

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: 7/8/14

Approx. Start Time: 10:30am

Approx. Length: 1 hr.

Presentation Title: Willamette Falls Legacy Project

Department: Business & Community Services, Gary Barth, Director

Presenters: Gary Barth, Director Business and Community Services

Other Invitees:

Chris Storey, County Counsel

Gary Schmidt, Director, Public and Government Affairs

Danielle Cowan, Director, Tourism and Cultural Affairs

Catherine Comer, Manager, Business and Economic Development

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Direction moving forward with a new multi-agency Memorandum of Understanding (MOU) for purposes of securing a "significant match" of the \$5 million in state funding through the proposed sale of lottery-backed bonds. The matching fund requirement is outlined in section D.3 in the current MOU between the State of Oregon through the Metro Regional Solutions Office and the City of Oregon City, Metro and the County.

EXECUTIVE SUMMARY:

The Clackamas County Board of Commissioners has invested \$100,000 towards the Master Plan of the Willamette Falls Legacy Project, a project to develop a "framework" plan. This investment was memorialized in an Intergovernmental Agreement (IGA) between The City of Oregon City and the County.

Efforts of this project are driven by the Four Key Values: Public Access, Economic Redevelopment, Healthy Habitat, and Historic and Cultural Interpretation. The goal of the project was to have the City and the Trustee of the Estate of Blue Heron Paper Company complete develop and adopt a Master Plan for the former Blue Heron site and use that document to complete a land use application with the city and rezone the property to the appropriate use classification to implement the Master Plan. That project is largely complete. One significant change is that a private developer has acquired the site from the Bankruptcy Trustee and assumed the Trustees position in developing and adopting the Master Plan and submitting a land use application.

The proposed next phase of public engagement on the site is to secure public easements and design and develop the public space that will allow public access to the Willamette River and Willamette Falls. The State of Oregon has pledged \$5 million towards this effort contingent upon securing a "significant match" of the \$5 million in state funding through the proposed sale of lottery-backed bonds. The matching fund requirement is outlined in section D.3 in the current MOU between the State of Oregon through the Metro Regional Solutions Office and the City of Oregon City, Metro and the County, as follows:

"Provision of the Bond Funds by the State is contingent upon the local/regional entity securing a significant match. It is understood by all Parties that before issuing the bonds, the State will need to review and approve a Project and financing plan that lays out a course of action to secure the funds necessary for site stabilization, selective demolition and

infrastructure development, and over time, provide the public access to Willamette Falls. It is acknowledged by the local partners that the State is not the primary funder of the Project. As the master plan is completed and the vision for the Property defined, the local partners will demonstrate their ability to stage the Project and raise the necessary funds for each phase from any number of sources, which may include city, county and regional governments, federal agencies, grants, donations and private investment.

The Regional Solutions Office has suggested that the significant match be a 1-1 match or greater.

With regard to timing of the match, the following is from paragraph 6 of the MOU:

The financing plan for the Project must be completed, reviewed and approved by the Governor's representative from the Portland Metro Regional Solutions Center by March 2015, to ensure sale of the bonds by May 2015. The local/regional entity shall communicate closely with the Regional Solutions Center throughout the master planning process, and shall share the financing plan with them as it is being developed.

A staff level meeting among the partner agencies is being schedule in the next couple of weeks to discuss the requirements for the State match funding and draft an MOU among the partners that outlines roles, responsibilities and financial commitments from each. This will then be discussed at the next Willamette Falls Legacy Group Partners Meeting on July 28th. Commissioners Smith and Schrader represent the County on the WFLP Partners Group committee.

Staff is seeking direction from the Board on the county's role, responsibilities and financial commitments for inclusion in a new MOU with the local partners to satisfy the State's matching fund requirement. To-date, the county role has been to lead on the core value of Economic Redevelopment in concert with the City of Oregon City to replace the high wage traded sector jobs lost in the shutdown. In addition, the county has offered to lead the lobbying efforts to secure other sources of funds for the redevelopment and public access of the Blue Heron site through our office of Public and Government Affairs.

