INTERLOCAL AGREEMENT AMONG THE DISCOVERY CLEAN WATER ALLIANCE, CLARK REGIONAL WASTEWATER DISTRICT AND THE CITY OF BATTLE GROUND

PROGRAM IMPLEMENTATION AND ENFORCEMENT RELATING TO A LOCALLY ADMINISTERED MULTIJURISDICTIONAL PRETREATMENT PROGRAM

This Interlocal Agreement ("Agreement") is made and entered into under the authority of the Interlocal Cooperation Act, Chapter 39.34 RCW, this 16th day of December, 2022, between the DISCOVERY CLEAN WATER ALLIANCE ("Alliance"), CLARK REGIONAL WASTEWATER DISTRICT ("District"), and the CITY OF BATTLE GROUND ("Battle Ground"), each a Washington municipal corporation located in Clark County, Washington (collectively, the "Parties).

RECITALS

A. Pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW, one or more public entities may contract with one another to perform government functions or services, which each is by law authorized to perform.

B. Clark Regional Wastewater District, the City of Battle Ground, Clark County and the City of Ridgefield (collectively, "Members") formed the Discovery Clean Water Alliance ("Alliance"), a Washington municipal corporation, by entering into the Discovery Clean Water Alliance Interlocal Formation Agreement ("Alliance Agreement") and by causing the Alliance Agreement to be filed with the Washington Secretary of State, all pursuant to the Joint Municipal Utility Services Act, Chapter 39.106 RCW.

C. The Alliance Agreement grants the Alliance authority to provide regional wastewater transmission and treatment services to Members and other contracting municipal wastewater utilities.

D. Upon determining the Alliance Publicly Owned Treatment Works, including Alliance owned Regional Assets and Member owned collection systems (collectively, "Alliance POTW"), meets the requirements promulgated at 40 CFR § 403.8 for development of a locally administered POTW pretreatment program, the Washington State Department of Ecology ("Ecology") is authorized to delegate to the Alliance responsibility for administering, managing and overseeing the Alliance POTW pretreatment program, including the issuance of discharge permits to Significant Industrial Users discharging wastewater to the Alliance POTW.

E. The Alliance Members have cooperated to develop the Alliance POTW pretreatment program of the Alliance ("Alliance POTW Pretreatment Program"), which includes without limitation, the adoption of the POTW Pretreatment Program rules and regulations to govern, regulate and control the discharge of wastewater to the Alliance POTW ("Alliance Pretreatment Regulations").

F. The District and Battle Ground each own and operate wastewater collection systems that serve customers within their respective service areas and/or jurisdictions and each contributes wastewater to the Alliance POTW.

G. The District is a water-sewer district with the powers and authority set forth in Title 57 RCW.

H. Battle Ground is a noncharter code city with the powers and authority set forth in Title 35A RCW.

I. In connection with the delegation to the Alliance of responsibility for administering, managing and overseeing the Alliance POTW Pretreatment Program, the Parties desire to enter into this Agreement relating to program implementation and enforcement of the Alliance POTW Pretreatment Program.

J. It is in the best interests of the Parties to this Agreement and in the interest of the public health, safety and welfare of the area served by the Parties that this Agreement be executed.

AGREEMENT

Pursuant to Chapter 39.34 RCW and in consideration of the terms, conditions, covenants and performances contained herein, the Parties agree as follows:

1. Endorsement of Alliance POTW Pretreatment Program.

1.1 The Alliance, District and Battle Ground support and endorse the Alliance POTW Pretreatment Program. The District and Battle Ground recognize and acknowledge that the Alliance will be the Control Authority with responsibility for administering, managing and overseeing the Alliance POTW Pretreatment Program, which includes without limitation, the adoption of the Alliance Pretreatment Regulations upon formal delegation of authority by Ecology to the Alliance.

1.2 The District and Battle Ground agree to adopt rules and regulations to govern, regulate and control the discharge of wastewater in the collection systems serving their respective areas for conveyance to the Alliance POTW that are at least as stringent as the Alliance Pretreatment Regulations, which may include adopting the

Alliance Pretreatment Regulations by reference. As used herein, the term "Alliance Pretreatment Regulations" includes the rules and regulations adopted by the District and Battle Ground under this Section 1.2.

