

IN THE COUNTY COURT OF THE STATE OF OREGON

JUN 27 1 47 PM '01

IN AND FOR THE COUNTY OF WASCO

KAREN R. LEBRETTON
COUNTY CLERK

IN THE MATTER OF AUTHORIZING AN)
INTERGOVERNMENTAL AGREEMENT) O R D I N A N C E
CREATING THE QUALITYLIFE)
INTERGOVERNMENTAL AGENCY.)

WHEREAS, Wasco County ("County"), a political subdivision of the State of Oregon formed under the Oregon Constitution and ORS Chapter 203, is engaged in the provision of general local governmental services within Wasco County; and

WHEREAS, County operations require telecommunications capabilities for the efficient provision of local government services; and

WHEREAS, the County further desires to promote economic growth and the expansion or addition of business and industry within its service territory and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs; and

WHEREAS, the County intends to further its economy and efficiency by forming by Intergovernmental Agreement between Wasco County, a political subdivision of the State of Oregon formed under the Oregon Constitution and ORS Chapter 203; the Northern Wasco County People's Utility District, an Oregon People's Utility District formed under ORS Chapter 261; the Port of The Dalles, an Oregon Municipal Corporation formed under ORS Chapter 777; and the City of The Dalles, Oregon, an Oregon Municipal Corporation (each of which is referred to herein individually as a "Party" and collectively as the

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1 "Parties"), an intergovernmental entity to be known as the Qualitylife
2 Intergovernmental Agency ("Qualitylife IGA"); and

3 WHEREAS, the Parties intend to use any authority delegated to the
4 Qualitylife IGA to further the economy and efficiency of each Party by the design,
5 construction, ownership, operation and maintenance of a telecommunications
6 network for the benefit of Wasco County and the Mid-Columbia Gorge
7 community; and
8

9 WHEREAS, each of the Parties has taken, or is expected to take in the
10 immediate future, all actions required under applicable acts, charters and law to
11 authorize the execution and performance of the Agreement through which
12 Qualitylife IGA will be created.

13 NOW, THEREFORE, IT IS HEREBY ORDAINED BY WASCO COUNTY:

- 14 1. It is the intent of Wasco County to create the Qualitylife
15 Intergovernmental Agency ("Qualitylife IGA") pursuant to ORS 190.003
16 through ORS 190.265 by Intergovernmental Agreement, a copy of which
17 is attached hereto as Exhibit A ("Agreement"), between the following
18 parties: Wasco County, a political subdivision of the State of Oregon
19 formed under the Oregon Constitution and ORS Chapter 203; the
20 Northern Wasco County People's Utility District, an Oregon People's Utility
21 District formed under ORS Chapter 261; the Port of The Dalles, an
22 Oregon Municipal Corporation formed under ORS Chapter 777 ("Port");
23 and the City of The Dalles, Oregon, an Oregon Municipal Corporation.
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25 2. The effective date of the Agreement is July 16, 2001.
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3. The public purposes for which the Qualitylife IGA is created are to use the authority vested in the Qualitylife IGA to meet the telecommunications needs of each individual Party and to promote economic growth and the expansion or addition of business and industry within Wasco County and the Mid-Columbia Gorge community through the development of an advanced telecommunications infrastructure and related programs.

4. To carry out its public purposes, the Qualitylife IGA shall have the powers, duties and functions set forth in the Agreement.

5. The creation of the Qualitylife IGA pursuant to an Agreement substantially in the form of the Agreement attached hereto as Exhibit A is hereby ratified and approved and the County Court is authorized to execute and deliver on behalf of Wasco County an Agreement in substantially such form.

6. Immediate action being necessary to carry out the Qualitylife IGA public purposes on an economic and efficient basis, an emergency is declared to exist and this Ordinance shall take effect immediately upon its execution by the County.

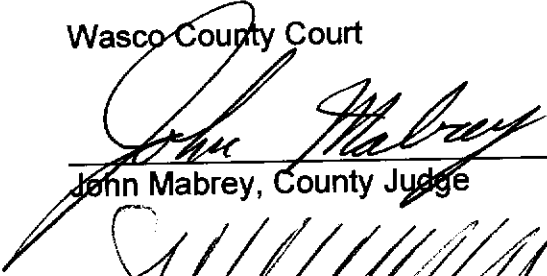
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ADOPTED at a meeting of the County Court of Wasco County, Oregon
held on June 27th, 2001.