The current draft Vision document proposes that a catalytic public project is required to reinvigorate the property as a place conducive to redevelopment (reference page 35 of the Vision document). It has been suggested that a next step in public investment would be the planning and design work for a "Riverwalk" that would provide public access to the riverfront and Willamette Falls and become the fundamental driver for future site development and private investment. Metro would lead this effort and has proposed a funding requirement of \$4 million for the planning and design work and approximately \$30 million for full development. A portion of the state funding may be available for this initial planning effort subject to the requirements of the state for significant matching funds and a Project and Financing Plan.

Metro is currently in negotiations with the site owner to secure easements for the public access. Those easements have not yet been secured. County staff has advised that the Board may consider a request for funding for the public access subject to securing easements.

FINANCIAL IMPLICATIONS (current year and ongoing):

Rather than contributing \$100,000 a year for 10 years to this project as initially proposed, the county agreed in principal to set aside \$100,000 a year to be available for specific efforts on the project consistent with the Board goals. The Business and Economic Development Department

has currently reserved \$500,000 in economic development funds to be used for this purpose subject to Board direction and approval of use.

To-date, the County has contributed \$100,000 towards this project in the IGA with Oregon City. The funds were contributed from two-thirds Economic Development Fund and one-third Tourism Fund.

One option for the County's financial support to the partnership is for the County to fund lobbying services to seek federal, state and regional funding. The County would fund up to \$100,000 annually for a contractor to provide these lobbying services. The funds would remain in the control of the County yet possibly contribute to the state matching fund requirements and contribute to the success of the entire project and partnership.

LEGAL/POLICY REQUIREMENTS: n/a

PUBLIC/GOVERNMENTAL PARTICIPATION:

The Master Plan effort has had significant public engagement.

OPTIONS:

The Board of Commissioners may choose to implement one or a combination of the following options:

1. Direct staff to work with the new owner and the City of Oregon City towards economic development goals for development of the site.
2. Fund lobbying efforts in partnership with Oregon City, Metro and the State to secure federal funds for The Riverwalk public access project subject to Metro and/or Oregon City obtaining easements from the property owner and PGE and subject to the terms and conditions from the state requiring a finance plan. (see attached MOU between Oregon City, Clackamas County, Metro, and State of Oregon)
3. Contribute funding towards the design and engineering of The Riverwalk subject to Metro and/or Oregon City obtaining easements from the property owner and PGE and subject to the terms and conditions from the state requiring a finance plan. (see attached MOU between Oregon City, Clackamas County, Metro, and State of Oregon)
4. Do not take action at this time.

RECOMMENDATION:

ATTACHMENTS:

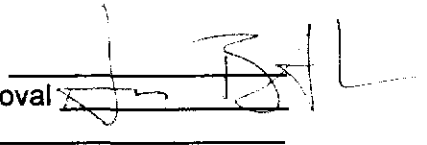
Willamette Falls Legacy Project, Vision Document
IGA between Clackamas County and Oregon City
MOU between Oregon City, Clackamas County, Metro and State of Oregon

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____



For information on this issue or copies of attachments, please contact
Clackamas County Economic Development 503-742-4329

**INTERGOVERNMENTAL AGREEMENT
BETWEEN OREGON CITY AND CLACKAMAS COUNTY
CONCERNING REQUESTS FOR PROPOSALS AND CONTRACT
IMPLEMENTATION RELATED TO THE REDEVELOPMENT OF THE
BLUE HERON SITE**

This is an Intergovernmental Agreement ("Agreement") between Clackamas County ("County"), a political subdivision of the State of Oregon, and Oregon City ("City"), an incorporated municipality. It is an agreement whereby the County and the City commit to cooperating, for their mutual benefit and the gain of the region, upon the terms for the solicitation of a request for proposals and subsequent contract administration for the redevelopment of the site formerly operated by Blue Heron Paper ("Site").

