

AGENDA ITEM FOR ADMINISTRATIVE MEETING ( ) Discussion only  
( X ) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Operating Agreement

<p>Background:</p> <p>The County will need an entity to operate the Central Pipeline to provide water to the users of the system. Discussions have occurred with Westland Irrigation District to provide the services. The District is willing to operate the pipeline. A draft agreement is before the Board for review. The proposed cost for the initial year is \$182,000. The costs for the operation of the pipeline will be reimbursed by the uses of the system.</p>	<p>Requested Action:</p> <p>Approve contract with the Westland Irrigation District to operate the Central Pipeline and authorize chair to sign contract</p>
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ATTACHMENTS: Proposed Agreement

\*\*\*\*\*For Internal Use Only\*\*\*\*\*

Checkoffs:

- ( ) Dept. Heard (copy)  
( ) Human Resources (copy)  
( ) Fiscal  
( X ) Legal (copy)  
( ) (Other - List:)

To be notified of Meeting:

Needed at Meeting:

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Scheduled for meeting on: December 10, 2025

Action taken:

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Follow-up:

## **OPERATION SERVICES AGREEMENT**

This Operation Services Agreement (the "Agreement"), made and entered into as of this 1<sup>st</sup> day of January 2026, between, UMATILLA COUNTY ("County") and WESTLAND IRRIGATION DISTRICT ("District").

WHEREAS, the County owns and operates the Ordinance Regional Water Infrastructure Project (the "System") as described in Appendix A, which is attached and made a part of this agreement; and

WHEREAS, the County is responsible for overseeing the day-to-day operation and maintenance of the System; and

WHEREAS, the County desires to contract with the District that has the specialized professional skills and experience to efficiently operate this System; and

WHEREAS, the County and District wish to enter into this Agreement setting forth their respective rights, duties, privileges and responsibilities for the operation of the System.

NOW, THEREFORE, in consideration of the agreements, terms and conditions stated herein, the parties agree as follows:

### **ARTICLE I—CONTRACT TERM; RENEWAL AND TERMINATION**

#### **1.01 Term**

The term of this Agreement shall be five years commencing on January 1, 2026 (or such other date mutually acceptable in writing by both parties) and expiring on December 31, 2030. The County and District may enter into additional extensions of this Agreement on mutually acceptable terms and conditions.

### **ARTICLE II—SCOPE OF SERVICES**

#### **2.01 Operation and Maintenance of the System**

The District shall provide the services as detailed in this Agreement and more particularly described in the Scope of Services attached hereto as Appendix B ("Scope of Services"). The District shall operate the System at all times on behalf of the County in compliance with Applicable Law and in accordance with the terms and provisions of the Agreement, subject to any Uncontrollable Circumstances, as defined herein, and the operating and design capability of the facilities comprising the System. District shall at all times operate the System in an efficient and economical manner and in accordance with prudent industry and utility practice.

## **2.02 Access**

County shall provide District with access to the System as necessary to perform the Services under this Agreement. County shall provide District service records and distribution maps of System. District shall provide reasonable access to the System for Authorized County personnel.

## **2.03 Staffing**

District will provide properly trained employees of District for the staffing of the System. In addition, District will be on call 24 hours per day, 7 days per week for emergencies. District will provide appropriate initial and ongoing training for its employees with respect to safety, supervisory skills, and regulatory compliance. District shall be deemed to be an independent contractor for purposes of applicable wage, fringe benefit, and worker compensation laws.

## **2.04 Non-Routine Services**

Non-Routine Services are not included in the Services provided by District. Non-Routine Services shall include but are not limited to the following:

- Facilities repair
- Corrective maintenance
- Non-Routine maintenance
- Repairs of the distribution system such as broken valve, main breaks, and service leaks

District will assist County in obtaining or providing, or District will obtain and provide with County authorization, such Non-Routine Services so required through a contractor.

## **2.05 Reporting**

The District shall prepare and file all necessary reports for state and federal authorities in compliance with Applicable Law

## **2.06 Use of Facilities**

The facilities that comprise the System shall be used solely for the distribution of non-potable water. At no time shall the District use or permit the use of the facilities for any purpose other than those contemplated by this Agreement.

