



June 18, 2025

BCC Agenda Date/Item: \_\_\_\_\_

Board of County Commissioners  
Acting as the governing body of Water Environment Services  
Clackamas County

**Approval of an Intergovernmental Agreement with the City of Oregon City for  
reconfiguration and maintenance of existing stormwater pipe. No fiscal impact.  
No County General Funds are involved.**

<b>Previous Board Action/Review</b>	N/A		
<b>Performance Clackamas</b>	1. This project supports the WES Strategic Plan goal that WES strategically plan and upgrade WES' infrastructure to ensure the sustainable delivery of reliable, high-quality, and climate-resilient clean water services that support the growth and vitality of our communities, natural environment, and economy. 2. This project supports the County's Strategic Plan of building a strong infrastructure.		
<b>Counsel Review</b>	Yes	<b>Procurement Review</b>	No
<b>Contact Person</b>	Jeff Stallard	<b>Contact Phone</b>	503-742-4694

**EXECUTIVE SUMMARY:** The existing outfall from Clackamas Water Environment Service's (WES) Tri-City Water Resource Recovery Facility, which discharges to the Willamette River, has a capacity of 75 million gallons per day. The required capacity to convey the projected wet-weather full buildout condition is 162 million gallons per day. To address this gap in capacity, WES contracted with the design-build team led by Michels Trenchless, Inc. (Contract #6881) to design and construct a new 90-inch outfall from the Tri-City Facility to the Willamette River. Construction is ongoing for the project, but during the design phase of the project, an existing 42-inch stormwater pipe owned and maintained by the City of Oregon City was identified to be in conflict with the preferred alignment for the new 90-inch outfall.

WES discussed this utility conflict with Oregon City staff at the time and cooperatively determined that the best option would be to reconfigure approximately 118 linear feet of the existing stormwater pipe as a siphon, which would avoid the conflict. This adjustment will potentially require an increase in maintenance frequency, and Oregon City staff requested that WES take on maintenance responsibility, but not ownership, for this section of pipe in

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order to approve the adjustment. The proposed intergovernmental agreement formalizes that and outlines the responsibilities of both parties in regard to the reconfigured stormwater pipe and the adjoining sections.

**RECOMMENDATION:** Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of Water Environment Services, approve the intergovernmental agreement with the city of Oregon City for reconfiguration and maintenance of existing stormwater pipe in relation to the Outfall Project.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Greg Geist", with a long horizontal flourish extending to the right.

Greg Geist  
Director, WES

Attachment: Intergovernmental agreement with Oregon City

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN WATER ENVIRONMENT SERVICES  
AND THE CITY OF OREGON CITY**

THIS AGREEMENT (this “Agreement”) is entered into and between Water Environment Services (“WES”), an intergovernmental entity formed pursuant to ORS Chapter 190, and the City of Oregon City (“City”), an Oregon municipal corporation, collectively referred to as the “Parties” and each as “Party.”

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

The City owns, manages, and maintains a stormwater collection system within its boundaries, including a stormwater facility with a continuous slope that conveyed stormwater drainage by gravity from the City’s existing storm collection system east of Interstate Highway 205, as shown on Exhibit A (the “Old Facility”).

WES desired to construct and, in 2024, did construct a new sewer main that crossed the Old Facility and required WES to construct a new 48-inch siphon stormwater pipe (the “New Facility”) to replace the Old Facility in the same location because the Old Facility conflicted with the installation of a new WES sewer main.

The New Facility constructed by WES will not convey stormwater by gravity and the parties agree to assign maintenance responsibilities of the New Facility to WES. The portion of 48-inch siphon stormwater pipe to be maintained by WES is depicted in Exhibit A.

WES agrees to accept maintenance responsibility for the collection system assets described in this Agreement.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Effective Date.** This Agreement shall take effect when executed by both Parties (the “Effective Date”).
2. **WES Obligations.**
  - 2.A **Agreement to Maintain and Repair.** WES shall, at their sole expense, at all times maintain the 48-inch siphon stormwater pipe, i.e., the New Facility, in good working order, condition, repair, clear of all debris, and in compliance with the Maintenance Plan attached as Exhibit B of this Agreement.
  - 2.B **Agreement to Inspect.** WES shall perform inspections of the New Facility covered by this Agreement, per guidelines in Exhibit B, attached. The inspections required by this Agreement shall identify work necessary to repair or maintain the New Facility in good working order. WES shall provide Oregon City Public Works with an annual maintenance inspection report, which will include identification of the corrective actions taken in response to the annual inspection.

