



DAN JOHNSON
DIRECTOR

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

December 10, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property for the South End Road at Milepost 3.8 Project and Authorizing Good Faith Negotiations and Condemnation Actions

Purpose/Outcomes	Under ORS 35 and the federal Uniform Act, a local government agency is authorized to declare by resolution or ordinance the necessity and the purpose for which the project is required by enacting a Resolution of Necessity prior to initiating acquisition of the easements or other property rights needed from abutters to the project
Dollar Amount and Fiscal Impact	The right of way budget for the project is estimated to be \$88,891.92 (\$79,762.72 from Federal Emergency Relief Program (ERP) and \$9,129.20 from County Road Funds). The total amount estimated for this project is \$2,740,000.
Funding Source	\$2,458,602 in Federal ERP and \$281,398 in County Road Funds will be utilized for this project.
Duration	The Resolution remains active throughout the project's duration and terminates upon completion of the project or when all litigation associated with the project is concluded.
Previous Board Action	11/25/20: BCC Approval of an Intergovernmental Agreement with the Oregon Department of Transportation for Right of Way Services for the South End Road at Milepost 3.8 Project 01/01/17: BCC Approval of Master Certification Agreement No. 30923 for County implementation of federally funded projects 08/16/18: BCC Approval of Supplemental Project Agreement No. 32607 for 2017 Emergency Relief Program Project Funding 05/16/19: Approval of a Contract with David Evans and Associates, Inc. for the South End Road at Milepost 3.8
Strategic Plan Alignment	1. How does this item align with your department's Strategic Business Plan goals? This item supports the DTD Strategic Focus on Safe Roads and Strategic Result of "Travelers on Clackamas County roads will experience roads in good condition." 2. How does this item align with the County's Performance Clackamas goals? This item aligns with "Build a Strong Infrastructure" by constructing retaining walls to mitigate slope instability.
Counsel Review	Reviewed Date: Approved 11/24/20 SC
Procurement Review:	1. <i>Was the item processed through Procurement?</i> yes <input type="checkbox"/> no <input checked="" type="checkbox"/>

	2. If no, provide brief explanation: This item is a resolution of necessity, required under ORS 35 as a precursor in support of possible condemnation action.
Contact Person	Sharan LaDuca, Sr. Right of Way Agent 503-742-4675

Background:

Clackamas County obtained Federal Emergency Relief Program (ERP) funds to stabilize the roadway and slope on South End Road at Milepost 3.8. The road was damaged in March of 2017 as a result of heavy rains that occurred during the spring of 2017. It is anticipated that the permanent solution will consist of construction of two retaining walls approximately 800 feet in total length.

In order to construct the improvements as designed, additional rights of way and easements will be required. The project is expected to impact four residential properties abutting the project alignment. The Board has authority to exercise the power of eminent domain under ORS Chapter 35 to acquire rights of way, easements, and fee property by purchase or condemnation proceedings. In accordance with the procedure set forth in that statute, a Resolution of Necessity is required before offers are made for needed rights of way and easements.

The project design team has collected and analyzed data sufficient to choose an alternative and advance the design of the project. The project has been planned and located in a manner which is most compatible with the greatest public good and which causes the least private injury. The design has progressed through the Department of Transportation and Development (the "Department") project development procedures and the final legal descriptions required for acquisition of the needed rights of way and easements from four properties affected by the Project have been developed.

The Department shall negotiate in good faith and accordance with all applicable laws, rules, and regulations in an attempt to reach agreement as to the amount of Just Compensation owed each affected property owner. To fairly determine the amount of Just Compensation, staff will utilize the expertise of authorized real estate appraisers and other such experts.

This resolution directs Department staff to proceed with good faith negotiations for the acquisition of the needed property rights and to utilize the expertise of authorized real estate appraisers and other such experts to assist in the acquisition process. The resolution further requires the Director of the Department to notify the Board if the exercise of the power of eminent domain becomes necessary in order to acquire the needed property rights. Only after this process is completed does it authorize the Office of County Counsel to file a Condemnation Action.

Recommendation:

Staff respectfully recommends that the Board of County Commissioners approve the Resolution of Necessity and Purpose authorizing the acquisition of necessary rights of way, easements, and fee property by good faith negotiation if possible, or condemnation, if necessary.

Sincerely,

Sharan LaDuca

Sharan LaDuca,
Senior Right of Way Agent

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions for the South End Road at Milepost 3.8 Project



Resolution No. _____
Page 1 of 2

This matter comes before the Board of County Commissioners of Clackamas County, Oregon (the "Board") at its regularly scheduled meeting on December 10, 2020 and,

It appearing to the Board that the South End Road at Milepost 3.8 Project (the "Project") will construct two retaining walls to stabilize the existing roadway; is consistent with the powers and purposes of County government; and is necessary for public use and the continued growth, safety and welfare of the community; and,

It further appearing to the Board that the Project has been planned in accordance with appropriate standards for the improvement of transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded; and

It further appearing to the Board that the Project has been planned and located in a manner which is most compatible with the greatest public good and causes the least private injury; and,

It further appearing to the Board that rights of way, and easements within the boundaries described in the attached Exhibit "A-3", "B-3", "A-4", "B-4", "A-6", "B-6", "A-7", and "B-7" (the "Exhibits") are a necessary part of the Project, consistent with the powers and purposes of County government, and necessary for the continued growth, safety and welfare of the community; and,

It further appearing that the Board has authority under ORS Chapter 203 and ORS Chapter 35 to acquire rights of way, easements, and fee property by good faith negotiation, agreement, and purchase or by exercise of the power of eminent domain with condemnation proceedings; and

It further appearing that the Board has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board declares it necessary and in the public interest that the County Department of Transportation and Development (the "Department"), in connection with this Project, begin the acquisition process, in accordance with all applicable laws, rules, and regulations governing such process, for the necessary rights of way, easements, and fee property, either through good faith negotiation, agreement, and purchase, or, if necessary, by commencement of condemnation proceedings.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions for the South End Road at Milepost 3.8 Project



Resolution No. _____
Page 2 of 2

IT IS FURTHER RESOLVED THAT:

1) The Department be authorized to, in good faith, attempt to negotiate agreements of just compensation with owners of affected property identified in the Exhibits. In so doing, the Department is authorized to retain real estate appraisers, negotiators, and other such experts deemed necessary to assist staff with the acquisition process; and,

2). If the Director of the Department (the "Director") determines that changes to the design of the Project, unanticipated field conditions, or the need to accommodate uneconomic remnants makes it necessary or desirable to modify the rights of way, easements, and fee property required for the Project, the Director shall promptly bring before the Board, and the Board shall promptly consider a resolution amending the Exhibits; and,

3). It is the intention of the Board that the required rights of way, easements, and fee property be obtained through good faith negotiation. The Board acknowledges that the exercise of the power of eminent domain may be necessary. The Director of the Department shall inform the Board when the Director deems eminent domain necessary. Thereafter, the Office of County Counsel is authorized to file complaints of condemnation with the circuit court of the County and take such other steps as it determines necessary for the immediate possession of required rights of way, easements, and fee property and the successful litigation of the condemnation action, including the retention of real estate appraisers, experts, and other consultants deemed necessary to the successful conclusion of that litigation.

Dated this _____ day of _____, 2020.

Jim Bernard, Chair

Recording Secretary

Parcel 1 – Temporary Construction Easement

A parcel of land lying in the NW1/4NW1/4 of Section 6, Township 3 South, Range 2 East W.M., Clackamas County, Oregon; said parcel being a portion of that property described in that Personal Representative’s Deed to John S. Smets and Marijane J. Smets, recorded December 7, 1990 as Document Number 90-60543 of the Clackamas County Records; said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of the relocated South End Road, which center line is described as follows:

Beginning at Engineer’s Center line Station 6+10.30, said station being 1497.03 feet North and 53.26 feet West of the Re-Entrant corner of the Absalom F. Hedges Donation Land Claim No. 40, in the Southeast quarter of Section 1, Township 3 South, Range 1 East, W.M.; thence North 00°47’47” West, a distance of 389.70 feet; thence on a 190.99 foot radius curve right (the long chord of which bears North 28°18’21” East, a distance of 185.78 feet) 194.01 feet; thence North 57°24’29” East 113.85 feet; thence on a 1909.72 foot radius curve right (the long chord of which bears North 61°59’28” East, a distance of 305.19 feet) 305.52 feet; thence North 66°34’26” East 315.61 feet; thence on a 1145.92 foot radius curve left (the long chord of which bears North 61°44’26” East, a distance of 193.10 feet) 193.33 feet; thence North 56°54’26” East 155.18 feet; thence on a 1112.00 foot radius curve right (the long chord of which bears North 64°11’13” East, a distance of 281.81 feet) 282.57 feet; thence North 71°28’00” East 39.63 feet; thence on a 216.36 foot radius curve left (the long chord of which bears North 45°08’57” East, a distance of 191.84 feet) 198.76 feet; thence North 18°49’54” East 20.78 feet; thence on a 770.00 foot radius curve left (the long chord of which bears North 14°33’42” East, a distance of 114.66 feet) 114.77 feet; thence North 10°17’30” East 292.85 feet; thence on a 370.00 foot radius curve left (the long chord of which bears North 02°33’32” East, a distance of 99.57 feet) 99.87 feet to a point of compound curvature; thence on a 225.00 foot radius curve left (the long chord of which bears North 12°51’52” West, a distance of 60.22 feet) 60.40 feet to Engineer’s Center line Station 33+87.15.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Northerly Side of Center Line
24+43.80		25+60.08	45.50 feet
25+60.08		26+99.74	43.40 feet

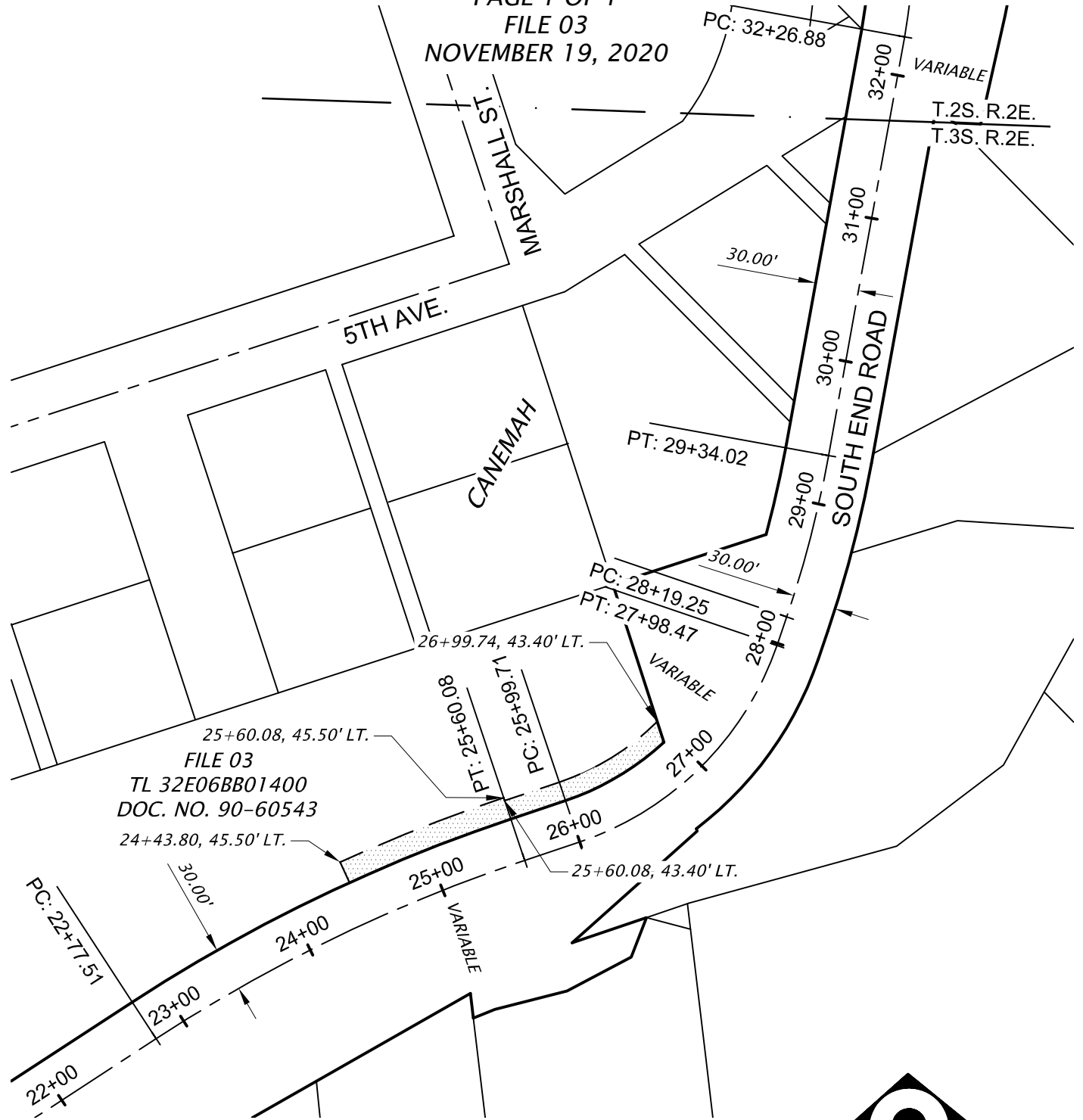
A-3
Page 2 of 2
File 03
November 19, 2020

Bearings are based on the Oregon Coordinate Reference System, Portland Zone, NAD 83 (2011) epoch 2010.00.

This parcel of land contains 3,462 square feet, more or less, outside the existing right of way.

\\DEA\INC.COM\FILES\PROJECT\C\CLKX00000044\0400CAD\EXHIBITS\SV\SV-EM-01-CLKX0044.DWG Tuesday, November 10, 2020 11:09:17 AM

EXHIBIT "B-3"
PAGE 1 OF 1
FILE 03
NOVEMBER 19, 2020

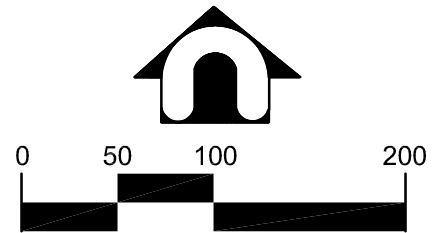


FILE 03
TL 32E06BB01400
DOC. NO. 90-60543

LEGEND:



PARCEL 1: TEMPORARY CONSTRUCTION EASEMENT
3,462 SQ. FT. ± (0.079 AC. ±)



SOUTH END ROAD AT MP 3.8, PROJECT NO. 22270



**DAVID EVANS
AND ASSOCIATES INC.**

2100 S River Parkway, Suite 100
Portland Oregon 97201
Phone: 503.223.6663

Parcel 1 - Temporary Construction Easement

A parcel of land lying in the NW1/4NW1/4 of Section 6, Township 3 South, Range 2 East W.M., Clackamas County, Oregon; said parcel being a portion of that property described in that Statutory Warranty Deed to Crystal P. Field, recorded July 16, 2018 as Document Number 2018-043937 of the Clackamas County Records; said parcel being that portion of said property included in a strip of land 41.00 feet in width, lying on the Westerly side of the center line of the relocated South End Road, which center line is described as follows:

Beginning at Engineer's Center line Station 6+10.30, said station being 1497.03 feet North and 53.26 feet West of the Re-Entrant corner of the Absalom F. Hedges Donation Land Claim No. 40, in the Southeast quarter of Section 1, Township 3 South, Range 1 East, W.M.; thence North 00°47'47" West, a distance of 389.70 feet; thence on a 190.99 foot radius curve right (the long chord of which bears North 28°18'21" East, a distance of 185.78 feet) 194.01 feet; thence North 57°24'29" East 113.85 feet; thence on a 1909.72 foot radius curve right (the long chord of which bears North 61°59'28" East, a distance of 305.19 feet) 305.52 feet; thence North 66°34'26" East 315.61 feet; thence on a 1145.92 foot radius curve left (the long chord of which bears North 61°44'26" East, a distance of 193.10 feet) 193.33 feet; thence North 56°54'26" East 155.18 feet; thence on a 1112.00 foot radius curve right (the long chord of which bears North 64°11'13" East, a distance of 281.81 feet) 282.57 feet; thence North 71°28'00" East 39.63 feet; thence on a 216.36 foot radius curve left (the long chord of which bears North 45°08'57" East, a distance of 191.84 feet) 198.76 feet; thence North 18°49'54" East 20.78 feet; thence on a 770.00 foot radius curve left (the long chord of which bears North 14°33'42" East, a distance of 114.66 feet) 114.77 feet; thence North 10°17'30" East 292.85 feet; thence on a 370.00 foot radius curve left (the long chord of which bears North 02°33'32" East, a distance of 99.57 feet) 99.87 feet to a point of compound curvature; thence on a 225.00 foot radius curve left (the long chord of which bears North 12°51'52" West, a distance of 60.22 feet) 60.40 feet to Engineer's Center line Station 33+87.15.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
28+62.74		29+45.62	41.00 feet

