

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CITY OF TUALATIN AND CLEAN WATER SERVICES TO
PROVIDE PROJECT EVALUATION AND PRELIMINARY DESIGN FOR THE
MARTINAZZI SANITARY SEWER UPSIZING (PRIORITY 2): NORTH TRUNK –
SEMINOLE TR TO SAGERT ST IMPROVEMENTS**

This Agreement, dated _____, is between Clean Water Services (District) a county service district organized under ORS Chapter 451 and the City of Tualatin (City) an Oregon municipal corporation, individually referred to as “Party” and collectively as “Parties.”

A. RECITALS

1. ORS 190.003 - 190.110 encourages intergovernmental cooperation and authorizes local governments to delegate to each other authority to perform their respective functions as necessary.
2. City of Tualatin intends to undertake Phase 1 of the Martinazzi Sanitary Sewer Upsizing (Priority 2): North Trunk – Seminole Tr to Sagert St Project (7170) to install 1,086 LF of new 15-inch PVC sanitary sewer main along SW Martinazzi Ave between SW Seminole Trail north to SW Sagert St, replacing the existing 12-inch pipe running through the neighborhood just west of SW Martinazzi Ave. An additional 130 LF of 10-inch pipe will be upsized to 15-inch just north of SW Sagert St. This Project has been endorsed by the Capital Improvement Program Prioritization Committee.

NOW, THEREFORE, the Parties agree as follows:

B. PROJECT DESCRIPTION

Phase 1 of the Project consists of evaluating and providing preliminary design for the Project. See attached Exhibit A for the Project location.

C. DEFINITIONS

1. Capital Improvement Program Prioritization Committee – This Committee has been established by District and the Member Cities of Beaverton, Cornelius, Forest Grove, Hillsboro, Tigard, Tualatin, and Sherwood.
2. Financial Partner –City or District will assume this role, primarily for the purpose of funding a portion of the Project.
3. Managing Partner –City or District will assume this role, primarily for the purpose of administering the Project.

D. DISTRICT OBLIGATIONS

District is the Financial Partner and will perform all Tasks identified and checked on attached Exhibit B for the Financial Partner, the List of Standard Obligations. District assigns Sheila Sahu as District's Project Manager.

E. CITY OBLIGATIONS

City is the Managing Partner and will perform all Tasks identified and checked on Exhibit B for the Managing Partner. City assigns Bryce Donovan as City's Project Manager.

F. GENERAL TERMS

1. Laws and Regulations. City and District agree to abide by all applicable laws and regulations.
2. Term of this Agreement. This Agreement is effective from the date on page one and will remain in effect until the Project is complete and the Parties' obligations have been fully performed or this Agreement is terminated as provided herein.
3. Amendment of Agreement. City and District may amend this Agreement from time to time, by mutual written agreement.
 - A. Proposed changes of scope during Project implementation must be reviewed and endorsed by the Capital Improvement Program Prioritization Committee. Changes necessitated by conditions discovered during design or construction, but consistent with the original scope of the Project, may be approved by the Managing Partner without further approval.
4. Termination. This Agreement may be terminated immediately by mutual written agreement of the Parties, with the termination being effective in 30 days. Upon mutual termination, City will notify District of any amounts due and owed within 15 days. If there is no dispute as to the amount due and owed, District will make payment of such amount within 60 days of the financial submittal. If there is a dispute regarding the amount due and owed, paragraph seven will apply.
5. Integration. This document constitutes the entire agreement between the Parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the Parties and no usage of trade will be relevant to supplement any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement will not be relevant to determine the meaning of this Agreement and no waiver by a party of any right under this Agreement will prejudice the waiving Party's exercise of the right in the future.
6. Indemnification. Within the limits of the Oregon Tort Claims Act, codified at ORS

30.260 through 30.300, each of the parties will indemnify and defend the other and their officers, employees, agents, and representatives from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, contractors or representatives.

