

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING )  
THE EXECUTIVE OFFICER TO EXECUTE )  
AN INTERGOVERNMENTAL )  
AGREEMENT BETWEEN METRO AND )  
CLEAN WATER SERVICES, A COUNTY )  
SERVICE DISTRICT IN WASHINGTON )  
COUNTY, FOR COORDINATION OF )  
PLANNING AND AUTHORIZING THE )  
PAYMENT OF UP TO \$11,452 FOR )  
HEALTHY STREAMS DATA )

RESOLUTION NO. 01-3077

Introduced by Mike Burton, Executive Officer

WHEREAS, The Metro Council has directed staff to prepare a fish and wildlife habitat program consistent with State Goal 5; and

WHEREAS, Clean Water Services, formerly the Unified Sewerage Agency, a county service district in Washington County responsible for sanitary sewer service and stormwater management services has embarked on an extensive program to gather data concerning the Tualatin River and its tributaries; and

WHEREAS, The data gathered by Clean Water Services includes more precise information about the location of streams as well as more detailed information about the quantity and quality of resources along the Tualatin River and its tributary streams than some Metro data; and

WHEREAS, Metro, Clean Water Services as well as the cities within the Metro jurisdictional boundary have worked together in the past to coordinate on similar projects, most recently on the implementation of Title 3 of Metro's Urban Growth Management Functional Plan;

WHEREAS, The attached intergovernmental agreement would provide this more detailed information to Metro for inclusion within its fish and wildlife habitat inventory and provide a means of coordinating fish and wildlife habitat planning with Washington County and the cities within Washington County within the Metro jurisdictional boundary; NOW, THEREFORE,

BE IT RESOLVED,

1. That the Metro Council hereby authorizes the Executive Officer to execute the attached intergovernmental agreement, Exhibit A, between Metro and Clean Water Services.
2. That the Metro Council authorizes the payment of up to \$11, 452 to Clean Water Services for data not presently included in Metro's information database. A payment of \$5,726 dollars shall be made in FY 2001-02. The balance shall be provided to Clean Water Services in FY 2002-03.
3. That Metro shall participate in the Healthy Streams project committee proceedings in order to help ensure coordination of Metro, Clean Water and other local government programs within the Tualatin River basin related to State Goal 5. The Metro Council shall determine the Metro representative and convey this information to Clean Water Services and Metro staff.

ADOPTED by the Metro Council this 14~~th~~ day of June 2001.

  
David Bragdon, Presiding Officer

Approved as to Form:

  
Daniel B. Cooper, General Counsel



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**HEALTHY STREAMS PLAN INTERGOVERNMENTAL AGREEMENT  
BETWEEN CLEAN WATER SERVICES  
AND METRO**

This agreement, dated \_\_\_\_\_, 2001, is between the **CLEAN WATER SERVICES**, a county service district formed under ORS Chapter 451, (District) and **METRO**, a metropolitan service district formed under ORS Chapter 268 (Metro).

**A. RECITALS**

WHEREAS, ORS 190.003 - 190.110 encourages intergovernmental cooperation and authorizes local government entities to delegate to each other authority to perform their respective functions as necessary; and

WHEREAS, the District, Metro, other local governments, and other parties to this agreement are subject to the Clean Water Act (CWA), the Endangered Species Act (ESA), and Statewide Planning rules; and

WHEREAS, ESA listed species require conservation of the Tualatin Basin, and “taking” of such listed species is prohibited under the ESA; and

WHEREAS, Section 9 of the ESA subjects the District, local governments, public entities and citizens to enforcement actions for unauthorized “takings” of listed species from on-the-ground activities undertaken by or on behalf of these local governments and entities, or by others acting under their authorization or permits; and such vulnerability to ESA enforcement actions has caused local governments and public entities to enter into this agreement with the District in an attempt to reduce the ESA liability risk by participating in the development of a coordinated ESA response plan (the Healthy Streams Plan); and

WHEREAS, the District, local governments, and other parties to this agreement shall cooperate in the preparation by the District of the Healthy Streams Plan for submittal to the National Marine Fisheries Service (NMFS), Department of Environmental Quality (DEQ), US Fish and Wildlife Service (USFWS), and other regulatory agencies as necessary; and

WHEREAS, the Healthy Streams Plan is designed to evaluate and recommend actions to conserve or enhance properly functioning conditions of the streams and their watersheds in the Tualatin Basin as well as address the policy issues program elements identified in the Section 4(d) Limits 8, 10, 11, and 12 (MRCI limits) adopted by NMFS or US Fish and Wildlife Service in response to the listing of threatened species including salmon and steelhead; and

WHEREAS, the decision regarding the form of the Healthy Stream Plan submittal as an ESA Section 4(d) Program, a Section 10 Incidental Take Permit with a Habitat Conservation Plan, a non permit Recovery Plan, or combination thereof, shall be negotiated among the policy makers of the parties to this agreement as the planning process evolves and the regulatory agencies provide clearer direction; and

WHEREAS, the District, local governments, and other parties to this agreement agree to share the expense associated with preparing and implementing the Healthy Streams Plan to the extent described in this agreement; and

WHEREAS, implementation of the Plan shall begin when the recommended policies, regulations, programs, and system improvements are integrated into local government and special district codes, standards, practices, and capital improvement budgets; and

WHEREAS, the District, local governments, and other parties to this agreement need to maintain open communication among staff, elected officials and the public on projects affecting water quality, flood management and aquatic species habitat.

NOW, THEREFORE, it is agreed by and between the District, local governments, and other parties to this agreement as follows:

### **B. THE PLAN**

1. The purposes of this agreement are to:
  - a. Recognize and cooperatively implement the tasks outlined in the Healthy Streams Plan (Plan) model planning process, which was approved by the District's Board of Directors. Exhibit A documents the Healthy Streams Plan's major components, activities, review processes, and expected outcomes.
  - b. Cooperatively and adequately fund the Plan development as outlined in Exhibit B.