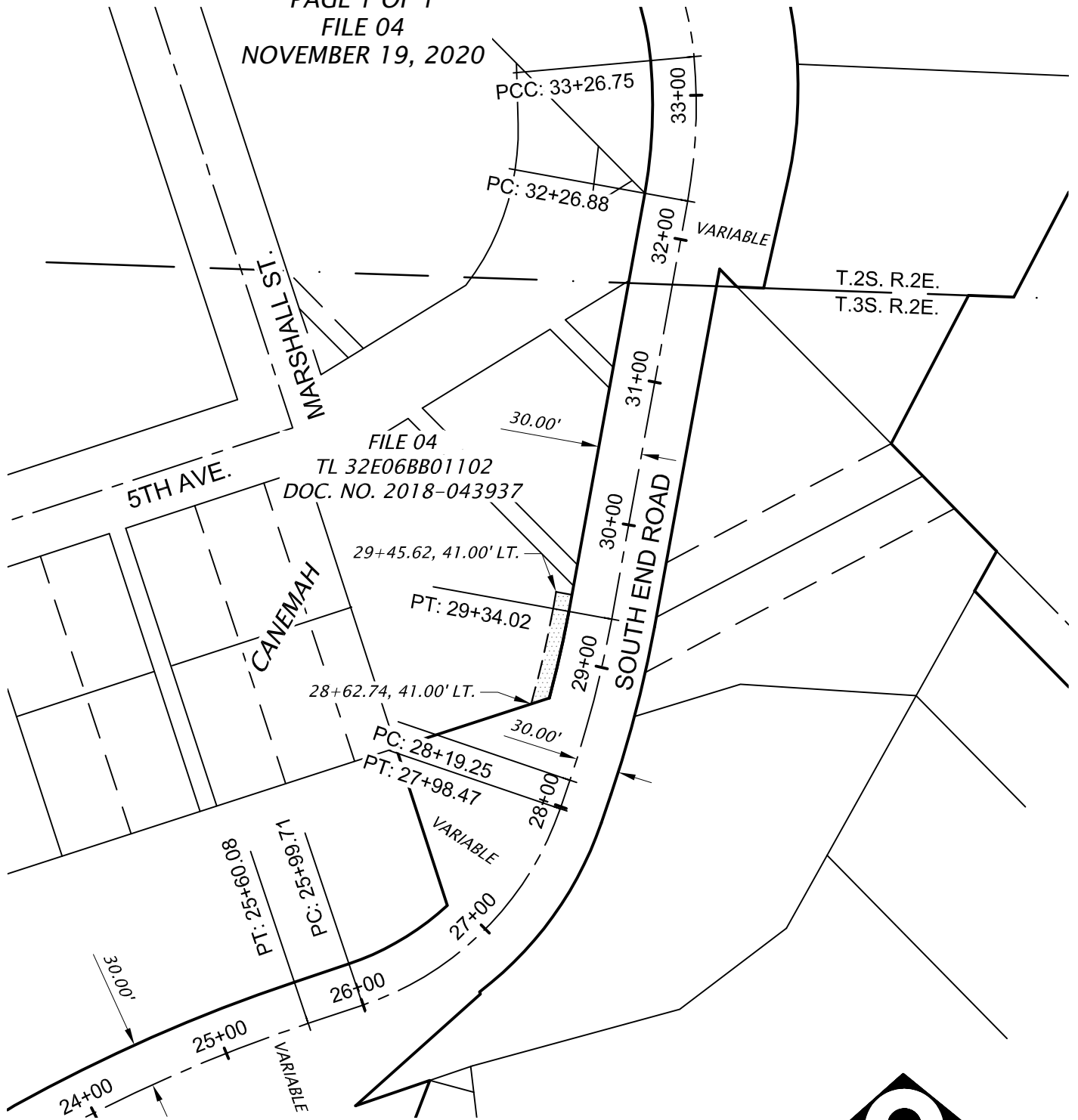
A-4
Page 2 of 2
File 04
November 19, 2020

Bearings are based on the Oregon Coordinate Reference System, Portland Zone, NAD 83 (2011) epoch 2010.00.

This parcel of land contains 835 square feet, more or less, outside the existing right of way.

EXHIBIT "B-4"
 PAGE 1 OF 1
 FILE 04
 NOVEMBER 19, 2020

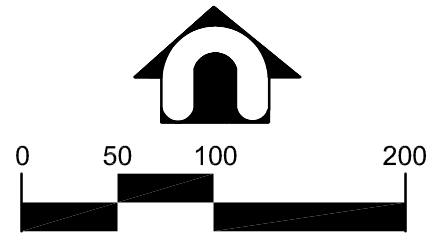
\\DEAINC.COM\FILES\PROJECT\C\CLKX00000044\0400CAD\EXHIBITS\SV\SV-EM-02-CLKX0044.DWG Tuesday, November 10, 2020 11:16:35 AM



LEGEND:



PARCEL 1: TEMPORARY CONSTRUCTION EASEMENT
 835 SQ. FT. ± (0.019 AC. ±)



SOUTH END ROAD AT MP 3.8, PROJECT NO. 22270



DAVID EVANS AND ASSOCIATES INC.

2100 S River Parkway, Suite 100
 Portland Oregon 97201
 Phone: 503.223.6663

Parcel 1 – Subterranean Easement

A parcel of land lying in Parcel 2 of Partition Plat No. 1994-009, Clackamas County, Oregon, and being a portion of that property described in that Statutory Warranty Deed to Curtis Michael Spain and Marlene E. Spain, recorded July 15, 1994 as Document Number 94-057448 of Clackamas County Records; said parcel being that portion of said property included in a strip of land variable in width, lying on the Easterly side of the center line of the relocated South End Road, said parcel being that portion of said property lying Westerly of the following described line:

Beginning at a point opposite and 48.72 feet Easterly of Engineer's Station 28+70.00 on the center line of the relocated South End Road; thence on a 908.81 foot radius curve left, the radius point bears North 74°57'19" West, (the long chord of which bears North 12°47'51" East, a distance of 71.27 feet) 71.29 feet to a point opposite and 49.01 feet Easterly of Engineer's Station 29+37.25 on said center line; thence Northerly in a straight line to a point opposite and 49.16 feet Easterly of Engineer's Station 29+70.00 on said center line.

The center line of the relocated South End Road, is described as follows:

Beginning at Engineer's Center line Station 6+10.30, said station being 1497.03 feet North and 53.26 feet West of the Re-Entrant corner of the Absalom F. Hedges Donation Land Claim No. 40, in the Southeast quarter of Section 1, Township 3 South, Range 1 East, W.M.; thence North 00°47'47" West, a distance of 389.70 feet; thence on a 190.99 foot radius curve right (the long chord of which bears North 28°18'21" East, a distance of 185.78 feet) 194.01 feet; thence North 57°24'29" East 113.85 feet; thence on a 1909.72 foot radius curve right (the long chord of which bears North 61°59'28" East, a distance of 305.19 feet) 305.52 feet; thence North 66°34'26" East 315.61 feet; thence on a 1145.92 foot radius curve left (the long chord of which bears North 61°44'26" East, a distance of 193.10 feet) 193.33 feet; thence North 56°54'26" East 155.18 feet; thence on a 1112.00 foot radius curve right (the long chord of which bears North 64°11'13" East, a distance of 281.81 feet) 282.57 feet; thence North 71°28'00" East 39.63 feet; thence on a 216.36 foot radius curve left (the long chord of which bears North 45°08'57" East, a distance of 191.84 feet) 198.76 feet; thence North 18°49'54" East 20.78 feet; thence on a 770.00 foot radius curve left (the long chord of which bears North 14°33'42" East, a distance of 114.66 feet) 114.77 feet; thence North 10°17'30" East 292.85 feet; thence on a 370.00 foot radius curve left (the long chord of which bears North 02°33'32" East, a distance of 99.57 feet) 99.87 feet to a point of compound curvature; thence on a 225.00 foot radius curve left (the

A-6
Page 2 of 2
File 06
November 19, 2020

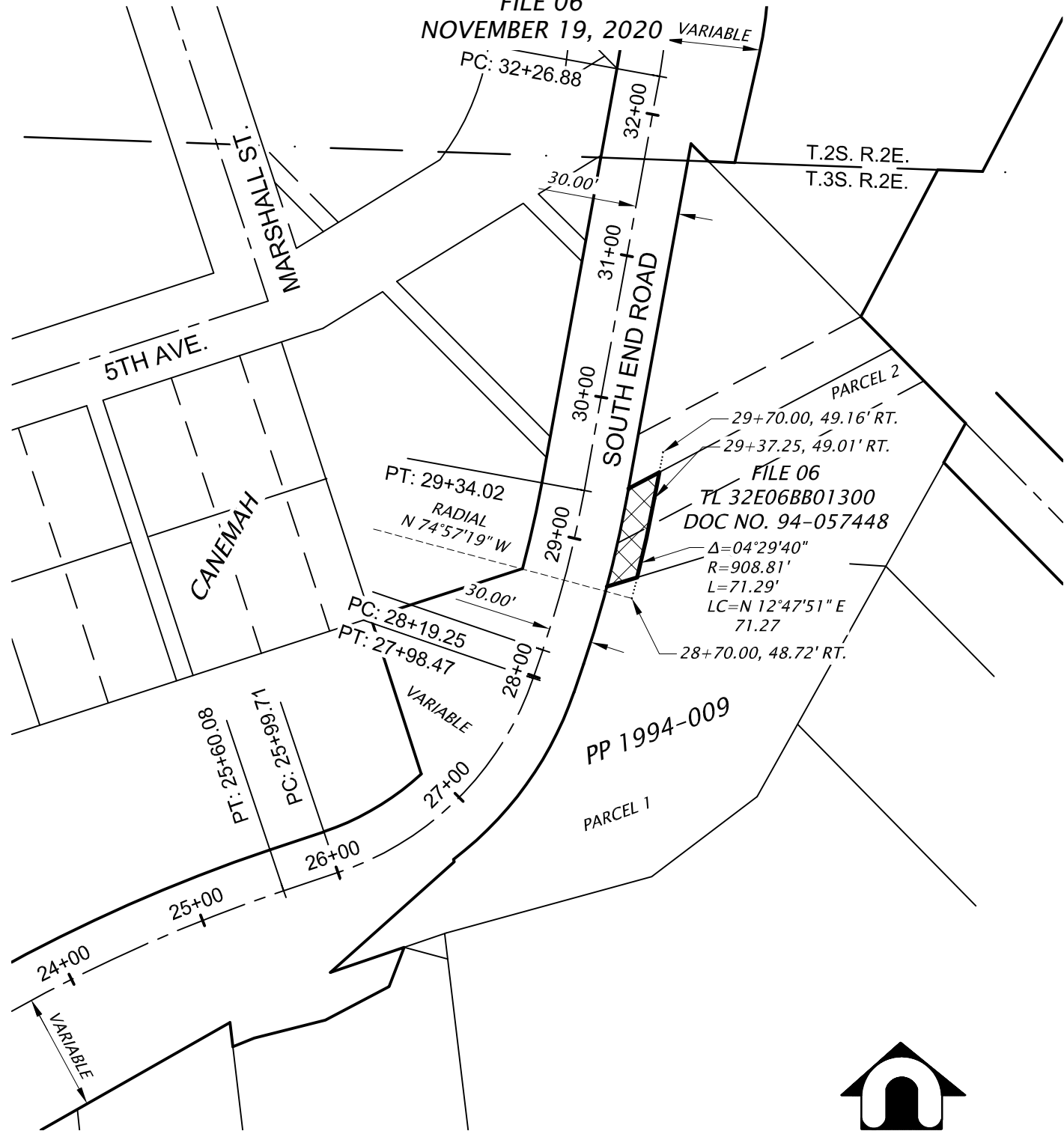
long chord of which bears North 12°51'52" West, a distance of 60.22 feet) 60.40 feet to Engineer's Center line Station 33+87.15.

Bearings are based on the Oregon Coordinate Reference System, Portland Zone, NAD 83 (2011) epoch 2010.00.

This parcel of land contains 1,365 square feet, more or less, outside the existing right of way.

\\DEAINC.COM\FILES\PROJECT\C\CLKX00000044\0400CAD\EXHIBITS\SV\SV-EM-04-CLKX0044.DWG Tuesday, November 10, 2020 11:21:26 AM

EXHIBIT "B-6"
PAGE 1 OF 1
FILE 06
NOVEMBER 19, 2020



T.2S. R.2E.
T.3S. R.2E.

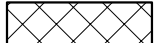
PARCEL 2

FILE 06
TL 32E06BB01300
DOC NO. 94-057448

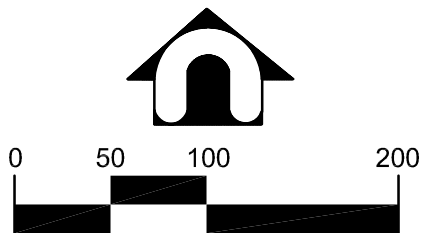
PP 1994-009

PARCEL 1

LEGEND:



PARCEL 1: SUBTERRANEAN EASEMENT
1,365 SQ. FT.± (0.031 AC.±)



SOUTH END ROAD AT MP 3.8, PROJECT NO. 22270



DAVID EVANS
AND ASSOCIATES INC.
2100 S River Parkway, Suite 100
Portland Oregon 97201
Phone: 503.223.6663

Parcel 1 – Subterranean Easement

A parcel of land lying in Parcel 1 of Partition Plat No. 1994-009, Clackamas County, Oregon, and being a portion of that property described in that Statutory Warranty Deed to Curtis Michael Spain and Marlene E. Spain, recorded July 15, 1994 as Document Number 94-057448 of Clackamas County Records; said parcel being that portion of said property lying Northwesterly of the following described line:

Beginning at a point opposite and 47.58 feet Southerly of Engineer's Station 26+09.91 on the center line of the relocated South End Road; thence on a 293.00 foot radius curve left, the radius point bears North 22°56'59" West, (the long chord of which bears North 52°45'12" East, a distance of 144.71 feet) 146.22 feet to a point opposite and 47.33 feet Southerly of Engineer's Station 27+30.13 on said center line; thence on a 250.00 foot radius compound curve left, (the long chord of which bears North 29°11'36" East, a distance of 80.48 feet) 80.84 feet to a point opposite and 48.78 feet Southeasterly of Engineer's Station 27+96.23 on said center line; thence on a 908.81 foot radius compound curve left, (the long chord of which bears North 16°28'55" East, a distance of 109.32 feet) 109.39 feet to a point opposite and 48.78 feet Southeasterly of Engineer's Station 29+00.00 on said center line.

The center line of the relocated South End Road, is described as follows:

Beginning at Engineer's Center line Station 6+10.30, said station being 1497.03 feet North and 53.26 feet West of the Re-Entrant corner of the Absalom F. Hedges Donation Land Claim No. 40, in the Southeast quarter of Section 1, Township 3 South, Range 1 East, W.M.; thence North 00°47'47" West, a distance of 389.70 feet; thence on a 190.99 foot radius curve right (the long chord of which bears North 28°18'21" East, a distance of 185.78 feet) 194.01 feet; thence North 57°24'29" East 113.85 feet; thence on a 1909.72 foot radius curve right (the long chord of which bears North 61°59'28" East, a distance of 305.19 feet) 305.52 feet; thence North 66°34'26" East 315.61 feet; thence on a 1145.92 foot radius curve left (the long chord of which bears North 61°44'26" East, a distance of 193.10 feet) 193.33 feet; thence North 56°54'26" East 155.18 feet; thence on a 1112.00 foot radius curve right (the long chord of which bears North 64°11'13" East, a distance of 281.81 feet) 282.57 feet; thence North 71°28'00" East 39.63 feet; thence on a 216.36 foot radius curve left (the long chord of which bears North 45°08'57" East, a distance of 191.84 feet) 198.76 feet; thence North 18°49'54" East 20.78 feet; thence on a 770.00 foot radius curve left (the long chord of which bears North 14°33'42" East, a distance of 114.66 feet) 114.77 feet; thence North 10°17'30" East 292.85 feet; thence on a 370.00 foot radius curve left (the long chord of which bears North 02°33'32" East, a distance of 99.57 feet) 99.87 feet to a point of compound curvature; thence on a 225.00 foot radius curve left (the

A-7
Page 2 of 2
File 07
November 19, 2020

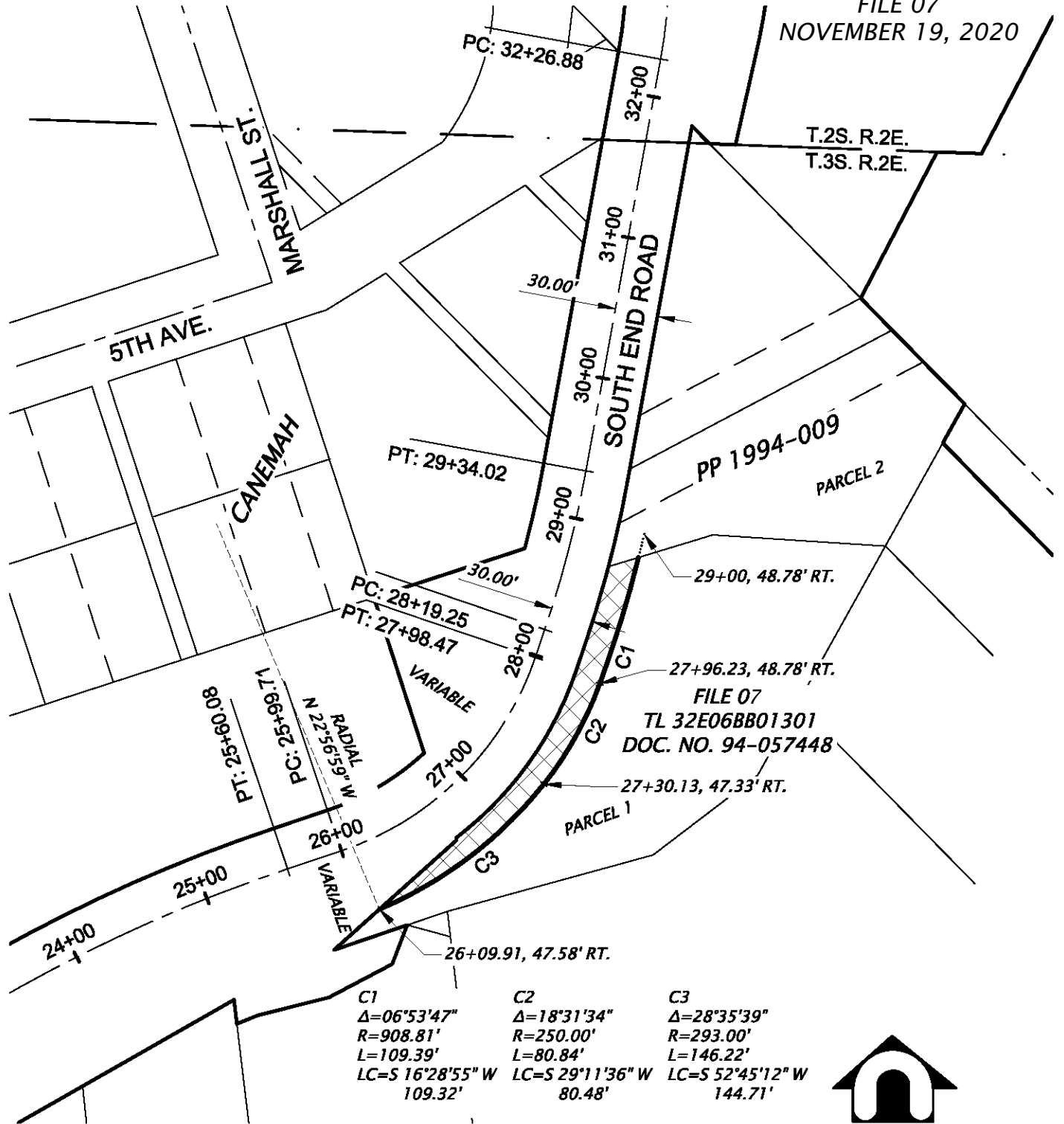
long chord of which bears North 12°51'52" West, a distance of 60.22 feet) 60.40 feet to Engineer's Center line Station 33+87.15.