Wasco County Court



John Mabrey, County Judge

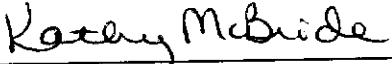


Scott McKay, County Commissioner

absent

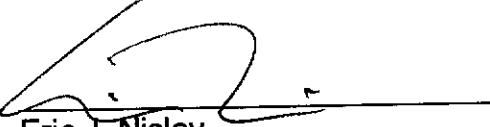
Dan Ericksen, County Commissioner

ATTEST:



Kathy McBride
Clerk of the Court

APPROVED AS TO FORM:



Eric J. Nisley
Wasco County District Attorney

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01-609

Agmt

FILED WASCO CTY
THE DALLES OR.

INTERGOVERNMENTAL AGREEMENT CREATING
THE QUALITYLIFE INTERGOVERNMENTAL AGENCY

MAY 3 10 38 AM '01

THIS INTERGOVERNMENTAL AGREEMENT CREATING THE QUALITYLIFE INTERGOVERNMENTAL AGENCY (Agency) is entered into by and between the following parties: the Northern Wasco County People's Utility District, an Oregon PUD formed under ORS Chapter 261 ("NWPUD"); the Port of The Dalles, an Oregon municipal corporation formed under ORS Chapter 777 ("Port"); Wasco County, a political subdivision of the State of Oregon formed under the Oregon Constitution and ORS Chapter 203 ("County"); and the City of The Dalles, Oregon, an Oregon municipal corporation ("City") (each of which is referred to herein individually as a "Party" and collectively as the "Parties").

KAREN R. LEBRETON
COUNTY CLERK

RECITALS:

- A. WHEREAS, the Parties hereto are authorized to enter into this Agreement creating an intergovernmental agency pursuant to their respective principal acts and ORS 190.003 to 190.265;
- B. WHEREAS, NWPUD is a consumer-owned utility engaged in the generation, distribution and sale of electric energy;
- C. WHEREAS, NWPUD requires telecommunications capabilities for the efficient management of electric load, conservation, acquisition and distribution of electrical energy and other utility purposes;
- D. WHEREAS, NWPUD further desires to promote economic growth and the expansion or addition of business and industry within its service territory and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs;
- E. WHEREAS, the Port is engaged in the ownership, operation and maintenance of port facilities in Wasco County;
- F. WHEREAS, the Port requires telecommunications capabilities for the efficient management of Port facilities;
- G. WHEREAS, the Port further desires to promote economic development through the development of telecommunications infrastructure and related programs;
- H. WHEREAS, the County is engaged in the provision of general local governmental services within Wasco County;
- I. WHEREAS, the County operations require telecommunications capabilities for the

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efficient provision of local governmental services;

- J. WHEREAS, the County further desires to promote economic and community development within Wasco County and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs;
- K. WHEREAS, the City is engaged in the provision of general local governmental services within Wasco County;
- L. WHEREAS, City operations require telecommunications capabilities for the efficient provision of local governmental services;
- M. WHEREAS, the City further desires to promote economic and community development within Wasco County and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs;
- N. WHEREAS, the Parties intend to further the economy and efficiency of their respective units of local government by forming an intergovernmental agency;
- O. WHEREAS, pursuant to ORS 190.010, an intergovernmental agency may perform any or all functions and activities that a Party to an Agreement, or its officers or agencies, has the authority to perform;
- P. WHEREAS, the Parties intend to use any authority delegated to the Qualitylife Intergovernmental Agency (as defined herein) to further the economy and efficiency of each Party by the design, construction, ownership, operation and maintenance of a telecommunications network for the benefit of Wasco County and the Mid-Columbia Gorge community;
- Q. WHEREAS, each of the Parties has taken all actions required under applicable acts, charters and law to authorize the execution and performance of this Agreement;
- R. WHEREAS, the Parties intend by this Agreement to set forth the authority, terms, and conditions pursuant to which the Qualitylife Intergovernmental Agency will act;

NOW, THEREFORE, THE PARTIES agree as follows:

ARTICLE 1 QUALITYLIFE INTERGOVERNMENTAL AGENCY

- 1.1 Qualitylife Intergovernmental Agency. There is hereby created the Qualitylife Intergovernmental Agency ("Qualitylife Intergovernmental Agency") "IGA". The parties to the IGA are NWPUD, the Port, the County, and the City.

2 - AGREEMENT

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1.2 Effective Date. The effective date of this Agreement is _____, 2001.

