

**DISCOVERY CLEAN WATER ALLIANCE
ADMINISTRATIVE LEAD AGREEMENT**

THIS AGREEMENT is made and entered into by and between CLARK REGIONAL WASTEWATER DISTRICT, Clark County, Washington ("CRWWD") and the DISCOVERY CLEAN WATER ALLIANCE, Clark County, Washington (the "Alliance"), each a Washington municipal corporation (collectively, the "Parties").

RECITALS

A. On September 27, 2012, Clark County, CRWWD, the City of Ridgefield, and the City of Battle Ground ("Alliance Members") entered into the "Discovery Clean Water Alliance Interlocal Formation Agreement" ("Alliance Agreement"). The Alliance Agreement provides for the formation of the Discovery Clean Water Alliance, pursuant to the Joint Municipal Utility Services Act, Chapter 39.106 RCW.

B. The purpose of the Alliance is to jointly provide regional wastewater transmission and treatment for the Alliance's members and other contracting municipal wastewater utilities.

C. The Alliance Agreement designates CRWWD as the Administrative Lead to administer and manage the overall affairs of the Alliance for at least five years after the Alliance Operations Date, which is expected to be January 1, 2015.

D. Consistent with the Alliance Agreement, and pursuant to RCW 39.106.040, RCW 57.08.005 and Chapter 39.34 RCW, the Alliance and CRWWD desire to enter this Agreement to set forth the terms and conditions of CRWWD's service as Administrative Lead.

AGREEMENT

In consideration of the following terms and conditions, the Alliance and CRWWD agree as follows:

1. Definitions. Unless otherwise provided in this Agreement, capitalized terms shall have the same meanings as the terms that are defined in the "Definitions" section of the Alliance Agreement.

2. CRWWD Services. Under direction of the Board, and consistent with the Alliance Agreement, Board resolutions and Board policies, and in consultation with the relevant Member agency committees established by the Board, CRWWD shall serve as the Administrative Lead and shall provide the services described herein and any other services authorized by the Board. CRWWD's services include, but are not limited to, the following:

2.1 Executive and administrative services:

2.1.1 Assist and support the Board and its committees and advisory boards by performing necessary executive and administrative services, including preparation of agendas and packets for all Board, committee and advisory board meetings.

2.1.2 Represent the Alliance on regional and local wastewater initiatives, issues and matters.

2.1.3 Report periodically to the Board regarding Administrative Lead services and Alliance activities and projects.

2.1.4 Monitor and carry out levels of service and standards associated with Alliance functions, defined in consultation with the relevant Alliance committees, and after review and endorsement by the Board.

2.1.5 Coordinate Administrative Lead duties and responsibilities with Operators and Members.

2.1.6 Implement public outreach and engagement services, as directed by the Board.

2.1.7 Serve as the Alliance SEPA lead agency.

2.1.8 Provide for an Alliance public records officer.

2.2 Financial and treasury services:

2.2.1 Prepare or oversee preparation of Operating Budgets.

2.2.2 Prepare or oversee preparation of Capital Budgets.

2.2.3 Develop and utilize financial accounting systems for Alliance functions, duties and reporting.

2.2.4 Monitor and carry out investment, debt or other financial policies defined in consultation with the relevant Member agency committees, and after review and endorsement by the Board.

2.2.5 Prepare or oversee preparation of computations and recommendations regarding the setting of Regional Service Charges.

2.2.6 Bill for and collect Regional Service Charges.

2.2.7 Prepare reports and recommendations regarding assumption of

debt and/or issuance of bonds by the Alliance.

2.2.8 Provide compliance and post-issuance services for any Bonds issued by Alliance.

2.2.9 Monitor and carry out Alliance Financial Policies (Exhibit A to Alliance Agreement).

2.2.10 Prepare Comprehensive Annual Financial Reports.

2.2.11 Oversee and handle audits of Alliance operations and functions.

2.2.12 Serve as Alliance Treasurer and designate the chief financial officer or treasurer of CRWWD to serve as Alliance Treasurer.

2.2.13 Invest excess cash reserves in the Clark County Investment Pool.

2.2.14 Carry out, or cause to be carried out, all usual, customary, statutory and regulatory duties and responsibilities of Alliance Treasurer.

2.3 Capital asset program management services:

2.3.1 Prepare Capital Plans that assess regulatory and industry trends, capacity needs, repair and replacement needs, and levels of service for Alliance assets.

2.3.2 Prepare capital management policies that consider all relevant factors.

2.3.3 Inventory and monitor the capacity of Regional Assets.

2.3.4 Manage, administer and implement expansion of or upgrades to Regional Assets for individual projects of more than \$50,000 (such value to be indexed to the Engineering News Record construction index for Seattle).

2.4 Hiring and personnel services:

2.4.1 Hire and designate employees, contractors and consultants, including but not limited to legal counsel, engineers and planners, to assist the Administrative Lead in providing services and carrying out responsibilities.