Bearings are based on the Oregon Coordinate Reference System, Portland Zone, NAD 83 (2011) epoch 2010.00.

This parcel of land contains 4,865 square feet, more or less, outside the existing right of way.

\\DEA\INC.COM\FILES\PROJECT\C\CLKX00000044\0400CAD\EXHIBITS\SV\SV-EM-03-CLKX0044.DWG Tuesday, November 10, 2020 11:25:43 AM

EXHIBIT "B-7"
PAGE 1 OF 1
FILE 07
NOVEMBER 19, 2020



T.2S. R.2E.
T.3S. R.2E.

PP 1994-009
PARCEL 2

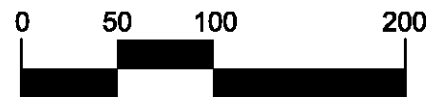
FILE 07
TL 32E06BB01301
DOC. NO. 94-057448

C1 Δ=06°53'47" R=908.81' L=109.39' LC=S 16°28'55" W 109.32'	C2 Δ=18°31'34" R=250.00' L=80.84' LC=S 29°11'36" W 80.48'	C3 Δ=28°35'39" R=293.00' L=146.22' LC=S 52°45'12" W 144.71'
--	--	--

LEGEND:



PARCEL 1: SUBTERRANEAN EASEMENT
4,865 SQ. FT. ± (0.112 AC. ±)



SOUTH END ROAD AT MP 3.8, PROJECT NO. 22270



DAVID EVANS AND ASSOCIATES INC.

2100 S River Parkway, Suite 100
Portland Oregon 97201
Phone: 503.223.6663



DAN JOHNSON
DIRECTOR

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Contract with PBS Engineering & Environmental, Inc. for the
Redland Road Turn Lanes at Ferguson and Bradley Project**

Purpose/Outcome	Contract will provide project management, plans, specifications, and estimation design services for Redland Road Turn Lanes at Ferguson and Bradley.
Dollar Amount and Fiscal Impact	Contract total \$289,000.00
Funding Source	Community Road Fund (CRF)
Duration	June 30, 2022
Previous Board Action/Review	None
Strategic Plan Alignment	1. How does this item align with your department's Strategic Business Plan goals? The public's increasing expectation that the transportation system will be safer and support a healthier community. 2. How does this item align with the County's Performance Clackamas goals? The project will: a. Build a strong infrastructure, and b. Ensure safe, healthy and secure communities.
Counsel Review	1. Date of Counsel review: 11/17/20 2. Initials of Counsel reviewer: AN
Procurement Review	Was the item processed through Procurement? Yes
Contact Person	Bob Knorr, Project Manager, 503-742-4680
Contract No.	3030

Background:

The consultant contract will provide project management; environmental and stormwater management services; utility coordination; traffic engineering; public outreach; development of plans, specifications and estimates; right-of-way services; and bid assistance through bid award for the Redland Road Turn Lanes at Ferguson and Bradley Project.

A Road Safety Audit(RSA) was conducted for Redland Road in May of 2018 and identified that key corridor intersections experience high volumes of left turns, which results in high speed rear end or turning movement collisions. The RSA recommends improving safety by adding left-turn lanes from Redland Road to the minor connecting streets. This project will utilize Community Road Funds to modify the existing intersections to add left-turn lanes from Redland Rd to the minor connecting streets at Ferguson Road and Bradley Road.

Procurement Process:

This project was advertised in accordance with ORS and LCRB Rules on February 26, 2020. Proposals were opened on March 25, 2020. The County received three (3) Proposals: Kittelson & Associates; KPFF; and PBS Engineering & Environmental, Inc. An evaluation committee of four DTD personnel evaluated the proposals. The evaluation committee originally scored KPFF the highest. However, after months of negotiating, the Department and KPFF staff could not agree to an acceptable compensation amount for the design fee. Negotiations were halted with KPFF and negotiations were initiated with the next highest scoring proposer, PBS Engineering. After multiple discussions, the statement of work and project fees were negotiated and finalized.

Recommendation:

Staff respectfully recommends that the Board approve and execute the Contract with PBS Engineering & Environmental, Inc. for the Redland Road Turn Lanes at Ferguson and Bradley Project.

Sincerely,

Bob Knorr
Project Manager

Placed on the BCC Agenda _____ by Procurement and Contract Services



**CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract #3030**

This Personal Services Contract (this “Contract”) is entered into between PBS Engineering & Environmental, Inc. (“Contractor or Consultant”), and Clackamas County, a political subdivision of the State of Oregon (“County”) on behalf of Department of Transportation and Development.

ARTICLE I.

- 1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **June 30, 2022**.
- 2. Scope of Work.** Contractor shall provide the following personal services: consultant services to assist in the Redland Road turn lanes at Ferguson and Bradley project (“Work”), further described in **Exhibit A**.
- 3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed **two hundred eighty-nine thousand dollars (\$289,000.00)**, for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in Exhibit B. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit B.
- 4. Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The invoices shall include the total amount billed to date by Contractor prior to the current invoice. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

Invoices shall reference the above Contract Number and be submitted to: Bob Knorr.

- 5. Travel and Other Expense.** Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.
- 6. Contract Documents.** This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, and Exhibit B.

7. Contractor and County Contacts.

Contractor	County
Administrator: Ken Rehms, P.E. Phone: 503-248-1939 Email: ken.rehms@pbsusa.com	Administrator: Bob Knorr Phone: 503-742-4680 Email: RKnorr@clackamas.us

Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 2. AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
- 5. COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of

or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.

- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.

The policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.
- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.
- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in the same professional skill, care, diligence and standards as other professionals performing similar services under similar conditions. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 11, 13, 14, 16, 21, and 27 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor

were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to

remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

25. WAIVER. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

26. PUBLIC CONTRACTING REQUIREMENTS. Pursuant to the public contracting requirements contained in Oregon Revised Statutes (“ORS”) Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

27. NO ATTORNEY FEES. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys’ fees and expenses.

28. KEY PERSONS. Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

29. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

**EXHIBIT A
PERSONAL SERVICES CONTRACT
SCOPE OF WORK**

The Consultant shall provide project management, environmental and stormwater/hydraulic services, utility coordination, traffic engineering, public outreach, and the development of both preliminary design criteria and final PS&E (Plans, Specifications and Estimates) design, right-of-way services, and bid assistance for the “Redland Rd Turn Lanes at Ferguson and Bradley Project.”

I. BACKGROUND

A Road Safety Audit (“RSA”) was prepared for Redland Road in May 2018 that found key corridor intersections experience high volumes of left turns, which results in high speed rear end or turning movement collisions. A recommended mitigation is to add left-turn lanes from Redland Rd to the minor connecting streets.

II. PROJECT UNDERSTANDING

The project will modify the existing intersections to add left-turn lanes from Redland Rd to the minor connecting streets at Bradley Rd and Ferguson Rd. Stormwater management shall be designed and constructed utilizing Best Management Practices (“BMP”) and Low Impact Development Approaches (“LIDA”) per Water Environmental Services design standards as adopted by Clackamas County Department of Transportation and Development (“DTD”).

Project Limits:

Redland Rd from Bradley Rd to Ferguson Rd. Proposed realignments or upgrade extents shall be limited as much as practical.

Lane Configuration/Geometry:

Redland Rd: Generally, 2-lane cross section with paved shoulder

Bradley Rd: 2-lane cross section with paved shoulder

Ferguson Rd: 2-lane cross section with paved shoulder

Water Quality/Quantity:

Best Management Practices (“BMP”) and Low Impact Development Approaches (“LIDA”) per Water Environmental Services design standards as adopted by Clackamas County Department of Transportation and Development.

Franchise Utilities:

Relocate overhead as necessary, relocate for utility conflicts by utilities.

Sanitary/Water:

No changes to sanitary/water are anticipated with the exception of adjusting the locations of a few hydrants.

Natural Resources: No impacts are anticipated. If impacts are unavoidable, additional services needed to address those impacts will be covered by a contract amendment.

Landscaping:

Grass seed shall be shown to match existing landscaping as needed.

Public Involvement/Outreach:

Public involvement will consist of mailed public information and a display board that can be used at a CPO meeting or community open house and posted online.

Right-of-Way (“ROW”):

Assumed up to 15 files for ROW and/or easement acquisitions; up to 8 parcels may be acquired using an Administrative Determination of Just Compensation (“ADJC”) process, and 7 may require appraisals and review appraisals for the acquisition process. Right-of-way acquisition services will be provided as a contingency task as outlined in the following scope of work.

The project is to be completed in two phases. The first phase is preliminary engineering and bidding. The second phase is construction. Construction phase services are not included in this scope of work and the County may request additional scope of work services at a later date for the second phase.

III. SPECIFIC SCOPE OF SERVICES

SUMMARY OF WORK

PBS Engineering and Environmental, Inc., the “Consultant” shall provide services including project management, environmental and stormwater/hydraulic services, utility coordination, traffic engineering, public outreach, and the development of both preliminary design criteria and final PS&E (Plans, Specifications and Estimates) design, right-of-way services, and bid assistance up through bid award for this project based on the scope of services described herein.

- Task 1.0 Project Management and Project Coordination
- Task 2.0 Survey, Field Investigations and Mapping [Reserved]
- Task 3.0 Environmental Services
- Task 4.0 Stormwater / Hydraulics Related Services
- Task 5.0 Utility Coordination
- Task 6.0 Traffic Engineering and Management
- Task 7.0 Preliminary Design (30%)
- Task 8.0 Public Involvement/Outreach
- Task 9.0 Final Design (60%, 90%, and 100% Bid Ready)
- Task 10.0 Right-of-Way Research, Descriptions, Appraisals and Acquisitions [Contingency Task]
- Task 11.0 Bid and Award Assistance

The duration of the design of this project is assumed to be from October 2020 through February 2022 for the completion of design and right-of-way tasks. Bidding and Construction will occur between April 2022 and December 2022. This scope of services does not include construction engineering or construction support but may be added at the discretion of the County towards the end of the design phase through a contract amendment.

Task 1.0 Project Management and Project Coordination

Consultant shall provide management and coordination of services under this Scope of Work (SOW) for delivery of Tasks and Deliverables according to the agreed upon delivery schedule.

1.1 Administration & Record Keeping

Consultant shall:

- Prepare a Project design schedule using the Critical Path Method (“CPM”). The Project schedule must include all major authorized tasks as agreed upon by the Parties, Project design team meetings, and milestones (type and date) specified in this SOW and required to complete all services under this Contract. Updates to the Project schedule shall be made during the course of the Project if milestone dates are modified. For budgeting purposes, it is assumed that up to two (2) Project schedule updates will be necessary.
- Prepare invoices and progress reports. For budgeting purposes, it is assumed that up to eighteen (18) progress reports will be necessary. Each progress report must:
 - Include a summary of previous period’s activities and the planned activities for the upcoming period;

- Identify percentage completed of each Task/Deliverable;
- Reconcile the budget with the actual amount billed to date;
- Identify unresolved issues and concerns that may affect the SOW, schedule and/or budget for services.
- Develop and maintain a Project file to include engineering computations, assumptions, meeting agendas and minutes, working drawings, quality control and review documentation, correspondence, and memoranda.

Task 1.1 - Deliverables and Schedule:

Consultant shall provide:

- *Project Design Schedule submitted within five (5) business days of Notice to Proceed (NTP). Submit electronically in PDF format and electronic file (MS Project) format to the County Project Manager (“CPM”).*
- *Up to 2 updated Project Design Schedules, as necessary, via timeline agreed to by CPM.*
- *Progress reports and invoices submitted electronically to CPM no later than the 20th calendar day of the month following the reporting period.*

1.2 Coordination

Consultant shall:

- Coordinate with the CPM as the main point of contact for coordination and management of Consultant services under the Contract;
- Contact other County staff, and regulatory County staff, if necessary, throughout the Contract, to gather any additional information needed for the Project, Project site, regulations and guidance;
- Provide overall management, direction and coordination of staff (including sub-consultants, if any) to include any necessary internal Consultant staff meetings;
- Contact CPM via telephone on a biweekly basis to provide Project status information

Task 1.2 - Deliverables and Schedule:

Consultant shall provide:

- *On-going coordination and communication as needed to appropriately manage the services under this Contract (no tangible deliverables for this task).*

1.3 Project Meetings

1.3.1 Project Kickoff Meeting

Consultant shall prepare for and attend a Project kickoff meeting. The Project kickoff meeting will be held at the Department of Transportation offices of Clackamas County or via web-based platform with the CPM, the Consultant’s PM and other necessary project stakeholders and Consultant staff in attendance. The County will prepare the meeting agenda with input from the Consultant. The purpose of the Project kickoff meeting is to review Project issues such as SOW; work products and deliverables; schedules; budgets; right of way; utility coordination/design; design criteria; guidance documents and standards, and quality control. The County shall schedule Project kickoff meeting within five (5) business days of (“NTP”). The County shall prepare draft and final meeting minutes to be distributed to Consultant and all other meeting participants. For budgeting purposes, it is assumed that up to two (2) Consultant staff shall attend the two (2) hour Project kickoff meeting.

1.3.2 Project Development Team Meetings

Consultant shall prepare for and attend a 30% Preliminary Design Meeting. The Preliminary Design Meeting will be held at the Department of Transportation offices of Clackamas County or via web-based meeting platform with the CPM, the Consultant’s PM and other necessary project stakeholders and Consultant staff in attendance. The County will prepare the meeting agenda with input from the Consultant. The County shall prepare draft and final meeting minutes to be distributed to Consultant and

all other meeting participants. For budgeting purposes, it is assumed that up to two (2) Consultant staff shall attend the in-person two (2) hour PDT meeting.

Task 1.3 Assumptions

- The County will provide draft meeting agenda submitted electronically to Consultant for review five (5) business days prior to meeting.
- County will provide draft meeting minutes submitted electronically to Consultant for review.

Task 1.3 - Deliverables and Schedule

For each meeting, Consultant shall provide:

- *Feedback to County on draft meeting agendas and meeting minutes within two (2) business days..*

Task 2.0 Survey, Field Investigations and Mapping [RESERVED]

Note: Survey and base mapping will be provided by the County.

Task 3.0 Environmental Services

The County will obtain Rights of Entry (“ROE”) for field reconnaissance work. The Consultant will provide list of properties requiring ROE’s for research disciplines no less than five (5) weeks before such ROE’s are required to perform work on private parcels.

The following tasks will be completed by the Consultant to identify wetland/Ordinary High Water (“OHW”) resources and hazardous materials, as well as to inform permitting needs for the project:

3.1 Wetland/OHW Field Investigation

Consultant shall conduct wetland/waters delineation fieldwork to identify the jurisdictional boundaries of any wetlands and/or waters that occur within the Project Study Area (PSA). Prior to the field investigation, Consultant will conduct a review of publicly available information necessary to determine the presence of wetlands onsite. This information includes National Wetland Inventory (NWI) data, NRCS county soil survey data, and aerial imagery. The field investigation will be performed to identify the extent of jurisdictional wetlands and waterways in the study area. Best professional judgement will be used to determine whether wetlands and/or waters are potentially jurisdictional at either the state level, or both the state and federal levels.

The boundaries of wetlands shall be delineated based on the presence of wetland hydrology, hydric soils, and hydrophytic vegetation, in accordance with the “Routine On-site” determination methodologies of the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0). The boundaries of waters will be delineated based on ordinary high water mark (OHWM) elevation in accordance with U.S. Army Corps of Engineers (Corps) and Oregon Department of State Lands (DSL) guidelines. All wetland and waters boundaries shall be flagged with pin flags and/or plastic flagging and labeled alpha-numerically in the field so they are clearly identifiable to the County’s surveyors. A sketch map of approximate wetland and waters boundary boundaries shall be provided to the County so that their survey crew can locate and survey each point.

Representative photographs will be taken throughout the study area to support findings. After the County surveys the wetland and waters points and provides a survey point file to the consultant design team, the Consultant will review the survey and will create a CAD file of the wetland and waters boundaries for use by the design team.

Following completion of the fieldwork, Consultant shall prepare a Wetland Memorandum describing the methodology and results of the fieldwork. The memorandum shall include data collected on the soils, hydrology, and vegetation within the PSA. Graphics shall depict the topography, soil mapping, National and/or Local Wetland Inventory (N/LWI) mapping, aerial and ground level photographs, and the locations of the sample plots and surveyed wetland boundaries. If there are wetlands/OHW within the potential impact area, the Consultant will coordinate with the County to determine if all impacts to

wetlands/OHW can be avoided, or if not, then the impacts to USACE-regulated wetlands and OHW can be avoided. Consultant will advise the County of permitting implications during Preliminary Design as needed.

Task 3.1 Assumptions

- The County will provide site access prior to the field investigation;
- Study area boundaries will be clearly identified prior to the County's site visit to conduct a survey; and
- The County will survey wetland and waters boundaries and will provide a CAD file of the survey points to Consultant.
- Informal environmental coordination with County.

Task 3.1 Deliverables

Consultant shall provide:

- *Sketch map of approximate wetland and waters boundaries for County surveyor's use*
- *Wetland Memorandum*

Task 4.0 Stormwater / Hydraulics Related Services

Consultant shall provide stormwater management related design services under this SOW for delivery of Tasks and Deliverables according to the agreed upon delivery schedule.

4.1 Stormwater Management Design

The purpose of this task is to design stormwater systems for the conveyance and treatment of drainage in the Project.

4.1.1 Roadside Channel Conveyance

Design stormwater conveyance facilities to collect and carry roadway runoff per Chapter 4 of the Clackamas County Road Standards.

