

**INTERJURISDICTIONAL AGREEMENT
BETWEEN
THE CITY OF BATTLE GROUND
AND
CLARK REGIONAL WASTEWATER DISTRICT**

**REGARDING PRETREATMENT SERVICES
RELATED TO THE FATS, OILS AND GREASE PROGRAM**

THIS AGREEMENT is made and entered into by and between CLARK REGIONAL WASTEWATER DISTRICT, Clark County, Washington (the "DISTRICT") and the CITY OF BATTLE GROUND, Battle Ground, Washington (the "CITY"), each a Washington municipal corporation (collectively, the "Parties").

RECITALS

- A. The CITY owns and operates a wastewater collection system and accepts wastewater discharges from all contributing sources, users and facilities, whether or not located within the jurisdictional boundaries of the City.
- B. The wastewater discharges from the CITY collection system are received by wastewater transmission and treatment systems owned by the Discovery Clean Water Alliance ("Alliance"), pursuant to the terms of the "Discovery Clean Water Alliance Interlocal Formation Agreement" ("Alliance Agreement") entered into on September 27, 2012, by Clark County, the DISTRICT, the CITY and the City of Ridgefield ("Alliance Members").
- C. The Alliance commenced operations on January 1, 2015, at which time the Pretreatment Services Agreement, dated January 31, 2002, by and between the DISTRICT, the CITY and Clark County was terminated in accordance with Section III.E of the Alliance Agreement.
- D. The CITY has adopted an Ordinance, codified as Battle Ground Municipal Code Chapter 13.137 (hereafter "BGMC 13.137"), which establishes a regulation and permitting program for industrial and commercial wastewater sources. Among other things, the program prohibits the discharge of grease and other such substances, and of any wastewater that can cause harm to the sewers, wastewater treatment processes or equipment or that would endanger life, limb or public property or constitute a nuisance.

- E. The CITY does not have the personnel or equipment to perform pretreatment services for a Fats, Oils and Grease program consistent with the standards and requirements of BGMC 13.137.
- F. It is in the best interests of the Parties and in the interest of the public health, safety and welfare of the area served by the CITY that this Agreement be executed.
- G. Pursuant to RCW 57.08.005 RCW and RCW Chapter 39.34, the CITY and DISTRICT desire to enter into this Agreement to set forth the terms and conditions of the DISTRICT's pretreatment services relating to a Fats, Oils and Grease program.

AGREEMENT

In consideration of the following terms and conditions, the CITY and DISTRICT agree as follows:

1. Definitions. Unless otherwise provided in this Agreement, the definitions contained in District Code Chapter 5.52 (as amended) shall apply, provided that the following terms shall have the assigned meanings, unless the context of use requires otherwise.
 - 1.1. SERVICE AREA. Land within the CITY's limits or outside the CITY's limits but within the CITY's urban growth boundary that discharges to the POTW.
 - 1.2. PRETREATMENT FACILITIES. Wastewater equipment and facilities, or portions thereof, designed for the purpose of pretreating wastewater.
 - 1.3. PUBLICLY OWNED TREATMENT WORKS (POTW). A "treatment works" as defined by Section 212 of the Clean Water Act (as amended) that is owned by the CITY or the DISTRICT, which includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature, and any conveyances that convey wastewater to a treatment plant.
 - 1.4. FOG USER (USER). A customer connected to CITY POTW whose onsite uses result in the production or discharge of Fats, Oils and Grease (FOG).
2. CITY Services. The CITY shall provide the services described herein, which include but are not limited to the following:
 - 2.1. User Identification