RECITALS

- A. WHEREAS, ORS Chapter 190 allows governmental entities to enter into agreements with other governmental entities for the performance of any governmental or other function that one party to the agreement has the authority to perform; and
- B. WHEREAS, the redevelopment of the Site formerly operated by Blue Heron Paper is located in the County and within the boundaries of the City; and
- C. WHEREAS, the redevelopment of the Site is an extraordinary task requiring the combined resources of the City and the County so as to achieve a successful result; and
- D. WHEREAS, redevelopment of the site will carry on a tradition of economic development along the riverfront, where mills thrived for more than a century. With the closure of Blue Heron Paper Co., Oregon City lost 175 jobs – a blow that must be addressed through redevelopment of the Site. Redevelopment will ensure the transformation supports Oregon City's vision for the future and reinvigorates the downtown as a hub of employment, shopping, business and tourism; and
- E. WHEREAS, to help make the transformation possible, Oregon City is leading a public visioning and master planning process that will look at further refining and expanding on the four shared values: Public Access, Economic Development, Cultural Interpretation and Habitat Restoration; and
- F. WHEREAS, important considerations as to the uniqueness of the Site and the scale of the redevelopment require great care in the solicitation of contractors for the presentation of the Site to the public and development community and the subsequent implementation of the contract with the successful bidder; and
- G. WHEREAS, the City and the Trustee of the Estate of the Blue Heron Paper Company have entered into a Collaborative Planning Agreement to develop and adopt a Master Plan for the former Blue Heron site; and
- H. WHEREAS, the City is contributing not less than \$400,000 to this planning effort. It is anticipated that these funds will come from multiple sources; City general fund,

Clackamas County fund, and Metro funds. The City is requesting a contribution of \$100,000 from Clackamas County towards the City's \$400,000 commitment.

NOW THEREFORE, the County and the City agree as follows:

1. The City and the County agree to proceed as joint participants for the limited purpose of soliciting a request for proposal and subsequently administering the contract for the activities associated with the redevelopment of the site. The anticipated scale of the request for proposal is set out in Collaborative Planning Agreement between the City and the Trustee attached to this Agreement.
2. The City shall take responsibility for the development of a master planning process which will lead to the submittal of a master plan for the Site. The City agrees to coordinate, manage, and otherwise oversee the solicitation of the request for proposal, participate in the selection of the contractor from among those offering bids, and manage the providing of services by the successful bidder. Further, the City will be responsible for directing all consultants that will be retained by the City to implement the master planning process and produce a completed master plan.
 - 2.1 The process shall in all ways conform to the typical and lawful practice of the City save for the fact that the City and the County shall proceed as joint participants, and the County shall be fully entitled to participate with the City in the drafting of the request for proposal, the evaluation of the bids, the selection of the successful bidder and the development of the master plan. . The City agrees to give due consideration to the comments and opinions of the County in the master planning process.
 - 2.2 The City shall serve as the custodian for all records related to this Agreement and the disbursement of funds under its terms. The City shall, upon request of the County, make those records available as the County, or other entity reviewing the County's financial affairs, may require.

Funding:

- 3.1 The City and County shall each be responsible for their costs incurred to execute this Agreement.
- 3.2 The City and the County expect the costs associated with the request for proposal and the subsequent contract to be on the order of \$500,000.00 (five hundred thousand dollars). The City shall contribute \$100,000.00 (one hundred thousand dollars). The County will contribute \$100,000.00 (one hundred thousand dollars). It is anticipated that the funds necessary to complete the master planning process will come from multiple sources: City general fund, Clackamas County funds, the Bankruptcy Trustee and a Construction Excise Tax grant from Metro. To the extent that the City is unable to secure adequate funds, then either party to this Agreement shall have the right to terminate this Agreement at any time up to the execution by the City of the Master Plan Contract.
 - 3.2.1 The County shall present its contribution under this Agreement to the City, which shall act as payor under the contract.

- 3.2.2 The County shall provide the City with its \$100,000 (one hundred thousand dollars) within ten (10) days of the execution of the Master Plan Contract.
4. Cooperation: Both parties shall cooperate in the pursuit of this Agreement and shall otherwise do all things that may be necessary under this Agreement, in compliance with applicable law.

