

RESOLUTION NO. 5962

A RESOLUTION ADOPTING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR SANITARY SEWER SERVICE BETWEEN THE CITY OF ALBANY AND THE CITY OF MILLERSBURG FOR WASTEWATER TREATMENT FACILITIES.

WHEREAS, each party is a municipal corporation under the laws of the State of Oregon that plans and provides essential public services for present and future users; and

WHEREAS, the City of Albany and the City of Millersburg have executed an Intergovernmental Agreement for Wastewater Treatment Facilities through Albany Resolution No. 5463 and Millersburg Resolution 2007-7, respectively, that provides for a cooperative joint venture for expansion, operation, and maintenance of the Albany-Millersburg Water Reclamation Facility; and

WHEREAS, the Talking Water Gardens at Simpson Park is under construction and will be incorporated as an integral part of the Albany-Millersburg Water Reclamation Facility; and

WHEREAS, the City of Albany and the City of Millersburg agree that periodically the Agreement shall be reviewed and updated.


NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the attached Amendment No. 1 to the Intergovernmental Agreement for Wastewater Treatment Facilities between the City of Albany and the City of Millersburg is adopted by this resolution.

DATED AND EFFECTIVE THIS 8TH DAY OF DECEMBER 2010.



Mayor

ATTEST:



Betty Langmuir
City Clerk

AMENDMENT NO 1.

INTERGOVERNMENTAL AGREEMENT for

WASTEWATER TREATMENT FACILITIES

This Amendment No. 1 to the Intergovernmental Agreement for Wastewater Services (Original Agreement) is made and entered into this 14th day of December 2010 between the City of Albany and the City of Millersburg.

The purpose of Amendment No. 1 is to supplement and modify the Original Agreement dated August 14, 2007, between the City of Albany (Albany Resolution 5463) and the City of Millersburg (Millersburg Resolution 2007-7), whereby the City of Albany and the City of Millersburg contracted to share in capital construction costs, capacity and operating costs for wastewater treatment facilities, including the Albany-Millersburg Water Reclamation Facility (A-M WRF), and the Wetlands Treatment System as specifically provided in the Original Agreement.

This Amendment is necessitated to clarify the process and methodology whereby Albany and Millersburg share in the capital construction cost, land acquisition cost, and capacity of the Phase 1 Wetlands Project.

WITNESSETH

WHEREAS, each party is a municipal corporation under the laws of the State of Oregon that plans and provides essential public services for present and future users; and

WHEREAS, Albany has a National Pollutant Discharge Elimination System (NPDES) permit to discharge treated wastewater to the Willamette River, which was issued by the State of Oregon, acting by and through the Oregon Department of Environmental Quality (DEQ), and Albany will utilize this permit to meet the combined wastewater treatment needs of both communities; and

WHEREAS, the Oregon Department of Environmental Quality has issued a Temperature Total Maximum Daily Load (TMDL) for the Willamette River and the City of Albany and the City of Millersburg envision utilizing wetland treatment to comply with this regulation; and

WHEREAS, the parties agree that the opportunity to cooperate in the design, permitting, construction, operation, maintenance, and cost sharing of the Wetlands Treatment System and other future wastewater management facilities is mutually beneficial and that such agreements are authorized under the provisions of ORS Chapter 190; and

WHEREAS, the parties have been successful in securing Clean Water State Revolving Loans for construction of the Phase 1 Wetlands Improvement Project; and

WHEREAS, Teledyne Wah Chang (TDY), an industrial customer in the City of Millersburg, holds a separate NPDES permit and is impacted by the same temperature regulations and limitations; and

WHEREAS, TDY contracted with Albany and Millersburg (Wastewater Management Agreement dated October 28, 2009, and amended June 16, 2010) to share in project costs and capacity of the Phase I Wetlands Improvement Project; and

WHEREAS, Albany and Millersburg City Councils held a joint meeting on August 26, 2009, and agreed on cost and capacity sharing principals for the Phase 1 Wetlands Project; and

WHEREAS, an Amehdment to the ORIGINAL AGREEMENT is needed to formally adopt and incorporate these capital cost and capacity sharing principals.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree to amend the original intergovernmental agreement for wastewater treatment facilities as follows:

AGREEMENT

Section 7. Future Effluent Temperature Management Wetlands Treatment Project is hereby amended as follows:

