will be revised after bid results are available.
6.	Waterline Work	WCLUT	LS	\$ 7,525,657.86	No	n/a	0%	\$ -	1.00	100%	\$ 7,525,657.86	WWSP separate costs from 100% cost estimate. Work as shown in the cost estimate (source file: 100389 PLM_4.4 Const IGA Cost Share Summary_101421) and includes WWSP contingency. Cost will be revised after bid results are available.
<b>Totals</b>				<b>\$ 12,854,188.17</b>				<b>\$ 1,221,658.89</b>			<b>\$ 12,083,904.28</b>	
<b>TOTAL TO PAY TO WCLUT:</b>											<b>\$ 12,083,904.28</b>	



# Willamette Water Supply

*Our Reliable Water*

## 4.C. Adopt PLM\_4.4 WCLUT Construction IGA – *Mike Britch*

WWSS Commission Board Meeting  
November 4, 2021

1

## PLM\_4.4 Background

- SW Roy Rogers Road from SW Borchers Drive to Chicken Creek
- 3,000 Linear Feet of 66" WSP
- Roy Rogers Road Average Daily Traffic – 17k (2021 WCLUT data)
- Combined Road/Pipeline Project Value \$16M



Willamette Water Supply  
*Our Reliable Water*

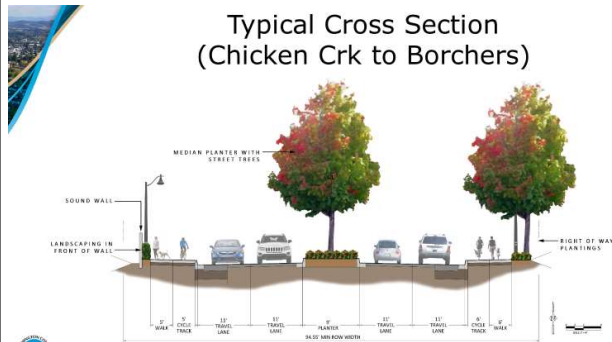
2

## PLM\_4.4 Background

Partner Project led by WCLUT



Sound Walls



Willamette Water Supply  
*Our Reliable Water*



Slides from May 18, 2021  
Sherwood City Council  
Work Session

3

## PLM\_4.4 Construction IGA

- This Partnership project between the WWSP and WCLUT & requires both Design and Construction IGAs related to the administration of the combined work:
  - The Construction IGA outlines the terms related to executing the construction and the associated costs including cost shares
  - Negotiations take place on a project-by-project basis based on the specific characteristics of the project
  - It is necessary to have a construction IGA in place prior to the work taking place

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4



## PLM\_4.4 Construction IGA

- Exhibit 2 of the Construction IGA outlines the estimated costs for the Program (excluding pipeline construction)
  - Partnering IGA Restoration Cost ← Established in Master Partnering IGA
  - Administration Cost (Monthly) ← Est. based on project req.t's & staging
  - Engineering Services During Construction by County's Design Consultant ← Review of traffic control plans in support of pipeline work
  - Shared Costs (excluding Mobilization) ← Will vary with bid amount (currently established from cost estimates)
  - Mobilization ←

## PLM\_4.4 Construction IGA

- Actual Costs of some items based on bids:
  - Percentage split between WCLUT & WWSP for “shared items” and “mobilization” e.g. with a bid lower than the cost est. for the pipeline work shown on Exhibit 2
  - Share Cost items of work
    - Will change based on bid amounts for “Road Work” and “Pipeline Work”
  - Mobilization
    - Will change based on bid amounts for “Road Work” and “Pipeline Work” & if a contractor elects to use a mobilization value of less than the max. 10%