1.3 General Powers. The IGA shall have the following general powers:

1.3.1 To adopt, through action of its Board (as defined herein), such bylaws, rules, regulations, and policies necessary to further the purposes of this Agreement;

1.3.2 To study the best method to design, construct, own, operate and maintain a telecommunications network for the benefit of Wasco County and the Mid-Columbia Gorge Community;

1.3.3. To perform and exercise, pursuant to the principal acts of the Parties or by ORS 190.003 to 190.265, all powers pursuant to applicable charter, ordinance, or state or federal law which are necessary or desirable to efficiently and effectively design, construct, own, operate and maintain a telecommunications network for the benefit of Wasco County and the Mid-Columbia Gorge community.

1.3.4 To purchase, own, hold, appropriate, and condemn land, facilities, or right of way either in its own name or in the name of the individual Parties hereto in furtherance of the construction, ownership, operation or maintenance of a telecommunications network for the benefit of Wasco County and the Mid-Columbia Gorge community.

1.3.5 To enter into agreements with other public or private entities for the purpose of design, construction, ownership, operation or maintenance of a telecommunications network in Wasco County and the Mid-Columbia Gorge community.

1.3.6 To issue, sell or otherwise dispose of bonds, securities, or other forms of indebtedness, including the power to issue revenue bonds under ORS 288.805 to ORS 288.945;

1.3.7 To adopt and implement an annual budget. The adoption of an annual budget shall require unanimous vote of the Board. The Board shall provide for an annual work plan and an estimate of expenses for the next fiscal year. Each Party may provide in-kind services to further the purposes of the IGA as each Party deems necessary or desirable. Such in-kind services shall not be reimbursed from the IGA or other Parties, unless otherwise agreed.

1.3.8 To hire and discharge employees, by majority vote of the Board, as is necessary or desirable to economically and efficiently develop and operate the IGA which such authority may be delegated to management of the IGA; and

1.3.9 To exercise all powers pursuant to the applicable acts or law of the individual Parties which are necessary or desirable to economically and efficiently develop and operate the IGA.

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1.4 Meetings. Meetings of the IGA shall be conducted in accordance with the provisions of the Oregon Public Meetings Law, ORS 192.610 to 192.710.

1.5 Offices. The principal offices of the IGA shall be located at NWPUD offices, 2345 River Road, The Dalles, OR 97058.

1.6 Fiscal Year. The fiscal year for the agency shall be July 1 through June 30.

1.7 Start-Up Costs. IGA shall reimburse NWPUD for all outside expenses, including but not limited to legal and professional services, incurred in connection with the formation of the IGA.

1.8 Several Liability. Unless as otherwise expressly agreed in writing, there shall be no joint and several liability of the Parties either in contract or tort and all obligations of the IGA or the Parties shall be several only. Without limiting the foregoing, no Party to the IGA shall be liable for damages, debts or claims caused solely by the negligent act, omission or other wrongful act by the IGA or other Parties. The Party causing damage by its sole negligent act, omission or wrongful act shall be individually liable.

ARTICLE II GOVERNANCE AND MEMBERSHIP

2.1 Board of Directors. The IGA shall be governed by a Board of Directors ("Board"). The governing body of each Party shall appoint one (1) representative to the Board and one (1) alternate representative. An alternate representative shall act in a Board capacity only during the absence of that Party's representative. Representatives and alternate representatives shall serve at the pleasure of their respective governing bodies. In the event of a vacancy, the governing body of the Party that appointed the departed representative shall appoint a successor.

2.2 Officers. After the effective date of this Agreement, the Board shall elect from its membership a President, a Vice President, and a Secretary/Treasurer (collectively, the "Officers") who shall serve a term consisting of the remainder of 2001 and the following calendar year. Thereafter, annually, at the beginning of each calendar year, the Board shall elect from its membership Officers who shall serve as a term of one (1) year. Officers shall serve at the pleasure of the Board or until their successor shall be appointed and take office.

2.2.1 Duties of President. The President shall preside at all meetings of the IGA and shall submit such recommendations and information as she or he may determine appropriate to discuss at the IGA meeting. The President shall perform the duties and responsibilities of the IGA in accordance with the obligations and limitations set forth in this Agreement. The President shall not otherwise hold herself or himself out to have the authority to bind the members of the IGA to any financial or other obligations.

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2.2.2 Duties of Vice President. The Vice President shall perform the duties of the President in the absence or the incapacity of the President. In the case of the resignation or the death of the President, the Vice President shall perform the duties of the President until such time as the Board shall elect a new President.

2.2.3 Secretary/Treasurer. The Secretary/Treasurer shall keep the minutes and the official records of the IGA and perform such other duties required of a Secretary/Treasurer. The Secretary/Treasurer shall be responsible for the fiscal administration or all funds of the IGA. The Secretary/Treasurer and either the President or the Vice President shall act as co-signers of checks drawn upon the accounts of the IGA. The Secretary/Treasurer may delegate the administrative functions of her or his office to another person or persons who need not be on the Board.

