

AGENDA

Thursday, May 18, 2017 - 6:00 PM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2017-49

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. HOUSING AUTHORITY CONSENT AGENDA

1. Approval of an On-Demand Flooring Contract between the Housing Authority of Clackamas County and A-1 Quality Construction for Removal and Replacement of Flooring in Public Housing Units

II. PRESENTATION *(Following are items of interest to the citizens of the County)*

1. Watershed Health Education Program (Gari Johnson, Water Environment Services)
2. Budget 101 Presentation (Don Krupp, County Administrator)

III. 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.)*

IV. 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. Approval of Ordinance No. _____ for Approval of Amendment of the Intergovernmental Partnership Agreement Forming the Water Environment Services Partnership to add the Surface Water Management Agency of Clackamas County by Clackamas County Service District No. 1 (Greg Geist, Water Environment Services)
2. Approval of Ordinance No. _____ for Approval of Amendment of the Intergovernmental Partnership Agreement Forming the Water Environment Services Partnership to add the Surface Water Management Agency of Clackamas County by Surface Water Management Agency of Clackamas County (Greg Geist, Water Environment Services)
3. Approval of Ordinance No. _____ for Approval of Amendment of the Intergovernmental Partnership Agreement Forming the Water Environment Services Partnership to add the Surface Water Management Agency of Clackamas County by Clackamas County Tri-City Service District (Greg Geist, Water Environment Services)

V. 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 an Agency Service Contract with LifeWorks NW for Supported Employment Services for Uninsured and Indigent Clackamas County Residents – *Behavioral Health*
2. Approval of an Interagency Agreement with Clackamas County Department of Transportation and Development for the Jennings Lodge Pedestrian Improvements Project – *Housing & Community Development*

B. Finance Department

1. Resolution No. _____ Acknowledging Expenditures in Excess of appropriations and Financial Statement Findings for Fiscal Year 2016 and Describing Corrective Action in Accordance with *ORS 297.466*

C. Elected Officials

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

D. Technology Services

1. Approval of a Contract for the Lake Oswego School District Expansion Phase 2 Project with North Sky Communications, LLC. for Construction of New Fiber Optic Cable

VI. DEVELOPMENT AGENCY

1. Approval of a Contract Amendment with Tapani, Inc. for the SE Bell Avenue Improvement Project, Phase 2 - *Procurement*

VII. WATER ENVIRONMENT SERVICES

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

1. Resolution No. _____ Terminating the Memorandum of Agreement between Clackamas County and the Oregon Department of Environmental Quality for Issuing 1200-C Surface Water Discharge Permits for Construction Activities

VIII. COUNTY ADMINISTRATOR UPDATE

IX. COMMISSIONERS COMMUNICATION

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

May 18, 2017

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Approval of an On-Demand Flooring contract between Housing Authority of Clackamas County (HACC) and A-1 Quality Construction for removal and replacement of flooring in Public Housing Units

Purpose/Outcomes	Contract with A-1 Quality Construction to replace flooring in HACC's Public Housing units.
Dollar Amount and Fiscal Impact	Not to Exceed sum of \$250,000
Funding Source	U.S. Housing & Urban Development (HUD) Federal Capital Grant Funds No County General Funds are involved
Duration	May 8, 2017 - May 31, 2019
Previous Board Action	Approval of the prior 2-Year On-Demand Flooring contract on August 20, 2015
Strategic Plan Alignment	1. Sustainable and Affordable housing 2. Ensure safe, healthy and secure communities
Contact Person	Chuck Robbins, Executive Director, Housing Authority 503-650-5666
Contract No.	8310

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a division of the Health, Housing and Human Services Department, requests the approval to execute an on demand contract every two years to remove and replace flooring in Public Housing units, as needed. Replacing flooring in a timely manner allows HACC to maintain its High Performer status and prevent safety hazards.

A-1 Quality Construction was selected through a competitive Request for Proposal process. The scope of work includes full and partial repair and replacement of flooring in Public Housing units. The last 2-year contract resulted in work to 60 different units.

RECOMMENDATION:

Staff recommends the approval to execute the contract with A-1 Quality Construction. Staff further recommends authorizing Richard Swift, H3S Director to sign all contractual documents on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

HACC WIDE FLOORING 2017 – PROJECT #17006
for the
HOUSING AUTHORITY OF CLACKAMAS COUNTY
P.O BOX 1510, 13900 S. GAIN STREET, OREGON CITY, OR 97045

FORM OF CONTRACT
PROJECT #17006
Contract #c020-17
H3S Contract# 8310

THIS AGREEMENT made this 8 day of May in the year 2017 by and between **A-1 QUALITY CONSTRUCTION** a business entity organized and existing under the laws of the state of Oregon, hereinafter call the "Contractor," and **the Housing Authority of Clackamas County** hereinafter call the "PHA."

WITNESSETH, that the Contractor and the PHA for the consideration stated herein mutually agreed as follows:

ARTICLE 1. Statement of Work. The Contractor shall furnish all labor, material, equipment and services, and perform and complete all work required for **HACC WIDE FLOORING 2017 AT PUBLIC HOUSING**, a prevailing wage project, **#17006**, in strict accordance with the Specifications referred to herein, all as prepared by the Housing Authority of Clackamas County, which said Specifications and any Addenda are incorporated herein by reference and made a part hereof.

ARTICLE 2. The Contract Price. The PHA shall pay the Contractor for the performance of the Contract, in current funds, subject to additions and deductions as provided in the Specifications, the not to exceed sum two hundred-fifty thousand dollars (**\$250,000.00**).

ARTICLE 3. Contract Documents. The Contract shall consist of the following component parts:

- a. This Agreement
- b. Bid Documents
- c. General Conditions
- d. Addendum(s)
- e. Special Conditions
- f. Specifications
- g. Scope of Work
- h. Drawings

This instrument, together with the other documents enumerated in this Article 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, form the Contract. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this Article 3 shall govern, except as otherwise specifically stated. The various provisions in Addenda shall be construed in the order of preference of the component part of the Contract which each modifies.

HACC WIDE FLOORING 2017 – PROJECT #17006
for the
HOUSING AUTHORITY OF CLACKAMAS COUNTY
P.O BOX 1510, 13900 S. GAIN STREET, OREGON CITY, OR 97045

ARTICLE 4. Indemnity. The Contractor agrees to indemnify, save harmless and defend the PHA, its officers, elected officials, employees and agents from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees.

ARTICLE 5. No person shall be employed for more than 10 hours in any one day, or 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 described in ORS 279.051, the employee shall be paid at least time and a half pay. All subject employers working under this contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

ARTICLE 6. The Contractor agrees that in the event the Contractor fails to pay for labor and services, the PHA will pay for them and withhold these amounts from payments to the Contractor per ORS 279C.515; OAR 839-025-0200(2)(a).

ARTICLE 7. The Contractor agrees to pay daily, weekly, weekend and holiday overtime as required by ORS 279C.520; OAR 839-025-0020(2)(b)

ARTICLE 8. The Contractor agrees that all employees/workers working on this project, whether employed by the Contractor or any subcontractor, shall be given written notice of the number of hours per day and days per week they may be required to work per OAR 839-025-0020(2)(c).

ARTICLE 9. The Contractor agrees to make prompt payment for all medical services for which the Contractor has agreed to pay, and for all amounts for which the Contractor collects or deducts from worker's wages per ORS 279C.530; OAR 839-025-0020(2)(d).

ARTICLE 10. The Contractors agrees to pay no less than the applicable state or federal prevailing wage rate, whichever is higher per ORS 279C.830(1)(c); OAR 839-025-0020(3).

ARTICLE 11. The Contractor agrees to have a public works bond filed with the Construction Contractors Board before starting any work on the project per ORS 279C.830(3)(a).

ARTICLE 12. The Contractor agrees that every subcontract shall include a provision requiring all subcontractors to have a public works bond filed with the Construction Contractors Board before starting any work on the project per ORS 279C.830(3)(b).

HACC WIDE FLOORING 2017 – PROJECT #17006
for the
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P.O BOX 1510, 13900 S. GAIN STREET, OREGON CITY, OR 97045

ARTICLE 13. Tax Laws.

13.1 The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Agreement, 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 Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- c. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

13.2 Contractor must, throughout the duration of this Agreement 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 Agreement. Further, any violation of Contractor's warranty in this Agreement that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Agreement. Any violation shall entitle PHA to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

- a. Termination of this agreement, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to PHA's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. PHA shall be entitled to recover any and all damages suffered as the result of PHA's breach of this Agreement, 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 PHA may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

HACC WIDE FLOORING 2017 – PROJECT #17006
for the
HOUSING AUTHORITY OF CLACKAMAS COUNTY
P.O BOX 1510, 13900 S. GAIN STREET, OREGON CITY, OR 97045

IN WITNESS WHEREOF, the parties hereto have caused this Instrument to be executed in **three** original counterparts as of the day and year first above written.

(This document consists of four sections)

Attest:

A-1 Quality Construction

(Contractor)

 5-8-17
(Authorized Representative's Signature / Date)

Phil Coates, Owner

(Authorized Representative's Name / Title - Print or Type)

542-23-1285

(Federal I.D. Number)

427 Lawton Road, Oregon City, OR 97045

(Business Address - Street, City, State, Zip)

143970

(State of Oregon CCB License Number)

Attest:

Housing Authority of Clackamas County

(Owner)

(Authorized Representative's Signature / Date)

Richard Swift, H3S Director

(Authorized Representative's Name / Title - Print or Type)

HACC, P.O. Box 1510, 13900 S. Gain St., Oregon City,
OR 97045

(Business Address - Street, City, State, Zip)



Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Gregory L. Geist
Director

May 10, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Presentation on Water Environment Services Watershed Health Education Program

Purpose/Outcomes	Inform the board about the watershed health education program and the impact to county students
Fiscal Impact	\$18,717
Funding Source	RiverHealth Stewardship Program Grant
Duration	September 2016 – May 2017
Previous Action	N/A
Strategic Plan Alliance	<ul style="list-style-type: none">• Build public trust through good government• Ensure safe, healthy and secure communities
Contact Person	Gari Johnson

BACKGROUND

Water Environment Services (WES) developed the Watershed Health Education Program to educate youth about the importance of protecting our local watersheds. This program makes it possible for North Clackamas School District high school science teachers and their students to get out of the classroom and into the field where they gain hands-on experience collecting data, making assessments, restoring streamside habitats and studying what determines healthy rivers and streams. Students then share their knowledge with friends, family and the broader community through presentations, activities and scientific papers, making an even bigger impact on public health and protecting the environment.

WES' Gari Johnson and Portland State University's Patrick Edwards will introduce local teachers and students who will share with the Board some of their projects completed this year and describe the significance of these hands-on experiences to life-long stewardship and improved water quality.

RECOMMENDATION

N/A

Respectfully submitted,

Greg Geist
Director – Water Environment Services



Show Me The Money

*How County Taxpayer
Dollars Are Spent &
Who Decides*



SHARED STATE-COUNTY SERVICES

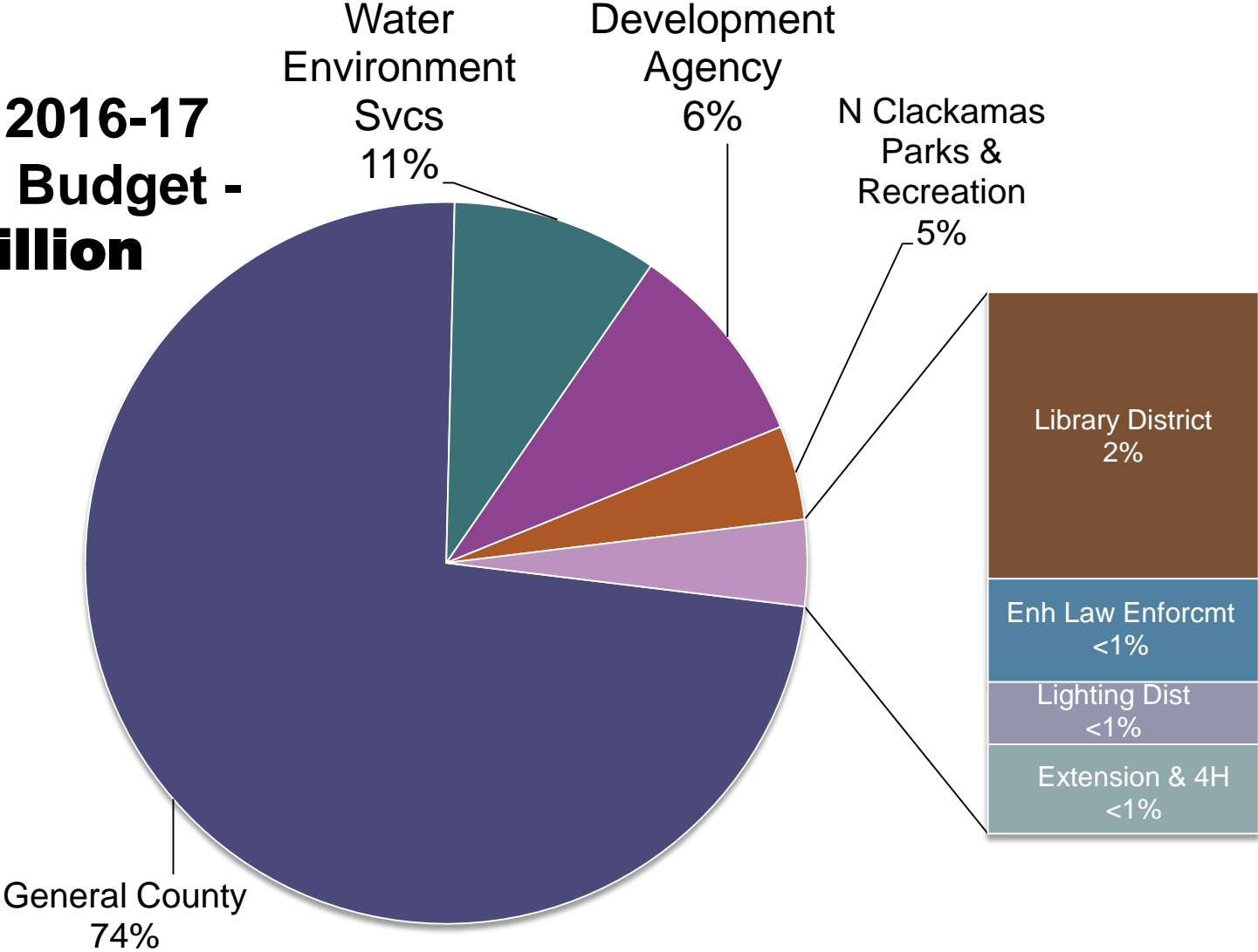
SERVING THE CITIZENS OF OREGON

HEALTH & HUMAN SERVICES	PUBLIC SAFETY	NATURAL RESOURCES & RECREATION	TRANSPORTATION, LAND USE & ECONOMIC DEV.	OTHER COMMUNITY SERVICES
Child Protection	Appellate Court	State Parks	State Highways	Administrative Services
Housing	State Police	State Lands	State Fair	Assessment & Taxation
Mental Health Hospital	State Prison	Water Regulation	Land Use Planning & Coord.	PERS
Aging/Senior Services	Attorney General	Wildlife Regulation	Land Use Permitting	Employee/Labor Relations
Alcohol/Drug Treatment	Trial Courts	County Forest Trust Lands/ State Forest Management	Highway & Road System	Elections
Alcohol/Drug Prevention	District Attorney	Habitat Restoration	Senior & Disabled Transport.	Extension Service
Children & Families Svcs.	911/Emerg. Communications	Wildlife/Predator Control	Energy Development	Telecommunications
Dev. Disabled Services	Emergency Management	Federal Land Policy	Engineering	Administrative Services
Mental Health Services	Homeland Security	Noxious Weed Control	Building Permits & Inspection	Procurement
Oregon Health Plan Svcs.	Community Corrections	Watermaster	Economic Development	Recording Public Documents
Veterans Services	Court Security	County Forest Management	County Fair	County Library
Public Health Services	Juvenile Services	County Parks	Infrastructure Development	County Museums
Environmental Health	Marine Patrol	Vector Control	Surveying	County Service Districts
Housing Services	Drug Courts	Soil & Water Conservation	County Transportation System	
Medical Examiner	County Law Library			
Emergency Planning and Response	Sheriff Patrol			
Solid Waste Management	Animal Control			
Recycling Programs	Justice Courts			
	Search and Rescue			
	County Jail			

Green = State-Provided Services Red = State/County-Shared Services Blue = County-Provided Services

Budget Overview – All Agencies

**Total FY 2016-17
Adopted Budget -
\$975 Million**



Budget Overview – the County Budget

FY 2016-17 Clackamas County Budget By Function

▶ Health, Housing & Human Services	\$ 136.5 million
▶ County Sheriff (incl. Community Corrections)	\$ 102.6 million
▶ Transportation & Development	\$ 101.6 million
▶ Business & Community Services	\$ 31.5 million
▶ District Attorney	\$ 12.8 million
▶ Juvenile	\$ 11.7 million
▶ Emergency Communications	\$ 8.0 million
▶ County Assessor	\$ 7.6 million
▶ Tourism & Cultural Affairs	\$ 5.4 million
▶ Public & Government Affairs	\$ 4.5 million
▶ Justice Court	\$ 4.2 million
▶ County Clerk	\$ 3.4 million

More next slide...