3. Powers and Authority; Compliance with Laws. Except as provided otherwise in the Alliance Agreement, CRWWD shall provide the services of this Agreement in accordance with the water-sewer district statutes and all applicable laws and regulations.

4. Compensation and Payment for Services. The Alliance shall establish a budget for Administrative Lead services as a component of the Operating Budget.

4.1 CRWWD shall provide services within the authorization of the Operating Budget and Capital Budget.

4.2 The Alliance shall pay CRWWD for all actual and reasonable costs incurred by CRWWD 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.

4.3 CRWWD shall charge for services in accordance with rates and schedules set forth in the Operating Budget.

4.4 CRWWD shall submit monthly invoices for services in a form and containing information reasonably required by the Board. Monthly invoices shall be equal to one-twelfth of the annual budget for Administrative Lead services in the Operating Budget, unless a separate schedule is set forth in the Operating Budget.

4.5 By March 31 of each calendar year, CRWWD and a committee created by the Board shall reconcile CRWWD's actual costs in the previous calendar year against CRWWD's budget for the previous calendar year, and shall report the results of the reconciliation to the Board. By June 30 of the same calendar year, the Board by motion shall revise the monthly payments for the remaining six months of the year.

4.6 Any payment that is delinquent after 60 days shall accrue interest at 12% per annum.

5. Term and Effective Date. This Agreement shall be effective from and after its execution by both Parties and listing by CRWWD on its website pursuant to RCW 39.34.040 through December 31, 2019. It shall be automatically extended for additional one-year terms unless the Alliance notifies CRWWD 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.

6. 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.

7. CRWWD Employees. If the Alliance transfers the Administrative Lead services to itself, the Alliance will use its best reasonable effort to hire the employees of CRWWD who request continued employment in their previous or similar positions. If the Alliance transfers the Administrative Lead services to another entity, the Alliance shall require

the other entity to use its best reasonable effort to hire the employees of CRWWD who request continued employment in their previous or similar positions.

8. Performance of Non-Alliance Services By CRWWD. CRWWD may perform any retail and wholesale services that are not in conflict with the services provided to the Alliance or in conflict with CRWWD's responsibilities under this Agreement.

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

10. Records.

10.1 CRWWD shall maintain accounts and records that sufficiently and properly document its services and charges under this Agreement.

10.2 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.

11. Insurance. CRWWD shall provide insurance for its acts and omissions under this Agreement, with the same coverage and in the same amounts as is provided by CRWWD for its officers, employees and agents, and that insurance shall name the Alliance as a primary or as an additional insured. Upon request, CRWWD shall provide evidence of insurance coverage, in a form acceptable to the Alliance.

12. Indemnification. To the maximum extent permitted by law, the Alliance and CRWWD 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 and liability 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 Alliance or its contractors, employees, agents, or representatives, and CRWWD 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.

13. Dispute Resolution; Remedies. The Parties shall first attempt to resolve a dispute by discussions between representative(s) of the Alliance and CRWWD. 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 Alliance and CRWWD.

14. 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 Alliance, the notice shall be sent to:

Chair of the Board
Discovery Clean Water Alliance
c/o Clark Regional Wastewater District
8000 NE 52nd Court
PO Box 8979
Vancouver WA 98668-8979

or to such other person or place as the Alliance shall furnish to CRWWD in writing, with a copy to:

Hugh Spitzer
Foster Pepper PLLC
1111 3rd Avenue STE 3400
Seattle WA 98101-3299

If to the Administrative Lead, the notice shall be sent to:

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

or to such other person or place as CRWWD shall furnish to the Alliance in writing, with a copy to:

Rod P. Kaseguma
Inslee, Best, Doezie & Ryder, P.S.
777 – 108th Avenue NE STE 1900
Bellevue WA 98004

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.

15. 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.

16. 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.

17. 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.

18. Survival. Section 12, Indemnification, shall survive the term, and any extensions thereof, of this Agreement.

19. No Third Party Rights. This Agreement is solely for the benefit of the Parties and gives no right to any other party or person.

20. 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.

21. 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.

22. 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.

23. Independent Contractor. CRWWD is and shall be at all times during the term of this Agreement an independent contractor and not an employee of the Alliance.

24. 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.

DISCOVERY CLEAN WATER
ALLIANCE

Lisa Walters
Lisa Walters, Chair

Date: 1-18-13

Attested to:

Neil Kimsey
Neil Kimsey, Secretary

Approved as to form:

Hugh D. Spitzer
Hugh D. Spitzer, Alliance Attorney

CLARK REGIONAL WASTEWATER
DISTRICT

Norm Harker
Norm Harker, President

Date: 1-15-2013

Attested to:

Denny Kiggins
Denny Kiggins, Secretary

Approved as to form:

Rod P. Kaseguma
Rod P. Kaseguma, CRWWD Attorney