Consultant shall:

- Delineate on-site drainage basins, calculate peak flow rates for design, model the proposed conveyance network, and calculate hydraulic grade line to check that proper freeboard design requirements are being met.
- Review existing conditions and document observations downstream of locations where flow is leaving the Project right-of-way for deficiencies.
- Consultant shall model ditches to calculate water surface elevation, depth, and velocity and provide channel lining design recommendations per FHWA HEC-15, Design of Roadside Channels with Flexible Linings.

4.1.2 Stormwater Quality Design

Design stormwater management facilities to provide water quality treatment of roadway runoff per local agency standards.

Consultant shall:

- Define Contributing Impervious area.
- Delineate on-site drainage subbasins.
- Identify treatment Best Management Practice ("BMP") types applicable for the site.
- Identify potential locations to site facilities within and outside the existing right-of-way.
- Estimate facility size, type and space needs at each of the potential locations.
- Evaluate constraints to siting a stormwater facility (i.e.-drainage area, adjacent grades, roadway safety, presence of existing utilities, protected resource areas, etc.)
- Present and discuss stormwater management strategies with County for meeting the needs of the Project and achieve a final consensus of the preferred strategy.

Task 4.1 Deliverables

Information from this task shall be incorporated into deliverables for Task 4.2.

4.1 Stormwater Design Memorandum

Provide preliminary stormwater design recommendations and document the final stormwater facility design recommendations. Consultant shall prepare a preliminary Stormwater Design Memorandum per Clackamas County guidelines containing preliminary stormwater facility design recommendations. Consultant shall prepare a final Stormwater Design Memorandum to reflect Agency review comments on stormwater facility design recommendations, changes to stormwater facility design due to advancement of the overall Project design, and supporting documentation of the final stormwater facility design.

Task 4.2 Deliverables

Consultant shall provide:

- *Draft Stormwater Design Memorandum (PDF) due with the Preliminary Design submittal.*
- *Final Stormwater Design Memorandum (PDF) due with the Final Plans.*

Task 5.0 Utility Coordination

5.1 Utility Coordination

Consultant shall support the County with utility coordination efforts including:

- Review utility as-built plans and update survey topographic base map.
- Prepare a Utility Conflict Spreadsheet and map with preliminary design submittal for County to use to notify utilities of potential conflicts.
- Provide updated Utility Conflict Spreadsheet map with 60%, 90% and Final Plan submittals.
- Participate in one meeting with affected utilities at the project site to resolve outstanding issues.

Task 5.0 Assumptions:

County shall be responsible for:

- Initiating and maintaining contact with utility companies throughout project development.
- Obtaining utility company as-builts.
- Preparation of formal letters to utility companies relating to identification of conflicts and needed relocations.

Task 5.0 Deliverables:

Consultant shall provide:

- *Updated survey topographic base map.*
- *Utility Conflict Spreadsheet(s) and Map(s) with Preliminary, 60%, 90% and Final plan submittals.*

Task 6.0 Traffic Engineering and Management

6.1 Traffic Analysis

Consultant shall:

- Obtain or collect weekday AM and PM peak period turning movement vehicle classification counts at the intersections of Ferguson Rd and Redland Rd and Bradley Rd and Redland Rd. Turning movement counts shall be collected on a Tuesday, Wednesday or Thursday of a non-holiday week, between the hours of 6:00 AM – 9:00 AM and 3:00 PM – 6:00 PM.
- Use prior available traffic data from 2018, supplied by the County, and apply a growth factor.
- Prepare a brief technical memorandum describing the recommendations for storage length needs at the study intersections, based on estimated future 20-year weekday AM and PM peak hour traffic volumes.

6.2 Temporary Traffic Control Plans

Consultant shall:

- Create temporary traffic control plans. Traffic control plans are used to describe how the existing roadway area is divided up between live traffic and the construction site. Plan sheets also identify the type, quantity, and location for temporary traffic control devices. Plans must include, but are not limited to the following information: staging plans, lane shifts, lane and shoulder widths, lane closures, road closures, temporary detour, temporary diversions, temporary striping, temporary signing, cutting sections at critical areas with dimensions and other relevant information.

Plans must meet the requirements of section 290 of the Clackamas Roadway Standards, Oregon Standard Drawings, The Oregon Temporary Traffic Control Handbook, and the Manual on Uniform Traffic Control Devices (MUTCD).

6.3 Signing & Pavement Marking Plans

Consultant shall:

- Prepare combined plans for the permanent signing and pavement markings associated with the proposed improvements. The design must be completed in accordance with applicable MUTCD and County standards.

Task 6.0 Deliverables:

Consultant shall provide:

- *Temporary traffic control and staging plans incorporated into 60%, 90%, and 100% plans.*
- *Signing & Striping plans incorporated into 60%, 90%, and 100% plans.*

Task 7.0 Preliminary Design (30%)

7.1 Design Criteria

Consultant shall prepare draft and final design criteria. Design criteria shall be consistent with AASHTO's A Policy on Geometric Design of Highways and Streets; Clackamas County Transportation System Plan ("TSP") Rural Arterial Cross Section; and Clackamas County Roadway Standards.

Consultant shall present the design criteria in a table or matrix format listing all conditions, assumptions and minimum standards for the roadway design elements of the Project. This includes the following:

- Determine design speed
- Determine sight distance considerations
- Determine cross slope, horizontal curves, and super-elevation
- Determine maximum grade, vertical curves
- Determine turn lane elements:
 - Taper rate
 - Storage length
 - Deceleration distance
- Determine cross section elements:
 - Number and width of travel lanes
 - Shoulders
 - Bikeways
- Determine need for roadside barriers

7.2 Horizontal and Vertical Alignments (30% submittal)

This task shall develop alternatives to be evaluated based on the design criteria to meet the overall project needs, as well as to reach agreement on the preferred alternative (1).

Consultant shall:

- Design one preferred alignment alternative based on consideration of traffic analysis, needed safety improvements, property/grading impacts, and design criteria, (a County preferred "center-south" alternative with separate tapered-section intersection footprints for Ferguson and Bradley

each). Provide line work for a comparison of tapered-sections versus a continuous left-turn lane layout, between the intersections; i.e. “lane comparison layout”.

- Design a finish grade profile for the preferred “center-south” alternative which minimizes grading impacts and provides for a minimum overlay or grind/inlay while minimizing any full pavement reconstruction.
- Collaborate with County staff on review of the preferred alternative to discuss the preliminary design, the grading limits (daylight lines), lane comparison layout, design criteria, and its overall full project footprint.
- Provide a conceptual design strip map showing the preferred alternative configuration and additional line work for a continuous 3-lane option.
- Provide a 30% design strip map showing the final selected preferred alternative configuration.

7.3 Stormwater Conveyance, Water Quality and Detention Concept Alignment and Grade (30% submittal)

Based on the storm drainage memorandum, the Consultant shall design preliminary drainage conveyance, water quality, and profile grades for the preferred alternative. This shall validate the stormwater disposal locations and depth of the storm system. This shall also provide locations of potential utility conflicts and potholing needs.

7.4 Construction Estimate

Consultant shall provide quantities and 30% construction cost estimate for the preferred alternative.

7.5 Design Memorandum

Consultant shall provide a brief 30% design memorandum summarizing:

- Alternatives considered and the recommended alternative.
- Anticipated environmental documentation and permits that will be required for the project including information regarding permit application submittal requirements, typical timelines, and potential mitigation requirements.
- Anticipated right of way acquisition properties
- Preferred Stormwater Management solutions

Task 7.0 Deliverables:

Consultant shall provide:

- *Draft and Final design criteria electronically (one electronic copy in PDF form)*
- *Conceptual Design Strip Map for preferred alternative and 3-lane option (one electronic copy in PDF form)*
- *30% Strip Map of Preferred Alternative (one electronic copy in PDF form)*
- *30% Cost Estimate*
- *30% Design Memorandum*

Task 8.0 Public Involvement/Outreach

The Consultant will provide support to the County’s community relations specialist with preparation of documents to be distributed or made available to the general public.

Consultant shall:

- Provide project information in narrative format for County to incorporate into project website and / or project flyers.
- Provide a graphically formatted aerial map, showing the project footprint for inclusion on the County’s website and for County use in public outreach.

Task 8.0 Assumptions:

- County staff will be responsible for final production of mailers and or information boards and for making presentations to the public and other stakeholder organizations.

- Consultant staff will not attend community open house events.

Task 8.0 Deliverables:

Consultant shall provide:

- *Narrative in Word format for County incorporation into information shared with the public.*
- *One draft and final aerial map graphic in PDF form*

Task 9.0 Final Design (60%, 90% and 100% Bid Ready) -Plans, Specifications, and Estimate, (PS&E)

The Consultant will advance the recommended alternative from the Preliminary Design (30% design) stage to the 100% complete stage.

Consultant shall:

- Conduct strategy work sessions in person or on the telephone to keep the project team informed about issues, decisions, and impacts.
- Conduct 60% and 90% design review with County PM, via County comments and response log.
- Prepare up to 7 Type I Design Modification requests for County review and approval. Based on cursory review, anticipated Modifications include:
 - o Roadside & Clear Zone (245)
 - o Bicycle Improvements (250.4, b) (8' lanes req'd per Comp. Plan)
 - o Horizontal Curves (250.6.1, a.1)
 - o Design Intent for Horizontal Curves (250.6.2) (Winding Alignment)
 - o Lane widths (250.6.5) + Roadway Cross Section (250.1.1)
 - o Intersection landing at Ferguson (250.7.3)
 - o Minimum roadway gradient less than 1% without curb/gutter on Redland (250.7.1)
- Complete engineering drawings for submittal to the County at 60%, 90%, and 100% milestones and perform quality assurance and in-house independent design checks and plan review of all drawings and related quantities. All plans will be drafted with the latest version of AutoCAD software and the final CAD drawings provided through a FTP site or on a CD.
- Provide relevant plan drawings that include at a minimum title, typical sections, erosion control plans, stormwater plans, construction staging and temporary traffic control, standard details, and other required drawings for submittal to County for review.
- Consultant shall prepare a ROW Impact Map for each affected property (up to 15 properties), developed to County standards. County will provide an example if needed. County will review and provide feedback to Consultant if needed. Consultant will make any necessary changes requested by County.
- Calculate quantities and develop an engineer's construction cost estimate for submittal at each plan development milestone (60%, 90%, and 100%) and prepare a construction schedule prior to 100%.
- Prepare relevant sections of specifications based on the 2021 Oregon Standard Specifications for Construction. Produce special provisions for the project using standard ODOT boilerplate special provisions and County boilerplate special provisions to the specifications in Part 00100 – General Requirements.
- Revise and submit final Special Provisions based on comments received during County reviews.
- Provide responses to County comments and response logs for 60%, 90% and 100% milestones on PS&E documents.
- Make corrections as required by County and submit final plans to County (both documents and electronic copies).
- Complete Design Memorandum at 90% milestone.

The Consultant shall prepare plan sheets according to the following table:

Table 9-1

Name of Sheet	Scale	Estimated # of Sheets	60% PS&E Submittal	90% PS&E Submittal	Final Submittal
Title Sheet, Sheet Index & Standard Drawings (County / ODOT)	NTS	1	X	X	X
Legend & Abbreviations / General Notes	NTS	1	X	X	X
Typical Sections	NTS	2	X	X	X
Construction Details (Intersection Grading & Driveways)	NTS	5	X	X	X
Erosion Control Plans & Details & General Notes	1"=50'	3	X	X	X
Roadway Plan & Profiles	1"=30'	7	X	X	X
Stormwater Plan & Details (including WQ Facility)	1"=20'	3	X	X	X
Temporary Traffic Control Plan	1"=30'	4	X	X	X
Sign & Striping Plans & Details	1"=30'	2	X	X	X

Task 9.0 Deliverables:

Consultant shall provide:

- Design Modifications
- 60%, 90%, and 100% Engineering Drawings (11"X17"), 90% and 100% Specifications and Bid Schedule, documentation of 60%, 90% and 100% review comments, Engineer's Estimates, final technical reports,, and Construction Schedule at end of Final Design
- 100% Engineering drawing files in Autodesk Civil 3D format, version 2019 to 2021 acceptable
- ROW Impact Map(s) in PDF format to CPM per the schedule developed in Task 1 Project Management.

Task 10.0 Right-of-Way Research, Descriptions, Appraisals and Acquisitions [Contingency Task]

This task identifies specific deliverables that the County at its discretion may elect to authorize Consultant to produce. Consultant shall only complete Task 10 and the identified deliverables if written (email acceptable) NTP is issued by the County.

Consultant shall provide complete right-of-way services as described below for up to 7 right-of-way files as identified during the PE phase of the Project.

10.1 Right-of-Way and Real Property Acquisition Services

Consultant shall conduct the ROW activities for all properties in accordance with the most current version of the following:

- ORS 35, with reference to the Uniform Act
- USPAP
- County ROW acquisition policies and procedures (which are guided by the ODOT ROW Manual)

The recommended approach to ROW coordination with the County is to:

- Designate a ROW PM to communicate directly with the County ROW PM or Designee
- The Consultant ROW PM should disseminate information and provide direction to the rest of the ROW team
- Hold an initial ROW coordination meeting with County and Consultant ROW staff to discuss County policy and procedure and ROW acquisition strategy.

Consultant shall use County versions of all forms, spreadsheets, brochures and pamphlets referenced in the “ODOT Right of Way Manual” and needed to complete work associated with Task 10.0. These forms, spreadsheets, brochures and pamphlets shall not be altered without written permission from the County. They may be obtained through the County Right-of-Way Manager or Designee.

Consultant shall track status for all ROW files to be acquired for the project in the Excel spreadsheet format provided by County. Consultant should coordinate the details of this process with the County Right-of-Way Manager or Designee at the ROW Coordination meeting.

Consultant shall provide ROW acquisition services, following County policies and procedures. It is assumed a total of 15 acquisitions are required for the project for which title reports for all permanent easements will be needed in addition to maps and descriptions, General Information Notice (GIN) letters, limited appraisals and reviews, acquisition/negotiation, and closing assistance will be needed. Out of the 15 acquisitions, it is assumed up to 8 may be acquired using an Administrative Determination of Just Compensation (ADJC) process, and 7 may require appraisals and review appraisals for the acquisition process.

The County intends to acquire the temporary and permanent easements that are estimated to be valued less than \$10,000 using an ADJC process. ADJC values will be determined and prepared by County staff through analysis and review of the sales used in the appraisal of a similar zoned property. One appraisal and appraisal review for each type of property and/or each property considered to be complex and outside the scope of the ADJC process will be needed. It is assumed that appraisals will be taking and damage appraisal formats.

It is assumed that the permanent acquisitions shall be acquired in the County’s name and that there will be no displaced persons.

10.1 Deliverables:

Consultant shall provide:

- *Preliminary Title Reports (up to 15) for Property Acquisitions.*

10.2 Right-of-Way Research [RESERVED]

Note: Work under this task to be provided by the County.

10.3 Right-of-Way Strip Map [RESERVED]

Note: Work under this task to be provided by the County.

10.4 Right-of-Way Descriptions & Exhibit Maps

County shall perform ROW data research as necessary to prepare for and support all Project activities. With information provided by the County, the Consultant will produce Project maps and reports as called for in subsequent tasks. Consultant shall review general Project background documentation, recorded surveys and conveyance documents provided by the County.

County shall develop and provide a centerline description from one end of the project limits to the other to be used by the County with their Resolution of Necessity for the project. Consultant will review and provide feedback to County if needed. County will make any necessary changes and resubmit information to Consultant.

For each file, Consultant shall prepare a ROW Impact Map, developed to County standards. County will provide an example if needed. County will review and provide feedback to Consultant if needed. Consultant will make any necessary changes requested by County. ROW Impact Map development is included under Task 10.

For each file, County shall prepare ROW Descriptions and Maps (also known as the legal descriptions, Exhibits A and B, respectively), based upon centerline stationing and in accordance with the current ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide and the Right of Way Engineering Manual. Consultant will review and provide feedback to County if needed.

10.4 Deliverables:

Consultant shall provide:

- *Feedback to County if needed.*

10.5 Right-of-Way Staking [RESERVED]

Note: Work under this task to be provided by the County.

10.6 Preliminary Activities

Upon receipt of authorization to proceed with ROW Acquisition, Consultant shall set up ROW parcel files and prepare to deliver a General Information Notice (GIN), acquisition and relocation brochures, and a copy of the applicable portion of the ROW Acquisition map (marked Preliminary and showing the parcel(s) to be purchased) to all owners and occupants of affected properties. Consultant shall use County GIN form. Consultant shall send GIN's via regular mail approximately 3 to 4 weeks prior to 15-Day Appraisal Notification Letters, if possible. Consultant shall email a copy of each GIN as a separate file to the County ROW Program Manager or Designee.

If the project team agrees it to be appropriate, Consultant shall arrange pre-negotiation contacts with property owners to identify property and project issues that could affect design. A County ROW Agent or Designee shall be present for all such meetings.

Consultant shall prepare and maintain a Diary of Personal Contact (Diary) for each file. The Diary must include the date and means of delivery for all letters and notices and the date and place of all contact with owners and parties with legal interest in the property to be acquired and/or their representatives. Diary entries shall contain appropriate detail including name and date of persons contacted, a summary of important information discussed, a list or name of any supplemental maps, brochures, and diagrams given, and a record of other activities conducted.

Task 10.6 - Deliverables and Schedule

Consultant shall provide:

- *GINs, 1 hard copy to each property owner and 1 electronic copy each to County.*
- *Written summary of any pre-right of way contact meetings with property owners, 1 electronic copy each to County within 2 weeks of NTP for the ROW acquisition phase.*

10.7 Appraisal and Appraisal Review

Consultant shall use appraisers who are licensed in the State of Oregon, experienced and competent in eminent domain appraising, and on ODOT's Qualified Appraisers List. Appraisals for this purpose shall be made in accordance with ORS Chapter 35. One appraisal and appraisal review for each type of property and/or each property considered to be complex and outside the scope of the ADJC process will be needed. Appraisal and Appraisal Review shall be made by different appraisers. It is assumed that appraisals will be taking and damage appraisal formats. It is assumed that appraisal reviews will include a field review of subject and sales used in the valuation process. Special Benefits, if any, must be quantified by the appraiser whether or not there are any compensable damages to the property. Tenant owned improvements included in the acquisition must be identified and segregated in the appraisal.

