

AGENDA

Thursday, February 11, 2016 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2016-09

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

II. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Board Order No. _____ Adopting the Findings of Fact and Plan of Dissolution for the Estacada Area County Service District for Library Services (Chris Storey, County Counsel)
2. Board Order No. _____ Adopting Certain Findings, Agreement to the Service as Trustees, and Declaring the Dissolution of the Estacada Area County Service District for Library Services (Chris Storey, County Counsel)

III. CONSENT AGENDA *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of Re-Credentialing Clackamas County Medical Director, Dr. Andrew Suchocki – *Health Centers*
2. Approval of an Intergovernmental Agreement with the State of Oregon, Department of Consumer and Business Services, Oregon Insurance Division, Senior Health Insurance Benefits Assistance (SHIBA) – *Social Services*
3. Approval of an Intergovernmental Agreement with the City of Canby and the Housing and Community Development Division for the North Cedar Street Improvements Project – *Housing & Community Development*

4. Approval of a Sub-Recipient Agreement with Northwest Family Services for Youth Drug and Alcohol Prevention - Oregon City, Gladstone, and Milwaukie – *Children, Youth & Families*
5. Approval of Agency Services Contract with Northwest Family Services for Evidence-Based Parenting Education Classes – *Children, Youth & Families*

B. Department of Transportation & Development

1. Resolution No. _____ Declaring the Public Necessity and Purpose for Acquisition of Rights-of-Way and Easements for the Salmon River (Elk Park Road) Bridge Project and Authorizing Negotiations and Eminent Domain Actions

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Approval of an Intergovernmental Agreement between North Clackamas Parks & Recreation District (NCPRD) and the Clackamas County Sheriff's Office (CCSO) for Cooperative Use of NCPRD Facilities as CCSO Reporting Stations - *CCSO*

D. Technology Services

1. Approval of a Contract with Unify Inc. for Upgrade of the Holman Building HiCom 300 Telephone SVoice Server to a HiPath Openscape 4000 V7 Voice Server - *Purchasing*

E. County Counsel

1. Approval of a Release of Reversionary Interest for a Park in the City of Lake Oswego

IV. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

1. Approval of an Intergovernmental Agreement between North Clackamas Parks & Recreation District (NCPRD) and the Clackamas County Sheriff's Office (CCSO) for Cooperative Use of NCPRD Facilities as CCSO Reporting Stations

V. WATER ENVIRONMENT SERVICES

(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)

1. Approval of an Intergovernmental Agreement between Clackamas County Service District No. 1 and Metro for the Acceptance of the Natural Areas Capital Grants Program Award
2. Approval of Contract Documents between the Clackamas County Service District No. 1 and Stettler Supply Company for the Blower System Upgrades Project - *Purchasing*
3. Approval of Contract Documents between Tri-City Service District and Stettler Supply Company for the Blower System Upgrades Project - *Purchasing*

VI. COUNTY ADMINISTRATOR UPDATE

VII. COMMISSIONERS COMMUNICATION



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

February 11, 2016

Stephen L. Madkour
 County Counsel

Board of County Commissioners
 Clackamas County, acting as the
 Governing Body of the Estacada Area
 County Service District for Library Services

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
 Assistants

Members of the Board:

Order Adopting Findings of Fact and Plan of Dissolution for the Estacada Area
County Service District for Library Services

Purpose/Outcomes	Procedure in support of the dissolution of the service district
Dollar Amount and Fiscal Impact	Limited expenditure of staff time to wind down district
Funding Source	Current budget
Duration	Perpetual
Previous Board Action	Discussed at issues policy session January 5, 2016. Petition for dissolution adopted after public hearing on January 14, 2016
Strategic Plan Alignment	Consistent with and implementing the goal of "Building public trust through good government" by eliminating unnecessary government structures/entities
Contact Person	Chris Storey, Assistant County Counsel
Contract No.	N/A

BACKGROUND:

The Estacada Area County Service District for Library Services ("District") was formed to support the desire of the City of Estacada to construct an improved library facility. The library was designed and sized to serve the population of not just the City but the surrounding area. The District was formed with boundaries that are coterminous with those of the Estacada School District, and a general obligation bond was passed by vote of the residents in that area to fund the construction of the new library (the "GO Bond"). The District does not collect any permanent rate or fees and sole purpose was to act as a financing vehicle to aid in the construction of the library, which it accomplished through the GO Bond.

In 2009, as part of the formation of the county-wide Library District of Clackamas County, the County general fund deposited sufficient funds in a sinking fund account to pay off the GO Bond. At that time the District ceased collecting taxes from its residents. However, under the terms of the GO Bonds the earliest the full debt could be repaid was June 2015. The sinking fund made the final payments on the debt from 2009 until 2015, and the GO Bonds are now fully paid off. The District now has no debt and very few assets. Further, it has no revenue and no specific purpose now that it completed the payment of the GO Bonds. In short, it is ready for winding down and dissolution.

The Board adopted a petition of dissolution on January 14, 2016, which began the dissolution process. The next steps is for the Board, as the governing body of the district, to adopt certain findings of fact, a plan of dissolution, and name trustees to execute regarding the same. Attached is a board order consistent with that proposed path.

RECOMMENDATION:

Staff recommends that the Board, acting as the governing body of the District, adopt an Order with certain findings of fact, a plan of dissolution, and name the Clackamas County Board of County Commissioners as Trustees to proceed with the dissolution process.

Respectfully submitted,

Chris Storey
Assistant County Counsel

In the Matter of the Dissolution of
Estacada Area County Service
County Service District for Library
Services with Findings of Fact,
Plan of Dissolution and
Appointment of Trustees

Order No. _____
Page 1 of 2

This matter coming before the Board of County Commissioners acting as the governing body of the Estacada Area County Service District for Library Services (the "District"); associated with it; and

WHEREAS, it appearing that the District has fully paid all outstanding debt and no longer needs to hold assets relating thereto; and

WHEREAS, it further appearing that the District's purpose for formation was to provide a means of financing improvements for the Estacada City Library, which was accomplished through the construction of such improvements with the proceeds of the debt that is now fully paid off; and

WHEREAS, it further appearing that the dissolution and liquidation of the District would be in the best interests of the county and the residents of the District;

WHEREAS, it further appearing that this Board has adopted a petition for dissolution on January 14, 2016; and

WHEREAS, it further appearing that the District, as a final step, needs to appoint trustees to execute on the Plan of Dissolution as adopted;

NOW, THEREFORE, IT IS HEREBY FOUND that the findings of fact attached hereto as Exhibit A are true and correct and be recorded in the records of the District; and

IT IS HEREBY ORDERED that the Plan of Dissolution attached hereto as Exhibit B (the "Plan of Dissolution") is hereby adopted as a reasonable and appropriate method of winding up the affairs of the District; and

IT IS HEREBY FURTHER ORDERED that the Clackamas County Board of County Commissioners, in their role as the governing body of Clackamas County, is hereby named the Trustees of the District for the purposes of completing the dissolution thereof and executing all necessary steps of the Plan of Dissolution.

In the Matter of the Dissolution of
Estacada Area County Service
County Service District for Library
Services with Findings of Fact,
Plan of Dissolution and
Appointment of Trustees

Order No. _____
Page 2 of 2

DATED this 11th day of February, 2016.

**BOARD OF COUNTY COMMISSIONERS, AS THE
GOVERNING BODY OF THE ESTACADA AREA
COUNTY SERVICE DISTRICT FOR LIBRARY SERVICES**

Chair

Recording Secretary

EXHIBIT A

FINDINGS OF FACT

These findings of fact are adopted pursuant to the requirements of Oregon Revised Statutes ("ORS") 198.925 which provides for certain categories of factual findings regarding the affairs of the District. Below is a quote of the statutory requirement from same, followed by a statement of fact that is adopted by the District.

Statute: ORS 198.925(1)(a) The amount of each outstanding bond, coupon and other indebtedness, with a general description of the indebtedness and the name of the holder and owner of each, if known.

Factual Finding: The District does not have any outstanding debt. There was a Debt Agreement for General Obligation Bonds Series 2005. After June 2014 the bonds turned into term bonds which allowed for optional redemption on or after June 1, 2015 at the price of par, plus accrued interest. These General Obligation bonds were defeased on July 9, 2009 following the establishment of the Library District of Clackamas County. At that time the county transferred funds to an escrow account for the defeasance of the debt. The BNY Mellon Trust Company Statement for period 6/1/2015 through 6/30/2015 for Account 471471, Estacada Area CSDLs OF ESC DEP FD confirms the transfer of \$1,441,443.75 in funds on 6/1/2015 to Estacada 2006 D/S TO BNYLOANS A/C, leaving no money in the account and paying off the outstanding defeased debt in full. The County Finance Department reviewed the prior five years of financial history. Maintenance fees are the only expenditures recorded in the District during that time, which are required when using a LGIP account and will cease once the LGIP account is closed.

Statute: ORS 198.925(1)(b) A description of each parcel of real property and interest in real property and, if the property was acquired for delinquent taxes or assessments, the amount of such taxes and assessments on each parcel of property.

Factual Finding: The District does not own a specific parcel of real property. However, it does own an interest in land owned by the City of Estacada, specifically the building in which the Estacada City Library is housed. At the time of issuance of the District's Series 2005 General Obligation Bonds, the District and City entered into an agreement. The Intergovernmental Agreement between the City of Estacada and the Estacada Area County Service District for Library Services, approved on April 28, 2005 (the "Agreement"), states "District shall own the library building for so long as any of the District's bonds remain outstanding, at which time it will be transferred to City." The building stands at 825 NW Wade St., Estacada, Oregon 97023. The City of Estacada owns the real property under the building. Since the City of Estacada is a municipality they are exempt from property taxes (ORS 307.120) and no delinquent taxes or assessments are due. The City of Estacada provided the land for the purpose of building a library from their own means, which is also stated in the Agreement noted above. To the extent the District owns an interest in real property, it is anticipated that such interest will be transferred to the City of Estacada.

Statute: ORS 198.925(1)(c) The amount of uncollected taxes, assessments and charges levied by the district and the amount upon each lot or tract of land.

Factual Finding: According to the Assessor's office (fund number 211073, Service 006 Estacada library) the District has uncollected assessments of \$111.36. The outstanding amount of uncollected taxes is from the period 2005/2006 through 2008/2009. No new levies have been assessed since 2008/2009.

Statute: ORS 198.925(1)(d) A description of the personal property and of all other assets of the district.

Factual Finding: See answer to section (b) and (c) for interest in the Estacada Library Building and the uncollected taxes. The Estacada Library Service District LGIP account (#0000003537), had a balance of \$13,857.58 as of December 31, 2015.

Statute: ORS 198.925(1)(e) The estimated cost of dissolution.

Factual Finding: None for the District. The estimated cost of dissolution is only staff time of various Clackamas County personnel, which are paid by Clackamas County.

EXHIBIT B

PLAN OF DISSOLUTION

As part of the dissolution process, the District needs to have a plan for what to do with all assets and liabilities that have accrued to it during its existence. Below is a summary of the statutory requirements for such a plan,

Statutory Reverences

A plan for dissolution and liquidation of a county service district, is covered under ORS 198.930. The County in which the District is located has authority to assume the outstanding indebtedness of the dissolving district which also continues to furnish similar services to the inhabitants of the district. The County may then execute on the Plan of Dissolution and is charged with moving forward appropriately to execute hereon.

Plan of Dissolution

This Plan of Dissolution is hereby conveyed to the Trustees, and their agents, as appointed by the District Board.

The first step in the dissolution would be winding up the current affairs of the District, including disposition of all liabilities and assets. The disposition of these will be:

Liabilities: The District has no outstanding debt. No liabilities are required to be assumed by any entity.

Assets: Below are the assets that must be liquidated or transferred and conveyed.

1. Cash Assets: The District has a cash balance of \$13,857.58 as of December 31, 2015 in its accounts. The total cash position of the District will be transferred to the Library Network of Clackamas County for use in operating public libraries within the County which includes the areas previously within the District. All accounts will be closed once all cash has been transferred.
2. Property Taxes Receivable: The District has uncollected assessments of \$111.36 from prior assessments of FYs 2006-2008, when the District ceased levying a property tax. This right to collect receivable of the District will be transferred to the Library District of Clackamas County. The purpose of the Library District of Clackamas County is to provide financial support to the library service providers of Clackamas County of which the City of Estacada is a member, and which serves the residents of the dissolving District.
3. Capital Assets: The District has an ownership interest in the City of Estacada Library Building located at 825 NW Wade St, Estacada, Oregon. This interest will be conveyed and transferred to the City of Estacada as per the Intergovernmental Agreement approved on April 28, 2005 between the District and the City of Estacada. The Conveyance will legally occur through quit claim deed to the City which owns the underlying land.

Additional Steps:

Per ORS 198.945, after the affairs of the District have been fully settled, the books and records will be deposited by the Board of County Commissioners, as Trustees of the District, with the County Clerk. The Board of County Commissioners shall also execute under oath, and file with the County Board, a statement that the District has been dissolved and its affairs liquidated.

County Finance, on behalf of the County Commissioners, will file with the Secretary of State Audits Division the final Report in lieu of audit along with a letter reporting the District has been dissolved.



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

February 11, 2016

Board of County Commissioners
 Clackamas County

Members of the Board:

Order Adopting Certain Findings, Agreement to Service as Trustees, and
 Declaring the Dissolution of the Estacada Area County Service District for
Library Services

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller

Nathan K. Boderman
Christina Thacker
 Assistants

Purpose/Outcomes	Procedure in support of the dissolution of the service district
Dollar Amount and Fiscal Impact	Limited expenditure of staff time to wind down district
Funding Source	Current budget
Duration	Perpetual
Previous Board Action	Discussed at issues policy session January 5, 2016. Petition for dissolution adopted by District after public hearing on January 14, 2016 District Board to consider Plan of Dissolution on February 11, 2016
Strategic Plan Alignment	Consistent with and implementing the goal of "Building public trust through good government" by eliminating unnecessary government structures/entities
Contact Person	Chris Storey, Assistant County Counsel
Contract No.	N/A

BACKGROUND:

The Estacada Area County Service District for Library Services ("District") was formed to support the desire of the City of Estacada to construct an improved library facility. The library was designed and sized to serve the population of not just the City but the surrounding area. The District was formed with boundaries that are coterminous with those of the Estacada School District, and a general obligation bond was passed by vote of the residents in that area to fund the construction of the new library (the "GO Bond"). The District does not collect any permanent rate or fees and sole purpose was to act as a financing vehicle to aid in the construction of the library, which it accomplished through the GO Bond.

In 2009, as part of the formation of the county-wide Library District of Clackamas County, the County general fund deposited sufficient funds in a sinking fund account to pay off the GO Bond. At that time the District ceased collecting taxes from its residents. However, under the terms of the GO Bonds the earliest the full debt could be repaid was June 2015. The sinking fund made the final payments on the debt from 2009 until 2015, and the GO Bonds are now fully paid off. The District now has no debt and very few assets. Further, it has no revenue and no specific purpose now that it completed the payment of the GO Bonds. In short, it is ready for winding down and dissolution.

The Board of the District must take certain actions to dissolve the District, including but not limited to making certain factual findings, adopting a plan of dissolution, and appointing trustees. Those actions are contemplated to take place on February 11, 2015.

For the dissolution to take place without the necessity of a vote, the Board of County Commissioners, as the governing body of Clackamas County, must make certain factual findings as well. Further, the District is proposing that the BCC serve as Trustees for the dissolving District, as allowed in statute. If those conditions are met, the Board of County Commissioners is vested with the statutory authority to declare the District dissolved. Attached is a proposed Order effectuating the same.

Following such a declaration, county staff would execute on the adopted Plan of Dissolution to dispose of the limited assets of the District (it has no liabilities) and file all necessary paperwork and records to complete the dissolution process. The District as an entity will legally cease once those actions are taken.

RECOMMENDATION:

Staff recommends that the Board adopt the attached order reflecting certain findings, agree to serve as Trustees of the dissolution of the District, and declare the District to be dissolved.

Respectfully submitted,

Chris Storey
Assistant County Counsel

In the Matter of Declaring the
Dissolution of and Findings
Regarding the Estacada Area
County Service District for
Library Services and
Acceptance of Appointment
As Trustees

Order No. _____
Page 1 of 2

WHEREAS, this matter coming before the Board of County Commissioners, being asked to consider the petition for dissolution of the Estacada Area County Service District for Library Services (the "District"); and

WHEREAS, it appearing that the District has fully paid all outstanding debt and no longer needs to hold assets relating thereto; and

WHEREAS, it further appearing that the District's purpose for formation was to provide a means of financing improvements for the Estacada City Library, which was accomplished through the construction of such improvements with the proceeds of the debt that is now fully paid off; and

WHEREAS, it further appearing that the dissolution and liquidation of the District would be in the best interests of the county and the residents of the District; and

WHEREAS, it further appearing that the District has accomplished its purpose and no longer serves an existing need; and

WHEREAS, it further appearing that the governing body of the District has adopted a petition for dissolution on January 14, 2016; and

WHEREAS, it further appearing that the governing body of the District adopted a plan of dissolution and requested that this Board serve as Trustees of the dissolution process by public hearing on February 11, 2016; and

WHEREAS, it further appearing that this Board is willing to serve as Trustees and execute the Plan of Dissolution adopted by the District; and

WHEREAS, it further appearing that upon due findings by this Board and agreement to serve as Trustees, that this Board is authorized to declare the District to be dissolved;

NOW, THEREFORE, IT IS HEREBY FOUND that the following statements are true and correct:

1. The dissolution of the Estacada Area County Service District for Library Services is in the best interests of the people of Clackamas County; and

In the Matter of Declaring the
Dissolution of and Findings
Regarding the Estacada Area
County Service District for
Library Services and
Acceptance of Appointment
As Trustees

Order No. _____
Page 2 of 2

2. The Estacada Area County Service District for Library Services is no longer necessary for the purpose for which it was formed.

AND FURTHER, IT IS HEREBY AGREED AND ORDERED that the Board of County Commissioners, as the governing body of Clackamas County, will serve as Trustees to oversee the dissolution of the District and executing all necessary steps of the Plan of Dissolution; and

AND FURTHER, IT IS HEREBY DECLARED AND ORDERED that the Estacada Area County Service District for Library Services is hereby dissolved, and staff are directed to take all necessary steps to effectuate the foregoing.

DATED this 11th day of February, 2016.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

February 11, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Re-Credentialing Clackamas County
Medical Director, Dr. Andrew Suchocki

Purpose/Outcomes	Re-Credentialing of Medical Director
Dollar Amount and Fiscal Impact	No Fiscal Impact
Funding Source	Does not apply
Duration	2/4/2016 to 2/3/2018
Previous Board Action	Hiring approval of Medical Director
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, healthy and secure communities
Contact Person	Deborah Cockrell 503-742-5495
Contract No.	Does not apply

BACKGROUND:

The Health Centers Division of the Health, Housing & Human Services Department requests approval of the medical re-credentialing of Medical Director Andrew Suchocki February 4 2016 to February 3 2018.

Dr. Suchocki has been the Medical Director of Clackamas Health Centers since September 23rd 2013. He is also a Family Practice Physician. All physician's practicing medicine at Clackamas Health Center undergo a thorough investigation and review of their background and medical practice. This includes personal and general information, specialty certification, professional liability and current malpractice certificate, license, Drug Enforcement Administration registration (DEA), staff appointment and institutional affiliations, and information regarding physical and emotional health status, medical privileges, a National Practitioner Data Bank query, and review of current competence. For Dr. Suchocki, this inspection was completed by FQHC Director Deborah Cockrell, and Quality and Data Manager James Wilson. There were no adverse findings.

RECOMMENDATION:

Staff recommends the Board approval of this re-credentialing and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

February 11, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the State of Oregon,
Department of Consumer and Business Services, Oregon Insurance Division,
Senior Health Insurance Benefits Assistance (SHIBA)

Purpose/Outcomes	To provide grant funds for the Senior Medicare Patrol (SMP) program to provide outreach, education and individual counseling regarding Medicare/Medicaid fraud, waste, and abuse to people in our community.
Dollar Amount and Fiscal Impact	Three year grant for \$30,000
Funding Source	U.S. Administration for Community Living awarded a three year grant to State of Oregon, Department of Human Services, Aging and People with Disabilities, State Unit on Aging that awarded a grant to State of Oregon, Department of Consumer and Business Services, Oregon Insurance Division, Senior Health Insurance Benefits Assistance. No match requirements. No County General Funds are involved.
Safety Impact	None
Duration	June 1, 2015 through May 31, 2018
Previous Board Action	051012-A2, 101112-A1, 080411-A1
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with H3S's strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	7529

BACKGROUND:

The Social Services Division (SSD) of the Health, Housing and Human Services Department requests approval of a Grant Agreement from the State of Oregon, Department of Consumer and Business Services, Senior Health Insurance Benefits Assistance (SHIBA) to help carry out the Senior Medicare Patrol (SMP) program. The SMP program is intended to support the activities of the SSD Volunteer Connection's SHIBA program.

SHIBA is designed to educate senior and other Medicare recipients of their rights, resources and needs relating to Medicare and other health insurance. These services are invaluable to our seniors and disabled citizens and provide a much needed resource for our most vulnerable populations.

The SMP grant funds help the Volunteer Connection SHIBA program improve and expand State efforts to provide Medicare/Medicaid beneficiaries education of healthcare fraud, errors and abuse. Outreach efforts focus on high populations in rural, Hispanic and tribal communities.

This Intergovernmental Agreement is effective June 1, 2015 through May 31, 2018. It is retroactive due to receipt from the State on December 23, 2015, subsequently reviewed by SSD and County Counsel. It was reviewed and approved by County Counsel on January 20, 2016.

The agreement is for \$30,000 for a three year period. There are no match requirements or County General Funds involved.

RECOMMENDATION:

Staff recommends approval of this Intergovernmental Agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

INTERGOVERNMENTAL AGREEMENT

This Agreement is between the State of Oregon acting by and through its Department of Consumer and Business Services, Oregon Insurance Division, Senior Health Insurance Benefits Assistance (SHIBA) grant program (“Agency”) and Clackamas County acting by and through its Health, Housing & Human Services Department, Social Services Division (“Local Government”), each a “Party” and, together, the “Parties.”

SECTION 1: AUTHORITY

This Agreement is authorized by [ORS 190.110](#).

SECTION 2: PURPOSE

Oregon Department of Human Services (DHS), Aging and People with Disabilities, State Unit on Aging received a three-year Senior Medicare Patrol (SMP) grant (CFDA 93.048) from the U.S. Administration for Community Living (ACL). SHIBA received a three-year interagency agreement from DHS to help carry out the SMP grant project objectives. SHIBA is providing this sub-grant with the intention to improve and expand State efforts to provide Medicare/Medicaid beneficiaries education on healthcare fraud, errors and abuse. This federal grant from the ACL helps ensure states have a network of trained staff and volunteer counselors to accomplish this task. This Agreement is 100% funded with Federal funds.

Objectives

1. Local Government will increase beneficiary access to a volunteer counselor work force that is trained and fully able to provide a range of assistance tied to healthcare fraud.
2. Local Government will participate in SMP training, as required by the grant, to ensure SMP volunteer counselors are equipped to respond to healthcare fraud inquiries.
3. Local Government will provide personalized counseling to an increasing number and diversity of beneficiaries needing locally-based counseling services.
4. Local Government will conduct targeted community outreach to beneficiaries in public forums either under their sponsorship or with community-based partners or coalitions to increase healthcare fraud education and reporting.

SECTION 3: EFFECTIVE DATE AND DURATION

This Agreement is effective on June 1, 2015 and terminates on May 31, 2018, unless terminated earlier in accordance with Section 16.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 AGENCY'S AUTHORIZED REPRESENTATIVE IS:

Lisa D. Emerson, SHIBA Program Coordinator
350 Winter ST NE, RM 330
Salem, OR 97301
(503) 947-7087 Office
(503) 947-7092 Fax
lisa.emerson@oregon.gov

4.2 LOCAL GOVERNMENT'S AUTHORIZED REPRESENTATIVE IS:

Lois Orner, Human Services Manager, Volunteer Connection
2051 Kaen Rd
PO Box 2950
Oregon City, OR 97045
(503) 655-8269 Office
(503) 503-655-8889 Fax
lomer@co.clackamas.or.us

4.3 A PARTY MAY DESIGNATE A NEW AUTHORIZED REPRESENTATIVE BY WRITTEN NOTICE TO THE OTHER PARTY.

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 LOCAL GOVERNMENT SHALL PERFORM THE WORK SET FORTH ON EXHIBIT A, ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

5.2 AGENCY SHALL PAY LOCAL GOVERNMENT AS DESCRIBED IN SECTION 6.

SECTION 6: COMPENSATION AND PAYMENT TERMS

Agency shall pay Local Government a fixed fee of **\$30,000** for completing all work and delivering all deliverables required of Local Government under this Agreement. Agency agrees to pay Local Government **\$5,000** on a semi annual basis beginning June 1, 2015 – May 31, 2018. Payment will be made after completion of all work and delivery of all deliverables to Agency's satisfaction and submission of satisfactory invoice.

SECTION 7: RECOVERY OF OVERPAYMENTS

If payments to Local Government under this Agreement, or any other agreement between Agency and Local Government, exceed the amount to which Local Government is entitled, Agency may, after notifying Local Government in writing, withhold from payments due Local Government under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 8: NONAPPROPRIATION

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of [Article XI, Section 7](#) of the Oregon Constitution or any law limiting the activities, liabilities or monetary obligations of Agency.

SECTION 9: REPRESENTATIONS AND WARRANTIES

Local Government represents and warrants to Agency that:

- 9.1 Local Government is a county duly organized and validly existing. Local Government has the power and authority to enter into and perform this Agreement;
- 9.2 The making and performance by Local Government of this Agreement (a) have been duly authorized by Local Government, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Local Government's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Local Government is party or by which Local Government may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained;
- 9.3 This Agreement has been duly executed and delivered by Local Government and constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;
- 9.4 Local Government has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Local Government will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 9.5 Local Government shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Local Government.

SECTION 10: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State or Oregon as those terms are used in [ORS 30.265](#) or otherwise.

SECTION 11: OWNERSHIP OF WORK PRODUCT

11.1 As used in this Section and elsewhere in this Agreement, the following terms have the meanings set forth below:

11.1.1 “Local Government Intellectual Property” means any intellectual property owned by Local Government and developed independently from the work under this Agreement.

11.1.2 “Third Party Intellectual Property” means any intellectual property owned by parties other than Local Government or Agency.

11.1.3 “Work Product” means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that Local Government is required to deliver to Agency under this Agreement and all intellectual property rights therein.

11.2 All Work Product created by Local Government under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a “work made for hire,” shall be the exclusive property of Agency. Agency and Local Government agree that all Work Product created by Local Government under this Agreement is “work made for hire” of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the Work Product created by Local Government under this Agreement is not “work made for hire,” Local Government hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Work Product created by Local Government under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency’s reasonable request, Local Government shall execute such further documents and instruments necessary to fully vest such rights in Agency. Local Government forever waives any and all rights relating to Work Product created by Local Government under this Agreement, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

11.3 If Work Product is Local Government Intellectual Property, a derivative work based on Local Government Intellectual Property or a compilation that includes Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, no-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Local Government Intellectual Property and the pre-existing elements of the Local Government Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency’s behalf.

11.4 If Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, Local Government shall secure on Agency’s behalf and in the name of Agency an irrevocable, no-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency’s behalf.

- 11.5** If state or federal law requires that Agency or Local Government grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then Local Government shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

SECTION 12: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suite or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and Local Government that arises from or relates to this Agreement 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 State of Oregon 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, to or from any Claim or from the jurisdiction of any court. LOCAL GOVERNMENT, BY EXECUTING OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 13: LOCAL GOVERNMENT DEFAULT

Local Government will be in default under this Agreement upon the occurrence of any of the following events:

- 13.1** Local Government fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 13.2** Any representation, warranty or statement made by Local Government in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by Local Government is untrue in any material respect when made;
- 13.3** Local Government (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in any involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 13.4** A proceeding or case is commenced, without the application or consent of Local Government, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution winding-up, or the composition or readjustment of debts of Local Government, (b) the appointment of a trustee

receiver custodian liquidator or the like of Local Government or of all or any substantial part of its assets, or (c) similar relief in respect to Local Government under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgement, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Local Government is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 14: AGENCY DEFAULT

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 15: REMEDIES

- 15.1** In the event Local Government is in default under Section 13, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that Local Government has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Local Government to perform, at Local Government's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 7 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 15.2** In the event Agency is in default under Section 14 and whether or not Local Government elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, Local Government's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of [ORS 293.462](#), less any claims Agency has against Local Government, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of [ORS 293.462](#), less previous amounts paid for the deliverable and any claims that Agency has against Local Government. In no event will Agency be liable to Local Government for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Local Government exceed the amount due to Local Government under this Section 15.2, Local Government shall promptly pay any excess to Agency.

SECTION 16: TERMINATION

16.1 This Agreement may be terminated at any time by mutual written consent of the Parties.

16.2 Agency may terminate this Agreement as follows:

16.2.1 Upon 30 days advance written notice to Local Government;

16.2.2 Immediately upon written notice to Local Government, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

16.2.3 Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;

16.2.4 Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Local Government; or

16.2.5 As otherwise expressly provided in this Agreement.

16.3 Local Government may terminate this Agreement as follows:

16.3.1 Immediately upon written notice to Agency, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;

16.3.2 Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited or Local Government is prohibited from paying for such performance from the planned source;

16.3.3 Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or

16.3.4 As otherwise expressly provided in this Agreement

16.4 Upon receiving a notice of termination of this Agreement, Local Government will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, Local Government will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, Local Government will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by Local Government under this Agreement.