**Exhibit 2 from Construction IGA**

Task	Description	Lead Agency	Total Item Cost		Shared Cost?	Washington County			WWSP			Notes
			Units	Cost		Quantity	Percentage	Cost Share	Quantity	Percentage	Cost Share	
1.	Partnering IGA Restoration Cost	WWSP	LS	\$ 2,167,773.41	No	n/a	0%	\$ -	1.00	100%	\$ 2,167,773.41	Payment to be made per Section 6.5 of this IGA. Fixed cost item.
2.	Administration Cost (Monthly)	WCLUT	Month	\$ 19,625.00	No	n/a	0%	\$ -	24.00	100%	\$ 471,000.00	Assumes 24 months of Admin at \$19,625/month. Fixed cost per month item. Payment shall commence 3 after construction notice to proceed. COUNTY shall invoice WWSS Commission on a monthly basis.
3.	Engineering Services During Construction by County's Design Consultant	WCLUT	n/a	\$ 25,000.00	No	n/a	0%	\$ -	n/a	100%	\$ 25,000.00	Payment shall be based on actual costs and invoiced as they occur. Amount not to exceed unless previously approved by WWSS Commission.
4.	Shared Costs excluding Mobilization	WCLUT	n/a	\$ 1,626,103.00	Yes	n/a	36.2%	\$ 588,005.53	n/a	63.8%	\$ 1,038,097.47	Shared Costs from 100% cost estimate. Work as shown in the cost estimate (source file: 100389 PLM_4.4 Const IGA Cost Share Summary_101421). Percentages are calculated in the cost estimate file and only one decimal place are shown in this table. Cost will be revised after bid results are available.
5.	Mobilization	WCLUT	LS	\$ 1,490,028.90	Yes	n/a	42.5%	\$ 633,653.37	n/a	57.5%	\$ 856,375.53	WWSP share of mobilization is limited to 30% of the Waterline Work as shown in the cost estimate (source file: 100389 PLM_4.4 Const IGA Cost Share Summary_101221). Percentages are calculated in the cost estimate file and only one decimal place are shown in this table. Cost will be revised after bid results are available.
6.	Waterline Work	WCLUT	LS	\$ 7,525,657.86	No	n/a	0%	\$ -	1.00	100%	\$ 7,525,657.86	WWSP separate costs from 100% cost estimate. Work as shown in the cost estimate (source file: 100389 PLM_4.4 Const IGA Cost Share Summary_101421) and includes WWSP contingency. Cost will be revised after bid results are available.
<b>Totals</b>								\$ 1,221,658.89			\$ 12,083,904.28	

Cost elements    Shared (Y/N)    WCLUT costs    WWSP costs    Notes & assumptions

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**Exhibit 2 from Construction IGA**

Waterline Work (separate cost):	\$7,525,657.86
Administration Cost:	\$471,000.00
Engr. Service during construction:	\$25,000.00
Shared Costs (excluding mob.):	\$1,038,097.47
Mobilization (shared & pipeline):	<u>\$ 856,375.53</u>
<i>Total estimated Project related costs:</i>	<i>\$ 9,916,130.87</i>
Partnering IGA Restoration Cost:	<u>\$ 2,167,773.41</u>
<i>Total estimated to pay WCLUT :</i>	<i>\$ 12,083,904.28</i>

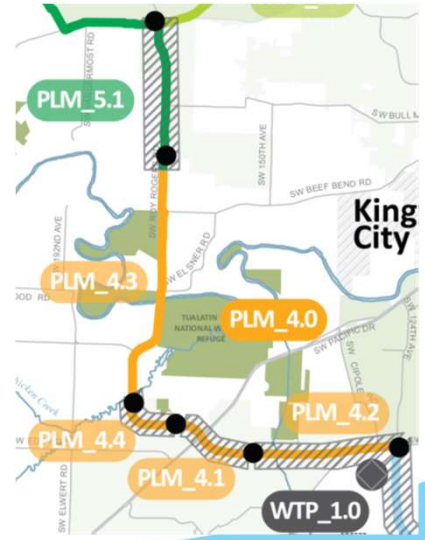
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## WCLUT Master Partnering IGA (Road Restoration Payments)

- Description
  - \$11.5 million for PLM\_5.1, PLM\_4.1, PLM\_4.2, and PLM\_4.4
  - Paid in lieu of pavement, subgrade, and surface restoration costs that would have otherwise been incurred by the WWSS
  - PLM\_4.x payments
    - Paid within 30 days of achieving substantial completion
    - Amount proportionate to percentage of pipeline length
- Payment Schedule

Project	Amount	Anticipated Payment Timing
PLM_5.1	\$1,250,000	Paid
PLM_4.1	\$2,987,923	Q1 2024
PLM_4.4	\$2,167,773	Q1 2024
PLM_4.2	\$5,094,304	Q1 2025