An initial analysis will be made to determine which files will need appraisals. The analysis will be based on the Exhibits A and B produced in Task 10.4. Consultant will bring the results of the analysis to County ROW Program Manager and CPM for discussion and decision. An appraisal will be needed for all files that are estimated to be valued above \$10,000.

Task 10.7 – Deliverables:

Consultant shall provide:

- *1 hard copy and 1 digital copy of each appraisal and 1 digital copy of each appraisal review to the County for review. The County shall recommend Just Compensation based on the reviewed appraisal. Just Compensation shall be no less than the reviewed appraisal amount. The consultant shall also provide 2 hard copies of each appraisal to the ROW Acquisition Agent for use in Task 10.8.*

10.8 ROW Acquisition

All right of way shall be acquired in the name of Clackamas County as easement. Consultant shall conduct negotiations, on behalf of the County in good faith and in compliance with all federal and state laws and regulations and County policies and procedures. Consultant shall conduct negotiations for acquisition of real property based on Just Compensation issued by the County.

Consultant shall discuss taking title subject to one or more outstanding interests with County ROW Program Manager or Designee prior to making the offer. Consultant shall be responsible for discussing title encumbrances identified on the Preliminary Title Report with the Property Owner and documenting that conversation in the Diary of Personal Contact. Fee owners' and contract purchasers' ownership interests must be identified and offers made appropriately. When impacted by the taking, lessees' interests must also be cleared.

Consultants shall prepare and present to the County a draft Offer Packet for review before any offers are made. All offers will be made by consultant as County's Buyer's Agent. All offers will be made on County letterhead and forms, and will include County contact information. These Offer Packets shall include, but are not limited to, acquisition and relocation brochures, offer-benefit letter, acquisition and relocation summary statements, Terms of the Offer or County Obligations Agreement if applicable, copy of appraisal or appraisal waiver, map of the acquisition, instruments of conveyance and W-9 form (if money is exchanged).

If possible, Consultant shall make offers in person, especially where the acquisition involves either a major impact to the property or the displacement of persons occupying the property. If this is deemed not possible, Consultant shall send offers via certified mail with return receipt request and tracking. Consultant shall make reasonable efforts to make contact with property owners before mailing offers. Factors leading to the decision to send by mail and proof of delivery must be documented in the Report of Personal Interview and file. Delivery is to be periodically tracked to ensure there are no problems and such efforts are to be documented in the Diary.

Consultant shall make every reasonable effort to acquire the ROW expeditiously by negotiation. Consultant shall give property owners reasonable opportunity to consider the offer (statutorily 40 calendar days). Counter offers from the property owner should be accompanied by supportive information the owner believes is relevant to determining the value of the property. Such information shall be reviewed with the County Right of Way Program Manager promptly. Consultant shall attempt to negotiate an approved administrative settlement, but shall not take any coercive action in order to induce an agreement on the price to be paid for the property (49 CFR 24.102(h)). Consultant shall notify County ROW Program Manager or Designee as soon as possible if the property owner retains legal counsel.

Language changes to the documents should be discouraged to the greatest extent possible. Any language changes to the documents shall be submitted to the County Right of Way PM for review and approval/rejection. If language changes are approved, consultant shall include a brief summary of the changes in the Final Report.

- IF the OFFER is ACCEPTED, Consultant shall present a Final Report Packet covering the acquisition of ROW to the County for final approval, payment, conveyance of title and recording. The Final Report Packet shall include County's Final Report form and all other documentation associated with the ROW activities conducted for the file. Consultant shall include satisfactory documentation of signer's authority to sign if Grantor is a Trust, Corporation, Partnership, or Non-Profit. Consultant shall mail or deliver the Final Report Package and email a digital scan of the Package to the County Right of Way Program Manager or Designee in a reasonable amount of time after all signed offer documents have been received by Consultant.
- IF a COUNTER OFFER is received, Consultant shall submit the proposed COUNTER OFFER (exceeding the estimate of just compensation) with a justification letter and owner supplied supporting documentation to the County for approval. If accepted see above.
- IF an acceptable agreement is not reached within the timeframe set by County, Consultant shall prepare and submit a Recommendation for Condemnation (RC) Packet. The RC Packet shall include County's RC form and all other documentation associated with the ROW activities conducted for the file. Consultant shall mail or deliver the packet and email a digital scan of the packet to the County Right of Way Program Manager or Designee within a reasonable amount of time after County's request for RC of the file. Consultant shall also provide to the County the editable versions of any and all documents upon request (e.g. Diary, Obligations Agreement, Conveyance Documents, Offer Letter, Acquisition and Relocation Summaries).

Consultant shall continue documenting the Diary for each file until such time it is turned into the County ROW PM with the Final Report or the RC.

Task 10.8 - Deliverables

Consultant shall provide:

- *Draft Offer Packet for one file to County ROW PM for review*
- *Final Offer Packet for one file to County ROW PM for review and approval*
- *Final Offer Packet sent certified mail or delivered in person for each file.*
- *Final Report Packet for each file to the County – hard copy delivered or mailed and a scan of packet emailed.*
- *If applicable, proposed counter offers with justification information to County ROW PM.*
- *If applicable, Recommendation for Condemnation to County ROW PM - hard copy delivered or mailed and a scan of packet emailed. Editable copies of offer packet documents upon request,*

Task 11.0 Bid and Award Assistance

This task includes the preparation of addenda, as needed, and responding to questions during the bidding phase. Consultant shall respond to questions from County and Construction Contractors about the plans and specifications during the bidding process.

11.1 Questions During Bidding

Consultant's Project Manager, or Consultant's designee(s) approved by County, shall assist County with questions regarding the bid documents and bid process. Consultant shall respond to all questions in writing within 3 day(s) to the CPM.

Consultant shall, during the bidding process, assist the County in responding to Construction Contractors and suppliers' questions. Consultant shall not have any separate communications with Construction Contractors and suppliers to assure that no Construction Contractor or supplier is provided with information not in the bidding documents and that could provide a bidding advantage or disadvantage. Consultant shall prepare answers in addenda format and provide to CPM.

It is assumed for the purpose of developing this proposal that a pre-bid meeting will not be conducted. Consultant shall provide plans and/or specification edits during bid for incorporation into bid addenda. An allowance for one bid addenda is to be provided for.

Task 11.0 - Deliverables:

Consultant shall provide:

- *Plans and/or specification edits for one bid addenda.*

ASSUMPTIONS

The Consultant has made the following additional assumptions related to this project.

1. All permits and application fees shall be paid by Clackamas County, or as a reimbursable expense at cost.
2. Major access management improvements (i.e. parking lot recirculation plans, frontage road designs, etc.) are not included at this time.

COUNTY'S RESPONSIBILITIES

The County will:

1. Coordinate the relationship with adjacent property owners and with the general public.
2. Provide County standard drawings and details when possible.
3. Provide as-built CAD files of recent construction projects.
4. Provide predesign topographic and right-of-way base mapping in CAD format with information necessary for design.
5. Assist in utilities coordination and facilitate the timely receipt of utility data from the private utility companies.
6. Maintain and manage the public involvement mailing list and project press releases.

**EXHIBIT B
FEE SCHEDULE**



DAN JOHNSON
DIRECTOR

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

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Government Addendum with Kaiser Creek Project Manager, LLC. for the Oregon Community Solar Program- Kaiser Creek Solar Project

Purpose/Outcome	<i>Approval of the Government Addendum and agreement package with Kaiser Creek Project Manager, LLC. for the Oregon Community Solar Program- Kaiser Creek Solar Project.</i>
Dollar Amount and Fiscal Impact	<i>Dollar amount will consist of savings and credits within the County's electric bill. Kaiser Creek Solar project will provide an estimated \$112,570.00 of savings over the next 20 years.</i>
Funding Source	<i>Existing funds budgeted for electricity</i>
Duration	<i>20 years</i>
Previous Board Action/Review	<i>On February 13, the Board heard an informal presentation of a proposed renewable energy procurement strategy to shift electricity for County operations (excluding special districts) to renewable sources, using a combination of renewable energy certificates, community solar projects, and potentially a PGE program known as 'Green Futures.' On April 28, 2020 (just after the 50th Earth Day) the Board approved this strategy in a policy session.</i>
Strategic Plan Alignment	<p><i>1. How does this item align with your department's Strategic Business Plan goals? This project, a partnership between Facilities (Finance Dept.) and the Sustainability & Solid Waste Program (Dept. Transportation & Development) aligns with the Strategic Energy Management framework and our responsibilities to support the County's carbon neutral goal.</i></p> <p><i>2. How does this item align with the County's Performance Clackamas goals? This project reduces the carbon footprint of the County's operational electricity use, which in turn advances the County towards the goal to be carbon neutral.</i></p>
Counsel Review	<p><i>1. Date of Counsel review: 11/30/202</i></p> <p><i>2. Initials of County Counsel performing review: AN</i></p>
Procurement Review	<i>1. Was the item process through Procurement? Yes.</i>
Contact Person	<i>Eben Polk, Sustainability Supervisor: 503-742-4470, epolk@clackamas.us Jeff Jorgensen, Facilities Director: 503-557-6414, jeffjor@clackamas.us</i>
Contract No.	<i>3382</i>

Background:

The Facilities Division and Sustainability & Solid Waste Program have been working together on a multi-part strategy to reduce the carbon footprint from energy use in County operations. Earlier this year the Board approved the use of a combination of Renewable Energy Certificates (“REC’s”), participation in community solar projects, and eventual participation in PGE’s GreenFuture program, which together will result in a complete transition to clean renewable electricity for core County operations.

This government addendum implements an agreement to provide renewable electricity from one of four community solar projects selected through a process outlined below.

The Oregon legislature created the community solar program in order to promote local, affordable, clean solar power for residential and commercial customers in Portland General Electric (“PGE”) and Pacific Power territories. After the Public Utility Commission (“PUC”) developed rules and a certification process to vet proposed projects, the PUC has authorized and pre-certified several solar projects in PGE territory. A typical community solar project will have 1800 to 2500 kilowatts AC capacity, generating around 4 million kilowatt hours of electricity a year. (For comparison, the Public Services Building uses around 1 million kilowatt hours in a year.)

Community solar projects must be approved by the Public Utility Commission and their oversight agency. All community solar projects set aside a certain percentage of space for larger commercial customers, for small commercial or residential customers, and importantly, 10% of capacity for low income customers. Subscribing customers receive a portion of the produced electricity, which is accounted for on a PGE bill in the form of (a) a bill credit from PGE and (b) a line item reflecting costs paid to the solar project. The net effect is approximately a 5% reduction in electricity costs for commercial customers and long-term cost certainty (up to 20 years). Low income customers are guaranteed 20% lower electricity costs compared to the regular PGE rate.

Procurement Process:

Quotes were collected from the Department of Transportation and Development’s Sustainability & Solid Waste Program in July of 2020. Quotes were requested from four (4) community solar developers with pre-certified projects (that also have land use approval) in PGE territory. We received quotes from three (3) developers focusing on six (6) distinct projects.

Project Name	Project Manager	Size (kW AC)	Annual Output (kWh)	Commercial Rate	Low Income Rate
Skyward Solar	Nautilus Solar Energy, LLC	NO RESPONSE			
Clayfield Solar LLC	Solar Town	2565	4,432,615	\$0.106723	Not quoted
Dover Solar	Solar Town	1980	4,204,945	\$0.106723	Not quoted
Dunn Rd	Neighborhood Power	1848	3,821,140	\$0.10114	\$0.08987
Mt Hope Solar	Neighborhood Power	2502	4,714,390	\$0.10114	\$0.08987
Sandy River Solar	Oregon Shines (TLS Capital)	1850	3,600,000	\$0.10099	\$0.0898
Kaiser Creek Solar, LLC	Oregon Shines (GreenKey)	2000	3,900,000	\$0.10099	\$0.0898

Four of the six projects offer an essentially identical and lowest subscription rate. Oregon Shines, LLC. is quoted at \$0.10099/kwh for the Sandy River and Kaiser Creek projects; and Neighborhood Power OR, LLC. is quoted at \$0.10114 for the Dunn Road and Mt. Hope projects. The other two projects through Solar Town offered a higher subscription rate at \$0.106723 and thus were not considered at this time.

Upon identifying the developers and reviewing the Oregon Community Solar Contract issued by the Public Utility Commission, County Procurement and County Counsel agreed to accept the terms and apply a Governmental Addendum to the agreement package to capture specific ORS statute laws.

Recommendation:

Staff respectfully recommends that the Board approve and sign the Government Addendum with Kaiser Creek Project Manager, LLC. for the Oregon Community Solar Program- Kaiser Creek Solar Project, and authorization for the Finance department to sign on behalf of Clackamas County for future amendments to adjust power usages.

Sincerely,



Eben Polk
Sustainability Supervisor

Placed on the BCC Agenda _____ by Procurement

**CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #3385**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”), and **Kaiser Creek Project Manager, LLC**. (“Contractor”). This Addendum shall be attached to, and incorporated into, the **Oregon Community Solar Program Contract and Disclosure Checklist- Kaiser Creek Solar Project** (“Vendor Agreement”). As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective upon signature of both parties. Unless earlier terminated, this Contract shall continue until 20 years from the Commercial Operation Date (“COD”).
- B. County Contract Administrator.** The County Contract Administrator for this Contract is **Eben Polk**.
- C. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- D. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- E. Public Contracting Requirements.** The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.
- F. Governing Law; Venue.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- G. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys’ fees and expenses.

- H. Termination.** This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon ninety (90) days written notice to Contractor, upon which Contractor will continue to sell to the County power for the 90-day period until the Contract has terminated; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- I. Compliance.** Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract.
- J. Tax Compliance.** Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- K. Indemnification.** Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor's employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County's employee or agents.
- L. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- M. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- N. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- O. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- P. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

Signature page to follow.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

Kaiser Creek Project Manager, LLC.

Clackamas County Board of County Commissioners

Authorized Signature Date

Chair Date

Name/Title (Printed)

Recording Secretary

Approved As To Form:

Clackamas County Counsel Date



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Government Addendum with SR PM, LLC. for the Oregon Community Solar Program- Sandy River Solar Project

Purpose/Outcome	<i>Approval of the Government Addendum and agreement package with SR PM, LLC. for the Oregon Community Solar Program- Sandy River Solar Project.</i>
Dollar Amount and Fiscal Impact	<i>Dollar amount will consist of savings and credits within the County's electric bill. Sandy River Solar project will provide an estimated \$218,815.00 of savings over the next 20 years.</i>
Funding Source	<i>Existing funds budgeted for electricity</i>
Duration	<i>20 years</i>
Previous Board Action/Review	<i>On February 13, the Board heard an informal presentation of a proposed renewable energy procurement strategy to shift electricity for County operations (excluding special districts) to renewable sources, using a combination of renewable energy certificates, community solar projects, and potentially a PGE program known as 'Green Futures.' On April 28, 2020 (just after the 50th Earth Day) the Board approved this strategy in a policy session.</i>
Strategic Plan Alignment	<p><i>1. How does this item align with your department's Strategic Business Plan goals? This project, a partnership between Facilities (Finance Dept.) and the Sustainability & Solid Waste Program (Dept. Transportation & Development) aligns with the Strategic Energy Management framework and our responsibilities to support the County's carbon neutral goal.</i></p> <p><i>2. How does this item align with the County's Performance Clackamas goals? This project reduces the carbon footprint of the County's operational electricity use, which in turn advances the County towards the goal to be carbon neutral.</i></p>
Counsel Review	<p><i>1. Date of Counsel review: 11/30/202</i></p> <p><i>2. Initials of County Counsel performing review: AN</i></p>
Procurement Review	<i>1. Was the item process through Procurement? Yes.</i>
Contact Person	<i>Eben Polk, Sustainability Supervisor: 503-742-4470, epolk@clackamas.us</i> <i>Jeff Jorgensen, Facilities Director: 503-557-6414, jeffjor@clackamas.us</i>
Contract No.	<i>3382</i>

Background:

The Facilities Division and Sustainability & Solid Waste Program have been working together on a multi-part strategy to reduce the carbon footprint from energy use in County operations. Earlier this year the Board approved the use of a combination of Renewable Energy Certificates (“REC’s”), participation in community solar projects, and eventual participation in PGE’s GreenFuture program, which together will result in a complete transition to clean renewable electricity for core County operations.

This government addendum implements an agreement to provide renewable electricity from one of four community solar projects selected through a process outlined below.

The Oregon legislature created the community solar program in order to promote local, affordable, clean solar power for residential and commercial customers in Portland General Electric (“PGE”) and Pacific Power territories. After the Public Utility Commission (“PUC”) developed rules and a certification process to vet proposed projects, the PUC has authorized and pre-certified several solar projects in PGE territory. A typical community solar project will have 1800 to 2500 kilowatts AC capacity, generating around 4 million kilowatt hours of electricity a year. (For comparison, the Public Services Building uses around 1 million kilowatt hours in a year.)

Community solar projects must be approved by the Public Utility Commission and their oversight agency. All community solar projects set aside a certain percentage of space for larger commercial customers, for small commercial or residential customers, and importantly, 10% of capacity for low income customers. Subscribing customers receive a portion of the produced electricity, which is accounted for on a PGE bill in the form of (a) a bill credit from PGE and (b) a line item reflecting costs paid to the solar project. The net effect is approximately a 5% reduction in electricity costs for commercial customers and long-term cost certainty (up to 20 years). Low income customers are guaranteed 20% lower electricity costs compared to the regular PGE rate.

Procurement Process:

Quotes were collected from the Department of Transportation and Development’s Sustainability & Solid Waste Program in July of 2020. Quotes were requested from four (4) community solar developers with pre-certified projects (that also have land use approval) in PGE territory. We received quotes from three (3) developers focusing on six (6) distinct projects.