SECTION 17: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

SECTION 18: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, facsimile, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses or numbers as a Party may indicate pursuant to this Section 18. Any notice so addressed and mailed becomes effective five days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 19: SURVIVAL

All rights and obligations of the Parties under this Agreement shall cease upon termination of this Agreement, other than the rights and obligations arising under Sections 11, 12, 19, 22 and 29 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 20: SEVERABILITY

The Parties agree that if any term or provision of this Agreement 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 Agreement did not contain the particular term or provision held to be invalid.

SECTION 21: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 22: LIMITATION OF LIABILITY AND INSURANCE

22.1 EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 29, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES

OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

22.2 Local Government shall maintain insurance as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 23: RECORDS

Local Government shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Local Government shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Local Government's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Local Government acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Local Government shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Local Government shall maintain Records in accordance with the records retention schedules set forth in [OAR Chapter 166](#).

SECTION 24: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

SECTION 25: NO THIRD PARTY BENEFICIARIES

Agency and Local Government are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 26: FORCE MAJEURE

Neither Party is responsible for any failure to perform, or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to Local Government after

reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 27: MERGER, WAIVER AND MODIFICATION

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 28: SUBCONTRACTS AND ASSIGNMENT

- 28.1** Local Government shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of Local Government under this Agreement. Agency's consent to any subcontract will not relieve Local Government of any of its duties or obligations under this Agreement.
- 28.2** Local Government may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 29: CONTRIBUTION

- 29.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in [ORS 30.260](#) (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 29 with respect to the Third Party Claim.
- 29.2** With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses

(including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgements, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgements, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

29.3 With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgements, fines or settlement amounts. Local Government's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 30: TIME IS OF THE ESSENCE

Time is of the essence in Local Government's performance of its obligations under this Agreement.

SECTION 31: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 32: ADDITIONAL PROVISIONS

Local Government shall comply with the additional requirements set forth in Exhibit C, attached hereto and incorporated herein by this reference.

SECTION 33:

SECTION 34:

SECTION 35: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A - Statement of Work, Exhibit B - Insurance, and Exhibit C - Additional Requirements.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its
Department of Consumer and Business Services

STATE OF OREGON, Clackamas County acting
by and through its Health, Housing & Human
Services Department

Reviewed By: _____
(Signature of Printed Name below)

By: _____
(Signature of Printed Name below)

TK Keen
Printed Name

Printed Name

Deputy Administrator
Title

Title

Date

Date

Authorized By: _____
Nancy A. Cody, Designated Procurement Officer

Date

Approved for Legal Sufficiency in accordance with [ORS 291.047](#)

NA

Assistant Attorney General

February 11, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the City of Canby and the Housing and Community Development Division for the North Cedar Street Improvements Project

Purpose/ Outcome	The Agreement will allow for the Housing and Community Development Division to work with the City of Canby and their hired engineer to construct an estimated 700 lineal feet of sidewalk along N. Cedar Street as well as curb as needed, new solar powered signal crossings will be provided at the intersection of N.W. 5 th Avenue.
Dollar Amount and Fiscal Impact	Community Development Block Grant Funds in the amount of \$185,000. The City of Canby will provide an estimated \$37,000 dollars for the project. No County General Funds will be used for this project.
Funding Source	U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) funds.
Duration	February to July 2016
Previous Board Action/ Review	CDBG Action Plan approved April 30, 2015
Strategic Plan Alignment	Provide sustainable and affordable housing. Ensure safe, healthy and sure communities.
Contact Person	Steve Kelly – Housing and Community Development: 503-650-5665
Contract No.	H3S 7559

BACKGROUND: The Housing and Community Development Division of the Health, Housing and Human Services Department requests the approval of this Intergovernmental Agreement with the City of Canby for the N. Cedar Street Improvements Project. The Agreement determines the roles of Canby and the County regarding contract administration, project management as well as the duties of the hired engineer during project construction. The Agreement was reviewed and approved by County Counsel on January 20, 2016.

RECOMMENDATION: We recommend the approval of this Agreement and that Richard Swift H3S Director be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

INTERGOVERNMENTAL AGREEMENT

BETWEEN

**CLACKAMAS COUNTY DEPARTMENT OF
HEALTH, HOUSING AND HUMAN RESOURCES,
HOUSING AND COMMUNITY DEVELOPMENT DIVISION**

AND

THE CITY OF CANBY

I. Purpose

- A. This Intergovernmental Agreement (this “Agreement”) is entered into between Clackamas County, acting by and through its Housing and Community Development Division (“COUNTY”) and the City of Canby (“CITY”) for the cooperation of units of local government under the authority of ORS 190.010.
- B. This Agreement provides for the construction of an estimated 700 lineal feet of new pedestrian sidewalk along North Cedar Street and curb as needed, new solar powered signal crossings will be provided at the intersection of NW 5th Avenue and North Cedar Street in both directions and a curb bump-out as these improvements will raise awareness of pedestrians. This Agreement further provides for a minimal amount of demolition of existing materials currently in place. The project is located in the City of Canby. These improvements are herein referred to as the “PROJECT.”
- C. The COUNTY has determined that the PROJECT is made up of two components. First component being new concrete sidewalks across the street on the west side of Eccles Elementary School. Second component being new solar powered signal crossings for pedestrians to get to the school safely. The COUNTY reviewed the Census Tract and Block Group for the PROJECT. The entire area around Eccles Elementary School is within a 58.9% Low-Mod Income Area, based on the 2010 Census Data. This area has 1,699 residents that will benefit from the improvements along North Cedar Street. Therefore, the COUNTY qualifies this PROJECT eligible for Community Development Block Grant (“CDBG”) funds as a Low-Mod Area Benefit Activity, because the targeted PROJECT areas for the City of Canby are within the 43.44% Low-Mod Income Level required by HUD. The COUNTY will review the City’s most current Census Tract and Block Group information, as attached as ATTACHMENT A (1) and ATTACHMENT A (2) and incorporated by reference for the PROJECT Area Maps, provided by the CITY.

II. Scope of Responsibilities

- A. Under this Agreement, the responsibilities of the CITY shall be as follows:

1. The CITY shall provide all necessary supervisory and administrative support to assist the COUNTY with the completion of the PROJECT.
2. The CITY shall obtain any easements or approvals necessary to allow access onto private property through the course of the PROJECT. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (“URA”). If assistance is needed for URA guidance, the COUNTY has a Right-Of-Way Acquisition Specialist.
3. The CITY shall provide Engineering services internally or externally for the design and construction oversight of the PROJECT. Such services shall be provided at no cost to the COUNTY. The CITY shall assume responsibility for ensuring the following:
 - a. The CITY shall hire a registered professional Engineer (herein after referred to as Engineer) to prepare all plans and specifications necessary to publicly bid the PROJECT for award to a construction contractor (herein after referred to as Contractor) and provide construction oversight including staking and surveying of the PROJECT. The Engineer firm may donate staff time as well as donate materials for the PROJECT.
 - b. The CITY shall require the Engineer to maintain comprehensive general (including contractual liability) and automobile liability insurance for personal injury and property damage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to Engineer's or any of Engineer's subcontractor's performance of this Agreement under the following provisions listed in the matrix below.

Minimum Insurance Requirements for Contracts with Government, Architect or Engineer:

Reason for Contract:	Commercial General Liability:	Automobile Liability Commercial:	Professional Liability:
Consulting Services/ Professional	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Design Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Engineers	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Professional Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000

- c. The Engineer shall endeavor to use good faith in order to maintain in force such coverage for not less than three (3) years following completion of the PROJECT. The CITY shall require the Engineer to include the COUNTY as an additional insured and refer to and support the Engineer's obligation to hold harmless the COUNTY, its officers, commissioners and employees. Such insurance shall provide 30 days written notice to the COUNTY in the event of cancellation, non-renewal, or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. The insurance company will provide written notice to the COUNTY within thirty (30) days after any reduction on the general annual aggregate limit.
- d. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the Engineer's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of the contract.
- e. The CITY shall require the Engineer to furnish the COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence / \$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, and damages

because of negligent acts, errors and omissions in any way related to this contract. The COUNTY, at its option, may require a complete copy of the above policy.

- f. The insurance, other than the professional liability insurance, shall include the COUNTY as an expressly scheduled additional insured. Proof of insurance must include a copy of the endorsement showing the COUNTY as a scheduled insured. Such insurance shall provide sixty (60) days written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. This policy(s) shall be primary insurance with respect to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.
- g. The CITY shall ensure that the Responsibilities of the Engineer include, but not be limited to, the following:
 - (i) During construction, the Engineer shall endeavor to guard the COUNTY against apparent defects and deficiencies in the permanent work constructed by the Contractor.
 - (ii) All reports and recommendations concerning construction shall be submitted to the COUNTY for their approval. The COUNTY agrees that no decisions affecting construction shall be made without CITY approval.
 - (iii) In the event modifications to the construction contract, which result in an increase in the contract amount, are made without the prior approval of the COUNTY, CITY shall be solely responsible for these modifications.
 - (iv) Notify the County Surveyor of the PROJECT and provide CITY, design Engineer, surveyor and contractor contacts.
 - (v) File a "Pre-Construction Record of Survey" with the County Surveyor prior to the PROJECT final award of the construction contract in order to identify and preserve the locations of survey monuments that may be disturbed or removed during the construction as described in ORS 209.150.
 - (vi) File a "Post-Construction Record of Survey" with the County Surveyor after the construction PROJECT is completed. The Engineer is responsible to replace any property corner monuments that were disturbed or removed during construction as described in ORS 209.150.

4. The CITY shall operate and maintain the improvements for public purposes for their useful life subject to the limitations on the expenditure of funds by the CITY as provided by Oregon Statute.
5. The CITY shall complete and submit a Performance Measures Report following completion of the PROJECT, attached as ATTACHMENT A and incorporated by reference.
6. The CITY shall complete and submit a Matching Funds Report following completion of the PROJECT, attached as ATTACHMENT B and incorporated by reference.
7. Upon completion of the PROJECT, the CITY:
 - a. Agrees to accept the improvements and take ownership, including responsibility for any claims against the PROJECT from that point forward; and
 - b. Agrees to become the successor of the PROJECT construction contract and assume all of the corresponding rights and responsibilities.
8. The CITY agrees to maintain ownership of the property for the life of the PROJECT.

B. Under this Agreement, the responsibilities of the COUNTY will be as follows:

1. The COUNTY will appropriately bid and contract for construction of the PROJECT and with the advice of the CITY, will approve changes, modifications, or amendments as necessary to serve the public interest.
2. In such contracts, the COUNTY will assume the rights and responsibilities of the owner of the PROJECT. Moreover, the COUNTY will assign a Project Coordinator to perform the following duties:
 - a. Provide PROJECT Manual Documents and Bid the PROJECT;
 - b. Award the PROJECT;
 - c. Hire the lowest responsive/ responsible General Contractor;
 - d. Issue the Notice to Proceed to General Contractor;
 - e. Process Pay Request using CDBG funds and CITY funds;
 - f. Conduct on-site interviews of workers for Federal Prevailing Wage Rates for Davis-Bacon as well as review submitted Payroll Forms for the Project;
 - g. Collect all HUD required PROJECT Close-Out Documents;
 - h. Release Retainage to Contractor will occur only after hired Engineer and the CITY approve and sign-off on PROJECT after the scope of work has been completed; and
 - i. Relinquish ownership of PROJECT to the CITY upon completion.

3. The COUNTY agrees to provide and administer available Federal Community Development Block Grant (“CDBG”) funds (CFDA 14.218) granted by the U.S. Department of Housing and Urban Development (“HUD”) to finance the PROJECT.
 4. The COUNTY shall conduct necessary environmental reviews described in 570.604 of the CDBG regulations for compliance with requirements of the CDBG program prior to the start of construction.
 5. The COUNTY shall provide reasonable and necessary staff for administration of the PROJECT.
- C. The COUNTY and CITY agree to jointly review and approve all design, material selection, and contract documents for the PROJECT.
 - D. The COUNTY and CITY agree in order for this PROJECT to occur, HUD has to release CDBG funds to bid and construct the PROJECT as stated in Section I (B), Purpose.
 - E. The COUNTY and CITY agree to work together to schedule the PROJECT start and completion between March 2016 and November 2016.

III. Budget & Financial

- A. The COUNTY will apply CDBG funds received in the amount not to exceed **\$185,000** to the PROJECT. The obligations of the COUNTY are expressly subject to the COUNTY receiving funds from HUD for the PROJECT, and in no event shall the COUNTY'S financial contribution exceed the amount finally granted, released and approved by HUD for this PROJECT.
- B. The CITY agrees to contribute the greater of:
 1. Twenty percent (20%) of the total design and construction cost of the PROJECT, or
 2. All costs for design and construction which exceed available CDBG funds budgeted (\$185,000) for the PROJECT.
 3. Match credit(s) for this PROJECT must be approved by the COUNTY, and will not be a reimbursable expense. If match credit(s) items are approved by the COUNTY, the COUNTY will not reimburse the CITY in the form of a check (\$).
- C. The CITY may be credited towards the matching requirements stated in Part III. B. an amount equal to 15% of the final construction cost for Engineering services as detailed in Part II. A. 3. a.
- D. In the event the PROJECT can not be completed with available funds, the COUNTY and CITY will jointly determine the priorities of the improvements to be made within funding limits.

- E. The CITY agrees to provide funds for the PROJECT to the COUNTY in the following manner:
1. In the event a contractor is entitled to payments for work completed above and beyond the amount of CDBG funds received from HUD for the PROJECT, the COUNTY shall request a transfer of funds from the CITY for the amount necessary to make such payments. The CITY shall transfer funds which exceed available CDBG funds and are owed to a contractor to the COUNTY within thirty (30) consecutive calendar days of a written request.
 2. Upon receipt of written notification from the COUNTY, the CITY shall provide payment within thirty (30) consecutive calendar days to the COUNTY the funds necessary to meet the matching contribution requirement in Part III. B. All checks shall be made payable to Clackamas County, include a Project Number and be mailed to the following address:

Attn: Toni Hessevick
Clackamas County - Finance Office
Public Services Building
2051 Kaen Road
Oregon City, OR 97045
 3. In the event that unforeseeable conditions arise which necessitate the execution of a change in the amount of the construction contract, the CITY and the COUNTY will jointly evaluate the circumstances surrounding the conditions. Upon approval by the CITY and the COUNTY, the COUNTY shall instruct the Engineer to execute a change order.
 4. Funds for the change order(s) shall be funded primarily by the CITY. The COUNTY will provide CDBG funds for change order(s) if there are still those funds available to use as outlined in Section III, A.

IV. Liaison Responsibility

Matilda Deas, will act as liaison from the CITY for the PROJECT. Steve Kelly will act as liaison from the COUNTY.

V. Special Requirements

- A. Law and Regulations. The COUNTY and CITY agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- B. Public Contracting Requirements. To the extent applicable, the provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235 are incorporated by this reference as though fully set forth.

- C. Relationship of Parties. Each party is an independent contractor with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- D. Indemnification. Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the CITY agrees to indemnify, defend and hold harmless the COUNTY, its officers, commissioners, agents and employees from and against all liability, loss and costs arising from actions, suits, claims and actions, and all expenses incidental to the investigation and defense thereof (including attorney's fees), arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the CITY or its employees or agents, in performance of this Agreement.

Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the COUNTY agrees to indemnify, defend and hold harmless the CITY, its officers, commissioners, agents and employees from and against all liability, loss costs arising from actions, suits, claims and actions, and all expenses incidental to the investigation and defense thereof (including attorney's fees), arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the COUNTY or its employees or agents, in performance of this Agreement.

- E. Notice. Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Agreement.
- F. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- G. Access to Records. The COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the CITY which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- H. Debt Limitation. This Agreement 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. Obligations of the COUNTY are also expressly subject to the COUNTY receiving funds from HUD for this project and in no event shall the COUNTY's financial contribution exceed the amount finally granted, released and approved by HUD for this project.

- I. Conflict of Interest. No officer, employee, or agent of the CITY or COUNTY who exercises any functions or responsibilities in connection with the planning and carrying out of the Block Grant Program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the Parties shall take appropriate steps to assure compliance. The Parties will insure that no contractor, subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services.

- J. Insurance. The CITY will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all affected CITY property. The CITY will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. If applicable, the CITY shall be required to maintain flood insurance. Each party agrees to maintain insurance, or self-insurance, in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.272.

- K. Nondiscrimination. The CITY and the COUNTY agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, sex, marital status, race, creed, color, national origin, familial status, or the presence of any mental or physical handicap. These requirements are specified in ORS chapter 659; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.

- L. Handicapped Accessibility. The CITY agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.

- M. Nonsubstituting for Local Funding. The CDBG funding made available under this Agreement shall not be utilized by the CITY to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.

- N. Evaluation. The CITY agrees to participate with the COUNTY in any evaluation project or performance report, as designed by the COUNTY or the appropriate Federal department, and to make available all information required by any such evaluation process.

- O. Audits and Inspections. The CITY will ensure that the COUNTY, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records,

reports, files, and other papers or property pertaining to the funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

- P. Acquisition. If completion of the project requires acquisition of any real property the parties agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.
- Q. Change of Use. The CITY agrees to comply with applicable change of use provisions contained in 24 CFR 570.505 (refer to Attachment C).
- R. Reversion of Assets. Upon expiration or termination of this Agreement, CITY shall transfer to COUNTY any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Also for any real property under CITY'S control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to CITY in the form of a loan) in excess of \$25,000 or less based on the CDBG amount shall ensure said real property is either:
1. Used to meet one of the National Objectives in CFR 570.208 for the term of this Agreement; or
 2. Not used to meet on the National Objectives for the term of this Agreement, in which event, the CITY shall pay to COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

VI. Amendment

This Agreement may be amended at any time with the concurrence of both Parties. Amendments become a part of this Agreement only after the written amendment has been signed by both Parties.

VII. Term of Agreement

- A. This Agreement becomes effective when it is signed by both Parties.
- B. The term of this Agreement is a period beginning when it becomes effective and ending fifteen (15) years after completion of the PROJECT.
- C. This Agreement may be suspended or terminated prior to the expiration of its term by:
1. Written notice provided to the COUNTY from the CITY before any materials or services for improvements are procured; or
 2. Written notice provided by the COUNTY in accordance with 24 CFR 85.43, included as ATTACHMENT D, resulting from material failure by the CITY to comply with any term of this Agreement; or

3. Mutual agreement by the COUNTY and CITY in accordance with 24 CFR 85.44.

D. Upon completion of improvements or upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with the COUNTY.

VIII. Integration

This Agreement contains the entire agreement between the CITY and the COUNTY and supersedes all prior written or oral discussions.

IX. Severability

If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

X. Oregon Law and Forum

This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of laws provisions thereof.

XI. Waiver

The CITY and COUNTY shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

XII. Third Party Beneficiary.

Each Party intends that this Agreement does not benefit, or create any right or cause of action in or on behalf of, any person or entity other than CITY or COUNTY.

[Signature Page Follows]

CITY OF CANBY

Address
PO Box 930
Canby, Oregon 97013

XXXX, Mayor

Date

CLACKAMAS COUNTY

Chair John Ludlow
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

Signing on Behalf of the Board.

Richard Swift, Director
Health, Housing & Human Services
Department

Date

February 11, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of a Subrecipient Agreement with Northwest Family Services for Youth Drug and Alcohol prevention - Oregon City, Gladstone, and Milwaukie

Purpose/Outcomes	Provide drug and alcohol prevention services for youth that identify risk factors such as school absenteeism, dropping grades or signs of drug and alcohol use.
Dollar Amount and Fiscal Impact	\$38,820 Federal Funds: CFDA Number 93.959 Substance Abuse Prevention and Treatment Block Grant No County General Funds are involved
Funding Source	US Department of Health and Human Services
Duration	Effective January 1, 2016 and terminates on June 30, 2016
Previous Board Action	N/A
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Brian McCrady 503-650-5681
Contract No.	7558

BACKGROUND:

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of an Agency Service Contract with Northwest Family Services (NWFS). Services include drug and alcohol prevention services for youth and connecting NWFS Core youth and their families to appropriate community resources.

No County General funds are involved in this contract. This contract has been reviewed and approved by County Counsel and has a maximum value of \$38,820.

RECOMMENDATION:

Staff recommends the Board approval of this contact and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County. The contract is effective as of January 1, 2016.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 16-026**

Project Name: ***Drug and Alcohol Prevention***

Project Number:

This Agreement is between **Clackamas County**, Oregon (COUNTY), acting by and through its Health, Housing and Human Services Department of Children, Youth and Families and **Northwest Family Services, Inc.**, an Oregon Nonprofit Organization (SUBRECIPIENT).

Clackamas County Data

Grant Accountant: Judy Smith

Program Manager: Brian McCrady

Clackamas County – Finance

Clackamas County – Children, Youth and Families

2051 Kaen Road

2051 Kaen Rd. #267

Oregon City, OR 97045

Oregon City, OR 97045

Phone (503) 742-5422

Phone (503) 650-5681

jsmith@co.clackamas.or.us

bmccrady@clackamas.us

Subrecipient Data

Finance/Fiscal Representative: CYF

Program Representative: Northwest Family Services

Bryant Scott

Rose Fuller

2051 Kaen Rd, #267

6200 SE King Rd. 97222

Oregon City, Oregon 97045

Portland, Oregon

Phone (503) 650-5675

Phone (503)546-6377

Email: bscott@co.clackamas.or.us

Email: rfuller@nwfs.com

DUNS: 612467134

RECITALS

1. **Northwest Family Services, Inc.** ("SUBRECIPIENT") offers programmatic services that equip people with a lifetime of vital social skills. NWFS' mission focuses on core issues that support individual success, family stability, and child well-being. NWFS has an array of services and programs ranging from professional counseling, job readiness and placement, work solutions, positive youth development, youth mentoring, gang prevention, school site management, healthy relationship education, financial literacy, parenting, anger management, and more.

2. Clackamas County ("COUNTY") desires to work with SUBRECIPIENT to promote community engagement to reduce underage drinking, prevent the onset and reduce the progression of substance abuse; and reduce abuse-related problems.
3. The PreventNet Community School System was created in 2001 by the COUNTY as a community/school-based service system. It improves outcomes for high-risk youth and their families by creating a web of support among schools, non-profit agencies (in this case, Northwest Family Services), community members, local businesses, and local government. These evidence-based prevention and early intervention services are provided in the schools to:
 - Increase protective factors by building nurturing relationships with positive adult role models, improving attachment to school, encourage pro-social behavior, build connections with a caring adult; and to
 - Reduce risk behaviors such as poor school performance, truancy, alcohol and drug use, negative student behavior, negative peer association, etc.
4. This Grant Agreement of Federal financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement the COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

1. **Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective as of the **January 1, 2016** and shall expire on **June 30, 2016**, unless sooner terminated or extended pursuant to the terms hereof.
2. **Program.** The Program is described in Attached Exhibit A: Subrecipient Statement of Program Objectives. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the **Title XX Youth Investment Block Grant Funds** that is the source of the grant funding, in addition to compliance with requirements of 45 CFR, Part 96.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the **Substance Abuse Prevention and Treatment Block Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 93.959)** issued to the COUNTY by the U.S. Department of

Health and Human Services. The maximum, not to exceed, amount the County will pay is **\$38,820**. This total is comprised of Federal funding (CFDA 93.959) in the amount of **\$36,000** and an additional **\$2,820** from non-Federal contributions to CYF for Prevention Programs. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request and Exhibit E: Subrecipient Performance Reporting. Failure to comply with the terms of this Agreement may result in withholding of payment.

5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.
7. **Funds Available and Authorized.** The COUNTY certifies that **\$179,375** in Federal Funds have been obligated to COUNTY on this award and further certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the current fiscal year budget. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this Agreement.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.

- b) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not the SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
- c) **Cost Principles.** The SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of the SUBRECIPIENT.
- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Match.** Matching funds are not required for this Agreement.
- f) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- g) **Indirect Cost Recovery.** SUBRECIPIENT chooses no indirect cost recovery method. Select administrative costs will be directly charged.
- h) **Research and Development.** COUNTY certifies that this award is not for research and development purposes.
- i) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- j) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit E for each period (monthly, quarterly, and final) during the term of this Agreement.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.

- l) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits F & G), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this Agreement. At closeout, SUBRECIPIENT must account for all residual supplies valued over \$5,000 in the aggregate that were purchased with Federal funds authorized by this Agreement. Compensation to the Federal Agency may be required for residual supplies valued over \$5,000 per 2 CFR 200.314.
- m) **Universal Identifier and Contract Status.** The SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (DUNS) as required for receipt of funding. In addition, the SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- n) **Suspension and Debarment.** The SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- o) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the *Byrd Anti-Lobbying Amendment* 31 U. S. C. 1352. In addition, the SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- p) **Audit.** The SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,

located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (FAC) within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <http://harvester.census.gov/sac/>. At the time of submission to the FAC, the SUBRECIPIENT will also submit a copy of the audit to the COUNTY. If SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.

- q) **Monitoring.** The SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.331. The COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- r) **Record Retention.** The SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of three (3) years, or such longer period as may be required by the Federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- s) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for the Drug and Alcohol Prevention Grant, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as grantee, under those grant documents.
- t) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of

the original contract and this Agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met or to terminate this relationship including the original agreement and all associated amendments.

10. Compliance with Applicable Laws

- a) **Public Policy.** The SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT.
- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any further implementing regulations issued by SAMHSA or CYF.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$100,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- e) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules,

executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. The County shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. The SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by the County shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.

- f) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by the SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.

11. Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to the SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement must be

excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.

- d) The SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

12. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into the COUNTY's next fiscal year, the COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its commissioners, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
 - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
 - 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
- 4) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, commissioners, officers, and employees" as an additional insured.
- 5) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.
- 6) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 7) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. The COUNTY and its officers must be named as an additional insured on the Certificate of Insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the Agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 8) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.

- 9) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of the COUNTY.
- e) **Independent Status.** SUBRECIPIENT is independent of the COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of the COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind the COUNTY in any transaction or activity.
- f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- g) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between the COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.

- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.

- l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

AGREED as of the Effective Date.

CLACKAMAS COUNTY, OREGON

NORTHWEST FAMILY SERVICES, INC

By: _____
Chair

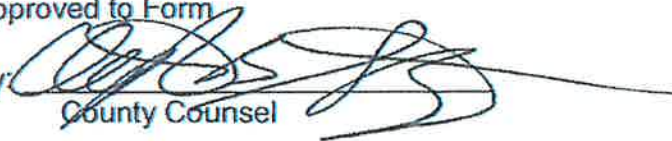
By: 
Rose Fuller, Executive Director

By: _____
Recording Secretary

Dated: 2/1/2016

Dated: _____

Approved to Form

By: 
County Counsel

February 11, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Agency Services Contract with Northwest Family Services
for Evidence-based Parenting Education Classes

Purpose/Outcomes	Provide parenting education classes enhance teaching skills and competencies of parents to promote child social/emotional well-being and pre-literacy and pre-numeracy skills
Dollar Amount and Fiscal Impact	Contract has a maximum value of \$6,000. No match is involved
Funding Source	Oregon Community Foundation
Duration	Effective January 1, 2016 and terminates on June 30, 2016
Previous Board Action	N/A
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook 503-650-5677
Contract No.	CYF 7543

BACKGROUND:

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of an Agency Service Contract with Northwest Family Services to provide parent education and skills training to a minimum of 15 parents. Classes will improve the quality of parent/child interaction and support healthy child development. Services are paid on a cost reimbursement basis.

This agreement has a maximum value of \$6,000. No County General funds are involved and no match is required. It is effective January 1, 2016 and terminates June 30, 2016. County Counsel has reviewed this contract as part of the H3S contract standardization project.

RECOMMENDATION:

Staff recommends the Board approval of this contact and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

AGENCY SERVICE CONTRACT
(Regular Services or Community Development)
(FY15-16)

This contract is between Clackamas County acting by and through its Health, Housing and Human Services Department, **Children, Youth & Families Division**, hereinafter called "COUNTY," and **Northwest Family Services** hereinafter called "AGENCY."

I. SCOPE OF SERVICES

- A. AGENCY agrees to accomplish the following work under this contract:

Provide **1 series of 10 sessions of the Make Parenting a Pleasure curriculum and 1 series of 6 sessions of the Active Parenting Now curriculum** as described in Work Plan Exhibit 1 attached hereto.

- B. Services required under the terms of this agreement shall commence when this contract is signed by all necessary parties, but not prior to January 1, 2016. This agreement shall terminate June 30, 2016.

II. COMPENSATION AND RECORDS

- A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I as follows:

On a cost reimbursement basis as described in Exhibit 3, attached hereto.
Up to a maximum compensation of **\$6,000.00**.

The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage and incidentals necessary to perform the work and services.

- B. Method of Payment. To receive payment, the AGENCY shall submit invoices and accompanying performance reports as follows:

AGENCY shall be paid on a cost reimbursement basis and shall submit invoices and accompanying performance reports as described in Exhibits 2 and 3 attached hereto.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should the AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, the COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until the AGENCY submits required reports, performs required services, or establishes to the COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of the AGENCY.

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.
- D. Access to Records. The COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the AGENCY which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, and transcripts.

AGENCY SERVICE CONTRACT

If an audit discloses that payments to the AGENCY were in excess of the amount to which the AGENCY was entitled, then the AGENCY shall repay the amount of the excess to the COUNTY.

III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations. The AGENCY shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.

When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.

- B. Special Federal Requirements - Common rule restricts lobbying (Volume 55, NO38 of Fed. Register, Feb. 1990).
- C. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the COUNTY.
- D. AGENCY certifies that it is an independent AGENCY and not an employee or agent of the COUNTY, State, or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of the AGENCY.

IV. GENERAL CONDITIONS

- A. Indemnity. The AGENCY agrees to indemnify, defend and hold harmless the County and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of Agency, and Agency's officers, agents and employees, in performance of this contract
- B. INSURANCE During the term of this contract AGENCY shall maintain in force at its own expense, each insurance noted below:

1. Commercial General Liability Insurance

- Required by COUNTY Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1 Million per occurrence/\$2 Million general aggregate for the protection of the County, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract.