Budget Overview, continued

Adopted FY 2016-17 Clackamas County Budget, continued

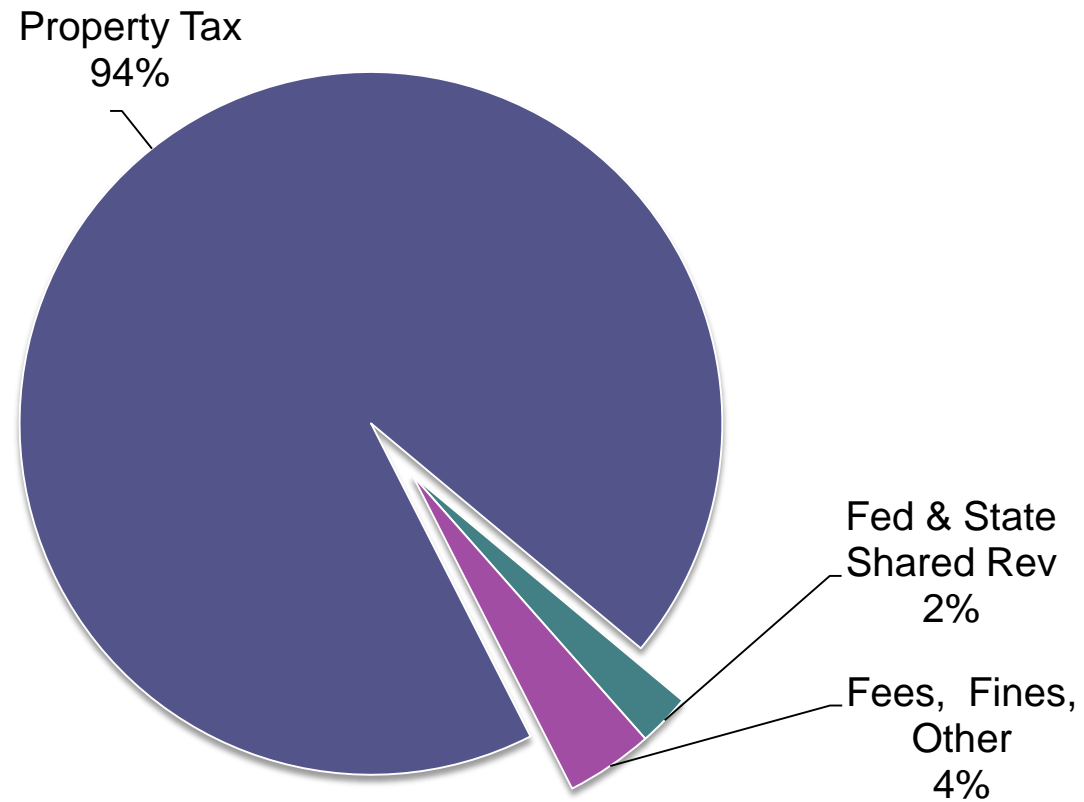
▶ Disaster Management	\$ 3.4 million
▶ County Counsel	\$ 2.5 million
▶ County Treasurer	\$ 847,000
▶ Internal Services ¹	\$ 115.4 million
▶ Non-departmental General Fund ²	\$ 131.8 million
▶ Agency Payrolls	\$ 17.5 million
▶ Other ³	\$ 10.8 million
▶ Debt	\$ 10.1 million
Total County Budget	\$722.1 million

Notes:

1. *Includes County Administration, Finance, Purchasing, Facilities, Fleet, Capital Project Reserves, Human Resources (including risk management and employee benefits self insurance funds) & Technology Services*
2. *Operating transfers to other departments, general county items, contingency, and reserves*
3. *Includes Resolution Services, County School, Safety Net Legislation Local Projects, Employer Contribution Reserve, Transient Room Tax, Law Library*

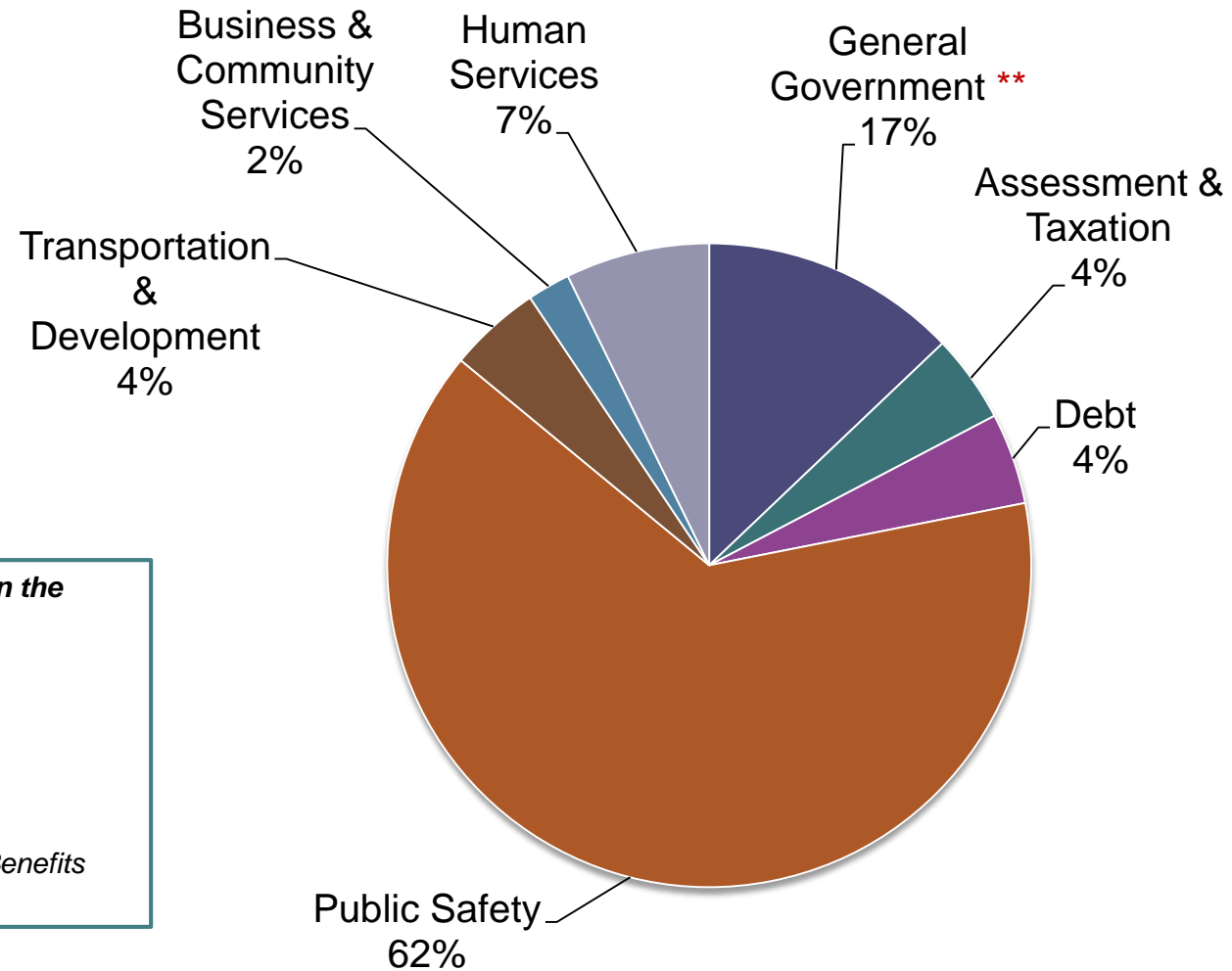
Unrestricted General Fund Revenue Sources

SOURCES of General Fund Unrestricted Revenue



Unrestricted General Fund Expenditures

USES of Unrestricted General Fund (Expenditures)



**** Examples of functions included in the**

General Government slice:

- Board of County Commissioners
- County Administration
- Treasurer
- Public & Government Affairs
- Employee & Financial Services
- County Counsel
- Risk Management and Employee Benefits self insurance reserves

Annual Budget Schedule

- ▶ **January** **Budget Office develops revenue estimates, internal services costs, and personnel costs**
- ▶ **February** **Budget workshop for departments**
- ▶ **Mar- April** **Internal budget reviews with departments, Administrator finalizes his Proposed Budget**
- ▶ **May 30th-
June 8th** **Budget Committee holds public meetings and comment taken on May 31, 2017, 5:30 PM**
- ▶ **June 29th** **Board of County Commissioners holds public hearings for final adoption of budgets**
- ▶ **Ongoing** **Budget monitoring and adoption of supplemental budgets for any changes during the fiscal year**
- ▶ **Quarterly** **Budget Committee public meetings**

How to Get Involved

- ▶ **Review County and Agency budgets and financial documents!**
 - ▶ County budget documents @ clackamas.us/budget
 - ▶ Comprehensive Annual Financial Reports @ clackamas.us/finance
- ▶ **Attend a budget meeting or hearing! View the schedule at clackamas.us/budget**
- ▶ **If you are interested and want to participate in the budget process, there are several County budget committees often recruiting for members: (@ clackamas.us/citizenin/abc.html)**
 - ▶ Clackamas County Service District #5 Budget Committee (Street Lights)
 - ▶ Clackamas County Budget Committee
 - ▶ Development Agency Budget Committee
 - ▶ Enhanced Law Enforcement District Budget Committee
 - ▶ Extension & 4-H Service District Budget Committee
 - ▶ Library District of Clackamas County Budget Committee
 - ▶ North Clackamas Parks & Recreation Budget Committee
 - ▶ Clackamas County Service District #1 (Sewer Services)
 - ▶ Surface Water Management Agency of Clackamas County Budget Committee
 - ▶ Tri-City Service District Budget Committee



Thank You!





Gregory L. Geist
Director

May 18, 2017

Board of County Commissioners
of Clackamas County acting as the
Governing Body of Clackamas County
Service District No. 1

Members of the Board:

Amendment of the Intergovernmental Partnership Agreement
Forming the Water Environment Services Partnership
To Add the Surface Water Management Agency of Clackamas County

Purpose/Outcomes	Execution of an amendment to the WES partnership agreement to allow SWMACC to join the WES partnership, and a corresponding ordinance adoption.
Dollar Amount and Fiscal Impact	None in current budget year.
Funding Source	Not Applicable.
Duration	Permanent.
Previous Board Action	Multiple governance conversations over the past several years. Receipt of 2008 Committee recommendation for partnership between CCSD#1 and TCSD. Formation of WES 190 partnership in November 2016.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build strong infrastructure. • Ensure safe, healthy and secure communities. • Honor, utilize, promote and invest in our natural resources. • Grow a vibrant economy.
Contact Person	Greg Geist, WES Director Chris Storey, Assistant County Counsel
Contract No.	Not Applicable.

ISSUE

The Surface Water Management Agency of Clackamas County (“SWMACC”) provides surface water services in areas that drain to the Tualatin River, including the incorporated City of Rivergrove, in Clackamas County. It currently has an Operating Fund budget of ~\$200,000, with reserves of about \$450,000. Due to regulatory requirements, SWMACC operates somewhat independently

from Clackamas County Service District No. 1 (“CCSD#1”) in the delivery of surface water services even though managed by the same department.

In November 2016, the Board created an Oregon Revised Statutes Chapter 190 partnership called Water Environment Services (“WES”) between CCSD#1 and the Tri-City Service District (“TCSD”) for mutual operation and investment in order to best provide cost savings, efficiencies, and a level of certainty for current and future infrastructure investments.

As CCSD#1 integrates into the WES partnership over the next year, that new entity will be providing surface water services on behalf of CCSD#1. The Municipal Separate Storm Sewer System (“MS4”) permit issued by the State of Oregon makes the entities of urban Clackamas County co-permittees, including SWMACC and CCSD#1, along with city partners. Staff believe that both CCSD#1 and SWMACC would benefit by having one unified approach to surface water management across affected watersheds. It would also better position WES to support the County generally as broader watershed regulations may be applied, and support partner Clackamas County entities such as the cities within TCSD with issues as co-permittees under the MS4.

BACKGROUND

Regionalization of wastewater and surface water services has been a significant topic of discussion in Clackamas County for many years. It was the impetus for the formation of CCSD#1 and TCSD, and their eventual co-location partnership in 1999 and again in 2008.

As the BCC was entering into agreements to allow CCSD#1 to construct facilities at the Tri-City Plant, it directed that a regionally-representative blue ribbon group be formed, consisting of members of the business community, environmental groups, ratepayers, and elected officials from all affected cities including Gladstone, Happy Valley, Oregon City, Milwaukie, and West Linn (the “Blue Ribbon Committee”). This Blue Ribbon Committee participated in a thorough examination of the potential costs and benefits of closer cooperation and partnership. The Blue Ribbon Committee found that: (i) there were significant financial benefits to each of the communities’ ratepayers by making collective investment and management decisions, with millions in projected savings; (ii) there was an equitable fiscal and operational model that ensured fairness for all; and (iii) governance and ratepayer interests of all stakeholders could be addressed in a collective investment and operational approach.

One of the conditions of the Blue Ribbon Committee’s findings was that each community’s ratepayers would be responsible for their prior debt and actions. This condition was recognized by the BCC as crucial in any regional solution.

The concept of regionalization of wastewater efforts was further discussed by the Regional Wastewater Treatment Capacity Advisory Committee (“Regional Committee”) over several years. In 2012, after a recommendation from the Regional Committee, CCSD#1 and TCSD agreed to mutually invest and acquire the Blue Heron lagoon and associated Clean Water Act permit, with each sharing equally in all related costs to avoid infrastructure expenditures imposed by regulatory requirements. Further investigations and conversations at the Regional Committee in 2015-16 have indicated substantial cost savings to ratepayers through a joint investment strategy for solids handling infrastructure.

In November of 2016, the Board of County Commissioners (“BCC”) unanimously adopted an ORS 190 agreement (the “Agreement”) creating WES, a separate legal entity in the form of a municipal partnership, on behalf of and including CCSD#1 and TCSD. Both service districts continue to exist, and their boundaries will continue to change and define the scope of the WES entity. However, pursuant to the Agreement, it is the direction of the Board that the management, operations, regulatory affairs, and financial affairs (excepting previously existing debt) be integrated to achieve the savings for ratepayers identified by the Blue Ribbon Committee. The Agreement at this time does not include the third service district managed in the department, SWMACC.

At a policy session held May 2nd, the Board directed staff to prepare the materials necessary to allow SWMACC to join the WES partnership by the end of this fiscal year to better integrate surface water management services and realize efficiencies thereby.

An amendment to the Agreement is attached hereto to add SWMACC and clarify certain language.

To effectuate the amendment to the Agreement, the Board would also need to adopt an ordinance, which is attached. Pursuant to ORS 198.550, an ordinance typically has two readings no less than six days apart, and then goes into effect thirty days thereafter. Due to the Board’s schedule, there are not sufficient meetings to consider the addition of SWMACC and have it go into effect prior to the end of the fiscal year without declaring an emergency. Staff propose adopting the ordinance in a single reading instead of two, since it merely ratifies the entry of SWMACC into the Agreement, and allow the regular thirty days for it to become effective. If adopted, SWMACC would join the WES partnership as of June 17, 2017.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners, acting as the governing body of Clackamas County Service District No. 1, execute the attached amendment to the Agreement, and adopt the attached Ordinance in a

single reading by declaring an emergency with respect to the number of readings only, without impact to the notice and effective date period.