# **ARTICLE III—RESPONSIBILITIES**

## **3.01 County Responsibilities**

(a) County shall be responsible for:

- Attainment and payment of all permitting fees
- Use of County's land, equipment, buildings, structures and facilities under the County's ownership or control

- Obtaining insurance on the System
  - Capital Improvements and repairs to the System
  - Maintaining all existing easements, licenses, warranties and all permits pertaining to the System.
  - Utilities (electricity)
  - Supplies
  - Labor, subcontractor costs, equipment, supplies, and other expenses associated with Non-routine Services, as specified herein
  - Replacement cost of existing spare part(s) when use of the spare part is for normal wear on the part
  - All other items not specifically listed as a District obligation under this Agreement.
- (b) Compliance with Applicable Law. Except to the extent specifically delegated to the District in this Agreement, the County shall comply with all Applicable Law. The District shall assist the WPCA in complying with all Applicable Law known to the District.
- (c) Capital Improvements and repairs. The County shall be responsible for providing all Capital Improvements and Repairs to the Facilities, including without limitation the cost of all permits, approvals, labor, materials, utilities, equipment, and supplies.

### **3.02 District Responsibilities**

- (a) District shall be responsible for complete operation and administration of the System.
- (b) District shall also be responsible for:
- Labor and benefits
  - Safety equipment and related supplies
  - Cell phone communication and related supplies
  - Transportation (including fuel)
  - Costs for utilizing existing spare part(s) when it is used to replace the existing part as a result of a negligence or misconduct by the District.
  - Winterization of the System.

## **ARTICLE IV — INDEMNIFICATION**

### **4.01 Indemnification**

To the fullest extent allowed by Oregon law, the County shall defend, save, hold harmless and indemnify Westland and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney fees, resulting from, arising out of, or relating to the activities of Westland or its employees, from the operation of the System.

## **ARTICLE V—INSURANCE**

### **5.01 District Insurance**

District shall obtain and maintain at its expense coverage for Workers Compensation Insurance as required by Oregon State law. The District may obtain its own liability policy.

### **5.02 County's Insurance**

County shall procure and maintain liability, fire, and property insurance on an all risk basis, on the System.

## **ARTICLE VI—COMPENSATION**

### **6.01 Base Compensation**

The initial year base compensation for the operation of the System shall be \$182,000.

### **6.02 Annual Adjustments to Base Compensation**

The base compensation for the operation of the System shall be adjusted annually in an amount equal to 3%.

### **6.03 Payment Terms**

The County shall make monthly payments on the first day of each month for which services will be rendered in an amount equal to 1/12 of the base compensation. District shall invoice the County in arrears for all other amounts due, if any. Partial months shall be prorated. Such invoices shall be due and payable within forty-five (45) days from the date received by the County. The County will review District's invoices, and if the County questions any items, the County shall notify District within fifteen (15) days of receipt of the invoice. The District shall respond to the County's notice of deficiency within forty-five (45) days after receipt. If the parties fail to agree, either party may by written notice to the other party, have the amounts due determined by the dispute resolution process as provided in Section 11.02. All amounts not in dispute will be paid when due.

### **6.04 Public Health and Safety Emergencies**

District may, without the County's prior written approval, undertake emergency repairs or actions which may subsequently be considered changes in the scope of services under this Agreement when in its judgment District believes public health and safety or water delivery will be compromised and when time is of the essence and prior notification and written agreement by the County is not practical. In such instances, District shall notify the County as soon as possible of its actions and its intention to request additional compensation for such emergency services. The County shall promptly review District's request and upon agreement that there was a change in scope of services (which agreement shall not be withheld without good and sufficient cause); the County shall provide such compensation.

## **ARTICLE VII—TERMINATION**

### **7.01 Termination**

Either party may terminate this Agreement pursuant to the terms of Section 7.02 hereof.

In the event of termination of this Agreement, the County shall, upon invoice by the District, pay the balances of any outstanding accounts to include but not be limited to the Base Compensation for services rendered through the termination date, cost of verifiable Non-Routine Services performed by the District, and any other amounts that are owed but unpaid pursuant to the provisions of this Agreement.

### **7.02 Events of Default**

- (a) Events of Default by the District. The occurrence of any of the events set forth below, in each case unless caused by Uncontrollable Circumstances shall constitute an Event of Default of this Agreement by the District.
- Entry into bankruptcy, reorganization or similar proceeding of the District or its successor for the readjustment, arrangement, composition or adjustment of any debt under the United States Bankruptcy Code, as amended, or any part thereof, or under any other laws, rules or regulations, whether state or federal, for the release of debtors, now or hereafter existing.
  - Assignment by the District or its successor for the benefit of any of its creditors.
  - Placement of a lien or other encumbrance on the System which is not discharged by the District within five (5) days of notice demanding such by the County, provided such lien was filed on account of any action by the District or anyone acting on the District's behalf.
  - Failure to otherwise comply with any of the material covenants or provisions under this Agreement.
- (b) Events of Default by the County. The occurrence of any of the events set forth below, in each case unless caused by Uncontrollable Circumstances shall constitute an Event of Default of this Agreement by the WPCA.
- Failure to pay any amount due and owing to the District pursuant to the terms of this Agreement.
  - Failure to otherwise comply with any of the material covenants or provision of this Agreement.
- (c) Notice of Event of Default. Any party may declare such Event of Default by delivery of notice to the breaching party, describing the Event of Default and describing, if the non-breaching party so desires, the remedies it shall seek in connection with such Event of Default. In the Event of Default of this Agreement the non-breaching party must provide notice of the Event of Default to the breaching party, identifying the specific nature of the breach, and the breaching party in such instances shall have a period of thirty (30) days following receipt of such notice to cure the Event of Default, or reasonable additional time

if a default cannot be cured within thirty (30) days and the defaulting party is diligently pursuing its cure.

