

**SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR
THE QUALITYLIFE INTERGOVERNMENTAL AGENCY**

This SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE QUALITYLIFE INTERGOVERNMENTAL AGENCY (“Second Amended IGA Agreement”) is entered into between the City of the Dalles, Oregon, an Oregon municipal corporation (“City”), Wasco County, a political subdivision of the State of Oregon formed under the Oregon Constitution and ORS Chapter 203 (“County”), and the Northern Wasco County People’s Utility District, an Oregon people’s utility district formed under ORS Chapter 261 (“District”) (each of which is referred to herein as a “Party” and collectively as the “Parties”).

RECITALS:

- A. WHEREAS, An Intergovernmental Agreement Creating the QualityLife Intergovernmental Agency (“Agency”) was originally entered into and effective July 16, 2001 by and between the City, County, District, and the Port of the Dalles (“2001 IGA Agreement”);
- B. WHEREAS, the 2001 IGA Agreement was subsequently amended to, among other particulars, allow the withdrawal of the District and the Port of the Dalles as members (“First Amended IGA Agreement”);
- C. WHEREAS, on July 25, 2024, pursuant to Section 2.3.3 of the First Amended IGA Agreement, the Agency Board of Directors unanimously voted to authorize the District to rejoin the Agency;
- D. WHEREAS, the Parties desire to amend the First Amended IGA Agreement to reflect the District’s membership in the Agency and to clarify other terms and conditions;
- E. WHEREAS, the Parties hereto are authorized to enter into this Second Amended IGA Agreement creating an intergovernmental agency pursuant to their respective principal acts and ORS 190.003 to 190.265;
- F. WHEREAS, the County is engaged in the provision of general local governmental services within Wasco County;
- G. WHEREAS, the County operations require telecommunications capabilities for the efficient provision of local governmental services;
- H. 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;
- I. WHEREAS, the City is engaged in the provision of general local governmental services within Wasco County;

- J. WHEREAS, the City operations require telecommunications capabilities for the efficient provision of local governmental services;
- K. 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;
- L. WHEREAS, the District is a consumer-owned utility engaged in the distribution and sale of electric energy;
- M. WHEREAS, the District requires telecommunications capabilities for the efficient provision of local governmental services;
- N. WHEREAS, the District 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;
- O. WHEREAS, the Parties intend to further the economy and efficiency of their respective units of local government through the use of an intergovernmental agency;
- P. WHEREAS, pursuant to ORS 190.010, an intergovernmental agency may perform any or all functions and activities that a Party to this Second Amended IGA Agreement, or its officers or agencies, has the authority to perform;
- Q. WHEREAS, the Parties intend to use any authority delegated to the Agency 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;
- R. WHEREAS, each of the Parties has taken all actions required under applicable acts, charters, and laws to authorize the execution and performance of this Second Amended IGA Agreement; and
- S. WHEREAS, the Parties intend by this Second Amended IGA Agreement to set forth the authority, terms, and conditions pursuant to which the Agency will act.

NOW, THEREFORE, THE PARTIES agree as follows:

ARTICLE I
QUALITYLIFE INTERGOVERNMENTAL AGENCY

- 1.1. QualityLife Intergovernmental Agency. The Parties to the Agency, originally created by the 2001 IGA Agreement, are now the County, the City, and the District. The Parties hereby ratify, confirm, and adopt this Second Amended IGA Agreement. The Agency's purpose is to promote economic and community development within Wasco County and the Mid-Columbia Gorge community through the development of telecommunications infrastructure and related programs and services.

- 1.2. Effective Date. This Second Amended IGA Agreement is effective as of July 25, 2024 (“Effective Date”).
- 1.3. General Powers. The Agency 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 Second Amended IGA Agreement.
 - 1.3.2. 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.
 - 1.3.3. To purchase, own, hold, appropriate, and condemn land, facilities, or right of way either in its own name or in the name of 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.
 - 1.3.4. 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.
 - 1.3.5. To issue, sell, or otherwise dispose of bonds, securities, or other forms of indebtedness, including the power to issue revenue bonds under ORS 287A;
 - 1.3.6. To adopt and implement an annual budget. The adoption and any amendment(s) of an annual budget shall require a two-thirds (2/3) vote of the Board.
 - 1.3.7. To appoint and remove a chief executive officer (“Executive Director”), by two-thirds (2/3) vote of the Board, as the Agency’s administrator, responsible to the Board for the management of all Agency affairs placed in the Executive Director’s charge by the Board, this IGA, an employment or contractor agreement, or applicable law.
 - 1.3.8. To exercise all power pursuant to the applicable acts or laws of the individual Parties which are necessary or desirable to operate and further develop the Agency.
- 1.4. Meetings. Meetings of the Agency shall be conducted in accordance with the provisions of the Oregon Public Meetings Law. A majority of the members of the Board constitute a quorum for the transaction of business.
- 1.5. Offices. The principal offices of the Agency shall be located at a location within Wasco County designated by the Board.
- 1.6. Several Liability. Notwithstanding any other provision of law or contract, unless the Parties expressly and in writing agree otherwise, the Parties shall have no joint liability with each other under tort, contract, or any other theory of law and all debts, liabilities

and obligations (“Obligations”) of a Party shall be Obligations of that Party alone. For purposes of this Section 1.6 only, the Agency shall be considered a “Party” and one of the “Parties.”