Regards,

Gregory Geist
Director
Water Environment Services

ORDINANCE NO. _____

OF CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

AN ORDINANCE AUTHORIZING AN AMENDMENT OF THE INTERGOVERNMENTAL PARTNERSHIP AGREEMENT BETWEEN CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 AND TRI-CITY SERVICE DISTRICT REGARDING THE WATER ENVIRONMENT SERVICES PARTNERSHIP

WHEREAS, the Board of County Commissioners as the governing body of Clackamas County Service District No. 1 (the "District") is desirous of allowing the Surface Water Management Agency of Clackamas County ("SWMACC") to join with the District and the Tri-City Service District for the purposes of providing more efficient and cost-effective wastewater and surface water services on a more regionalized basis; and

WHEREAS, the attached amendment to the Intergovernmental Partnership Agreement ("Agreement") allows the addition of SWMACC to the Water Environment Services partnership to accomplish that purpose as more fully stated in the Agreement pursuant to Oregon Revised Statutes Chapter 190; and

WHEREAS, it is in the best interests of the District and the WES Partnership to allow SWMACC to join prior to the end of the 2016-17 fiscal year and adopting this ordinance in a single reading is the best way to effectuate that goal;

NOW THEREFORE, CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 BOARD ORDAINS AS FOLLOWS:

Section 1. The Amendment of the Intergovernmental Partnership Agreement between Clackamas County Service District No. 1, the Tri-City Service District, and the Surface Water Management Agency of Clackamas County regarding the municipal entity known as "Water Environment Services" as attached hereto as Exhibit A and incorporated herein, is hereby adopted and affirmed.

Read first time at a regular meeting of the District Board held on the 18th day of May, 2017, and the foregoing ordinance was enacted by the District Board this 18th day of May, 2017 with an effective date of June 17th, 2017.

ADOPTED this 18th day of May, 2017.

BOARD OF COUNTY COMMISSIONERS
as the governing body of
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

Chair

Recording Secretary

AMENDMENT #1 TO THE WATER ENVIRONMENT SERVICES PARTNERSHIP AGREEMENT

This Amendment #1 to the Water Environment Services Partnership Agreement (this “Amendment”) is by and between Clackamas County Service District No. 1, a county service district formed under Oregon Revised Statute (“ORS”) Chapter 451 (“CCSD#1”), the Surface Water Management Agency of Clackamas County, a county service district formed under ORS Chapter 451 (“SWMACC”), and the Tri-City Service District, a county service district formed under ORS Chapter 451 (“TCSD”), pursuant to ORS Chapter 190 for the amendment of an already-existing intergovernmental entity. The parties are herein individually referred to as “Partner” and collectively as the “Partners.”

WHEREAS, CCSD#1 and TCSD entered into that certain ORS 190 partnership agreement dated November 3, 2016 to form the Water Environment Services municipal partnership entity (the “Agreement”); and

WHEREAS, CCSD#1 and TCSD desire to amend the Agreement to clarify certain provisions and add SWMACC as a party to the Agreement pursuant to this Amendment; and

WHEREAS, SWMACC desires to join the Water Environment Services partnership and is willing to adhere to the terms and conditions of the same as set forth in the Agreement as modified by this Amendment; and

WHEREAS, the Parties desire to refine the Agreement to clarify certain financial issues;

NOW, THEREFORE, CCSD#1, SWMACC, and TCSD each hereby agree that the Agreement is amended as follows:

1. The Surface Water Management Agency of Clackamas County (“SWMACC”) is added to the Agreement and considered a “Partner” and part of the collective “Partners” for all purposes therein.
2. The following definitions in Section 1.11 is hereby amended to read:
 - (g) “Gross Revenues” means all revenues, fees and charges, capital charge revenues and capital charge proceeds, and other revenues resulting from the operation of the wastewater and surface water systems, including System Development Charges, revenues from product sales and interest earnings on Gross Revenues in the wastewater and surface water enterprise fund(s). However, the term “Gross Revenues” does not include:
 - i. The interest income or other earnings derived from the investment of rebate funds or any escrow fund established for the defeasance or refunding of outstanding indebtedness of the Members prior to the establishment of this Agreement.
 - ii. Committed capital charges which means all assessments for local improvements to the wastewater and surface water systems and related cash and installment loan contract payments.

- iii. Any gifts, grants, donations or other moneys received by WES from any State or Federal government entity or other person.
 - iv. The proceeds of any borrowing.
 - v. The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues).
 - vi. The proceeds of any casualty insurance that WES intends to utilize for repair or replacement of the wastewater and/or surface water systems.
 - vii. The proceeds derived from the sale of assets.
 - viii. Any ad valorem or other taxes imposed by WES, its successors or assigns.
 - ix. Any income, fees, charges, receipts, profits or other moneys derived by WES from its ownership or operation of any separate utility system; where a separate utility system means any utility property which is declared by the Board to constitute a system which is distinct from the wastewater and surface water systems.
- (h) "Partners" means CCSD#1, SWMACC, and TCSD, and any subsequently admitted Partners added pursuant to an amendment to this Agreement.

3. Section 3.02 shall be amended in its entirety to state:

3.02 Rate Zones and Differentials. The WES Board shall establish rates for each rate zone of WES. There shall be three rate zones. "Rate Zone One" shall be coterminous with the boundaries of TCSD, as they may be adjusted from time to time. "Rate Zone Two" shall be coterminous with the boundaries of CCSD#1, as they may be adjusted from time to time. "Rate Zone Three" shall be coterminous with the boundaries of SWMACC, as they may be adjusted from time to time. For illustrative purposes, maps and a general description of Rate Zone One, Rate Zone Two and Rate Zone Three are attached hereto as Exhibit B. The WES Board shall have full power and authority to levy different rates between and within the rate zones. Rate Zones One and Two shall generally each pay a wholesale charge for wastewater treatment service. At the time of formation of WES, Rate Zone Two shall also pay sufficient amounts to meet the CCSD#1 Debt Service, retail wastewater service, and surface water services. At the time of integration of SWMACC, Rate Zone Three shall pay charges for surface water management only. As levels of service change within any zone, the WES Board may add or subtract charges within the Rate Zones; *provided, however*, that the WES Board may not add any payment for the CCSD#1 Debt Service to Rate Zone One or Rate Zone Three, except as provided in Section 2.04. The WES Board may create sub-zones within each Rate Zone as it deems advisable for reasons consistent with the Purpose, including but not limited to the exclusion of retail charges if that service is provided by a local government whose boundaries are within one of the Partners or the inclusion of a rate surcharge to recover the cost of right of way fees levied by a local government entity.

4. In order to reflect the addition of SWMACC into WES, Exhibit B is hereby supplemented with "Exhibit B – Rate Zone 3 (SWMACC)" attached to this Amendment.

5. Section 3.06 shall be amended in its entirety to state:

Section 3.06 Local System Expenses. The Wastewater Service Charge, Surface Water Service Charge, and system Development Charge shall be deemed Gross Revenues to the maximum extent possible under existing bond resolutions and ordinances, and shall be expressly deemed as resources available to fund the maintenance and operations expenses of the wastewater and surface water systems of each Partner in any future bond issue or other financing payable in whole or in part from the Gross Revenues of such systems. Local System Expenses shall be payable and constitute a charge prior and superior to any charge or lien of any revenue bonds, or any obligations, issued by the Partners payable from the net revenues (Gross Revenues less Local System Expenses) of their respective wastewater or surface water systems.

6. Section 3.07 shall be amended in its entirety to state:

Section 3.07 Existing Partner Debt. The Partners acknowledge that CCSD#1 has currently outstanding debt, namely the CCSD#1 Bonds, relating to its existing system, and that neither TCSD nor SWMACC have any outstanding debt. The Partners acknowledge and agree that the ratepayers of TCSD and SWMACC shall not be responsible in any case for the CCSD#1 Bonds and related CCSD#1 Debt Service. Nothing in this Agreement is intended or shall be construed to violate any covenant of these outstanding bonds, and such covenants, to the extent there is a conflict between them and this Agreement, shall control with respect to such outstanding bonds and any debt issued on a parity with such bonds and required to have the same covenants as the outstanding bonds.

7. Section 3.09 shall be amended in its entirety to state:

Section 3.09 Transition Period Capital Project. The Partners anticipate moving forward with a solids handling capital project to be located at the Tri-City Facility (the “Solids Handling Project”) during the Transition Period. This may require borrowings by the Partners individually or by WES. To allow for the greatest efficiency in moving forward with said project, the Partners agree that Rate Zone One ratepayers shall be responsible for thirty-six percent (36%) of any and all costs or debt associated with the Solids Handling Project, and Rate Zone Two ratepayers shall be responsible for sixty-four percent (64%) of any and all costs or debt associated with the Solids Handling Project. Rate Zone Three shall not be required to contribute any revenue in support of the Solids Handling Project. This ratio shall only apply to the Solids Handling Project. As set forth in Section 3.07, Rate Zone Two shall remain solely obligated for the CCSD#1 Bonds, and Section 3.10 shall govern future WES projects.

8. Section 3.10 shall be amended in its entirety to state:

Section 3.10 Allocation of WES Debt Amongst Rate Zones. Except as provided for in Section 3.09, whether WES Debt is issued as revenue bonds, revenue obligations, or general obligation bonds through the Partners, or otherwise, each ratepayer within a Rate Zone shall share equally in the cost of such WES Debt, whether for capacity expansion, asset replacement, regulatory requirements, or system efficiency reasons, that are related to the services received by such ratepayer. The WES Board shall not allocate expenses for WES Debt unevenly, but shall treat all ratepayers within all Rate Zones receiving similar services

the same with respect to such WES Debt. It is the intention and policy of the WES Board to have ratepayers within the three zones to pay only for the portion of WES Debt associated with the type of services received by such ratepayer. Therefore, WES Debt associated with surface water will only be allocated to ratepayers that receive surface water services from WES, WES Debt associated with retail wastewater will only be allocated to ratepayers that receive retail wastewater services, and WES Debt associated with wholesale wastewater will only be allocated to ratepayers that receive wholesale wastewater services. A ratepayer may receive more than one kind of service and may contribute to multiple elements of WES Debt based on such services. The WES Board authorizes the WES Director, or the Director's designee, as defined in Section 2.07 to make a determination as to which service or services are related to some or all of WES Debt.

9. Section 3.13 shall be amended in its entirety to state:

Section 3.13 WES Budgeting. Beginning July 1, 2017, WES may adopt and operate pursuant to an annual budget, consistent with Oregon Local Budget Law, including a duly composed budget committee and appropriate public hearings. The WES Board shall have full authority over such budget, including the ability to amend or adjust the same as allowed by applicable law. WES shall operate within its annual budget.

10. Notwithstanding Section 4.01 of the Agreement, nothing in the Agreement nor this Amendment shall be construed to require WES to accept wastewater flows from within the SWMACC boundary without the specific authorization of the WES Board, or to require Rate Zone Three to apply wastewater-related provisions to its customers without specific authorization by the WES Board.

Except as set forth herein, CCSD#1, TCSD and SWMACC ratify the remainder of the Agreement and affirm that no other changes are made hereby.

Clackamas County Service District No. 1

Tri-City Service District

Chair

Chair

Clerk

Clerk

Surface Water Management Agency of Clackamas County

Chair

Clerk

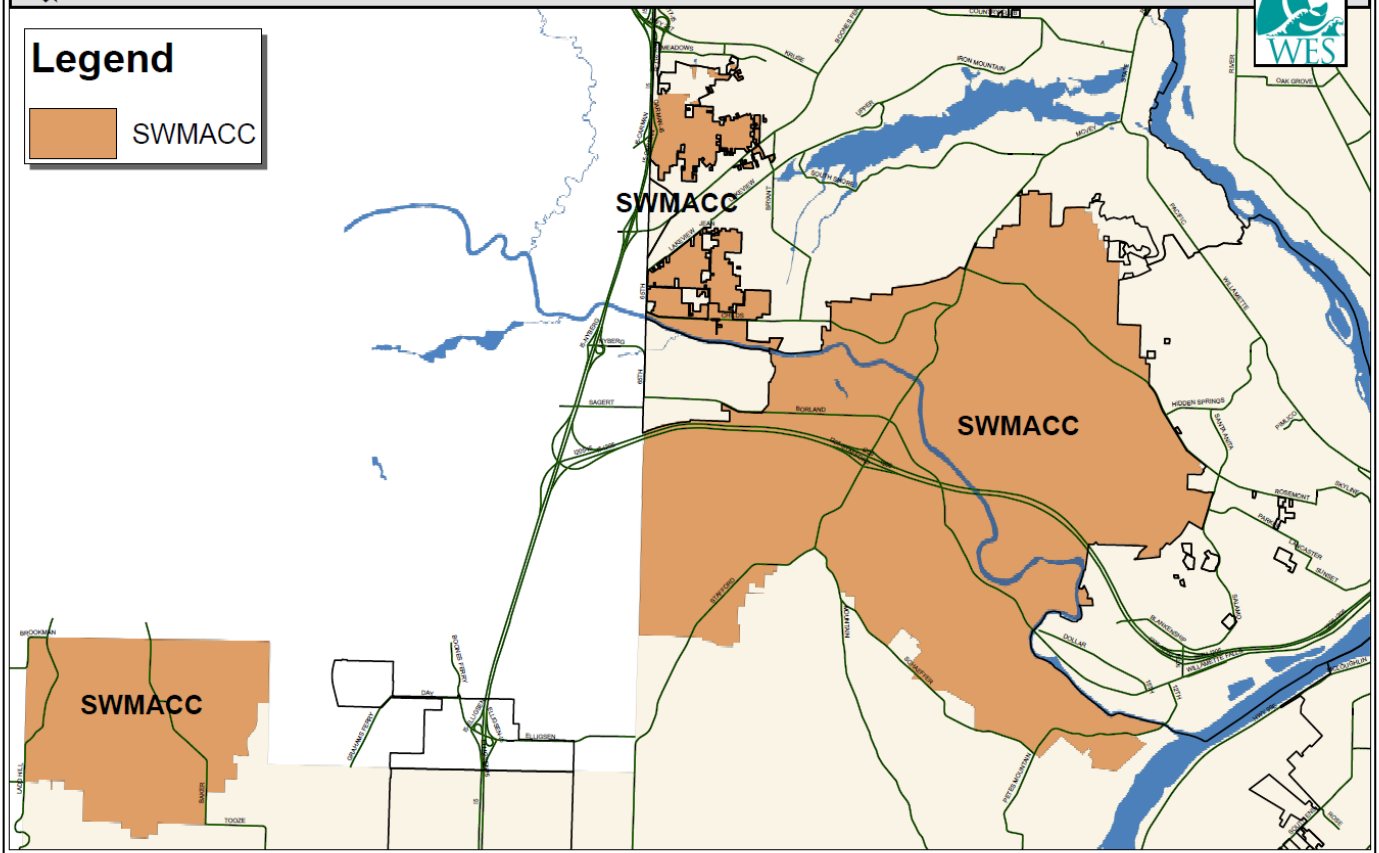


Exhibit B - WES Rate Zone 3 (SWMACC)



Legend

 SWMACC





Gregory L. Geist
Director

May 18, 2017

Board of County Commissioners
of Clackamas County acting as the
Governing Body of the Surface
Water Management Agency of
Clackamas County

Members of the Board:

Amendment of the Intergovernmental Partnership Agreement
Forming the Water Environment Services Partnership
To Add the Surface Water Management Agency of Clackamas County

Purpose/Outcomes	Execution of an amendment to the WES partnership agreement to allow SWMACC to join the WES partnership, and a corresponding ordinance adoption.
Dollar Amount and Fiscal Impact	None in current budget year.
Funding Source	Not Applicable.
Duration	Permanent.
Previous Board Action	Multiple governance conversations over the past several years. Receipt of 2008 Committee recommendation for partnership between CCSD#1 and TCSD. Formation of WES 190 partnership in November 2016.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build strong infrastructure. • Ensure safe, healthy and secure communities. • Honor, utilize, promote and invest in our natural resources. • Grow a vibrant economy.
Contact Person	Greg Geist, WES Director Chris Storey, Assistant County Counsel
Contract No.	Not Applicable.