2. Commercial Automobile Insurance

- Required by COUNTY Not required by COUNTY

AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1 Million.

AGENCY SERVICE CONTRACT

3. Professional Liability Insurance

Required by COUNTY Not required by COUNTY

AGENCY agrees to furnish the County evidence of Professional Liability Insurance in the amount of not less than \$1 Million combined single limit per occurrence/\$2 Million general annual aggregate for malpractice or errors and omissions coverage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this contract. The County, at its option, may require a complete copy of the above policy.

4. Additional Insurance Provision

The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.

Such insurance shall provide sixty (60) day written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. 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.

5. Notice of Cancellation.

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to the Clackamas County Purchasing Division. Any failure to comply with this provision will not affect the insurance coverage provided to the County. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

6. Insurance Carrier Rating.

Coverages provided by the AGENCY must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

7. Certificates of Insurance.

As evidence of the insurance coverage required by this contract, the AGENCY shall furnish a Certificate of Insurance to Clackamas County. No contract shall be effected until the required certificates have been received, approved and accepted by the County. A renewal certificate will be sent to the Clackamas County Purchasing Division 10 days prior to coverage expiration.

8. Independent Contractor Status.

AGENCY SERVICE CONTRACT

The service or services to be rendered under this contract are those of an independent contractor. AGENCY is not an officer, employee or agent of the COUNTY as those terms are used in ORS 30.265.

9. Primary Coverage Clarification.

AGENCY's coverage will be primary in the event of a loss.

10. Cross-Liability Clause.

A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.

C. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.

D. Termination. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice, in writing and delivered by certified mail or in person.

The COUNTY may terminate this contract effective upon delivery of written notice to the AGENCY, or at such later date as may be established by the COUNTY, under any of the following conditions:

1. If COUNTY funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.
3. If any license or certificate required by law or regulation to be held by the AGENCY to provide the services required by this contract is for any reason denied, revoked, or not renewed.
4. If AGENCY fails to provide services or reports called for by this contract within the time specified herein or any extension thereof; or
5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the COUNTY, fails to correct such failures within 10 days or such longer period as the COUNTY may authorize.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

E. Oregon Public Contracting Provisions and Constitutional Limitations. Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.335, and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this contract:

1. AGENCY shall:

AGENCY SERVICE CONTRACT

- (a) Make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
 - (b) Pay all contributions or amounts due the Industrial Accident Fund from such AGENCY or subcontractor incurred in the performance of this agreement.
 - (c) Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
 - (d) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due AGENCY by reason of this agreement.
3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay: (a) for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and (b) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

In the case of contracts for personal services as defined in ORS 279A.055, employees shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC Section 201 to 209 from receiving overtime.

4. AGENCY shall promptly, as due, make payment to any person or partnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury, to the employees of AGENCY, of all sums which AGENCY collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
5. Agency, if it is an employer of one or more workers subject to workers' compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. Agency shall maintain employer liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
6. 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.

AGENCY SERVICE CONTRACT

- F. AGENCY shall comply with Section 504 of the Rehabilitation Act of 1973, and Title VI of the Civil Rights Act of 1964.

"The contractor will not discriminate against any employee or applicant for employment because of race, color, or national origin."

"The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified."

- G. Future Support. The COUNTY makes no commitment of future support and assumes no obligation for future support of the activity contracted herein except as set forth in this contract.
- H. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of the COUNTY.
- I. Integration. This contract contains the entire agreement between the COUNTY and the AGENCY and supersedes all prior written or oral discussions or agreements.

AGENCY SERVICE CONTRACT

This contract consists of three sections plus the following attachments which by this reference are incorporated herein:

- Exhibit 1 Scope of Work, Performance Standards, and Work Plan
- Exhibit 2 Reporting Requirements
- Exhibit 3 Budget


By _____

Rose Fuller
Name (Typed) _____

Executive Director
Title _____

1/25/2016
Date _____

6200 SE King Road
Street Address _____

Portland, 97222
City/Zip _____

503-546-6377
Phone Number _____

93-0841022
TIN, FIN or S.S.# _____

CLACKAMAS COUNTY

Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

Signing on Behalf of the Board:

Richard Swift, Director
Health, Housing and Human Services

Date



Rodney A. Cook, Director
Children, Youth & Families Division

1-26-16
Date _____



M. BARBARA CARTMILL
DIRECTOR

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

February 11, 2016

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 and Easements
for the Salmon River (Elk Park Road) Bridge Project and
Authorizing Negotiations and Eminent Domain Actions**

Purpose/Outcomes	Under ORS 35.235 and the federal Uniform Act, a local governmental agency is required to declare by resolution or ordinance the necessity and the purpose for which the project is required by enacting a Condemnation Resolution prior to initiating acquisition of the easements or other property rights from abutters to the project.
Dollar Amount and Fiscal Impact	The right of way budget for the project is \$177,000 and is included within the \$3,223,809 total approved project budget.
Funding Source	Local Bridge (LBP) [formerly Highway Bridge Program (HBP)] and Road Funds
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	07/16/09: BCC Approval of Supplemental Project Agreement No. 25,214 with ODOT for Salmon River (Elk Park Road) Bridge Project. 08/14/14: BCC Approval of Amendment No. 1 to Supplement Project Agreement No. 25,214 with ODOT for Salmon River (Elk Park Road) Bridge Project.
Strategic Plan Alignment	1. The project will improve safety and provide safe travel to schools, commercial centers, and parks. 2. The project is building a strong infrastructure and ensuring safe, healthy and secure communities.
Contact Person	Vince Hall, DTD Project Mgr @ 503-742-4650 Kath Rose, DTD Sr. Right of Way Agent @ 503-742-4713
Contact No.	4650

BACKGROUND:

The Board of County Commissioners has approved funding for the Salmon River (Elk Park Road) Bridge Project No. 22144. The project will improve safety by replacing an existing one-lane bridge with a new wider two-lane bridge, which will help build a strong infrastructure. The Board has authority under ORS Chapter 35 to acquire rights of way and easements by purchase or condemnation proceedings.

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 Department of Transportation and Development (Department) shall negotiate in good faith 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.

The Department has developed the final legal descriptions required for acquisition of the rights of way and easements for the twenty-one properties affected by the Project. If during the course of the project design/construction modifications should effect acquisitions, staff will bring subsequent revisions to the Board for authorization.

The resolution directs the Department to resolve issues of just compensation through good faith negotiations. It requires the Director of the Department to notify the Board if exercise of the power of eminent domain becomes necessary. Only after this process is completed does it authorize the Office of County Counsel to file a condemnation action.

Staff respectfully requests that the Board approve a Resolution of Necessity and Purpose for the Salmon River (Elk Park Rd) Bridge Project for the acquisition of necessary rights of way and easements to provide for construction of the project.

The Resolution has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approves the Resolution authorizing the acquisition of rights of way and easements by negotiation if possible, or condemnation, if necessary.

Sincerely,

Mike Bezner, PE
Asst. Director of the Dept. of Transportation and Development

Attachment

In the Matter of the Salmon River
(Elk Park Road) Bridge Project,
Declaring the Necessity and Purpose
for Acquisition of Rights of Way and
Easements, and Authorizing Negotiations
and Eminent Domain Actions

Order 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 February 11, 2016; and,

It appearing that the Board previously approved funding for the Salmon River (Elk Park Road) Bridge Project No. 22144 ("Project"), which will provide for the replacement of the existing Elk Park Road Bridge over the Salmon River, that the Project is consistent with the powers and purposes of County government, and that the Project is necessary for the continued growth, safety and welfare of the community; 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 the acquisition of the rights of way and easements, described in Exhibit "A" is a necessary part of the Project and therefore is also 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 to the Board that immediate possession of the rights of way and easements described in Exhibit "A" may be necessary and will be in the public interest in order to commence and complete the Project in a timely manner; and,

It further appearing that the Board has authority under ORS Chapter 35 to acquire rights of way and easements by purchase or eminent domain proceedings.

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board declares it necessary and in the public interest that the County immediately start acquisition of rights of way and easements described in Exhibit "A", either through negotiation and agreement, purchase, or, if necessary, by commencement of eminent domain proceedings.

In the Matter of the Salmon River
(Elk Park Road) Bridge Project,
Declaring the Necessity and Purpose
for Acquisition of Rights of Way and
Easements, and Authorizing Negotiations
and Eminent Domain Actions

Order No. _____
(Page 2 of 2)

IT IS FURTHER ORDERED THAT:

1). The Department of Transportation and Development immediately, and in good faith, attempt to negotiate agreements as to amount of just compensation owed each owner of each property identified in Exhibit "A". In so doing, the department is authorized to retain real estate appraisers, negotiators, and other such experts deemed necessary to fairly determine the amount of just compensation owed; and,

2). If the Director of the Department of Transportation and Development (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 and easements required for the Project, the Director shall promptly bring before the Board, and the Board shall promptly consider a resolution amending Exhibit "A"; and,

3). It is the intention of the Board that the required rights of way and easements identified in Exhibit "A" be obtained through good faith negotiation. The Board acknowledges that the exercise of the power of eminent domain may be necessary. The Director shall inform the Board when the Director deems eminent domain necessary. Thereafter, the Office of County Counsel is authorized to file complaints in condemnation and take such other steps as it determines necessary for the immediate possession of required rights of way and easements 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 _____, 2016.

John Ludlow, Chair

Mary Raethke, Recording Secretary

DRAFT

Approval of Previous Business Meeting Minutes:
January 14, 2016

(draft minutes attached)

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

<http://www.clackamas.us/bcc/business.html>

Wednesday, January 21, 2016 – 6:00 PM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. PRESENTATION

1. Recognition of Clackamas County's Business Leaders in Sustainability
Dan Johnson and Eben Polk presented the staff report. Eben presented a PowerPoint presentation that highlighted the certified businesses and organizations. He introduced Brion Hurley from Rockwell Collins – Joe Buck owner of Gubanc's and Babica Hen Restaurants and Penny Machinski, West Linn Paper Company.

~Board Discussion~

II. CITIZEN COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

1. Skip Ormsby, Birdshill CPO – issues regarding Terrwilliger Blvd. road work, EPA and waters if the US.
2. Charles Stewart, Sandy – court proceedings and Commissioners authority.
3. Jose Hernandez, Milwaukie – tax exemption for Veterans.
4. Jim B., Vancouver WA – lawful government.
5. Les Poole, Gladstone – Road funding.

~Board Discussion~ <http://www.clackamas.us/bcc/business.html>

III. CONSENT AGENDA

Chair Ludlow asked the Clerk to read the consent agenda by title, he then asked for a motion.

MOTION:

Commissioner Smith: I move we approve the consent agenda.

Commissioner Bernard: Second.

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – the motion passes 4-0.

A. Health, Housing & Human Services

1. Approval of Intergovernmental Agreement No. 150463 with the State of Oregon, Department of Human Services, Aging and People with Disabilities Division for the Provision of Oregon Medicaid Administrative Claiming Pilot Services – *Social Services*
2. Approval of Sub-Recipient Agreement Amendment #1 with the City of Wilsonville/Wilsonville Community Center to provide Social Services for Clackamas County Residents – *Social Services*

3. Approval to an Intergovernmental Agreement No. 5803 with the Oregon Department of Education, Early Learning Division to Provide Early Learning Hub Services – *Children, Youth & Families*

B. Department of Transportation & Development

1. Approval of Amendment No. 1 to Intergovernmental Agreement No. 29903 with Oregon Department of Transportation for the SE 122nd and 132nd Avenue Sidewalk Connections Project

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

D. Business & Community Services

1. Resolution No. **2016-04** Approving the Delegation to Business and Community Services to Grant Easements Over County-Owned Portions of the Tualatin River and Approval of Terms of an Easement for this Purpose

E. Department of Employee Services

1. Approval of Labor Contract between Clackamas County and the Clackamas County Employee Association (EA)
2. Approval of Labor Contract between Clackamas County and the Clackamas County Employee Association for the Housing Authority of Clackamas County (EAHA)
3. Approval of Labor Contract between Clackamas County and the Clackamas County Employee Association – Temp and Part Time (EA-T)
4. Approval of Labor Contract between Clackamas County and AFSCME Department of Transportation and Development (AFSCME-DTD)
5. Approval of Labor Contract between Clackamas County and AFSCME Water Environmental Services (AFSCME-WES)

IV. WATER ENVIRONMENT SERVICES

(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)

1. Approval of an Intergovernmental Agreement between Clackamas County Service District No. 1 and Clean Water Services for the Acceptance of Class B Biosolids for Beneficial Use
2. Resolution No. **2016-05** Approval for Clackamas County Service District No. 1 to Enter a Joinder to Trust Agreement for Insurance Coverage through the Special District Association of Oregon
3. Resolution No. **2016-06** Approval for Tri-City Service District to Enter a Joinder to Trust Agreement for Insurance Coverage through the Special District Association of Oregon
4. Resolution No. **2016-07** Approval for Surface Water Management Agency of Clackamas County to Enter a Joinder to Trust Agreement for Insurance Coverage through the Special District Association of Oregon

5. Approval of Contract Documents between Tri-City Service District and CH2M Hill Engineers, Inc. for Consulting Services Related to the Tri-City Service District and Clackamas County Service District No. 1 Sanitary Sewer System Master Plan - *Purchasing*
6. Approval of Contract Documents between Clackamas County Service District No. 1 and CH2M Hill Engineers, Inc. for Consulting Services Related to the Tri-City Service District and Clackamas County Service District No. 1 Sanitary Sewer System Master Plan - *Purchasing*

V. COUNTY ADMINISTRATOR UPDATE

<http://www.clackamas.us/bcc/business.html>

VI. COMMISSIONERS COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

MEETING ADJOURNED – 7:43 PM

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.
www.clackamas.us/bcc/business.html



Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

February 11, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between North Clackamas
Parks & Recreation District (NCPRD) and the Clackamas County Sheriff's Office (CCSO)
For Cooperative Use of NCPRD Facilities as CCSO Reporting Stations

Purpose/Outcome	To provide the Sheriff's Office shared use of designated office space in portions of selected buildings or out buildings for use as CCSO reporting stations and associated parking space(s), as well as additional office space and/or technology equipment installation which may be approved on a case-by-case basis.
Dollar Amount and Fiscal Impact	No compensation is required between the parties.
Funding Source	N/A
Safety Impact	NCPRD will benefit by facilitating an increased law enforcement presence at the various facilities. CCSO will be able to perform reporting function more conveniently and efficiently.
Duration	Effective upon signature for a period of five (5) years, ending on 02/11/21, with the option of annual renewal by July 1 of each year until amended or extended in writing.
Previous Board Action/Review	None
Contact Person	Adam Phillips, Lieutenant – office (503) 785-5137
Contract No.	

BACKGROUND:

NCPRD and CCSO recognize a common purpose and mutual benefit, and therefore desire to cooperate to provide effective and efficient services to the public by allowing use of NCPRD facilities to co-locate CCSO reporting offices.

CCSO will benefit by having access to facilities throughout the NCPRD Service Area and NCPRD will benefit from the increased presence of CCSO to enhance observation and enforcement of rules and laws.

RECOMMENDATION:

Staff recommends the Board approve this cooperative agreement and authorizes Craig Roberts, Sheriff to sign on behalf of Clackamas County.

Respectfully submitted,

Matt Ellington, Undersheriff

**INTERGOVERNMENTAL AGREEMENT
BETWEEN NORTH CLACKAMAS PARKS & RECREATION DISTRICT
AND CLACKAMAS COUNTY ON BEHALF OF THE CLACKAMAS COUNTY SHERIFF'S OFFICE
FOR COOPERATIVE USE OF NCPRD FACILITIES AS CCSO REPORTING STATIONS**

This Agreement is entered into pursuant to the authority granted in Oregon Revised Statutes, Chapter 190, between the North Clackamas Parks & Recreation District, (NCPRD) a parks and recreation county service district organized and existing under the authority of Oregon Revised Statutes Chapter 451, and Clackamas County (COUNTY) on behalf of the Clackamas County Sheriff's Office, (CCSO), to provide for cooperative use of selected NCPRD Buildings as CCSO reporting facilities.

In reliance and on the terms and conditions set forth below, the parties hereby agree that:

1. PURPOSE

NCPRD and CCSO recognize a common purpose in providing consistent availability of recreation and policing services throughout the area. NCPRD owns buildings located throughout the recreation district service area, some of which are suitable for use as CCSO reporting stations. Each desire to cooperate to provide effective and efficient services to the public by allowing use of NCPRD facilities to co-locate CCSO reporting offices. CCSO will benefit by having access, as needed and available, to facilities throughout the NCPRD Service Area so that CCSO Officer's can more conveniently & efficiently perform reporting functions.

NCPRD will benefit by facilitating an increased law enforcement presence at the various NCPRD facilities being utilized by CCSO, to enhance observation and enforcement of rules and laws.

2. FACILITY USE

2.1 TERMS

2.1.1 NCPRD agrees to provide CCSO the shared use of designated office space in portions of selected buildings or out buildings for use as CCSO reporting stations and associated parking space(s). The ownership and control of these facilities will remain with NCPRD. NCPRD agrees to provide 60 days notice if an office space is required to be vacated by CCSO.

2.1.2 Additional office space and/or technology equipment installation may be requested by CCSO in any NCPRD facility and may be approved on a case-by-case basis with associated costs to CCSO.

2.1.3 NCPRD agrees to provide the following services:

- A. Unlimited internet access if currently installed.
 - B. "Utilities" including natural gas, water services, sewer services, electricity, refuse removal. (where available)
 - C. Heating and air conditioning (where available)
 - D. Restroom facilities. (where available)
 - E. Parking spaces.
 - F. Security access to specified office space and facilities for non-felon personnel following successful CCSO background check.
 - G. Building maintenance (roof, paint, HVAC, etc.) as funding is available based on NCPRD's capital asset repair & replace program.
 - H. A power source and facility access for CCSO owned WiFi equipment location and maintenance. (where available)
- 2.1.4 CCSO will have use of designated office space and will limit its use of the facility to those services necessary to provide and support law enforcement activities. CCSO personnel will be responsible for unlocking and locking doors and/or gates as necessary to gain access to NCPRD facilities and secure them when done utilizing. NCPRD will provide appropriate keys and access codes to CCSO as needed.
- 2.1.5 CCSO use of the NCPRD facilities will in no case interfere with the primary purpose of the facility to serve as a recreation area. CCSO personnel should alert NCPRD staff, tenants or contractors of their presence when entering an NCPRD facility, especially during non-business hours if they are also occupying the facility.
- 2.1.6 Appropriate CCSO vehicle parking locations will be identified on a site-by-site basis in order to avoid conflicts with NCPRD staff or public use, and also to maximize visibility of CCSO vehicles to the general public.
- 2.1.7 All CCSO technology equipment installations will require NCPRD approval to limit any potential interference with NCPRD technology systems.
- 2.1.8 CCSO is responsible to provide telephone equipment and telephone service in all CCSO reporting station office spaces.
- 2.1.9 CCSO will provide printers in CCSO reporting stations.
- 2.1.10 CCSO will provide and maintain WiFi equipment in selected NCPRD facilities.
- 2.1.11 CCSO will provide ordinary and regular cleaning for the office spaces designated as CCSO reporting offices in each NCPRD facility. The offices are expected to be maintained in the condition as when originally occupied.

2.1.12 CCSO agrees that no hazardous material/substances will be brought into or stored inside a NCPRD facility at any time.

2.1.13 CCSO will provide all furniture located within each of their reporting station office spaces.

2.1.14 NCPRD is not responsible for any loss of CCSO property or data from any cause.

2.2.15 As time allows, CCSO personnel agree to observe activities and conditions in and around the NCPRD facilities which they utilize, and respond to situations which may warrant their time and attention in an effort to ensure that NCPRD rules are being adhered to and to protect public property and public safety.

3. TERM OF AGREEMENT

3.1 This Agreement shall be in effect for five (5) years upon written approval. The Agreement shall continue thereafter renewing annually by July 1 of each year until amended or extended in writing. Either party may terminate this Agreement at any time by giving sixty (60) days advance written notice to the other.

3.2 Upon termination of the Agreement, equipment installed in CCSO designated office space by NCPRD will remain the property of CCSO. NCPRD and CCSO agree that upon termination the office spaces will be returned in the same condition as when originally occupied, excepting normal wear and tear.

4. FORCED LIMITATIONS

In the event there is a state-wide legislation beyond the control of either party, limiting either property tax or the services provided by CCSO or NCPRD, this Agreement may be renegotiated. Renegotiating shall begin upon the written request of either party.

5. INDEMNITY AND INSURANCE

5.1 Each party agrees solely to be liable for and hold the other harmless from any claims, actions or suits arising from its acts or those of its employees, officers, directors, agents, or volunteers in carrying out the purpose of this Agreement. Each party agrees to maintain liability insurance or self insurance for risks arising out of this Agreement, which covers the other party as an additional insured.

5.2 Each party agrees to provide workers' compensation insurance for its employees, and to hold the other party harmless for injuries and work-related illnesses to its employees.

5.3 NCPRD agrees to insure its buildings with the coverage provided through the County self insurance program for any damage and destruction of building, tenant improvements and betterments.

5.4 Each party agrees that neither party shall act as the agent of the other, and no employee of one party shall be considered to be an employee of the other party for any purpose.

6. COMPENSATION

This is a cooperative agreement; no compensation is required between the parties.

7. AMENDMENT

This Agreement may be amended only in writing upon the mutual consent of both parties. Parties agree that NCPRD may from time to time identify facilities for CCSO use and that will not trigger the requirements of an amendment.

8. TERMINATION OF PREVIOUS AGREEMENT

This Agreement supersedes all previous agreements for the provision of shared use of NCPRD facilities between NCPRD and CCSO. Any former agreements are terminated on the effective date of the signing of this agreement.

SIGNATURE LINE FOLLOWS:

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

Subscribed this _____ day of _____, 2016

NORTH CLACKAMAS PARKS
AND RECREATION DISTRICT

Clackamas County Sheriff's Office

BY: _____
Chair

BY: _____
County Sheriff



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Contract with Unify Inc. for upgrade of the
Holman Bldg. HiCom 300 Telephone Voice Server to a HiPath Openscape 4000 V7 Voice Server**

Purpose/Outcomes	Replace voice server at the Holman building with new system that provides enhanced functionality and seamless integration with existing servers. Includes new voice equipment at Abernethy complex.
Dollar Amount and Fiscal Impact	\$388,345.70
Funding Source	Fund 746 ORG 1223 (budgeted in FY15-16 Technology Services budget)
Safety Impact	None
Duration	The system will be fully upgraded by June 30, 2016.
Previous Board Action	None
Contact Person	Dave Devore
Contract No.	503-723-4996

BACKGROUND:

The Clackamas County Technology Services Department (TS) is tasked with providing high quality, feature rich and cost effective voice communication services to the County Departments and staff. This service is provided via the Telecommunications Division of TS. These voice communication services include management of several high-performance communication servers to provide local and long distance telephone service as well as many other related features such as unified communications, integrated centralized Private Network E911, integrated centralized voice mail, integrated centralized conference calling, integrated centralized automated attendant, four digit dialing to any County Agency and other services in a cost effective manner to the County. TS utilizes communication servers from Siemens / Unify Communications Inc., a world leader in high performance, high reliability communications.

The Holman Voice server is the primary telecommunications server for the downtown Oregon City area and was installed new in 1999. The server is beyond end of life and maintenance parts are becoming increasingly hard to find. Replacing the server will maintain interoperability, compatibility and seamless integration with other County voice servers, as well as install new business services. Replacing the server will also bring the system into compliance with Siemens / Unify support standards. Installing new equipment would remove dated equipment, expand licensing and prepare the system for providing new business functionality. This replacement includes (but not limited to):

- New more robust Operating System
- New more robust hardware
- New Call Center server
- New centralized Private Network E911 server

- Enhance the reliability and redundancy of the system
- Replace components with new equipment at current standards
- Increase licensing in preparation for introducing new services
- Installation of new equipment in preparation for Unified Messaging services
- Upgrade remote site CPU's, equipment and software at the Abernethy complex

Approval of this contract is being requested under the Local Contract Review Board Rule C-047-0288 (15); where the efficient use of existing equipment of supplies requires compatible products or services of a particular product or service without obtaining competitive bids or proposals. A notice of intent to purchase was issued January 11, 2016. No comments were received by the time of closing on January 19, 2016. This purchase will be made from Master APC Agreement #0006814 between the County and Unify.

The amount for this contract is for \$388,345.70. Funds for this procurement are budgeted in the FY2015-2016 budget in Fund 746-1223-485400.

This contract has been reviewed by County Counsel.

RECOMMENDATION:

Staff respectfully recommends approval of the contract with Unify Inc. to provide and install the Holman Openscape 4000 v7 Voice Server. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this contract.

Sincerely,

Dave Cummings
CIO Technology Services

For more information on this issue or copies of attachments contact Dave DeVore (503) 723-4996
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Placed on the Agenda of **February 11, 2016** by the Purchasing Division



LANE MILLER
MANAGER

PURCHASING DIVISION
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

February 11, 2016

**MEMORANDUM TO THE BOARD OF COUNTY
COMMISSIONERS**

Please place on the Board Agenda of February 11, 2016 approval of a contract with Unify Inc. for the upgrade of the Holman Building HiCom 300 Telephone Switch to a HiPath Openscape 4000 v7 Voice Server. This contract was requested by Dave Cummings, Technology Services Director, extension 8525.

Approval of this contract is requested per LCRB Rule C-047-0288 (15) where the efficient use of existing equipment or supplies requires compatible products or services of a particular manufacturer or seller, the Contracting Agency may purchase such particular product or service without obtaining competitive bids or proposals. A Notice of Intent to Purchase this telephone switch was issued on January 11, 2016; no comments were received concerning the purchase by the due date of January 19, 2016. This purchase will be made from Master Agreement 0006814 between Clackamas County and Unify Inc.

The amount of this contract is \$388,345.70. Funds are budgeted in FY 15/16, Fund 746 Org 1223 Account 485400.

County Counsel has reviewed this contract.

RECOMMENDATION:

Staff respectfully requests approval of this contract to purchase an OpenScape 4000V7 telephone switch and delegate authority to the Technical Services Director to sign hardware and software licensing and maintenance agreements required in the performance of this contract.

Respectfully submitted,

Tom Averett, CPPB
Buyer



February 11, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Release of Reversionary Interest for Park in City of Lake Oswego

Purpose/Outcome	Release of reversionary interest due to condition being met
Dollar Amount and Fiscal Impact	None
Funding Source	None
Duration	Perpetual
Previous Board Action	Discussed in executive session
Strategic Plan Alignment	1. Build Public Trust through Good Government: County is following through and honoring a prior commitment. 2. Honor, utilize, promote and invest in our natural resources: Supports utilization of land as park space for county residents
Contact Person	Chris Storey, Assistant County Counsel
Contract No.	None

BACKGROUND:

Clackamas County conveyed, for no consideration, a piece of land located within the City of Lake Oswego for use of a public park in 2006 (the "Park"); a copy of the original deed is attached. As a condition of the conveyance, the County included two reversionary interests in the Park. The first is that the Park be designated a public park, and the second is that if the Park ceases to be used as a public park for a period greater than twelve months. In either case, if the condition is not met, then the Park would revert back to the ownership of the County.

Representatives of the City of Lake Oswego contacted the County requesting the release of the first reversionary interest, on the grounds that the City had taken all available steps to designate the Park as a public park space. After due investigation and discussion with the Board of County Commissioners, the County agrees with that conclusion. Therefore attached is a proposed Quitclaim Deed that, when duly executed and recorded, would release the first reversionary interest and affirm the continuation of the second.

RECOMMENDATION:

Staff respectfully recommends the Board approve execution of the proposed Quitclaim Deed by the Board Chair, County Administrator, or Deputy County Administrator.

Respectfully submitted,

Chris Storey
Assistant County Counsel

Attachments:

Original Deed conveying Land
Proposed Quitclaim Deed releasing one of two reversionary interests

<p><u>Name of Document For Recording:</u> Release of Reversionary Clause in Quitclaim Deed <u>Grantor:</u> Clackamas County, Attn: County Counsel, 2051 Kaen Rd., Oregon City, OR 97045 <u>Grantee:</u> City of Lake Oswego, Attn: CAO, PO Box 369, Lake Oswego, Oregon 97034 <u>Statutory Recordation Authority:</u> ORS 93.710(1). <u>After Recording, Return To:</u> City of Lake Oswego, Attn: CAO, PO Box 369, Lake Oswego, Oregon 97034</p>	<p>(For County Recording Use Only)</p>
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**RELEASE OF REVERSIONARY CLAUSE
IN QUITCLAIM DEED**

Grantor: Clackamas County, a political subdivision of the State of Oregon
Grantee: City of Lake Oswego, a political subdivision of the State of Oregon

Whereas, that certain Quitclaim Deed , executed by Grantor regarding certain real property known as Southwood Park II, legally described as Lot B, 767 SOUTHWOOD PARK #1, within Clackamas County, Oregon (the "Property") was duly recorded in the Official Records of Clackamas County, Oregon, at Fee No. 2006-089220 (the "Quitclaim Deed"); and

Whereas, said Quitclaim Deed contains two reversionary provisions, the first being a requirement that the City of Lake Oswego ("City") designate the Property as a city park ("Designation Requirement") and the second being that the Property continue to be used as a public park in perpetuity (the "Use Requirement"); and

Whereas, the Grantee has satisfied the requirements of the Designation Requirement, so that such reversionary clause is no longer operative; and

Now, Therefore, Grantor Clackamas County hereby declares that the reversionary interest relating to the Designation Requirement in the Quitclaim Deed is released, and is of no further effect; and

And Further, that, the reversionary interest relating to the Use Requirement restriction that the Property be used as a public park in perpetuity remains in full force and effect.