4.1 Until further notice the contact person for the County shall be:

Catherine Comer
Business and Community Services
Development Services Building
150 Beavercreek Road
Oregon City, OR 97045

4.2. Until further notice the contract person for the City shall be:

Tony Konkol
Community Development Director
221 Molalla Avenue, Suite 200
Oregon City, OR 97045

5. Effective Date: This Agreement shall become effective immediately upon its signing by each party's authorized representatives.
6. Timeliness: Both parties agree that the request for proposal shall be presented to the pool of potential bidders no later than June 1, 2013, and the process shall proceed in a timely manner thereafter.
7. Term and Termination:
- a. This Agreement shall be completed upon the successful closure of the work set out in the request for proposal, but in no event shall its term exceed five (5) years.
 - b. This Agreement may be terminated for any reason by notice provided ten (10) days prior to the date of termination. No notice will be effective after the City enters into an agreement with the successful bidder. A termination of the Agreement shall not eliminate the obligations each party incurred prior to the termination and Sections 7, 8, 9, 10, 11, 12 and 15. Following notice of the termination, each party shall act to expeditiously resolve its obligations under the Agreement.
8. Indemnification: The parties, to the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30 and the respective limitations on indebtedness contained in Article XI, section 10 of the Oregon Constitution, shall defend, indemnify and save harmless each other, their officers, employees and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits and actions, arising from their respective negligence, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to this Agreement. The County and the City each agree to give the other immediate written notice of any action or suit filed or any claim

made against that party which may result in litigation in any way related to this Agreement.

9. Notice: Any notice under this Agreement shall be given in writing by personal delivery or mailing the same, postage prepaid as certified mail, to the addresses set out in Section 4 above, or such other address as either party may hereafter indicate. Any notice so addressed and mailed shall be deemed to have been received five (5) days after the date postmarked.
10. Laws of Oregon: This Agreement shall be governed by the laws of the State of Oregon and the parties agree to submit to the jurisdiction of the courts of the State of Oregon. All terms and conditions necessary to be inserted into public contracts in the State of Oregon are hereby incorporated as if such provisions were a part of this Agreement.
11. Attorney's fees: In the event legal action is brought by the City or the County against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, each party shall be respectively responsible for their own costs, expenses, and fees. In no event shall the losing party pay the prevailing party's attorneys fees, costs and expenses. "Legal action" shall include matters subject to arbitration and appeals.
12. Insurance: The County and the City each agree to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.
13. Amendment: The terms of this Agreement may be amended by mutual agreement of the parties. Any amendment must be in writing, must refer specifically to this Agreement, and shall become effective only when executed by the County and the City.
14. No Third Parties: The County and the City are the only parties to this Agreement and are the only entities entitled to enforce its terms.
15. Relationship: The County and the City are independent of each other. The County and the City are not in an agency relationship. The City has no control over the work done by the County or the manner in which it is performed. Neither the County nor the City, or their officers, employees, or agents, may participate in each other's pension plan, insurance, bonus, or similar benefits or programs.
16. Entire Agreement: The Agreement constitutes the entire agreement between the parties.
17. Severability: If any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of its remaining provisions shall not in any way be affected or impaired.

By signature below, the County and the City certify that the individuals presented are representatives of their respective bodies and are authorized to act in the matters set out in this Agreement, and execute this Agreement by the dates set forth below.

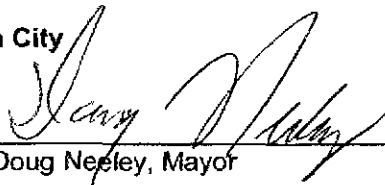
CLACKAMAS COUNTY, OREGON

By: _____
John Ludlow, Chair

BOARD OF COUNTY COMMISSIONERS


Recording Secretary

Date: _____, 2013

Oregon City
By: 

Doug Neeley, Mayor

OREGON CITY, OREGON



Recorder

Date: 04-03, 2013

MEMORANDUM OF UNDERSTANDING

Willamette Falls Legacy Project

This Memorandum of Understanding (“MOU”), entered into May 16, 2013, is by and among The State of Oregon, through its Portland Metro Regional Solutions Office and its Parks and Recreation Department (together, the “State”), The City of Oregon City (“Oregon City”), Clackamas County (the “County”), and Metro (“Metro”) (each, a “Party” and collectively, the “Parties”).

RECITALS

A. Since the former Blue Heron Paper Company, located at 419/427 Main Street, Oregon City, Oregon (the “Property”), closed its doors, the Parties have been investigating the Property’s potential to support a public project that would bring public access to Willamette Falls, spur economic redevelopment in Oregon City, restore habitat along the Willamette River, and provide cultural and historic interpretation of the site to the people of Oregon.

B. Metro has performed extensive due diligence of the property, including environmental due diligence, analysis of the structural and historic integrity of the buildings on the property, and investigation into the holding costs for the site.