Project Name	Project Manager	Size (kW AC)	Annual Output (kWh)	Commercial Rate	Low Income Rate
Skyward Solar	Nautilus Solar Energy, LLC	NO RESPONSE			
Clayfield Solar LLC	Solar Town	2565	4,432,615	\$0.106723	Not quoted
Dover Solar	Solar Town	1980	4,204,945	\$0.106723	Not quoted
Dunn Rd	Neighborhood Power	1848	3,821,140	\$0.10114	\$0.08987
Mt Hope Solar	Neighborhood Power	2502	4,714,390	\$0.10114	\$0.08987
Sandy River Solar	Oregon Shines (TLS Capital)	1850	3,600,000	\$0.10099	\$0.0898
Kaiser Creek Solar, LLC	Oregon Shines (GreenKey)	2000	3,900,000	\$0.10099	\$0.0898

Four of the six projects offer an essentially identical and lowest subscription rate. Oregon Shines, LLC. is quoted at \$0.10099/kwh for the Sandy River and Kaiser Creek projects; and Neighborhood Power OR, LLC. is quoted at \$0.10114 for the Dunn Road and Mt. Hope projects. The other two projects through Solar Town offered a higher subscription rate at \$0.106723 and thus were not considered at this time.

Upon identifying the developers and reviewing the Oregon Community Solar Contract issued by the Public Utility Commission, County Procurement and County Counsel agreed to accept the terms and apply a Governmental Addendum to the agreement package to capture specific ORS statute laws.

Recommendation:

Staff respectfully recommends that the Board approve and sign the Government Addendum with SR PM, LLC. for the Oregon Community Solar Program- Sandy River Solar Project, and authorization for the Finance Department to sign on behalf of Clackamas County for future amendments to adjust power usages.

Sincerely,



Eben Polk
Sustainability Supervisor

Placed on the BCC Agenda _____ by Procurement

**CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #3386**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”), and **SR PM, LLC**. (“Contractor”). This Addendum shall be attached to, and incorporated into, the **Oregon Community Solar Program Contract and Disclosure Checklist- Sandy River Solar Project** (“Vendor Agreement”). As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective upon signature of both parties. Unless earlier terminated, this Contract shall continue until 20 years from the date of contract execution.
- B. County Contract Administrator.** The County Contract Administrator for this Contract is **Eben Polk**.
- C. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- D. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- E. Public Contracting Requirements.** The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.
- F. Governing Law; Venue.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- G. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys’ fees and expenses.

- H. Termination.** This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon ninety (90) days written notice to Contractor, upon which Contractor will continue to sell to the County power for the 90-day period until the Contract has terminated; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- I. Compliance.** Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract.
- J. Tax Compliance.** Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- K. Indemnification.** Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor's employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County's employee or agents.
- L. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- M. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- N. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- O. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- P. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

Signature page to follow.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

SR PM, LLC.

Clackamas County Board of County Commissioners

Authorized Signature Date

Chair Date

Name/Title (Printed)

Recording Secretary

Approved As To Form:

Clackamas County Counsel Date



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Government Addendum with Neighborhood Power OR, LLC. for the
Oregon Community Solar Program- Dunn Project**

Purpose/Outcome	<i>Approval of the Government Addendum and agreement package with Neighborhood Power OR, LLC. for the Oregon Community Solar Program- Dunn Project.</i>
Dollar Amount and Fiscal Impact	<i>Dollar amount will consist of savings and credits within the County's electric bill. Dunn project will provide an estimated \$338,466.00 of savings over the next 20 years.</i>
Funding Source	<i>Existing funds budgeted for electricity</i>
Duration	<i>20 years</i>
Previous Board Action/Review	<i>On February 13, the Board heard an informal presentation of a proposed renewable energy procurement strategy to shift electricity for County operations (excluding special districts) to renewable sources, using a combination of renewable energy certificates, community solar projects, and potentially a PGE program known as 'Green Futures.' On April 28, 2020 (just after the 50th Earth Day) the Board approved this strategy in a policy session.</i>
Strategic Plan Alignment	<p><i>1. How does this item align with your department's Strategic Business Plan goals? This project, a partnership between Facilities (Finance Dept.) and the Sustainability & Solid Waste Program (Dept. Transportation & Development) aligns with the Strategic Energy Management framework and our responsibilities to support the County's carbon neutral goal.</i></p> <p><i>2. How does this item align with the County's Performance Clackamas goals? This project reduces the carbon footprint of the County's operational electricity use, which in turn advances the County towards the goal to be carbon neutral.</i></p>
Counsel Review	<p><i>1. Date of Counsel review: 10/7/202</i></p> <p><i>2. Initials of County Counsel performing review: AN</i></p>
Procurement Review	<i>1. Was the item process through Procurement? Yes.</i>
Contact Person	<i>Eben Polk, Sustainability Supervisor: 503-742-4470, epolk@clackamas.us Jeff Jorgensen, Facilities Director: 503-557-6414, jeffjor@clackamas.us</i>
Contract No.	<i>3382</i>

Background:

The Facilities Division and Sustainability & Solid Waste Program have been working together on a multi-part strategy to reduce the carbon footprint from energy use in County operations. Earlier this year the Board approved the use of a combination of Renewable Energy Certificates (“REC’s”), participation in community solar projects, and eventual participation in PGE’s GreenFuture program, which together will result in a complete transition to clean renewable electricity for core County operations.

This government addendum implements an agreement to provide renewable electricity from one of four community solar projects selected through a process outlined below.

The Oregon legislature created the community solar program in order to promote local, affordable, clean solar power for residential and commercial customers in Portland General Electric (“PGE”) and Pacific Power territories. After the Public Utility Commission (“PUC”) developed rules and a certification process to vet proposed projects, the PUC has authorized and pre-certified several solar projects in PGE territory. A typical community solar project will have 1800 to 2500 kilowatts AC capacity, generating around 4 million kilowatt hours of electricity a year. (For comparison, the Public Services Building uses around 1 million kilowatt hours in a year.)

Community solar projects must be approved by the Public Utility Commission and their oversight agency. All community solar projects set aside a certain percentage of space for larger commercial customers, for small commercial or residential customers, and importantly, 10% of capacity for low income customers. Subscribing customers receive a portion of the produced electricity, which is accounted for on a PGE bill in the form of (a) a bill credit from PGE and (b) a line item reflecting costs paid to the solar project. The net effect is approximately a 5% reduction in electricity costs for commercial customers and long-term cost certainty (up to 20 years). Low income customers are guaranteed 20% lower electricity costs compared to the regular PGE rate.

Procurement Process:

Quotes were collected from the Department of Transportation and Development’s Sustainability & Solid Waste Program in July of 2020. Quotes were requested from four (4) community solar developers with pre-certified projects (that also have land use approval) in PGE territory. We received quotes from three (3) developers focusing on six (6) distinct projects.

Project Name	Project Manager	Size (kW AC)	Annual Output (kWh)	Commercial Rate	Low Income Rate
Skyward Solar	Nautilus Solar Energy, LLC	NO RESPONSE			
Clayfield Solar LLC	Solar Town	2565	4,432,615	\$0.106723	Not quoted
Dover Solar	Solar Town	1980	4,204,945	\$0.106723	Not quoted
Dunn Rd	Neighborhood Power	1848	3,821,140	\$0.10114	\$0.08987
Mt Hope Solar	Neighborhood Power	2502	4,714,390	\$0.10114	\$0.08987
Sandy River Solar	Oregon Shines (TLS Capital)	1850	3,600,000	\$0.10099	\$0.0898
Kaiser Creek Solar, LLC	Oregon Shines (GreenKey)	2000	3,900,000	\$0.10099	\$0.0898

Four of the six projects offer an essentially identical and lowest subscription rate. Oregon Shines, LLC. is quoted at \$0.10099/kwh for the Sandy River and Kaiser Creek projects; and Neighborhood Power OR, LLC. is quoted at \$0.10114 for the Dunn Road and Mt. Hope projects. The other two projects through Solar Town offered a higher subscription rate at \$0.106723 and thus were not considered at this time.

Upon identifying the developers and reviewing the Oregon Community Solar Contract issued by the Public Utility Commission, County Procurement and County Counsel agreed to accept the terms and apply a Governmental Addendum to the agreement package to capture specific ORS statute laws.

Recommendation:

Staff respectfully recommends that the Board approve and sign the Government Addendum with Neighborhood Power OR, LLC. for the Oregon Community Solar Program- Dunn Project, and authorization for the Finance Department to sign on behalf of Clackamas County for future amendments to adjust power usages.

Sincerely,



Eben Polk
Sustainability Supervisor

Placed on the BCC Agenda _____ by Procurement

**CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #3382**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”), and **Neighborhood Power OR, LLC**. (“Contractor”). This Addendum shall be attached to, and incorporated into, the **Oregon Community Solar Program Contract and Disclosure Checklist- Dunn Project** (“Vendor Agreement”). As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective upon signature of both parties. Unless earlier terminated, this Contract shall continue until 20 years from the date of contract execution.
- B. County Contract Administrator.** The County Contract Administrator for this Contract is **Eben Polk**.
- C. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- D. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- E. Public Contracting Requirements.** The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.
- F. Governing Law; Venue.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- G. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys’ fees and expenses.

- H. Termination.** This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon ninety (90) days written notice to Contractor and, upon receipt of the written notice, Contractor shall stop performance, and County shall pay Contractor for the goods or services delivered and accepted; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- I. Compliance.** Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract.
- J. Tax Compliance.** Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- K. Indemnification.** Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor's employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County's employee or agents.
- L. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- M. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- N. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- O. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- P. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

Signature page to follow.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Government Addendum with Neighborhood Power OR, LLC. for the Oregon Community Solar Program- Mt. Hope Project

Purpose/Outcome	<i>Approval of the Government Addendum and agreement package with Neighborhood Power OR, LLC. for the Oregon Community Solar Program- Mt. Hope Project.</i>
Dollar Amount and Fiscal Impact	<i>Dollar amount will consist of savings and credits within the County's electric bill. The Mt. Hope project will provide an estimated \$296,214.00 of savings over the next 20 years.</i>
Funding Source	<i>Existing funds budgeted for electricity</i>
Duration	<i>20 years</i>
Previous Board Action/Review	<i>On February 13, the Board heard an informal presentation of a proposed renewable energy procurement strategy to shift electricity for County operations (excluding special districts) to renewable sources, using a combination of renewable energy certificates, community solar projects, and potentially a PGE program known as 'Green Futures.' On April 28, 2020 (just after the 50th Earth Day) the Board approved this strategy in a policy session.</i>
Strategic Plan Alignment	<p><i>1. How does this item align with your department's Strategic Business Plan goals? This project, a partnership between Facilities (Finance Dept.) and the Sustainability & Solid Waste Program (Dept. Transportation & Development) aligns with the Strategic Energy Management framework and our responsibilities to support the County's carbon neutral goal.</i></p> <p><i>2. How does this item align with the County's Performance Clackamas goals? This project reduces the carbon footprint of the County's operational electricity use, which in turn advances the County towards the goal to be carbon neutral.</i></p>
Counsel Review	<p><i>1. Date of Counsel review: 10/7/202</i></p> <p><i>2. Initials of County Counsel performing review: AN</i></p>
Procurement Review	<i>Was the item process through Procurement? Yes.</i>
Contact Person	<i>Most knowledgeable person who can answer questions regarding this item</i>
Contract No.	<i>3381</i>

Background:

The Facilities Division and Sustainability & Solid Waste Program have been working together on a multi-part strategy to reduce the carbon footprint from energy use in County operations. Earlier this year the Board approved the use of a combination of Renewable Energy Certificates (“REC’s”), participation in community solar projects, and eventual participation in PGE’s GreenFuture program, which together will result in a complete transition to clean renewable electricity for core County operations.

This government addendum implements an agreement to provide renewable electricity from one of four community solar projects selected through a process outlined below.

The Oregon legislature created the community solar program in order to promote local, affordable, clean solar power for residential and commercial customers in Portland General Electric (“PGE”) and Pacific Power territories. After the Public Utility Commission (“PUC”) developed rules and a certification process to vet proposed projects, the PUC has authorized and pre-certified several solar projects in PGE territory. A typical community solar project will have 1800 to 2500 kilowatts AC capacity, generating around 4 million kilowatt hours of electricity a year. (For comparison, the Public Services Building uses around 1 million kilowatt hours in a year.)

Community solar projects must be approved by the Public Utility Commission and their oversight agency. All community solar projects set aside a certain percentage of space for larger commercial customers, for small commercial or residential customers, and importantly, 10% of capacity for low income customers. Subscribing customers receive a portion of the produced electricity, which is accounted for on a PGE bill in the form of (a) a bill credit from PGE and (b) a line item reflecting costs paid to the solar project. The net effect is approximately a 5% reduction in electricity costs for commercial customers and long-term cost certainty (up to 20 years). Low income customers are guaranteed 20% lower electricity costs compared to the regular PGE rate.

Procurement Process:

Quotes were collected from the Department of Transportation and Development’s Sustainability & Solid Waste Program in July of 2020. Quotes were requested from four (4) community solar developers with pre-certified projects (that also have land use approval) in PGE territory. We received quotes from three (3) developers focusing on six (6) distinct projects.

Project Name	Project Manager	Size (kW AC)	Annual Output (kWh)	Commercial Rate	Low Income Rate
Skyward Solar	Nautilus Solar Energy, LLC	NO RESPONSE			
Clayfield Solar LLC	Solar Town	2565	4,432,615	\$0.106723	Not quoted
Dover Solar	Solar Town	1980	4,204,945	\$0.106723	Not quoted
Dunn Rd	Neighborhood Power	1848	3,821,140	\$0.10114	\$0.08987
Mt Hope Solar	Neighborhood Power	2502	4,714,390	\$0.10114	\$0.08987
Sandy River Solar	Oregon Shines (TLS Capital)	1850	3,600,000	\$0.10099	\$0.0898
Kaiser Creek Solar, LLC	Oregon Shines (GreenKey)	2000	3,900,000	\$0.10099	\$0.0898

Four of the six projects offer an essentially identical and lowest subscription rate. Oregon Shines, LLC. is quoted at \$0.10099/kwh for the Sandy River and Kaiser Creek projects; and Neighborhood Power OR, LLC. is quoted at \$0.10114 for the Dunn Road and Mt. Hope projects. The other two projects through Solar Town offered a higher subscription rate at \$0.106723 and thus were not considered at this time.

Upon identifying the developers and reviewing the Oregon Community Solar Contract issued by the Public Utility Commission, County Procurement and County Counsel agreed to accept the terms and apply a Governmental Addendum to the agreement package to capture specific ORS statute laws.

Recommendation:

Staff respectfully recommends that the Board approve and sign Government Addendum with Neighborhood Power OR, LLC. for the Oregon Community Solar Program- Mt. Hope Project and authorization for the Finance Department to sign on behalf of Clackamas County for future amendments to adjust power usages.

Sincerely,



Eben Polk
Sustainability Supervisor

Placed on the BCC Agenda _____ by Procurement

**CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #3381**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”), and **Neighborhood Power OR, LLC.** (“Contractor”). This Addendum shall be attached to, and incorporated into, the **Oregon Community Solar Program Contract and Disclosure Checklist- Mt. Hope Project** (“Vendor Agreement”). As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective upon signature of both parties. Unless earlier terminated, this Contract shall continue until 20 years from the date of contract execution.
- B. County Contract Administrator.** The County Contract Administrator for this Contract is **Eben Polk.**
- C. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- D. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- E. Public Contracting Requirements.** The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.
- F. Governing Law; Venue.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- G. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys’ fees and expenses.

- H. Termination.** This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon ninety (90) days written notice to Contractor and, upon receipt of the written notice, Contractor shall stop performance, and County shall pay Contractor for the goods or services delivered and accepted; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- I. Compliance.** Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract.
- J. Tax Compliance.** Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- K. Indemnification.** Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor's employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County's employee or agents.
- L. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- M. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- N. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- O. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- P. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

Signature page to follow.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

Neighborhood Power OR, LLC.

Clackamas County Board of County Commissioners

Authorized Signature Date

Chair Date

Name/Title (Printed)

Recording Secretary

Approved As To Form:

Clackamas County Counsel Date



DAN JOHNSON
DIRECTOR

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Personal Services Contract with Harper Houf Peterson Righellis Inc.
To provide Monroe Street Improvements for The Development Agency**

Purpose/ Outcomes	Execution of a contract between the Development Agency and Harper Houf Peterson Righellis Inc, for Roadway Design Plans for SE Monroe Street.
Dollar Amount and Fiscal Impact	Total contract value through expiration is, \$1,703,592.00
Funding Source	Clackamas County Development Agency, 453-7491-00-481200-30324 North Clackamas Revitalization Area Urban Renewal District- no County General Funds are involved.
Duration	October 31, 2022
Previous Board Action	Approval of the Development Agency budget allocating funds for the project.
Strategic Plan Alignment	This project will build and provide a strong infrastructure. The project will ensure safe, healthy and secure communities.
Counsel Review	November 24, 2020; AN
Procurement Review	1. Was the item processed through Procurement? yes <input checked="" type="checkbox"/> no <input type="checkbox"/> 2. If no, provide brief explanation:
Contact Person	Ken Itel, Senior Project Planner - 503-742-4324
Contract#	3097

BACKGROUND: A priority of the North Clackamas Revitalization Area (NCRA) urban renewal plan is to improve neighborhood streets to accommodate all modes of transportation, enhance safety and accessibility, and upgrade storm water management systems. In order to carry out the public improvement goals of the NCRA urban renewal plan, and improve safety and multi-modal connectivity, the Development Agency is proceeding with a project that will include bike and pedestrian facilities, storm drainage and accessibility improvements, and limited new roadway construction, which may include minor street lighting or utility upgrades on SE Monroe Street between SE Linwood Avenue and SE Fuller Road. Segments of SE 72nd Avenue and SE Thompson Road, connecting Monroe to Lot Whitcomb Elementary School, are also included in this project.

PROCUREMENT PROCESS:

This project was advertised in accordance with ORS 279B and LCRB Rules on May 7, 2020. Bids were publically opened June 9, 2020. The Agency received three (3) proposals from Harper Houf Peterson Righellis Inc, Century West, and Toole Design. An evaluation committee

comprised of five County personnel scored Harper Houf Peterson Righellis Inc the highest therefor awarding the Contract through October 31, 2022.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners of Clackamas County approve and execute the Contract between the Development Agency and Harper Houf Peterson Righellis Inc, for the Monroe Street Improvements project.

Respectfully submitted,

Ken Itel
Senior Project Planner
Clackamas County Development Agency

Placed on the Agenda of _____ by the Procurement Division



CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract #3097

This Personal Services Contract (this "Contract") is entered into between **Harper Houf Peterson Righellis Inc.**, ("Contractor"), and Clackamas County Development Agency ("Agency").