### **C. DISTRICT OBLIGATIONS**

The District shall conduct and complete the following activities on behalf of the local governments, and other public entities that are parties to this agreement:

1. District shall cause to be prepared and shall manage the preparation of the Healthy Streams Plan and shall administer professional services contracts and intergovernmental agreements associated with the Healthy Streams Plan.
2. District shall involve representatives of Metro by integrating their comments into the Healthy Streams Plan elements throughout the planning process. District shall follow the Review and Approval Process outlined in Exhibit A, as appropriate to each plan element. District shall regularly report the status of the Healthy Streams Plan development to representatives of Metro.
3. District shall incorporate the Healthy Streams Plan recommended policies, regulations, programs and system improvements into its Design and Construction standards as appropriate, to satisfy the prohibitions against unauthorized "takings" and NMFS, DEQ, USFWS requirements for Plan assurances of implementation.
4. District shall involve the public in the development of the Healthy Streams Plan and shall comply with public involvement laws and procedures for a surface water management utility.
5. District shall make data collected during the planning process available to any of the parties to this agreement or to their successors and assigns, upon written request from the parties for such data.
6. District shall use the funds received from local governments and other parties to this agreement for payment of contracted consultants for the Healthy Streams Plan preparation. Funding and compensation shall comply with all public contracting laws of the State of Oregon relating to the selection of, contracting with, and payment of fees to consultants.

#### **D. METRO OBLIGATIONS**

1. Metro shall assign staff and elected officials to coordinate and participate in the Healthy Streams Plan preparation with the District.
2. Metro shall appoint a representative to the Project Committee(s) covering the watersheds within the Watersheds 2000 inventory.
3. Metro will cooperate with the District in involving the public in the development of the Healthy Streams Plan and shall satisfy applicable Federal, State, and local public involvement laws and procedures in the implementation of the Plan.
4. Metro will consider supporting the Healthy Streams Plan if a majority of the parties to this agreement support the Plan and the points of disagreement do not significantly impair the social, economic or ecological integrity of the community.
5. Metro shall pay to the District the amount indicated in Exhibit B in payments of \$5,726 each during the fiscal year 2001-2002 and 2002-2003, for a total not to exceed \$11,452.

#### **E. FUNDING AND COMPENSATION**

1. The cost of the Healthy Streams Plan is estimated to be \$2.7 million. This cost shall be shared among the jurisdictions in accordance with the project allocations shown in Exhibit B to this agreement. Payments owed and due by the parties to this agreement are not contingent on payments by other listed jurisdictions. Metro's total proportional share of the Plan cost under this agreement shall not exceed \$11,452.
2. Metro's obligation to the District under this agreement shall not exceed the amount set in Section E.1, unless that amount is modified by an amendment to the Agreement, as provided by Section F.5.
3. In the event that unexpended funds paid to the District pursuant to this agreement remain after completion of the Healthy Streams Plan, Metro shall receive its share of such unexpended funds established by this Agreement.

## F. GENERAL TERMS

1. Integration.

This document constitutes the entire agreement between the parties and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind. No course of dealing between the parties and no usage of trade will be relevant to supplement any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement will not be relevant to determine the meaning of this Agreement and no waiver by a party of any right under this Agreement will prejudice the waiving party's exercise of the right in the future.
2. Approval Required.

This Agreement and all amendments thereto shall become effective when signed by District's General Manager and by the authorized official of Metro.
3. Term of Agreement.

This Agreement takes effect on the date it is signed by the authorized representatives of the District and Metro and shall remain in effect until completion by both parties of all their respective obligations under this agreement unless the agreement is earlier terminated by mutual agreement of the parties and in accordance with the terms of this agreement.
4. Termination and Amendment.

This Agreement may be terminated or amended by mutual written agreement of both parties.
5. Waiver and Amendment.

No waiver of any portion of this Agreement and no amendment, modification or alteration of this Agreement shall be effective unless made in writing and signed by the authorized representative of each party.
6. Interpretation of Agreement.

This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision.

The paragraph headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this Agreement.
7. Severability/Survivability.

If any of the provisions contained in this Agreement is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, the enforceability of the remaining provisions of the agreement shall not be affected or impaired by that determination and shall remain in full force and effect. All provisions in the agreement concerning indemnity of either party shall survive any early termination of this Agreement for any cause.
8. Laws and Regulations.

The Parties agree to abide by all applicable laws and regulations in carrying out this Agreement.
9. Indemnification.

Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the Parties shall indemnify the other and its officers, employees, agents, and representatives from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement in favor of any person on account of personal injury, death, damage to

property, or violation of law, which arises out of, or results from, the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, contractors or representatives.

10. Dispute Resolution.

If any dispute arising out of this Agreement can not be resolved by the District and Metro staff representatives, the matter will be referred to the staff representatives' respective supervisors for resolution. If the supervisors are unable to resolve the dispute within 30 days of referral, the matter will be referred to USA's General Manager and Metro's Executive Officer, who will attempt to resolve the issue. If the General Manager and Executive Officer are not able to resolve the dispute, the parties will submit the matter to mediation, each party paying its own costs and sharing equally in common costs. In the event the dispute is not resolved in mediation, the parties will submit the matter to arbitration. The decision of the arbitrator shall be final, binding and conclusive upon the parties and subject to appeal only as otherwise provided in Oregon law. The parties shall continue in the performance of their respective obligations notwithstanding the dispute.

11. Choice of Law; Venue. This Agreement and all rights, obligations and disputes arising out of the Agreement shall be governed by Oregon law. The courts in the State of Oregon shall decide all litigation arising out of this Agreement. Venue for all mediation, arbitration, and litigation shall be in Washington County, Oregon.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed the day and year first written above.