- (d) Remedies. Upon the occurrence of an Event of Default by either the District or the County, each party shall have all those rights and remedies allowed by Applicable Law in equity, including but not limited to, the right to terminate this Agreement in accordance with the terms herein.

### **7.03 Termination of Agreement due to sale of Water System**

In addition to the provisions set forth in Section 7.02, the County can terminate this agreement if it is selling the System or its assets by giving 60 day notice to the District in the manner described in 10.01. The District agrees to fully cooperate in any such transfer by providing all necessary records and materials as may be required by County to consummate said sale.

## **ARTICLE VIII — ASSIGNMENT AND SUBCONTRACTING**

### **8.01 Assignment**

Except as otherwise provided in this Agreement, neither party shall assign its rights, nor secure the assumption of its obligations under this Agreement, in whole or in part, without the prior written consent of the other party. The County shall have the right to withhold consent if it has reasonable grounds to believe that the assignee will not be able to fulfill the scope of services requirements. This Agreement shall enure to the benefit of the parties hereto and their respective successors and permitted assigns.

## **ARTICLE IX—GOVERNING LAW AND DISPUTE RESOLUTION**

### **9.01 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

### **9.02 Dispute Resolution**

In the event that a dispute arises among the parties, the disputing party shall provide the other party with written notice of the dispute and within twenty (20) days after receipt of said notice, the receiving party shall submit to the other a written response. The notice and response shall include a statement of each party's position and a summary of the evidence and arguments supporting its position. Each party shall designate a high level executive or officer to work together in good faith to resolve the dispute; the name and title of said executive shall also be included in the notice and response. The executives shall meet at a mutually acceptable time and place within thirty (30) days of the date of the disputing party's notice and thereafter as they reasonable deem necessary to resolve the dispute. If the executives have not resolved the dispute through good faith efforts within sixty (60) days, then, before restoring to taking the case to court, the parties shall try in good faith to resolve the dispute by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Rules. All costs attributed to mediation shall be borne equally by both parties.

## **ARTICLE X — MISCELLANEOUS**

### **10.01 Notices**

All notices shall be in writing and shall be delivered, in person or transmitted by certified mail, return receipt requested, or national courier service providing proof of receipt, to the parties listed below. Either party may update such addresses on written notice to the other party. Notices shall be effective upon receipt.

To the District:

Westland Irrigation District  
77096 Highway 207  
Echo, OR 97826

To the County:

Board of Commissioners  
216 SE 4<sup>th</sup> Street  
Pendleton, OR 97801

### **10.02 Entire Agreement; Modifications; Schedules**

The provisions of this Agreement (except captions, which are for convenience only and shall be ignored in interpreting this Agreement), including the Appendices annexed hereto shall (a) constitute the entire agreement between the parties, superseding all prior or contemporaneous negotiations, understandings or agreements and (b) not be modified in any respect except by express written agreement executed by the parties. The Appendices attached hereto are specifically made a part of this Agreement.

### **10.03 Notice of Litigation**

In the event that the County or the District receives notice of or undertakes the defense or the prosecution of any actions, claims, suits, administrative or arbitration proceedings or investigations in connection with the System, the party receiving such notice or undertaking such defense or prosecution shall promptly give the other party notice of such proceedings and will inform the other party in advance of all hearings regarding such proceedings.

### **10.04 Appendices**



## **APPENDIX A THE SYSTEM**

The Ordnance Regional Water Infrastructure Project consists of a newly constructed Columbia River pumping station, approximately five miles of pipeline, and several delivery points. Pipeline installation was completed in sequential phases: a segment of Phase 1 became operational in February 2024; Phase 2 was finalized in July 2025; and the remaining section of Phase 1, along with the pump station, reached completion in September 2025. As of September 18, 2025, the system is fully operational and capable of delivering water sourced from the Columbia River.

The System can supply in excess of \_\_\_\_\_ per day. Present average daily demand is about \_\_\_\_\_. The system is permitted for a maximum daily withdrawal of \_\_\_\_\_.

## **APPENDIX B SCOPE OF SERVICES**

### **1 SCOPE OF SERVICES**

All services described in this section shall be considered Routine Services unless specifically stated otherwise herein.