1.3 The Alliance is required to provide Ecology with notice of "substantial modifications" and "non-substantial modifications" of the approved Alliance POTW Pretreatment Program, as these terms are defined in 40 CFR § 403.18. The Alliance will provide the Alliance Members with advance notice of any proposed changes to the Alliance POTW Pretreatment Program.

2. Implementation and Enforcement of Alliance POTW Pretreatment Program.

2.1 The District and Battle Ground designate the Alliance as their agent for purposes of implementation and enforcement of the Alliance POTW Pretreatment Program, including the Alliance Pretreatment Regulations, against Industrial Users located within the Members' respective service areas and/or jurisdictions that convey wastewater to the Alliance POTW. The Alliance may take any action under the Alliance Pretreatment Regulations adopted by the District and Battle Ground that could have been taken by the District or Battle Ground, including the enforcement of the Pretreatment Regulations in courts of law.

2.2 The District and Battle Ground agree to cooperate with the Alliance in the implementation and enforcement of the Alliance POTW Pretreatment Program. Prior to connection to the public sewer, the District and Battle Ground shall ensure that all new or newly identified Industrial Users are informed of their responsibility to provide survey information to the Alliance in accordance with the Alliance Pretreatment Regulations. The District and Battle Ground shall require all Significant Industrial Users to submit plans and reports, as required by Chapter 173-240 WAC, and obtain Alliance approval prior to construction of pretreatment facilities, as part of the process to obtain sewer service where the flows will be treated by the Alliance POTW.

2.3 The Alliance, on behalf of and as agent for the District and Battle Ground, will perform technical and administrative duties necessary to implement and enforce the Alliance Pretreatment Regulations. The Alliance will: (1) update the Industrial User survey; (2) issue permits to all Industrial Users required to obtain a permit; (3) conduct inspections, sampling, and analysis; (4) take all appropriate enforcement action as outlined in the Alliance's enforcement response plan and provided for in the Alliance Pretreatment Regulations; and (5) perform any other technical or administrative duties deemed necessary and appropriate by the Alliance. In addition, the Alliance may, as agent for the District and Battle Ground, take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which

reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination. The Alliance may act directly or through its Administrative Lead (currently the District).

2.4 If the authority of the Alliance to act as agent for the District or Battle Ground under this Agreement is questioned by any Industrial User, court of law, or otherwise, the District and Battle Ground will take whatever action is necessary to ensure the implementation and enforcement of the Alliance Pretreatment Regulations against Industrial Users discharging wastewater into their respective collection systems, including, but not limited to, implementing and enforcing the Alliance Pretreatment Regulations on their own behalf and/or amending this Agreement to clarify the Alliance's authority.

2.5 The Alliance will be responsible for all costs incurred by it in implementing and enforcing the Alliance Pretreatment Regulations adopted by District and Battle Ground.

2.6 The Alliance POTW Pretreatment Program will supersede and replace the Fats, Oils and Grease Program administered by the District and adopted by Battle Ground pursuant to the Interjurisdictional Agreement between Battle Ground and the District dated November 24, 2015. As a result, the referenced Interjurisdictional Agreement will be terminated by separate ordinance/resolution by Battle Ground and the District upon the effective date of the Alliance POTW Pretreatment Program.

3. Industrial Users Located Outside of Service Areas and/or Jurisdictional Boundaries. Before an Industrial User located outside the service areas and/or jurisdictional boundaries of the District or Battle Ground discharges into a collection system serving their respective service areas and/or jurisdictional boundaries for treatment by the Alliance POTW, the applicable jurisdiction(s) and the Alliance will enter into an agreement with the Contracting Municipal Wastewater Utility (as that term is defined in Alliance Resolution 2022-06) or Industrial User authorizing the discharge. Such agreement must be entered into prior to a discharge from any such Industrial User.