IN WITNESS WHEREOF, Clackamas County has hereunto executed this Release of Reversionary Clause in Quitclaim Deed on the date stated below.

Grantor's Name: Clackamas County, by and through its Board of Commissioners	
By: _____	
Title of Authorized Person:	
By: _____	
Title of Authorized Person: Recording Secretary	

State of Oregon)
) ss.
County of Clackamas)

On this _____ day of _____, 2016, before me the undersigned Notary Public, personally appeared John Ludlow and _____, each respectively personally known to me to be the person who executed the within instrument as Chair of the Board of County Commissioners and as Recording Secretary of the Board of County Commissioners, respectively, on behalf of Clackamas County, pursuant to authority, and acknowledged to me the execution hereof.

WITNESS my hand and official seal Notary Signature	Notary Seal (Do not place seal over any portion of text or signature)
_____ Notary name: _____	

After recording return to:
Clackamas County Property Resources
9101 SE Sunnybrook Blvd.
Clackamas, OR 97015

COPY

Clackamas County Official Records
Sherry Hall, County Clerk

2006-089220

Until a change is requested all taxes shall be sent to:
City of Lake Oswego
PO Box 369
Lake Oswego, OR 97034



NO FEE

09/26/2006 04:16:47 PM

D-D Cnt=1 Stn=2 DIANNAW
This is a no fee document

SERIES #	
TITLE	
RETENTION	
EXP/COMPL DATE	
DESTROY	

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that Clackamas County, hereinafter referred to as the Grantor, releases and quitclaims to the city of Lake Oswego, Grantee, all right, title and interest in and to the following real property situated in Clackamas County, Oregon, to wit:

Lot B, 767 SOUTHWOOD PARK # 1, Clackamas County, State of Oregon.

This deed transferring the County's interest to the city of Lake Oswego is contingent on the property being designated for a public park in perpetuity. If this designation for a public park does not occur within a reasonable period of time, or if after designation, the public park use is discontinued for longer than twelve consecutive months and the property is not within the city limits of the city of Lake Oswego, the property shall revert back to Clackamas County control on the first day of the next consecutive month.

The true and actual consideration being paid for this conveyance is: \$ 0 dollars and 00/100 (\$0.00).

Statutory Land Use Disclaimer and Measure 37 Disclosure. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM AND FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004))."

Clackamas County, Oregon approved by its Board of County Commissioners by Agenda Item Number A.2.

Date this the 21st day of September, 2006.

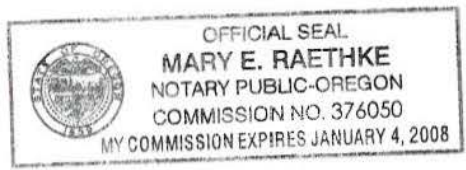
BOARD OF COUNTY COMMISSIONERS

Cathy Sowa
Chair

Mary Raethke
Recording/Secretary

State of Oregon }
County of Clackamas } ss

Personally appeared Larry Sowa, who, being duly sworn, each for himself and not for the other, did acknowledge that he/she is a member of the Board of County Commissioners and said instruments to be his voluntary act and deed.



Mary E. Raethke
Notary Public for Oregon
My Commission Expires: 1-4-08

ACCEPTANCE FORM

The conveyance of property located at Map #21E6BB14200 is approved and accepted as to form and content by this agency.

PLEASE PRINT OR TYPE

Representative name __Stephan Lashbrook

Representative position __Acting City Manager

Agency name __City of Lake Oswego

Signature _____


Dated the _____ day of Sept, 2006

DEED RECORDING INFORMATION:

Grantor: Clackamas County

Grantee: City of Lake Oswego

Until further notice, taxes shall be sent to:

Attn: Finance Director

Address: P.O. Box 369

City, State, Zip: Lake Oswego, OR 97034

2



NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

Development Services Building

150 Beaver Creek Road

Oregon City, OR 97045

February 11, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between North Clackamas
Parks & Recreation District (NCPRD) and the Clackamas County Sheriff's Office (CCSO)
For Cooperative Use of NCPRD Facilities as CCSO Reporting Stations

Purpose/Outcome	To provide the Sheriff's Office shared use of designated office space in portions of selected NCPRD buildings or out buildings for use as CCSO reporting stations and associated parking space(s), as well as additional office space and/or technology equipment installation which may be approved on a case-by-case basis.
Dollar Amount and Fiscal Impact	No compensation is required between the parties.
Funding Source	N/A
Safety Impact	NCPRD will benefit by facilitating an increased law enforcement presence at the various facilities. CCSO will be able to perform reporting function more conveniently and efficiently.
Duration	Effective upon signature for a period of five (5) years, ending on 02/11/21, with the option of annual renewal by July 1 of each year until amended or extended in writing.
Previous Board Action/Review	None
Contact Person	Laura Zentner, BCS Deputy Director – office (503) 742-4351
Contract No.	

BACKGROUND:

NCPRD and CCSO recognize a common purpose and mutual benefit, and therefore desire to cooperate to provide effective and efficient services to the public by allowing use of NCPRD facilities to co-locate CCSO reporting offices.

CCSO will benefit by having access to facilities throughout the NCPRD Service Area and NCPRD will benefit from the increased presence of CCSO to enhance observation and enforcement of rules and laws.

RECOMMENDATION:

Staff recommends the Board approve this cooperative agreement and authorizes Craig Roberts, Sheriff to sign on behalf of Clackamas County.

Respectfully submitted,

Laura Zentner, CPA
BCS Deputy Director

**INTERGOVERNMENTAL AGREEMENT
BETWEEN NORTH CLACKAMAS PARKS & RECREATION DISTRICT
AND CLACKAMAS COUNTY ON BEHALF OF THE CLACKAMAS COUNTY SHERIFF'S OFFICE
FOR COOPERATIVE USE OF NCPRD FACILITIES AS CCSO REPORTING STATIONS**

This Agreement is entered into pursuant to the authority granted in Oregon Revised Statutes, Chapter 190, between the North Clackamas Parks & Recreation District, (NCPRD) a parks and recreation county service district organized and existing under the authority of Oregon Revised Statutes Chapter 451, and Clackamas County (COUNTY) on behalf of the Clackamas County Sheriff's Office, (CCSO), to provide for cooperative use of selected NCPRD Buildings as CCSO reporting facilities.

In reliance and on the terms and conditions set forth below, the parties hereby agree that:

1. PURPOSE

NCPRD and CCSO recognize a common purpose in providing consistent availability of recreation and policing services throughout the area. NCPRD owns buildings located throughout the recreation district service area, some of which are suitable for use as CCSO reporting stations. Each desire to cooperate to provide effective and efficient services to the public by allowing use of NCPRD facilities to co-locate CCSO reporting offices. CCSO will benefit by having access, as needed and available, to facilities throughout the NCPRD Service Area so that CCSO Officer's can more conveniently & efficiently perform reporting functions.

NCPRD will benefit by facilitating an increased law enforcement presence at the various NCPRD facilities being utilized by CCSO, to enhance observation and enforcement of rules and laws.

2. FACILITY USE

2.1 TERMS

2.1.1 NCPRD agrees to provide CCSO the shared use of designated office space in portions of selected buildings or out buildings for use as CCSO reporting stations and associated parking space(s). The ownership and control of these facilities will remain with NCPRD. NCPRD agrees to provide 60 days notice if an office space is required to be vacated by CCSO.

2.1.2 Additional office space and/or technology equipment installation may be requested by CCSO in any NCPRD facility and may be approved on a case-by-case basis with associated costs to CCSO.

2.1.3 NCPRD agrees to provide the following services:

- A. Unlimited internet access if currently installed.
 - B. "Utilities" including natural gas, water services, sewer services, electricity, refuse removal. (where available)
 - C. Heating and air conditioning (where available)
 - D. Restroom facilities. (where available)
 - E. Parking spaces.
 - F. Security access to specified office space and facilities for non-felon personnel following successful CCSO background check.
 - G. Building maintenance (roof, paint, HVAC, etc.) as funding is available based on NCPRD's capital asset repair & replace program.
 - H. A power source and facility access for CCSO owned WiFi equipment location and maintenance. (where available)
- 2.1.4 CCSO will have use of designated office space and will limit its use of the facility to those services necessary to provide and support law enforcement activities. CCSO personnel will be responsible for unlocking and locking doors and/or gates as necessary to gain access to NCPRD facilities and secure them when done utilizing. NCPRD will provide appropriate keys and access codes to CCSO as needed.
- 2.1.5 CCSO use of the NCPRD facilities will in no case interfere with the primary purpose of the facility to serve as a recreation area. CCSO personnel should alert NCPRD staff, tenants or contractors of their presence when entering an NCPRD facility, especially during non-business hours if they are also occupying the facility.
- 2.1.6 Appropriate CCSO vehicle parking locations will be identified on a site-by-site basis in order to avoid conflicts with NCPRD staff or public use, and also to maximize visibility of CCSO vehicles to the general public.
- 2.1.7 All CCSO technology equipment installations will require NCPRD approval to limit any potential interference with NCPRD technology systems.
- 2.1.8 CCSO is responsible to provide telephone equipment and telephone service in all CCSO reporting station office spaces.
- 2.1.9 CCSO will provide printers in CCSO reporting stations.
- 2.1.10 CCSO will provide and maintain WiFi equipment in selected NCPRD facilities.
- 2.1.11 CCSO will provide ordinary and regular cleaning for the office spaces designated as CCSO reporting offices in each NCPRD facility. The offices are expected to be maintained in the condition as when originally occupied.

2.1.12CCSO agrees that no hazardous material/substances will be brought into or stored inside a NCPRD facility at any time.

2.1.13CCSO will provide all furniture located within each of their reporting station office spaces.

2.1.14NCPRD is not responsible for any loss of CCSO property or data from any cause.

2.2.15 As time allows, CCSO personnel agree to observe activities and conditions in and around the NCPRD facilities which they utilize, and respond to situations which may warrant their time and attention in an effort to ensure that NCPRD rules are being adhered to and to protect public property and public safety.

3. TERM OF AGREEMENT

3.1 This Agreement shall be in effect for five (5) years upon written approval. The Agreement shall continue thereafter renewing annually by July 1 of each year until amended or extended in writing. Either party may terminate this Agreement at any time by giving sixty (60) days advance written notice to the other.

3.2 Upon termination of the Agreement, equipment installed in CCSO designated office space by NCPRD will remain the property of CCSO. NCPRD and CCSO agree that upon termination the office spaces will be returned in the same condition as when originally occupied, excepting normal wear and tear.

4. FORCED LIMITATIONS

In the event there is a state-wide legislation beyond the control of either party, limiting either property tax or the services provided by CCSO or NCPRD, this Agreement may be renegotiated. Renegotiating shall begin upon the written request of either party.

5. INDEMNITY AND INSURANCE

5.1 Each party agrees solely to be liable for and hold the other harmless from any claims, actions or suits arising from its acts or those of its employees, officers, directors, agents, or volunteers in carrying out the purpose of this Agreement. Each party agrees to maintain liability insurance or self insurance for risks arising out of this Agreement, which covers the other party as an additional insured.

5.2 Each party agrees to provide workers' compensation insurance for its employees, and to hold the other party harmless for injuries and work-related illnesses to its employees.

5.3 NCPRD agrees to insure its buildings with the coverage provided through the County self insurance program for any damage and destruction of building, tenant improvements and betterments.

5.4 Each party agrees that neither party shall act as the agent of the other, and no employee of one party shall be considered to be an employee of the other party for any purpose.

6. COMPENSATION

This is a cooperative agreement; no compensation is required between the parties.

7. AMENDMENT

This Agreement may be amended only in writing upon the mutual consent of both parties. Parties agree that NCPRD may from time to time identify facilities for CCSO use and that will not trigger the requirements of an amendment.

8. TERMINATION OF PREVIOUS AGREEMENT

This Agreement supersedes all previous agreements for the provision of shared use of NCPRD facilities between NCPRD and CCSO. Any former agreements are terminated on the effective date of the signing of this agreement.

SIGNATURE LINE FOLLOWS:

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

Subscribed this _____ day of _____, 2016

NORTH CLACKAMAS PARKS
AND RECREATION DISTRICT

Clackamas County Sheriff's Office

BY: _____
Chair

BY: _____
County Sheriff



Gregory L. Geist
Director

February 11, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between
Clackamas County Service District No. 1 and Metro for a
Natural Areas Capital Grants Program Award

Purpose/Outcome	To approve an Intergovernmental Agreement allowing CCSD#1 to accept grant monies from Metro for the Mt. Scott Creek Oak Bluff Restoration Project.
Dollar Amount and Fiscal Impact	The estimated total project cost is \$531,768, with \$175,228 awarded by the Metro grant and \$356,540 in matching funds from CCSD#1. There is no impact on the adopted CCSD#1 budget.
Funding Source	CCSD#1 Surface Water Capital Fund. No General Funds are required for this project.
Duration	Grant agreement expires December 31, 2019.
Previous Board Action	The Board approved submittal of the grant application at the January 15, 2015 Business Meeting, agenda item 011515 IV. 1.
Strategic Plan Alignment	1. Project will honor, promote, invest in and improve natural resources on the site, thereby improving watershed health. 2. Project creates and supports healthy streams, aligning with the purpose of the Watershed Protection Program.
Contact Person	Gail Shaloum, Environmental Policy Specialist, 503-742-4597
Contract No.	N/A

BACKGROUND:

Clackamas County Service District No. 1 was successful in its application for a Metro Nature in Neighborhoods Capital Grant for \$175,228 for the Mt. Scott Creek Oak Bluff Restoration Project. With Board approval, CCSD#1 and its partners will develop engineering plans, obtain conservation easements, obtain permits, and construct the restoration project. The grant requires a 2:1 match and funds would be available once both parties have signed the IGA. None of these funds impact the County General Fund.

The purpose of the project is to improve the resiliency of Mt. Scott Creek from SE 82nd Avenue east to I-205, consistent with WES Watershed Protection Program's overarching goal to minimize the impacts of development on water resources and also with actions in the Kellogg-Mt Scott Creek Watershed Action Plan (WAP). This project is designated as high priority in the WAP and helps CCSD#1 to meet state and federal regulations. The project area consists of a stream corridor over approximately 3,000 linear feet of stream, as well as adjacent wetland areas. This project will

provide increased flood storage in the floodplain, reduce erosion, improve water quality and create healthy riparian and upland habitats.

The project will occur in a commercial area on several parcels of land, two of which are owned by CCSD#1. The other parcels are owned by four private landowners who would provide conservation easements surrounding the stream areas. We had conversations with the landowners and surrounding businesses and have either written or verbal agreement at this time. Landowners are Costco Wholesale Corp., Copper Mountain Trust Co., Bre Timberwolf Property Owner LLC (Courtyard Marriott) and Scotleaseco. Surrounding businesses include Precision Castparts, Providence Health & Services and the State of Oregon Crime Lab and Medical Examiner. Work will include engineering design, permitting, installation, outreach to businesses, hands-on science education for nearby Clackamas Web Academy and partnership with the North Clackamas Urban Watersheds Council. The agreement with Metro has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff recommends the Board approve and sign this Intergovernmental Agreement with Metro for Natural Areas Capital Grants Program award.

Respectfully submitted,

Gregory L. Geist, Director
Water Environment Services

INTERGOVERNMENTAL AGREEMENT

Project: Natural Areas Capital Grants Program

Contract No. _____

INTERGOVERNMENTAL AGREEMENT Natural Areas Bond Measure Capital Grant Award

This Intergovernmental Agreement (this “Agreement”), entered into under the provisions of ORS chapter 190 and effective on the date the Agreement is fully executed (the “Effective Date”), is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and Clackamas County Service District No. 1, a county service district formed under ORS 451, located at 150 Beaver Creek Road, Oregon City, Oregon 97045 (“Grant Recipient”).

RECITALS

WHEREAS, the electors of Metro approved Ballot Measure 26-80 on November 7, 2006, authorizing Metro to issue \$227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the “Measure”);

WHEREAS, the Measure allocated \$15 million from bond proceeds to the Nature in Neighborhoods Capital Grants Program to complement the regional and local share portions of the Measure by providing opportunities for the community to actively protect fish and wildlife habitat and water quality in areas where people live and work;

WHEREAS, Metro has determined to make a grant award to Grant Recipient to fund Mt. Scott Creek/Oak Bluff Reach Restoration (the “Project”) as more specifically identified within the Scope of Work attached hereto as Exhibit A (the “Work”);

WHEREAS, this Agreement between Metro and Grant Recipient is now needed to satisfy the terms and conditions of the Nature in Neighborhoods Capital Grants Program as provided for in the Measure; and

INTERGOVERNMENTAL AGREEMENT

WHEREAS, except as specifically provided in this Agreement, including the scope of work attached hereto as Exhibit A, and otherwise notwithstanding any statements or inferences to the contrary, Metro neither intends nor accepts any (1) direct involvement in the Project (2) sponsorship benefits or supervisory responsibility with respect to the Project; or (3) ownership or responsibility for care and custody of the tangible products which result from the Project;

NOW THEREFORE, the parties agree as follows:

1. Purpose; Scope of Work; Limitations

The purpose of this Agreement is to implement the Measure and facilitate the funding of a Nature in Neighborhoods Capital Grants Program project. Grant Recipient shall perform all activities described in the Scope of Work attached hereto as Exhibit A (the “Work”). As a condition precedent to Metro’s agreement to fund the Project, Grant Recipient hereby approves the Project and agrees to comply with the terms and conditions of this Agreement and the applicable provisions of the Measure. At no time will Metro have any supervisory responsibility regarding any aspect of the Work. Any indirect or direct involvement by Metro in the Work shall not be construed or interpreted by Grant Recipient as Metro’s assumption of a supervisory role.

2. Declaration of Capital Project

In accordance with the Measure, Metro may only provide funds to Grant Recipient for the Project so long as such funds are exclusively used for capital expenses. Grant Recipient hereby confirms that the Project will result in the creation of a capital asset to be owned by Grant Recipient. The monetary value of the Project that is recorded as a capital asset shall be no less than the amount of the grant award that is actually provided to the Grant Recipient. Until June 30, 2027 or the date upon which all Bond debt related to Project is retired, whichever occurs earlier, Grant Recipient covenants that it will (a) own and hold all such capital improvements and real property interests acquired pursuant to this Agreement, and (b) record the asset created by the Project as a fixed, capital asset in Grant Recipient’s audited

INTERGOVERNMENTAL AGREEMENT

financial statement, consistent with Generally Accepted Accounting Principles (“GAAP”) and with Grant Recipient’s financial bookkeeping of other similar assets.

3. Contract Sum and Terms of Payment

Metro shall compensate Grant Recipient for performance of the Work as described in Exhibit A. Metro shall not be responsible for payment of any materials, expenses or costs other than those that are specifically described in Exhibit A.

4. Limitations on Use of the Capital Asset That Results from the Project

Throughout the term of this Agreement, Grant Recipient shall maintain and operate the capital asset that results from the Project in a manner consistent with one or more of the following intended and stated purposes of the Measure (the “Nature in Neighborhood Approved Purposes”):

- To safeguard water quality in local rivers and streams;
- To protect and enhance fish and wildlife habitats;
- To promote partnerships that protect and enhance nature in neighborhoods; and
- To increase the presence of ecological systems and plant and animal communities in nature deficient and other disadvantaged neighborhoods;

Grant Recipient may not sell, use, or authorize others to use such capital asset in a manner inconsistent with such purposes.

Notwithstanding the foregoing, secondary uses that arise as a result of such capital asset being used primarily in accordance with the Nature in Neighborhood Approved Purposes will be permitted, but only to the extent such secondary uses affect a *de minimis* portion of such capital asset or are necessary in order to facilitate the primary Nature in Neighborhood Approved Purposes. For example, if, as part of a land use review proceeding initiated to obtain the necessary approvals to operate such capital asset consistent with the Nature in Neighborhood Approved Purposes, a portion of such capital asset was required to be dedicated as a road, such road dedication would be a permitted secondary use.

INTERGOVERNMENTAL AGREEMENT

If the Work is the acquisition of real property, then Grant Recipient shall satisfy the requirements in this section of the Agreement by granting to Metro a conservation easement substantially comparable to the form of conservation easement approved by the Metro Council at the time the Metro Council approved the grant award to Grant Recipient.

5. Funding Recognition

Grant Recipient shall recognize in any publications, media presentations, or other presentations referencing the Project produced by or at the direction of Grant Recipient, including, without limitation, any on-site signage, that funding for the Project came from the Metro Natural Areas Bond Measure's Nature in Neighborhoods Capital Grants Program. Such recognition shall comply with the recognition guidelines detailed in the Measure. The Grant Recipient shall place at or near the Project's location signage that communicates that funding for the Project came from the Metro Natural Areas Bond Measure's Nature in Neighborhoods Capital Grants Program.

6. Term

It is the intent of the parties for the Project to have been completed, and for all Metro funding to have been provided to Grant Recipient prior to December 31, 2019. Notwithstanding the forgoing, all provisions set forth in this Agreement, and the obligations of Grant Recipient hereunder, shall continue in effect after the completion of the Project until June 30, 2027.

7. Termination for Cause

A. Subject to the notice provisions set forth in Section 7.B below, Metro may terminate this Agreement, in full or in part, at any time during the term of the Agreement if Metro reasonably determines that Grant Recipient has failed to comply with any provision of this Agreement and is therefore in default.

B. Prior to terminating this Agreement in accordance with Section 7.A above, Metro shall provide Grant Recipient with written notice that describes the reason(s) that Metro has concluded that Grant Recipient is in default and includes a description of the steps that

INTERGOVERNMENTAL AGREEMENT

Grant Recipient shall take to cure the default. From the date that such notice of default is received by Grant Recipient, Grant Recipient shall have 30 days to cure the default. If the default is of such a nature that it cannot reasonably be cured within 30 days, Grant Recipient shall have such additional time as required to cure the default, as long as it is acting in a reasonable manner and in good faith to cure the default. In the event Grant Recipient does not cure the default within the 30-day period, Metro may terminate all or any part of this Agreement, effective on any date that Metro chooses following the 30-day period. Metro shall notify Grant Recipient in writing of the effective date of the termination.

C. Grant Recipient shall be liable to Metro for all reasonable costs and damages incurred by Metro as a result of and in documentation of the default. Following such termination, should Metro later determine or a court find that Grant Recipient was not in default or that the default was excusable (e.g. due to a labor strike, fire, flood, or other event that was not the fault of, or was beyond the control of, Grant Recipient) this Agreement shall be reinstated or the parties may agree to treat the termination as a joint termination for convenience whereby the rights of Grant Recipient shall be as set forth below in Section 8.

8. Joint Termination for Convenience

Metro and Grant Recipient may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective only upon the mutual, written termination agreement signed by both Metro and Grant Recipient.

9. Oregon Constitution and Tax Exempt Bond Covenants

Grant Recipient acknowledges that Metro's source of funds for the Nature in Neighborhoods Capital Grants Program is from the sale of voter-approved general obligation bonds that are to be repaid using ad valorem property taxes exempt from the limitations of Article XI, sections 11, 11b, 11c, 11d, and 11e of the Oregon Constitution, and that the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. Grant Recipient covenants that it will take no actions that would cause Metro not to be able to maintain the current status of the real property taxes imposed to repay these bonds as exempt

INTERGOVERNMENTAL AGREEMENT

from Oregon's constitutional property tax limitations or the income tax exempt status of the bond interest under IRS rules. In the event Grant Recipient breaches this covenant, Grant Recipient shall undertake whatever remedies are necessary to cure the default and to compensate Metro for any loss it may suffer as a result thereof, including, without limitation, reimbursing Metro for any Projects funded under this Agreement that resulted in Grant Recipient's breach of its covenant described in this Section.

10. Liability and Indemnification

As between Metro and Grant Recipient, Grant Recipient assumes full responsibility for the performance and content of the Work; provided, however, that this provision is not intended to, and does not, create any rights by third parties. To the extent permitted by Oregon law, and subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30, and the Oregon Constitution, Grant Recipient shall indemnify, defend, and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by Grant Recipient or Grant Recipient's officers, agents, or employees. Grant Recipient is solely responsible for paying Grant Recipient's contractors and subcontractors. Nothing in this Agreement shall create any contractual relationship between Metro and any such contractor or subcontractor.

INTERGOVERNMENTAL AGREEMENT

11. Contractors' Insurance

A. Grant Recipient shall require all contractors performing any of the Work to purchase and maintain at each contractor's expense, the following types of insurance covering the contractor, its employees and agents:

1. Commercial general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage. Grant Recipient and Metro, and their elected officials, departments, employees and agents, shall be named as additional insureds.

2. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per occurrence. Grant Recipient and Metro, and their elected officials, departments, employees, and agents, shall be named as additional insureds. Notice of any material change or policy cancellation shall be provided to Grant Recipient thirty (30) days prior to the change.

B. This insurance required by Grant Recipient, as well as all workers' compensation coverage for compliance with ORS 656.017, must cover all contractors' operations under this Agreement, whether such operations are by a contractor, by any subcontractor, or by anyone directly or indirectly employed by any contractor or subcontractor.

C. Grant Recipient shall require all contractors performing any of the Work to provide Grant Recipient with a certificate of insurance complying with this section and naming Grant Recipient and Metro as additional insureds within fifteen (15) days of execution of a contract between Grant Recipient and any contractor or twenty-four (24) hours before services such contract commence, whichever date is earlier.

D. In lieu of the insurance requirements in Sections 11.A through 11.D, above, Grant Recipient may accept evidence of a self-insurance program from any contractor. Such contractor shall name Grant Recipient and Metro as additional insureds within fifteen (15) days of execution of a contract between Grant Recipient and any contractor or twenty-four (24) hours before services such contract commence, whichever date is earlier.

12. Safety

INTERGOVERNMENTAL AGREEMENT

Grant Recipient shall take all necessary precautions for the safety of employees, volunteers and others in the vicinity of the Work and the Project, and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

13. Metro's Right to Withhold Payments

Metro shall have the right to withhold from payments due Grant Recipient such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from Grant Recipient's performance or failure to perform under this Agreement or the failure of Grant Recipient to make proper payment to any suppliers, contractors or subcontractors. All sums withheld by Metro under this Section shall become the property of Metro and Grant Recipient shall have no right to such sums to the extent that Grant Recipient has breached this Agreement.

14. Project Records, Audits, and Inspections

A. For the term of this Agreement, Grant Recipient shall maintain comprehensive records and documentation relating to the Project and Grant Recipient's performance of this Agreement (hereinafter "Project Records"). Project Records shall include all records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models, that are prepared or developed in connection with any Project.

B. In accordance with Section 2 above, Grant Recipient shall maintain all fiscal Project Records in accordance with GAAP. In addition, Grant Recipient shall maintain any other records necessary to clearly document:

(i) Grant Recipient's performance of its obligations under this Agreement, its compliance with fair contracting and employment programs, and its compliance with Oregon law on the payment of wages and accelerated payment provisions;

(ii) Any claims arising from or relating to (a) Grant Recipient's performance of this Agreement, or (b) any other contract entered into by Grant Recipient that relates to this Agreement or the Project;

INTERGOVERNMENTAL AGREEMENT

(iii) Any cost and pricing data relating to this Agreement; and

(iv) Payments made to all suppliers, contractors, and subcontractors engaged in any work for Grant Recipient related to this Agreement or the Project.

C. Grant Recipient shall maintain Project Records for the longer period of either (a) six years from the date the Project is completed, or (b) until the conclusion of any audit, controversy, or litigation that arises out of or is related to this Agreement or the Project and that commences within six years from the date the Project is completed.

D. Grant Recipient shall make Project Records available to Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places, regardless of whether litigation has been filed on any claims. If the Project Records are not made available within the boundaries of Metro, Grant Recipient agrees to bear all of the costs incurred by Metro to send its employees, agents, or consultants outside the region to examine, audit, inspect, or copy such records, including, without limitation, the expense of travel, per diem sums, and salary. Such costs paid by Grant Recipient to Metro pursuant to this Section shall not be recoverable costs in any legal proceeding.

E. Grant Recipient authorizes and permits Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, to inspect, examine, copy, and audit the books and Project Records of Grant Recipient, including tax returns, financial statements, other financial documents relating to this Agreement or the Project. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provision of Section 12(F) below.

F. Grant Recipient agrees to disclose Project Records requested by Metro and agrees to the admission of such records as evidence in any proceeding between Metro and Grant Recipient, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

G. In the event the Project Records establish that Grant Recipient owes Metro any sum of money or that any portion of any claim made by Grant Recipient against Metro is not

INTERGOVERNMENTAL AGREEMENT

warranted, Grant Recipient shall pay all costs incurred by Metro in conducting the audit and inspection.

15. Public Records

All Project Records shall be public records subject to the Oregon Public Records Law, ORS 192.410 to 192.505. Nothing in this Section shall be construed as limiting Grant Recipient's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).

16. Law of Oregon; Public Contracting Provisions

The laws of the state of Oregon shall govern this Agreement and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement. Specifically, it is a condition of this Agreement that Grant Recipient and all employers working under this Agreement are subject to and will comply with ORS 656.017 and that, for public works subject to ORS 279C.800 to 279C.870 pertaining to the payment of prevailing wages as regulated by the Oregon Bureau of Labor and Industries, Grant Recipient and every contractor and subcontractor shall comply with all such provisions, including ORS 279C.836 by filing a public works bond with the Construction Contractors Board before starting work on the project, unless exempt under that statute.

17. Notices and Parties' Representatives

Any notices permitted or required by this Agreement shall be addressed to the other party's representative(s) as set forth below and shall be deemed received (a) on the date they are personally delivered, (b) on the date they are sent via facsimile, or (c) on the third day after they are deposited in the United States mail, postage fully prepaid, by certified mail return receipt requested. Either party may change its representative(s) and the contact information for its representative(s) by providing notice in compliance with this Section of this Agreement.

