



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 12, 2024

BCC Agenda Date/ Item: _____

Board of County Commissioners
Clackamas County

Approval of a Supplemental Project Authorization with the Oregon Department of Transportation for the Conway Creek at Aschoff Road culvert replacement. Total agreement value is \$1,862,900. Funding is through the US Department of Transportation Culvert Aquatic Organism Passage Program and County Road Funds. No County General Funds are involved.

Previous Board Action/Review	2/02/23: BCC Approval to apply for a grant through the National Culvert Removal, Replacement, and Restoration Grant Program (Culvert Aquatic Organism Passage Program) for the replacement of two culverts at Conway Creek under Aschoff Road in Rhododendron. 9/10/24: Request for consent		
Performance Clackamas	The project will build a strong infrastructure		
Counsel Review	08/29/24: HH	Procurement Review	No
Contact Person	Joel Howie	Contact Phone	503-742-4658

EXECUTIVE SUMMARY: This is a project agreement between Clackamas County and the Oregon Department of Transportation (ODOT) for preliminary engineering, right of way, and construction phases of work to replace the existing 40-inch diameter corrugated metal and 36-inch diameter concrete culverts that convey Conway Creek under Aschoff Road in Rhododendron with a precast, prestressed modular bridge. The existing culverts are dated, undersized, prone to over-topping, and are a partial fish-passage barrier under certain flow regimes. The over-topping events require cleanup and restoration actions by County Transportation Maintenance crews on a continual basis. The project will restore the creek channel to a natural state that will meet full fish passage requirements.

Clackamas County applied for and obtained a grant through the US Department of Transportation Federal Fiscal Year 2022 National Culvert Removal, Replacement, and

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Restoration Grant Program (Culvert Aquation Organism Passage (AOP) Program. The County will complete the work as a Supplemental Project under the County's Local Agency Certification Program Agreement No. 73000-00029343 with ODOT. The project will be funded with \$1,490,320.00 from the AOP Program (80%) and \$372,580 by County Road Fund (20% match). The overall project cost is \$1,862,900.00.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners sign the attached Supplemental Project Authorization No. 73000-00029343:1 with the Oregon Department of Transportation for the for the Conway Creek at Aschoff Rd culvert replacement.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development

A168-G030424

Oregon Department of Transportation
 LOCAL AGENCY CERTIFICATION PROGRAM
 Supplemental Project Authorization No. **73000-00029343:1**

Under the authority of Certification Program Agreement No. 73000-00029343 (“Program Agreement”) between the **Oregon Department of Transportation** (“State” or “ODOT”) and **Clackamas County** (“Certified Agency”), dated 07/17/2024, which is hereby incorporated by reference, the Parties agree to Certified Agency delivering the “Project” shown on the Project Details Table in Section A below (“Project”) as agreed to herein.

A. PROJECT DETAILS TABLE

SPA NUMBER	#1
Project Key Number:	23578
Project Name:	Conway Creek at Aschoff Rd culvert replacement
Project Description:	Design and construction to replace existing culverts carrying Conway Creek under Aschoff Road in Rhododendron, Oregon in Clackamas County.
Funding Award Program:	Funds have been awarded under the USDOT FFY22 Culvert Aquatic Organism Passage (AOP) Program and will be applied in accordance with Paragraph V.3.f of the Program Agreement.
Project End Date:	Certified Agency must complete the Project by: 12/31/2034
Project Location and Jurisdiction:	Conway Creek at Aschoff Rd culvert is a part of Certified Agency’s road system under the jurisdiction and control of Certified Agency.
FUNDING DETAILS	
Certified Agency’s Unique Entity Identifier:	NVWKAVB8JND6
Certified Agency to report executive compensation information per Federal Transparency Act (see Exhibit B):	No
Award is for Research and Development (R&D) as defined in 2 CFR 200.1:	No
Certified Agency Indirect Cost Rate(s):	31.99%
Pro-rated Federal Share Percentage:	80%
Certified Agency Required Match Percentage:	20%
Federal Funds:	\$1,490,320
State Funds:	\$0
Certified Agency Funds:	\$372,580
Other Funds:	\$0
Approved In-kind Contribution:	\$0
Total Project Cost	\$1,862,900
INFORMATIONAL DETAILS	
ODOT’s preliminary estimated costs for oversight and other ODOT services for Project phases covered by this Supplemental Project Authorization, applied in accordance with Section B, Paragraph 3 below:	\$100,000