4. Periodic Review of Agreement. The Parties will review and revise this Agreement to ensure compliance with the Federal Clean Water Act (42 U.S.C. §1251 *et seq.*) and rules and regulations (see 40 CFR Part 403) issued thereunder, as necessary, but at least once every five (5) years on a date to be determined by the Parties.

5. Term of Agreement. This Agreement shall remain in effect for as long as the District and Battle Ground are contributing wastewater to the Alliance POTW. In the event the District and/or Battle Ground permanently ceases contributing wastewater to

the Alliance POTW, they shall be released from this Agreement, but the Agreement shall continue in effect as to the remaining Parties.

6. Indemnification. To the maximum extent permitted by law, the Alliance, District and Battle Ground shall defend, indemnify and hold harmless the other Party or Parties, and all of the other Party's or Parties' respective officials, employees, principals and agents, from any and all claims, demands, suits, actions, fines, penalties or liabilities of any kind, including injuries to persons or damages to property, which arise out of or are related to any negligent acts, errors, omissions of the indemnifying party and its contractors, employees, agents and representatives in performing obligations under this Agreement. However, if any such damages and injuries to persons or property are caused by or result from the concurrent negligence of the Alliance, District and/or Battle Ground or their respective contractors, employees, agents, or representatives, each Party's obligation hereunder applies only to the extent of the negligence of such Party or Parties or their respective contractors, employees, agents, or representatives. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Industrial Insurance, Title 51 RCW, as respects the other Party or Parties only, and only to the extent necessary to provide the indemnified Party or Parties with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.

7. Notices. All notices and other communications under this Agreement shall be in writing by email, facsimile, regular U.S. mail or certified mail, return receipt requested.

If to the Alliance, the notice shall be sent to:

Pretreatment Coordinator
Clark Regional Wastewater District
8000 NE 52nd Court
PO Box 8979
Vancouver, WA 98668-8979

or to such other person or place as the Alliance shall furnish to the District and Battle Ground in writing.

If to Battle Ground, the notice shall be sent to:

Public Works Director
City of Battle Ground
109 SW 1st Street, Suite 122
Battle Ground, WA 98604

or to such other person or place as Battle Ground shall furnish to the Alliance and District in writing.

If to the District, the notice shall be sent to:

Principal Engineer, Transmission & Treatment
Clark Regional Wastewater District
8000 NE 52nd Court
PO Box 8979
Vancouver, WA 98668-8979

or to such other person or place as the District shall furnish to the Alliance and Battle Ground in writing.

Notices shall be deemed given upon delivery or, if mailed, upon the earlier of actual receipt or three (3) business days after the date of mailing.

8. Severability. If any section or part of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such action shall not affect the validity or enforceability of any other section or part of this Agreement.

9. Entire Agreement; Amendment. This Agreement contains the entire written agreement of the Parties and supersedes all prior discussions and agreements. This Agreement may be amended only in writing, signed by the Parties.

10. No Third Party Rights. This Agreement is solely for the benefit of the Parties and gives no right to any other party or person.

11. Jurisdiction and Venue. This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of Clark County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

12. Notice of Agreement. A copy of this Agreement shall be filed with the Clark County Auditor, or, alternatively, listed by subject on the Alliance, District and/or Battle Ground website or other electronically retrievable public source pursuant to the Chapter 39.34 RCW.

13. Counterparts. This Agreement may be signed in counterparts and, if so signed, shall be deemed one integrated agreement.

The Parties have caused this Agreement to be executed by their authorized representatives.

DISCOVERY CLEAN WATER ALLIANCE

Shanie Bowman, Chair

Date: 12/16/22

Attested to:

Norm Harker, Secretary

Approved as to form:

Lee Marchisio, Alliance Attorney

CLARK REGIONAL WASTEWATER DISTRICT

Neil Kimsey, President

Date: 11-09-2021

Attested to:

Norm Harker, Secretary

Approved as to form:

Eric Frimodt, District Attorney

CITY OF BATTLE GROUND

Erin Erdman, City Manager

Date: 11/3/21

Attested to:

Kay Kammer, City Clerk

Approved as to form:

Christine Hayes, City Attorney