

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITIES OF GLADSTONE AND OREGON CITY**

This agreement ("Agreement") is made and entered into by and between The City of Gladstone ("Gladstone") and the City of Oregon City ("Oregon City") effective as of the last date of signature indicated below ("Effective Date").

RECITALS

- A. Gladstone has an operational need for staffing in the Public Works Department to perform right of way management services, including assistance with drafting and implementing and comprehensive right of way ordinance, consistent with the policies of Gladstone as determined by the City Council in enacting an ordinance, as well as assistance with geographic information systems (GIS) related to utility use of the rights of way.
- B. Oregon City is willing to provide staff to assist Gladstone with right of way management and GIS implementation in accordance with the terms and conditions set forth in this Agreement.
- C. By the authority granted in Oregon Revised Statutes (ORS) 190.010 *et. seq.*, local government agencies may enter into cooperative agreements with other units of local government to further economy and efficiency, on terms and conditions mutually agreeable to the contracting parties.

Now therefore, it is agreed by and between Gladstone and Oregon City as follows:

TERMS OF AGREEMENT

- 1. Scope of Work: Oregon City shall provide Gladstone qualified staff ("Staff") with sufficient expertise and experience to perform the right of way management and GIS services (together, the "Services") described in this section.

1.1 Right of Way Management: Oregon City will make available one Staff member with experience in implementing a comprehensive right of way management ordinance regulating use of the rights of way by utilities in Gladstone and a permit program for utility construction in the right of way. Staff will work with Gladstone staff, City Attorney, the City Council (only as directed by the Gladstone City Administrator), utilities and other identified stakeholders in drafting the ordinance for consideration by the Gladstone City Council. In the event the Gladstone City Council adopts the ordinance, Staff will assist Gladstone in implementing the ordinance by, among other things, notifying effected and potentially effected utilities of the ordinance's requirements, responding to inquiries regarding the impact of the ordinance, drafting any documents necessary to implement the ordinance and other related activities as reasonably directed by the Gladstone City Administrator or designee. Staff will also work with Gladstone staff and City Attorney as needed to implement a program for utility right of way construction permits as reasonably directed by the Gladstone City Administrator or designee.

1.2 GIS: Oregon City will provide staff and perform the services described in Exhibit A related to geographic information systems. Gladstone acknowledges that completion of the GIS services will require it to purchase certain subscriptions and aerial photographs as described in Exhibit A, and shall use best efforts to do so in the time reasonably requested by Oregon City in order to allow Oregon City to perform the Services.

- 2. Policies and Communications: Staff will utilize Gladstone's policies and procedures in performing the Services. Gladstone may establish email addresses and/or provide letterhead

for use by Staff, provided that the Gladstone Public Works Director or designee shall have the opportunity to review and approve all communications prior to Staff releasing them to any third party.

3. Hours. Staff shall work not more than 8 hours per day in performing the Services, unless Staff receives prior written agreement from the Gladstone Public Works Director. Gladstone shall pay the overtime rate set forth in section 4 for any Services requested by the Gladstone City Administrator or Gladstone Public Works Director to be performed outside Staff's normal working hours. Except as provided in the preceding sentence or otherwise agreed to in writing by the parties, Gladstone shall not be responsible for any overtime payments owed to Staff pursuant to Oregon City's policies or applicable laws.

4. Rates and Expenses.

4.1 Services will be provided at an hourly rate (rounded to the nearest quarter hour) payable to Oregon City, in accordance with the schedule shown below, through June 30, 2017:

- Right of Way Management – \$63.00 per hour; \$86.00 for overtime work
Public Works Director – \$102 per hour
- GIS – \$80.00 per hour for GIS Coordinator; \$103.00 for overtime work
\$69.00 per hour for GIS Technician; \$92.00 for overtime work

Prior to June 30, 2017, and thereafter prior to June 30th of every year of this Agreement, the parties will agree on changes to the hourly rates set forth above, which changes shall be based on cost of living adjustments, changes to Staff salary and/or benefits, and similar demonstrable changes that impact Oregon City's costs for Staff. The Oregon City City Manager and Gladstone City Administrator have (or are hereby granted) the authority to agree to rate changes as provided in this subsection, which changes shall be in writing and signed by the Manager/Administrator. Any changes shall take effect on July 1st, unless otherwise agreed to in writing.

Oregon City shall obtain written consent from Gladstone prior to performing GIS services that exceed the cost estimates set forth in Exhibit A. Unless otherwise set forth in Exhibit A, for purposes of the previous sentence, the cost estimates are annual estimates that will begin on the effective date of this Agreement are reset at \$0 on each annual anniversary of the effective date.

4.2 Gladstone shall reimburse Oregon City for expenses incurred in performing the Services, provided that Oregon City shall obtain approval from Gladstone prior to incurring expenses that exceed \$250.00 per month. Expenses include mileage for Staff travel related to the Services and other expenses related to the Services as agreed to by the parties in writing. Gladstone shall pay the cost of the upgrade to Oregon City's web server operating system required to perform the GIS services as described in Exhibit A ("Server Upgrade"), which cost is set forth in Exhibit A.