ISSUE

The Surface Water Management Agency of Clackamas County (“SWMACC”) provides surface water services in areas that drain to the Tualatin River, including the incorporated City of Rivergrove, in Clackamas County. It currently has an Operating Fund budget of ~\$200,000, with reserves of about \$450,000.

Due to regulatory requirements, SWMACC operates somewhat independently from Clackamas County Service District No. 1 (“CCSD#1”) in the delivery of surface water services even though managed by the same department.

In November 2016, the Board created an Oregon Revised Statutes Chapter 190 partnership called Water Environment Services (“WES”) between CCSD#1 and the Tri-City Service District (“TCSD”) for mutual operation and investment in order to best provide cost savings, efficiencies, and a level of certainty for current and future infrastructure investments.

As CCSD#1 integrates into the WES partnership over the next year, that new entity will be providing surface water services on behalf of CCSD#1. The Municipal Separate Storm Sewer System (“MS4”) permit issued by the State of Oregon makes the entities of urban Clackamas County co-permittees, including SWMACC and CCSD#1, along with city partners. Staff believe that both CCSD#1 and SWMACC would benefit by having one unified approach to surface water management across affected watersheds. It would also better position WES to support the County generally as broader watershed regulations may be applied, and support partner Clackamas County entities such as the cities within TCSD with issues as co-permittees under the MS4.

BACKGROUND

Regionalization of wastewater and surface water services has been a significant topic of discussion in Clackamas County for many years. It was the impetus for the formation of CCSD#1 and TCSD, and their eventual co-location partnership in 1999 and again in 2008.

As the BCC was entering into agreements to allow CCSD#1 to construct facilities at the Tri-City Plant, it directed that a regionally-representative blue ribbon group be formed, consisting of members of the business community, environmental groups, ratepayers, and elected officials from all affected cities including Gladstone, Happy Valley, Oregon City, Milwaukie, and West Linn (the “Blue Ribbon Committee”). This Blue Ribbon Committee participated in a thorough examination of the potential costs and benefits of closer cooperation and partnership. The Blue Ribbon Committee found that: (i) there were significant financial benefits to each of the communities’ ratepayers by making collective investment and management decisions, with millions in projected savings; (ii) there was an equitable fiscal and operational model that ensured fairness for all; and (iii) governance and ratepayer interests of all stakeholders could be addressed in a collective investment and operational approach.

One of the conditions of the Blue Ribbon Committee’s findings was that each community’s ratepayers would be responsible for their prior debt and actions. This condition was recognized by the BCC as crucial in any regional solution.

The concept of regionalization of wastewater efforts was further discussed by the Regional Wastewater Treatment Capacity Advisory Committee (“Regional Committee”) over several years. In 2012, after a recommendation from the Regional Committee, CCSD#1 and TCSD agreed to mutually invest and acquire the Blue Heron lagoon and associated Clean Water Act permit, with each sharing equally in all related costs to avoid infrastructure expenditures imposed by regulatory requirements. Further investigations and conversations at the Regional Committee in 2015-16 have indicated substantial cost savings to ratepayers through a joint investment strategy for solids handling infrastructure.

In November of 2016, the Board of County Commissioners (“BCC”) unanimously adopted an ORS 190 agreement (the “Agreement”) creating WES, a separate legal entity in the form of a municipal partnership, on behalf of and including CCSD#1 and TCSD. Both service districts continue to exist, and their boundaries will continue to change and define the scope of the WES entity. However, pursuant to the Agreement, it is the direction of the Board that the management, operations, regulatory affairs, and financial affairs (excepting previously existing debt) be integrated to achieve the savings for ratepayers identified by the Blue Ribbon Committee. The Agreement at this time does not include the third service district managed in the department, SWMACC.

At a policy session held May 2nd, the Board directed staff to prepare the materials necessary to allow SWMACC to join the WES partnership by the end of this fiscal year to better integrate surface water management services and realize efficiencies thereby.

An amendment to the Agreement is attached hereto to add SWMACC and clarify certain language.

To effectuate the amendment to the Agreement, the Board would also need to adopt an ordinance, which is attached. Pursuant to ORS 198.550, an ordinance typically has two readings no less than six days apart, and then goes into effect thirty days thereafter. Due to the Board’s schedule, there are not sufficient meetings to consider the addition of SWMACC and have it go into effect prior to the end of the fiscal year without declaring an emergency. Staff propose adopting the ordinance in a single reading instead of two, since it merely ratifies the entry of SWMACC into the Agreement, and allow the regular thirty days for it to become effective. If adopted, SWMACC would join the WES partnership as of June 17, 2017.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners, acting as the governing body of the Surface Water Management Agency of Clackamas County, execute the attached amendment to the Agreement, and adopt the attached Ordinance in a single reading by declaring an emergency with respect

to the number of readings only, without impact to the notice and effective date period.

Regards,

Gregory Geist
Director
Water Environment Services

ORDINANCE NO. _____

OF THE SURFACE WATER MANAGEMENT AGENCY OF CLACKAMAS COUNTY

AN ORDINANCE AUTHORIZING THE JOINING INTO AN INTERGOVERNMENTAL PARTNERSHIP AGREEMENT WITH CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 AND TRI-CITY SERVICE DISTRICT REGARDING THE WATER ENVIRONMENT SERVICES PARTNERSHIP

WHEREAS, the Board of County Commissioners as the governing body of the Surface Water Management Agency of Clackamas County (the "District") is desirous of joining with Clackamas County Service District No. 1 and the Tri-City Service District into the existing Water Environment Services partnership for the purposes of providing more efficient and cost-effective wastewater and surface water services on a more regionalized basis; and

WHEREAS, the attached amendment to the Intergovernmental Partnership Agreement ("Agreement") allows the addition of the District to the Water Environment Services partnership to accomplish that purpose as more fully stated in the Agreement pursuant to Oregon Revised Statutes Chapter 190; and

WHEREAS, it is in the best interests of the District and the WES Partnership to allow the District to join prior to the end of the 2016-17 fiscal year and adopting this ordinance in a single reading is the best way to effectuate that goal;

NOW THEREFORE, the SURFACE WATER MANAGEMENT AGENCY OF CLACKAMAS COUNTY BOARD ORDAINS AS FOLLOWS:

Section 1. The Amendment of the Intergovernmental Partnership Agreement between Clackamas County Service District No. 1, the Tri-City Service District, and the Surface Water Management Agency of Clackamas County regarding the municipal entity known as "Water Environment Services" as attached hereto as Exhibit A and incorporated herein, is hereby adopted and affirmed. The District agrees to all terms and conditions of the Agreement as modified by the amendment and will act as a full partner going forward from the effective date.

Read first time at a regular meeting of the District Board held on the 18th day of May, 2017, and the foregoing ordinance was enacted by the District Board this 18th day of May, 2017 with an effective date of June 17th, 2017.

ADOPTED this 18th day of May, 2017.

**BOARD OF COUNTY COMMISSIONERS
as the governing body of
SURFACE WATER MANAGEMENT AGENCY OF CLACKAMAS COUNTY**

Chair

Recording Secretary

**AMENDMENT #1 TO THE WATER ENVIRONMENT SERVICES
PARTNERSHIP AGREEMENT**

This Amendment #1 to the Water Environment Services Partnership Agreement (this “Amendment”) is by and between Clackamas County Service District No. 1, a county service district formed under Oregon Revised Statute (“ORS”) Chapter 451 (“CCSD#1”), the Surface Water Management Agency of Clackamas County, a county service district formed under ORS Chapter 451 (“SWMACC”), and the Tri-City Service District, a county service district formed under ORS Chapter 451 (“TCSD”), pursuant to ORS Chapter 190 for the amendment of an already-existing intergovernmental entity. The parties are herein individually referred to as “Partner” and collectively as the “Partners.”

WHEREAS, CCSD#1 and TCSD entered into that certain ORS 190 partnership agreement dated November 3, 2016 to form the Water Environment Services municipal partnership entity (the “Agreement”); and

WHEREAS, CCSD#1 and TCSD desire to amend the Agreement to clarify certain provisions and add SWMACC as a party to the Agreement pursuant to this Amendment; and

WHEREAS, SWMACC desires to join the Water Environment Services partnership and is willing to adhere to the terms and conditions of the same as set forth in the Agreement as modified by this Amendment; and

WHEREAS, the Parties desire to refine the Agreement to clarify certain financial issues;

NOW, THEREFORE, CCSD#1, SWMACC, and TCSD each hereby agree that the Agreement is amended as follows:

1. The Surface Water Management Agency of Clackamas County (“SWMACC”) is added to the Agreement and considered a “Partner” and part of the collective “Partners” for all purposes therein.
2. The following definitions in Section 1.11 is hereby amended to read:
 - (g) “Gross Revenues” means all revenues, fees and charges, capital charge revenues and capital charge proceeds, and other revenues resulting from the operation of the wastewater and surface water systems, including System Development Charges, revenues from product sales and interest earnings on Gross Revenues in the wastewater and surface water enterprise fund(s). However, the term “Gross Revenues” does not include:
 - i. The interest income or other earnings derived from the investment of rebate funds or any escrow fund established for the defeasance or refunding of outstanding indebtedness of the Members prior to the establishment of this Agreement.
 - ii. Committed capital charges which means all assessments for local improvements to the wastewater and surface water systems and related cash and installment loan contract payments.

- iii. Any gifts, grants, donations or other moneys received by WES from any State or Federal government entity or other person.
 - iv. The proceeds of any borrowing.
 - v. The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues).
 - vi. The proceeds of any casualty insurance that WES intends to utilize for repair or replacement of the wastewater and/or surface water systems.
 - vii. The proceeds derived from the sale of assets.
 - viii. Any ad valorem or other taxes imposed by WES, its successors or assigns.
 - ix. Any income, fees, charges, receipts, profits or other moneys derived by WES from its ownership or operation of any separate utility system; where a separate utility system means any utility property which is declared by the Board to constitute a system which is distinct from the wastewater and surface water systems.
- (h) "Partners" means CCSD#1, SWMACC, and TCSD, and any subsequently admitted Partners added pursuant to an amendment to this Agreement.

3. Section 3.02 shall be amended in its entirety to state:

3.02 Rate Zones and Differentials. The WES Board shall establish rates for each rate zone of WES. There shall be three rate zones. "Rate Zone One" shall be coterminous with the boundaries of TCSD, as they may be adjusted from time to time. "Rate Zone Two" shall be coterminous with the boundaries of CCSD#1, as they may be adjusted from time to time. "Rate Zone Three" shall be coterminous with the boundaries of SWMACC, as they may be adjusted from time to time. For illustrative purposes, maps and a general description of Rate Zone One, Rate Zone Two and Rate Zone Three are attached hereto as Exhibit B. The WES Board shall have full power and authority to levy different rates between and within the rate zones. Rate Zones One and Two shall generally each pay a wholesale charge for wastewater treatment service. At the time of formation of WES, Rate Zone Two shall also pay sufficient amounts to meet the CCSD#1 Debt Service, retail wastewater service, and surface water services. At the time of integration of SWMACC, Rate Zone Three shall pay charges for surface water management only. As levels of service change within any zone, the WES Board may add or subtract charges within the Rate Zones; *provided, however*, that the WES Board may not add any payment for the CCSD#1 Debt Service to Rate Zone One or Rate Zone Three, except as provided in Section 2.04. The WES Board may create sub-zones within each Rate Zone as it deems advisable for reasons consistent with the Purpose, including but not limited to the exclusion of retail charges if that service is provided by a local government whose boundaries are within one of the Partners or the inclusion of a rate surcharge to recover the cost of right of way fees levied by a local government entity.

4. In order to reflect the addition of SWMACC into WES, Exhibit B is hereby supplemented with "Exhibit B – Rate Zone 3 (SWMACC)" attached to this Amendment.

5. Section 3.06 shall be amended in its entirety to state:

Section 3.06 Local System Expenses. The Wastewater Service Charge, Surface Water Service Charge, and system Development Charge shall be deemed Gross Revenues to the maximum extent possible under existing bond resolutions and ordinances, and shall be expressly deemed as resources available to fund the maintenance and operations expenses of the wastewater and surface water systems of each Partner in any future bond issue or other financing payable in whole or in part from the Gross Revenues of such systems. Local System Expenses shall be payable and constitute a charge prior and superior to any charge or lien of any revenue bonds, or any obligations, issued by the Partners payable from the net revenues (Gross Revenues less Local System Expenses) of their respective wastewater or surface water systems.

6. Section 3.07 shall be amended in its entirety to state:

Section 3.07 Existing Partner Debt. The Partners acknowledge that CCSD#1 has currently outstanding debt, namely the CCSD#1 Bonds, relating to its existing system, and that neither TCSD nor SWMACC have any outstanding debt. The Partners acknowledge and agree that the ratepayers of TCSD and SWMACC shall not be responsible in any case for the CCSD#1 Bonds and related CCSD#1 Debt Service. Nothing in this Agreement is intended or shall be construed to violate any covenant of these outstanding bonds, and such covenants, to the extent there is a conflict between them and this Agreement, shall control with respect to such outstanding bonds and any debt issued on a parity with such bonds and required to have the same covenants as the outstanding bonds.

7. Section 3.09 shall be amended in its entirety to state:

Section 3.09 Transition Period Capital Project. The Partners anticipate moving forward with a solids handling capital project to be located at the Tri-City Facility (the “Solids Handling Project”) during the Transition Period. This may require borrowings by the Partners individually or by WES. To allow for the greatest efficiency in moving forward with said project, the Partners agree that Rate Zone One ratepayers shall be responsible for thirty-six percent (36%) of any and all costs or debt associated with the Solids Handling Project, and Rate Zone Two ratepayers shall be responsible for sixty-four percent (64%) of any and all costs or debt associated with the Solids Handling Project. Rate Zone Three shall not be required to contribute any revenue in support of the Solids Handling Project. This ratio shall only apply to the Solids Handling Project. As set forth in Section 3.07, Rate Zone Two shall remain solely obligated for the CCSD#1 Bonds, and Section 3.10 shall govern future WES projects.

8. Section 3.10 shall be amended in its entirety to state:

Section 3.10 Allocation of WES Debt Amongst Rate Zones. Except as provided for in Section 3.09, whether WES Debt is issued as revenue bonds, revenue obligations, or general obligation bonds through the Partners, or otherwise, each ratepayer within a Rate Zone shall share equally in the cost of such WES Debt, whether for capacity expansion, asset replacement, regulatory requirements, or system efficiency reasons, that are related to the services received by such ratepayer. The WES Board shall not allocate expenses for WES Debt unevenly, but shall treat all ratepayers within all Rate Zones receiving similar services

the same with respect to such WES Debt. It is the intention and policy of the WES Board to have ratepayers within the three zones to pay only for the portion of WES Debt associated with the type of services received by such ratepayer. Therefore, WES Debt associated with surface water will only be allocated to ratepayers that receive surface water services from WES, WES Debt associated with retail wastewater will only be allocated to ratepayers that receive retail wastewater services, and WES Debt associated with wholesale wastewater will only be allocated to ratepayers that receive wholesale wastewater services. A ratepayer may receive more than one kind of service and may contribute to multiple elements of WES Debt based on such services. The WES Board authorizes the WES Director, or the Director's designee, as defined in Section 2.07 to make a determination as to which service or services are related to some or all of WES Debt.