7. Future Effluent Temperature Management Wetlands Treatment Project. Total Maximum Daily Thermal Loads (TMDL) for the Willamette River were issued by the Oregon Department of Environmental Quality on September 21, 2006. These limits require temperature reductions to protect aquatic life. A Wetlands Treatment System solution to cool and polish treated wastewater effluent from the A-M WRF will be used to meet these regulations and thermal load limitations. The Wetlands Treatment System will also be constructed in phases to meet regulatory requirements and the growing treatment needs of each community. The following describes the Phase 1 Wetlands Treatment Project improvements (subsequently referred to as the "Phase 1 Wetlands Project"), including key implementation requirements. A map showing features of the Phase 1 Wetlands Project is included as *EXHIBIT 1* to this Amendment.

a. Ownership of Wetlands Treatment System. The real property and related treatment facilities for the Phase 1 Wetlands Project shall be in shared ownership in proportion to each party's capacity and capital cost contribution. Legal title to the real property shall remain with the City of Albany, but the assets shall be held on the respective books and accounts of the parties in proportion to each party's capacity and capital costs contribution similar to the approach utilized in the original agreement. The above referenced real property and related treatment facilities shall be deemed a part of the Albany-Millersburg Water Reclamation Facility (aka Davidson Street Wastewater Treatment Plant) and shall be subject to all provisions of the original agreement applicable thereto, including but not limited to, Section 11.4, Separation of Assets.

b. Wetlands Treatment System, Capacity Allocation. The design capacity and allocation to each party shall be shared based on permitted waste load allocations assigned directly to the City of Albany's NPDES permit exclusive of transferred waste load allocations from the TDY NPDES permit. Of the total waste load allocation assigned directly to Albany, 90 percent of the allocation shall be available to Albany and 10 percent shall be available to Millersburg.

c. Phase 1 Wetlands Project Schedule. Milestones for the Phase 1 Wetlands Project are shown below:

- | | | |
|-----|-----------------------------|---------------|
| (1) | Award Construction Contract | February 2010 |
| (2) | Begin Construction | March 2010 |
| (3) | Substantial Completion | March 2011 |

d. Project Capital Cost Allocation: A preliminary project cost estimate and allocation of net project costs is shown as *EXHIBIT 2* to this Amendment.

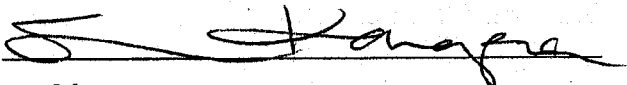
- (1) Both parties agree that the Phase 1 Project capital cost allocation will be based on each party's capacity allocation and that this allocation, similar to the A-M WRF, shall be 90 percent for Albany and 10 percent for Millersburg. All capital costs shall be funded and serviced through CW-SRF loans first. Any capital project costs in excess of the

combined CW-SRF financing will be an obligation of each community and allocated 90 percent to Albany and 10 percent to Millersburg.

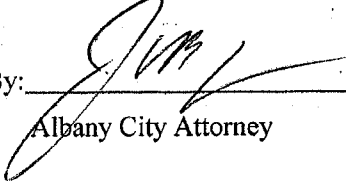
- (2) Both parties agree that the Phase 1 Project land acquisition cost allocation will be based on each party's capacity allocation and that this allocation, similar to the A-M WRF, shall be 90 percent for Albany and 10 percent for Millersburg.
- (3) Both parties further agree that loan principal forgiveness available from Clean Water State Revolving Loans will be applied as a credit to the total capital cost and contributions from TDY will be applied as credits against the land acquisition cost.
- (4) The construction and land acquisition cost estimate shown as *EXHIBIT 2* to the Amendment will be updated as the Phase 1 Wetlands Project is completed and final project costs and funding are determined.
- (5) A mutually agreed upon amortization schedule shall be developed following final project completion and accounting of all project-related expenses to reconcile payment for approved CW-SRF loans and land acquisition costs.

IN WITNESS WHEREOF, the parties have duly authorized the same, and caused their respective officers to execute this instrument on their behalf.