2.C **Agreement to Comply with Applicable Law.** WES agrees to ensure the New Facility is in compliance with all legal obligations regarding stormwater including, but not limited to, obligations under any applicable Municipal Separate Storm Sewer System permit or other applicable requirements of the Oregon Department of Environmental Quality. Notwithstanding the above, nothing in this Agreement shall make WES responsible for any legal obligation of the City as it relates to any other aspect of the City's stormwater system beyond the New Facility.

3. **Representations and Warranties.**

3.A *City Representations and Warranties:* City represents and warrants to WES that City has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of City enforceable in accordance with its terms.

3.B *WES Representations and Warranties:* WES represents and warrants to City that WES has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of WES enforceable in accordance with its terms.

3.C The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

4. **Termination.** This Agreement may only be terminated by the express written consent of both parties.

5. **Indemnification.**

5.A Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, WES agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the WES or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the WES has a right to control, occurring prior to the Effective Date of this Agreement.

5.B Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the WES, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control, occurring after the Effective Date of this Agreement.

6. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

7. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information by giving prior written notice thereof to the other Party at its then current notice address.

7.A Jeff Stallard or their designee will act as liaison for the WES.

**Contact Information:**

150 Beaver Creek Rd Suite 430  
Oregon City, OR 9704  
[JStallard@clackamas.us](mailto:JStallard@clackamas.us)  
Office: 503-742-4694  
Mobile: 503-278-2311

Vance Walker or their designee will act as liaison for the City.

**Contact Information:**

Oregon City Public Works  
13895 Fir Street  
Oregon City, OR 97045  
[vwalker@orc.org](mailto:vwalker@orc.org)  
Office: 971-204-4600  
Mobile: 971-204-4682

8. **General Provisions.**

8.A **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon without giving effect to the conflict of law provisions thereof. Any claim between WES and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the WES or the City of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

8.B **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are

hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.

- 8.C **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- 8.D **Failure to Perform Agreement.** If the City, in its sole discretion, determines that that WES is not in compliance with its obligations described in Section 5 of this Agreement, the City or its designee shall provide written notice to WES requesting performance of WES' obligations specified in the notice. Provided, however, no prior written notice shall be required in the case of an emergency, which shall be governed by Section G below. If such work is not performed to the City's satisfaction within seven (7) days after the date of such notice, or such other time as the City may, in its sole discretion, determine, the City, its employees, independent contractors and designees may exercise their rights described in Section 5 to perform any and all work required in bringing 48-inch siphon stormwater pipe in good working order.
- 8.E **Emergency.** If the City, in its sole discretion, determines that there exists or will likely exist an emergency, the City, its employees, independent contractors and designees may immediately exercise their rights described in Section F of this Agreement to perform any and all work required to bring the 48-inch siphon stormwater pipe into compliance with this Agreement, and in such case the City shall use reasonable efforts to notify WES prior to performing the work.
- 8.F **City Under No Obligation.** The City, as well as its departments, employees, independent contractors and/or designees shall have no obligation to exercise its rights under this Agreement, or to perform any other maintenance or repair of the New Facility. In addition, neither the City, nor any of its departments, employees, independent contractors and/or designees shall have any liability to WES in connection with the exercise or non-exercise of such rights, the maintenance or repair of New Facility, or the failure to perform the same.
- 8.G **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- 8.H **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

- 8.I **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- 8.J **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- 8.K **No Third-Party Beneficiary.** City and WES are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- 8.L **Assignment.** WES may not assign or transfer this Agreement, in whole or in part, or any right or obligation hereunder, without the written consent of the City.
- 8.M **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 8.N **Survival.** All provisions in Sections 2, 5, and 8 (A), (C), (D), (E), (F), (G), (H), (I), (J), (K), (P), and (R), shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- 8.O **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- 8.P **Time is of the Essence.** Both parties agree that time is of the essence in the performance this Agreement.
- 8.Q **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 8.R **No Attorney Fees.** In the event any arbitration, legal action or other proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this

Agreement, each party shall be responsible for its own attorneys' fees and expenses.