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Clackamas County Service District No. 1

Tri-City Service District

Chair

Chair

Clerk

Clerk

Surface Water Management Agency of Clackamas County

Chair

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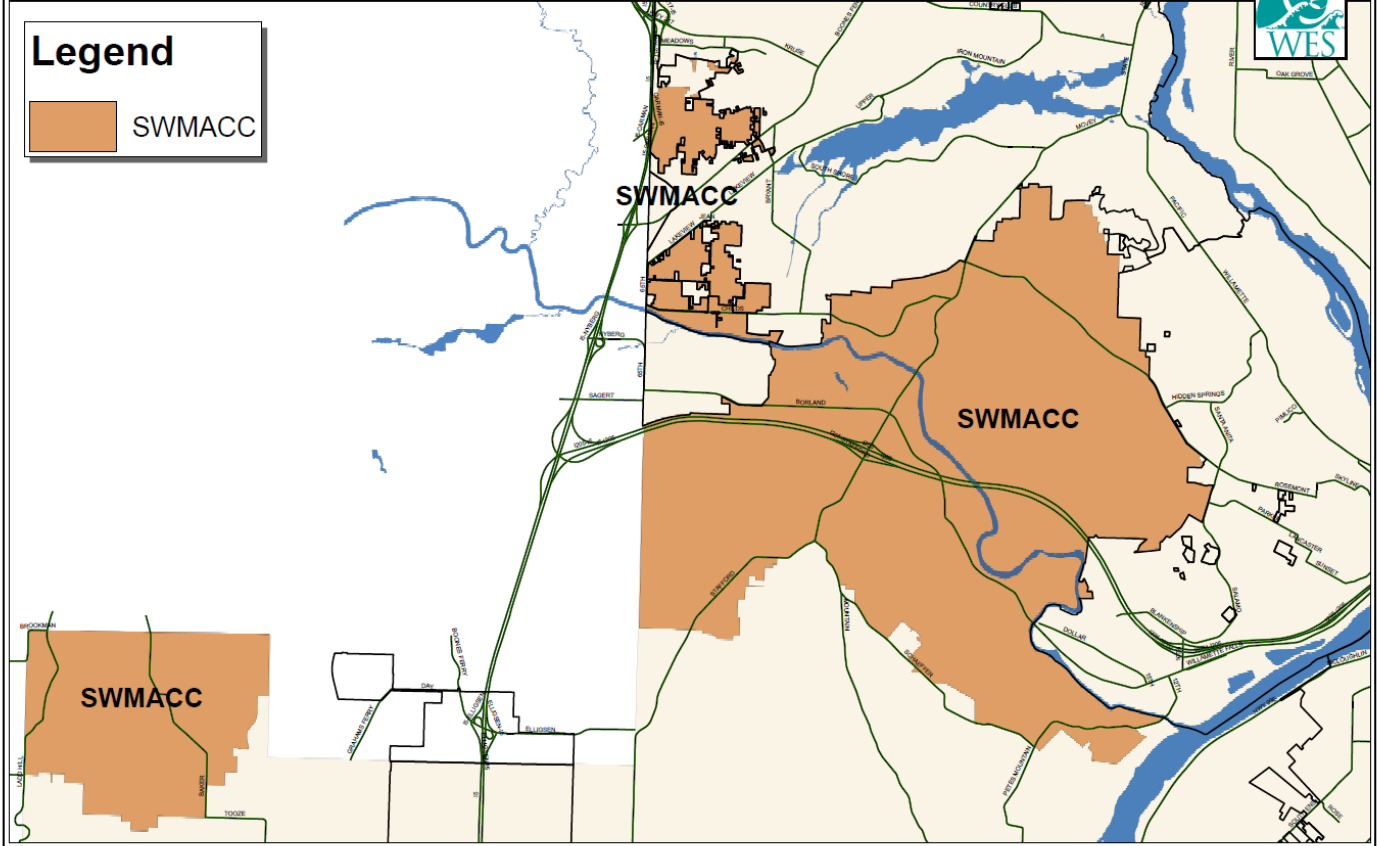


Exhibit B - WES Rate Zone 3 (SWMACC)



Legend

SWMACC





Gregory L. Geist
Director

May 18, 2017

Board of County Commissioners
of Clackamas County acting as the
Governing Body of the Tri-City
Service District

Members of the Board:

Amendment of the Intergovernmental Partnership Agreement
Forming the Water Environment Services Partnership
To Add the Surface Water Management Agency of Clackamas County

Purpose/Outcomes	Execution of an amendment to the WES partnership agreement to allow SWMACC to join the WES partnership, and a corresponding ordinance adoption.
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Funding Source	Not Applicable.
Duration	Permanent.
Previous Board Action	Multiple governance conversations over the past several years. Receipt of 2008 Committee recommendation for partnership between CCSD#1 and TCSD. Formation of WES 190 partnership in November 2016.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build strong infrastructure. • Ensure safe, healthy and secure communities. • Honor, utilize, promote and invest in our natural resources. • Grow a vibrant economy.
Contact Person	Greg Geist, WES Director Chris Storey, Assistant County Counsel
Contract No.	Not Applicable.

ISSUE

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At a policy session held May 2nd, the Board directed staff to prepare the materials necessary to allow SWMACC to join the WES partnership by the end of this fiscal year to better integrate surface water management services and realize efficiencies thereby.

An amendment to the Agreement is attached hereto to add SWMACC and clarify certain language.

To effectuate the amendment to the Agreement, the Board would also need to adopt an ordinance, which is attached. Pursuant to ORS 198.550, an ordinance typically has two readings no less than six days apart, and then goes into effect thirty days thereafter. Due to the Board’s schedule, there are not sufficient meetings to consider the addition of SWMACC and have it go into effect prior to the end of the fiscal year without declaring an emergency. Staff propose adopting the ordinance in a single reading instead of two, since it merely ratifies the entry of SWMACC into the Agreement, and allow the regular thirty days for it to become effective. If adopted, SWMACC would join the WES partnership as of June 17, 2017.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners, acting as the governing body of the Tri-City Service District, execute the attached amendment to the Agreement, and adopt the attached Ordinance in a single

reading by declaring an emergency with respect to the number of readings only, without impact to the notice and effective date period.

Regards,

Gregory Geist
Director
Water Environment Services

ORDINANCE NO. _____
OF TRI-CITY SERVICE DISTRICT

AN ORDINANCE AUTHORIZING AN AMENDMENT OF THE INTERGOVERNMENTAL PARTNERSHIP AGREEMENT BETWEEN CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 AND TRI-CITY SERVICE DISTRICT REGARDING THE WATER ENVIRONMENT SERVICES PARTNERSHIP

WHEREAS, the Board of County Commissioners as the governing body of Tri-City Service District (the “District”) is desirous of allowing the Surface Water Management Agency of Clackamas County (“SWMACC”) to join with the District and Clackamas County Service District No. 1 for the purposes of providing more efficient and cost-effective wastewater and surface water services on a more regionalized basis; and

WHEREAS, the attached amendment to the Intergovernmental Partnership Agreement (“Agreement”) allows the addition of SWMACC to the Water Environment Services partnership to accomplish that purpose as more fully stated in the Agreement pursuant to Oregon Revised Statutes Chapter 190; and

WHEREAS, it is in the best interests of the District and the WES Partnership to allow SWMACC to join prior to the end of the 2016-17 fiscal year and adopting this ordinance in a single reading is the best way to effectuate that goal;

NOW THEREFORE, TRI-CITY SERVICE DISTRICT BOARD ORDAINS AS FOLLOWS:

Section 1. The Amendment of the Intergovernmental Partnership Agreement between Clackamas County Service District No. 1, the Tri-City Service District, and the Surface Water Management Agency of Clackamas County regarding the municipal entity known as “Water Environment Services” as attached hereto as Exhibit A and incorporated herein, is hereby adopted and affirmed.

Read first time at a regular meeting of the District Board held on the 18th day of May, 2017, and the foregoing ordinance was enacted by the District Board this 18th day of May, 2017 with an effective date of June 17th, 2017.

ADOPTED this 18th day of May, 2017.

BOARD OF COUNTY COMMISSIONERS
as the governing body of
TRI-CITY SERVICE DISTRICT

Chair

Recording Secretary

**AMENDMENT #1 TO THE WATER ENVIRONMENT SERVICES
PARTNERSHIP AGREEMENT**

This Amendment #1 to the Water Environment Services Partnership Agreement (this “Amendment”) is by and between Clackamas County Service District No. 1, a county service district formed under Oregon Revised Statute (“ORS”) Chapter 451 (“CCSD#1”), the Surface Water Management Agency of Clackamas County, a county service district formed under ORS Chapter 451 (“SWMACC”), and the Tri-City Service District, a county service district formed under ORS Chapter 451 (“TCSD”), pursuant to ORS Chapter 190 for the amendment of an already-existing intergovernmental entity. The parties are herein individually referred to as “Partner” and collectively as the “Partners.”

WHEREAS, CCSD#1 and TCSD entered into that certain ORS 190 partnership agreement dated November 3, 2016 to form the Water Environment Services municipal partnership entity (the “Agreement”); and

WHEREAS, CCSD#1 and TCSD desire to amend the Agreement to clarify certain provisions and add SWMACC as a party to the Agreement pursuant to this Amendment; and

WHEREAS, SWMACC desires to join the Water Environment Services partnership and is willing to adhere to the terms and conditions of the same as set forth in the Agreement as modified by this Amendment; and

WHEREAS, the Parties desire to refine the Agreement to clarify certain financial issues;

NOW, THEREFORE, CCSD#1, SWMACC, and TCSD each hereby agree that the Agreement is amended as follows:

1. The Surface Water Management Agency of Clackamas County (“SWMACC”) is added to the Agreement and considered a “Partner” and part of the collective “Partners” for all purposes therein.
2. The following definitions in Section 1.11 is hereby amended to read:
 - (g) “Gross Revenues” means all revenues, fees and charges, capital charge revenues and capital charge proceeds, and other revenues resulting from the operation of the wastewater and surface water systems, including System Development Charges, revenues from product sales and interest earnings on Gross Revenues in the wastewater and surface water enterprise fund(s). However, the term “Gross Revenues” does not include:
 - i. The interest income or other earnings derived from the investment of rebate funds or any escrow fund established for the defeasance or refunding of outstanding indebtedness of the Members prior to the establishment of this Agreement.
 - ii. Committed capital charges which means all assessments for local improvements to the wastewater and surface water systems and related cash and installment loan contract payments.

- iii. Any gifts, grants, donations or other moneys received by WES from any State or Federal government entity or other person.
 - iv. The proceeds of any borrowing.
 - v. The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues).
 - vi. The proceeds of any casualty insurance that WES intends to utilize for repair or replacement of the wastewater and/or surface water systems.
 - vii. The proceeds derived from the sale of assets.
 - viii. Any ad valorem or other taxes imposed by WES, its successors or assigns.
 - ix. Any income, fees, charges, receipts, profits or other moneys derived by WES from its ownership or operation of any separate utility system; where a separate utility system means any utility property which is declared by the Board to constitute a system which is distinct from the wastewater and surface water systems.
- (h) "Partners" means CCSD#1, SWMACC, and TCSD, and any subsequently admitted Partners added pursuant to an amendment to this Agreement.

3. Section 3.02 shall be amended in its entirety to state:

3.02 Rate Zones and Differentials. The WES Board shall establish rates for each rate zone of WES. There shall be three rate zones. "Rate Zone One" shall be coterminous with the boundaries of TCSD, as they may be adjusted from time to time. "Rate Zone Two" shall be coterminous with the boundaries of CCSD#1, as they may be adjusted from time to time. "Rate Zone Three" shall be coterminous with the boundaries of SWMACC, as they may be adjusted from time to time. For illustrative purposes, maps and a general description of Rate Zone One, Rate Zone Two and Rate Zone Three are attached hereto as Exhibit B. The WES Board shall have full power and authority to levy different rates between and within the rate zones. Rate Zones One and Two shall generally each pay a wholesale charge for wastewater treatment service. At the time of formation of WES, Rate Zone Two shall also pay sufficient amounts to meet the CCSD#1 Debt Service, retail wastewater service, and surface water services. At the time of integration of SWMACC, Rate Zone Three shall pay charges for surface water management only. As levels of service change within any zone, the WES Board may add or subtract charges within the Rate Zones; *provided, however*, that the WES Board may not add any payment for the CCSD#1 Debt Service to Rate Zone One or Rate Zone Three, except as provided in Section 2.04. The WES Board may create sub-zones within each Rate Zone as it deems advisable for reasons consistent with the Purpose, including but not limited to the exclusion of retail charges if that service is provided by a local government whose boundaries are within one of the Partners or the inclusion of a rate surcharge to recover the cost of right of way fees levied by a local government entity.

4. In order to reflect the addition of SWMACC into WES, Exhibit B is hereby supplemented with "Exhibit B – Rate Zone 3 (SWMACC)" attached to this Amendment.

5. Section 3.06 shall be amended in its entirety to state:

Section 3.06 Local System Expenses. The Wastewater Service Charge, Surface Water Service Charge, and system Development Charge shall be deemed Gross Revenues to the maximum extent possible under existing bond resolutions and ordinances, and shall be expressly deemed as resources available to fund the maintenance and operations expenses of the wastewater and surface water systems of each Partner in any future bond issue or other financing payable in whole or in part from the Gross Revenues of such systems. Local System Expenses shall be payable and constitute a charge prior and superior to any charge or lien of any revenue bonds, or any obligations, issued by the Partners payable from the net revenues (Gross Revenues less Local System Expenses) of their respective wastewater or surface water systems.

6. Section 3.07 shall be amended in its entirety to state:

Section 3.07 Existing Partner Debt. The Partners acknowledge that CCSD#1 has currently outstanding debt, namely the CCSD#1 Bonds, relating to its existing system, and that neither TCSD nor SWMACC have any outstanding debt. The Partners acknowledge and agree that the ratepayers of TCSD and SWMACC shall not be responsible in any case for the CCSD#1 Bonds and related CCSD#1 Debt Service. Nothing in this Agreement is intended or shall be construed to violate any covenant of these outstanding bonds, and such covenants, to the extent there is a conflict between them and this Agreement, shall control with respect to such outstanding bonds and any debt issued on a parity with such bonds and required to have the same covenants as the outstanding bonds.

7. Section 3.09 shall be amended in its entirety to state:

Section 3.09 Transition Period Capital Project. The Partners anticipate moving forward with a solids handling capital project to be located at the Tri-City Facility (the “Solids Handling Project”) during the Transition Period. This may require borrowings by the Partners individually or by WES. To allow for the greatest efficiency in moving forward with said project, the Partners agree that Rate Zone One ratepayers shall be responsible for thirty-six percent (36%) of any and all costs or debt associated with the Solids Handling Project, and Rate Zone Two ratepayers shall be responsible for sixty-four percent (64%) of any and all costs or debt associated with the Solids Handling Project. Rate Zone Three shall not be required to contribute any revenue in support of the Solids Handling Project. This ratio shall only apply to the Solids Handling Project. As set forth in Section 3.07, Rate Zone Two shall remain solely obligated for the CCSD#1 Bonds, and Section 3.10 shall govern future WES projects.

8. Section 3.10 shall be amended in its entirety to state:

Section 3.10 Allocation of WES Debt Amongst Rate Zones. Except as provided for in Section 3.09, whether WES Debt is issued as revenue bonds, revenue obligations, or general obligation bonds through the Partners, or otherwise, each ratepayer within a Rate Zone shall share equally in the cost of such WES Debt, whether for capacity expansion, asset replacement, regulatory requirements, or system efficiency reasons, that are related to the services received by such ratepayer. The WES Board shall not allocate expenses for WES Debt unevenly, but shall treat all ratepayers within all Rate Zones receiving similar services

the same with respect to such WES Debt. It is the intention and policy of the WES Board to have ratepayers within the three zones to pay only for the portion of WES Debt associated with the type of services received by such ratepayer. Therefore, WES Debt associated with surface water will only be allocated to ratepayers that receive surface water services from WES, WES Debt associated with retail wastewater will only be allocated to ratepayers that receive retail wastewater services, and WES Debt associated with wholesale wastewater will only be allocated to ratepayers that receive wholesale wastewater services. A ratepayer may receive more than one kind of service and may contribute to multiple elements of WES Debt based on such services. The WES Board authorizes the WES Director, or the Director's designee, as defined in Section 2.07 to make a determination as to which service or services are related to some or all of WES Debt.

9. Section 3.13 shall be amended in its entirety to state:

Section 3.13 WES Budgeting. Beginning July 1, 2017, WES may adopt and operate pursuant to an annual budget, consistent with Oregon Local Budget Law, including a duly composed budget committee and appropriate public hearings. The WES Board shall have full authority over such budget, including the ability to amend or adjust the same as allowed by applicable law. WES shall operate within its annual budget.

10. Notwithstanding Section 4.01 of the Agreement, nothing in the Agreement nor this Amendment shall be construed to require WES to accept wastewater flows from within the SWMACC boundary without the specific authorization of the WES Board, or to require Rate Zone Three to apply wastewater-related provisions to its customers without specific authorization by the WES Board.