4.3 Oregon City will invoice Gladstone on a monthly basis based on time sheets to be submitted by Staff for hourly Services rendered to Gladstone. The time sheets shall include time actually worked by the Staff and a summary of the work performed. Gladstone agrees to pay the invoice within 30 days from receipt of the invoice.

- 5 While performing Services, Staff will be subject to the direction and control of the Gladstone Public Works Director or designee. Staff shall follow all applicable laws and Gladstone public records management and other administrative processes and procedures. However, Staff will remain full-time employees of Oregon City and will continue to be compensated and provided benefits, as applicable, by Oregon City and shall not be entitled to any benefits or other compensation from Gladstone. Nothing herein is intended to nor does it create an employment relationship between Staff and Gladstone.
- 6 All fees for, and revenue generated by, the work performed by Staff while working at Gladstone will be collected and retained by Gladstone.
- 7 Staff's work will be periodically evaluated by the Gladstone Public Works Director or designee and communicated to the Oregon City Public Works Director. Addressing grievances, disciplining Staff or resolving other personnel-related problems will be the responsibility of the Oregon City Public Works Director or designee, with the full cooperation and assistance of the Gladstone Public Works Director or designee.
- 8 This Agreement expires five (5) years from the Effective Date. Either party may terminate the Agreement at any time prior to that expiration by providing written notice to the other party. This Agreement may be extended with not less than thirty (30) days prior written notice and the consent of both parties in writing.
 - 8.1 The parties acknowledge that the right of way management services described in subsection 1.1 of this Agreement and the GIS services described in subsection 1.2 of this Agreement are distinct services to be provided by different Staff. Either party may choose to terminate or extend the right of way management services described in subsection 1.1, or the GIS services described in subsection 1.2, and continue to provide/receive the service that has not been terminated or that has been extended. Nothing in this subsection is intended to nor does it limit either party's right to terminate or reject the extension of either or both Services or this Agreement as provided in this section.
 - 8.2 In the event Oregon City terminates the GIS services described in subsection 1.2 of this Agreement prior to July 1, 2018, for any reason other than a breach by Gladstone, or if Gladstone terminates the GIS services prior to July 1, 2018, due to a breach by Oregon City, Oregon City will refund to Gladstone a pro-rated amount of the cost of the Server Upgrade, calculated based on the total cost of the Server Upgrade divided by 24, multiplied by the number of months (or partial months) remaining from the date of termination until July 1, 2018. Gladstone shall not be entitled to a refund in the event Oregon City terminates the GIS Services prior to July 1, 2018, due to Gladstone's breach, or in the event Gladstone terminates the GIS services prior to July 1, 2018, for any reason other than a breach by Oregon City. Prior to July 1, 2018, a party seeking to terminate this Agreement due to a breach by the other party must give the other party prior written notice and a reasonable opportunity to cure the breach.
- 9 Subject to the limitations of the Oregon Tort Claims Act, each party agrees to indemnify, defend and hold harmless the other party and its officers, agents, employees and elected officials from any and all liability, loss, and costs arising out of or resulting from the acts of the individual City, their officers, agents, employees and elected officials, including intentional or willful misconduct, in the performance of this Agreement.

- 10 The Oregon City Public Works Director and Gladstone Public Works Director may establish rules and practices necessary carry out this Agreement. Such rules and practices shall be put in writing and bear the signatures of the Oregon City Public Works Director and Gladstone Public Works Director to signify mutual agreement. Rules and practices adopted under this section shall not modify the terms of this Agreement
- 11 Each jurisdiction is a subject employer under the Oregon Workers' Compensation Law, and at all times shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon Law for all their subject workers. Each party agrees to maintain insurance consistent with the Oregon Tort Claims Act, ORS 30.270 and customary for public agencies of the same size and type.
- 12 Oregon City and Gladstone agree this Agreement does not constitute a transfer of public employees pursuant to ORS 236.605 through 236.640.
- 13 Any notice herein required or permitted to be given shall be given in writing, shall be effective when actually received, and may be given by hand delivery or by United States mail, first class postage prepaid, addressed to the parties as follows:

City Manager
City of Oregon City
625 Center Street
Oregon City, OR 97045

City Administrator
City of Gladstone
525 Portland Avenue
Gladstone, Oregon 97027

These addresses may be changed by written notice to the other parties.

- 14 This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.
- 15 This Agreement and its exhibit constitute the entire agreement between Oregon City and Gladstone on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement will bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, will be effective only in the specific instances and for the specific purpose given. This Agreement is personal to Oregon City and Gladstone and is not intended to confer upon any other person or entity any rights or remedies whatsoever.

The parties by execution of this Agreement, hereby acknowledge that their respective City Manager/Administrator have read and understand this Agreement, that each has the authority to sign and bind respectively Oregon City and Gladstone and that Oregon City and Gladstone shall be bound by its terms and conditions.

GLADSTONE



Eric Swanson, City Administrator

4-28-16

Date

City of Gladstone

OREGON CITY

Tony Konkol, City Manager
City of Oregon City

Date