ARTICLE I.

1. **Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **October 31, 2022**.
2. **Scope of Work.** Contractor shall provide the following personal services: **design services for the SE Monroe Street project** ("Work"), further described in **Exhibit A**. If a particular task, or portion of a task, described in Exhibit A is described as "contingent" or "contingency," Contractor may not perform that portion of the Work until Agency has provided Contractor written authorization to do so.
3. **Consideration.** The Agency agrees to pay Contractor, from available and authorized funds, a sum not to exceed **One Million Seven Hundred Three Thousand Five Hundred Ninety-Two dollars (\$1,703,592.00)**, for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in Exhibit B. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit B
4. **Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The invoices shall include the total amount billed to date by Contractor prior to the current invoice. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the Agency's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the Agency will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

Invoices shall reference the above Contract Number and be submitted to: Ken Itel

5. **Travel and Other Expense.** Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the Agency Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.
6. **Contract Documents.** This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, and Exhibit B.

7. Contractor and Agency Contacts.

Contractor	Agency
Administrator: Dan Houf Phone: 503-221-1131 Email: dan@hhpr.com	Administrator: Ken Itel Phone: 503-742-4324 Email: Kennethite@clackamas.us

Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. Agency and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 2. AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the Agency in its sole administrative discretion.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
- 5. COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between Agency and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the Agency of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.

- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the Agency, Clackamas County, and their officers, elected officials, agents and employees, from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of Agency or Clackamas County, or any department of Clackamas County, nor purport to act as legal representative of Agency or Clackamas County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for Agency or Clackamas County, nor shall Contractor settle any claim on behalf of Agency or Clackamas County without the approval of the Clackamas County Counsel's Office. Agency or Clackamas County may, at their election and expense, assume their own defense and settlement.
- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the Agency reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, Agency cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of Agency for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to Agency employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name Clackamas County and the Agency as an additional insureds on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

This policy(s) shall be primary insurance as respects to the Agency. Any insurance or self-insurance maintained by the Agency shall be excess and shall not contribute to it. Any obligation that Agency agree to a waiver of subrogation is hereby stricken.

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds

being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

11. NOTICES. Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to Agency, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during Agency's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

12. OWNERSHIP OF WORK PRODUCT. All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of Agency. Agency and Contractor intend that such Work Product be deemed "work made for hire" of which Agency shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to Agency all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as Agency may reasonably request in order to fully vest such rights in Agency. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, Agency shall have no rights in any pre-existing Contractor intellectual property provided to Agency by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for Agency use only.

13. REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants to Agency that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in the same professional skill, care, diligence and standards as other professionals performing similar services under similar conditions.. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided. The Contractor shall be responsible for the technical accuracy of its services and documents resulting therefrom, and Agency shall not be responsible for discovering deficiencies therein. The Contractor shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in information furnished by the Agency.

14. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 11, 13, 14, 16, 21, and 27 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the Agency's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the Agency, which shall be granted or denied in the Agency's sole discretion. In addition to any provisions the Agency may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. Agency's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle Agency to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the Agency (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the Agency fails to receive funding, appropriations, or other expenditure authority as solely determined by the Agency; or (B) if contractor breaches any Contract provision or is declared insolvent, Agency may terminate after thirty (30) days written notice with an opportunity to cure.
- Upon receipt of written notice of termination from the Agency, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to Agency all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon Agency's request, Contractor shall surrender to anyone Agency designates, all documents, research, objects or other tangible things needed to complete the Work.
- 20. REMEDIES.** If terminated by the Agency due to a breach by the Contractor, then the Agency shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the Agency, less any setoff to which the Agency is entitled.
- 21. NO THIRD PARTY BENEFICIARIES.** Agency and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 24. FORCE MAJEURE.** Neither Agency nor Contractor shall be held responsible for delay or default caused by events outside the Agency or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 25. WAIVER.** The failure of Agency to enforce any provision of this Contract shall not constitute a waiver by Agency of that or any other provision.
- 26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:
- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
 - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
 - c. Not permit any lien or claim to be filed or prosecuted against Agency on account of any labor or material furnished.
 - d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 - e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling Agency to terminate this Contract for cause.
 - f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.
- 27. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
- 28. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the Agency is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the Agency is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the Agency provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the Agency with such Key Person's services unless the Agency provides prior written consent to such reassignment or transfer.
- 29. MERGER.** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE

NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Harper Houf Peterson Righellis, Inc.

Clackamas County Development Agency

Authorized Signature

Date

Chair

Date

Name / Title (Printed)

Recording Secretary

Oregon Business Registry #

Approved as to Form:

Entity Type / State of Formation

County Counsel

Date

EXHIBIT A

**Personal Services Contract
Scope of Work**

SCOPE OF WORK

TASK 1: Project Management and Coordination

As part of the overall management of the project, the Contractor will:

- A. Designate and coordinate the Contractor project team.
- B. Schedule, prepare for, attend and document project team meetings. These meetings will be held as needed and will include the Contractor, Agency and Clackamas County (“County”) staff and possibly other project stakeholders. A project kickoff meeting will be held at the Agency’s office at 150 Beaver Creek Road in Oregon City.
- C. Prepare a detailed schedule showing all major tasks, meetings, and review milestones. The schedule must reflect the required milestone dates as shown in Section 3.3 of this RFP.
- D. Prepare detailed monthly progress reports and progress billings and submit to the Agency for approval and payment.
- E. Monitor and manage the project budget.

Contractor Deliverables: Meeting minutes delineating identified design requirements; written identification of specific utility contact persons; engineering schedule; monthly engineering schedule updates.

TASK 2: Public Involvement

Public involvement is one of the key criteria for evaluating the success of the project. The Agency and the County are committed to engaging neighbors and partner organizations early in the design process. Property owners on Monroe, 72nd and Thompson, as well as other neighborhood residents, will have concerns about construction impacts, maintaining access to their homes and the effects of improvements on drainage and traffic patterns.

The City of Milwaukie will also be an active stakeholder, as the city has approved a Monroe Street Neighborhood Greenway Concept Plan. Milwaukie's completion of improvements on Monroe within the city limits would create a continuous bikeway and pedestrian connection from downtown Milwaukie to SE Fuller Road. While Clackamas County has not adopted a greenway concept, the design Contractor should be aware of the proposed Milwaukie design and consider how it will transition to the Agency- designed section of Monroe.

The Contractor will assist the Agency's community relations specialist as well as Agency and County staff on the development of public outreach materials.

The Contractor will be required to address public inquiries and concerns by attending two (2) public meetings and/or open houses, preparing a minimum of six (6) display boards, a strip map and other informational materials for each meeting, and providing assistance with materials needed for mailings, web pages and other public outreach. The Agency will coordinate and set up the meetings.

- A. Coordinate with the Agency's community relations specialist, Agency and County staff.
- B. Provide technical expertise and guidance in preparing for neighborhood meetings.
- C. Prepare displays (up to 6 for each meeting), participate in two neighborhood meetings and provide meeting summaries. A strip map showing the most recent design concept(s) overlaid on an aerial photo is also required for each public meeting.
- D. Prepare and provide informational materials (preliminary design concepts, project scheduling, and construction staging options).
- E. Prepare one flyer for each meeting to be mailed to area businesses and residents. The Agency will develop the mailing list and mail the flyers.
- F. Provide project related information as necessary for inclusion on the Agency's website and other social media platforms.
- G. Provide all deliverables in electronic and hard copy formats.

Contractor Deliverables: One flyer, a strip map and six display boards for each of two meetings.

TASK 3: Finalize Design Criteria

The Contractor will gather field information, finalize design and construction specification requirements, and conduct a comprehensive investigation of all background data that may influence the project. The Contractor will also obtain preliminary title reports and current vesting deeds as needed for properties within the project boundaries.

The Contractor will:

- A. Coordinate with the Agency and other necessary entities to develop design criteria for roadway sections including geometrics, alignments, profiles and cross-sections, storm drainage facilities, bike and pedestrian facilities, sidewalks, signing, striping, flashers, ITS devices, lighting, retaining walls, and other project components.

- B. Research existing utilities and obtain as-built drawings. Coordinate with utilities services such as gas, electrical, telephone, water, sewer and cable/fiber etc. to determine potential utility conflicts, relocation or extension requirements.
- C. Meet with Clackamas County Department of Transportation and Development to identify any additional design requirements.
- D. Finalize design and construction specification requirements.

Contractor Deliverables: Meeting minutes delineating identified design requirements; written identification of specific utility contact persons; existing easement inventory; copies of affected property deeds; photo log.

TASK 4: Field Surveying and Mapping

A detailed existing conditions Base Map and topographic survey was created for SE Monroe Street in late 2017. The selected contractor will be provided full pdf, jpg and CAD files of the survey. It is expected the selected contractor will utilize this Base Map for the project, with supplemental surveying and confidence checks to fill in any data gaps and to document any changes in condition.

The Contractor will use the base map, updated as necessary, for design of the roadway, utility relocation, and storm drainage.

Specific tasks related to field surveying and mapping include:

- A. Obtain preliminary title reports or copies of current deeds for properties impacted by the project.
- B. Utilizing the base map and spot checks as necessary, identify and locate all existing utilities within the project limits and determine possible utility conflicts.
- C. Identify and/or verify existing utility or other easements (access, sidewalk, slope etc.) that could be impacted within the project limits.
- D. Initiate contact with the utilities (e.g. gas, electric, telephone, water, etc.) to coordinate and obtain as-built drawings.
- E. If required to supplement existing base map data, obtain any permissions and/or rights-of-entry on private property to perform surveys. Template Right of Entry (ROE) forms will be supplied by the County Right of Way Agent, filled out by Contractor and returned to Agent for signatures. Contractor then will obtain necessary landowner signatures.
- F. (Contingency) Supplement and perform a confidence check of completed field topography and base map data of the area impacted by improvements. Determine if any changes to natural and cultural features, fences, buildings, and any other relevant features require further surveying. Any additional surveying of features will include the area from the right-of-way to the edge of the existing asphalt on both sides of the road. The data should also include the area on each intersecting street for a distance of 50 feet past the right-of-way line of SE Monroe Street.

- G. Verify horizontal locations of all utilities are tied. In instances where there may be a major conflict with utilities, verify vertical locations are tied as well.
- H. Update existing conditions drawing (base map) as necessary, using AutoCAD version 2019 or later. Upon completion of the existing conditions drawing, submit a three paper copies and an electronic copy to the Agency.
- I. Prepare a Centerline description for the entire length of the project.
- J. File a pre-construction record of survey with the County Surveyor as required by ORS 209.155.
- K. Prepare a separate Right-of-Way Impact Map for each parcel with a ROW or easement acquisition, identifying impacts to landscape vegetation and/or other improvements within permanent and temporary easement areas.
- L. Prepare legal descriptions (label Exhibit(s) A) and exhibit maps (label Exhibit(s) B) for permanent and temporary easements acquisitions.

Contractor Deliverables: Verified and updated topographic survey and base maps, including AutoCAD drawing files, showing all existing conditions; centerline description; pre-construction record of survey; Right-of-Way impact maps; easement legal descriptions and exhibits.

TASK 5: Environmental Reconnaissance and Permitting

The Agency will obtain Rights of Entry (ROE) for field reconnaissance work. The Contractor will provide list of properties requiring ROE's for research disciplines no less than five (5) weeks before such ROE's are required for work on private parcels. Contractor should verify any ROE map for concurrence on the appropriate properties.

The following tasks will be completed by the Contractor to identify issues and ensure compliance with the regulating agencies:

- A. Meet with the Agency and applicable environmental agencies to identify design and permitting requirements with respect to environmental regulations.
- B. Perform a natural resources reconnaissance and write a memo documenting existing conditions. For scoping, it is assumed that no wetland impacts are associated with the project
- C. Perform a Level 1 Hazardous Materials Corridor Study (HMCS) and provide draft and final memoranda. The purpose of the HMCS is to review the development history and current use of the properties adjacent to proposed roadway right-of-way and evaluate whether contaminant releases from these adjacent properties have been reported to regulatory agencies or may have occurred based on the current or known historical uses of the properties.

Contractor shall perform the Level 1 HMCS according to American Association of State Highway and Transportation Officials (AASHTO) criteria for a Corridor Study. The study shall generally conform to the scope and limitations of the American Society for Testing and Materials (ASTM) E 1527-13: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. Standard Practice E 1527-13 addresses the range of contaminants within the scope of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and petroleum products.

Performance of a HMCS is intended to reduce but not eliminate uncertainty regarding the existence of environmental conditions within the Project corridor. The AASHTO practice is intended primarily to identify potential sources of contamination and hazardous materials that could impact the project. Based on the AASHTO guide, the HMCS constitutes appropriate inquiry into current and past uses of properties within the project corridor and is consistent with good commercial or customary practice.

Assumptions:

Contractor has permission to access the project corridor and all structures necessary to perform the aforementioned activities.

The Level One HMCS does not include an evaluation for the presence of lead-based paint, asbestos-containing materials, or other hazardous building materials that may be present within the Project corridors.

Site Reconnaissance

Contractor's qualified environmental professional shall conduct a reconnaissance of the project corridor to observe the property to the extent not obstructed by bodies of water, adjacent buildings, or other obstacles. The periphery of the project corridor shall be inspected while on site and from adjacent public thoroughfares.

Contractor shall inspect the project corridor for visual signs of contamination, presence of hazardous materials, and environmental problems. Contractor shall view adjacent parcels and existing uses shall be reviewed for potential environmental impacts. Contractor shall use color photographs to document the condition of the project corridor at the time of the inspection.

Historic Research

Contractor shall attempt to identify historic uses of the project corridor from the present to at least 1940. Contractor shall review one or more of the following standard historical sources, when the records are reasonably ascertainable. These sources include aerial photographs, fire insurance maps, property tax files, recorded land title records, United States Geologic Survey (USGS) topographic maps, city directories, building department records, zoning/land use records, and other historical sources.

Records Review

Contractor shall conduct a records search for the project corridor, which shall include a review of publicly available environmental records obtained from the US Environmental Protection Agency (EPA) and the Oregon Department of Environment Quality (DEQ). The following federal, state, and tribal lists shall be reviewed: National Priorities List (NPL); Comprehensive Environmental Recovery, Compensation, and Liability Information System (CERCLIS); Resource Conservation and Recovery Act (RCRA) Transport, Storage and Disposal (TSD); RCRA generators; Environmental Response Notification System (ERNS); Underground Storage Tank (UST); leaking UST; Hazardous Materials (HAZMAT); and landfill sites. Listed properties within the minimum search distances specified by E 1527-13 shall be identified. Contractor shall review the records and make conclusions based on the data.

In addition, Contractor shall contact County assessor and the environmental health, fire, building, and planning departments for pertinent environmental information pertaining to the project corridor. If necessary, Contractor shall review available files at the DEQ office in Salem, Oregon, for additional records pertaining to the project corridor and surrounding properties.

Physical Setting Review

Contractor shall obtain a current United States Geodetic Survey (USGS) topographic map and current aerial photographs of the project corridor. Contractor shall also review published information regarding soils, geology, and hydrogeology of the project corridor and region.

Task Deliverables/Schedule:

Draft Level 1 HMCS report within four (4) weeks of task notice to proceed.

Final Level 1 HMCS report within one (1) week of receipt of comments.

D. (Contingency) Perform a Clean Fill Evaluation of soil adjacent to the existing roadways within the Project Corridor. Previous soil sampling adjacent to Oregon roadways has indicated the presence of contaminants from roadway runoff at concentrations greater than Oregon Department of Environmental Quality (DEQ) Clean Fill Screening Levels (CFSLS) in the upper 1.5 feet of soil. Preliminary research indicated the presence of a nursery facility adjacent to SE Monroe Street. Pesticides and associated metals can accumulate in surface soil from routine pesticide applications on agricultural land, particularly in low lying areas like ditches. The Clean Fill Evaluation is intended to evaluate disposal options for soil that will require excavation and export during construction. The Clean Fill Evaluation will consist analyzing soil samples collected from areas where surface soils will be disturbed for project construction. The specific scope of work is summarized below.

- Coordinate and manage the field investigation, including public and private utility locates, permitting, and coordination as necessary to conduct explorations within the right-of-way.
- Contact the Oregon One-Call Utility Notification Center to clear the location of public utilities beneath the areas to be explored.
- Contractor shall collect surface soil samples from up to 10 locations.
- At each location, samples will be collected at approximately 3 feet and 10 feet from edge of pavement, depending on width of right-of-way acquisition. Soil samples shall be obtained from 0 to 0.5 feet and 1 to 1.5 feet below ground surface. Sample locations must be backfilled with excavation spoils; there must be no investigation derived waste (IDW). Equipment decontamination water can be disposed on-site.
- Contractor shall ship the samples to and ORELAP approved analytical laboratory where they will be composited into as many as 8 groups based on depth and distance from edge of pavement.
- The composite samples will be analyzed for NWTPH-Gx, NWTPH-Dx, Method 8270 SIM PAHs, Method 8151 herbicides, Method 8081 pesticides, Method 8082 PCBs, and total metals according to Methods 6020 and 7471A.
- Total metals analyses will include antimony, arsenic, barium, cadmium, chromium, copper, lead, selenium, silver, zinc, and mercury.
- Compare the analytical results to the appropriate Oregon Department of Environmental Quality DEQ CFSLS and summarize the results of the sampling activities in a report that will include recommendations for additional sampling and management and disposal of soil during construction.
- Report shall include field observations, photographs, description of sampling methods, laboratory reports and tables summarizing the analytical results.

Assumptions:

- Field activities will be completed in a one-day field effort.
- Soil samples will be analyzed on a standard (5- to 10-day) turnaround time.

Deliverables/Schedule:

- Draft Clean Fill Evaluation report within six (6) weeks of task notice to proceed.
- Final Clean Fill Evaluation report within two (2) weeks of receipt of comments.

E. (Contingency) Depending on the findings of the Level 1 Assessment, a Level 2 Assessment may be required. This will be included as a contingency task. Contractor shall collect subsurface soil and groundwater samples in the project corridor and/or on adjacent private property(ies). Soil and groundwater samples shall be collected for contaminant analysis and the results presented in a Level 2 Assessment report. The report

shall discuss soil and groundwater sample methods, laboratory analytical results, and conclusions regarding the presence or absence of subsurface contamination.