Except as set forth herein, CCSD#1, TCSD and SWMACC ratify the remainder of the Agreement and affirm that no other changes are made hereby.

Clackamas County Service District No. 1

Tri-City Service District

Chair

Chair

Clerk

Clerk

Surface Water Management Agency of Clackamas County

Chair

Clerk

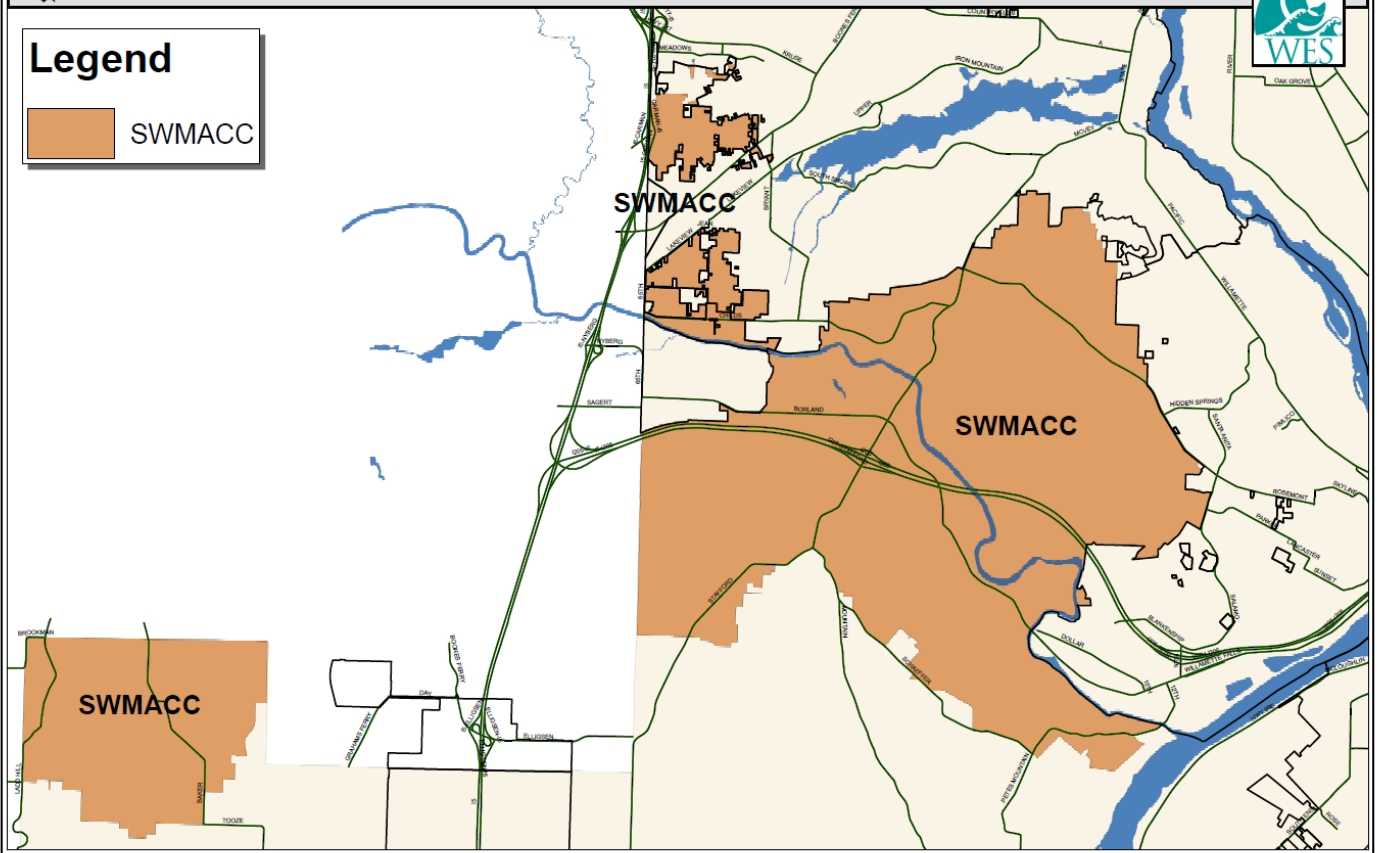


Exhibit B - WES Rate Zone 3 (SWMACC)



Legend

 SWMACC



May 18, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Agency Service Contract with LifeWorks NW for
Supported Employment Services for Uninsured and Indigent Clackamas County Residents

Purpose/Outcomes	To assist uninsured or indigent Clackamas County residents with rehabilitation and a return to productive employment
Dollar Amount and Fiscal Impact	Contract maximum payment is \$77,758
Funding Source	State of Oregon. No County General Funds are involved
Duration	Effective July 1, 2016 through June 30, 2017
Previous Board Action	NA
Strategic Plan Alignment	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals 2. Ensure safe, healthy and secure communities
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division (503) 742-5305
Contract No.	# 7830

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of an Agency Service Contract with LifeWorks NW for Supported Employment Services for uninsured and indigent residents in Clackamas County. Supported Employment is an evidence-based practice with services intended to promote rehabilitation and return to productive employment. Programs use a team approach to engage and retain clients in treatment and provide the supports necessary to ensure success at the workplace. Choices and decisions about work and support are individualized based on the person's preferences, strengths, and experiences. LifeWorks NW uses clinical judgment to determine which services are appropriate, and what frequency of care is medically necessary.

The contract is effective July 1, 2016 and terminates June 30, 2017 with a maximum payment of \$77,758. County Counsel reviewed and approved this contract on January 25, 2017. This contract is retroactive due to a delayed receipt of funding from our grantor, combined with delayed contractor approval.

RECOMMENDATION:

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

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services Department

Healthy Families. Strong Communities.

AGENCY SERVICE CONTRACT

Contract # 7830

This Agency Service Contract is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY," and **LIFEWORKS NW** Hereinafter called "AGENCY" or "Contractor". Throughout this contract and all exhibits, the term "DEPARTMENT" shall refer to and mean the State of Oregon, Oregon Health Authority.

CONTRACT

1.0 Engagement

COUNTY hereby engages AGENCY to **Supported Employment Services to the uninsured and indigent residents of Clackamas County** as more fully described in Exhibit B, Scope of Work, attached hereto and incorporated herein.

2.0 Term

Services provided under the terms of this contract shall commence on **July 1, 2016** and shall terminate **June 30, 2017** unless terminated by one or both parties as provided for in paragraph 6.0 below.

3.0 Compensation and Fiscal Records

3.1 **Compensation.** COUNTY shall compensate AGENCY as specified in **Exhibit C, Compensation**. 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.

Maximum contract payment to AGENCY shall not exceed **\$77,758.00**

3.2 **Withholding of Contract Payments.** Notwithstanding any other payment provision of this contract, should 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, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until AGENCY submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

3.3 **Financial Records.** AGENCY and its subcontractors shall maintain complete and legible financial records pertaining in whole or in part to this contract. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines. Financial records and supporting documents shall be retained for at least six (6) years or such period as may be required by applicable law, following final payment is made under this contract or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, AGENCY shall repay the amount of the excess to COUNTY.

3.4 **Access to Records and Facilities.** COUNTY, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of AGENCY that are directly related to this contract, the funds paid to AGENCY hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, and transcripts. In addition, AGENCY shall permit authorized representatives of COUNTY and DEPARTMENT to perform site reviews of all services delivered by AGENCY hereunder.

3.4.1 AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this contract available to COUNTY upon request.

3.4.2 COUNTY may conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this contract. AGENCY agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of AGENCY which are pertinent to this contract to ensure appropriate expenditure of

funds under this contract. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

3.4.3 AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy, the independence rules contained within Governmental Auditing Standards (1994 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.

3.4.4 AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.

4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations and Special Federal Requirements. AGENCY shall comply with all Federal, State, local laws, rules, and regulations applicable to the work to be performed under this contract, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit D, paragraph 9. Compliance with Applicable Law, attached hereto and incorporated herein by this reference. AGENCY shall comply with Oregon Administrative Rule (OAR) 410-120-1380, which establishes the requirements for compliance with Section 4751 of Omnibus Budget Reconciliation Act (OBRA) 1991 and ORS 127-649, Patient Self-Determination Act.

4.1.1 AGENCY 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. Further, any violation of AGENCY'S warranty, in this Contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- i. Termination of this Contract, in whole or in part;
- ii. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
- iii. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'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.
- iv. These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

4.2 Precedence. A requirement listed both in the main boilerplate of this contract and in an exhibit, the exhibit shall take precedence.

4.3 Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.

4.4 Independent AGENCY. AGENCY certifies that it is an independent AGENCY and not an employee or agent of COUNTY, State, or Federal Government as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

4.5 Tax Laws. The AGENCY 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:

- i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- ii. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
- iii. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
- iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

5.0 General Conditions

5.1 **Indemnification.** AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand 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.

AGENCY shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of AGENCY, or its agents or employees under this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

5.2 **Insurance.** During the term of this contract, AGENCY shall maintain in force, at its own expense, each insurance noted below:

5.2.1 Commercial General Liability

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 \$1,000,000 per occurrence/\$3,000,000 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 contract. This policy(a) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

5.2.2 Commercial Automobile Liability

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, 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 \$2,000,000.

5.2.3 Professional Liability

Required by COUNTY Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Tail Coverage. If 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 AGENCY'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 this contract.

5.2.5 Additional Insured Provisions. The insurance, other than the professional liability insurance, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its commissioners, agents, officers, and employees" as an additional insured.

5.2.6 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 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.

5.2.7 Insurance Carrier Rating. Coverages provided by AGENCY 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.

5.2.8 Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to COUNTY. No contract 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 this contract have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

5.2.9 Primary Coverage Clarification. AGENCY's coverage will be primary in the event of a loss.

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

5.3 Governing Law; Consent to Jurisdiction. This contract shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this contract consents to the in personal jurisdiction of said courts.

5.4 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.

5.5 Severability. If any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be effected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this contract shall not constitute a waiver of that or any other provision.

5.7 Future Support. 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.

5.8 Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.

5.9 Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:

5.9.1 AGENCY shall:

- i. 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.
- ii. Pay all contributions or amounts due the Industrial Accident Fund from such agency or sub-contractor incurred in performance of this contract.
- iii. Not permit any lien or claim to be filed or prosecuted against COUNTY on account of any labor or material furnished.
- iv. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 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 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 contract.

5.9.3 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:

- i. 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;
- ii. 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
- iii. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

5.9.4 AGENCY shall pay employees at least time and a half for all overtime work performed under this contract in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.5 As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or contract for the purpose of providing or paying for the services.

5.9.6 Workers' Compensation. All subject employers working under this contract must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

5.10 Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.

5.11 Integration. This contract contains the entire contract between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.

5.12 Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

6.0 Termination

6.1 Termination without Cause. This contract may be terminated by mutual consent of both parties, or by either party, upon ninety (90) days' notice, in writing or delivered by certified mail or in person.

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

6.2.1 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.

6.2.2 COUNTY has evidence that AGENCY has endangered or is endangering the health or safety of clients, staff or the public. AGENCY shall ensure the orderly and reasonable transfer of care in progress with consumers and shall work with COUNTY staff to accomplish the same.

6.2.3 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of AGENCY, or the lapse relinquishment, suspension, expiration, cancellation or termination of AGENCY's insurance as required in this contract.

6.2.4 AGENCY's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage AGENCY's affairs, or the judicial declaration that AGENCY is insolvent.

6.2.5 AGENCY fails to perform any of the other provisions of this contract, or fails to pursue the work of this contract in accordance with its terms, and after written notice from the COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.2.6 Debarment and Suspension. COUNTY shall not permit any person or entity to be an AGENCY if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and AGENCYs declared ineligible under statutory authority other than Executive Order No. 12549. COUNTY shall require all AGENCYs with awards that exceed the simplified acquisition threshold to provide the required certification regarding their exclusion status and that of their principals prior to award.

6.3 Notice of Default. COUNTY may also issue a written notice of default (including breach of contract) to AGENCY and terminate the whole or any part of this contract if AGENCY substantially fails to perform the specific provisions of this contract. The rights and remedies of COUNTY related to default (including breach of contract) by AGENCY shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

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

7.0 Notices

If to AGENCY:

LifeWorks NW
14600 NW Cornell Road
Portland, OR 97229

If to COUNTY:

Clackamas County Behavioral Health Division
Attention: Contracts & Credentialing Analyst
2051 Kaen Road, # 367
Oregon City, OR 97045

This contract consists of seven (7) sections plus the following exhibits which by this reference are incorporated herein:

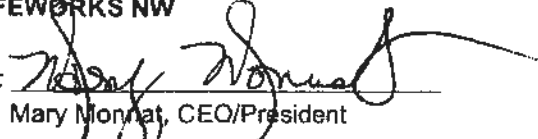
Exhibit A	Definitions
Exhibit B	Scopes of Work
Exhibit C	Compensation
Exhibit D	Statement of General Conditions
Exhibit E	Invoice Sample

(signature page follows)

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed by their duly authorized officers.

LIFEWORKS NW

By: 
Mary Monnat, CEO/President
5/24/17

Date

14600 NW Cornell Rd
Street Address

Portland, OR 97229
City / State / Zip

(503) 645-3581
Phone

(503) 690-9605
Fax

CLACKAMAS COUNTY

Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader

Signing on Behalf of the Board:

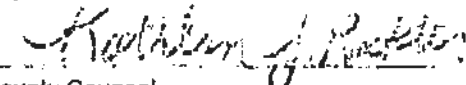
Richard Swift, Director
Health, Housing & Human Service Department

Date

Recording Secretary

Date

Approved to Form:


County Counsel

1/25/17
Date

May 18, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Interagency Agreement with Clackamas County Department of Transportation and Development for the Jennings Lodge Pedestrian Improvements Project

Purpose/ Outcome	The Agreement will allow for the Housing and Community Development Division to work with Department of Transportation and Development (DTD) to construct an estimated 1,000 feet of new sidewalk on S.E. Portland Avenue near Candy Lane Elementary School in Jennings Lodge, and Gladstone High in Gladstone. This project will also provide ADA and drainage improvements for pedestrian use.
Dollar Amount and Fiscal Impact	Community Development Block Grant funds in the amount of \$240,000. DTD will provide an estimated \$163,650 dollars for construction and engineering of the project. Estimated total construction cost of \$403,650. 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	May 2017 to November 2018
Previous Board Action/ Review	CDBG Action Plan approved May 5, 2016
Strategic Plan Alignment	1. Provide low and moderate income persons with healthy, safe and stable housing in neighborhoods where they have improved access to services. 2. Ensure safe, healthy and sure communities.
Contact Person(s)	Steve Kelly – Housing and Community Development: 503-650-5665 Bob Knorr – Department of Transportation and Development: 503-742-4680
Contract No.	H3S 8312

BACKGROUND: The Housing and Community Development Division of the Health, Housing and Human Services Department requests the approval of this Interagency Agreement with the Department of Transportation and Development for the Jennings Lodge Pedestrian Improvements Project. The Agreement determines the roles of both County offices regarding contract administration, project management, as well as duties of engineering oversight during project construction. The Agreement was reviewed and approved by County Counsel on February 13, 2017.

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

INTERAGENCY AGREEMENT

Between

CLACKAMAS COUNTY DEPARTMENT OF HEALTH, HOUSING & HUMAN SERVICES, HOUSING AND COMMUNITY DEVELOPMENT DIVISION

And

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

I. PURPOSE

A. This Agreement provides the basis for a cooperative working relationship between the Clackamas County Housing and Community Development Division, herein referred to as HCD, and Clackamas County Department of Transportation and Development, herein referred to as DTD, to utilize available Community Development Block Grant ("CDBG") funds for the design and construction of pedestrian and street improvements in Oak Grove. The project will consist of the design and construction of approximately 1,000 lineal feet of sidewalk and infrastructure improvements, including minor drainage upgrades, additional ADA ramp and crosswalk safety intersection, improvements along Portland Avenue adjacent to Candy Lane Elementary School in Jennings Lodge near Gladstone High School. This work is hereinafter referred to as the Project.