APPLICABLE PROVISIONS		
Standard Provisions: The following exhibits to the Program Agreement apply to this Project if marked “Yes” below (“No” indicates the exhibit does not apply to this Project).		
Yes/No	Exhibit #	Description
Yes	Exhibit B:	Standard Provisions: Federal Transparency Act Subaward Reporting
Yes	Exhibit C:	Standard Provisions: Contract Insurance
Yes	Exhibit D:	Standard Provisions: Americans with Disabilities Act Compliance
Yes	Exhibit E:	Standard Provisions: Local Bridge Projects
Yes	Exhibit F:	Standard Provisions: Right of Way Services
Special Provisions: The following attachment(s) to the Program Agreement apply(ies) to this Project if marked “Yes” below (“N.A.” indicates “not applicable”).		
Yes/N.A.	Attachment #	Description
Yes	Attachment 1:	Project Vicinity Map
N.A.	Attachment 2:	N.A.
Yes.	Also, see Section B, Paragraph 8 for Project-specific modifications to the Program Agreement that apply to this Project.	

B. SUPPLEMENTAL PROJECT AUTHORIZATION TERMS

1. **Applicable Provisions:** Except as otherwise modified by the terms of this Supplemental Project Authorization, the Project is subject to the terms and conditions of the Program Agreement, including the Standard Provisions and Special Provisions specified in the Project Details Table above, which are incorporated into this Supplemental Project Authorization by reference as though fully set forth herein.
2. **Scope:** The Project includes preliminary engineering, right of way, and construction phases of work needed to replace existing culverts carrying Conway Creek under Aschoff Road in Rhododendron, Oregon as shown on Attachment 1 – Project Vicinity Map. Existing culverts will be replaced by an open-bottom precast modular bridge.
3. **ODOT Costs:** The Parties agree that ODOT will perform risk-based Project oversight in accordance with the Program Agreement. A preliminary estimate for the cost of ODOT’s work is shown above in the Project Details Table under Informational Details. The Parties agree that ODOT services to be performed in excess of this preliminary estimate shall be addressed as provided in Paragraph V.3 Subsection g. of the Program Agreement. Certified Agency understands that ODOT’s costs are estimates only and Certified Agency agrees to pay ODOT’s actual costs incurred per the Terms of this Supplemental Project Authorization. On a quarterly basis, ODOT will provide Certified Agency a statement of costs expended by ODOT.
4. **Funding:** A combination of federal, state, and local funds may be expended on the Project as detailed in the Project Details Table above, subject to the limitations and obligations set forth in the Program Agreement and this Supplemental Project Authorization. Federal and State funds for a

project shall be limited to the amount shown in the Funding Details section of the Project Details Table above.

- a. Certified Agency guarantees the availability of Certified Agency funding in an amount required to fully fund Certified Agency's share of the Total Project Costs, as shown in the Project Details Table, and in accordance with the Funding provisions in Paragraph V.3 of the Program Agreement.
 - b. Certified Agency understands and agrees that federal funding for this Project is contingent upon FHWA's approval of each funding request. Any work performed outside the period of performance approved by FHWA or outside the Project Scope will be considered non-participating and paid for at Certified Agency expense.
 - c. ODOT will submit requests for federal funding authorizations to FHWA by Project phase. The ODOT Project Contact or designee will provide Certified Agency with a written notice to proceed for each Project phase when FHWA approval has been secured and funds are available for expenditure on the Project.
 - d. With the notice to proceed, ODOT will provide Certified Agency with a copy of the USDOT FHWA Federal Aid Project Agreement between ODOT and FHWA for this Project, which contains the information required of pass-through entities by 2 CFR 200.332(a)(1).
5. Invoicing: Certified Agency shall submit invoices for Project progress billings in accordance with the invoicing provisions in Paragraph V.5 of the Program Agreement.
6. Period of Performance:
- a. Begin and End Dates: The Project period of performance begins when both the initial FHWA Project authorization has been received by ODOT and a notice to proceed for the first phase of the Project has been issued by the ODOT Project Contact. The Project period of performance ends on the Project End Date shown in the Project Details Table. All Project work must be completed within the period of performance.
 - b. Project End Date Changes: The Project End Date may be changed upon written approval by the ODOT Project Contact, which shall be incorporated by reference into this Supplemental Project Authorization. To extend the Project End Date, Certified Agency shall submit a written request to the ODOT Project Contact as soon as Certified Agency becomes aware that a schedule change is necessary, but no less than sixty (60) calendar days prior to the authorized Project End Date. The ODOT Project Contact will coordinate with ODOT Program and Funding Services to seek authorization from FHWA prior to approving the extension request. FHWA authorization for extensions is not guaranteed. Any work performed outside the period of performance authorized by FHWA will be nonparticipating and paid for at Certified Agency expense.
7. Project Useful Life: The useful life of the Project is 75 years.
8. Project-Specific Modifications: For purposes of this Project only, the Parties agree to the following modifications to the terms of the Program Agreement:

Exhibit E - Local Bridge Program Requirements: Exhibit E of the Program Agreement is supplemented by the following, additional Project-specific Special Provisions:

- a. The requirements of subsection 1.b of Exhibit E applies to the Project. Certified Agency's approved qualified staff is Joel Howie, P.E., a Qualified Agency Project Manager in accordance with the [Qualifications and Coordination Requirements for Certified LPA not Certified in Bridge Design](#) policy, per Section C, Chapter 14 of the LAG Manual. Any change to Agency's qualified staff is subject to State's review and written approval.
- b. Certified Agency shall submit, and ODOT's Local Bridge Section will review, the consultant services contract, cost proposal, and design acceptance package in coordination with the ODOT Project Contact.

C. PROJECT CONTACTS, SIGNATURE AUTHORITIES, COUNTERPARTS, ACKNOWLEDGEMENT

1. Each Party's Project Contact is shown on the signature page of this Supplemental Project Authorization. Each Party agrees to notify the other Party in writing of any contact information changes during the term of this Supplemental Project Authorization.
2. Each Party certifies and represents that the individuals signing this Supplemental Project Authorization have been authorized to enter into and execute this Supplemental Project Authorization on behalf of the Party under the direction or approval of its governing body, commission, board, officers, members, or representatives, and to legally bind the Party.
3. This Supplemental Project Authorization may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Supplemental Project Authorization so executed shall constitute an original. The Parties may use Electronic Signatures in accordance with Paragraph VII.15. of the Program Agreement.
4. This Project is in the 2024-2027 Statewide Transportation Improvement Program, (Key No. 23578) that was approved by the Oregon Transportation Commission on July 13, 2023 (or subsequently approved by amendment to the STIP).
5. Certified Agency Acknowledgement:

Certified Agency's signing representatives certify that by initialing here, and signing this Supplemental Project Authorization, they have read the Program Agreement, including the following exhibits that apply to this Supplemental Project Authorization: Exhibit B (Federal Transparency Act), Exhibit C (Contract Insurance), and / , Exhibit D (ADA), and / , Exhibit E (Local Bridge Program), and Exhibit F (Right of Way Services).

Certified Agency (Initial here.)

Signature Page to Follow

THE PARTIES, by execution of this Supplemental Project Authorization, hereby acknowledge that their signing representatives have read this Supplemental Project Authorization, understand it, and agree to be bound by its terms and conditions.

CLACKAMAS, acting by and through its elected officials

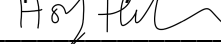
By _____

Title _____

Date _____

LEGAL REVIEW APPROVAL

(If required by Certified Agency's process)

By  _____

Certified Agency Legal Counsel

Date 8/28/24 _____

Certified Agency Project Contact:

Joel Howie, PE

503-742-4658

JHowie@clackamas.us

ODOT Project Contact:

Mahasti Hastings, 123 NW Flanders St,
Portland, OR 97209, 971-264-8253,

Mahasti.v.hastings@odot.oregon.gov

STATE OF OREGON, acting by and through its Department of Transportation

By _____

Delivery and Operations Division

Administrator

Date _____

By _____

State Right of Way Manager

Date _____

APPROVAL RECOMMENDED

By _____

Certification Program Manager

Date _____

By _____

Region 1 Manager

Date _____

By _____

State Traffic Roadway Engineer

Date _____

By _____

State Bridge Engineer

Date _____

By _____

Region 1 Right of Way Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By Jennifer O'Brien

Assistant Attorney General

Date via email on 08/22/2024

Attachment 1 Project Vicinity Map