ARTICLE II GOVERNANCE AND MEMBERSHIP

2.1. Board of Directors.

2.1.1. The Agency shall be governed by a Board of Directors (“Board”). The governing body of each Party shall appoint two representatives of the Board: one shall be an elected member of that Party’s governing body, and one shall be the chief administrative officer of the Party. 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 timely appoint a successor. The representatives appointed by the Parties shall appoint an additional member to the Board (the “At Large Member”), who must be a resident of Wasco County. The At-Large Member shall serve at the pleasure of the representatives appointed by the Parties. In the event of a vacancy of the At Large Member position, the representatives appointed by the Parties shall timely appoint a successor. The appointment and removal of the At Large Member shall be by majority vote of the representatives appointed by the Parties. Notwithstanding the provisions of this Section 2.1.1, the Parties agree that the Board in place as of the Effective Date of this Second Amended IGA Agreement shall be the governing body of the Agency until December 31, 2024.

2.1.2. In addition to any other authority provided in this Second Amended IGA Agreement and applicable law, the Board shall have the following authority:

2.1.2.1. To create such committees and subcommittees as it may deem helpful in providing advice and assistance to the Board.

2.1.2.2. To approve the Agency’s priorities and goals, and to guide, contribute and approve a long-term strategic plan to carry out the Agency’s purpose, priorities, and goals.

2.1.2.3. To establish a process for monitoring and regulating the Agency’s performance.

2.1.2.4. To establish, maintain, and conduct an annual formal, goals-based performance evaluation for the Executive Director.

2.1.2.5. To define delegations of authority to the Agency’s Executive Director.

2.2. Officers. Annually, at the beginning of each calendar year, the Board shall elect from its membership Officers who shall serve a term of one (1) year. Officers shall serve at the pleasure of the Board or until their successors shall be appointed to take office.

2.2.1. Duties of the President. The President shall preside at all meetings of the Agency and shall submit such recommendations and information as the President may

determine appropriate to discuss at the meeting. The President shall perform the duties and responsibilities of the Agency in accordance with the obligations and limitations set forth in this Second Amended IGA Agreement. The President shall not otherwise hold himself or herself out to have the authority to bind the members of the Agency to any financial or other obligations. In addition, the President shall:

- 2.2.1.1. Encourage participation of all members in consensus-building discussions;
- 2.2.1.2. Lead the Board's evaluation of the Agency's Executive Director based on goals, outcomes, or metrics approved by the Board.
- 2.2.1.3. Lead the Board in defining the delegation of authority to the Agency's Executive Director.
- 2.2.1.4. Help orient new members of the Board.
- 2.2.1.5. Sign all Agency instruments authorized by the Board to be executed, except those expressly delegated by the Board, or by statute, to the Executive Director or some other agent of the Agency.
- 2.2.1.6. Perform such other duties as may be prescribed by law or by the action of the Board.

2.2.2. Duties of the Vice President. The Vice President shall perform the duties and responsibilities of the President in the absence or incapacity of the President. In the case of resignation or 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 Agency and perform such other duties required of a Secretary/Treasurer. The Secretary/Treasurer shall be responsible for the fiscal administration of all funds of the Agency.

2.2.4. Delegation of Administrative Functions. The Officers may delegate the administrative functions of their offices to another person or persons who need not be on the Board, subject to Board confirmation; provided, however, if the Board at any time determines that such delegation adversely impacts the Agency's business, the Officers shall redelegate any such responsibilities to a person or persons receiving the Board's confirmation or otherwise directly assume all such responsibilities. The person or persons to whom any administrative functions are delegated shall not receive compensation from the Agency unless compensation is approved by the Board.

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

- 2.3. Voting Rights. Except as otherwise expressly provided in this Second Amended IGA Agreement, the Board shall exercise its voting rights in the following manner at any meeting held in accordance with Section 1.4:
- 2.3.1. Manner of Acting. Unless otherwise provided in this Second Amended IGA Agreement, a majority vote of the Board shall be necessary to decide any issue.
- 2.3.2. Financial Matters. Any decision of the Agency involving the approval or amendment of the annual budget shall require a two-thirds (2/3) vote of the Board, provided that:
- 2.3.2.1. The incurrence by any Party of any financial obligation for the benefit of the Agency, including the issuance or sale of bonds, securities or other forms of indebtedness, shall require a two-thirds (2/3) vote of the Board and also 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.
- 2.4. New Members. The Board may authorize a new party to join the Agency only if approved by a unanimous vote of the Board, provided that the effective date of the new party joining the Agency shall be the date the existing Parties and new party execute an amendment or addendum to this Second Amended IGA Agreement that reflects the new party as a signatory and party to this Second Amended IGA Agreement or to a newly amended agreement. If the Parties and the new party fail to enter into an amendment as required in this Section, the new party shall not become a member of the Agency.
- 2.5. Insurance. The Board shall purchase and maintain adequate insurance to cover the directors, officers, employees, staff, agents and activities undertaken by the Board.