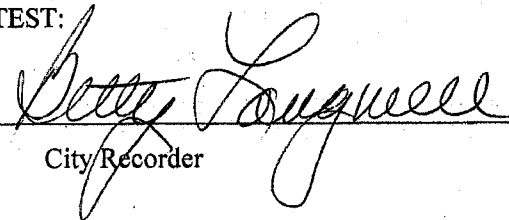
CITY OF ALBANY:

By: 
Mayor

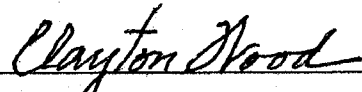
APPROVED AS TO FORM:

By: 
Albany City Attorney


ATTEST:

By: 
City Recorder

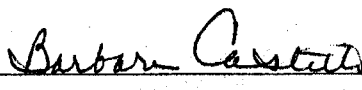
CITY OF MILLERSBURG:

By: 
Mayor

APPROVED AS TO FORM

By: 
Millersburg City Attorney

ATTEST:

By: 
City Administrator/Recorder

EXHIBITS

- 1. Map showing general layout of Phase 1 Wetlands Project**
- 2. Preliminary Cost Estimate for Phase 1 Wetlands Project**

EXHIBIT 1 – Phase 1 Wetlands Project Map



EXHIBIT 2 – Phase 1 Wetlands Project
Preliminary Cost Estimate and Allocation

Project Costs (Expenditures)

Property Transactions	
Land Purchase and Demolition	
Land Purchase Price	4,630,000
Interest - Land Loan with ADJ	976,000
CMGC Demolition Contract	356,200
Demolition Difference Payout to ADJ	63,800
ADJ Claim Settlement	TBD
	<hr/>
	6,026,000
Relocation of Railroad Access	
Railroad Alternative Access Road	700,000
Engineering (Consultant)	50,000
Engineering (Albany Staff)	10,000
K&D Engineering	65,000
	<hr/>
	825,000
Relocation of Pacific Power Poles	
Pacific Power Pole Relocation	TBD
Engineering (Consultant)	10,000
Engineering (Albany Staff)	5,000
K&D Engineering	5,000
	<hr/>
	20,000
	<hr/>
	6,871,000
Pre-design, Permitting, and SRF Loan Application	
Engineering (Consultant)	551,900
Engineering (Albany Staff)	68,300
	<hr/>
	620,200
Engineering Final Design & Construction Management	
Engineering (Consultant)	1,268,690
Engineering (Albany Staff)	166,700
	<hr/>
	1,435,390
Wetlands Construction	
CMGC GMP Construction Contract (w/o demolition)	6,327,300
Construction Contingency for Landscaping Features	303,300
	<hr/>
	6,630,600
Wah Chang Only Items	
Engineering (Consultant)	70,000
Construction	664,900
	<hr/>
	734,900
	<hr/>
	16,292,090
	<hr/>
Total Project Costs	16,292,090

EXHIBIT 2 – Phase 1 Wetlands Project
Preliminary Cost Estimate and Allocation

Estimated remaining project costs to be covered by Albany & Millersburg

Projec 1. Pre-design and Albany Engineering Costs

Engineering - Pre-design, Permitting, Grant Application	\$ 620,200
Engineering - Final Design & Construction Mgmt(Albany staff)	<u>\$ 166,700</u>
	\$ 786,900

Albany has covered these costs to date	<table border="1"> <tr> <td>Albany 90%</td> <td>Millersburg 10%</td> </tr> <tr> <td align="center">\$ 708,210</td> <td align="center">\$ 78,690</td> </tr> </table>	Albany 90%	Millersburg 10%	\$ 708,210	\$ 78,690
Albany 90%	Millersburg 10%				
\$ 708,210	\$ 78,690				

2. Railroad and Pacific Power Relocations (plan is to use Wah Chang funds to pay for these costs)

Relocation of Railroad Access	\$ 825,000
Relocation of Pacific Power Poles	\$ 20,000
Wah Chang Funds	<u>\$ (845,000)</u>
	\$ -

	<table border="1"> <tr> <td>Albany 90%</td> <td>Millersburg 10%</td> </tr> <tr> <td align="center">\$ -</td> <td align="center">\$ -</td> </tr> </table>	Albany 90%	Millersburg 10%	\$ -	\$ -
Albany 90%	Millersburg 10%				
\$ -	\$ -				

3. Land Transaction and Loan (ADJ)

Land Purchase Price	\$ 4,630,000
Interest - Land Loan with ADJ	\$ 976,000
Demolition	\$ 356,200
Demolition Difference Payout to ADJ	\$ 63,800
Wah Chang Funds	<u>\$ (1,655,000)</u>
	\$ 4,371,000

	<table border="1"> <tr> <td>Albany 90%</td> <td>Millersburg 10%</td> </tr> <tr> <td align="center">\$ 3,933,900</td> <td align="center">\$ 437,100</td> </tr> </table>	Albany 90%	Millersburg 10%	\$ 3,933,900	\$ 437,100
Albany 90%	Millersburg 10%				
\$ 3,933,900	\$ 437,100				