## Construction Cost Comparison to Baseline

Item	Amount
Baseline 6.1 Budget: PL4_4.4	\$10,625,566
<b>Total Baseline Budget</b>	<b>\$10,625,566</b>
PLM_4.4 Project Costs	
100% OPCC + Shared Project Costs (estimates)	\$11,587,904
Payments to WCLUT (administration and engineering services)	\$496,000
<b>Estimated PLM_4.4 Project Costs Subtotal</b>	<b>\$12,083,904</b>
PLM_4.4 Project Contingency	\$542,013
<b>Total Estimated PLM_4.4 Costs</b>	<b>\$12,625,917</b>
<b>Potential Draw on Management Reserve</b>	<b>\$2,000,352</b>

## IGA Cost Distribution

<b>IGA Exhibit 2 Amount</b>	<b>\$12,625,917</b>
<i>TVWD Estimated Share<sup>1</sup></i>	<i>\$7,439,598</i>
<i>Hillsboro Estimated Share<sup>1</sup></i>	<i>\$4,556,911</i>
<i>Beaverton Estimated Share<sup>1</sup></i>	<i>\$629,408</i>

1. Based on overall project ownership percentage from Baseline 6.1 budget and WWSS IGA

## Benefits of Partnering

- Joint construction limits overall disruption to the community
- Because of Partnering, more Tualatin-Sherwood Rd upgraded
- Without WCLUT as partner, WWSP costs would be higher:
  - Additional ROW for temporary traffic control to maintain traffic lanes (key cost component)
  - Temporary pavement (hot mix asphalt concrete)
  - Bear full cost
    - Roadway, curb, storm drain, etc.
    - Temporary construction measures (erosion control, etc.)
    - Stakeholder engagement
  - Temporary widening and restoration
- WCLUT leading key stakeholder engagement, public coordination, and property acquisition (and improves key stakeholder support)

If work were done by the WWSP independent of the County, other constraints may have been imposed further increasing the cost of the work (due to need to “maintain all lanes”)

**QUESTIONS?**

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#### 4.C. Requested Board Action

Consider adopting Resolution No. WWSS 28-21 approving an Intergovernmental Agreement between Washington County and the Willamette Water Supply System Commission Joint Construction of PLM\_4.4 SW Roy Rogers Road – Borchers Drive to Chicken Creek Project

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# Willamette Water Supply System Commission

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## **STAFF REPORT**

**To:** WWSS Board of Commissioners

**From:** Joelle Bennett, P.E., WWSP Assistant Program Director

**Date:** November 4, 2021

**Subject:** Anticipated Business Agenda Items for the December 2021 meeting of the WWSS Board of Commissioners

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### **Key Concepts:**

The next Willamette Water Supply System (WWSS) Commission Board meeting agenda is anticipated to include staff recommendations for the following business agenda items:

1. CM/GC Contract Change for WTP\_1.0 Tree Clearing

### **Background:**

The following action is an anticipated business agenda item for the December 2, 2021, meeting of the WWSS Board of Commissioners. Due to the dynamic nature of the WWSS work, request for approval of some items may be delayed or new items may emerge on the business agenda next month. WWSS staff strive to provide preliminary information one month prior to requesting action and a full staff report describing the recommended action during the appropriate month.

1. CM/GC Contract Change for WTP\_1.0 Tree Clearing

WWSS staff have determined that clearing trees from WTP\_1.0 site before bird nesting season in early 2022 is a critical path effort to maximize the dry season construction window later in the year. Using the competitively bid tree clearing bid results from the Guaranteed Maximum Price (GMP) being prepared by Sundt Construction, Inc., WWSS staff propose authorizing this work through a change order so it can begin while the remainder of the GMP is evaluated.

At the next WWSS Board meeting, WWSP staff plan to present the strategy, the bid results, and a recommendation to the Board to approve a change order for tree clearing work for WTP\_1.0.

### **Budget Impact:**

Anticipated costs for the actions described in this staff report are reflected in the WWSP FY2022 budget.

### **Staff Contact Information:**

Dave Kraska, P.E., WWSS General Manager, 503-941-4561, david.kraska@tvwd.org  
Joelle Bennett, P.E., WWSP Assistant Director, 503-941-4577, joelle.bennett@tvwd.org

### **Attachments:**

- Approvals and Procurement Forecast (October – December 2021)

# Willamette Water Supply System Commission

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**Approvals and Procurement Forecast: October 2021 through December 2021**

This report provides a three-month projection of (1) forthcoming actions under the WWSS Management Authority Matrix and (2) ongoing and forthcoming procurements.

a = Actual date  
e = Email approval  
FC = Finance Committee  
LCRB = Local Contract Review Board  
MC = Management Committee  
N/A = Not applicable  
OC = Operations Committee