**CLEAN WATER SERVICES OF  
WASHINGTON COUNTY**

**METRO**

By: \_\_\_\_\_  
Bill Gaffi, General Manager

By: \_\_\_\_\_  
Mike Burton, Executive Officer

\_\_\_\_\_  
Recorder

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
District Counsel

By: \_\_\_\_\_  
Daniel B. Cooper, General Counsel

## Exhibit A - Healthy Streams Plan Process

### Background

#### *Project Purpose and Proposed Product*

The purpose of this project is to develop a watershed-based plan that integrates the requirements of the Clean Water Act (CWA) and the Endangered Species Act (ESA) in a manner that promotes overall stream health. The plan will identify and prioritize specific projects, policies, and programmatic changes needed to further improve water quality, manage flooding and floodplains, and provide for aquatic species recovery in the Tualatin River Basin. It will target projects and programs that are ecologically sound, economically viable, socially acceptable, and will produce measurable results. Existing plans, studies, and materials from other regional efforts will be utilized, as appropriate and additional information will be gathered as needed. The goal is to produce a watershed-based plan that is user friendly, adaptable over time and GIS and Internet supported. The Plan must effectively and efficiently serve local jurisdictions, businesses, industries, and citizens across various land use sectors in their efforts to protect water quality and aquatic species.

#### *Reason for Project*

In March 1999 the National Marine Fisheries Service (NMFS) listed the Upper Willamette River Winter Steelhead and Spring Chinook as threatened species under the Endangered Species Act (ESA). Local jurisdictions need to review their various programs and identify how their actions may impact fish or fish habitat. Under the ESA, third parties may sue or the NMFS may fine local jurisdictions or individuals that “take” a listed species as a result of their activities.

Several regional, State, and federally mandated initiatives contain elements that either impact or are impacted by ESA, including: integrated water resources management, local land use planning, National Pollution Discharge Elimination System (NPDES) storm water best management practices, Total Maximum Daily Load (TMDL) implementation strategy, Statewide Land Use Planning Goals 5, 6, & 7, Metro 2040 Growth Concept / Title 3 Function Plan compliance, Senate Bill 1010, and the Forestry Practices Act. Clean Water Services has regional responsibility for the water quality improvement requirements under the TMDL and NPDES provisions of the Clean Water Act on behalf of our member cities.

In order to ensure a regionally consistent effort that benefits the urban and urban fringe portions of the Basin, Clean Water Services was encouraged by the local jurisdictions to take a lead coordinating role in developing an ESA response plan. The Clean Water Services Board of Directors directed staff to prepare a process and Intergovernmental Agreements (IGA's) with the County / Cities to address ESA.

#### *Timing for Project*

The Healthy Streams Plan began in January 2000 and is anticipated to be complete by November of 2002. The Watersheds 2000 inventory and analysis was conducted between May 2000-June 2001. Task forces and committees addressing impervious cover reduction, landscape management, vegetated corridors, watershed hydrology / hydraulics began in August of 2000 to address non-structural program elements

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<sup>1</sup> “Take” is defined in ESA Section 3[19] as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct”. “Harass” is defined as an intentional or negligent act that creates the likelihood of injuring wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns such as breeding, feeding, or sheltering (50CFR 17.3). “Harm” is an act that either kills or injures a listed species. Such an act may include habitat modification or degradation that significantly impairs essential behavioral patterns such as breeding, spawning, rearing, migrating, feeding, or sheltering and results in death or injury to a protected species.



needed for the Plan. Operations and Maintenance reviews for surface water management, roads, wastewater treatment plants and parks will begin in July 2001. Public survey and economic analyses will also begin in July / August 2001.

### ***Project Funding***

It is estimated that the project will cost \$2.7 million and shall come from surface water management fees or other funding sources. The inventory element of the plan is currently contracted at \$2.2 million and has been funded up-front by Clean Water Services. The project partners, to partially reimburse the District for activities specific to each jurisdiction have negotiated a cost share proposal (Exhibit B). The Federal Emergency Management District has also provided \$287,250 for the Tualatin River and stream floodplain analysis.

### ***Stakeholders***

Clean Water Services internal stakeholders for this project include all departments and divisions. An internal project team consisting of leadership team, planning, legal, public affairs, conveyance, and technical services will review plan elements prior to their release for public review.

External stakeholders for this project include local governments, special service districts, and citizens in all sectors of the Tualatin Basin including urban, agriculture, and forestry. A Project Advisory Committee (PAC) representing key stakeholders will guide the project through the planning process (once the inventory is complete). The members will represent a variety of professional backgrounds. A Parties of Interest (POI) group is proposed to receive regular email and information updates. Existing committees with particular interest in the planning effort (such as planning directors, managers, watershed council, USAAC, water managers, SWCD board, Willamette Restoration Initiative) will be regularly updated at scheduled meetings by PAC members or District staff.

The Healthy Streams PAC will be developed once the technical information is gathered. The PAC will likely be formed by May 2001 for the development of the Healthy Streams Plan.

### **Plan Elements and Process**

The Healthy Streams Plan has six major components:

- Watershed-wide inventory (Watersheds 2000, complete by July 2001)
- Public values analysis
- Economic analysis and funding strategy development
- Programmatic and policy focus areas
- Fish friendly reviews of existing activities, and
- Document preparation and final plan approval

The Plan elements noted above are outlined in the Healthy Streams Planning Process provided at the end of this Exhibit. Detailed scopes of work will be generated for each component of the Plan. These scopes shall be reviewed by representative technical groups of the jurisdictions, as appropriate. The expected outcomes of the work are outlined as follows:

### ***Watersheds 2000 Inventory***

The Watersheds 2000 inventory follows the District's typical watershed planning strategy on a large scale. The information gathered is processed through Project Committees assigned to different regions of the watershed. The Project Committees' public values are integrated with the technical data to develop a list of capital improvement projects for each subwatershed within the overall study area. While the Project Committees will rank project priorities in each subwatershed, the Basin-wide ranking of projects

will be performed by the Healthy Streams Project Advisory Committee, later in the Healthy Streams planning process. The following is a list of key components of the inventory effort.

