

**INTERGOVERNMENTAL COOPERATIVE AGREEMENT
BETWEEN
THE CITY OF WHEELER AND THE CITY OF MANZANITA**

This AGREEMENT is between the CITY OF WHEELER, an Oregon Municipal Corporation (hereinafter "Wheeler"), and the CITY OF MANZANITA, an Oregon Municipal Corporation (hereinafter "Manzanita").

RECITALS:

1. Wheeler and Manzanita are under Compliance Orders by the Oregon Health Division to bring their water systems into compliance with the Safe Drinking Water Act's surface water treatment rules.
2. While Wheeler is presently experiencing moderate growth and Manzanita substantial growth, available studies conclude that more growth in north Tillamook County is inevitable.
3. Based on present water regulations, a groundwater source of water is the most cost effective and long term solution to meet present and future water needs for the area.
4. A groundwater source of water has been located at river mile 10.6 on the South Fork of the Nehalem River and tests have concluded that sufficient water is available for a 40-50 year period. Although a groundwater source is not subject to the filtration requirements of surface water, future tests may determine some form of filtration is necessary.
5. Wheeler and Manzanita acknowledge that they have authority to execute this Cooperative Agreement pursuant to the powers of the respective municipal charters and pursuant to ORS 225.050.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. PURPOSE: The purpose of this Agreement is to develop, manage, maintain, and control a water supply distribution system to provide wholesale finished domestic water supply to Wheeler, Manzanita and future contractual surplus water purchasers.
2. JOINT SYSTEM: The joint system shall mean the well field, wells, disinfection plant, the transmission line from the wells to the intersection of Highway 101 and Highway 53, and two (2) master meters. Decisions on major changes to the joint system are subject to approval of both City Councils. Major changes are defined as one or more of the following:

- (1) Addition or discontinuation of a water treatment process;
- (2) Addition of a wholesale water customer, including addition of a wholesale customer to an individual City system, not anticipated in the original regional Master Plan.
- (3) Increase in number of wells or capacity of existing wells;
- (4) Increase in size of transmission line;
- (5) Any contract for maintenance of the jointly operated facilities;
- (6) Non-emergency repairs with a cost greater than 15% of the previous year's operations costs;
- (7) Any capital improvements intended to become part of the joint system.

3. OWNERSHIP OF THE JOINT SYSTEM: Wheeler shall own the well field (T2N, R9W, Section 5, Tax Lot 201), access easement thereto, wells, and a telemetry monitoring station. Manzanita shall own the disinfection plant, the telemetry system, the transmission line from the wells to the junction of Highway 101 and the two (2) master meters.

1st street in Wheeler

1st street in Wheeler

Manzanita shall be responsible for the design and construction of the joint system as part of its water system improvement project. This water system improvement project will also include the construction of a new water filtration plant which will be used to filter the Anderson Creek water source and the transmission line extending west from the intersection of Highway 101 and Highway 53 to Manzanita.

Wheeler shall be given a reasonable opportunity to review and comment on the plans and specifications, change orders, and proposed cost overruns in relation to the design and construction of the joint system. If the two parties cannot agree on the plans, specifications, change orders, or cost overruns, then this dispute shall be resolved in accordance with paragraph 14.

4. OTHER TRANSMISSION LINES: The transmission line extending west from the intersection of Highway 101 and Highway 53 to Manzanita, and the water filtration plant for Anderson Creek shall be owned and maintained by the City of Manzanita. The transmission line extending southeast from the intersection of Highway 101 and Highway 53 to Hemlock Street in Wheeler shall be owned by the City of Manzanita and maintained by the City of Wheeler. These transmission lines and filtration plant are not part of the joint system.
5. WATER RIGHTS: Water rights to the groundwater, certificates and permits shall be in the name of and owned by Wheeler.
6. WATER COST DISTRIBUTION: Manzanita will take responsibility for reading meters and billing wholesale customers along the jointly operated portion of the water system, from which funds received will be applied to directly offset joint system operation costs. Manzanita will bill on a monthly basis for water usage measured at Wheeler's master meter. The rate per gallon Wheeler will be charged will be based on the two cities' best

estimate of the actual operating costs for the previous year. The allocation of actual costs of operating the joint system will be reconciled annually by using the following procedure:

The cost of providing water through the well system will be compiled by Manzanita in March of each year for the previous twelve (12) month period ending the last day of February. Such costs shall include labor and materials provided by each City to operate and maintain the wells, disinfection plant, and the transmission line to the intersection of Highway 101 and Highway 53, electricity, permits and mileage. Debt amortization will not be considered a cost for this purpose, except for repayment of State of Oregon loans #A92003 and #V94009. Operations costs will include filtration plant operations costs of supplying water requested by Wheeler in the event the well field is shut down.