Rec. = Recommendation  
t = Tentative date  
TBD = To be determined; sufficient information not available to project a date  
Note: Dates in red text indicate meetings needed outside the normal meeting schedule

Type	Description	Projected Action	Body/Position (projected action date)		
			Program Director	WWSS Committees	WWSS Board
<b>Program Baseline or Related Plans</b> (above Program Director's Authority)	1. PLM_5.3 Add Accommodations for Temporary Pump Station Connection and Use during WWSS Commissioning	Approve	N/A	MC: 10/21/2021 t	N/A
		Execute	N/A	N/A	N/A
<b>Real Estate</b>	2. MPE_1.3 Resolution of Need	Approve	N/A	MC: 9/23/2021 a	10/7/2021 a
	3. PLM_1.3 Resolution of Need (third supplemental approval)	Approve	N/A	MC: 9/23/2021 a	10/7/2021 a
	4. PLM_1.3 Resolution of Need (fourth supplemental approval)	Approve	N/A	MC: 10/21/2021 t	11/4/2021 t
<b>IGAs, MOUs, Permit Commitments, &amp; Similar Agreements</b>	5. DCS_1.0 Sherwood Broadband Services IGA	Approve	N/A	MC: 3/18/2021 a	4/1/2021 a
		Execute	10/31/2021 t	N/A	N/A
	6. PLW_2.0 Settlement Agreement with Metro and Hillsboro for OWNPs	Approve	N/A	MC: 4/22/2021 a	5/6/2021 a
		Execute	10/31/2021 t	N/A	N/A
	7. PLM_1.3 BPA Reimbursement Agreement	Approve	N/A	MC: 5/20/2021 a	6/3/2021 a
		Execute	10/31/2021 t	N/A	N/A
	8. PLW_1.2 WCLUT Construction IGA	Approve	N/A	MC: 8/19/2021 a	9/2/2021 a
		Execute	10/06/2021 a	N/A	N/A
	9. PLM_1.0 Wilsonville Ground Lease Amendment 1	Approve	N/A	MC: 8/19/2021 a	9/2/2021 a
		Execute	10/31/2021 t	N/A	N/A
	10. Master Coordination Agreement with WCLUT Amendment 1	Approve	N/A	MC: 9/23/2021 a	10/7/2021 a
		Execute	11/30/2021 t	N/A	N/A
	11. RES_1.0 WCLUT Grabhorn Road	Approve	N/A	MC: 10/21/2021 t	11/4/2021 t
Execute		12/30/2021 t	N/A	N/A	
12. PLM_4.4 WCLUT Construction IGA	Approve	N/A	MC: 10/21/2021 t	11/4/2021 t	
	Execute	12/30/2021 t	N/A	N/A	
13. PLM_4.2 WCLUT Construction IGA	Approve	N/A	MC: 1/20/2022 t	2/3/2022 t	
	Execute	2/28/2022 t	N/A	N/A	

Type	Description	Projecte d Action	Body/Position (projected action date)		
			Program Director	WWSS Committees	WWSS Board
<b>Contracts</b> (above Program Director's Authority)	14. None	Approve	N/A	N/A	N/A
		Execute	N/A	N/A	N/A
<b>Contract Amendments and Change Orders</b> (above Program Director's Authority)	15. RES_1.0/PLM_5.3 GMP for Pipeline Materials Goal: Secure pipe, valves, and vaults to construct RES_1.0 and PLM_5.3 Value: \$19.05M Contractor: Hoffman-Fowler, LLC	Approve	N/A	MC: 8/19/2021 a	9/2/2021 a
		Execute	10/30/2021 a	N/A	N/A
	16. WTP_1.0 Tree Clearing Goal: Clear trees from WTP site before bird nesting season Value: \$1M (estimated) Contractor: Sundt Construction	Approve	N/A	11/18/2021 t	12/2/2021 t
		Execute	12/6/2021 t	TBA	N/A
	17. RES_1.0/PLM_5.3 GMP for Construction Goal: Construct RES_1.0 and PLM_5.3 Value: \$103.8M (estimated) Contractor: Hoffman-Fowler, LLC	Approve	N/A	12/16/2021 t	1/6/2022 t
		Execute	1/10/2022 t	TBA	N/A
<b>Local Contract Review Board (LCRB) Actions</b>	18. None	Approve	N/A	N/A	N/A

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**Willamette Water Supply System Commission  
Board Meeting**

**November 4, 2021**

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