The specific scope of work is summarized below.

Contractor shall:

- Prepare a work plan to address the site-specific issues identified in the HMCS. The work plan shall describe the number and type of borings, sample collection, sampling equipment, equipment decontamination, and sample analysis requirements.
- Prepare a Health and Safety Plan in accordance with 29 CFR 1910.120 and OAR 437-02-100 et seq., and other appropriate state and Federal worker health and safety regulations. The HASP must reflect the sampling and characterization activities described in the Work Plan. The HASP should cover the activities of all Contractor, sub-Contractor, and Agency employees. The HASP must include a traffic control plan, if needed.
- Coordinate and manage the field investigation, including public and private utility locates, permitting, and coordination as necessary to conduct explorations within the right-of-way.
- Contact the Oregon One-Call Utility Notification Center to clear the location of public utilities beneath the areas to be explored.
- Subcontract a traffic control provider to develop a traffic control plan and provide traffic control during drilling operations, as needed.
- Conduct geophysical surveys using magnetic survey and ground penetrating radar to determine if underground storage tanks or metallic debris are present, as needed
- Following sampling, properly abandon the boreholes by backfilling in accordance to Oregon Water Resources Department regulations immediately following sample collection and repair the surface, as appropriate.
- Compare the analytical results to the appropriate DEQ CFSLs and risk-based concentrations for construction and excavation workers and summarize the results of the sampling activities in a report.
- Make recommendations for additional sampling and management and disposal of soil and groundwater during construction.

Assumptions:

- Field activities will be completed in a two-day field effort.
 - Soil samples will be analyzed on a standard (5- to 10-day) turnaround time.

Deliverables/Schedule:

- Draft report within six (6) weeks of task notice to proceed.
- Final report within two (2) weeks of receipt of comments.

Contractor Deliverables: Level One Hazardous Materials Corridor Assessment; Level Two Hazardous Materials Corridor Assessment (contingency deliverable)

- F. Perform a site reconnaissance of the project area to identify the potential presence of cultural resources or historic resources.
- G. Prepare a draft and final technical memorandum complete with maps to summarize the reconnaissance findings.
- H. Develop a list of all potential environmental permits required (including County permits) and the applicable agencies, and coordination needed based on the environmental reconnaissance findings. In collaboration with the Agency, consult and coordinate with all applicable environmental agencies to further refine the permitting strategy. Prepare a complete list of all permits necessary for submittal by the Agency. All work and

recommendations to be accomplished under this solicitation must conform to all appropriate federal, state, and local laws and regulations.

- I. Provide assistance to Agency in responding to questions from environmental agencies.
- J. Assist the Agency in preparing applications and obtaining all required Local, State, and Federal environmental permits.

Contractor Deliverables: Meeting summaries; natural resources memo; cultural resources memo; Level One Hazardous Materials Corridor Assessment; Level Two Hazardous Materials Corridor Assessment (contingency task).

TASK 6: Preliminary Engineering

The Contractor will:

- A. Perform preliminary storm drainage analysis that includes detention and water quality of runoff from new impervious surfaces and redirection of flows from new curbs or slope changes, in relation to the existing storm system in the Monroe project area. Contractor will coordinate with Clackamas County Service District No. 1 on the proposed design. Identify options necessary to meet Clackamas County Surface Runoff standards for water quality and quantity. This task will include preliminary and final drainage reports.
- B. Conduct a geotechnical evaluation within the project corridor for design elements related to pavement preservation, pavement widening and infiltration characteristics. We propose to provide Geotechnical Engineering scope of services as follows:
 - 1. Review as-built information within the project area if available from the Agency.
 - 2. Identify field exploration locations based on discussion and information from the project team and present the exploration locations to the Agency.
 - 3. Obtain one-call utility locates for explorations and obtain permits through the Agency.
 - 4. Provide traffic control during field explorations through our subcontractor.
 - 5. Complete up to 16 solid stem auger borings to depths of up to 5 feet below ground surface for use in pavement design and utility trench subsurface characterization. Obtain samples at 2.5- to 5-foot intervals.
 - 6. Complete hollow-stem auger borings to depths of up to 20 feet below ground surface for use in UIC infiltration testing.
 - a. Up to four (4) test locations.
 - b. Locations and depths for infiltration testing to be provided by the project team. Test locations will also depend on right-of-way limits, utilities, and accessibility.
 - c. Obtain soil samples at 2.5- to 5-foot intervals.
 - d. Complete infiltration testing in the explorations at depths from to 10 to 15 feet below ground surface.
 - 7. Conduct falling weight deflectometer (FWD) testing at 100-foot intervals within the project limits. FWD tests in the adjacent lane will be offset.
 - 8. Conduct the following laboratory testing using soil samples obtained from the explorations:
 - a. Up to 20 moisture content tests in general conformance with the American Society for Testing and Materials (ASTM) D 2216.
 - b. Up to one Atterberg limits tests in general conformance with ASTM D 4318, if soil conditions warrant.
 - c. Up to four tests for material passing the U.S. No. 200 sieve in general conformance to ASTM D 1140.

- d. Up to four tests for soil gradation in general conformance to ASTM D 422 for use in infiltration calculations.
9. Provide the results of our infiltration testing.
10. Provide construction recommendations for site preparation, structural fill compaction criteria, and we/dry weather earthwork procedures.
11. Back-calculate FWD results to determine the effective pavement structural capacity and subgrade resilient modulus.
12. Calculate pavement design loads based on traffic classification data to be provided by the design team.
13. Provide pavement rehabilitation and widening design recommendations for construction.
14. Provide the results of our infiltration testing.
15. Project management including attendance at a project kick-off meetings and discussions with the design team and Clackamas County.
16. Provide a draft geotechnical report summarizing the results of our investigation and recommendations.
17. Finalize the draft report after incorporation review comments from the Agency and the design team.

Assumptions:

- Environmental permitting shall not be required for the field work.
- The drill cuttings are not contaminated and may be disposed of off-site by our drilling subcontractor. If the drill cuttings appear to be contaminated, the Agency shall be informed immediately, and GeoDesign shall take necessary action upon authorization.
- Flagging and traffic control for drilling shall be subcontracted.
- All fees associated with Right of Entry's and permits shall be provided by the Agency.

Contractor Deliverables: Draft and final geotechnical design reports.

- C. Coordinate with the Agency to determine roadway geometrics, alignments, profiles, and cross-sections meeting AASHTO (American Association of State Highway and Transportation Officials) and County standards. Provide up to two alternative roadway horizontal and vertical profile designs to the Agency in strip maps with preliminary cross-sections and profiles.
- D. Provide preliminary cost estimates for proposed alternatives.
- E. Coordinate with Agency to determine appropriate retaining wall structures (type, size, and location), if needed. At least two retaining wall types should be considered in the TS&L phase.
- F. Submit Draft preliminary (30%) strip map plans showing the new sidewalks or pathways, limits of any retaining walls and other major improvement features using information from the topographic survey, Stormwater Report and Geotechnical Report. Plans should be generated at a horizontal scale of 1" = 20'.
- G. Provide a draft and final Design Acceptance Package (DAP) memo to the Agency summarizing the alternatives considered and recommended improvements. Include the plans and all draft and final reports including environmental, stormwater and geotechnical reports in the DAP.
- H. Prepare traffic analysis memorandum to determine recommended lane configurations for Monroe Street/72nd Avenue intersection. Review available traffic information at study area these intersections and projected volumes to determine impacts to intersection operations resulting from proposed improvements and identify needed modifications.

Review cross section along Monroe to assess cross-section, multimodal needs, and transition points. Perform peak period traffic counts at up to four locations to assess midblock pedestrian needs per NCHRP 562 guidance.

Deliverables: Design base map per County standards; geotechnical report; storm water analysis hydraulic reports; detailed cost estimates; layouts for two alternative designs; TS&L memo for retaining walls, as necessary; draft and final DAP memos; strip maps with preliminary cross sections and profiles; monthly engineering schedule updates.

Task 7: Right-of-Way Research, Descriptions, Appraisals, and Acquisitions

The Contractor will provide title research, maps, legal documents, appraisals, negotiations, and acquisition and relocation services. It is assumed that there are 10 acquisition files and 67 minimum payment files for driveway reconnections.

The Contractor will:

- A. Identify if proposed road improvements require partial or full acquisitions of fee parcels or acquisition of rights-of-way and/or easements only.
- B. Verify all existing easements within the impact areas and the beneficiaries of those easements for efficacy of project use as shown on the base map.
- C. Develop right-of-way and/or easement cost estimates. If the proposed improvements necessitate right-of-way and/or easement acquisitions, estimate the total cost of acquisitions. Cost estimates shall not be broken down or identified by individual properties, but only by total cost for respective alternatives. Preliminary title reports will be obtained under survey tasks. Contractor will alert the Project Manager of any title related concerns.
- D. If necessary, Contractor will produce up to 10 real estate appraisals in accordance with the ODOT Right-of-Way Manual and the URA for each parcel identified for which a property interest is to be acquired. Contractor will provide the Agency with two copies of each real estate appraisal. The Contractor should be aware that all appraisals shall undergo an independent appraisal review and that the Contractor will need to take corrective actions necessary to provide the Agency with recommendations for establishment of just compensation.
- E. Contractor will conduct Right of Way negotiations and acquisitions in conformance with current state and federal regulations and the Federal Uniform Relocation Act (URA).
Under no circumstances shall the Contractor take coercive action to induce an agreement on the price paid to the property owner. If negotiations do not result in an agreement, the Contractor is to submit a “recommendation for condemnation” packet to the Agency for further action. Develop a Right-of-Way Status Report and update and submit such to the Agency on a bi-weekly basis.
- F. Coordinate with the Agency to conduct all public and/or landowner inquiries about the project with the understanding that no design or location decisions have been made and that potential impacts to properties covered by alternatives are unknown at this time.

Contractor Assumptions:

- Assumes up to 10 ROW files and 67 Minimum Payment Offer files
- Assumes 10 taking and damages appraisals & 10 appraisal reviews

- Contractor to provide title reports for all files.
- There is no relocation.
- Rights of Entry are not needed for this project.
- It is assumed that the minimum payment offers will be accepted. If these voluntary offers are rejected, additional scope and fee will be added for the conversion to a standard acquisition file.
- The Agency will draft a resolution of necessity.
- Condemnation support is not a part of this scope.
- Escrow services and title insurance if needed will be paid for by the Agency.
- The Agency will make payment to property owners and record documents if needed.
- Contractor will be provided with legal descriptions and drawings.
- Rates subject to annual escalation.

Contractor Deliverables: Right-of-way cost estimates; right-of-way base map; right-of-way impact maps; legal descriptions and exhibit maps; appraisals; negotiated files; and right-of-way status reports.

Task 7 (CONTINGENCY): Right-of-Way Research, Descriptions, Appraisals, and Acquisitions (Contingency Task)

The Contractor will provide title research, maps, legal documents, appraisals, negotiations, and acquisition and relocation services. It is assumed that there are 10 acquisition files and 45 minimum payment files for driveway reconnections for the contingency work. The Subtasks will be the same as outlined in Task 7 above.

Contractor Deliverables: Right-of-way cost estimates; right-of-way base map; right-of-way impact maps; legal descriptions and exhibit maps; appraisals; negotiated files; and right-of-way status reports.

TASK 8: Final Design Plans, Specifications, Estimates and Bid Assistance

The Contractor will advance the recommended alternative from the TS&L stage (30% design) to the 100% complete stage. Contractor shall complete the following:

- A. Conduct strategy work sessions both in person and on the telephone to keep the project team informed about issues, decisions, and impacts.
- B. Incorporate comments from the 30% and 60% design submittal in order to generate further refinement of the plans. This may include more detailed retaining wall sections, surface water collection, transfer or treatment, driveway connections, signing and striping plans, flashers/signals, ITS devices and intersection ADA access ramps and details.
- C. Conduct 60% and 90% design work sessions with Agency staff.
- D. Complete engineering drawings for submittal to the Agency at 60%, 90%, and 100% milestones, and perform quality assurance and in-house independent design checks and plan review of all drawings and related quantities. All plans will be drafted with AutoCAD software, version 2019 or later, and the final CAD drawings provided through a FTP site or on a CD.
 - Provide lighting analysis along Monroe Street at public intersections and pedestrian crossings. Analysis will consider the use of existing wood utility poles to the extent possible. Contractor to coordinate with PGE. Roadway illumination plans will be prepared per Clackamas County and PGE standards showing all underground infrastructure (light pole foundations, junction boxes, conduit) for the new aluminum light poles where needed to supplement fixtures

on utility poles. PGE will be responsible for setting the poles, installing the luminaires and wiring, and energizing the lighting system. New aluminum poles will be energized via underground conduit. New street lighting system will conform to PGE option A requirements. The following plans will be prepared:

- Illumination legend – 1 sheet
 - Illumination plans – 12 sheets (1:40 scale)
 - Illumination details – 2 sheets
- Contractor shall perform the design work for this Task through guidance provided by the current edition of the Clackamas County Roadway Standards, ODOT Traffic Sign Design Manual, the MUTCD and Oregon Supplements to the MUTCD (OAR 734-020-005) and with the Sign Policy and Guidelines for the State Highway System. Sign Plans shall include, but are not limited to the following: permanent signing plan, signing details, and sign post and data table. Contractor shall prepare striping plan with guidance provided by the Clackamas County Roadway Standards, ODOT Traffic Line Manual, ODOT Traffic Manual, the MUTCD, the Oregon Supplement to the MUTCD, the Oregon Standard Drawings, and Standard Details. Permanent Striping Plans shall include but are not limited to roadway alignment, stationing, channelization information, tapers, centerlines, lane lines, shoulder width information, and dimensions. It is anticipated that minor cross street approaches will require minor signing and striping modifications near the intersections. The following plans will be prepared.
 - Signing/Striping Legend – 1 sheet
 - Signing/Striping Plans – 12 sheets (1:40 scale)
 - Sign installation details – 4 sheets
 - Striping details – 1 sheet
 - Prepare typical Traffic Control Plan details to describe how the existing roadway area is divided up between live traffic and the construction site. Typical plan sheets will identify the type, quantity and location for temporary traffic control devices. The TCP typical details shall address all modes of transportation, including bicycles and pedestrians. Contractor shall prepare the TCP in accordance with the ODOT Traffic Control Plans Design Manual, applicable ODOT Standard Drawings, Standard Specifications, and the MUTCD. Agency will provide lane closure restrictions along Monroe Street. The following plans will be prepared:
 - Advance area signage plan – 1 sheet
 - Traffic control plan details – 6 sheets (1:40 scale)
 - Staging Plans – 2 sheets
- E.** Provide relevant plan drawings that include at a minimum title, summary, typical sections, erosion control plans, retaining wall design, storm water plans, illumination plans, landscaping plans, construction staging, temporary protection and direction of traffic, restoration plans, signing and pavement marking, right-of-way design plan, planting plans, standard details, and other required drawings for submittal to Agency for review. Title sheet shall include location sketch, title of project, length of project limits, plan sheet index, applicable Oregon Standard Drawings, and a provision for approving official signature date and scale.
- F.** Calculate quantities and develop an engineer's construction cost estimate and construction schedule for submittal at each plan development milestone (60%, 90%, 100%).
- G.** Prepare relevant sections of specifications based on the 2018 Oregon Standard Specifications for Construction. Produce special provisions for the project using standard

ODOT boilerplate special provisions and County boilerplate special provisions to the specifications in Part 00100 – General Requirements.

- H. Revise and submit final Special Provisions based on comments received during Agency reviews.
- I. Provide word processing of the final Special Provisions.
- J. Make corrections as required by Agency and submit final plans to Agency (both documents and electronic copies).
- K. Provide bidding assistance, including responding to questions from potential construction contractors and suppliers to the Agency about the Plans and Specifications during the bidding process, and completion of any addendums necessary to clarify the documents.
- L. Coordinate with utilities for any required relocations. Send preliminary and final plans to each affected utility, along with notification letters. Include utility relocation status and schedule with monthly progress report and schedule update. Provide a final notice and status update to all utilities prior to bid.

Contractor Deliverables: 60%, 90%, and 100% Engineering Drawings (plan size to be coordinated with Agency), 90% and 100% Specifications and Bid Schedule, documentation of 60% and 90% review comments, Engineer’s Estimate, final technical reports, changes to documents for Addenda (up to three), if any.

It is assumed for the purpose of developing this proposal that a pre-bid meeting will not be conducted. An allowance for three (3) bid addenda is to be provided.

NOTE: Construction management services are not included as part of this RFP and will not be included in the Contractor contract for this project. The Agency may, at its discretion, decide to hire the Contractor for these services under a separate, future contract.

TASK 9: Construction Services

These services are to be provided by the Contractor as part of the design engineering scope of work. These services are not considered part of construction engineering (a.k.a. construction management).

- A. Pre-construction conference – The Contractor will attend the pre- construction conference to define responsibility, standards, special items of interest to the project, traffic control, maintaining access, communications, and scheduling.
- B. Construction Assistance – The Contractor will work directly with the Agency’s construction management during construction. The Contractor will visit the project site at least two times per week, interpret the plans and specifications and respond to questions, review shop drawing submittals within 7 calendar days of receipt, assist with field design changes and review change orders. The Contractor will also attend meetings with Agency project managers as required to review construction progress, coordinate with utilities as required, and attend the final inspection. The Contractor shall provide a punch list to the Agency construction management team.
- C. Construction Surveying and Checks – The Contractor will set vertical and horizontal controls for construction staking and be available for verification of contractor staking. Construction staking will be the responsibility of the contractor.

- D. Project Closeout – After construction is complete, the final inspection complete, and the project accepted by the Agency, the Contractor will modify the plans and profiles to reflect any changes made during construction, with input from Agency construction management. A set of reproducible mylar as-constructed plans and the associated AutoDesk drawing files are to be provided to the Agency.

Deliverables: Vertical and horizontal control to be available at pre-construction conference (in field and in electronic format); shop drawing review comments; final inspection/project concurrence letter; one set of reproducible mylar as-constructed plans and the associated AutoDesk drawing files; monthly engineering schedule updates.

**EXHIBIT B
FEE SCHEDULE**