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**Water Environment Services**

**City of Oregon City**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
By: Anthony J. Konkol III, City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Approved as form**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name  
Oregon City – City Attorney

\_\_\_\_\_  
Date



# EXHIBIT A

## PROJECT

Tri-City WRRF Outfall

**MICHEL'S**  
TRENCHLESS, INC.

**AECOM**

CONTRACT No. P632241

## OWNER

Clackamas Water  
Environment Services

150 Beaverbrook Road  
City of Oregon City, OR 97045  
www.clackamas.us

## DESIGN-BUILDER

MICHEL'S TRENCHLESS, INC.

817 Main St.  
Brownsville, WI 53006  
www.michels.us

AECOM  
888 SW 5th Avenue, Suite 600  
Portland, OR 97204  
www.aecom.com

## REGISTRATION



## ISSUE/REVISION

1	04/25/2024	REVISION 1
0	02/20/2024	ISSUED FOR CONSTRUCTION
1/R	DATE	DESCRIPTION

## PROJECT NUMBER

60692055

Designed By: R. MEYER  
Drawn By: S. GREBENNIKOV  
Dept Check: D. PODUSKA  
Proj Check: L. FINNEFROCK  
Date: FEBRUARY 20, 2024  
Scale: AS SHOWN

## DISCIPLINE

CIVIL / OUTFALL PIPES

## SHEET TITLE

SIPHON PLAN AND PROFILE