#### **1.1 Operations**

- (a) The District shall operate all facilities within their design capacity and capability and in accordance with all applicable laws, regulations, and permits.
- (b) The District shall provide administrative and back-up and support professionals that it deems necessary to assure qualified, continuous management, operation of all facilities.
- (c) The District shall ensure a sufficient level of experienced, qualified operator staff available 24 hours per day, 7 days per week, to provide on-call, on-site contract operations services in response to alarms, reported operational problems, and/or emergencies. On-call contract operations staff shall be on-site to respond to reported operational problems within 1 hour of receiving the alarm or being notified of the operational problem or emergency.
- (d) The District shall be responsible for the coordination of all vendors, Districts, suppliers and District employee efforts necessary for the proper operation of all components of the System.
- (e) The District shall advise the County of abnormal (i.e. not within the District's control) conditions that: prohibit the distribution of water; exceed hydraulic capacities, design criteria, or violate federal, state or local regulations. The District shall address any violations associated with such abnormal conditions within 10 days after the conditions have ceased or within a time period stipulated by appropriate regulatory agencies, and as otherwise required under this Agreement. Services provided to address abnormal conditions, as defined herein, shall be considered and paid for as Non-Routine Services.
- (f) The District shall obtain prior, written approval from the County for any shut down of the water distribution system or equipment in whole or part, excluding emergency situations. The District shall notify the WPCA within 1 hour of determining that an emergency situation has occurred which requires shut down of any facilities in whole or part. The District shall continue to make emergency notification to the County until such time as the County has verifiable responded.

#### **1.2 Communications**

- (a) The District shall provide the designated representative of the County with telephone numbers, pager numbers, and cell phone numbers by which the County may contact the District during normal business hours and during non-business hours and/or emergency conditions. The District shall ensure that the contact numbers are up-to-date at all times.
- (b) The District shall maintain contract and communications with local, State and Federal officials.
- (c) The District shall report promptly to the County any regulatory agency inspections of the facilities, including inspections that result in a notice of a facility operational problem or deficiency or a notice of violation. The District shall provide copies of inspection reports to the County upon receipt from the inspecting agency.
- (d) The District shall advise the County of pending, proposed or future water regulatory requirements of which the District is aware and the potential effects of these requirements on the water system.

### **1.3 Equipment Maintenance, Repair, and Facility Improvements**

- (a) The District is only providing operational services and is not required to provide routine preventative maintenance and repair of the System or its components. If District is aware of needed repair or facility improvements, it is requested that this information be provided to the County. These services will include day to day maintenance items. An annual budget of \$5,000 is set for these items. If the costs exceed this amount, the District will bill the excess to the County.

## APPENDIX C DEFINITIONS

**"Applicable Law"** means any applicable statute, law, constitution, charter, ordinance, resolution, judgment, order, permit, industry standard or code, decree, rule, regulation, directive, interpretation, standard or similar binding authority, which has been enacted, promulgated, issued or enforced by any judicial, legislative, administrative, municipal or other governmental authority having jurisdiction as of the date of execution of this Agreement. A change in Applicable Law means the enactment, adoption promulgation, modification, repeal or change of any Applicable Law which establishes new requirements or changes the requirements with respect to the operation or maintenance of the System or otherwise impacts a party's ability or cost of performance of its obligations under this Agreement. A change in Applicable Law shall include any change in any sales, use, and real property, ad valorem or excise tax or any tax paid by or on behalf of the District which is imposed by the United States or any other taxing authority, or any political subdivision thereof with respect to the Facilities or the performance of the District's obligation hereunder, but shall not include taxes based on or measured by net income, any unincorporated business, incorporated business, payroll, franchise or employment taxes.

**"Capital Improvement"** means all costs related to the construction, installation, repair or replacement of any component of the System in excess of \$2,500.00 per item.

**"Non-Routine Services"** means additional operation and maintenance, including the cost of labor, arts and subcontractors, considered non-routine under this Agreement or required as a result of Uncontrollable Circumstances.

**"Services"** means those activities provided by District to County as described in Appendix B.

**"Uncontrollable Circumstances"** means causes beyond either party's reasonable control including, but not limited to, Acts of God, floods, quarantine restrictions, riots, strikes other than by employees of District, commercial impossibility, failures of utilities, increases in tariff rates for electric and gas utilities, hurricanes, landslides, lightning, earthquakes, drought, epidemics, fires, explosions, bombings, casualties, acts of civil or military authority, sabotage, vandalism, acts of a public enemy or terrorists, changes in Applicable Law, damage to the system caused by third parties, or other events or circumstances beyond the control of the party obligated to perform, whether such other causes are related or unrelated, similar or dissimilar, to any of the foregoing.