4. ARRA loans - DEQ

ARRA loan - DEQ (Albany)	\$ 2,100,000
ARRA loan - DEQ (Millersburg)	<u>\$ 1,050,000</u>
	\$ 3,150,000

	<table border="1"> <tr> <td>Albany 90%</td> <td>Millersburg 10%</td> </tr> <tr> <td align="center">\$ 2,835,000</td> <td align="center">\$ 315,000</td> </tr> </table>	Albany 90%	Millersburg 10%	\$ 2,835,000	\$ 315,000
Albany 90%	Millersburg 10%				
\$ 2,835,000	\$ 315,000				

Total Estimated Remaining Costs	<table border="1"> <tr> <td>Albany 90%</td> <td>Millersburg 10%</td> </tr> <tr> <td align="center">\$ 7,477,110</td> <td align="center">\$ 830,790</td> </tr> </table>	Albany 90%	Millersburg 10%	\$ 7,477,110	\$ 830,790
Albany 90%	Millersburg 10%				
\$ 7,477,110	\$ 830,790				

EXHIBIT 2 – Phase 1 Wetlands Project
Preliminary Cost Estimate and Allocation

Wetlands

Land Loan with ADJ - Financing Costs

Project Costs (Expenditures)

Current Land Loan, ADJ - Interest = 4%				
Assumes annual payment of \$500,000				
Principal	4,630,000			
	4,630,000	4.00%	500,000	Principal
Date	Principal	Interest	Total	Balance
				4,630,000
12/07/2009	516,000	-	516,000	4,114,000
12/07/2010	335,440	164,560	500,000	3,778,560
12/07/2011	348,858	151,142	500,000	3,429,702
12/07/2012	362,812	137,188	500,000	3,066,890
12/07/2013	377,324	122,676	500,000	2,689,566
12/07/2014	392,417	107,583	500,000	2,297,149
12/07/2015	408,114	91,886	500,000	1,889,035
12/07/2016	424,439	75,561	500,000	1,464,596
12/07/2017	441,416	58,584	500,000	1,023,180
12/07/2018	459,073	40,927	500,000	564,107
12/07/2019	477,436	22,564	500,000	86,671
12/07/2020	86,671	3,467	90,138	-
Total	4,630,000	976,138	5,606,138	

Total annual payments by Albany & Millersburg			
Offset by Wah Chang payments in years 1-4			
Total	Wah Chang	Millersburg	Albany
Payment	Payments	10%	90%
516,000	(516,000)	-	-
500,000	(500,000)	-	-
500,000	(500,000)	-	-
500,000	(139,000)	36,100	324,900
500,000	-	50,000	450,000
500,000	-	50,000	450,000
500,000	-	50,000	450,000
500,000	-	50,000	450,000
500,000	-	50,000	450,000
500,000	-	50,000	450,000
500,000	-	50,000	450,000
90,138	-	9,014	81,124
5,606,138	(1,655,000)	395,114	3,556,024

* Albany & Millersburg may want to consider paying down the loan quicker to avoid the high interest costs

EXHIBIT 2 – Phase I Wetlands Project
Preliminary Cost Estimate and Allocation

Wetlands

DEQ CWSRF Loans - Financing Costs (ARRA loans)

Project Costs (Expenditures)

Millersburg Date	No. R06654 Principal	Fee 0.50%	Principal Balance 1,000,000
07/01/2011	25,000		975,000
01/01/2012	25,000	4,875	950,000
07/01/2012	25,000		925,000
01/01/2013	25,000	4,625	900,000
07/01/2013	25,000		875,000
01/01/2014	25,000	4,375	850,000
07/01/2014	25,000		825,000
01/01/2015	25,000	4,125	800,000
07/01/2015	25,000		775,000
01/01/2016	25,000	3,875	750,000
07/01/2016	25,000		725,000
01/01/2017	25,000	3,625	700,000
07/01/2017	25,000		675,000
01/01/2018	25,000	3,375	650,000
07/01/2018	25,000		625,000
01/01/2019	25,000	3,125	600,000
07/01/2019	25,000		575,000
01/01/2020	25,000	2,875	550,000
07/01/2020	25,000		525,000
01/01/2021	25,000	2,625	500,000
07/01/2021	25,000		475,000
01/01/2022	25,000	2,375	450,000
07/01/2022	25,000		425,000
01/01/2023	25,000	2,125	400,000
07/01/2023	25,000		375,000
01/01/2024	25,000	1,875	350,000
07/01/2024	25,000		325,000
01/01/2025	25,000	1,625	300,000
07/01/2025	25,000		275,000
01/01/2026	25,000	1,375	250,000
07/01/2026	25,000		225,000
01/01/2027	25,000	1,125	200,000
07/01/2027	25,000		175,000
01/01/2028	25,000	875	150,000
07/01/2028	25,000		125,000
01/01/2029	25,000	625	100,000
07/01/2029	25,000		75,000
01/01/2030	25,000	375	50,000
07/01/2030	25,000		25,000
01/01/2031	25,000	125	-
	1,000,000	50,000	
Loan Res Requirement			25,000