INTERGOVERNMENTAL AGREEMENT

Grant Recipient's Designated Representatives:

Gregory Geist
Director, Water Environmental Services
Clackamas County
150 Beaver creek Road
Oregon City, Oregon 97045

with copy to:

County Counsel
c/o Water Environment Services
150 Beaver creek Road
Oregon City, Oregon 97045

Metro's Designated Representatives:

Natural Areas Bond Program Manager
Metro Regional Center
600 N.E. Grand Ave.
Portland, OR 97223
Fax (503)-797-1849

with copy to:

Metro Attorney
600 N.E. Grand Ave.
Portland, OR 97223
Fax (503) 797-1792

18. Assignment

Grant Recipient may not assign any of its responsibilities under this Agreement without prior written consent from Metro, which consent shall not be unreasonably withheld.

19. Severability

If any term or provision in this Agreement shall be adjudged invalid or unenforceable, such adjudication shall not affect the validity or enforceability of the remainder of the

INTERGOVERNMENTAL AGREEMENT

Agreement, which remaining terms and provisions shall be valid and be enforced to the fullest extent permitted by law.

20. No Waiver of Claims; Modifications

Metro's failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision of this Agreement. This Agreement may be amended only by written instrument signed by both Metro and Grant Recipient and no waiver, consent, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

21. Integration of Agreement Documents

All of the provisions of any proposal documents including, but not limited to, Requests for Proposals, Grant Proposals and Scopes of Work that were utilized in conjunction with the award of this Grant are hereby expressly incorporated herein by reference; provided, however, that the terms described in Sections 1 through 21 of this Agreement and in Exhibit A shall control in the event of any conflict between such terms and such other incorporated documents. Otherwise, this Agreement represents the entire and integrated agreement between Metro and Grant Recipient and supersedes all prior negotiations, representations or agreements, either written or oral. The law of the state of Oregon shall govern the construction and interpretation of this Agreement. The Parties, by the signatures below of their authorized representatives, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.



INTERGOVERNMENTAL AGREEMENT

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year indicated below.

Clackamas County Service District No. 1

METRO

Signature

Martha Bennett

Print Name: _____

Metro Chief Operating Officer

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM BY:

Signature

Hope Whitney

Print Name: _____

Senior Assistant Metro Attorney

Title: _____

Date: _____

Date: _____

Mt. Scott Creek-Oak Bluff Reach Restoration Project

Nature in Neighborhoods Capital Grant Proposal



Nature in Neighborhoods Capital Grants Cover Sheet

Organization, project and contact information

Please complete the information below using no more than two pages

Check one:

- Letter of Interest
 Full Application

Project Name	Mt. Scott Creek Oak Bluff Restoration
Project's location/site address or other location information	Mt. Scott Creek between I-205 and SE 82 nd Ave, south of SE Oak Bluff Dr, across from Costco at 13130 SE 84 th Ave.
Applicant Organization	Clackamas County Water Environment Services on behalf of Clackamas County Service District No. 1 (CCSD#1)
Is organization a 501(c)(3)? If yes, what is the EIN?	No
Is organization the government agency that will own the project?	Yes, CCSD#1 will own part of the project and hold conservation easements over privately owned portions of the project.
Contact Person	Gail Shaloum
Address	150 Beaver Creek Rd, Suite 430, Oregon City, OR 97045
Phone	(503) 742-4597
Email	gshaloum@clackamas.us
Public Agency (if different from applicant organization)	same
Contact Person	
Address	
Phone	
Email	
Project Summary	Work with NCUWC, ODFW and NCPRD to improve fish and wildlife habitat by installing large woody debris (LWD) and replacing invasive vegetation with native plants. Engage surrounding businesses in stewardship. Leverage existing partnerships and programs to control weeds, plant native vegetation and using site for environmental study by local schools in Watershed Health Education Program.
Category Under which program category does your project best fit? (Select one only).	<input checked="" type="checkbox"/> ReNature – increases and/or recovers ecological functions and processes in order to protect water quality and enhance habitat <input type="checkbox"/> ReGreen – increases the appearance of and access to nature in order to enrich community vitality and help strengthen the physical connection to the region's ecology
Funding	Amount requested: \$175,228 Match funds: \$356,540 In-kind match: \$56,680 Total program budget: \$531,768

Mt. Scott Creek Oak Bluff Reach Restoration Project

Nature in Neighborhoods Capital Grant Project Proposal

Table of Contents

- A. Application cover sheet
- B. Cover letter
- C. Government Sponsor certification
- D. Project narrative:
 - Scope of work
 - Project description
 - Evaluation criteria
 - Project feasibility
 - Partnerships
 - Project evaluation/monitoring
- E. Budget documents:
 - Budget narrative
 - Line item budget
 - Statement of matching funds

Supplemental attachments:

- 1. Location map
- 2. Conceptual Site Plan
- 3. Photos of project site
- 4. Preliminary cost estimate
- 5. Letters of support



Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Gregory Geist
Interim Director

January 21, 2015

Mary Rose Navarro
Natural Areas Grant Coordinator
Metro- Nature in Neighborhoods
600 NE Grand Ave
Portland, OR 97232

Dear Ms. Navarro and Grant Committee,

Clackamas County Water Environment Services is excited to submit this proposal for the Mt Scott Creek-Oak Bluff Reach Restoration Project to the Nature in Neighborhoods Capital Grants Program.

WES and its partners seek to improve water quality and restore aquatic habitats in a degraded reach of Mt Scott Creek. This site provides a significant opportunity to enhance a remaining natural area in a very urbanized, highly impervious area. The project will provide essential habitat for federally-listed T&E fish species, improve access for the public, and increase opportunities for environmental education and stewardship at the site.

This project will link to existing activities being conducted throughout the Kellogg-Mt Scott Creek watershed by WES and its partners, including the North Clackamas Urban Watersheds Council and North Clackamas Parks and Recreation District. The project will provide environmental benefits, community benefits and strengthen existing partnerships. Thank you for considering this proposal and we look forward to hearing from you soon.

Sincerely,

Gregory Geist
Interim Director, Clackamas County Water Environment Services



Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Gregory Geist
Interim Director

January 21, 2015

Metro
Mary Rose Navarro
Natural Areas Grants Coordinator
600 NE Grand Ave.
Portland, OR 97232

Dear Mary Rose:

Clackamas County Service District No. 1 (the District) confirms that the Mt Scott Creek Oak Bluff Reach restoration project will become a capital asset of the District upon completion of the project and an update of the existing temporary conservation easement with landowners. The project will improve District assets and these improvements have a useful life of more than one year. Therefore, the project fulfills the requirements of the District to produce and record a capital asset once an update of the existing conservation easement occurs. This project is consistent with Generally Accepted Accounting Principles and the policies and procedures of the District.

In addition, the District will enter into an Intergovernmental Agreement with Metro as we have done on two prior projects.

If you have further questions, please contact me at (503) 742- 4604.

Sincerely,

Jody Packnett
Administrative Services Manager
Clackamas County Service District No. 1

Project narrative

Project background: Mt. Scott Creek is a tributary to Kellogg Creek and the Willamette River and home to a variety of threatened and endangered (T&E) fish species including salmon, steelhead, and cutthroat trout. The Kellogg-Mt. Scott Creek (KMS) watershed encompasses approximately 10,000 acres in northwestern Clackamas County. Streams in the watershed have been impacted by urban development. Most of the watershed is currently used for single family residential, commercial, industrial, multi-family residential and open space. The watershed is well built-out, with less than 10 percent of the watershed available for further development. It was estimated to be 39 percent impervious in 2007. Clackamas County Water Environment Services (WES), on behalf of Clackamas County Service District No. 1 (CCSD #1), owns a 2.74-acre property along Mt. Scott Creek, part of a larger collection of properties known as the Mt. Scott Creek Oak Bluff Reach that includes approximately 3,270 feet of the creek and associated floodplain and riparian areas. WES owns or has easements on private property from 50 to 150 feet wide around the stream that encompass approximately 12 acres. WES anticipates working with private property owners, partnering organizations and the community to complete restoration of the site. Costco Wholesale Corporation owns the majority of the private property.

WES currently works with nearby Clackamas Web Academy through our Watershed Health Education Program (WHEP) and would bring students to this site to conduct hands-on scientific studies and stewardship learning activities. WES also frequently partners with the non-profit North Clackamas Urban Watersheds Council (NCUWC), North Clackamas Parks and Recreation District (NCPRD) and Friends of Trees, as proposed on this project. The project will also include outreach to the surrounding businesses and community to encourage participation in the project and stewardship of the environment.

The site is located within the Urban Growth Boundary and provides a significant opportunity to preserve and enhance wetland and stream habitat in a highly urbanized, commercial environment, much of which was developed before stormwater controls were required—making protection and restoration of this remaining habitat so critical. The Mt. Scott Creek Oak Bluff Reach Restoration will enhance and maintain the site as a stream-wetland-floodplain complex that can provide necessary spawning, rearing, and holding habitat in the very urban KMS system. Successfully engaging businesses in this project may also result in improved stormwater treatment facilities on surrounding properties.

The WES KMS Watershed Action Plan (WAP) was prepared in 2009 to help identify and prioritize watershed health activities and to guide investments. High priority stream reaches were identified based on watershed health conditions, potential partnering opportunities, and results from an Oregon Department of Fish and Wildlife (ODFW) fish survey/habitat assessment. The WAP rated this site as an intermediate priority for restoration, and it is the second highest priority project in the ODFW report after the lowest reach of Rock Creek, which WES is currently addressing. In addition, the project is supported by the overarching goal of the WES Surface Water Management Program: Minimize the effects of urbanization on hydrology and water resources.

Water quality data for this reach indicates poor in-stream temperature, low BMP treatment and poor levels of nitrates. Temperature issues may partially be the result of a pond caused by a beaver dam.

Beaver dams have been known to be built in this reach on an annual basis over the past five years. Note that beavers also provide habitat benefits.

Hydrologic analysis of the reach shows poor percent coarse substrate. Aquatic habitat data show poor percent pools and deep pools; there are no riffles. The reach is rated fair for hydromodification risk for the 2- and 10-year storm events. Entrenchment ratio and other geomorphic factors are rated as poor. The ODFW assessment calls for in-stream habitat enhancement, adding LWD to improve stream habitat complexity and geomorphic stability. Geomorphic stability is important since this stream reach is surrounded by businesses and has already begun the process of downcutting and widening. The project team would continue to work with ODFW and surrounding landowners as the project is designed.

WES conducted a habitat assessment in June 2013 to identify site-specific improvements that would enhance water quality and fish and wildlife habitat. WES staff also met with NCUWC members and representatives of the surrounding businesses to present project ideas and request feedback. The resulting Concept Plan prioritizes management actions needed to protect and improve the site. Using the Concept Plan and technical guidance from ODFW, as well as the information from other landowners and partners, the following overall goals were identified:

- 1) Improve in-stream and riparian habitats, and enhance ecological functions and diversity
- 2) Provide watershed health awareness, stewardship and educational opportunities to the community, including pedestrian access

Preliminary design concepts include:

1. Install LWD to slow in-channel velocities and dissipate energy during high flow events; provide for hydraulic diversity and improve in-stream habitat features; and trap sediment/create pools for fish spawning, foraging for insects, and hiding/resting for juvenile fish
2. Plant stream banks to reduce landslides triggered by stormwater discharges and to stabilize stream banks and beds
3. Remove non-native invasive plant species in the riparian and wetland areas
4. Plant native vegetation to increase shade, reduce temperature and improve habitat diversity
5. Improve access for the public, including school groups and others with an interest in environmental education and observation at the site

WES plans to expand its work with students on the site, especially with Clackamas Web Academy, which is within walking distance. Students will visit the site as part of the WHEP curriculum, developed for science teachers to use in schools within WES districts. Students may perform macro-invertebrate monitoring, water quality monitoring and other in-the-field environmental studies. They will also learn to identify native and invasive vegetation, remove invasive species and plant native plants.

WES partners with NCUWC and other groups to establish and protect riparian corridors at many sites throughout the watershed through its RiverHealth Stewardship Grant Program. In addition, the project would include coordination and in-kind donations from some of the surrounding businesses that would provide employee volunteer teams. We have had conversations with PCC Structurals, Costco, ScottLeaseCo, Quest Property Management and Oregon Dept of Administrative Services (owner of crime

lab) and tenants to recruit volunteers and contributions. ODOT and the Clackamas CPO have also expressed an interest in contributing to the project. Five of the seven surrounding property owners have expressed support for the project. The project occurs on land owned by CCSD#1, Costco, ScottLeaseCo and Quest. Two surrounding landowners have not yet responded to outreach efforts, but did give permission to access their properties during the habitat assessment.

The population that would benefit from the project includes students, employees of surrounding businesses, community residents, and visitors walking the trail between I-205 and SE Oak Bluff Rd.

Once our conservation easement is amended, we will have the ability to capitalize work done within approximately 12 acres surrounding the stream. We have begun discussions with property owners to expand the reach of the existing easement to capitalize the vegetation work outside of the stream corridor. Grant funds would cover only work within the easements.

Scope of work

WES and partners seek to improve water quality and restore aquatic habitats in Mt. Scott Creek, with in-stream habitat treatments and restoration of native vegetation on adjacent riparian, floodplain and wetland habitat. The improvements will include installing LWD, removing invasive vegetation and replacing it with native plants. This project will provide the environmental benefits of improved in-stream habitat complexity, stabilization of the stream bank and bed, reduced erosion, improved water quality and healthy riparian and wetland habitats. Specific tasks are outlined below.

Task 1: Design and Permitting: WES will contract with consultants, oversee the development of permit applications and the completion of the design plans with technical input/review by ODFW. Deliverables:

- Write and publish RFP, contract with and oversee design and permitting consultant
- Topographic survey, archaeological assessment and wetland delineation if required
- Hydrologic and hydraulic analysis to determine design flows and water surface elevations
- Permit applications to DSL, USACOE and Clackamas County
- Construction documents, including plans, specifications and cost estimate.
- Provide technical assistance during construction

Task 2: Outreach to Private Landowners and Stakeholders: WES and NCUWC will work closely with the private landowners and partners to inform, coordinate, and facilitate project activities. Deliverables:

- Work with 3 to 4 private landowners to secure a new or amended easement with language to satisfy capitalization requirements
- Work with 3 to 4 private landowners and secure landowner agreements for properties where in-stream and/or revegetation project work will occur or for construction access
- Coordinate project activities with landowners, partners and stakeholders including giving presentations to interested groups and providing opportunities for input into design
- Coordinate volunteer activities between Friends of Trees, NCUWC, the CPO and up to seven surrounding businesses

Task 3: Construction: WES will hire contractors and oversee construction activities. Deliverables:

- Conduct bidding process and hire construction contractor
- Oversee and manage construction progress, in cooperation with design engineer
- Manage vegetation including site prep, plant installation and maintenance phases (Note: Maintenance will extend beyond grant period)
- Work with Friends of Trees and NCUWC to conduct volunteer planting events (Note: Some planting to be completed by volunteers and some by contractor)

Task 4: Budget Management and invoicing: WES will work to manage overall project budgets and individual sources of funding, and prepare invoices. Deliverables:

- Invoices with description of work completed and backup for expenses in required format

Task 5: Monitoring and reporting: WES will conduct photo-point monitoring and habitat survey with ODFW assistance and provide reporting in required format. Deliverables:

- Monitoring report

WES will enter into agreements with the selected consultant, successful bidding contractor, and Friends of Trees. Tasks will be further refined in those agreements.

Evaluation criteria

ReNature criteria: This project meets goals listed under “ReNature” most closely, as follows:

1. The project will increase ecological functions and improve ecological processes contributing to ecosystem health by enhancing diverse riparian vegetative structure and stream character. The project will provide essential habitat for federally-listed T&E fish species, as well as resident fish species with in-stream habitat structures; it will also benefit birds and wildlife by enhancing vegetative diversity and increasing native plant cover, especially Oregon white oaks. The project will enhance wetland functions by creating a backwater area for flood storage. As a remaining stream corridor in a very urbanized area, this is considered a habitat of concern that will be protected from the impacts of urban development.

WES is in the process of developing a retrofit strategy aimed at slowing and cleaning runoff entering the stream from developments in the basin. We are currently offering a cost-share retrofit program for the Clackamas Regional Center area. In addition, we have installed a rain garden and improved existing swales at three schools. In 2015, we also plan to install a rain garden and stormwater planter at Clackamas High School. These schools are included in the WES WHEP.

ODFW sampling in 2008 included presence/absence surveys, in which the following species were collected in Mt. Scott between the confluence of Dean Creek and 200 ft downstream of Sunnyside Road:

Brook lamprey	1	Rainbow trout	25
Unidentified ammocoete	2	Steelhead	6
Unidentified lamprey	2	Unidentified salmonid	61
Speckled dace	5	Unidentified salmonid fry	2
Redside shiner	27	Prickly sculpin	1
Unidentified sucker	6	Riffle sculpin	46

Cutthroat trout	49	Reticulate sculpin	93
Coho salmon	6	Unidentified sculpin	198

Measures will be taken to minimize impacts to these species, which include: construct during the summer low-flow in-water work window, when migrating salmonids are not expected to be present; work with ODFW to rescue any fish present from the stream before construction begins; isolate work area and use nets to exclude fish from construction activities; and use erosion & sediment control and other construction best management practices to minimize turbidity in the stream.

2. The project will contribute to ecological benefits beyond the project itself. This project is defined in existing plans (WAP 2009 and ODFW 2009) as one of many actions that will lead to overall watershed health. It will also complement ongoing efforts throughout the Kellogg-Mt. Scott watershed (e.g., projects at SE Cedar Way and North Clackamas Park) to improve and protect riparian corridors. In addition, it brings together nonprofits, government agencies, businesses and students to provide ecological study and service opportunities to students and community volunteers on an ongoing basis. Finally, NCUWC volunteers and staff will also work to engage adjacent property owners in related voluntary actions, such as installing LIDA retrofits.

The project also meets many goals of the Regional Conservation Strategy: controlling invasive species and enhancing native vegetation, enhancing biodiversity corridors, restoring ecological functions and processes, involving citizens in protecting and managing natural areas, increasing the permeability of the overall urban landscape for fish and wildlife, reducing impacts on natural areas, protecting T&E species of fish, promoting stewardship of wildlife on urban landscapes, and protecting biodiversity corridors.

Other efforts in the KMS watershed include the following projects:

- Stream restoration along Mt. Scott Creek in North Clackamas Park, completed in 2013
- Stream stabilization project constructed in 2014 at Cedar Way to stabilize headcuts
- Stream stabilization project scheduled for 2015 in Happy Valley Park to stabilize headcuts and reduce incision in the Mt. Scott headwaters
- Master planning at 3-Creeks Natural Area, scheduled to start in 2015. This 90-acre natural area is just downstream from the project area. CCSD #1 owns the site for the purposes of protecting and improving water quality and habitat. Restoration likely to be proposed includes managing invasives, stream restoration activities and consideration of ways to manage transient camps. Together, the Oak Bluff restoration project and improvements at 3-Creeks have the potential to bring significant ecological uplift to up to 9,000 l.f. of Mt. Scott Creek.
- Retrofit program within the Clackamas Regional Center area—WES is teaming with Clackamas Co. Development Agency to offer cost-sharing to businesses in this highly impervious area of the KMS basin; for businesses incorporating low impact development approaches (LIDA) to stormwater management into site improvements.
- LIDA facilities installed in 3 schools to date; 2 more planned for 2015 at Clackamas HS

Stabilizing streambanks at this location is important to the basin because it is just upstream of our largest natural area in the watershed, the 3-Creeks Natural Area, and it will improve water quality entering that site. When combined with other planned activities, significant improvements and protections will be in place for water quality and habitat within this important watershed.

3. Human uses and impacts will be addressed by providing appropriate means for people to interact with the site. Access will be enhanced by adding to the existing trail and providing an overlook to the creek. Interpretive signage will explain the project to the public. Getting people involved in the project, especially adjacent employees, through volunteer planting events will encourage future stewardship and “eyes on the site.” It is expected that increased appropriate use of the site will also discourage transient campsites and resulting impacts. Use of the site for environmental study by the Clackamas Web Academy and other neighboring schools is also planned at this site.

In the future, NCPRD plans to provide wayfinding signs to lead pedestrians from the I-205 path and this site to the 3-Creeks Natural Area (not included in this proposal). This project has taken the regional trail into consideration and planned for protection of restoration activities by routing the trail on sidewalks. The existing trail, between I-205 and SE Oak Bluff Drive, will transition to the sidewalk along Oak Bluff, head north on SE 84th and west on SE Sunnybrook. The trail would then cross the street at an existing traffic light so that pedestrians can enter the 3-Creeks Natural Area.

Partnerships and Community Engagement: This project will engage businesses, schools, the community and watershed council members, thereby helping to build and strengthen relationships. By participating in the project, those who work and attend school nearby will feel a sense of ownership and pride. Because two of Clackamas County’s large businesses are located here (Costco and PCC Structurals), this could be the beginning of meaningful participation by businesses in watershed health.

By conducting meetings periodically with stakeholders, we will build relationships among those working here as well as between the businesses, County staff and NCUWC members. NCUWC has committed to make a presentation to the businesses about getting involved in their watershed. We’ve received promising feedback from business owners who will make employees available to volunteer for planting events, and hope to engage them beyond a few events to form longer term green teams. Students from nearby Clackamas Web Academy have participated in hands-on activities at 3-Creeks and WES will increase their hands-on stewardship learning activities by adding projects at this site.

NCPRD monitors the site periodically for transient camps and works with the Clackamas County Sherriff’s office to remove campers and Corrections Crews to clean up the camps. We will also work with Clackamas County Health, Housing, and Human Services (H3S) in the future to provide services to transients on site. We will coordinate with H3S to provide an outreach representative when larger numbers of transients are anticipated. The outreach staff would engage campers, assess housing needs and provide updated information about available resources to transients.

Partners currently on-board include WES, NCUWC, ODFW, NCPRD and several adjacent landowners. Partners anticipated to be included in the future include the remaining landowners and Friends of Trees.

Partner	Role
WES	Lead partner in design and in-stream construction, landowner outreach, provide WHEP Curriculum and training to teachers
NCUWC	Lead partner for outreach to businesses, provide volunteers and collaborate on planting events, work with WES to submit additional grants
WHEP Educator	Lead partner in working with schools on site
NCSD	Provide students ecological study and service opportunities, support science teachers using WHEP curriculum
NCPRD	Technical assistance on recreational features, such as trails & signage; current & future maintenance of trail and vegetation
Friends of Trees	Lead 3 planting events
ODFW	Technical assistance, review & comment on project plans
Clackamas CPO	Assist with outreach and volunteering
Area businesses	Allow project on or adjacent to their property, potential volunteer opportunities, employee use of site, potential additional partnership opportunities.

Ecologically Effective and Cost Efficient: The project will use sustainable construction techniques and materials that mimic natural processes. LWD will be stabilized using engineered methods to ensure the long-term stability, as in past WES projects. In addition, leveraged dollars are expected to meet the 2:1 match with applicant funding, in-kind volunteer and program funding, as well as other grant dollars. The impact of this project will extend beyond this site. Best management practices will be followed in weed control, erosion control, pollution prevention and other project activities.

Multiple Benefits for People and Nature: The partners hope that this project will be a catalyst for involving businesses in restoration and enhancement projects and in helping to create a sense of place and build pride in employees. Employees will be able to enjoy access to nature during lunch breaks, for example. Migrating fish and wildlife up and down Mt. Scott Creek will benefit from restoring this long stretch of stream. Trails and interpretive signage will help increase the public’s awareness of ecological resources and benefits. Finally, linking students, a watershed council and business people in the project may pave the way for future partnerships and projects.

Additional Evaluation Measures: *Cost* - Partners plan to meet the 2:1 match requirement through a combination of additional grants and budgeting at WES. If we do not acquire additional grant funding, the project could be undertaken in phases over multiple years.

MWESB – It is the policy of Clackamas County to adhere to the concept of Equal Employment Opportunity and Affirmative Action in human resource management. Discrimination in a personnel action on a basis unrelated to the job is prohibited. Employment and promotion decisions in County service shall be made in accordance with the principles of equal opportunity by utilizing only job-related requirements. County policy specifically prohibits discrimination on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, age, marital status, physical or mental disability, or other protected status. The County does not have an MWESB policy, but will comply with requests or requirements to meet Metro’s goals on this project.

Project readiness and risk: *Experience and expertise* - WES, NCUWC, ODFW, FOT and NCPRD have existing, successful partnerships and are committed to successful implementation of this project. These organizations have the experience, capacity and ability to implement a successful project. WES has recently completed in-stream restoration projects in Mt. Scott Creek at North Clackamas Park, in Rock Creek, and in an unnamed tributary to Mt. Scott Creek at SE Cedar Way and has worked with partners to control weeds and plant native vegetation over many acres during the past several years. WES has agreements with six organizations for such activities. Gail Shaloum, WES Environmental Policy Specialist, will be the project manager. Gail has a bachelor's degree in landscape architecture and a master's degree in environmental science, along with over 20 years of professional work in environmental design and natural resources. Gail is also managing the Rock Creek Confluence Nature in Neighborhoods (NIN) Capital grant. WES also has engineering staff available to assist as needed.

NCUWC has completed many riparian enhancement projects throughout the KMS watershed as part of its Streamside Stewards Project. Tricia Sears, NCUWC Coordinator, will work with a nonprofit such as Friends of Trees to coordinate the volunteer portion of the revegetation work. NCUWC will supply volunteers and will recruit others from the surrounding businesses. NCPRD will provide trail maintenance, invasives control, litter-vandalism-homeless camp sweeps, and participate in project planning and design.

WES will also hire consultants and contractors with experience and expertise in stream restoration. We will work closely as a team and request input from ODFW to achieve a high quality, long lasting project.

Alternatives - During concept planning, many potential elements were considered before the selected alternative was chosen. We considered the most cost-efficient and ecologically effective ways to meet our goals. Some elements we considered were discarded due to high cost (replacing the SE 84th Ave culverts) or due to logistics (re-aligning the stream so it does not cross under the railroad). We relied on our experience and our consultant's (ESA Vigil-Agrimis) expertise. We also solicited input from NCUWC and businesses.

Timeline – To date, WES has contracted with a consultant to prepare a habitat assessment and concept plan. WES has partial funding toward the 30% design. Following that, WES and NCUWC plan to work together to submit grant applications to secure funds for construction, in addition to funding and in-kind contributions from WES and NCPRD. Partners plan to explore possible grants from OWEB, the Nature Conservancy Salmon Habitat Support Fund, and Oregon 319 Nonpoint Source Implementation Grant. We hope to use the NIN funding to cover design and permitting as well as some construction activities, and the other grants to go toward remaining construction and revegetation as match.

Engineering design, initial weed treatments and permitting are planned for the 2015 calendar year through early 2016, with construction in summer 2016 and planting in winter of 2016-17; that leaves over a year until our July 2018 deadline. If we are not successful with other grants, we will still be able to undertake the project but would do so in phases, using that extra year as our Surface Water Management budget allows. We have implemented other in-stream projects with partners with similar elements in a similar timeframe to that proposed here. We find that once we have a concept plan and

willing partners, the fundraising, design development, permitting, bid/contract process, construction and community celebration usually takes about two years.

Match - We intend to secure our match requirement before December 2015 and are in active discussions with landowners regarding landowner agreements and updating conservation easements with verbal agreement to date. NCUWC and WES plan to submit other grant applications in the next few months. We expect to know the results of these efforts in summer 2015. If funds are not received, we have the option of phasing the project over additional budget years and using our own resources or making adjustments to the plan, such as omitting the small bridge.

WES has a proven track record of implementing in-stream restoration projects, including two other projects with NIN Capital grants. WES and its partners are committed to seeing this project through.

Status of negotiations - In addition to the WES-owned property, the project area has three private landowners: Costco, ScottLeaseCo and Quest Property Management. We've discussed the project with them and surrounding businesses for over a year, and all have seen the concept plan and have given positive verbal responses. As the attached letters show, we have received permission to work on property owned by ScottLeaseCo. We also have agreement from Costco and Quest to work cooperatively in developing final details of the project and allowing it to be completed. We recently discovered that our existing conservation easement needs to be amended for us to capitalize the project. We are just beginning negotiations to amend the easement.

Long-term Monitoring & Maintenance - will be conducted by WES and NCPRD, which already work together to maintain a portion of this site and other properties, including the 3-Creeks area.

Regional distribution: KMS is an important Willamette River tributary in urban Clackamas County. NCUWC members and other stakeholders rely on WES to minimize the impacts of urbanization on this stream and to restore natural functions and processes when possible. NCUWC is a very active watershed council but does not receive council support funding from OWEB; it has multiple grants with specific funding parameters. As a result of limited funds for staff, it has only one part-time staff person. With WES' limited budget, and NCUWC unable to provide staff to manage large projects, this part of the region requires funding from outside sources such as the extremely valuable NIN Capital Grants. Without this funding, the project would be scaled back or take longer to complete.

Project evaluation/monitoring

WES will develop a monitoring plan with ODFW input, based on goals and the following objectives:

1. Install wood in upstream & mid sections to trap sediment, improve habitat, reduce downcutting and deflect high flows from unstable banks
2. Increase frequency and depth of pools
3. Target specific fisheries habitat restoration measures for identified or desirable historic species (seek ODFW input on seasonal timing and key habitat considerations)
4. Lower cover of invasive vegetation (Japanese knotweed, blackberry, garlic mustard, knapweed)
5. Increase native plant cover, consider beaver herbivory when installing plants

6. Conserve and expand Oregon white oak habitat
7. Increase presence of brush piles and wood of various levels of decay
8. Create seasonal pools for use by native amphibians
9. Create upstream backwater in the northeast portion of the site

The monitoring plan will measure the progress towards meeting those objectives in the field and will be composed of an as-built survey to verify that the project was built according to plan and to document any deviations to the plan and a habitat survey. The habitat survey will likely follow the protocols in Aquatic Inventories Project Methods for Stream Habitat Surveys (ODFW 2012). In addition, we plan to incorporate students into monitoring for both macroinvertebrates and performing pebble counts.