- Ecological inventory and condition ranking of all stream reaches using the Rapid Stream Assessment Technique modified for Tualatin Basin conditions. This information will be used to identify capital improvements for enhancing stream conditions, based on the anticipated benefit to water quality, flood management and/or aquatic species. The Cities and County may use the technical information gathered in the inventory as part of their land use planning Goal 5 efforts, as appropriate.
- Hydrology modeling (updated or built if not previously modeled) along all main stream and tributary reaches. The project will use the HEC-HMS event-based model with Basin-specific rainfall distribution information. The models will be used to determine where there may be critical low flow or flooding conditions along the stream system.
- Hydraulic modeling (updated or built if not previously modeled) along all main stream reaches and the Tualatin River where Federal Emergency Management District (FEMA) floodplains have been identified. The project will use the FEMA approved HEC-RAS model with flows derived from the HEC-HMS or Corps flows as appropriate. The models will be used to properly size infrastructure crossing the stream, provide flood management guidance, identify critical velocity areas, and help determine fish passage through structures. The model information will be used to map any changes to the floodplain boundaries in a separate work project not subject to this agreement.
- Ground surveyed 2-ft contour topographic mapping of the stream corridors using year 2000 aerial mapping (Ground Positioning System (GPS) controlled) for base maps. This information is necessary to build the hydraulic model and will be further utilized during the design of enhancement and sanitary sewer projects that are in the floodplain. The mapping will serve as the base in which all inventory information will be linked.
- Identification of stream/ floodplain enhancement needs, aquatic species migration barriers, flood management structures, and storm water pipe retrofit opportunities in non-pretreated areas. The information will provide further understanding of the extent of enhancement needed, as well as assist with setting priorities and defining the scale of efforts to be undertaken for Clean Water Act and Endangered Species Act response.

The data will be collected in a manner that is consistent with accepted protocols and practices, and integrates work of others when possible. The identification of proposed capital improvement projects will be guided by both the technical findings and the public values expressed by Project Committees set for the study areas. The technical and public value information will be made accessible to the public via a web site. A majority of the raw and summarized data will be delivered in electronic format. However, a brief plan summary will also be developed, documenting the inventory process, issues, findings and capital project recommendations.

#### ***Public Values Analysis***

Public values and expectations regarding ESA and CWA response strategies will be evaluated to determine the level of public acceptance of various resource management strategies. The process will begin with education of the public on the issues, followed by a detailed statistically valid survey that will include a determination of the public willingness to pay for resource protection and capital improvements to the stream system as well as their acceptance of modified policies and regulations. A summary of findings document will be provided.

#### ***Economic Analysis and Funding Strategy***

Economic analysis of several of the ESA and CWA management options will be conducted utilizing the willingness to pay and other appropriate economic modeling. The analysis will help to determine the cost

effectiveness of the management options, which will be used by the Healthy Streams PAC to assess basin-wide priorities for capital project implementation and regulatory limits. The analysis may include the cost-benefit analysis of trading resource protection and enhancement strategies in different areas of the watershed based on resource conditions (if adequate funding for the scope is available). The funding strategy analysis will help determine the most appropriate mechanisms for cost sharing and paying for the improvements that are determined to be necessary for the ESA and CWA. A technical memorandum of the findings will be provided.

***Programmatic and Policy Focus Areas***

Four areas of focus on programmatic changes include effective impervious cover reduction strategies, landscape management, vegetated corridors, and hydrology / hydraulics standards. Multidisciplinary task forces will be established to review existing standards and identify potential improvements. Existing staff and committees from the local jurisdictions will review and advise the Healthy Streams PAC on the recommendations, appropriate to their expertise and responsibility. The PAC will review and revise the policies and standards for consistency with ESA and CWA requirements before forwarding them in accordance with the process outlined in the Plan Review Process and flow chart in this Exhibit. The recommended standards adjustments will be integrated into the Healthy Streams Plan for the state and federal regulatory agencies to review and approve.

***Fish Friendly Reviews***

Fish friendly reviews of existing activities will be conducted jointly by the District, local governments, and special districts. Recommendations will be made regarding activity practice changes that reduce the potential impact on fish and water quality. A report of the findings and recommendations for each jurisdiction will be distributed to the appropriate existing committees for review prior to delivery to the Healthy Streams PAC.

***Document Preparation and Final Plan Approval***

Depending on the policy decision regarding the form of the Healthy Streams Plan package (as a 4(d) rule, and HCP, or other plan type) appropriate documentation will be prepared to complete the submittal. The major components of the package to NMFS will include the science from the inventory, the public values, the economic analysis, funding strategy, policy / programmatic changes and modifications in existing activities. If documentation requirements go beyond the \$100,000 estimated in Exhibit B, an amendment to the agreement will be negotiated.

## **Project Advisory Committee**

A Project Advisory Committee (PAC) will advise the planning effort. The following is a list of proposed representative categories for the Healthy Streams Plan Project Advisory Committee:

- County\*
- City of Beaverton\*
- City of Hillsboro\*
- City of Portland
- West County City (Banks, Forest Grove, Cornelius, North Plains)\*
- South County City (Durham, King City, Tigard, Tualatin, Sherwood)\*
- Clean Water Services
- Business / Industry / Homebuilder Representative
- Rural Representative (Agriculture / Forestry)
- NMFS / USFWS
- Environmental Representative
- DEQ
- Metro
- Tualatin Valley Water District
- Tualatin Hills Parks and Recreation District
- County Transportation Representative
- Citizen Representative

\*The representative city for the west and south county shall be selected by the Natural Resources Coordinating Committee. The five county/city positions shall contain individuals that represent the City Technical Committee, Planning Directors, Natural Resources Coordinating Committee, Washington County Managers, and/or Washington County Finance Committee. Cities / County may select and submit several individual nominations that participate in the existing committees noted above.