ARTICLE III TERM AND TERMINATION

- 3.1. Term. The term of this Second Amended IGA Agreement shall be perpetual unless, by a unanimous vote of the Board, the Parties act to dissolve the Agency as provided in Section 3.2.
- 3.2. Dissolution. Upon dissolution, each Party on the date of the dissolution shall remain liable solely for any expenditure that has been specifically incurred by the Party in accordance with the terms of this Second Amended IGA Agreement. Upon dissolution, the assets of the Agency shall be distributed as follows:
- 3.2.1. Any assets owned by a Party shall be returned to that Party, provided that the Party agrees to accept all Obligations related to that asset unless otherwise agreed to in writing by the Board prior to dissolution.
- 3.2.2. Any assets owned by the Agency shall be liquidated and the proceeds shall be used to satisfy the Agency's outstanding Obligations. Thereafter, the remaining proceeds shall be distributed equally to the Parties, provided that if a Party's right to

proceeds at dissolution under this Section 3.2.2 is expressly limited by a separate agreement between the Party and the Agency and/or any other Party or Parties, that Party's rights under Section 3.2.2 shall be adjusted as provided in the separate agreement.

- 3.3. Voluntary Withdrawal by a Party. Any Party may elect to terminate their participation in this Agreement and withdraw from the Agency by giving written notice to the President of the Board and each Party. Withdrawal shall be effective no less than one (1) year from the date of the notice ("Notice Period"), provided that if the withdrawing Party has entered into a written agreement with the Agency or any other Party or Parties that mandates voluntary withdrawal as remedy or term of the agreement, the terms of that agreement shall control and this Notice Period shall not apply if a different notice period is provided for in the agreement. During the Notice Period, the withdrawing Party shall continue to provide any services and other contributions to the Agency that the Party was providing as of the date of the notice. Unless otherwise provided in a written agreement between the withdrawing Party and the Agency or the other Parties, during the Notice Period and after the date of withdrawal, the withdrawing Party shall continue to pay and be responsible for any Obligation specifically incurred by the Party in accordance with the terms of this Second Amended IGA Agreement prior to the Party's written notice of withdrawal, and shall hold harmless the remaining Parties and the Agency for those Obligations attributable solely to the withdrawing Party.

ARTICLE IV DISPUTE RESOLUTION

- 4.1. Dispute Resolution. If a dispute arises between the Parties or between the Agency and the Parties (each a "Disputing Party") regarding breach of this Second Amended IGA Agreement, the Disputing 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 Disputing 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 in this step, there shall be a written determination of such resolution, signed by each Disputing Party and ratified by the Board 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 Disputing Parties shall submit their dispute to binding arbitration. The Disputing Parties shall attempt to agree on an arbitrator. If they cannot agree upon an arbitrator within ten (10) days, the Disputing Parties shall submit the matter of determining an arbitrator to the Presiding Judge of the Wasco County Circuit Court. The common costs of arbitration shall be borne equally by the Disputing Parties. Each Disputing Party must bear its individual costs and fees.

**ARTICLE V
AMENDMENT**

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

**ARTICLE VI
GENERAL PROVISIONS**

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

6.2. Severability. In the event any one or more of the provisions contained in this Second Amended IGA 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 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:

<u>The County:</u> Administrative Officer Wasco County 401 East 3 rd Street The Dalles, OR 97058	<u>The City:</u> City Manager City of The Dalles 313 Court Street The Dalles, OR 97058
<u>The District:</u> General Manager/CEO Northern Wasco County PUD 2345 River Road The Dalles, OR 97058	<u>The Agency and/or Board:</u> QLife Executive Director Wasco County 401 East 3 rd Street The Dalles, OR 97058

6.4. Counterparts. This Second Amended IGA 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. Amendment. This second amendment to the 2001 IGA Agreement was approved by action of the Parties authorizing the signatures below.

IN WITNESS WHEREOF, the Parties duly execute this **SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE QUALITYLIFE INTERGOVERNMENTAL AGENCY.**

CITY OF THE DALLES

WASCO COUNTY

**NORTHERN WASCO COUNTY
PEOPLE'S UTILITY DISTRICT**


Matthew B. Klebes
City Manager


Tyler Stone
Administrative Officer



Roger Kline/CEO
General Manager

Date: 12/2/24

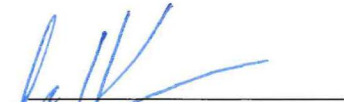
Date: 11-7-2024

Date: 12/2/2024


ATTEST:


Amie Ell
City Clerk

Approved as to form:


Jonathan M. Kara
City Attorney

Approved as to form:


Kristen A. Campbell
County Counsel