- 2.1.1. New Users – Food Service Establishment Survey: The CITY will cause any new User connecting to the POTW to submit a completed FOG Survey (Survey) prior to issuance of a certificate of occupancy. The CITY shall supply the form to the User. The CITY shall forward a copy of the completed Survey to the DISTRICT within five (5) days of receipt.
- 2.1.2. Existing Users – When any of the following occur, the CITY shall require the User to submit a completed Survey to the CITY. The CITY will forward a copy of the completed survey to the DISTRICT within five (5) days of its receipt.
 - 2.1.2.1. A change of ownership or management of an existing User.
 - 2.1.2.2. A change in the type of establishment.
 - 2.1.2.3. A change in the type of cuisine.
 - 2.1.2.4. An increase in the User's discharge of flow or pollutant characteristics by twenty (20%) percent or more.
 - 2.1.2.5. A request by the District for a completed Survey.
- 2.2. Plan Review and Approval
 - 2.2.1. The CITY shall cause to be submitted plans, specifications and calculations for the sizing, design and installation of Grease Removal Devices (GRD) and associated wastewater plumbing systems. The CITY shall review the plans, specifications, and calculations for conformance with City standards and compliance with BGMC 13.137. The CITY shall approve the plans, specifications, and calculations prior to permitting construction of the GRD and related facilities.
- 2.3. Construction Inspection
 - 2.3.1. The CITY shall monitor and inspect construction and installation of GRDs and wastewater plumbing systems as necessary to confirm that GRD devices and plumbing systems are installed in accordance with approved plans and specifications and per manufacturer's recommendations.
 - 2.3.2. The CITY shall cause to be prepared, submitted and reviewed record drawings of the actual installation of GRD devices and related plumbing systems. The CITY shall provide a copy of the record drawings of the pretreatment facilities and wastewater systems to the DISTRICT upon request.

- 2.4. The CITY shall take any reasonable means available to enforce requirements of BGMC 13.137.
 - 2.5. The CITY shall take emergency action reasonably available to immediately stop or prevent any discharge that presents or is reasonably likely to present an imminent threat or danger to the public health or welfare, or to the quality of the environment, or that threatens to cause harm to the CITY's wastewater treatment system.
3. DISTRICT Services. The DISTRICT shall provide the services described herein which include but are not limited to the following:
 - 3.1. User Identification
 - 3.1.1. The DISTRICT shall prepare and provide to the CITY a copy of the FOG Survey for distribution. The DISTRICT shall inform the CITY of any modifications to the Survey and make reasonable efforts to include the CITY in the process of modifying the Survey form.
 - 3.1.2. The DISTRICT shall keep electronic records of the completed FOG Surveys.
 - 3.2. Monitoring and Inspection
 - 3.2.1. The DISTRICT shall provide reasonable notice to the CITY in advance of performing scheduled site visits and inspections and provide reasonable opportunity for CITY staff to attend all such scheduled visits.
 - 3.2.2. The DISTRICT shall complete an inspection report for each and every site visit. The DISTRICT shall provide a copy of the report to the User and, upon request, to the CITY.
 - 3.2.3. New Users
 - 3.2.3.1. The DISTRICT shall conduct an introductory site visit for all new Users with GRDs to establish communication with the User and to educate the User about the FOG program and best management practices. The visit shall be completed prior to conducting the first inspection of the GRD.
 - 3.2.3.2. The first inspection of GRDs for a new User shall be conducted within six (6) months of the User commencing operations.
 - 3.2.3.3. Following the first inspection, subsequent inspections shall be conducted a minimum of once every three (3) months for a period

of one (1) year to establish a history of compliance, regardless of the size or type of GRD facilities.

3.2.4. Existing Users

3.2.4.1. The frequency of inspections for existing Users shall be based upon the type of GRD. Existing Users shall include new Users outside of their first year of inspections. The frequency shall be as follows:

3.2.4.1.1. Grease Interceptor – a minimum of one (1) inspection per year.

3.2.4.1.2. Grease Trap – a minimum of one inspection every six (6) months.

3.2.4.1.3. Oil-Water Separator – a minimum of one (1) inspection per year.

3.3. Compliance

3.3.1. All GRDs shall be maintained such that the total solids volume is no more than 25% of the devices rated volume. Total solids volume includes the combined volume of settled and floating solids. GRDs with a total solids volume more than 25% of the rated volume shall be considered non-compliant.

3.3.2. GRDs shall be regularly cleaned and maintained and in proper working condition. Devices found to be in unsatisfactory condition or to be bypassing FOG shall be considered non-compliant. The User shall maintain and have available for inspection records of device clean out.

3.3.3. Upon inspection of the GRD, if any device is found to be non-compliant, the District shall notify the User immediately, prior to leaving the site.

3.3.3.1. If the User is not the owner of the real property, the DISTRICT shall notify the Property Owner, in writing, of a User's non-compliance within one (1) month of the inspection.

3.3.3.2. The DISTRICT shall notify the CITY, via email, of a User's non-compliance within seven (7) days of the inspection.