Prospective Project Advisory Committee members will have:

- Diverse professional backgrounds from others in the group
- Serve as representatives in other forums
- Ability to work productively in group setting, addressing difficult topics, making decisions
- Commitment and time to attend all meetings

Clean Water Services will prepare PAC application materials to distribute to key stakeholders and committee members. Except for city/county nominations, preliminary selection of committee members will be made by Clean Water Services Advisory Committee, with a recommendation forwarded to the District's Board of Directors.

### ***Role of Other Established Boards / Groups / Committees in the Watershed***

Individual groups and committees that transcend across jurisdictional boundaries and professional disciplines will review the effort undertaken by Clean Water Services on this project in a variety of forums. It would be incredibly time consuming and difficult to request approval of all the elements of the Plan from all the interested parties. Therefore, the Project Advisory Committee will consist of professionals that also participate in the:

- City Technical Committee
- Washington County Planning Directors
- Water Managers Group
- Coordinating Committee
- Washington County Managers
- Park Providers

- Citizen Participation Organizations
- Neighborhood Action Committees
- Stream Friends Groups
- Tualatin River Watershed Council
- City Councils and District Boards
- Washington County Finance Committee
- ESA Coordinators
- Metro Committees (Goal 5TAC, WRPAC, MTAC)
- Others

PAC representatives, printed updates and District staff presentations will update the Boards, Groups, and Committees on the Plan elements. The established committees noted above would make recommendations on elements of the Plan that directly affect their operations (see the Healthy Streams Plan Review and Approval Process at the end of this Exhibit). The decision making regarding the various Plan elements will be made by the bodies with statutory responsibilities in the subject area. The final draft Plan (which would contain the previously approved elements) will be reviewed and approved by the PAC, the District's Advisory Committee, and local Governing bodies before being forwarded to the District's Board of Directors for approval to submit to state and federal regulatory agencies.

### **Project Review and Approval**

The review and approval process for the various plan elements will be flexible depending on the policy implications of the various recommendations. The review process table and flow chart provided are a general outline of expected reviews.

## Healthy Streams Plan - Review and Approval Process

Element	Recommendations By	Recommendations Reviewed** By	Element Approved By	Plan Approved By
Watersheds 2000 Inventory / Planning	Technical Consultants, Stakeholders	Project Committees In Each Study Area, CWS AC, PAC	CWS Board	National Marine Fisheries Service US Fish and Wildlife Service Environmental Protection Agency Oregon DEQ
Public Values Analysis	Technical Consultants, Stakeholders	TB PAC, Interagency Committees*	Project Advisory Committee	
Economics, Funding Strategy Analysis	Technical Consultants, Public via survey	Finance committee, Interagency Committees, Project Advisory Committee, CWS AC	CWS Board, Governing Boards / Councils	
Fish Friendly Reviews	USA / Technical Consultant	Field Operations, Transportation, Facilities and Parks Committees	PAC / Boards / Councils	
Programmatic and Policy Focus Areas		PAC, Natural Resources Coordinating Committee, CWS Advisory Committee		
Effective Impervious Cover Reduction	Multidisciplinary Task Force	Planning Directors, City Technical Committee (Engineers)	CWS Board, Governing Boards / Councils	
Landscape Management	Multidisciplinary Task Force	Field Operations, Transportation, Facilities, Parks, Planning Director Committees	Project Advisory Committee	
Vegetated Corridors	Multidisciplinary Task Force	Planning Directors, City Technical Committee (Engineers)	CWS Board, Governing Boards / Councils	
Hydrology / Hydraulics	Multidisciplinary Task Force	City Technical Committee	CWS Board, Governing Boards / Councils	
Healthy Streams Plan Documentation	Tech Consultants, Other Elements	all	CWS Board, Governing Boards / Councils	

\* Any group that requests a review may do so, and submit comments.

\*\* A majority rule standing will determine the advance of the recommendation to the next level of review. Because of the large number of reviewers, no plan element will be "perfect" or fully supported by all committees or groups.

To keep the process moving forward, the Agency and PAC shall determine when sufficient agreement is achieved at the existing committee level to advance the element for further review and approval.

All work conducted by Clean Water Services organized task forces and technical consultants will be made available to the public for review and comment. Forums and open houses will be conducted throughout the planning process to gather input and to keep stakeholders aware of the process.