Budget documents:

Budget narrative

WES has estimated project costs based on recent costs for similar projects and best professional judgment. We have made many assumptions, based on the concept plan for the project.

The costs for mobilization, grading and fish habitat structures were interpolated from costs on the recently completed restoration projects and modified to the more urban site conditions with difficult construction access at Mt. Scott Creek's Oak Bluff Reach. We have made assumptions about the number of pieces of LWD and other project elements. The construction cost estimate was prepared by a consulting firm for WES (ESA Vigil-Agrimis, Inc.).

Revegetation costs including weed removal, planting and maintenance are based on estimates from Friends of Trees, using the concept plan. Volunteers will complete a portion of the planting and a contractor will do the remainder. The revegetation project is focused on getting the plantings to a 'free to grow' state and includes two years of intensive site preparation (starting in summer 2015), high density planting and up to three years of post-planting treatments to ensure the health of new plantings and the removal of invasive species throughout the site. WES will fund the maintenance following the end of the grant period.

The WES labor overhead rate for 2014-15 is 50%. The overhead is a percentage based on direct labor to allocate services related to projects (District Support – Billing, Accounts Payable, Audit, Public Information, WES Admin, etc.). This rate is a WES determined rate by analysis and not provided/reviewed by other agencies.

Line item budget:

**NATURE IN NEIGHBORHOODS CAPITAL GRANT
(F3) PROJECT BUDGET WORKSHEET**

PROFESSIONALSERVICES COSTS				21-Jan-15
<ul style="list-style-type: none"> · Estimate the hours of work directly related to your project for non-profit personnel, agency personnel, volunteers and consultants. You can delete rows that do not apply and/or add more specific descriptors. · Explain the tasks each is expected to complete in the budget narrative (i.e. surveys, design development, construction documents, plan review, construction management). · Pre-Agreement costs must occur AFTER the Invitation to Submit a Full Application and are not reimbursable. · Agency & non-profit personnel time cannot exceed 10% of the grant request. · Volunteers specifically doing project installation should be included in this section. 				
	financial match	in-kind match	grant request	TOTAL
A. Pre-Agreement				
1. Non-profit staff-NCUWC & FOT	\$500.00			\$500.00
2. Agency staff		\$3,000.00		\$3,000.00
3. Consultants	\$30,000.00			\$30,000.00
4. Volunteers				\$0.00
B. Post-Agreement Costs				\$0.00
1. Non-profit staff-NCUWC & FOT	\$9,200.00		\$2,000.00	\$11,200.00
2. Agency staff-WES and NCPRD		\$32,000.00		\$32,000.00
3. Consultants	\$48,000.00		\$22,000.00	\$70,000.00
4. Volunteers		\$4,180.00		\$4,180.00
Total for Professional Services	\$87,700.00	\$39,180.00	\$24,000.00	\$150,880.00

CONSTRUCTION COSTS				
<p>Estimate the cost for all work elements of your project. Feel free to change the list. Specify in the budget narrative which work elements will be completed by volunteers and how you calculated the budget figure.</p>				
	financial match	in-kind match	grant request	TOTAL
A. Site Preparation				
Mobilization/demobilization			\$12,695.00	\$12,695.00
Site preparation			\$12,695.00	\$12,695.00
Diversion & dewatering			\$15,000.00	\$15,000.00
B. Utilities				
C. Improvements/Materials				
Invasive and EDRR plant treatment			\$3,368.00	\$3,368.00
Vegetation				
Removal of select veg in oak woodland			\$4,000.00	\$4,000.00
Planting new OR white oak	\$4,000.00			\$4,000.00
Riparian planting	\$9,360.00			\$9,360.00
Live stakes in backwater wetland	\$13,100.00			\$13,100.00

2nd year vegetation maintenance	\$3,000.00			\$3,000.00
Earthwork/structural				
Large wood placement	\$16,800.00			\$16,800.00
Channel stabilization	\$8,400.00			\$8,400.00
Bridge to replace culvert	\$20,000.00			\$20,000.00
Excavate backwater habitat	\$78,400.00			\$78,400.00
Stormwater swales or rain gardens	\$45,000.00			\$45,000.00
Public facility improvements				
Trail improvements			\$6,270.00	\$6,270.00
Access/wayfinding signs			\$7,200.00	\$7,200.00
2-Interpretive signs			\$20,000.00	\$20,000.00
Contingency (30%)	\$13,500.00		\$70,000.00	\$83,500.00
D. Permits	\$300.00			\$300.00
E. Other, please list				\$0.00
Total for Construction Costs	\$211,860.00	\$0.00	\$151,228.00	\$363,088.00

ACQUISITION COSTS				
<i>Please estimate the cost for all work elements. Please feel free to change the list.</i>				
	financial match	in-kind match	grant request	TOTAL
A. Purchase Price				\$0.00
B. Option Purchase				\$0.00
C. Option Reimbursement				\$0.00
D. Appraisal & Appraisal Review*				\$0.00
E. Title Report, insurance & documents				\$0.00
F. Phase I Enviro Assessment				\$0.00
G. Stewardship endowment				\$0.00
H. Management Plan Development				\$0.00
I. Baseline Documentation				\$0.00
Total for Acquisition Costs	\$0.00	\$0.00	\$0.00	\$0.00

OTHER COSTS				
A. Travel (use current State of Oregon rates)	\$300.00			\$300.00
B. Overhead/Indirect costs - these can only be used as match.		\$17,500.00		\$17,500.00
Totals for Other Costs	\$300.00	\$17,500.00	\$0.00	\$17,800.00

TOTAL PROJECT COSTS	\$299,860.00	\$56,680.00	\$175,228.00	\$531,768.00
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Statement of matching funds

WES and NCUWC are close partners on the Mt. Scott Creek Oak Bluff Reach_Restoration Project and plan to provide matching funds as follows:

- Partners will apply for an Oregon 319 Nonpoint Source Implementation Grant in January 2015 (pre-proposal) and March 2015 (final proposal, if successful). This project meets the 319 Grant criteria. We anticipate this grant will cover \$30,000 of construction costs.
- Partners will apply for an OWEB Restoration Grant in April 2015.
- Partners will apply for a grant through The Nature Conservancy Salmon Habitat Support fund, which accepts applications on an ongoing basis.
- WES has already prepared a habitat analysis and concept plan and has budgeted funding for background analyses and work for a consultant to complete a 30% design. The background analyses are expected to include a topographic survey, hydrologic and hydraulic modeling, and an archaeological assessment. This work is planned for completion by fall 2015.
- WES plans to budget approximately \$40,000 during Fiscal Year 2015-16 for final design, permitting and initial invasives treatment and \$100,000 during Fiscal Year 2016-17 toward construction costs.
- NCPRD's in-kind contribution of \$2,000 will cover technical assistance on recreational features, such as trails. NCPRD will also assist with future maintenance.
- Funds for staff at NCUWC and Friends of Trees will be provided either through grants or as payment by WES.

WES and its partners consider this project a high priority and are committed to its successful implementation.

Nature in Neighborhoods Capital Grants Match Form

Instructions

1. Enter description of the source of matching funds or in-kind contribution. Put an X in the appropriate boxes. Enter the value of the matching source and appropriate notes to clarify how source will be allocated. Feel free to add as many rows as you need.

2. If utilizing volunteers, indicate this in the "Match Source" and "In kind" columns and calculate the number of hours the volunteers will be contributing to the project. The "Amount" will be those hours multiplied by the hourly rate found at the Independent Sector website: www.independentsector.org/programs/research/volunteer_time.html

3. If your "Match Source" is a professional or technical service received as "In kind", use the market average or actual salary or bid for that individual or service. Use the "Notes" column to document your methodology.

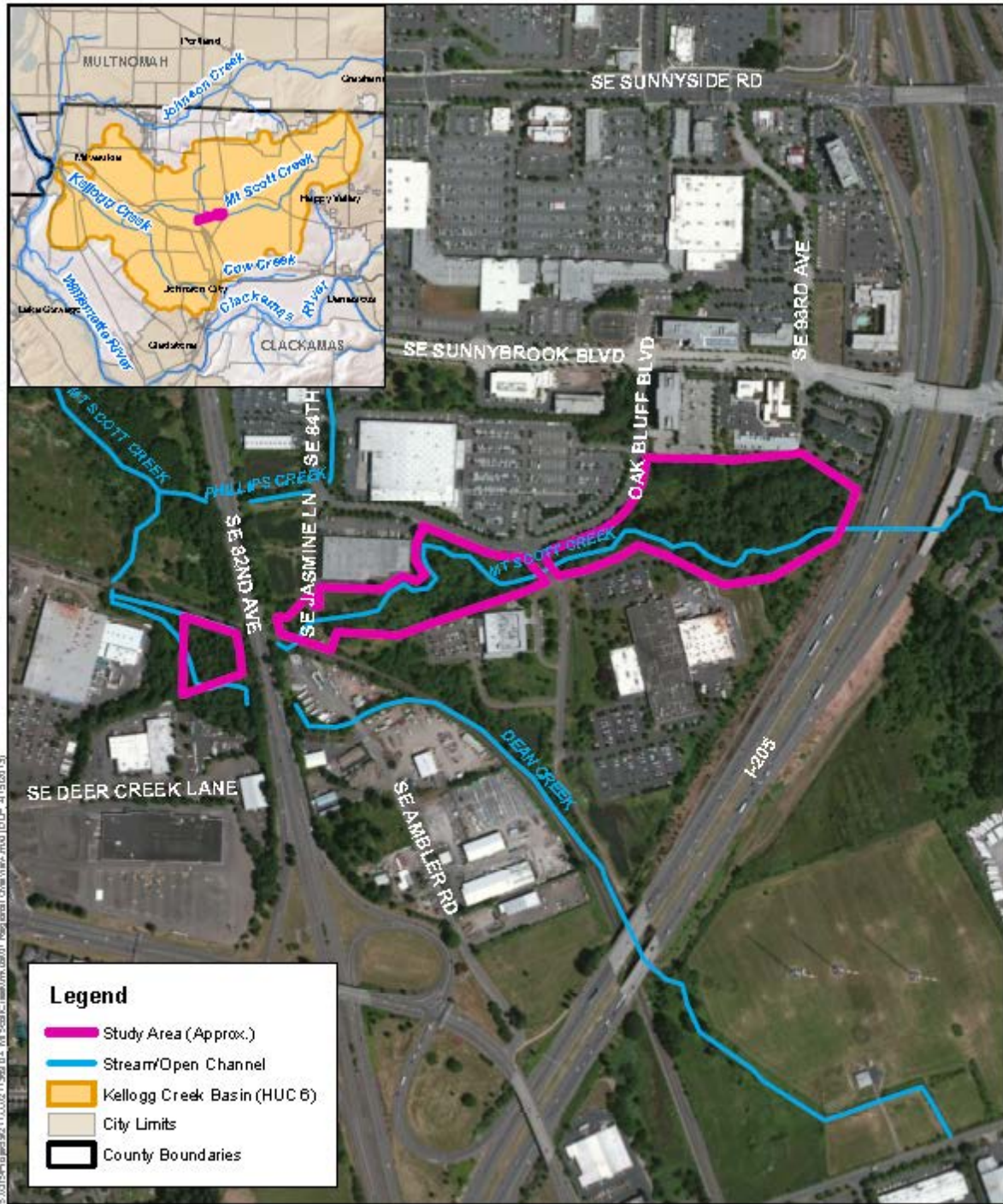
Matching Source	Financial	In-kind	Pending	Secured	Value	Notes
Water Environment Services		\$33,000.00		x	\$33,000.00	PM hours: 400, Project assistant hrs: 100, Const Mgr hrs: 100 hrs
North Clackamas Parks & Rec District		\$2,000.00		x	\$2,000.00	Natural Resource coordinator hrs: 40 hrs
Overhead		\$17,500.00		x	\$17,500.00	2014-15 labor overhead rate is 50%. This is a percentage based on direct labor to allocate services related to projects. This rate is a WES determined rate by analysis.
North Clackamas Urban Watersheds Council	\$500.00				\$500.00	Council coordinator pre-agreement hrs, assisting in grant writing & attending meetings
Friends of Trees	\$9,200.00		x		\$9,200.00	Plan and conduct 3 planting events. 184 Staff hours. Plant and weed treatments/subcontractor costs reported separately.
Volunteers		\$4,180.00	x		\$4,180.00	Special effort to recruit volunteers from surrounding businesses, assume 190 hrs.
Consultants	\$78,000.00		x	x	\$78,000.00	\$30K secured for FY 2014-15, plan to budget next FY
OR white oak	\$4,000.00		x		\$4,000.00	Will seek additional grants and/or future WES budget
Riparian planting	\$9,360.00		x		\$9,360.00	Will seek additional grants and/or future WES budget
Live stakes in backwater wetland	\$13,100.00		x		\$13,100.00	Will seek additional grants and/or future WES budget
2nd year vegetation maintenance	\$3,000.00		x		\$3,000.00	Will seek additional grants and/or future WES budget
LWD placement	\$16,800.00		x		\$16,800.00	Will seek additional grants and/or future WES budget
Channel stabilization	\$8,400.00		x		\$8,400.00	Will seek additional grants and/or future WES budget
Bridge to replace culvert	\$20,000.00		x		\$20,000.00	Will seek additional grants and/or future WES budget

Excavate backwater habitat	\$78,400.00		x		\$78,400.00	Will seek additional grants and/or future WES budget
Stormwater swales or rain gardens	\$45,000.00		x		\$45,000.00	Will seek additional grants and/or future WES budget
Contingency	\$13,500.00		x		\$13,500.00	Will seek additional grants and/or future WES budget
Permits	\$300.00		x		\$300.00	Will seek additional grants and/or future WES budget
Travel	\$300.00		x		\$300.00	Will seek additional grants and/or future WES budget
					\$0.00	
Total					\$356,540.00	

Supplemental attachments:

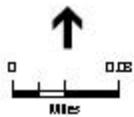
1. Location map
2. Conceptual Site Plan
3. Photos of project site
4. Preliminary cost estimate
5. Letters of support

Attachment 1. Mt. Scott Creek Oak Bluff Reach location

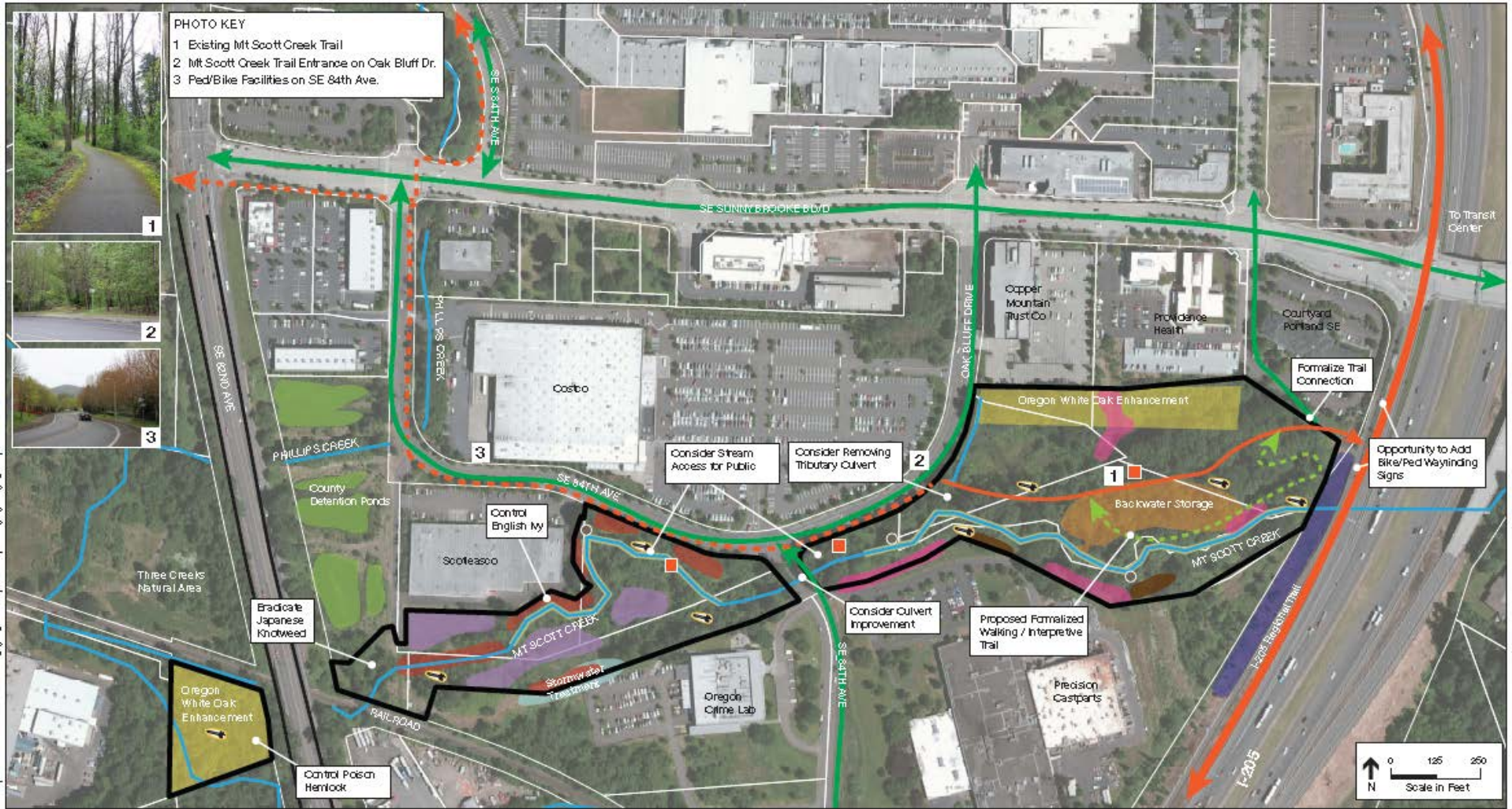


SOURCE: Clackamas County, 2011; OWEB, 2010; ESRI, 2010.

Mt Scott Creek .211369.D4
Figure 1
 Regional Overview
 Clackamas County, Oregon



Attachment 2. Mt Scott Creek Oak Bluff Reach Conceptual Site Plan



SOURCE: ESA, 2018.

LEGEND

RESTORATION ACTIONS

- Stabilize Outbank
- Replace Himalayan Blackberry with Native Shrubs and Trees
- Install Livestakes in Wetlands to Increase Habitat Complexity
- Backwater Storage
- Stormwater Treatment Opportunities
- Oregon White Oak Enhancement: Plant Oak Saplings and/or Thin Understory
- Consider Opportunities for Sparse Vegetation to Provide Habitat for Amphibians and Reptiles
- Increase Plant Density and Width of Riparian Buffer—Add Conifers such as Western Red Cedar

TRAILS

- Existing Ped/Bike Facilities on Surface Streets
- Existing Regional Trail
- Existing Greenway Trail
- Proposed Greenway Trail
- Proposed Walking Trail
- Interpretive/Overlook Opportunity
- Partner with ODOT to Enhance Buffer - Add Oaks and Madrone
- Parcel Boundary
- Install LWD
- Install Large Downed Wood for Wildlife Habitat

Mt Scott Creek : 211369.04

Figure 1
Conceptual Site Plan - Overview and Trails
Clackamas County, Oregon

Mt. Scott Creek
Oak Bluff Reach:
Nature in Neighborhoods Capital
Grant Application

Attachment 3 - Photos



Hydrology and Geomorphology



Channel character

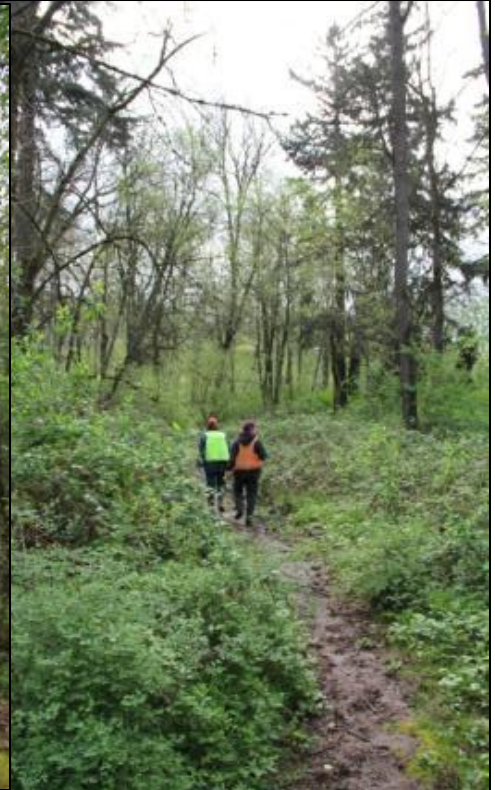


Locations of significant erosion





Trails



Fish



Beaver



Mt Scott Creek Oak Bluff Reach
Preliminary Construction Cost Estimate
Oct-04

Item	Total
A. Site Preparation	
Mobilization/demobilization	\$12,695.60
Site preparation	\$12,695.60
Diversion & dewatering	\$15,000.00
C. Improvements	
Invasive and EDRR plant treatment	\$3,368.00
Removal of select veg in oak woodland	\$4,000.00
Planting new OR white oak	\$4,000.00
Riparian planting	\$9,362.00
Live stakes in backwater wetland	\$13,112.00
2nd year maintenance	\$3,000.00
Large wood placement	\$16,800.00
Channel stabilization	\$8,400.00
Bridge to replace culvert	\$20,000.00
Excavate backwater habitat	\$78,400.00
Stormwater swales or rain gardens	\$45,000.00
Trail improvements	\$6,270.00
Access/wayfinding signs	\$7,200.00
Interpretive signs	\$20,000.00
Direct Construction Subtotal	\$279,303.20
Contingency	\$83,790.96
Const. bid total	\$363,094.16
Consulting	
Engineering Design	\$65,000.00
Environmental Permitting	\$35,000.00
TOTAL	\$463,094.16

12/24/14

Dear Ms. Shaloum:

Scotleaseco, Inc. owns and operates our business adjacent to Mt. Scott Creek in Clackamas, Oregon on SE Oak Bluff Drive. Clackamas County Water Environment Services and the North Clackamas Urban Watersheds Council have been in contact with us for over a year in regard to enhancing the environment on this property. WES has a conservation easement around the stream corridor already.

Scotleaseco, Inc. would like to express support for WES and NCUWC in enhancing the natural resources and trail access on this site. We give permission for WES to access the property and implement a natural resources enhancement project on this site. We understand the project will include treating invasive vegetation, installing native plants and installing habitat features such as logs within the stream.

Scotleaseco, Inc. will also provide opportunities for its people to participate in volunteer planting events on site.

We believe these activities will promote positive public activity in the area and increased use by pedestrians, thereby decreasing the transient activities on the site. Transients have caused damage to the site and raised issues for our business and employees. We have been in communication with WES and their efforts with the Sherriff's Office to help minimize these impacts in the past. Increasing the public activity on this site will not only improve the environment, but will also help to minimize these issues.

We look forward to working with WES on finalizing the plans and participating in the Mt Scott Creek Oak Bluff Enhancement Project.

Sincerely,



6001
Investments, LLC

Cia Fina, LLC
Ian Walker

Concrete
Holdings, LLC **President**

Hawthorne
Holdings, LLC **Scotleaseco, Inc.**

Paix, LLC

Scotleaseco, Inc.

Steward
Investments, LLC

Ukase Investment
Company, LLC

W, LLC



Oregon

John A. Kitzhaber, MD, Governor

Department of Administrative Services
Enterprise Asset Management – Administration Office
1225 Ferry Street SE, U100
Salem, OR 97301-4281
PHONE: 503-378-2865
FAX: 503-373-7210

December 29, 2014

Ms. Gail Shaloum, PLA
Environmental Policy Specialist
Clackamas County Water Environment Services
150 Beaver Creek Rd., Suite 430
Oregon City, OR 97045

Re: Mt. Scott Creek Enhancements

Dear Ms. Shaloum:

The Oregon Department of Administrative Services (DAS) owns the Oregon State Police Crime Lab near Mt. Scott Creek on SE 84th Avenue in Clackamas, Oregon. Neighboring parcels to the north and northeast are bisected by Mt. Scott Creek.

Clackamas County Water Environment Services (WES) has contacted DAS regarding a project to enhance the environment on the creek parcels adjacent to ours. We understand the proposed project will include treating invasive vegetation, installing native plants, and installing habitat features such as logs within the stream.

DAS would like to express support for WES and the North Clackamas Urban Watersheds Council's proposed natural resources enhancement project on the Mt. Scott Creek parcels north and northeast of our property. DAS also supports improvements to the existing pedestrian trail access on the north side of Mt. Scott Creek.

Please keep us and our tenants informed about your project plans and timetables as they develop. Materials should be sent to Eugene Gray at Oregon State Police (Eugene.Gray@state.or.us) and Darrin Brightman at DAS (Darrin.W.Brightman@oregon.gov).

Thank you,

Mike Stencil
Administrator

cc: E. Gray
T. Barrows



NORTH CLACKAMAS
PARKS & RECREATION DISTRICT

Administration

150 Beaver Creek Rd.
Oregon City, OR 97045
503.742.4348 phone 503.742.4349 fax
ncprd.com

Mary Rose Navarro
Natural Areas Grants Coordinator
Sustainability Center
Metro
600 NE Grand Ave.
Portland, OR 97232

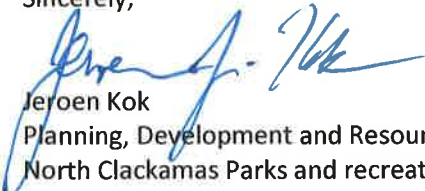
Mary Rose.

North Clackamas Parks and Recreation District (NCPRD) is excited to demonstrate our support for the Mount Scott Creek Oak Bluff Enhancement project. NCPRD currently has an agreement with WES to maintain the Oak Bluff multimodal trail that connects Oak Bluff Road to the 205- Greenway Trail. In addition, NCPRD is partnering with WES to control EDRR and other high priority species, conduct litter, vandalism and homeless camp sweeps of the Oak Bluff property. NCPRD has participated in the planning, design and outreach process to finalize preliminary concepts for the Mount Scott Creek Oak Bluff Enhancement project.

This reach of Mount Scott Creek provides a vital link that not only connect citizens by trails to the Clackamas Center and provides recreational opportunities, but this stretch is also important to riparian habitat health and water quality in this urbanized and degraded watershed. The site lies in-between two amazing urban natural areas, 3-Creeks and Mount Talbert, and lies along a string of many natural publicly-owned properties following the Mount Scott Creek/Kellogg Creek corridor. Enhancement of this reach will improve the health of the creek both upstream and downstream by providing improved water quality and better habitat opportunities for resident cutthroat trout and migrating salmon, along with other wildlife.

NCPRD is committed to working with WES on this project as a stakeholder partner contributing to the grant match through staff time and continued work within this site and corridor. NCPRD has been an active partner and board member on the North Clackamas Urban Watershed Council and works with businesses in the area to support access to nature and volunteer projects at the nearby natural areas. NCPRD is committed to working with our partners to provide enjoyable natural areas and trails for our citizens. We are also dedicated to working with citizens and visitors to instill stewardship and ownership of these sites. NCPRD strongly supports this project and we encourage the NIN team to prioritize and award funding to Mount Scott Creek Oak Bluff Enhancement project.

Sincerely,


Jeroen Kok
Planning, Development and Resource Manager
North Clackamas Parks and recreation District

January 20, 2015

Gail Shaloum, Environmental Policy Specialist
Clackamas County Water Environmental Services
150 Beaver Creek Rd., Suite 430
Oregon City, OR 97045

RE: Mt. Scott Creek Restoration

Dear Ms. Shaloum:

PCC Structurals, Inc. SSBO owns and operates our business adjacent to Mt. Scott Creek in Clackamas, Oregon on SE Oak Bluff Drive. Clackamas County Water Environment Services and the North Clackamas Urban Watersheds Council have been in contact with us for over a year in regard to enhancing the environment on this property. WES has a conservation easement around the stream corridor already.

PCC Structurals, Inc. SSBO would like to express support for WES and NCUWC in the implementation of a natural resources enhancement project on this site. We understand the project will include treating invasive vegetation, installing native plants and, if approved through the permitting process, installing habitat features such as logs within the stream. PCC Structurals, Inc. will provide opportunities for our employees to participate in volunteer planting events on site.

We look forward to working with WES on finalizing the plans and participating in the Mt Scott Creek Oak Bluff Enhancement Project.

Sincerely,


Chris Myers, PCC Structurals, Inc.
Division EHS Director


Joe Monson
SSBO Facilities Manager


Sherry Uchytik, PCC Structurals, Inc.
Division Environmental Affairs

Oak Lodge Sanitary District

Protecting our valuable water resources

January 21, 2015

Mary Rose Navarro
Natural Areas Grant Coordinator
Metro Sustainability Center
600 NE Grand Avenue
Portland, OR 97232

Dear Mary Rose,

Oak Lodge Sanitary District (District) is familiar with Water Environment Services' (WES) Mt. Scott Creek Oak Bluff Restoration project and is aware that WES is seeking a Nature in Neighborhoods Capital Grant from Metro on behalf of Clackamas County Service District No. 1.

The District and WES share responsibilities for watershed health in a largely unincorporated urbanized area within the metropolitan region adjacent to the City of Portland. These watersheds cross jurisdictional boundaries and all eventually flow into the Willamette River. Thus, the District and WES are partners with complementary goals to restore and protect urban watersheds, increase the livability of the communities we serve, and to strive for continuous improvement of water quality in the Willamette River and its sub-basins.

The District supports and endorses WES' application for a Nature in Neighborhoods grant for the Mt. Scott Creek Oak Bluff Restoration project. This project provides significant opportunities to improve habitat and water quality; to engage businesses and project neighbors in stewardship for their local watershed; and provide ongoing educational opportunities for WES' Watershed Health Education Program.