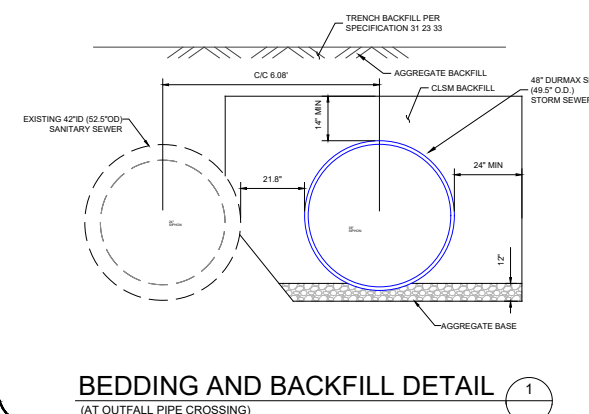
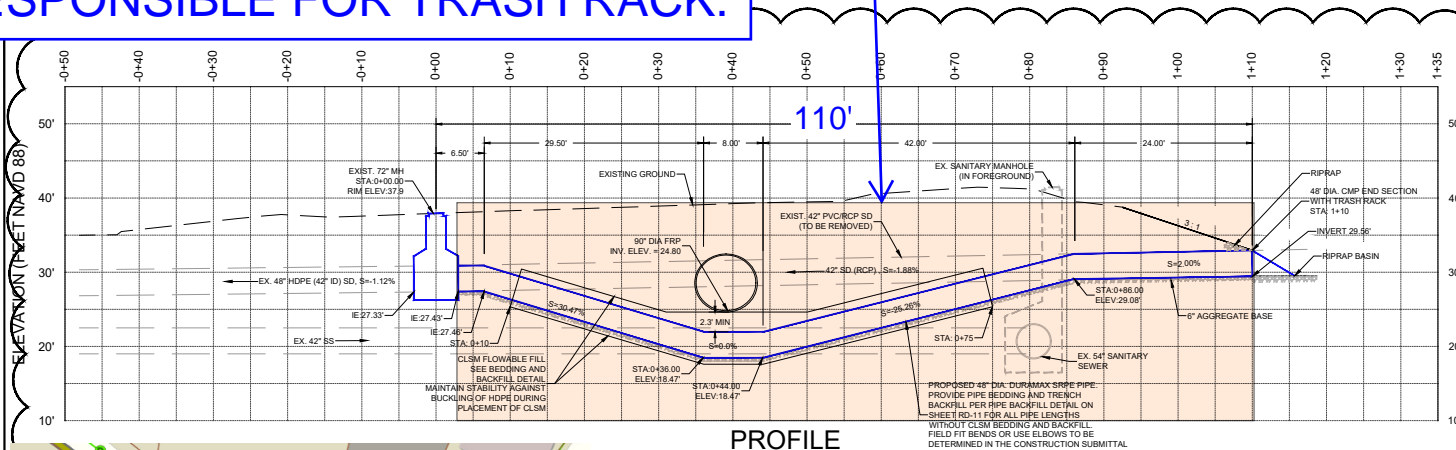
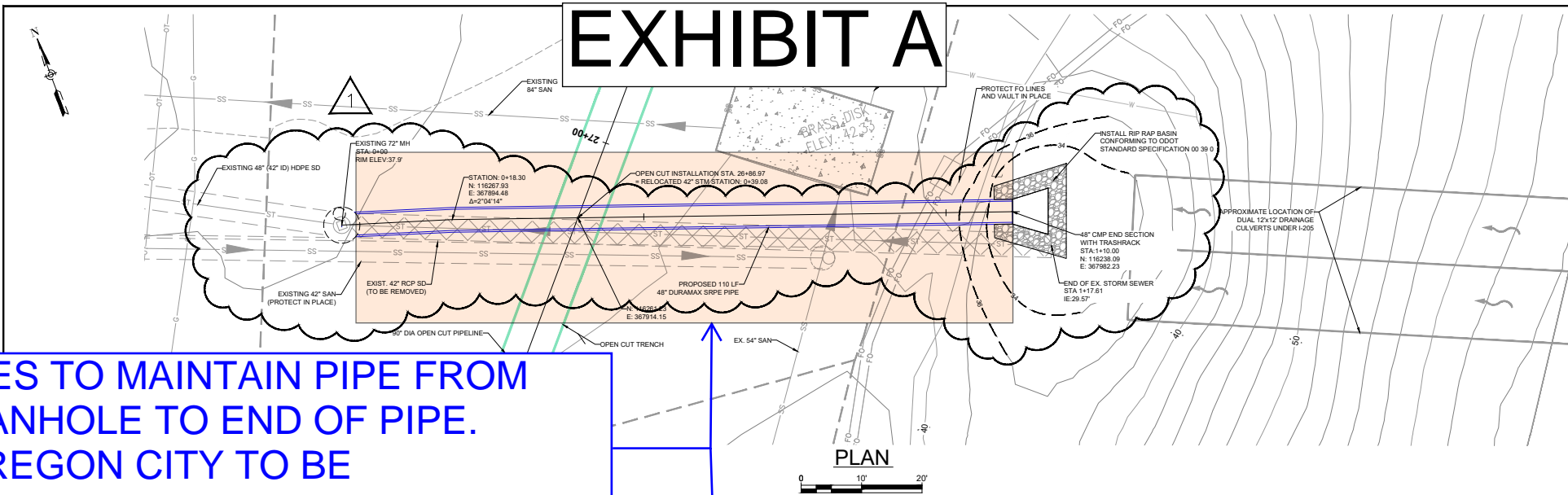
SHEET NUMBER

C-18

PAGE NUMBER

43 OF 100

WES TO MAINTAIN PIPE FROM  
MANHOLE TO END OF PIPE.  
OREGON CITY TO BE  
RESPONSIBLE FOR TRASH RACK.



# Exhibit B

## Maintenance Plan

WES shall inspect for problems identified below and remedy or notify the City of any problems found immediately to the maximum extent practicable. WES shall keep records of all maintenance and repairs and shall retain the records for at least 3 years. These records shall be made available to the City upon request.

<b>Problem</b>	<b>Timing*</b>	<b>Remedy</b>
Trash and Debris	Annually	Remove sediment or trash blockages within pipe. Remove any obstructions
Contamination and Pollution	Annually	Notify Oregon City
Insects	Annually	Harmful Insects removed
Rodents	Annually	Notify Oregon City
Leaks in pipe	Biennially	Repair/seal. Replace if repair is insufficient.

\*The inspection and maintenance frequency may be increased as deemed necessary to ensure proper functioning of the 48-inch siphon stormwater pipe.

# SITE MAP