2.2.4 Additional Duties. The Officers of the IGA shall perform such other duties and functions as may from time to time be required by the IGA bylaws, or other rules and regulations.

2.3 Voting Rights. Except as otherwise expressly provided in this Agreement, the Board shall exercise its voting rights in the following manner:

2.3.1 Manner of Acting. A majority vote of the Board shall be necessary to decide any issue except that a unanimous vote of the Board shall be required to decide financial matters described in Section 2.3.2, for the addition of new members pursuant to Section 2.3.3, for the acceptance of or amendment to the scope of work pursuant to Sections 2.5.1 and 2.5.2, and for the dissolution of the IGA pursuant to Section 3.1;

2.3.2 Financial Matters. Any decision of IGA involving the procurement of goods or services outside the adopted budget, or the incurrence of any financial obligation, including the issuance or sale of bonds, securities or other forms of indebtedness, exclusive of expenditures within the budget, shall require the affirmative authorization of each individual Party to be bound, such authorization to be expressed by resolution, ordinance or other binding commitment of the Party's governing body. Parties not affirmatively authorizing such actions shall in no instances be liable. The procurement of goods and services outside the budget shall be performed by resolution or separate agreement which specifies (1) the apportionment of fees, costs, or revenue derived from the functions and activities; and (2) the manner in which such revenue shall be accounted for. Such resolution or separate agreement may or may not involve the participation of the IGA; however, such participation of the IGA shall not create liability for a Party that has not affirmatively authorized such action;

2.3.3. New Members. The Board may authorize a new Party to join the IGA only if approved by a unanimous vote of the Board;

2.4 Insurance. The IGA shall provide for adequate insurance to cover the directors,

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officers, employees, staff, agents and activities undertaken by the IGA.

2.5 Scope of Work. A scope of work shall be presented for each specific task or project, not previously approved and adopted in the budget, to be undertaken by the IGA. The scope of the work shall contain a reasonably detailed description of the activities to be undertaken by IGA, a description of any necessary contractual arrangements, an itemization of the costs to be incurred in pursuing these activities, an allocation of costs, in-kind services and ownership interest in the Project among the participating Parties, a plan for project governance, an estimate of the expected revenues from such activities and an allocation of such revenues among the participating Parties.

2.5.1 Acceptance. Each scope of work shall be negotiated on a case-by-case basis and if approved by each Party shall be attached as an addendum to this Agreement.

2.5.2 Amendments. No change in a scope of work shall occur without each Party's written consent.

ARTICLE III TERM AND TERMINATION

3.1 Term. The term of this Agreement shall be perpetual unless, by a unanimous vote, the Parties act to dissolve the IGA.

3.1.1. Dissolution. Upon dissolution, each Party to the IGA on the date of dissolution shall remain liable solely for its individual share of any IGA expenditure that has been specifically incurred by the Party in accordance with the terms of this Agreement or by other resolutions or separate agreements of the Party. Upon dissolution, the assets of the IGA shall be distributed to the members on the basis of the rights and obligations of each party to the assets held as of the date of the dissolution.

3.2 Voluntary Withdrawal by a Party. Any Party may elect to terminate their participation in this Agreement and withdraw from the IGA by giving written notice to the President and each member of the IGA. Withdrawal shall be effective forty-five (45) days from the date of notice. The withdrawing Party shall continue to pay its apportioned share of, or be responsible for, any debt attributable to that Party incurred prior to the Party's written notice of withdrawal, and shall hold harmless the remaining Parties and the IGA for those financial responsibilities and obligations attributable solely to the withdrawing Party.

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**ARTICLE IV
DISPUTE RESOLUTION**

4.1 Dispute Resolution. If a dispute arises between the Parties or between the IGA and the Parties regarding breach of this Agreement or interpretation of any term of this Agreement, the Parties shall first attempt to resolve the dispute by negotiation, followed by binding arbitration if negotiation fails to resolve the dispute.

4.1.1 Negotiation. The Board Member or other persons designated by each of the disputing Parties will negotiate on behalf of the Parties they represent. The nature of the dispute shall be reduced to writing and shall be presented to each of the disputing Parties who shall then meet and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each disputing Party and ratified by the IGA which shall be binding upon the Parties.