Please consider this worthwhile project for grant funding through the Nature in Neighborhoods program.

Respectfully Submitted,



J. Michael Read
General Manager, Oak Lodge Sanitary District



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation
123 NW Flanders St.
Salem, OR 97301-2528
(503) 986-3477
FAX (503) 986-3524

Technical Services
Environmental Services
Administrative Support
Engineering Unit
Project Management unit
Research Unit

January 22, 2015

Gail Shaloum
Clackamas County Water Environment Services
150 Beaver Creek Rd., Suite 430 | Oregon City, OR 97045

Request for Support of Clackamas County Water and Environmental Services' (WES) to Enhance Mt. Scott Creek; SE 82nd Ave (OR 213) to I-205.

Ms. Shaloum,

The Oregon Department of Transportation Region 1 received your email dated 1/9/2015 requesting support for WES's efforts to enhance Mt. Scott Creek from SE 82nd Ave (OR-213) upstream to I-205. Project coordination with ODOT began in 2013 with a stakeholder meeting organized by WES. Currently, WES is seeking ODOT's support to include within its 2015 METRO Nature in Neighborhoods Capital Grants application. Project elements include the removal of invasive non-native vegetation, installation of native plants, and conducting stream habitat restoration (e.g. secure logs). ODOT will contribute support in the form of general technical expertise, review and approval of activities within its right-of-way (ROW), and coordinating access in order to complete activities on and adjacent to its ROW. Lastly, the proposed work would likely help realize ODOT's environmental activities within the basin:

- Past and ongoing commitments to fish passage through ODOT ROW

Please direct any questions to my staff Melissa Hogan, Regional Environmental Coordinator at 503-731-8240.

Sincerely,

Becky Crockett
Region 1 Environmental Manager
Oregon Department of Transportation
123 NW Flanders St.
Portland, OR 97209

North Clackamas Urban Watersheds Council



1900 SE Milport Rd, Suite C • Milwaukie, OR 97222
info@ncuwc.org • www.ncuwc.org

January 20, 2015

Mary Rose Navarro, Natural Areas Grants Coordinator
Metro, Sustainability Center
600 NE Grand Avenue
Portland, OR 97232

The NCUWC advocates for the protection and enhancement of the watersheds' fish and wildlife habitat and improvements in water quality.

RE: WES Metro NIN Capital Grant application for Mt. Scott Oak Bluff Restoration Project.

Dear Ms. Navarro,

The North Clackamas Urban Watersheds Council (NCUWC) offers this letter of support to Clackamas County Water Environment Services (WES) and partners on the Mt. Scott Oak Bluff Restoration Project.

WES and partners seek to improve water quality and restore aquatic habitats in Mt. Scott Creek, a tributary to Kellogg Creek and the Willamette River and home to a variety of threatened and endangered fish species including salmon, steelhead, and cutthroat trout.


The Kellogg - Mt. Scott Creek Watershed (KMS) encompasses approximately 10,300 acres in northwestern Clackamas County. The entire Kellogg – Mt. Scott Watershed is within the NCUWC service area. Our organization – volunteers, Contractor, and Coordinator - have dedicated many hours to protect and enhance this area. We are very pleased to be a part of this application. We are excited to note that together, the Mt. Scott Oak Bluff Restoration Project and improvements at 3-Creeks Natural Area have the potential to bring significant ecological uplift to up to 9,000 linear feet of Mt Scott Creek.

As part of the application preparation, NCUWC has contributed 20 Coordinator hours valued at \$500; additional board member input totals 5 hours.

As is described in the application, NCUWC will provide the following support during the project: lead partner for outreach to businesses; recruit and provide volunteers for planting and mulching events; and work with WES to submit additional grant applications to secure funds for project construction. During the grant, the NCUWC Coordinator will contribute 80 hours of paid services. NCUWC will also provide volunteer services from our board members. Estimated number of volunteer hours for three planting events is 60-80 hours. Additional hours may also be contributed for the planting events and other project related efforts.

Thank you for your support and collaboration with us on the project.

Sincerely,


Tricia R. Sears, Coordinator
North Clackamas Urban Watersheds Council

Cc: Terry Gibson, NCUWC Board President

12/24/14

Dear Ms. Shaloum:

Scotleaseco, Inc. owns and operates our business adjacent to Mt. Scott Creek in Clackamas, Oregon on SE Oak Bluff Drive. Clackamas County Water Environment Services and the North Clackamas Urban Watersheds Council have been in contact with us for over a year in regard to enhancing the environment on this property. WES has a conservation easement around the stream corridor already.

Scotleaseco, Inc. would like to express support for WES and NCUWC in enhancing the natural resources and trail access on this site. We give permission for WES to access the property and implement a natural resources enhancement project on this site. We understand the project will include treating invasive vegetation, installing native plants and installing habitat features such as logs within the stream.

Scotleaseco, Inc. will also provide opportunities for its people to participate in volunteer planting events on site.

We believe these activities will promote positive public activity in the area and increased use by pedestrians, thereby decreasing the transient activities on the site. Transients have caused damage to the site and raised issues for our business and employees. We have been in communication with WES and their efforts with the Sherriff's Office to help minimize these impacts in the past. Increasing the public activity on this site will not only improve the environment, but will also help to minimize these issues.

We look forward to working with WES on finalizing the plans and participating in the Mt Scott Creek Oak Bluff Enhancement Project.

Sincerely,



6001
Investments, LLC

Cia Fina, LLC **Ian Walker**

Concrete
Holdings, LLC **President**

Hawthorne
Holdings, LLC **Scotleaseco, Inc.**

Paix, LLC

Scotleaseco, Inc.

Steward
Investments, LLC

Ukase Investment
Company, LLC

W, LLC



January 16, 2015

Mary Rose Navarro and Capital Grants Review Committee
Metro, Nature in Neighborhoods
600 NE Grand Ave.
Portland, OR 97232

RE: Oak Bluff Reach Mt Scott Creek Restoration Project

Dear Ms. Navarro:

On behalf of Friends of Trees (FOT), I wish to convey our support for Clackamas County Water Environment Services (WES) proposed project: Oak Bluff Reach Mt Scott Creek Restoration. FOT has partnered with WES on restoration projects for nearly two decades and we are excited about the opportunity to expand our restoration efforts within Clackamas County. The proposed funding will allow FOT to coordinate three community plantings within the project area.

FOT has over 20 years of experience working with thousands of volunteers at native plantings in urban natural areas around the Portland Metro area. Every year our Natural Area Restoration projects install and maintain between 20,000 to 30,000+ native trees, shrubs, and herbaceous plants. Our Natural Area Restoration projects are part of our broader efforts within FOT's Green Spaces Initiative which seeks to guide volunteers at weekend projects to restore public green spaces and transportation corridors throughout the Portland-Vancouver metro area and our Neighborhood Trees program.

FOT will provide technical expertise to the native plant restoration plantings, will coordinate three volunteer planting events, and will coordinate site prep and maintenance activities with WES. Coordinating with WES and North Clackamas Urban Watershed Council, FOT will focus our volunteer recruitment on the surrounding businesses with a goal to develop an interest and stewardship ethic within the local business community and their employees.

Friends of Trees is excited to be part of this project and to offer our support of Clackamas County Water Environment Services application. Please feel free to contact me to discuss any questions you may have at 503-467-2514 or scottf@friendsoftrees.org.

Sincerely,

Scott Fogarty
Executive Director



January 16, 2015

Clackamas County Water Environmental Services
Attn: Gail Shaloum
150 Beaver Creek Road, Suite 430
Oregon City, OR 97045

Re: Mt. Scott Creek Restoration Project: Costco Wholesale, Clackamas, OR

Dear Ms. Shaloum:

Costco Wholesale Corporation is one of the owners of several acres of land along Mt. Scott Creek in Clackamas, Oregon. A portion of this property contains a wetland mitigation project. Clackamas County Water Environment Services (herein "WES") and the North Clackamas Urban Watersheds Council (herein "NCUWC") have been in contact with us for over a year in regard to enhancing the environment on this property. Currently, WES has a conservation easement around the stream corridor.

Costco is interested in both the opportunity and the responsibility to support sustainability at our facilities. In addition, we promote involvement in, and support for the communities where our employees live and work. In keeping with these values, Costco would like express our support for WES and NCUWC in enhancing the natural resources and trails on this site.

Costco welcomes the opportunity to cooperate with WES. Our understanding is that the project will include treating invasive vegetation, installing native plants and installing habitat features such as logs within the stream.

We look forward to working with WES on finalizing this project. If you should have any questions, please feel free to contact me at (425)313-2847, or via email at Kjensen@costco.com.

Sincerely,

A handwritten signature in black ink, appearing to be "KJ" with a stylized flourish.

Kiersten Jensen
Real Estate Manager
Costco Wholesale

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Contract Documents between the Clackamas County Service District No. 1
and Stettler Supply Company for the
Blower System Upgrades Project

Purpose/Outcomes	Replace failing blowers with proven technology to improve reliability and ensure stable operation of the Tri-City wastewater treatment system.
Dollar Amount and Fiscal Impact	Funding for construction services is available in the FY2015-16 budget and completion will carry over to the FY2016-17 budget year. The agreement is for an amount not to exceed \$1,106,759.50 for CCSD No.1 and \$474,325.50 for the Tri-City Service District. Total agreement amount not to exceed \$1,581,085.00.
Funding Source	Clackamas County Service District No.1 and Tri-City FY 2015-16 and 2016-17 annual budgets
Duration	Project Duration: February 2016 to December 2016
Previous Board Action	In the Clackamas County Service District No. 1 budget as approved by the Board of County Commissioners on June 25, 2015, Resolution # 2015-72.
Strategic Plan Assignment	<ol style="list-style-type: none"> 1. This project supports the WES Strategic Plan to provide partner communities with reliable wastewater infrastructure to serve existing customers and support future growth. 2. This project supports the County's Strategic Plan of building a strong infrastructure that delivers services to customers.
Contact Person	Randy Rosane PE, Project Manager – Water Environment Services – 503-742-4573
Contract No.	P112160 & P202161

BACKGROUND:

The HSI HT-Series Turbo blowers provided as part of the Tri-City Water Pollution Control Plant Phase I Expansion were installed in April 2011 to serve the existing conventional activated sludge (CAS) treatment system for the Tri-City Service District and a new membrane bioreactor (MBR) treatment system constructed by Clackamas County Service District No.1. These critical pieces of equipment move large volumes of air into the treatment process and are essential for plant operations.

The Turbo blowers were chosen because of their high energy efficiency ratings. However, the blowers experienced significant problems immediately upon installation, leading to WES requesting and receiving a warranty extension from April 2011 to April 2016. The blowers have continued to be unreliable since they were installed and the warranty expiration is approaching.

There have been long periods of time when blowers have been offline. This results in a lack of redundancy and puts the treatment system at risk of failure, likely resulting in violations of the District's National Pollution Discharge Elimination System (NPDES) permit.

Seeing that the blower reliability issues are not improving and that the end of the warranty period is approaching, WES sought an independent review of the blower situation. MWH Americas, Inc. completed an evaluation of the existing blower's performance in February 2015 and determined that "Long-term operation of Turbo blowers is not tenable. There is evidence to suggest the Turbo blower performance will worsen, not improve" and "The extended period of time the CAS and MBR treatment trains must operate without suitable standby capacity is an unacceptable risk for potential effluent discharge violations".

On October 21, 2015 the District publicly advertised for bids, through county purchasing, for construction services to replace the conventional activated sludge (CAS) and the membrane bioreactor (MBR) process blowers.

On December 8, 2015 eight (8) bids were received and evaluated. It was determined that Stettler Supply Company DBA Stettler Supply & Construction was the lowest responsive bidder and is eligible to perform work in the State of Oregon.

This agreement has been reviewed and approved by county counsel.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of the Clackamas County Service District No. 1, a county service district, approve and execute the contract documents between Clackamas County Service District No. 1 and Stettler Supply Company for the blower system upgrades project for an amount not to exceed \$1,106,759.50.

Respectfully submitted,

Greg Geist, Director
Water Environment Services

Placed on the **FEBRUARY 11, 2016** agenda by Purchasing.



LANE MILLER
MANAGER

PURCHASING DIVISION
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

February 11, 2016

MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of **February 11, 2016** this contract with Stettler Supply Company for the **Blower System Upgrades Project P202161/P112160** for Clackamas County Service District No. 1. This project was requested by Randy Rosane, Project Manager. Bids were requested for all the materials and manpower necessary to complete specified work on the above-mentioned project. This project was advertised in accordance with ORS and LCRB Rules. Twenty-four bid packets were sent out with eight bids received: Stettler Supply Company - \$1,581,085.00; JRT Mechanical - \$1,683,400.00; Pacific Excavation - \$1,720,875.00; Slayden Construction - \$1,817,000.00; James W Fowler Company - \$1,818,880.00; 2KG Contractors - \$1,916,077.00; McClure & Sons - \$2,000,535.00; and M.P.P. Piping - \$2,474,260.00. After review of all bids, Stettler Supply Company was determined to be the lowest responsive and responsible bidder. The total contract amount is not to exceed \$1,581,085.00. All work is to be substantially completed within 180 days from the Notice-to-Proceed. This contract has been reviewed and approved by County Counsel. Funds for this project are covered under WES budget lines for fiscal years 2015/2016 and 2016/2017.

Respectfully Submitted,

Kathryn M. Holder
Purchasing Staff

CONTRACT DOCUMENTS

FOR THE

**BLOWER SYSTEM UPGRADES PROJECT
P202161/P112160
Stettler Supply Company**

BOARD OF COUNTY COMMISSIONERS

Acting as the Governing Body of the
Tri-City Service District and Clackamas County Service District No.1

Commissioner John Ludlow, Chair

Commissioner Jim Bernard

Commissioner Paul Savas

Commissioner Martha Schrader

Commissioner Tootie Smith . . .

Donald Krupp
County Administrator

Lane Miller
Purchasing Manager

Kathryn Holder Buyer

COUNTY BID OPENING

DATE: December 8th, 2015

PLACE: Clackamas County Purchasing

**Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045**

BID OPENING: 2:00 PM

SUBCONTRACTOR LIST DUE: 4:00 PM

AGREEMENT

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2016 by and between the TRI-CITY SERVICE District, CLACKAMAS COUNTY SERVICE District No.1(hereinafter called District) and **STETTLER SUPPLY COMPANY** (hereinafter called CONTRACTOR).

District and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

1.1 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

BLOWER SYSTEM UPGRADES PROJECT

Article 2. THE PROJECT

The Project for which the Work is described in the Contract Documents. Article

3. ENGINEER

3.1 The term Engineer is defined in the Supplementary Conditions.

3.2 Engineer is to act as District's representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 4. CONTRACT TIMES

4.1 All time limits for milestones, if any, substantial completion, and completion and readiness for final payment are stated in the Contract Documents and are of the essence of the Contract.

4.2 The Contractor shall commence work within 10 calendar days after receipt of written Notice-to-Proceed. Contractor shall earn Substantial Completion within 180 calendar days of Notice-to-Proceed. The work shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 30 calendar days of earning Substantial Completion. The written notice to proceed will be forwarded to the Contractor after the Contractor submits the signed Agreement, Performance Bond and Payment Bond, and Certificate of Insurance to the District and these documents have been approved as to form by the District's attorney, signed by the District.

4.3 Contractor and District recognize that time is of the essence of this Agreement and that District will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.2 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by District if the Work is not completed on time. Accordingly, instead of requiring any such proof, District and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay District five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.2 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 4.2 above for completion and readiness for final payment or any proper extension thereof granted by District, Contractor shall pay District five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.2 above for completion and readiness for final payment, plus any fees or penalties imposed by regulators for other violations.

Article 5. CONTRACT PRICE

5.1 District shall pay Contractor for completion of the Work in accordance with Contract Documents an amount in funds equal to the sum of the amounts determined pursuant to the paragraphs below:

Unless changes and alterations in the Plans, quantities or details of construction materially change the character of the work to be performed or the unit costs thereof, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the same unit prices as are provided under the Contract for the accepted quantities of work done.

If, however, changes and alterations in the Plans, quantities or details of construction materially change the character of work or unit costs thereof, compensation for such work will be made on such basis as may be agreed upon in advance of performance of work, or in case no such basis has been agreed upon, then an allowance may be made, either for or against the Contractor. Payment will be made at unit prices only for work actually performed or materials actually furnished according to actual measurement. If the amount of any major work item changes by more than 25%, compensation for all work that differs from the original estimated quantities for that work item may be made on such basis as may be agreed to in advance of performance of work, or in case no such basis has been agreed upon, an allowance may be made, either for or against the Contractor in such amount as the Engineer determines is fair and equitable. For the purpose of this Section, a major work item is defined as an item that constitutes at least 10% of the total contract bid amount based on either the estimated original quantities or the actual quantities and Contractor's original Bid prices.

If the Contract is done on a lump sum basis, the adjustment for increases or decreases may be based, at the sole discretion of the Engineer, on a theoretical unit price. This price will be determined by dividing the Contractor's applicable breakdown category price by the estimated quantities of all units of work within the applicable breakdown category.

Bidder must include in their Bid prices the entire cost of the work set forth in the Bid.

The Contract Price is the total price stated in Contractor's Bid in the amount of **\$1,581,085.00**, attached hereto as an exhibit.

Article 6. PREVAILING WAGE RATES

6.1 Contractor agrees that the provisions required by ORS 279C.830 pertaining to Contractor's payment of prevailing wage rates shall be included as part of this Agreement. Each worker in each trade or occupation employed in the performance of the contract either by the Contractor, Subcontractor or other person doing or contracting for whole or any part of the work on this contract, shall be paid not less than the applicable prevailing wage in effect for this contract.

Article 7. PAYMENT PROCEDURES

7.1 Progress Payments and Retainage

- A. Payment for all work under the Contract will be made at the price or prices bid, and those prices shall include full compensation for all incidental work.
- B. If the Contract is for a public work and the Contract price is \$50,000.00 or more, supply and file, and require every Subcontractor to supply and file, with the District and with the Wage and Hour Division, Bureau of Labor and Industries, 1400 S.W. Fifth Avenue, Portland, Oregon 97201, a statement in writing that conforms to the requirements of ORS 279C.854. The schedule for submitting payroll information is as follows: Once before the first payment and once before the final payment is made; in addition, for projects exceeding ninety (90) days for completion, submissions are to be made at ninety (90) day intervals.
- C. Make progress estimate of work performed in any calendar month and submit to the Engineer for approval by the 5th day of the following month. These estimates shall include value of labor performed and materials incorporated in the work since commencing work under the Contract. Such estimates need not be made by strict measurements and may be approximate

only, and shall be based upon the whole amount of money that will become due according to terms of the Contract when Project has been completed.

- D. If the Contract price is determined, in whole or in part, on a Lump Sum basis, prepare an itemized cost breakdown relating thereto and have the Engineer approve in accordance with Division 1 requirements; progress estimates based on said itemized cost breakdown may be the basis for progress payments. Upon direction by the Engineer provide for revision of the costs breakdown to reflect the true costs of the work as it progresses.
- E. If the Contract price is determined wholly on a unit basis, Engineer may use Unit Prices bid in making progress estimates on the work. In case said Unit Prices do not, in the opinion of the Engineer, truly represent actual relative costs of different parts of work, a percentage of the Unit Price may be used in making progress estimate adjustments.
- F. If the District receives written notice of any unsettled claims for damages or other costs due to Contractor's operations including, without limitation, claims from any County Department or other governmental agency, an amount equal to the claim may be withheld from the progress or final payments until such claim has been resolved to the satisfaction of Engineer.
- G. Progress payments will be made by District on a monthly basis within thirty (30) days after receipt of the Contractor's estimate of work performed, or 15 days after the payment is approved by the Engineer, whichever is the earlier date. Negotiable warrants will be issued by District for the amount of the approved estimate, less five percent (5%) retainage. Such amount of retainage shall be withheld and retained by District until it is included in and paid to Contractor as part of the final payment of the Contract amount. Securities in lieu of retainage will be accepted, or if Contractor elects, retainage as accumulated will be deposited by District in an interest-bearing account pursuant to ORS Chapter 279 for progress payments. After fifty percent (50%) of the Work under Contract is completed, and the Work is progressing satisfactorily, the District may elect to eliminate further retainage on any remaining monthly Contract payments. Said elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of the Contractor's Surety.
- H. The Engineer may decline to approve an application for payment and may withhold such approval if, in the Engineer's opinion, the work has not progressed to the point indicated by the Contractor's submittal in paragraph C above. The Engineer may also decline to approve an application for payment or may reduce said payment or, because of subsequently

discovered evidence or subsequent inspections, he may nullify the whole or any part of any payment previously made to such extent as may be necessary in his opinion to protect the District from loss because of: (1) defective work not remedied, (2) third party claims filed or failure of the Contractor to make payments properly to Subcontractors for labor, materials or equipment, unless Surety consents to such payment, (3) reasonable doubt that the Work can be completed for the unpaid balance of the Contract sum, (4) damage to another Contractor's work, (5) reasonable indication that the Work will not be completed within the Contract time (6) unsatisfactory prosecution of the Work by the Contractor, (7) claims against the Contractor by the District, (8) failure of Contractor to submit updated project schedules as specified.

When the above grounds are removed, payment shall be made for amounts withheld because of them. Withholding of progress payments or partial payments under the criteria set forth above shall not entitle the Contractor to interest on such withheld payments or partial payments.

- I. If Contractor fails to complete the Project within the time limit fixed in the Contract or any extension, no further estimate may be accepted or progress or other payments allowed until the Project is completed, unless approved otherwise by District.
- J. Progress estimates are for the sole purpose of determining progress payments and are not to be relied on for any other purpose. The making of a progress payment shall not be construed as an acceptance of any of the work or materials under the Contract.
- K. When the progress estimate indicates that the progress payment would be less than one thousand dollars (\$1000), no progress payment will be made for that estimate period, unless approved by the Engineer.
- L. Contractors are required to provide the District with a list of Contractor's personnel who are authorized to personally receive contract payments. This written authorization must be signed by an officer of the Contracting company and will be placed on file in the District's office. No payment will be released to an unauthorized person.

7.2 Final Estimate and Final Payment

- A. Pursuant to ORS Chapter 279C, notify the Engineer in writing when work is considered complete and Engineer shall, within fifteen (15) days after receiving notice, make a final inspection and either accept the work or notify Contractor of work yet to be performed on the Contract. If accepted, Engineer shall so notify Contractor, and will make a final estimate and prepare a Certificate of Completion recommending acceptance of the Work as of a certain date.
- B. If the Contractor believes the quantities and amounts specified in the final estimate and Certificate of Completion prepared by the Engineer to be incorrect, Contractor shall submit to the Engineer within fifteen (15) days of mailing of the Engineer's final estimate and Certificate of Completion to the Contractor's last known address as shown in the records of the District, an itemized statement of any and all claims for additional compensation under the Contract which are based on differences in measurements or errors of computation. Any such claim not so submitted and supported by an itemized statement within said fifteen (15) day period is expressly waived and the District shall not be obligated to pay the same. Nothing contained herein shall limit the requirements of Standard General Conditions; Section 00700, Subsection 10.05, *Claims*.
- C. Upon receipt of the executed Certificate of Completion from the Contractor, and approval by the Engineer, the Engineer will process the final payment.
- D. Provided Contractor submits a claim in the manner and time as required in B. above, the Engineer, as soon as practicable, will consider and investigate the claim or claims of the Contractor for compensation earned under the Contract and not included in the Engineer's final estimate and Certificate of Completion. The Engineer will then promptly advise the Contractor of acceptance or rejection of the claim in full or part. If the Engineer allows the Contractor's claims in full or in part, Engineer will prepare a revised final estimate and Certificate of Completion, including all such items allowed and will submit the same to the Contractor.
- E. The Contractor shall execute and return the revised Certificate of Completion within five (5) days of its receipt together with notice of his acceptance or rejection of the amount there stated as being full compensation earned under the Contract.
- F. If the Engineer rejects the claim or claims, he will issue written notice of rejection mailed to the Contractor's last known address as shown in the records of the District.

- G. The Contractor shall commence any suit or action to collect or enforce the claim or claims for any additional compensation arising from differences in measurements or errors of computation in the final estimate within a period of one (1) year following the original mailing of the Engineer's final estimate and Certificate of Completion to the Contractor's last known address as shown in the records of the District. The Engineer's issuance of a revised final estimate pursuant to this subsection does not alter the original final estimate date. If said suit, action or proceeding is not commenced in said one (1) year period, the final estimate and Certificate of Completion or revised final estimate and Certificate of Completion, if revisions are made, shall be conclusive with respect to the amount earned by the Contractor, and the Contractor expressly waives any and all claims for compensation and any and all causes of suit or action for the enforcement thereof that he might have had.
- H. Upon return of the fully executed Certificate of Completion from the Contractor, the Engineer will submit the Certificate of Completion and final estimate to the District for approval. Upon approval and acceptance by the District, Contractor will be paid a total payment equal to the amount due under the Contract including retainage.
- I. Monies earned by the Contractor are not due and payable until the procedures set forth in these Specifications for inspection, approval and acceptance of the Work, for determination of the work done and the amount due therefore, for the preparation of the final estimate and Certificate of Completion processing the same for payment, for consideration of the Contractor's claim, or claims, if any, and for the preparing of a revised final estimate and Certificate of Completion and processing same for payment have been carried out.
- J. Non-resident Contractor will provide District with evidence that provisions of ORS Chapter 279A.120 have been satisfied; this is a prerequisite to final payment.
- K. Execute and deliver to District, in form approved by the Attorney, a receipt for all amounts paid or payable to Contractor under the Contract, and a release and waiver of all claims against District arising out of or relating to the Contract and furnish satisfactory evidence that all amounts due for labor, materials and other obligations under the Contract have been fully and finally settled or are fully covered by the Performance and Payment Bond and or insurance protecting District, its officers, agents and employees as well as Contractor. This is a condition of final payment and Contractor will not be entitled to final payment on release of retainage nor interest thereon until execution and delivery of said Receipt, Release & Waiver.

- L. If District declares a default of the Contract, and Surety completes said Contract, all payments after declaration of default and retainages held by District shall be paid to Surety and not to Contractor in accordance with terms of the Contract.

- M. Acceptance by Contractor of final payment shall release District and Engineer from any and all claims by Contractor whether known or unknown, arising out of and relating to the Work. No payment, however, final or otherwise shall operate to release Contractor or his Sureties from warranties or other obligations required in the performance of the Contract.

Article 8. CONTRACT DOCUMENTS

8.1 Contents

- A. The Contract Documents which comprise the entire agreement between District and Contractor concerning the Work consist of the following:
 - 1. This Agreement
 - 2. Performance Bond
 - 3. Payment Bond
 - 4. General Conditions
 - 5. Supplementary Conditions
 - 6. Specifications as listed in Table of Contents (Appendices and Plans) of the Contract Documents, to also include the prevailing wage rates for Public Works Contracts in Oregon.
 - 7. Drawings and/or Plans consisting of a cover sheet and sheets numbered 2 through 10 inclusive with each sheet bearing the following general title: **BLOWER SYSTEM UPGRADES PROJECT.**
 - 8. Exhibits to this Agreement (enumerated as follows):
 - a. Addenda number(s) ___ to ___ included as Exhibit 1.
 - b. Bid Proposal, Schedule of Prices
 - c. Bid Bond
 - d. First-tier Subcontractor Disclosure Form

9. The following which may be delivered or issued on or after the effective Date of the Agreement and are not attached hereto:

- a. Notice to Proceed.
- b. Written Amendments.
- c. Work Change Directives.
- d. Change Order(s).

B. The documents listed in Paragraph 8.1.A are attached to this Agreement (except as expressly noted otherwise above).

8.2 Coordination of Contract Requirements

A. In general, in the case of a conflict or discrepancy between sections of the Contract Documents, the most stringent requirement and/or the highest quality product (as determined solely by the Engineer) shall be incorporated into the Work. The drawings and specifications are intended to describe and provide for a complete Work. Any requirement in one is as binding as if stated in all. The Contractor shall provide any work or material clearly implied in the Contract Documents even if the Contract Documents do not mention it specifically, using best industry practices. If there is still a conflict within the Contract Documents, it will be resolved in the sole judgment of the Engineer by the following order of precedence:

1. Permits from other agencies as may be required by law.
2. District-Contractor Agreement
3. Addenda and/or Change Orders
4. Bid Form
5. Supplementary Conditions
6. General Conditions
7. Technical Specifications, Divisions 1 through 9 with Division 1 taking precedence over Divisions 2 through 9
8. Drawings
9. Bonds

Dimensions shown on the drawings or that can be computed shall take precedence over scaled dimensions. Notes on drawings shall take precedence over drawing details.

8.3 Conflict of Provisions

A. In the event of any conflicting provisions or requirements between the component parts of his Contract, the component part having the lowest number, as established in Subsection 8.2 above, shall govern.

This shall in no way relieve the performance bond and public liability insurance of their respective and specific protection to the Contractor, provided, however, that such sequence control does not conflict with the intent of or harm the product in any way. In case of such conflict which would alter the intent of or harm the product, the requirement which, in the opinion of the Engineer, will result in the best product will govern. It is hereby agreed that the entire project shall be completed in accordance with the full intent of the Contract, regardless of conflicting statements, omissions, or errors. The intent of the drawings and Specifications is to outline and control the work in a manner necessary to result in the best completely finished product practicable, at a minimum cost, incorporating all items. Any omissions in the Plans and Specifications pertinent to the requirements of the specified bid items are unintentional. If such are found, the Contractor will be required to perform the work in a customary workmanlike manner to achieve the intent as stated above.

It shall be definitely understood that omissions of one or more of the Documents shall not be construed as conflicting provisions. Any requirement given in one Document shall be known to be binding as though it is repeated in all Documents alike. The intent of the Contract is to combine all requirements of all Documents into one.

Article 9. MISCELLANEOUS

9.1 Terms used in this Agreement will have the meaning indicated in the General Conditions, and as revised by Supplementary Conditions.

