

INTERGOVERNMENTAL AGREEMENT FOR EMERGENCY WATER SUPPLY

AGREEMENT between **CITY OF SALEM** (Salem), an Oregon municipal corporation, and **CITY OF KEIZER** (Keizer), an Oregon municipal corporation.

Recitals:

- (1) The parties hereto previously entered into an Intergovernmental Agreement for Emergency Water Supply dated March 22, 2012 (“2012 Agreement”).
- (2) The parties hereto intend to terminate the 2012 Agreement, and replace it with this Agreement.
- (3) Salem’s primary water source is located on the North Santiam River at Geren Island.
- (4) Keizer’s primary water source is from underground wells located in the Keizer area.
- (5) Both Cities have ample water supplies to serve their respective communities.
- (6) Both Cities desire to further develop their backup water supply capabilities through a water supply interconnect between both water systems to handle severe emergency conditions.
- (7) In order to develop a backup water supply, certain construction activities will need to be conducted.

NOW, THEREFORE, in consideration of the following mutual promises and obligations, Salem and Keizer agree as follows:

Agreement:

Section 1. Emergency Supply. Each City will provide to the other surplus water during periods of emergency as provided under this Agreement. Each City shall determine in its sole discretion if it has surplus water at the time the request is made. A period of emergency includes, but is not limited to, drought, system repair, or temporary loss of supply because of power loss, contamination, or other system breakdown. The vicinity of the two pump stations for the interconnections is shown on Exhibit “A.”

Section 2. Sale Price. Water sold to either party will be at Keizer’s commercial commodity rate less ten percent, or the commodity rate Salem charges Suburban East Salem Water District, whichever is less.

Section 3. Operation and Maintenance of the Cherry Avenue Pump Station. Pursuant to the terms of the 2012 Agreement, Salem constructed a booster pump station structure at Keizer’s Cherry Avenue Pump Station as shown on Exhibit “B”. The structure, and its contents, are owned and maintained by Salem; however Salem shall seek Keizer’s concurrence on any architectural changes and all landscaping features, and Keizer’s concurrence shall not unreasonably be withheld.

Section 4. Construction of Improvements at the Wiessner Pump Station.

4.1 On or before December 30, 2037, Salem shall construct, and be responsible for all construction management for up to 3,500 gallons per minute maximum capacity booster pump station structure at the Wiessner pump station site in a location consistent with that described in Exhibit “C,” for the purpose of housing the necessary disinfection chemicals. The structure shall meet all applicable zoning and building codes. The control logic for the pump operation shall be the same as at the Cherry Avenue Booster Pump Station site. Once constructed, the booster pump station structure and the associated equipment will be the property of Salem. Salem shall seek Keizer’s concurrence on all architectural features of the building and landscaping and Keizer’s concurrence shall not unreasonably be withheld.

4.2 Keizer shall develop and provide the necessary easements on the Wiessner Pump Station site for Salem to gain access and place the booster pump station facility, piping, power supply, and other pertinent facilities consistent with the alignment shown in Exhibit “C” when given notice by Salem that the project has been scheduled for design and construction. Such easements shall be in addition to the Pipeline Easement provided to Salem by Keizer on September 24, 2015, as shown in Exhibit “D”.

Section 5. Ownership and Maintenance. The termination point of operation and ownership is the down-stream side of the respective water meters (see Exhibit “B” and “C”). Each City will maintain their own facilities at the booster pump station sites, including underground power and communication lines.

Section 6. Back Flow Prevention. An active back flow prevention program shall be established in each system and shall be continued for the life of the Agreement in accordance with state law.

Section 7. Water Meter. Each City shall install a water meter to measure flows at the inter-tie locations identified in Exhibit “B” and “C.” Each City will be responsible for the cost of installation, maintenance, operation, and annual testing of that City’s water meter.

Section 8. Notification. When water is needed due to an emergency, the City needing water will first notify the other City to ensure that adequate surplus water is available. Once adequate surplus water is identified, both Cities shall take all steps necessary to deliver the emergency water supply. If emergency water becomes unavailable, each City shall notify the other as soon as feasible.

Section 9. Water Quality Analysis. Upon request, the results of chemical analysis and bacteria counts will be supplied by the City selling emergency surplus water to the City purchasing the water.

Section 10. Merger. This agreement sets forth the entire understanding of the parties with respect to its subject matter, supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter, and may not be altered, modified, supplemented, or amended in any manner whatsoever, except by mutual agreement of the parties in writing. Any such modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if signed by the parties. The failure of either City to enforce any provision of this Agreement shall not constitute a waiver by that City of that or any other provision.

Section 11. Severability. If any provision of this agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this agreement shall not be in any way impaired.

Section 12. Compliance with Applicable Law. The parties shall comply with all federal, state, and local laws, ordinances, and regulations applicable to this agreement, including, but not limited to state public contracting laws and applicable federal and state civil rights laws. Further the parties will comply with all applicable land use regulations and building codes when constructing or maintaining facilities identified under this agreement.

Section 13. Term and Termination. The effective date, and term of this Agreement, shall start on the date of the last signature hereon, and end on December 30, 2037. Salem or Keizer may terminate this Agreement by written mutual consent of the parties or upon either party providing upon not less than one hundred eighty (180) days written notice to the other party and specifying the termination date.

Section 14. Mutual Indemnification. To the extent permitted by the Oregon Tort Claims Act, each party (“Indemnitor”) shall indemnify, hold harmless and defend the other party and its directors, officers, employees, and agents from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to reasonable attorney’s fees and costs), whether or not involving a third party claim, which arise out of or relate in any way

to any action or failure to act by Indemnitor in connection with this Agreement or the providing of water.

Section 15. Termination of Intergovernmental Agreement for Emergency Water Supply dated March 22, 2012. The 2012 Agreement is terminated as of the effective date of this Agreement.

IN WITNESS WHEREOF, the parties have, by approval of their respective governing bodies, caused this Agreement to be executed.

City of Keizer

City of Salem

By: _____
Christopher C. Eppley, City Manager
City of Keizer

By: _____
Steven D. Powers, City Manager
City of Salem

Date _____

Date _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Keizer City Attorney

Salem City Attorney

Reviewed by:

Peter Fernandez, P.E.
Public Works Director

Date: _____