B. The Project must meet the U.S. Department of Housing and Urban Development ("HUD") Low- to Moderate- Income limits area benefit requirements (24 CFR 570.208 (a)). For this Project to be eligible, the area residents must be at 43.44% or higher. HCD has made the determination for the Project by reviewing three Census Tracts and Block Groups to determine the average Low-Mod Income level to be 53.05%. Each of the Census Tract Block Groups are as follows: (#1) 0219001 is 62.90%, (#2) 0220002 is 48.16% and (#3) 0218022 is 48.10%. Therefore, HCD qualifies this PROJECT eligible for Community Development Block Grant (CDBG) funds as a Low-Mod Clientele Benefit Activity, because the targeted Project area is residential in nature. An Area Benefit Map showing the Census Tracts and Project location is attached as Exhibit A, see page 13.

II. SCOPE OF WORK AND COOPERATION

- A. Under this Agreement, the responsibilities of the DTD shall be as follows:
1. DTD shall provide all necessary supervisory and administrative support to assist the HCD with the completion of the Project.
 2. DTD 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, HCD and DTD has a Right-Of-Way Acquisition Specialist to ensure all requires are met prior to bidding the Project.

3. DTD 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 HCD. DTD shall assume responsibility for ensuring the following:
 - a. DTD shall employ a registered professional Engineer (“Engineer”) to prepare all plans and specifications necessary to publicly bid the Project for award to a construction contractor (“Contractor”) and provide construction oversight, including staking and surveying of the Project. Any Engineering firm hired to perform these duties may donate staff time as well as donate materials for the Project.
 - b. DTD shall require any Engineering firm to maintain comprehensive general (including contractual liability) and automobile liability insurance for personal injury and property damage for the protection of HCD, 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. DTD shall require any Engineering firm 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 HCD under this insurance. The insurance company will provide written notice to HCD 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 Engineering firms 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. DTD shall require any Engineering firm to furnish the HCD 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 HCD, 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. HCD, at its option, may require a complete copy of the above policy.

- f. The insurance, other than the professional liability insurance, shall include HCD as an expressly scheduled additional insured. Proof of insurance must include a copy of the endorsement showing HCD 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 HCD 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. DTD 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 County 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, County shall be solely responsible for these modifications.
 - (iv) Notify the County Surveyor of the Project and provide County, design Engineer, surveyor and contractor contacts as applicable.
 - (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) If required, file a post construction document with and acceptable to 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. DTD shall operate and maintain the improvements for public purposes for their useful life subject to the limitations on the expenditure of funds by DTD as provided by Oregon Statute.
- 5. DTD shall complete and submit a Matching Funds Report following completion of the Project, attached as Attachment A and incorporated by reference; see page 12.

- a. This report will be required for two fiscal years 2017 (July 1, 2017 to June 30, 2018) and 2018 (July 1, 2018 to June 30, 2019).

6. Upon completion of the Project, DTD:
 - 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.

7. DTD agrees to maintain ownership of the property for the life of the Project.

- B. Under this Agreement, the responsibilities of the HCD shall be as follows:
 1. HCD shall apply CDBG funds for construction of the Project.
 2. HCD will assign a Project Coordinator for the Project.
 3. HCD shall conduct an environmental assessment of the Project as described in 24 CFR 570.604 of the CDBG regulations for the CDBG Program.
 4. HCD will assist DTD in preparing bid documents to comply with CDBG regulations.
 5. HCD shall be responsible for advertising for bids and printing of bid documents as needed to publicly bid the Project.
 6. HCD will appropriately bid and contract for construction of the Project and, with the advice of DTD, will approve changes, modifications, or amendments as necessary to serve the public interest.
 7. The responsibilities of the Project Coordinator shall include:
 - a. Prepare a Bid Packet to be advertised in a local contractor's publication;
 - b. Conduct the Bid Opening on the date determined by all Parties;
 - c. Hire a General Contractor via the lowest responsible and responsive bidder;
 - d. Issue a Notice to Proceed after the Construction Contract is approved;
 - e. Conduct a Pre-Construction Conference with the General Contractor, DTD, and the assigned DTD engineer;

- f. Coordinate with the Engineer, DTD and General Contractor throughout General Contractor's performance of the Work;
 - g. Administration of federal and state prevailing wage requirements;
 - h. Closeout Paperwork and all federal reporting requirements;
 - i. With the Approval of the Engineer and both Parties;
 - (1) Make payment to the General Contractor
 - (2) Release retainage funds to the General Contractor as appropriate;and
 - j. Notify DTD of their responsibilities for all warranty related issues after the Release of Retainage.
8. HCD agrees to provide and administer available CDBG funds granted by HUD (CFDA 14.218) to finance the Project.
- C. Joint Responsibilities of both HCD and DTD are as follows:
- 1. HCD and DTD shall jointly review all survey, design, material selection and contract documents for the Project.
 - 2. Upon execution of this Agreement HCD and DTD will, at the earliest mutually convenient time, jointly determine the scope of the improvements to be made, a schedule for implementation of the Project and the most feasible method of providing necessary engineering services.
 - 3. In the event not all planned improvements can be made with available funds HCD and DTD will jointly determine the priority of the improvements.

III. PROJECT BUDGET

- A. HCD will apply CDBG funds for the construction of the Project up to a not to exceed maximum amount of **\$240,000**. The balance of the funds shall be provided by DTD. DTD agrees to be responsible for payment to HCD matching funds totaling the greater of:
- 1. Twenty percent (20%) of the total cost of the Project including survey, design, construction, and construction oversight, or
 - 2. All costs for design and construction which exceed available CDBG funds budgeted for the Project.
- B. DTD shall be credited for engineering services stated in II. A. 3. a. above, in an amount equal to 15% of the final construction cost for providing engineering, surveying,

staking and other related services. The engineering match credit will not exceed the available \$240,000 CDBG funds for the Project.

C. In the event a construction contractor is entitled to payments for work completed after \$240,000 in CDBG funds have been expended, HCD shall request a transfer of funds from DTD for the amount necessary to make such payments.

D. Upon receipt of written notification from HCD, DTD shall provide payment within thirty (30) consecutive calendar days for the project to HCD through the following County office:

Attn: Larry Crumbaker
Public Services Building-Department of Finance
2051 Kaen Road, Fourth Floor
Oregon City, OR 97045

IV. PROJECT SCHEDULE

Per 24 CFR 570.902 all parties hereby agree to make all reasonable efforts to utilize available CDBG funds to complete the improvements to be implemented under the terms of this Agreement during May 2017 through November 2018 construction season.

V. LIAISON RESPONSIBILITY

Steve Kelly will act as liaison from HCD for this Project. Robert Knorr will act as liaison from DTD.

VI. SPECIAL REQUIREMENTS

- A. Assignment and Subcontracting.
1. Neither party to this Agreement shall assign any portion of work which is a part of this Agreement without the approval of the other party.
- B. Conflict of Interest.
1. Interest of Officers, Employees, or Agents - No officer, employee, or agent of HCD or DTD who exercises any functions or responsibilities in connection with the planning and execution of activities under the CDBG Program, or any other person who exercises any functions or responsibilities in connection with the Program during their tenure or for one year thereafter, shall obtain a personal or financial interest in or benefit from this Agreement, or any contract, subcontract or agreement arising therefrom, either for themselves or for persons with whom they have family or business ties without appropriate prior HUD waiver; and DTD shall take appropriate steps to assure compliance.
2. Interest of Certain Federal Officials - No member of or delegate to the Congress of the United States and no Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.
- C. Program Benefit.
1. The parties agree to implement the Project to give maximum feasible benefit to low and moderate income families and individuals.
- D. Non Discrimination.
1. DTD shall comply with Federal, State, and local laws prohibiting discrimination on the basis of age, sex, marital status, race, creed, color, national origin, 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; Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.
- E. Availability of Funds.
1. This Agreement is expressly subject to the debt limitation of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent. Obligations of HCD are also expressly subject to the County receiving funds from HUD for this Project and in no event shall HCD's financial contribution exceed the amount finally granted, released and approved by HUD for this Project.
- F. Other Federal Requirements.

Other federal requirements which the parties agree to comply with include but are not limited to:

1. Procurement requirements which apply to professional services and construction contracts and are contained in 24 CFR Part 85 (the "Common Rule");
2. Citizen participation and CDBG application submission requirements contained in 24 CFR 570.301-305;
3. HUD labor standards provisions.

G. Non-Substitution for Local Funding.

1. The CDBG funding made available under this Agreement shall not be utilized by DTD to reduce substantially the amount of local financial support for drainage improvement activities below the level of such support prior to the availability of funds under this Agreement.

H. Public Information.

1. HCD and DTD shall cooperate in public information efforts, such as contacts with neighborhood or consumer advocacy organizations, press releases, etc. In all news releases and other public notices relating to activities under this Agreement, DTD shall include information identifying the source of funds as the Clackamas County CDBG Program.

I. Evaluation.

1. DTD agrees to participate with HCD in any evaluation project or performance report, as designed by HCD or the appropriate Federal department, and to make available all information required by any such evaluation process.

J. Audits and Inspections.

1. DTD will insure that HCD, 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.

K. Retention of Records.

1. Records relating to this Project shall be retained for a period of four (4) years after termination of this Agreement.

L. Citizen Participation.

1. DTD shall maintain records including narratives or other documentation describing the process used to inform citizens concerning the Project.

M. Acquisition/ Relocation.

1. 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.

VII. AMENDMENTS

This Agreement may be amended at any time with the concurrence of both parties. Amendments become part of this Agreement only after the written amendment has been signed by both parties and the County Chief Executive Officer.

VIII. 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 twenty (20) years after closeout of Clackamas County's participation in the entitlement CDBG program.
- C. This Agreement may be suspended or terminated prior to the expiration of its term by:
 - 1. Written notice provided by HCD in accordance with 24 CFR 85.43 resulting from material failure by DTD to comply with any term of this Agreement, or;
 - 2. Mutual agreement by DTD and HCD in accordance with 24 CFR 85.44.
- D. Upon completion of improvements or upon termination of this Agreement, any unexpended balances of DTD funds shall remain with DTD and any unexpended balances of CDBG funds shall remain with HCD.

Clackamas County Department of Transportation Clackamas County Housing and Community
Department of Transportation and Development Development Division

 B. Cartmill
Barbara Cartmill, Director

 Chuck Robbins
Chuck Robbins, Director

 May 3, 2017
Date

 5/3/17
Date

CLACKAMAS COUNTY

Commissioner: Jim Bernard, Chair

Commissioner: Sonya Fischer

Commissioner: Ken Humberston

Commissioner: Paul Savas

Commissioner: Martha Schrader

Signing on Behalf of the Board.

Richard Swift, Director
Health, Housing and Human Services
Department

Date



MARC GONZALES
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

May 18, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

A Resolution Acknowledging Expenditures in Excess of Appropriations and Financial Statement Findings for Fiscal Year 2016 and Describing Corrective Action in Accordance with ORS 297.466

Purpose/Outcome	Acknowledgement of expenditures in excess of appropriations and Financial Statement Findings that occurred in Fiscal Year 2016 and description of the Corrective Action that will be implemented.
Dollar Amount and fiscal Impact	The dollar amount of each over expenditure is reported in the Comprehensive Annual Financial Report (CAFR) as part of the Notes to the Basic Financial Statements.
Funding Source	Varies
Safety Impact	N/A
Duration	Expenditures are reported annually. Corrective action to be implemented will be permanent.
Previous Board Action/Review	N/A
Contact Person	David Bodway, Finance Manager, 503-742-5424
Contract No.	N/A

BACKGROUND:

As part of the annual audit each year, the County's external audit firm reports on compliance with various Oregon statutes. One of these requirements is to report upon compliance with Local Budget Law. Expenditures in excess of authorized appropriations are reported in the CAFR, by category and by fund. Detail of this can be found in the CAFR as part of the Notes to the Basic Financial Statements, as well as in the Auditor's Report on Compliance with Oregon Minimum Standards. Another requirement is to report upon any internal controls over financial reporting that identified any material weakness in the financial statements. Detail of this can be found in the Audit of Federal Awards as part of the Schedule of Findings and Questioned Costs.

ORS 297.466 requires that the BCC adopt a resolution within 30 days of issuance of the audited CAFR. The resolution is to both acknowledge the over expenditures and Financial Statement Findings and describes the corrective actions implemented. Corrective action is commencing now and will continue into the future on a quarterly schedule and monthly for the Financial Statement Findings each fiscal year.

This Resolution has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends the Board approve this resolution acknowledging expenditures in excess of appropriations and Financial Statement Findings for fiscal year 2016 and describing corrective action in accordance with ORS 297.466.

Respectfully submitted,

Marc Gonzales, Finance Director

A Resolution Acknowledging Expenditures
in Excess of Appropriations and Financial
Statement Findings for Fiscal Year 2016
and Describing Corrective Action in
Accordance with ORS 297.466

RESOLUTION NO.

Page 1 of 1

WHEREAS, the County's Comprehensive Annual
Financial Report for the fiscal year ending June 30, 2016 reports expenditures in excess
of appropriations; and

WHEREAS, Oregon Local Budget Law does not
allow the expenditure of monies beyond the legal appropriation authority; and

WHEREAS, the County's Comprehensive Annual
Financial Report for the fiscal year ending June 30, 2016 reports Financial Statement
Findings; and

WHEREAS, ORS 297.466(2) requires the County
to determine measures considered necessary for corrective actions and a period of time
estimated to complete them; and

WHEREAS, ORS 297.466(3) requires the Board
of County Commissioners to submit an adopted resolution of corrective measures to the
Secretary of State's Office within 30 days from the submission of the County's
Comprehensive Annual Financial Report to the Secretary of State; and

NOW, THEREFORE, BE IT RESOLVED that in
order to ensure current and future compliance with Oregon Local Budget Law, all County
Departments will perform a quarterly analysis to review and evaluate expenditures
incurred to date compared to the total final adopted budget. Any over-expenditure will be
further analyzed, discussed with the Department of Finance's Budget Office, and
evaluated for further corrective measures.

NOW, THEREFORE, BE IT RESOLVED that in
order to ensure current and future compliance in internal controls, we will implement the
recommended procedures outlined in the proceeding pages in Spring of 2017.

Dated this 18th day of May, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

The following funds had expenditures in excess of appropriations for the fiscal year ending, June 30, 2016:

General County:

General Fund

Transportation & Development \$17,472

Transportation & Development expenditures were higher than budgeted.

Materials & Services \$275,673

Materials and Services expenditures were higher than budgeted.

Sheriff's Fund

Special Payments \$7,522

Special Payments expenditures were higher than budgeted.

Road Fund

Transfers Out \$60,888

Transfers Out were higher than budgeted.

Children, Youth & Families Fund

Special Payments \$239,436

Special Payments expenditures were higher than budgeted.

Planning Fund

Special Payments \$12,000

Special Payments expenditures were higher than budgeted due to one-time payment for a pass through grant late in the fiscal year.

Code Enforcement & Sustainability Fund

Special Payments \$4,362

Special Payments expenditures were higher than budgeted due to Happy Valley increasing the percentage of franchise fees retained late in the fiscal year.

Public Health Fund

Special Payments \$14,140

Special Payments expenditures were higher than budgeted.

Self-Insurance Fund

General Government \$1,807,635

General government expenditures were higher than budgeted due to higher than expected claims expense and administration fees.

Records Management Fund

General Government \$46,459

General government expenditures were higher than budgeted due to higher than expected personal costs and passport processing costs.

The following are response to the Financial Statement Findings for the fiscal year ending, June 30, 2016:

Finding 2016-001:

Material Misstatement in Schedule of Expenditures of Federal Awards (Material Weakness in Internal Controls)

Criteria or specific requirement (including statutory, regulatory, or other citation): The Uniform Guidance states the auditee must prepare a schedule of expenditures of federal awards for the period covered by the auditee's financial statements, which must include the total federal awards expended as determined by Title 2 Code of Federal Regulations 200.502. The Uniform Guidance states the determination of when an award is expended must be based on when the activity related to the federal award occurs. In addition to common grant activities such as direct appropriations, amounts passed through to subrecipients, and loan and loan guarantees, program income is a grant activity reported in the schedule of expenditures of federal awards. Program income is gross income, earned by a recipient, subrecipient, or a contractor under a grant, directly generated by the grant supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed; and charges for the use or rental of real property, equipment or supplies acquired under the grant. The Uniform Guidance provides the basis for determining expenditures for program income occurs when the program income is received or used.