### Healthy Streams Plan- Planning Process

MAJOR PROCESS STEP	1	2	3	4	5	6	7	8	9	10	
<b>Project Management</b>	Decision to Start Preliminary Approval to Proceed	Project Scoping (Internal / External)	Contracts Negotiation	Initiative Data Gathering	Gather Remaining Information Complete Analysis	Develop Vision & Goals Identify Issues	Develop Criteria Evaluate Options	Prioritize & Assign Management Actions	Prepare Healthy Stream's Plan	Implement Plan, Monitor & Update	
<b>Project Management</b>	1. Update Watershed Streambed and Spring Checkouts are based March 1999	2000 1. Prepare a detailed scope of work for a consultant contract for public involve, technical, and economic analysis. Internally have US prepare web link	2000 1. Conduct consultant selection process. Expenses will include all resource planning, fish biology, water resources eng, economics/finance, public inv, legal, GIS, & web site mgmt.	1. Review existing watershed plans and update to consistent field analysis and modeling.	1. Review of plans and programs (NPDES, SWM, CDMG, TMDL, BMPs, NRM, WRI, Watershed Plans, etc). Integrate elements.	1. Identify basin-wide vision and goals (using previous plans, WRI). Further define issues that recognize subregional and multi-sector variation.	1. Develop biological, social, and economic value criteria to assess the adequacy of existing / proposed options to meet goals.	1. Prioritize management actions based on criteria. Rank and update projects and basin-wide programs. Cross rank by watershed, overall basin, and jurisdiction.	1. Write and graphically depict plan that includes watershed assessment, criteria, project actions, funding, responsible parties, & activity coordination.	1. Integrate actions into capital programs and other funding strategies	
<b>Project Management</b>	2. Prepare a Project Concept Sheet and MAP for Div Mgr, GM, and LT to review & approve. Formulate an Internal Project Team (SWMPT)	2. Prepare language for IOA's or MOUs and cost shares with City / County	2. Update Board at watershed, secure Board approval of consultant contract and IOA's / MOA's in formal meeting	2. Complete watershed plans for basins lacking information. Use consistent methods.	2. Integrate technical analysis from Watershed 2000 data gathering effort to assist with other Plan elements	2. Identify existing programs/projects opportunities & constraints. Determine how each major program could be modified to support goals.	2. Conduct short and long term cost / benefit analysis of options for improvement	2. Conduct a "gut check" of the prioritization	2. Distribute to all for comment via web site and email. Gather comments (esp from NMFS and PAC) and modify draft accordingly.	2. Monitor the Plan activities, report progress to NMFS and update accordingly as conditions change	
<b>Project Management</b>	3. Revise project concept per comments	3. Review NPDES BMP's Internally for "fish friendly status" prior to submission of draft permit	3. Produce matter insert for project website, open house, web site link, and feedback form.	3. Document findings in summary plans and in map / graphic format. Display on web site following review and PC approval per proposed public process.	3. Conduct an Internal Fish Friendly audit to determine potential impacts with existing programs. Have sites, Co, parks, Ag and forestry conduct Internal audits	3. Identify changes that need to be made to comply with ESA, 4(c), Water Qact II and other initiatives.	3. Identify environmental, economic, and social impacts of proposed options	3. Develop a long term funding strategy for actions (tax, license, etc, etc)	3. Secure commitment to implement the plan from stakeholders	3. Conduct yearly Forums to track progress of management actions	
<b>Project Management</b>	4. Update the Board in work session on proposed process	4. Update the LT on project status, issues	4. Finalize scope and IOA's/MOA's based on comments	4. Present findings to LT/Board and City/Ag, Forestry Councils.	4. Conduct stream survey on social, economic, and environmental values. Develop a willingness to pay economic model.	4. Identify potential additional projects, program elements, and behavioral changes needed to achieve goals	4. Determine alternative methods of achieving favored options that may be more cost effective / beneficial, if any	4. Determine responsible parties for each action, and sharing opportunities	4. Secure commitment to fund and implement the plan from stakeholders	4. Conduct fish surveys & water quality trending analysis, and social mapping to determine changes over time. Publish results in a "State of the Basin report" every 5 years.	
<b>Project Management</b>	5. Prepare comments on 4(c) rule. Have review and concurrence from SWMPT. Send to accountability as FYI / concurrence. Submit to NMFS.	5. Develop a 12-14 member Project Advisory Committee (PAC) of key stakeholders (citizen and technical) to help guide the project. Prepare letter of understanding agreement later for PAC members.	5. Secure signed IOA's/MOA's and funding from other agency partners	5. Review TMDL implementation strategy and planning for "fish friendly status"	5. Document findings in summary report and in map / graphic format. Have findings peer and internally reviewed by SWMPT. Display on web site following review and PAC mtg.	5. Identify the range of actions from "avoid later" to "fish recovery"	5. Identify and implement early action projects with low cost, high benefit	5. Prepare draft IOA's or other commitments for plan implementation by stakeholders. Develop a long term communication and coordination framework.	5. Finalize Plan.	5. Implement an adaptive management strategy to address any problems that arise during implementation.	
<b>Project Management</b>	6. Have Board approve PAC representation and give final approval to proceed with the process.	6. Have Board approve PAC representation and give final approval to proceed with the process.	6. Have Board approve PAC representation and give final approval to proceed with the process.	6. Have Board approve PAC representation and give final approval to proceed with the process.	6. Based on fish-friendly audit and approved actions, submit draft list of programs for NMFS review as part of a 4(c) limitations package.	6. Have findings technically peer reviewed and internally reviewed by SWMPT.	6. Have findings technically peer reviewed and internally reviewed by SWMPT. Present outcome of prioritization to LT/Board, City, Ag, Forestry Councils.	6. Have the appropriate stakeholder Boards and Councils adopt the Plan.			
<b>Timeline</b>	Jan-Feb 2000	March 2000 / 2001	April 2000 / 2001	May 2000 / October 2001	January - Dec 2001	January - 2002	January - 2002	January - 2002	January - 2002	January - 2002	
<b>Public Involvement Communications</b>	1. Following LT and Board, submit mpp to city staff and council. Make presentation to council and city managers. Secure verbal commitment of their participation	1. Prepare a link to USA web page dedicated to ESA Planning. Publicize its presence.	1. Put matter inserts into bills. Put information into ag and forestry news media.	1. Follow public involvement process outlined in Watershed 2000 project	1. Hold a PAC meeting to review findings of technical analysis and fish friendly audits. Identify issues to resolve.	1. Hold a PAC meeting to review and comment on vision, goals, list of opportunities and constraints, and options. Collect potential criteria for prioritization.	1. Hold a PAC meeting to review criteria and evaluate findings and options against the criteria.	1. Hold two PAC meetings to review proposed prioritization, funding, responsibilities. Obtain agreement on the proposal	1. Hold two PAC meetings to review proposed prioritization, funding, responsibilities. Obtain agreement on the proposal	1. Hold PAC meeting to give final approval of Plan and close out project.	1. Hold PAC meeting to give final approval of Plan and close out project.
<b>Public Involvement Communications</b>	2. Update the watershed council, USAAC on the mpp. Meet with Ag and Forestry by representatives to determine interest and PAC membership.	2. Reconvene former watershed project committee, update them on status of actions, determine their level of participation in new process	2. Hold a PAC meeting to begin project, review scope and IOA's/MOA's, and sign information sharing agreement.	2. Work with cities to conduct at least 2 open houses to present findings.	2. Work with cities to conduct at least 2 open houses to present findings.	2. Provide results of meeting to PO's and on web site	2. Provide results of meeting to PO's and on web site	2. Work with cities, ag and forestry to conduct at least 2 open houses to present proposal	2. Work with cities, ag and forestry to conduct at least 2 open houses to present proposal	2. Provide draft and final plan to PO's, watershed council, USAAC and on web site. Request support and approval by USAAC to take Plan to Board for approval.	2. Provide draft and final plan to PO's, watershed council, USAAC and on web site. Request support and approval by USAAC to take Plan to Board for approval.
<b>Public Involvement Communications</b>	3. Develop a Parties of Interest (PO) an add for regular project updates. Circulate the mpp to PO's via email	3. Hold open house / forum for basin in Hillabore. Gather issues and information from watershed citizens. Early April for divided officials, Late April for citizens.	3. Hold open house / forum for basin in Hillabore. Gather issues and information from watershed citizens. Early April for divided officials, Late April for citizens.	3. Present findings and open house comments to PO's via email, watershed council and USAAC via meeting, and on USA web site	3. Present findings and open house comments to PO's via email, watershed council and USAAC via meeting, and on USA web site	3. Present findings and open house comments to PO's via email, watershed council and USAAC via meeting, and on USA web site	3. Present prioritization outcome and open house comments to PO's via email, watershed council and USAAC via meeting, and on USA web site	3. Present prioritization outcome and open house comments to PO's via email, watershed council and USAAC via meeting, and on USA web site	3. Submit plan to State and NMFS for approval	3. Submit plan to State and NMFS for approval	3. Submit plan to State and NMFS for approval
<b>Staff &amp; Finance</b>	4	5	2	2	2	2	2	2	5	5	
<b>Staff &amp; Finance</b>	4	8	2	2	2	2	2	2	5	5	
<b>Staff &amp; Finance</b>	3	2	2	3	3	3	3	3	4	4	
<b>Staff &amp; Finance</b>	3	2	2	3	4,5	2	3	3	4	4	
<b>Staff &amp; Finance</b>	2	2	2	2	2	2	2	2	3	3	
<b>Staff &amp; Finance</b>	8	6	6	6	6	6	6	6	6	6	
<b>Staff &amp; Finance</b>	1	2	2	3	3	3,4	4	4,5	4,6	4,6	