9.2 No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3 District and Contractor each binds itself, its partners, successors, assignees, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining

provisions shall continue to be valid and binding upon District and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.5 Two Year Maintenance and Warranty

- A. In addition to and not in lieu of any other warranties required under the Contract, make all necessary repairs and replacements to remedy, in a manner satisfactory to the District and at no cost to District, any and all defects, breaks, or failures of the Work occurring within two (2) years following the date of Acceptance of the Work due to faulty or inadequate materials or workmanship. Repair damage or disturbances to other improvements under, within, or adjacent to the Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of the Contractor in performing his duties and obligations under this Contract when such defects or damage occur within the warranty period. The two-year maintenance period required shall, with relation to such required repair, be extended two (2) years from the date of completion of such repair. Where equipment or systems are specified to have a longer warranty period, Contractor shall be bound to the longer warranty period for the specific equipment and/or systems.

- B. If Contractor, after written notice, fails within ten (10) days to proceed to comply with the terms of this section, District may have the defects corrected, and Contractor and Contractor's Surety shall be liable for all expense incurred. In case of an emergency where, in the opinion of the District, delay would cause serious loss or damage, repairs may be made without notice being given to Contractor and Contractor or Surety shall pay the cost of repairs. Failure of the District to act in case of an emergency shall not relieve Contractor or Surety from liability and payment of all such costs.

- C. As a means of providing surety during the maintenance period, the Contractor shall provide to the District written and legally attested proof of surety in the amount of not less than 10 percent of the final contract amount. The maintenance guarantee shall be one of the following types:
 - 1. Continuance of the contract performance bond at the original or a reduced amount.
 - 2. Maintenance bond in a format and with the conditions acceptable to the District.

3. Cash deposit to the District's Treasury, with a treasurer's receipt acting as proof of surety.

4. Other arrangements, as may be proposed by the Contractor and accepted by the District.

Article 10. GOVERNING LAW

10.1 It is expressly understood that this Agreement in all respects shall be governed by the laws of the State of Oregon and the ordinances of the Service District and Clackamas County.

10.2 The Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Any violation shall entitle the District 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, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to the Contractor, in an amount equal to the District's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The District shall be entitled to recover any and all damages suffered as the result of the Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and the District may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

10.3 The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- a. All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316,317, and 318;
- b. Any tax provisions imposed by a political subdivision of this state that applied to the Contractor, to the Contractor's property, operations, receipts, or income, or to the Contractor's performance of or compensation for any work performed by the Contractor;
- c. Any tax provisions imposed by a political subdivision of this state that applied to the Contractor, or to goods, services, or property, whether tangible or intangible, provided by the Contractor; and

d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Article 11. ASSIGNMENT OF ANTITRUST RIGHTS

11.1 By entering into this Agreement, the Contractor irrevocably assigns to District any claim or cause of action which the Contractor now has or which may accrue in the future, including at District's option, the right to control any such litigation, by reason of any violation of 15 USC Section 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the Contractor by any person which are used, in whole or in part, for the purpose of carrying out the Contractor's obligations under this Agreement.

11.2 Contractor shall require any Subcontractor to irrevocably assign to the District, as a third party beneficiary, any right, title or interest that has accrued or may accrue to the Subcontractor by reason of any violation of 15 USC Section 1-15, ORS 646.725 or ORS 646.730, including, at the District's option, the right to control any litigation arising thereunder, in connection with any goods or services provided to the Subcontractor by any person, in whole or in part, for the purpose of carrying out the Subcontractor's obligations as agreed to by the Contractor in pursuance of the completion of this Agreement.

11.3 In connection with this assignment, it is an express obligation of the Contractor that it shall take no action which any way diminishes the value of the rights conveyed or assigned hereunder to the District. It is an express obligation of the Contractor to advise the District's legal counsel:

- A. In advance of its intention to commence any action on its own behalf regarding such claims or causes of action;
- B. Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action; and

C. The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignments to the District.

11.4 Furthermore, it is understood or agreed that in the event that any payment under any such claim is made to the Contractor, it shall promptly pay over to the District its proportionate share thereof, if any, assigned to the District hereunder.

Article 12. RECORDS RETENTION

12.1 Contractor shall maintain all standard records and accounts as required by the Contract Documents throughout the life of the Agreement and for a period of three years after the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

Stettler Supply Company
4420 Ridge Drive NE
Salem, OR 97301

CLACKAMAS COUNTY BOARD OF
COMMISSIONERS Acting as the Governing
Body of the Clackamas County Service District
No. 1 by:

Authorized Signature

Chair
Clackamas County Service District No. 1

Name / Title (Printed)

Date

Recording Secretary

Telephone Number / Fax Number

Date

CCB License Number

CLACKAMAS COUNTY BOARD OF
COMMISSIONERS Acting as the Governing
Body of the Tri-City Service District by:

053528-10

Oregon Business Registry Number

DBC Oregon

Entity Type / State of Formation
Clackamas County Tri-City Service District

Chair

Recording Secretary

Date

APPROVED AS TO FORM

County Counsel

Date

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Contract Documents between the Tri-City Service District
and Stettler Supply Company for the
Blower System Upgrades Project

Purpose/Outcomes	Replace failing blowers with proven technology to improve reliability and ensure stable operation of the Tri-City wastewater treatment system.
Dollar Amount and Fiscal Impact	Funding for construction services is available in the FY2015-16 budget and completion will carry over to the FY2016-17 budget year. The agreement is for an amount not to exceed \$1,106,759.50 for CCSD No.1 and \$474,325.50 for the Tri-City Service District. Total agreement amount not to exceed \$1,581,085.00.
Funding Source	Clackamas County Service District No.1 and Tri-City FY 2015-16 and 2016-17 annual budgets
Duration	Project Duration: February 2016 to December 2016
Previous Board Action	In the Tri-City Service District budget as approved by the Board of County Commissioners on June 25, 2015, Resolution #2015-75
Strategic Plan Assignment	<ol style="list-style-type: none"> 1. This project supports the WES Strategic Plan to provide partner communities with reliable waste water infrastructure to serve existing customers and support future growth. 2. This project supports the County Strategic Plan of building a strong infrastructure that delivers services to customers.
Contact Person	Randy Rosane PE, Project Manager – Water Environment Services – 503-742-4573
Contract No.	P112160 & P202161

BACKGROUND:

The HSI HT-Series Turbo blowers provided as part of the Tri-City Water Pollution Control Plant Phase I Expansion were installed in April 2011 to serve the existing conventional activated sludge (CAS) treatment system for the Tri-City Service District and a new membrane bioreactor (MBR) treatment system constructed by Clackamas County Service District No.1. These critical pieces of equipment move large volumes of air into the treatment process and are essential for plant operations.

The Turbo blowers were chosen because of their high energy efficiency ratings. However, the blowers experienced significant problems immediately upon installation, leading to WES

requesting and receiving a warranty extension from April 2011 to April 2016. The blowers have continued to be unreliable since they were installed and the warranty expiration is approaching.

There have been long periods of time when blowers have been offline. This results in a lack of redundancy and puts the treatment system at risk of failure, likely resulting in violations of the District's National Pollution Discharge Elimination System (NPDES) permit.

Seeing that the blower reliability issues are not improving and that the end of the warranty period is approaching, WES sought an independent review of the blower situation. MWH Americas, Inc. completed an evaluation of the existing blower's performance in February 2015 and determined that "Long-term operation of Turbo blowers is not tenable. There is evidence to suggest the Turbo blower performance will worsen, not improve" and "The extended period of time the CAS and MBR treatment trains must operate without suitable standby capacity is an unacceptable risk for potential effluent discharge violations".

On October 21, 2015 the District publicly advertised for bids, through county purchasing, for construction services to replace the conventional activated sludge (CAS) and the membrane bioreactor (MBR) process blowers.

On December 8, 2015 eight (8) bids were received and evaluated. It was determined that Stettler Supply Company DBA Stettler Supply & Construction was the lowest responsive bidder and is eligible to perform work in the State of Oregon.

This agreement has been reviewed and approved by county counsel.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of the Tri-City Service District, a county service district, approve and execute the contract documents between Tri-City Service District and Stettler Supply Company for the blower system upgrades project for an amount not to exceed \$474,325.50.

Respectfully submitted,

Greg Geist, Director
Water Environment Services

Placed on the **FEBRUARY 11, 2016** agenda by Purchasing.

CONTRACT DOCUMENTS

FOR THE

**BLOWER SYSTEM UPGRADES PROJECT
P202161/P112160
Stettler Supply Company**

BOARD OF COUNTY COMMISSIONERS

Acting as the Governing Body of the
Tri-City Service District and Clackamas County Service District No.1

Commissioner John Ludlow, Chair

Commissioner Jim Bernard

Commissioner Paul Savas

Commissioner Martha Schrader

Commissioner Tootie Smith . . .

Donald Krupp
County Administrator

Lane Miller
Purchasing Manager

Kathryn Holder Buyer

COUNTY BID OPENING

DATE: December 8th, 2015

PLACE: Clackamas County Purchasing

**Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045**

BID OPENING: 2:00 PM

SUBCONTRACTOR LIST DUE: 4:00 PM

AGREEMENT

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2016 by and between the TRI-CITY SERVICE District, CLACKAMAS COUNTY SERVICE District No.1(hereinafter called District) and **STETTLER SUPPLY COMPANY** (hereinafter called CONTRACTOR).

District and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

1.1 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

BLOWER SYSTEM UPGRADES PROJECT

Article 2. THE PROJECT

The Project for which the Work is described in the Contract Documents. Article

3. ENGINEER

3.1 The term Engineer is defined in the Supplementary Conditions.

3.2 Engineer is to act as District's representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 4. CONTRACT TIMES

4.1 All time limits for milestones, if any, substantial completion, and completion and readiness for final payment are stated in the Contract Documents and are of the essence of the Contract.

4.2 The Contractor shall commence work within 10 calendar days after receipt of written Notice-to-Proceed. Contractor shall earn Substantial Completion within 180 calendar days of Notice-to-Proceed. The work shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 30 calendar days of earning Substantial Completion. The written notice to proceed will be forwarded to the Contractor after the Contractor submits the signed Agreement, Performance Bond and Payment Bond, and Certificate of Insurance to the District and these documents have been approved as to form by the District's attorney, signed by the District.

4.3 Contractor and District recognize that time is of the essence of this Agreement and that District will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.2 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by District if the Work is not completed on time. Accordingly, instead of requiring any such proof, District and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay District five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.2 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 4.2 above for completion and readiness for final payment or any proper extension thereof granted by District, Contractor shall pay District five hundred dollars (\$500.00) for each calendar day that expires after the time specified in Paragraph 4.2 above for completion and readiness for final payment, plus any fees or penalties imposed by regulators for other violations.

Article 5. CONTRACT PRICE

5.1 District shall pay Contractor for completion of the Work in accordance with Contract Documents an amount in funds equal to the sum of the amounts determined pursuant to the paragraphs below:

Unless changes and alterations in the Plans, quantities or details of construction materially change the character of the work to be performed or the unit costs thereof, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the same unit prices as are provided under the Contract for the accepted quantities of work done.

If, however, changes and alterations in the Plans, quantities or details of construction materially change the character of work or unit costs thereof, compensation for such work will be made on such basis as may be agreed upon in advance of performance of work, or in case no such basis has been agreed upon, then an allowance may be made, either for or against the Contractor. Payment will be made at unit prices only for work actually performed or materials actually furnished according to actual measurement. If the amount of any major work item changes by more than 25%, compensation for all work that differs from the original estimated quantities for that work item may be made on such basis as may be agreed to in advance of performance of work, or in case no such basis has been agreed upon, an allowance may be made, either for or against the Contractor in such amount as the Engineer determines is fair and equitable. For the purpose of this Section, a major work item is defined as an item that constitutes at least 10% of the total contract bid amount based on either the estimated original quantities or the actual quantities and Contractor's original Bid prices.

If the Contract is done on a lump sum basis, the adjustment for increases or decreases may be based, at the sole discretion of the Engineer, on a theoretical unit price. This price will be determined by dividing the Contractor's applicable breakdown category price by the estimated quantities of all units of work within the applicable breakdown category.

Bidder must include in their Bid prices the entire cost of the work set forth in the Bid.

The Contract Price is the total price stated in Contractor's Bid in the amount of **\$1,581,085.00**, attached hereto as an exhibit.

Article 6. PREVAILING WAGE RATES

6.1 Contractor agrees that the provisions required by ORS 279C.830 pertaining to Contractor's payment of prevailing wage rates shall be included as part of this Agreement. Each worker in each trade or occupation employed in the performance of the contract either by the Contractor, Subcontractor or other person doing or contracting for whole or any part of the work on this contract, shall be paid not less than the applicable prevailing wage in effect for this contract.

Article 7. PAYMENT PROCEDURES

7.1 Progress Payments and Retainage

- A. Payment for all work under the Contract will be made at the price or prices bid, and those prices shall include full compensation for all incidental work.
- B. If the Contract is for a public work and the Contract price is \$50,000.00 or more, supply and file, and require every Subcontractor to supply and file, with the District and with the Wage and Hour Division, Bureau of Labor and Industries, 1400 S.W. Fifth Avenue, Portland, Oregon 97201, a statement in writing that conforms to the requirements of ORS 279C.854. The schedule for submitting payroll information is as follows: Once before the first payment and once before the final payment is made; in addition, for projects exceeding ninety (90) days for completion, submissions are to be made at ninety (90) day intervals.
- C. Make progress estimate of work performed in any calendar month and submit to the Engineer for approval by the 5th day of the following month. These estimates shall include value of labor performed and materials incorporated in the work since commencing work under the Contract. Such estimates need not be made by strict measurements and may be approximate

only, and shall be based upon the whole amount of money that will become due according to terms of the Contract when Project has been completed.

- D. If the Contract price is determined, in whole or in part, on a Lump Sum basis, prepare an itemized cost breakdown relating thereto and have the Engineer approve in accordance with Division 1 requirements; progress estimates based on said itemized cost breakdown may be the basis for progress payments. Upon direction by the Engineer provide for revision of the costs breakdown to reflect the true costs of the work as it progresses.
- E. If the Contract price is determined wholly on a unit basis, Engineer may use Unit Prices bid in making progress estimates on the work. In case said Unit Prices do not, in the opinion of the Engineer, truly represent actual relative costs of different parts of work, a percentage of the Unit Price may be used in making progress estimate adjustments.
- F. If the District receives written notice of any unsettled claims for damages or other costs due to Contractor's operations including, without limitation, claims from any County Department or other governmental agency, an amount equal to the claim may be withheld from the progress or final payments until such claim has been resolved to the satisfaction of Engineer.
- G. Progress payments will be made by District on a monthly basis within thirty (30) days after receipt of the Contractor's estimate of work performed, or 15 days after the payment is approved by the Engineer, whichever is the earlier date. Negotiable warrants will be issued by District for the amount of the approved estimate, less five percent (5%) retainage. Such amount of retainage shall be withheld and retained by District until it is included in and paid to Contractor as part of the final payment of the Contract amount. Securities in lieu of retainage will be accepted, or if Contractor elects, retainage as accumulated will be deposited by District in an interest-bearing account pursuant to ORS Chapter 279 for progress payments. After fifty percent (50%) of the Work under Contract is completed, and the Work is progressing satisfactorily, the District may elect to eliminate further retainage on any remaining monthly Contract payments. Said elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of the Contractor's Surety.
- H. The Engineer may decline to approve an application for payment and may withhold such approval if, in the Engineer's opinion, the work has not progressed to the point indicated by the Contractor's submittal in paragraph C above. The Engineer may also decline to approve an application for payment or may reduce said payment or, because of subsequently

discovered evidence or subsequent inspections, he may nullify the whole or any part of any payment previously made to such extent as may be necessary in his opinion to protect the District from loss because of: (1) defective work not remedied, (2) third party claims filed or failure of the Contractor to make payments properly to Subcontractors for labor, materials or equipment, unless Surety consents to such payment, (3) reasonable doubt that the Work can be completed for the unpaid balance of the Contract sum, (4) damage to another Contractor's work, (5) reasonable indication that the Work will not be completed within the Contract time (6) unsatisfactory prosecution of the Work by the Contractor, (7) claims against the Contractor by the District, (8) failure of Contractor to submit updated project schedules as specified.

When the above grounds are removed, payment shall be made for amounts withheld because of them. Withholding of progress payments or partial payments under the criteria set forth above shall not entitle the Contractor to interest on such withheld payments or partial payments.

- I. If Contractor fails to complete the Project within the time limit fixed in the Contract or any extension, no further estimate may be accepted or progress or other payments allowed until the Project is completed, unless approved otherwise by District.
- J. Progress estimates are for the sole purpose of determining progress payments and are not to be relied on for any other purpose. The making of a progress payment shall not be construed as an acceptance of any of the work or materials under the Contract.
- K. When the progress estimate indicates that the progress payment would be less than one thousand dollars (\$1000), no progress payment will be made for that estimate period, unless approved by the Engineer.
- L. Contractors are required to provide the District with a list of Contractor's personnel who are authorized to personally receive contract payments. This written authorization must be signed by an officer of the Contracting company and will be placed on file in the District's office. No payment will be released to an unauthorized person.

7.2 Final Estimate and Final Payment

- A. Pursuant to ORS Chapter 279C, notify the Engineer in writing when work is considered complete and Engineer shall, within fifteen (15) days after receiving notice, make a final inspection and either accept the work or notify Contractor of work yet to be performed on the Contract. If accepted, Engineer shall so notify Contractor, and will make a final estimate and prepare a Certificate of Completion recommending acceptance of the Work as of a certain date.
- B. If the Contractor believes the quantities and amounts specified in the final estimate and Certificate of Completion prepared by the Engineer to be incorrect, Contractor shall submit to the Engineer within fifteen (15) days of mailing of the Engineer's final estimate and Certificate of Completion to the Contractor's last known address as shown in the records of the District, an itemized statement of any and all claims for additional compensation under the Contract which are based on differences in measurements or errors of computation. Any such claim not so submitted and supported by an itemized statement within said fifteen (15) day period is expressly waived and the District shall not be obligated to pay the same. Nothing contained herein shall limit the requirements of Standard General Conditions; Section 00700, Subsection 10.05, *Claims*.
- C. Upon receipt of the executed Certificate of Completion from the Contractor, and approval by the Engineer, the Engineer will process the final payment.
- D. Provided Contractor submits a claim in the manner and time as required in B. above, the Engineer, as soon as practicable, will consider and investigate the claim or claims of the Contractor for compensation earned under the Contract and not included in the Engineer's final estimate and Certificate of Completion. The Engineer will then promptly advise the Contractor of acceptance or rejection of the claim in full or part. If the Engineer allows the Contractor's claims in full or in part, Engineer will prepare a revised final estimate and Certificate of Completion, including all such items allowed and will submit the same to the Contractor.
- E. The Contractor shall execute and return the revised Certificate of Completion within five (5) days of its receipt together with notice of his acceptance or rejection of the amount there stated as being full compensation earned under the Contract.
- F. If the Engineer rejects the claim or claims, he will issue written notice of rejection mailed to the Contractor's last known address as shown in the records of the District.

- G. The Contractor shall commence any suit or action to collect or enforce the claim or claims for any additional compensation arising from differences in measurements or errors of computation in the final estimate within a period of one (1) year following the original mailing of the Engineer's final estimate and Certificate of Completion to the Contractor's last known address as shown in the records of the District. The Engineer's issuance of a revised final estimate pursuant to this subsection does not alter the original final estimate date. If said suit, action or proceeding is not commenced in said one (1) year period, the final estimate and Certificate of Completion or revised final estimate and Certificate of Completion, if revisions are made, shall be conclusive with respect to the amount earned by the Contractor, and the Contractor expressly waives any and all claims for compensation and any and all causes of suit or action for the enforcement thereof that he might have had.
- H. Upon return of the fully executed Certificate of Completion from the Contractor, the Engineer will submit the Certificate of Completion and final estimate to the District for approval. Upon approval and acceptance by the District, Contractor will be paid a total payment equal to the amount due under the Contract including retainage.
- I. Monies earned by the Contractor are not due and payable until the procedures set forth in these Specifications for inspection, approval and acceptance of the Work, for determination of the work done and the amount due therefore, for the preparation of the final estimate and Certificate of Completion processing the same for payment, for consideration of the Contractor's claim, or claims, if any, and for the preparing of a revised final estimate and Certificate of Completion and processing same for payment have been carried out.
- J. Non-resident Contractor will provide District with evidence that provisions of ORS Chapter 279A.120 have been satisfied; this is a prerequisite to final payment.
- K. Execute and deliver to District, in form approved by the Attorney, a receipt for all amounts paid or payable to Contractor under the Contract, and a release and waiver of all claims against District arising out of or relating to the Contract and furnish satisfactory evidence that all amounts due for labor, materials and other obligations under the Contract have been fully and finally settled or are fully covered by the Performance and Payment Bond and or insurance protecting District, its officers, agents and employees as well as Contractor. This is a condition of final payment and Contractor will not be entitled to final payment on release of retainage nor interest thereon until execution and delivery of said Receipt, Release & Waiver.

- L. If District declares a default of the Contract, and Surety completes said Contract, all payments after declaration of default and retainages held by District shall be paid to Surety and not to Contractor in accordance with terms of the Contract.

- M. Acceptance by Contractor of final payment shall release District and Engineer from any and all claims by Contractor whether known or unknown, arising out of and relating to the Work. No payment, however, final or otherwise shall operate to release Contractor or his Sureties from warranties or other obligations required in the performance of the Contract.

Article 8. CONTRACT DOCUMENTS

8.1 Contents

- A. The Contract Documents which comprise the entire agreement between District and Contractor concerning the Work consist of the following:
 - 1. This Agreement
 - 2. Performance Bond
 - 3. Payment Bond
 - 4. General Conditions
 - 5. Supplementary Conditions
 - 6. Specifications as listed in Table of Contents (Appendices and Plans) of the Contract Documents, to also include the prevailing wage rates for Public Works Contracts in Oregon.
 - 7. Drawings and/or Plans consisting of a cover sheet and sheets numbered 2 through 10 inclusive with each sheet bearing the following general title: **BLOWER SYSTEM UPGRADES PROJECT.**
 - 8. Exhibits to this Agreement (enumerated as follows):
 - a. Addenda number(s) ___ to ___ included as Exhibit 1.
 - b. Bid Proposal, Schedule of Prices
 - c. Bid Bond
 - d. First-tier Subcontractor Disclosure Form

9. The following which may be delivered or issued on or after the effective Date of the Agreement and are not attached hereto:

- a. Notice to Proceed.
- b. Written Amendments.
- c. Work Change Directives.
- d. Change Order(s).

B. The documents listed in Paragraph 8.1.A are attached to this Agreement (except as expressly noted otherwise above).

8.2 Coordination of Contract Requirements

A. In general, in the case of a conflict or discrepancy between sections of the Contract Documents, the most stringent requirement and/or the highest quality product (as determined solely by the Engineer) shall be incorporated into the Work. The drawings and specifications are intended to describe and provide for a complete Work. Any requirement in one is as binding as if stated in all. The Contractor shall provide any work or material clearly implied in the Contract Documents even if the Contract Documents do not mention it specifically, using best industry practices. If there is still a conflict within the Contract Documents, it will be resolved in the sole judgment of the Engineer by the following order of precedence:

1. Permits from other agencies as may be required by law.
2. District-Contractor Agreement
3. Addenda and/or Change Orders
4. Bid Form
5. Supplementary Conditions
6. General Conditions
7. Technical Specifications, Divisions 1 through 9 with Division 1 taking precedence over Divisions 2 through 9
8. Drawings
9. Bonds

Dimensions shown on the drawings or that can be computed shall take precedence over scaled dimensions. Notes on drawings shall take precedence over drawing details.

8.3 Conflict of Provisions

A. In the event of any conflicting provisions or requirements between the component parts of his Contract, the component part having the lowest number, as established in Subsection 8.2 above, shall govern.

This shall in no way relieve the performance bond and public liability insurance of their respective and specific protection to the Contractor, provided, however, that such sequence control does not conflict with the intent of or harm the product in any way. In case of such conflict which would alter the intent of or harm the product, the requirement which, in the opinion of the Engineer, will result in the best product will govern. It is hereby agreed that the entire project shall be completed in accordance with the full intent of the Contract, regardless of conflicting statements, omissions, or errors. The intent of the drawings and Specifications is to outline and control the work in a manner necessary to result in the best completely finished product practicable, at a minimum cost, incorporating all items. Any omissions in the Plans and Specifications pertinent to the requirements of the specified bid items are unintentional. If such are found, the Contractor will be required to perform the work in a customary workmanlike manner to achieve the intent as stated above.

It shall be definitely understood that omissions of one or more of the Documents shall not be construed as conflicting provisions. Any requirement given in one Document shall be known to be binding as though it is repeated in all Documents alike. The intent of the Contract is to combine all requirements of all Documents into one.

Article 9. MISCELLANEOUS

9.1 Terms used in this Agreement will have the meaning indicated in the General Conditions, and as revised by Supplementary Conditions.

9.2 No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3 District and Contractor each binds itself, its partners, successors, assignees, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining

provisions shall continue to be valid and binding upon District and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.5 Two Year Maintenance and Warranty

- A. In addition to and not in lieu of any other warranties required under the Contract, make all necessary repairs and replacements to remedy, in a manner satisfactory to the District and at no cost to District, any and all defects, breaks, or failures of the Work occurring within two (2) years following the date of Acceptance of the Work due to faulty or inadequate materials or workmanship. Repair damage or disturbances to other improvements under, within, or adjacent to the Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of the Contractor in performing his duties and obligations under this Contract when such defects or damage occur within the warranty period. The two-year maintenance period required shall, with relation to such required repair, be extended two (2) years from the date of completion of such repair. Where equipment or systems are specified to have a longer warranty period, Contractor shall be bound to the longer warranty period for the specific equipment and/or systems.

- B. If Contractor, after written notice, fails within ten (10) days to proceed to comply with the terms of this section, District may have the defects corrected, and Contractor and Contractor's Surety shall be liable for all expense incurred. In case of an emergency where, in the opinion of the District, delay would cause serious loss or damage, repairs may be made without notice being given to Contractor and Contractor or Surety shall pay the cost of repairs. Failure of the District to act in case of an emergency shall not relieve Contractor or Surety from liability and payment of all such costs.

- C. As a means of providing surety during the maintenance period, the Contractor shall provide to the District written and legally attested proof of surety in the amount of not less than 10 percent of the final contract amount. The maintenance guarantee shall be one of the following types:
 - 1. Continuance of the contract performance bond at the original or a reduced amount.
 - 2. Maintenance bond in a format and with the conditions acceptable to the District.

3. Cash deposit to the District's Treasury, with a treasurer's receipt acting as proof of surety.

4. Other arrangements, as may be proposed by the Contractor and accepted by the District.

Article 10. GOVERNING LAW

10.1 It is expressly understood that this Agreement in all respects shall be governed by the laws of the State of Oregon and the ordinances of the Service District and Clackamas County.

10.2 The Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Any violation shall entitle the District 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, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to the Contractor, in an amount equal to the District's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The District shall be entitled to recover any and all damages suffered as the result of the Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and the District may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

10.3 The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- a. All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316,317, and 318;
- b. Any tax provisions imposed by a political subdivision of this state that applied to the Contractor, to the Contractor's property, operations, receipts, or income, or to the Contractor's performance of or compensation for any work performed by the Contractor;
- c. Any tax provisions imposed by a political subdivision of this state that applied to the Contractor, or to goods, services, or property, whether tangible or intangible, provided by the Contractor; and

d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Article 11. ASSIGNMENT OF ANTITRUST RIGHTS

11.1 By entering into this Agreement, the Contractor irrevocably assigns to District any claim or cause of action which the Contractor now has or which may accrue in the future, including at District's option, the right to control any such litigation, by reason of any violation of 15 USC Section 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the Contractor by any person which are used, in whole or in part, for the purpose of carrying out the Contractor's obligations under this Agreement.

11.2 Contractor shall require any Subcontractor to irrevocably assign to the District, as a third party beneficiary, any right, title or interest that has accrued or may accrue to the Subcontractor by reason of any violation of 15 USC Section 1-15, ORS 646.725 or ORS 646.730, including, at the District's option, the right to control any litigation arising thereunder, in connection with any goods or services provided to the Subcontractor by any person, in whole or in part, for the purpose of carrying out the Subcontractor's obligations as agreed to by the Contractor in pursuance of the completion of this Agreement.

11.3 In connection with this assignment, it is an express obligation of the Contractor that it shall take no action which any way diminishes the value of the rights conveyed or assigned hereunder to the District. It is an express obligation of the Contractor to advise the District's legal counsel:

- A. In advance of its intention to commence any action on its own behalf regarding such claims or causes of action;
- B. Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action; and

C. The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignments to the District.

11.4 Furthermore, it is understood or agreed that in the event that any payment under any such claim is made to the Contractor, it shall promptly pay over to the District its proportionate share thereof, if any, assigned to the District hereunder.

Article 12. RECORDS RETENTION

12.1 Contractor shall maintain all standard records and accounts as required by the Contract Documents throughout the life of the Agreement and for a period of three years after the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

Stettler Supply Company
4420 Ridge Drive NE
Salem, OR 97301

CLACKAMAS COUNTY BOARD OF
COMMISSIONERS Acting as the Governing
Body of the Clackamas County Service District
No. 1 by:

Authorized Signature

Chair
Clackamas County Service District No. 1

Name / Title (Printed)

Date

Recording Secretary

Telephone Number / Fax Number

Date

CCB License Number

CLACKAMAS COUNTY BOARD OF
COMMISSIONERS Acting as the Governing
Body of the Tri-City Service District by:

053528-10

Oregon Business Registry Number

DBC Oregon

Entity Type / State of Formation
Clackamas County Tri-City Service District

Chair

Recording Secretary

Date

APPROVED AS TO FORM

County Counsel

Date