4.1.2 Binding Arbitration. If the dispute cannot be resolved by negotiation within forty-five (45) days, the parties shall submit the matter to binding arbitration. The Parties shall attempt to agree on an arbitrator. If they cannot agree upon an arbitrator within ten (10) days, the Parties shall submit the matter of determining an arbitrator to the Presiding Judge of the Wasco County Circuit Court. The common costs of the arbitration shall be borne equally by the Parties. Each Party must bear its individual costs and fees.

**ARTICLE V
AMENDMENT**

5.1 This Agreement may be amended by mutual written agreement of the Parties, signed by all of the Parties.

**ARTICLE VI
GENERAL PROVISIONS**

6.1 Merger. This Agreement embodies the entire agreement and understanding between the Parties relating to the formation of the IGA hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.

6.2 Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

6.3 Notice. 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 certified mail, first class postage prepaid, addressed to the Parties as follows:

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Dwight Langer, General Manager
Northern Wasco County People's
Utility District
2345 River Road
The Dalles, OR 97058

Scott Hege, Manager
Port of The Dalles
3636 Klindt Drive
The Dalles, OR 97058

John Mabrey
Wasco County Judge
Wasco County
Courthouse
511 Washington
The Dalles, OR 97058

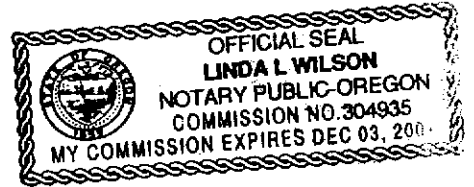
Nolan Young
City Manager
City of The Dalles
313 Court
The Dalles, OR 97058.

6.4 Counterparts. This Agreement may be executed in any number of counterparts and by the parties on separate counterparts, any one of which shall constitute an agreement between and among the Parties.

6.5 IN WITNESS WHEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

Dwight Langer
Dwight Langer, General Manager
Northern Wasco County People's
Utility District

Date: May 2, 2001



STATE OF OREGON)
) ss.
County of Wasco)

SIGNED OR ATTESTED before me this 2nd day of May, 2001, by
Dwight Langer.

Linda L. Wilson
Notary Public for Oregon
My Commission Expires: 12/3/01

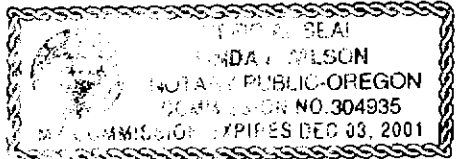
Scott Mengis
Chairman
Port of The Dalles

Date: May 2, 2001

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[Signature]
Secretary
Port of The Dalles

Date: 5-2-2001

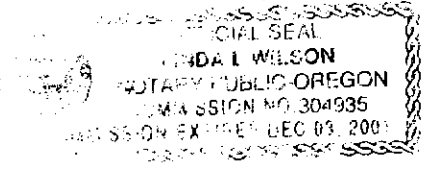


STATE OF OREGON)
) ss.
County of Wasco)

SIGNED OR ATTESTED before me this 2 day of MAY, 2001, by
Scott Margis, Chairman, Port of The Dalles.

[Signature]
Notary Public for Oregon
My Commission Expires: 12/03/01

STATE OF OREGON)
) ss.
County of Wasco)

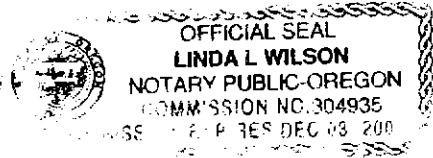


SIGNED OR ATTESTED before me this 2 day of MAY, 2001, by
D. M. Coustrey, Secretary, Port of The Dalles.

[Signature]
Notary Public for Oregon
My Commission Expires: 12/3/01

Wasco County Court
By: [Signature]
County Judge

Date: May 2, 2001



STATE OF OREGON)
) ss.
County of Wasco)

SIGNED OR ATTESTED before me this 2 day of MAY, 2001, by
John Mabrey for Wasco County Court.

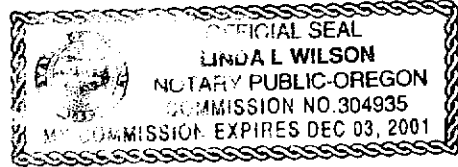
[Signature]
Notary Public for Oregon
My Commission Expires: 12/03/01

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Robb Van Cleave

Robb Van Cleave, Mayor
City of The Dalles

Date: May 2, 2001



STATE OF OREGON)

) ss.

County of Wasco)

SIGNED OR ATTESTED before me this 2 day of May, 2001, by
Robb Van Cleave, Mayor, City of The Dalles.

Linda L. Wilson

Notary Public for Oregon

My Commission Expires: 12/03/01

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