7. Resolution of Disputes. If any dispute out of this Agreement cannot be resolved by the project managers from each party, the City Manager or designee and District's Chief Executive Officer or designee will attempt to resolve the issue. If there is no resolution, the Parties will submit the matter to mediation, each party paying its own costs and sharing equally in common costs. If the dispute is not resolved in mediation, the parties will submit the matter to arbitration. The decision of the arbitrator will be final, binding and conclusive upon the parties and subject to appeal only as otherwise provided in Oregon law.
8. Interpretation of Agreement.
 - A. This Agreement will not be construed for or against any party by reason of the authorship or alleged authorship of any provision.
 - B. The paragraph headings in this Agreement are for ease of reference only and will not be used in construing or interpreting this Agreement.
9. Severability/Survival. If any of the provisions in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions will not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest will survive the termination of this Agreement for any cause.
10. Approval Required. This Agreement and all amendments, modifications or waivers of any portion thereof will not be effective until approved by 1) District's Chief Executive Officer or the Chief Executive Officer's designee and when required by applicable District rules, District's Board of Directors and 2) City. Proposed changes of scope must also be approved by the Capital Improvement Program Prioritization Committee.
11. Choice of Law/Venue. This Agreement and all rights, obligations and disputes arising out of the Agreement will be governed by Oregon law. All disputes and litigation arising out of this Agreement will be decided by the state courts in Oregon. Venue for all disputes and litigation will be in Washington County, Oregon.
12. Easements. District and City grant each other the right to perform work on their respective easements to the extent necessary to complete work on the Project.
13. Condemnation. Costs incurred by the Managing Partner to condemn an easement for the Project will be reimbursed as a Project cost if the Managing Partner has obtained previous approval from the Financial Partner. The Managing Partner will provide the

Financial Partner with all pertinent information to evaluate its request including a written justification for pursuing condemnation, a summary of the property owner's position, a copy of the appraisal report and any other information requested by the Financial Partner. The Financial Partner will respond to the Managing Partner's request within ten business days of receiving all required information.

14. Electronic Signature. This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute one and the same instrument. An electronic signature will be considered an original. The individuals signing this Agreement certify that they are authorized to execute this Agreement on behalf of the City and District respectively.
15. Third Party Beneficiaries. The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to any third party