3.3.4. The frequency of inspections for Users following a non-compliant inspection shall be based upon the type of GRD as follows:

3.3.4.1. Grease Interceptor – one (1) inspection every thirty (30) days.

3.3.4.2. Grease Trap – one (1) inspection every fourteen (14) days.

3.3.4.3. Oil-Water Separator – one (1) inspection every thirty (30) days.

3.3.5. After three (3) consecutive months of the User's demonstrated compliance, inspections shall occur over the following twelve-month period in accordance with the frequencies for New Users per 3.2.3.3.

3.4. Records and Reporting

3.4.1. The DISTRICT shall maintain current information on Users that include contact information, Survey responses, device information, inspection history, copies of all inspection reports completed by the DISTRICT, and device clean-out reports submitted by the User or a registered FOG pumper and hauler through a preferred pumper program.

3.4.2. The DISTRICT shall provide annually a summary report of all services and inspections completed under this Agreement within ninety (90) days following the CITY's pretreatment year, which is February 16th through February 15th of each year.

4. Emergency. The CITY shall take emergency action reasonably available to immediately stop or prevent any discharge that presents or is reasonably likely to present an imminent threat or danger to the public health or welfare, or to the quality of the environment, or that threatens to cause harm to the CITY's wastewater treatment system.

EMERGENCY SPILL REPORTING	
Clark Regional Wastewater District Pretreatment Coordinator (360) 936-8642 24HR Response (360) 750-5876	The City of Battle Ground Public Works Director (360) 342-5075 24HR Response (360) 635-7076
Clark County Public Health (360) 397-8428	WA State Department of Ecology Water Quality Engineer Southwest Regional Office PO Box 47775 Olympia, WA 98504 24HR Response (360) 407-6300

5. Program Authority and Standards. If the CITY amends BGMC 13.137, the CITY shall, to the greatest extent feasible, include the DISTRICT in the process of amendment of BGMC 13.137.

6. Powers and Authority; Compliance with Laws. Except as provided otherwise in this Agreement, the DISTRICT shall provide the services of this Agreement in

accordance with the water-sewer district statutes and all applicable laws and regulations.

7. Budget, Compensation and Payment for Services. The DISTRICT shall prepare and submit an annual budget to the CITY for pretreatment services no later than September 1st of each year.

7.1. The CITY shall pay the DISTRICT for all actual and reasonable costs incurred by the DISTRICT for providing services under this Agreement, including but not limited to allocable employee salaries and benefits, contractor and consultant services, administrative overhead, equipment, materials, supplies, utilities, taxes, fees and permits.

7.2. The DISTRICT shall charge for services in accordance with adopted rates and schedules set forth in the current adopted operating budget of the Alliance.

7.3. The DISTRICT shall submit monthly invoices for services in a form and containing information reasonably required by the CITY. Monthly invoices shall include actual and reasonable costs incurred over the billing period based upon adopted rates and schedules.

7.4. Any payments that are delinquent after sixty (60) days shall accrue interest at 12% per annum.

8. Term and Effective Date. This Agreement shall be effective from and after its execution by both Parties and listing by the DISTRICT on its website pursuant to RCW 39.34.040, and shall terminate on December 31, 2035. It shall be automatically extended for additional one (1) year terms unless the CITY notifies the DISTRICT in writing on or before December 31 of the calendar year prior to the calendar year in which the Agreement will expire, that the Agreement shall not be extended.

9. Early Termination. Either Party may terminate this Agreement for a material and substantial default by the other Party, if the default has not been cured in a reasonable period of time after written notice of default. Either Party may terminate this Agreement for any reason at the end of any calendar year provided that six (6) months' notice is provided in writing prior to the end of the calendar year.

10. Cooperation. The Parties shall cooperate fully in executing documents that are necessary for the DISTRICT to provide services under this Agreement.

11. Records.

11.1. The DISTRICT shall maintain accounts and records that sufficiently and properly document its services and charges under this Agreement.