Agency groups include: planning directors, city committee, water managers, coordinating committee, watershed managers, parts providers, TB PAC or local industry (CPO's, NAC's), friends group, etc. Interested citizens, and all committee/group members of all listed groups in mpp  
 The governing body will have authority over portions of the plan appropriate to their jurisdiction

Codes: 1) no involvement 2) receive written info / updates 3) sounding board 4) develop formal group recommendation 5) take formal action to accept or approve 6) still work

## Exhibit B - Project Costs

Table 1 shows the total estimated costs associated with the development of the Healthy Streams Plan. Table 2 outlines the cost sharing.

Watershed Inventory ( Watersheds 2000) Costs (Contracted)	\$ 2,207,900
<i>Survey and aerial mapping</i>	\$ 702,200
<i>Ecological inventory</i>	\$ 443,500
<i>Water resources modeling</i>	\$ 925,500
<i>Public involvement, notice</i>	\$ 96,700
<i>Map production / GIS support</i>	\$ 30,000
<i>Web site support</i>	\$ 10,000
Public Values Analysis	\$ 85,000
Funding Strategy Development	\$ 110,000
Programmatic and Policy Focus Areas	\$ 110,000
Fish Friendly Reviews of Existing Activities	\$ 105,000
Document Preparation	\$ 100,000
<b>Total Costs</b>	<b>\$ 2,717,900</b>

<b>Jurisdiction</b>	<b>Cost Share*</b>
Clean Water Services	\$ 1,553,035
County	\$ 258,595
Banks	\$ 6,061
Beaverton	\$ 129,133
Cornelius	\$ 28,922
Durham	\$ 2,990
Forest Grove	\$ 66,931
Hillsboro	\$ 203,706
King City	\$ 524
North Plains	\$ 9,556
Sherwood	\$ 43,903
Tigard	\$ 29,376
Tualatin	\$ 61,686
THPRD	\$ 24,781
FEMA	\$ 287,250
Metro	\$ 11,452
<b>Total Costs</b>	<b>\$ 2,717,900</b>

\*City / County cost shares are based on per jurisdiction miles of hydraulic analysis, number of Rapid Stream Assessments, number of culverts inventoried, jurisdiction specific fish friendly audits, and plan documentation. Clean Water Services is fully funding typical watershed planning related activities (hydrology, public involvement, etc), one half of all the hydraulics, RSAT's, culverts, audits, and plan documentation noted above, and all of the remaining healthy streams plan elements. Detailed information regarding the cost breakdown is available as requested.



## **NATURAL RESOURCES COMMITTEE REPORT**

CONSIDERATION OF RESOLUTION NO. 01-3077, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN METRO AND CLEAN WATER SERVICES, A COUNTY SERVICES DISTRICT IN WASHINGTON COUNTY, FOR COORDINATION OF PLANNING AND AUTHORIZING THE PAYMENT OF UP TO \$11,452 FOR HEALTHY STREAMS DATA

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Date: June 11, 2001

Presented by: Councilor McLain

**Committee Action:** At its June 6, 2001 meeting, the Natural Resources Committee voted 3-0 to recommend Council adoption of Resolution 01-3077. Voting in favor: Councilors Atherton, McLain and Hosticka.

### **Background**

- **Situation:** Andy Cotugno, director of the Community Planning department gave the staff presentation. This item is before the committee because it is a multi-year agreement. Clean Water Services (formerly United Sewerage Agency) is undertaking a \$2.7 million project known as the Healthy Streams Plan. The project is being undertaken in response at least, to the federal listing of endangered fish in our region. Its geographic scope involves the riparian corridor conditions within and along the Tualatin River, and its tributaries within the urban area. The IGA calls for Metro to be a dues-paying member of the Healthy Streams Plan, and for data that has been gathered in Washington County, in furtherance of the plan, to be shared with Metro. Metro will consider inclusion of this data into its Goal 5 fish and wildlife habitat program.
- **Existing Law:** Metro's authority to enter into intergovernmental agreements is a matter of state law—ORS 190.010.
- **Budget Impact:** Resolution 01-3077 authorizes expenditures of up to \$11,452; \$5,726 for the 01-02 budget year, and \$5,726 for fiscal year 02-03. A separate resolution is being prepared for consideration of a budget amendment for the 01-02 IGA amount.