CLEAN WATER SERVICES

CITY OF TUALATIN, OREGON

By: _____
Chief Executive Officer or Designee

By: _____
City Manager or Designee

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

District Counsel

City Attorney

Exhibit A Project Location Map

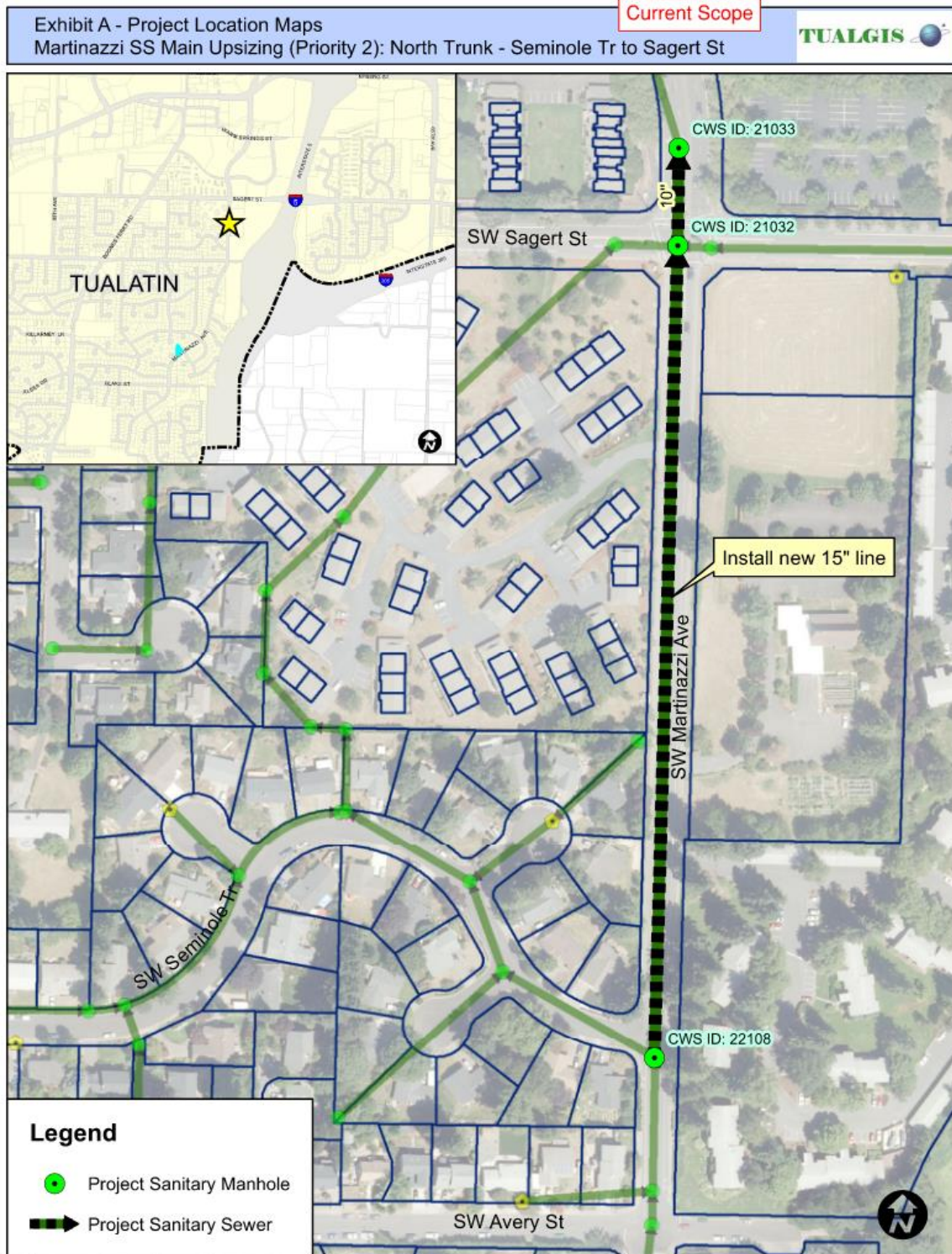


EXHIBIT B
LIST OF STANDARD OBLIGATIONS

| Tasks | Check If Applicable |
|--|-------------------------------------|
| <u>Managing Partner will:</u> | |
| Provide Financial Partner at least ten business days to review the scope of work and fee schedule to evaluate the Project and provide preliminary design. | <input checked="" type="checkbox"/> |
| Provide Financial Partner at least 25 business days to review a copy of the evaluation report and preliminary design for the Project. Respond to Financial Partner’s comments on the documents. | <input checked="" type="checkbox"/> |
| Prepare and submit invoices of the Project costs to Financial Partner <u>quarterly</u> . (Insert the applicable timing requirements e.g. “quarterly or “upon completion of Phase 1 of the Project”.) | <input checked="" type="checkbox"/> |
| Prepare and submit a Project summary of completed tasks to Financial Partner with each invoice. The invoice must include District Project Name, District Project number, Not to Exceed (NTE) amount, and remaining NTE amount. | <input checked="" type="checkbox"/> |
| If requested, hold progress meetings with Financial Partner during the evaluation and preliminary design phase of the Project. Financial Partner may review options and provide input on the Project. | <input checked="" type="checkbox"/> |
| Pay <u>4</u> percent of the following costs for the Project: administration, evaluation and preliminary design (“Project Costs”). | <input checked="" type="checkbox"/> |
| Take the lead in coordinating public involvement related to the Project. | <input checked="" type="checkbox"/> |
| Waive any land use or permit fees for the Project (except plumbing inspection fees) that City staff has the authority to waive without getting approval from the City Council. | <input checked="" type="checkbox"/> |
| <u>Infiltration and Inflow Abatement projects</u> | |
| Obtain written permission from each property owner to inspect their sanitary sewer lateral and to line or replace it if deficient. | <input type="checkbox"/> |
| Establish whether each property has a cleanout at the structure. If no cleanout exists, Managing Partner will install one. | <input type="checkbox"/> |
| Inspect and evaluate each sanitary sewer lateral and main with a television camera. Managing Partner will line or replace all deficient sewer laterals and mains. | <input type="checkbox"/> |

EXHIBIT B
LIST OF STANDARD OBLIGATIONS

| Tasks | Check If Applicable |
|--|-------------------------------------|
| Other: (please describe) _____ | <input type="checkbox"/> |
| <u>Financial Partner will:</u> | |
| Review the scope of work and fee schedule to evaluate the Project and provide preliminary design. Provide Managing Partner with written comments and/or approval within ten business days of receiving the documents. | <input checked="" type="checkbox"/> |
| Have the right to comment on and approve the proposed design alternative and approach for the Project within 25 business days of receiving the documents. | <input checked="" type="checkbox"/> |
| Pay Managing Partner <u>96</u> percent of the Project Costs. | <input checked="" type="checkbox"/> |
| Pay invoices submitted by Managing Partner for actual costs incurred within 30 days of approving the invoice. The invoice must include District Project Name, District Project number, Not to Exceed (NTE) amount, and remaining NTE amount. | <input checked="" type="checkbox"/> |
| Pay an amount, which will not exceed \$ <u>200,000</u> , for Phase 1 of the Project. | <input checked="" type="checkbox"/> |
| Assist Managing Partner in communicating with the property owners and Project stakeholders. | <input checked="" type="checkbox"/> |
| Other: (please describe) | <input type="checkbox"/> |