- 11.2. Upon reasonable notice, each Party shall have the right to inspect and copy, without charge, all records held by the other Party relating to this Agreement.
12. Insurance. The DISTRICT shall provide insurance for its acts and omissions under this Agreement, with the same coverage and in the same amounts as provided by the DISTRICT for its officers, employees and agents. The insurance shall name the CITY as a primary or additional insured. Upon request, the DISTRICT shall provide evidence of insurance coverage, in a form acceptable to the CITY.
13. Indemnification. To the maximum extent permitted by law, the CITY and the DISTRICT shall defend, indemnify and hold harmless the other Party, and all of its officials, employees, principals and agents, from any and all claims, demands, suits, actions, fines, penalties or liabilities of any kind, including injuries to persons or damages to property, which arise out of or are related to any negligent acts, errors, omissions of the indemnifying party and its contractors, employees, agents and representatives in performing obligations under this Agreement. However, if any such damages and injuries to persons or property are caused by or result from the concurrent negligence of the CITY or its contractors, employees, agents, or representatives, and the DISTRICT or its contractors or employees, agents, or representatives, each Party's obligation hereunder applies only to the extent of the negligence of such Party or its contractors, employees, agents, or representatives. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Industrial Insurance, Title 51 RCW, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.
14. Dispute Resolution; Remedies. The Parties shall first attempt to resolve a dispute by discussions between representative(s) of the CITY and the DISTRICT. If the discussions are not successful, the Parties may thereafter elect mediation, arbitration, including binding arbitration, or pursue any available remedies under law. If mediation or arbitration is selected, the costs shall be divided equally between the CITY and the DISTRICT.
15. Notices. All notices and other communications under this Agreement shall be in writing by email, facsimile, regular U.S. mail or certified mail, return receipt requested.

If to the CITY, the notice shall be sent to:

Public Works Director
City of Battle Ground
109 SW 1st Street, Suite 122
Battle Ground, WA 98604

or to such other person or place as the CITY shall furnish to the DISTRICT in writing.

If to the DISTRICT, the notice shall be sent to:

District Engineer
Clark Regional Wastewater District
8000 NE 52nd Court
PO Box 8979
Vancouver, WA 98668-8979

or to such other person or place as the DISTRICT shall furnish to the CITY in writing.

Notices shall be deemed given upon delivery or, if mailed, upon the earlier of actual receipt or three (3) business days after the date of mailing.

16. Severability. If any section or part of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such action shall not affect the validity or enforceability of any other section or part of this Agreement.
17. Entire Agreement; Amendment. This Agreement contains the entire written agreement of the Parties and supersedes all prior discussions and agreements. This Agreement may be amended only in writing, signed by both Parties.
18. Successors and Assigns. All of the provisions, conditions, regulations and requirements contained in this Agreement shall be binding upon the successors and assigns of the Parties.
19. Survival. Section 13, Indemnification, shall survive the term, and any extensions thereof, of this Agreement.
20. No Third Party Rights. This Agreement is solely for the benefit of the Parties and gives no right to any other party or person.
21. No Joint Venture. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of the other Party.
22. Jurisdiction and Venue. This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of Clark County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
23. Enforcement; No Waiver; Prevailing Party Costs. In addition to the remedies provided by law, this Agreement shall be specifically enforceable by either Party. If

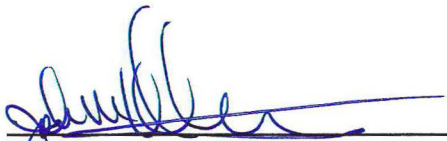
either Party incurs attorney fees, costs or other legal expenses to enforce the provisions of this Agreement against the other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party. The failure of a Party to exercise any right or enforce any provision of this Agreement shall not be considered a waiver of such right or enforcement remedy.

24. Independent Contractor. The DISTRICT is and shall be at all times during the term of this Agreement an independent contractor and not an employee of the CITY.

25. Counterparts. This Agreement may be signed in counterparts and, if so signed, shall be deemed one integrated agreement.

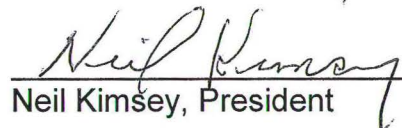
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives.

CITY OF BATTLE GROUND



John M. Williams, City Manager
Date: 11-17-15

CLARK REGIONAL WASTEWATER DISTRICT



Neil Kimsey, President
Date: 11-24-15

Attested to:



Kay Kammer, City Clerk

Attested to:



Norm Harker, Secretary

Approved as to form:



Brian Wolfe, CITY Attorney

Approved as to form:



Rod P. Kaseguma, DISTRICT Attorney