**Committee Issues/Discussion:** Several committee members stated that they felt this resolution presented a good opportunity for cooperation, and would produce high quality data for Metro while assisting Clean Water Services in the production of their plan.

## Staff Report

CONSIDERATION OF RESOLUTION 01-3077, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN METRO AND CLEAN WATER SERVICES, A COUNTY SERVICE DISTRICT IN WASHINGTON COUNTY, FOR COORDINATION OF PLANNING AND AUTHORIZING THE PAYMENT OF UP TO \$11,452 FOR HEALTHY STREAMS DATA

Date: May 25, 2001

Presented by: Andy Cotugno

### DESCRIPTION

Approval of this resolution would result in the execution of an intergovernmental agreement with Clean Water Services, formerly the Unified Sewerage Agency of Washington County. Signing this agreement and authorizing payment to Clean Water Services would provide Metro with more detailed information about the location, quality and quantity of natural resources within and along the Tualatin River and its tributaries. Metro would be obligated to pay Clean Water Services a total amount not to exceed \$11,452. The payment of this total would be made over two fiscal years, FY 2001-02 and FY 2002-03. Metro would participate in a program committee that would coordinate the gathering and use of this information with Washington County and the cities of Washington County within the Metro jurisdictional boundary.

### Existing Law

This intergovernmental agreement is subject to contract law and State law does authorize such agreements between governments (ORS 190.010) as follows:

190.010 Authority of local governments to make intergovernmental agreement. A unit of local government may enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. The agreement may provide for the performance of a function or activity:

- (1) By a consolidated department;
- (2) By jointly providing for administrative officers;
- (3) By means of facilities or equipment jointly constructed, owned, leased or operated;
- (4) By one of the parties for any other party;
- (5) By an intergovernmental entity created by the agreement and governed by a board or commission appointed by, responsible to and acting on behalf of the units of local government that are parties to the agreement; or
- (6) By a combination of the methods described in this section.

The State's Goal 5 does, in OAR 660-23-060 state that "...involvement of ...public agencies should occur at the earliest possible opportunity whenever a Goal 5 task is undertaken...."

ORS 197.015 also states that:

(5) 'Comprehensive plan' means a generalized, coordinated land use map and policy statement... . A plan is 'coordinated' when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible.

To the extent that coordination is needed, this effort would help address this need for coordination.

### **Background**

Clean Water Services has initiated a multi-year, \$2.7 million project to gather field data about riparian corridor conditions within and along the Tualatin River and its tributaries within the urban area. A request has been made (see Attachment 1) that Metro participate both financially as well as with the program committee. For some aspects, the information being gathered may be the best available information about riparian conditions in these areas. At a minimum, this information should be reviewed for possible inclusion in the Metro regional Goal 5 fish and wildlife habitat program.

### **Budget Impact**

A separate budget amendment proposal is being made recommending the addition of \$5,726 to the Metro FY 2001-02 budget. If this separate budget amendment were approved by the Metro Council, this would address the financial implications of this resolution for FY 2001-02. This intergovernmental agreement, if approved by Metro Council, would also obligate Metro for the payment of an additional \$5,726 in FY 2002-03.

### **Outstanding Questions**

None.

### **Executive Officer's Recommendation**

Approval of this resolution would allow access to extensive field data for the Tualatin River basin, roughly 30-40 percent of the Metro Urban Growth Boundary. It would also provide an opportunity for increased coordination of natural resource planning with Washington County, Clean Water Services and the cities within Washington County that are also within the Metro jurisdictional boundary. The Executive Officer recommends approval of Resolution No. 01-3077.

MT/srb

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## UNIFIED SEWERAGE AGENCY OF WASHINGTON COUNTY

May 23, 2001

Andy Cotugno, Director  
Growth Management Services / Planning  
Metro  
600 NE Grand Ave  
Portland, OR 97232-2736

Dear Mr. Cotugno,

Unified Sewerage Agency (to become Clean Water Services June 5<sup>th</sup>) would like to invite Metro to participate in our Healthy Streams Plan Intergovernmental Agreement (IGA). The Healthy Streams Plan is a collaborative effort among the local jurisdictions and service districts within the Tualatin Basin, to address the Clean Water Act and the Endangered Species Act.

A large portion of the funding for this Plan was to conduct an inventory of the urbanized and urbanizing watersheds of the Basin. The Watersheds 2000 inventory gathered field information on the ecology, hydrology, and topography of the major streams. The teams of scientists, engineers, and surveyors documented the riparian corridor conditions, location, and extent within the study area. New centerlines of streams and topography within the FEMA studied areas have been added to update the RLIS information. In addition, the ecologists updated the RLIS stream information where they had access to check for stream presence or absence. While the information gathered was not specifically for Goal 5 planning, we did coordinate with the local jurisdictions to ensure the information gathered would be useful for that planning process.

Metro's contribution to the effort is suggested at \$11,452.00, which represents one rapid stream assessment station per watershed studied at a cost of \$347.03 each. Because Metro overlaps many of the jurisdictions in the watershed, we felt this was a fair contribution to the effort. Clean Water Services will make the inventory, including all the RSAT's, topography, hydrology, hydraulics, and culvert information available to you once it is complete. We expect to release the information by late summer. Elements of the base mapping will be delivered to you as soon as our quality control review is complete.

We look forward to working with you on this exciting project. If you have any questions, please do not hesitate to contact me at 503-846-8621.

Respectfully,

Craig Dye  
Planning Division Manger  
Clean Water Services