C. Oregon City, with the support of the County and the bankruptcy trustee, has now launched a large-scale master planning, visioning, and stakeholder involvement process that aims to engage the public over the future of the Property, in order to produce a high-level concept plan and achieve a rezoning of the site.

D. The Parties continue to work to create a public project on the Property (the “Project”), and the Governor of the State of Oregon has proposed the sale of lottery-backed bonds to support this effort.

This MOU is not binding or legally enforceable, imposes no enforceable obligations upon the Parties, and does not grant any rights. Instead, the Parties intend to use this MOU to solidify the Parties’ understandings regarding these bonds, which understandings are set forth below:

1. The funds, in the amount of Five Million Dollars (\$5,000,000) plus an amount to cover service of the bonds are anticipated to be provided through the Oregon Parks and Recreation Department.

2. The State will sell lottery-backed bonds to provide a net \$5 million to a local/regional entity (the County, Oregon City, or Metro) which entity, in partnership, will spend the funds raised from the sale of the bonds (the “Bond Funds”).

3. Provision of the Bond Funds by the State is contingent upon the local/regional entity securing a significant match. It is understood by all Parties that before issuing the bonds, the State will need to review and approve a Project and financing plan that lays out a course of action to secure the funds necessary for site stabilization, selective demolition and infrastructure development, and over time, provide the public access to Willamette Falls. It is acknowledged by

the local partners that the State is not the primary funder of the Project. As the master plan is completed and the vision for the Property defined, the local partners will demonstrate their ability to stage the Project and raise the necessary funds for each phase from any number of sources, which may include city, county and regional governments, federal agencies, grants, donations and private investment.

4. The local/regional partnership will develop and maintain a Project plan for the expenditure of the Bond Funds and submit the plan for concurrence by the State prior to the sale of the bonds.

5. Any calculation of match for the Bond Funds shall be comprised of cash or contracted services that are called for in the Project plan, and shall not include staff time or administrative costs of the local/regional partners; in-kind donations; or donations, gifts, or expenditures made prior to the date of this MOU.

6. The financing plan for the Project must be completed, reviewed and approved by the Governor's representative from the Portland Metro Regional Solutions Center by March 2015, to ensure sale of the bonds by May 2015. The local/regional entity shall communicate closely with the Regional Solutions Center throughout the master planning process, and shall share the financing plan with them as it is being developed.

7. The state, local and regional partners shall enter into a written agreement to memorialize the terms of the partnership, purposes and allowable uses of the Bond Funds, procedures for accounting for use of the Bond Funds, and administration of the agreement. Signatories for the state shall include the Governor's Office (Regional Solutions Center), Department of Administrative Services, and the State Parks and Recreation Department. The State Parks and Recreation Department will be the state entity responsible for administering the agreement.

8. Nothing in this MOU is to imply that the State Parks and Recreation Department will become an owner, operator, or provider of services on the Willamette Falls site except as may be negotiated outside of this MOU and with full approval of the State Parks and Recreation Commission. The department may continue to provide technical and planning assistance and advice through its Community Grants and Heritage Division, as funds and staff are available.

9. Bond Funds may only be used for demolition, site and environmental clean-up, security of the site, public access improvements, infrastructure improvements and stormwater management.

10. The Parties will make representatives available to assist in support of this Project before the legislative budget committee.

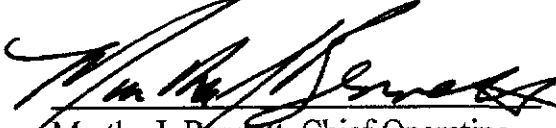
[Signatures follow on next page.]

CITY OF OREGON CITY



David Frasher, City Manager

METRO




Martha J. Bennett, Chief Operating
Officer

CLACKAMAS COUNTY



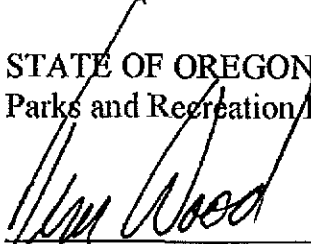
Steve Wheeler, County Administrator

STATE OF OREGON, through its Portland
Metro Regional Solutions Office



Bobby Lee, Director

STATE OF OREGON, through its
Parks and Recreation Department



Tim Wood, Director