The total costs shall be divided as follows: The costs associated with the readiness to serve or standby capability of the joint system will be divided based on each City's percentage of equivalent dwelling units served by the total of the two communities. The costs in this category will be those which would be incurred even if no water was used (e.g., permits, line repair and labor). The costs associated with the actual production of water (e.g., electricity, chlorine, labor) will be divided based on the percentage of actual water usage by the respective Cities for the previous twelve (12) month period ending on the last day of February as determined by the master meters.

Based on this formula, if one City owes the other City money, the debt will be payable by May 31st of that year.

7. OPERATION, MAINTENANCE AND ADMINISTRATION OF JOINT SYSTEM: Routine joint system operation, maintenance and administration will be the responsibility of Manzanita and Wheeler through the use of existing staff and equipment. While both Cities will provide staff and equipment when needed, Manzanita shall have primary responsibility for repairs and billing. Manzanita will provide quarterly reports to Wheeler as to maintenance activities and the related costs. The telemetry system will be located in Manzanita and Wheeler will have a monitoring station directly linked to it.
8. TERMINATION OF AGREEMENT: After receipt of either grant assistance or loans from Rural Utility Service (RUS) to Manzanita and/or grant assistance or loans from RUS to Wheeler, this agreement cannot be terminated without the written consent of RUS.
9. ASSUMPTION OF BONDED DEBT: Any outstanding debt related to capital improvements not part of the joint system shall remain the responsibility of the respective party.
10. RESPONSIBILITY FOR OBLIGATIONS: All debts, liabilities and obligations related to the operation of the joint system shall be borne by the parties based on the proportionate share of operation costs in effect at the time the obligation is incurred. —

11. SALES TO OUTSIDE USERS: Requests for permanent access to the joint system shall be required and approved by a respective majority of the Manzanita and Wheeler City Councils. For purposes of this section, outside users are those entities or individuals which are not presently full or part time customers of either Manzanita or Wheeler. Requests for permanent access to the joint system shall be reviewed on an individual basis and shall include a proposed rate analysis to reimburse the joint system for any capital expenditures and operation costs. In the event a majority of the Manzanita and Wheeler City Councils vote to deny any person in the service areas of Manzanita or Wheeler access to the joint system, before this denial shall be final RUS must concur in the denial.
12. TERMS OF AGREEMENT: This Agreement shall remain in effect for an initial period of forty (40) years from the date of the proposed loans from RUS to Manzanita and Wheeler. This agreement shall continue after the fortieth (40th) anniversary of such date on a year-to-year basis unless terminated by one of the parties. The agreement shall terminate upon either party giving the other six (6) months advance written notice of such termination. Prior to receipt of either grants or loans by both Cities from RUS, this Agreement may be terminated by a majority vote by each of the City Councils of Manzanita and Wheeler.
13. AMENDMENT PROVISIONS: Terms of this Agreement may be amended by mutual agreement of the parties with approval by RUS. Any such agreement shall be in writing and shall refer specifically to this agreement and shall be executed by the parties.
14. DISPUTE RESOLUTION: If a dispute arises as to the operation of the joint system, the two City Administrators shall first attempt to develop a solution. If both City Councils do not approve of the solution, the Mayors of both Cities shall call a special joint meeting of the two City Councils to discuss the dispute and attempt to reach a solution. In the event the City Councils cannot reach an agreement on the dispute, both City Councils agree to mediate the dispute. A mediator, agreeable to both City Councils, shall be selected. If mediation fails, the two Cities may pursue judicial resolution through the court system.
15. EFFECTIVE DATE: This Agreement shall be effective on the date signed by the respective Mayor and City Administrator of the City of Wheeler and the City of Manzanita following adoption of this agreement by the respective City Councils.
16. WRITTEN NOTICE ADDRESS: All written notices required under this Agreement shall be sent to:

WHEELER: City Manager
 City of Wheeler
 P.O. Box 177
 Wheeler, OR. 97147

MANZANITA: City Manager
City of Manzanita
P.O. Box 129
Manzanita, OR. 97130-0129

RUS: Rural Utilities Service
101 SW Main, Suite 1410-A
Portland, OR 97204-3222

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals as of the date and year herein below written.

Wheeler is acting in this matter pursuant to Ordinance No.2000-04 and adopted by the Wheeler City Council on the 24th day of October, 2000.

Manzanita is acting in this matter pursuant to Ordinance No. 00-02 and adopted by the Manzanita City Council on the 4th day of October, 2000.

CITY OF MANZANITA

CITY OF WHEELER

By: Jayce Baker
Mayor

By: Steve S. Burden
Mayor

By: Judd P. Taylor
City Manager

By: Paul Gley
City Manager