Albany Date	No. R06105 Principal	Fee 0.50%	Principal Balance 2,000,000
07/01/2011	50,000		1,950,000
01/01/2012	50,000	9,750	1,900,000
07/01/2012	50,000		1,850,000
01/01/2013	50,000	9,250	1,800,000
07/01/2013	50,000		1,750,000
01/01/2014	50,000	8,750	1,700,000
07/01/2014	50,000		1,650,000
01/01/2015	50,000	8,250	1,600,000
07/01/2015	50,000		1,550,000
01/01/2016	50,000	7,750	1,500,000
07/01/2016	50,000		1,450,000
01/01/2017	50,000	7,250	1,400,000
07/01/2017	50,000		1,350,000
01/01/2018	50,000	6,750	1,300,000
07/01/2018	50,000		1,250,000
01/01/2019	50,000	6,250	1,200,000
07/01/2019	50,000		1,150,000
01/01/2020	50,000	5,750	1,100,000
07/01/2020	50,000		1,050,000
01/01/2021	50,000	5,250	1,000,000
07/01/2021	50,000		950,000
01/01/2022	50,000	4,750	900,000
07/01/2022	50,000		850,000
01/01/2023	50,000	4,250	800,000
07/01/2023	50,000		750,000
01/01/2024	50,000	3,750	700,000
07/01/2024	50,000		650,000
01/01/2025	50,000	3,250	600,000
07/01/2025	50,000		550,000
01/01/2026	50,000	2,750	500,000
07/01/2026	50,000		450,000
01/01/2027	50,000	2,250	400,000
07/01/2027	50,000		350,000
01/01/2028	50,000	1,750	300,000
07/01/2028	50,000		250,000
01/01/2029	50,000	1,250	200,000
07/01/2029	50,000		150,000
01/01/2030	50,000	750	100,000
07/01/2030	50,000		50,000
01/01/2031	50,000	250	-
	2,000,000	100,000	
Loan Res Requirement			50,000

Total Payment	Millersburg 10%	Albany 90%	Net Albany to Millersburg
75,000	7,500	67,500	17,500
89,625	8,963	80,663	20,913
75,000	7,500	67,500	17,500
88,875	8,888	79,988	20,738
75,000	7,500	67,500	17,500
88,125	8,813	79,313	20,563
75,000	7,500	67,500	17,500
87,375	8,738	78,638	20,388
75,000	7,500	67,500	17,500
86,625	8,663	77,963	20,213
75,000	7,500	67,500	17,500
85,875	8,588	77,288	20,038
75,000	7,500	67,500	17,500
85,125	8,513	76,613	19,863
75,000	7,500	67,500	17,500
84,375	8,438	75,938	19,688
75,000	7,500	67,500	17,500
83,625	8,363	75,263	19,513
75,000	7,500	67,500	17,500
82,875	8,288	74,588	19,338
75,000	7,500	67,500	17,500
82,125	8,213	73,913	19,163
75,000	7,500	67,500	17,500
81,375	8,138	73,238	18,988
75,000	7,500	67,500	17,500
80,625	8,063	72,563	18,813
75,000	7,500	67,500	17,500
79,875	7,988	71,888	18,638
75,000	7,500	67,500	17,500
79,125	7,913	71,213	18,463
75,000	7,500	67,500	17,500
78,375	7,838	70,538	18,288
75,000	7,500	67,500	17,500
77,625	7,763	69,863	18,113
75,000	7,500	67,500	17,500
76,875	7,688	69,188	17,938
75,000	7,500	67,500	17,500
76,125	7,613	68,513	17,763
75,000	7,500	67,500	17,500
75,375	7,538	67,838	17,588
3,150,000	315,000	2,835,000	735,000

EXHIBIT 2 – Phase 1 Wetlands Project
Preliminary Cost Estimate and Allocation

Wetlands
DEQ CWSRF Loans flowchart
Project Costs (Expenditures)