Condition: Certain County Departments/Division are not utilizing the centralized services of Grants Office within the Department of Finance. For those Departments/Divisions, the County did not have procedures in place, to ensure program income received or used was reported as an expended in the schedule of expenditures of federal awards.

Context: During our testing of the Health Center Cluster major federal program we identified \$26.9 million of estimated program income on the notice of award authorization. The program income is generated from fees for services performed.

Effect: Due to the condition noted above, a \$26.4 million correction was made to add additional expenditures to the schedule of expenditures of federal awards.

Cause: No internal control was in place to ensure the program income was reported to the County Department of Finance Grants Office, which is responsible for preparing the schedule of expenditures of federal awards.

Recommendation: We recommend an internal control ensuring the County's Health Clinics Division prepares and reconciles a report of the amount of program income received and used on a monthly basis. The County's Health Clinics Division should then provide the County Department of Finance Grants Office with the amount of program received and used program income monthly for their records to assist in the annual preparation of the schedule of expenditures of federal awards.

Views of responsible officials and planned corrective actions: We concur with the auditors findings and will implement the recommended procedure in Spring of 2017. To date, staff from both offices have met and discussed program income at length. Additionally, the Health Centers Division is now supplying the Finance Grants Office with copies of their quarterly and annual grant reports.

DRAFT

Approval of Previous Business Meeting Minutes:

April 6, 2017

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>

Thursday, April 6, 2017 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner Martha Schrader
Commissioner Ken Humberston
Commissioner Sonya Fischer
Paul Reynolds, Housing Authority Commissioner

EXCUSED: Commissioner Jim Bernard, Chair
Commissioner Paul Savas

Chair Bernard and Commissioner Savas will not be in attendance today, Commissioner Martha Schrader will serve as Chair for this meeting.

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

The Board will recess as the Board of County Commissioners and convened as the Housing Authority of Clackamas County for the next item.

Chair Schrader introduced Paul Reynolds, Housing Authority Commissioner. She asked the Clerk to read the Housing Authority consent agenda by title, then asked for a motion.

I. HOUSING AUTHORITY CONSENT AGENDA

1. Resolution No. 1919: Approval of Housing Authority of Clackamas County Annual & Five Year Plan 2017-2022

MOTION:

Commissioner Reynolds: I move we approve the Housing Authority Consent Agenda.
Commissioner Humberston: Second.
all those in favor/opposed:
Commissioner Reynolds: Aye.
Commissioner Humberston: Aye.
Commissioner Fischer: Aye.
Chair Schrader: Aye – the Ayes have it, the motion carries 4-0.

The Board adjourned as the Housing Authority of Clackamas County and re-convene as the Board of County Commissioners for the remainder of the meeting.

III. PRESENTATION *(this item was taken out of order)*

1. Child Abuse Prevention Presentation
Rod Cook, Children, Youth & Families presented the staff report. He introduced Norene Ownes, Dept. of Human Services; Sara Taggart, the Children's Center; McKensie Bartholomew, Healthy Families and Denise Glascock Relief Nursery Lifeworks, NW. They each spoke about the individual organizations they represent and the work they do for to protect the Children of our County.

~Board Discussion~

II. CITIZEN COMMUNICATION *(this item was taken out of order)*

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

1. Chris Hawes, Damascus – candidate for Fire District No. 1.
2. Les Poole, Gladstone – SB 694, tax exemption for Veterans, road funding.

~Board Discussion~

IV. PUBLIC HEARING

1. Public Hearing on the Proposed 2017-2021 Housing and Community Development Consolidated Plan and Proposed 2017 Action Plan

Chuck Robbins, Community Development presented the staff report. He briefly explained the Community Development Block Grant program.

~Board Discussion~

Chair Schrader opened the public hearing and stated there are five people signed up to speak.

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

1. Yesika Areralo, Representing Proud Ground.
2. Jane Turville, Representing Ecumenical Ministries of Oregon.
3. Martha McLennan, Representing Northwest Housing Alternatives.
4. Angela Trinble, Representing Northwest Hosing Alternatives – Annie Ross House.
5. Amy Hamilton, Representing NEDCO (Neighborhood Economic Development Corp.)

~Board Discussion~

Chair Schrader closed the public hearing and announced there will be no Board action on this item today, it will come back before this Board at an upcoming regular scheduled Business meeting.

V. CONSENT AGENDA

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

MOTION:

Commissioner Humberston: I move we approve the consent agenda.

Commissioner Fischer: Second.

Commissioner Humberston inquired about agenda item C.1.

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Chair Schrader: Aye – the Ayes have it, the motion passes 3-0.

A. Health, Housing & Human Services

1. Approval of an Intra-Agency Services Agreement with Clackamas County Health Centers. Behavioral Health Clinic and Clackamas County Behavioral Health Division for the Transfer of Grant Funds Awarded for Supported Employment Services – *Behavioral Health*
2. Approval of HOME Loan Documents with Rosewood Terrace LP for the Rosewood Terrace Apartments Project – *Housing & Community Development*

B. Department of Transportation & Development

1. Approval of Contracts with Various Suppliers for Aggregate Rock Price Contracts for the Clackamas County Road Department - *Procurement*

C. Public & Government Affairs

- 1, Approval of Renewal of Contact for On-Call Strategic Communications with EnvirolIssues, Inc. - *Procurement*

VI. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

1. Approval of an Intergovernmental Agreement between North Clackamas Parks & Recreation District and the City of Milwaukie to Formalize Roles and Responsibilities for Development of Wichita Park Located in the City of Milwaukie.

VII. WATER ENVIRONMENT SERVICES

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

1. Approval of Add Work Agreement between the Oregon Department of Transportation and Clackamas County Service District No. 1 for OR 213: SE Lindy Street – SE King Road Utility Adjustment Work

VIII. COUNTY ADMINISTRATOR UPDATE

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

IX. COMMISSIONERS COMMUNICATION

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

MEETING ADJOURNED 11:50 AM

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



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

May 18, 2017

Board of County Commissioners
 Clackamas County

Members of the Board:

**Contract for CBX Fiber – Lake Oswego School District Expansion:
Phase 2 with North Sky Communications, LLC.**

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval to enter into a contract with North Sky Communications, LLC for the construction of new fiber optic cable for the Lake Oswego School District.
Dollar Amount and Fiscal Impact	Contract amount for phase two of the new Lake Oswego School fiber network is \$452,500.00.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by the Lake Oswego School District per existing contract with the school district. 602-0271-00555-481200
Duration	Effective upon signature by the board and terminates June 30, 2017.
Previous Board Action	Board previously approved CBX to bid on a RFP for a new fiber network and approved phase one of the new Lake Oswego School Fiber network.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Build a strong infrastructure. 2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996
Contract No.	

BACKGROUND:

Clackamas Broadband eXchange (CBX) had previously asked for and was given authorization by the Board to place a bid on a Request for Proposals (RFP) that was issued by the Lake Oswego School District for new fiber optic connections between twelve school sites. CBX was chosen by the Lake Oswego School District for this RFP. A condition of the contract with the Lake Oswego School District is that CBX will construct the new fiber network and then be reimbursed by the school district for all construction costs. This request to enter into a contract with North Sky Communications, LLC is for the second and third phases to complete the new fiber network.

Procurement Process:

This project was requested by Duke Dexter. Bids were requested to complete specified work on the above-mentioned projects. These projects were advertised in accordance with ORS and LCRB Rules. Three (3) bids were received: Henkels & McCoy, Inc. \$734,107.00; Professional Underground Services, Inc. \$727,163.00; and North Sky Communications \$ 452,500.00.

After review of all bids, North Sky Communications was determined to be the lowest responsive and responsible bidder. All work is to be completed by June 30, 2017. This contract has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this construction contract.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Cummings', written in a cursive style.

Dave Cummings
CIO Technology Services



**CLACKAMAS COUNTY
PUBLIC IMPROVEMENT CONTRACT**

This Public Improvement Contract for the **#2017-25 CBX Fiber – Lake Oswego School District Expansion-Phase 2** Project (the "Contract"), is made by and between the Clackamas County, a political subdivision of the State of Oregon, hereinafter called "Owner," and North Sky Communications, LLC., hereinafter called the "Contractor" (collectively the "Parties"), shall become effective on the date this Contract has been signed by all the Parties and all County approvals have been obtained, whichever is later.

WITNESSETH:

1. Contract Price, Contract Documents and Work.

The Contractor, in consideration of the sum of Four Hundred Fifty-Two Thousand Five Hundred Dollars (\$425,500.00) (the "Contract Price"), to be paid to the Contractor by Owner in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Contract Documents (as defined in the Clackamas County General Conditions for Public Improvement Contracts (1/1/2017)("General Conditions") referenced within the Instructions to Bidders), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents. The Contract Price is the amount contemplated by the Base Bid adjusted for by any Unit Prices, which are subject to adjustment for actual quantities, as indicated in the accepted Bid.

Also, the following documents are incorporated by reference in this Contract and made a part hereof:

- Notice of Contract Opportunity
- Supplemental Instructions to Bidders
- Public Improvement Contract Form
- Clackamas County General Conditions
- Prevailing Wage Rates
- Project Information, Plans, Specifications and Drawings
- Instructions to Bidders
- Bid Bond
- Performance Bond and Payment Bond
- Supplemental General Conditions
- Payroll and Certified Statement Form

2. Representatives.

Contractor has named Dave McNeely as its' Authorized Representative to act on its behalf. Owner designates, or shall designate, its Authorized Representative as indicted below (check one):

Unless otherwise specified in the Contract Documents, the Owner designates Duke Dexter as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment, authorization, and to carry out the responsibilities of the Owner.

Name of Owner's Authorized Representative shall be submitted by Owner in a separate writing.

3. Key Persons.

The Contractor's personnel identified below shall be considered Key Persons and shall not be replaced during the project without the written permission of Owner, which shall not be unreasonably withheld. If the Contractor intends to substitute personnel, a request must be given to Owner at least 30 days prior to the intended time of substitution. When replacements have been approved by Owner, the Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the project concurrently. Once a replacement for any of these staff members is authorized, further replacement shall not occur without the written permission of Owner. The Contractor's project staff shall consist of the following personnel:

Project Executive: Rodney Kuenzi shall be the Contractor's project executive, and will provide oversight and guidance throughout the project term.

Project Manager: Dean Matton shall be the Contractor's project manager and will participate in all meetings throughout the project term.

Job Superintendent: Wayne Patten shall be the Contractor's on-site job superintendent throughout the project term.

4. Contract Dates.

COMMENCEMENT DATE: Upon Issuance of Notice to Proceed

SUBSTANTIAL COMPLETION DATE: June 01, 2017

FINAL COMPLETION DATE: June 30, 2017

Time is of the essence for this Contract. It is imperative that the Work in this Contract reach Substantial Completion and Final Completion by the above specified dates.

5. Insurance Certificates.

In accordance with Section G.3.5 of the General Conditions, Contractor shall furnish proof of the required insurance naming Clackamas County as an additional insured. Insurance certificates may be returned with the signed Contract or may emailed to Procurement@clackamas.us.

6. Tax Compliance.

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. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, 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 Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of 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 County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

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 Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

7. Confidential Information.

Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to Owner or the State of Oregon. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed confidential information of Owner and of State (“Confidential Information”). Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Contract.

8. Counterparts.

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

9. Integration.

All provisions of state law required to be part of this Contract, whether listed in the General or Special Conditions or otherwise, are hereby integrated and adopted herein. Contractor acknowledges the obligations thereunder and that failure to comply with such terms is a material breach of this Contract.

The Contract Documents constitute the entire agreement between the parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

In witness whereof, Clackamas County executes this Contract and the Contractor does execute the same as of the day and year first above written.

Contractor DATA:

**North Sky Communications, LLC.
11818 SE Mill Plain Blvd, Suite 410
Vancouver, WA 98684**

Contractor CCB # 208747 Expiration Date: 3/1/2018

Oregon Business Registry # 1156762-98 Entity Type: FLLC

State of Formation: Delaware

Payment information will be reported to the IRS under the name and taxpayer ID# provided by the Contractor. Information must be provided prior to contract approval. Information not matching IRS records could subject Contractor to 28 percent backup withholding.

North Sky Communications, LLC.

Clackamas County Board of County Commissioners

Signature

Date

Chair

Date

Name / Title Printed

Recording Secretary

APPROVED AS TO FORM

County Counsel

Date



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract Amendment with Tapani, Inc for the
SE Bell Avenue Improvement Project-Phase 2

Purpose/Outcomes	This contract amendment will is for reconstruction and paving, and construction of improvements on SE Bell Avenue between SE King Road and SE Brehaut Street.
Dollar Amount and Fiscal Impact	The current contract value, after the first amendment, is \$3,007,961. The additional amount requested for the second amendment is \$236,822.22.
Funding Source	Clackamas County Development Agency: North Clackamas Revitalization Area Urban Renewal District.
Duration	The contract expiration date was previously extended to September 16, 2017. The time frame is sufficient to close out the project.
Previous Board Action	The Board of County Commissioners previously approved the Agency budget, which includes funding for this project. The Board approved a contract with Tapani, Inc. for construction of the SE Bell Avenue Improvement Project-Phase 2 on March 31, 2016, and approved an amendment to the contract on July 28, 2016.
Strategic Plan Alignment	Ensure Safe, Healthy and Secure Communities Build a Strong Infrastructure
Contact Person	Ken Itel, Senior Project Planner, Clackamas County Development Agency – 503-742-4324
Contract No.	N/A

BACKGROUND:

The Development Agency currently has a contract with Tapani Inc. for construction of roadway improvements for the SE Bell Avenue Improvement Project, Phase 2. The improvements include, but are not limited to, new asphalt, construction of new sidewalks and accessible ramps, road base reclamation, replacement of substandard sidewalks and ramps, and installation of curbs, storm sewer pipes and drainage swales between SE King Road and SE Brehaut. Phase 1 included construction of a retaining wall and sidewalk on the west side of Bell

at the SE King intersection, the installation of accessible ramps, and the replacement of a substandard traffic signal pole.

This request for a second amendment is expected to cover all remaining construction costs for the project. However, the Agency is currently evaluating a claim made by the contractor for construction delays. The amendment is needed to cover outstanding change orders, adjust line items exceeding bid amounts and true up final line item costs, which is customary at project close out. Line items exceeding cost are largely items measured for quantity, such as concrete sidewalks. Measurements aren't confirmed until the work is completed in the field. A majority of additional change order work is related to modifications of retaining wall construction, grouting and fencing of wall extensions, curb and ramp modifications and pavement grinding to achieve proper drainage and additional landscaping restoration.

A large portion of the requested second amendment covers additional flagging services during the course of the project. Flagging requirements were substantially greater than anticipated by the engineer's estimate. This appears to be primarily a result of two factors. One, it appears the engineering consultant underestimated the number of intersections requiring the presence of flaggers. Two, the estimate also did not account for the necessity of full-time flagging on almost all intersections, due to an aggressive construction schedule requiring multiple work crews spanning the entire length of the project on most days. County staff made the decision to allow additional flagging services, not only in the interest of safety for construction crews and County personnel, but also in the interest of public safety for residents on Bell and those traveling on Bell or intersecting side streets. Staff does not believe the project could have been safely completed without the additional flagging services controlling traffic for multiple work crews and assisting area residents and visitors.

The challenging nature of reconstructing an existing roadway in a densely built residential environment to meet current roadway standards presented many difficulties. A number of issues were not discovered until construction was under way, and impacts were increased by the constraints of existing right-of-way encroachments, utilities and topography. Timely progress was made more difficult by the discovery of unforeseen utility conflicts, unmapped and abandoned utility lines, hidden dry wells connected to existing storm lines, and concrete poured in old utility trenches. These problems caused construction delays and resulted in design changes.

The project was further hampered by the inadequate design of four retaining walls. All four walls required significant redesign to reduce impacts on private properties or address constructability issues. Staff is currently reviewing these design and construction issues to assess possible claims against the design/engineering consultant. Another significant issue was a lack of cooperation by utility providers, primarily Centurylink, Comcast, and PGE. Although informed of the project early in the design process, and periodically updated and notified prior to construction, the utilities did not relocate their poles and facilities in a timely manner. These problems increased costs, resulted in project delays, and caused coordination difficulties between work crews, utilities and property owners.

The additional \$236,822.22 in this contract amendment is to cover approved change order requests and flagging costs discussed above. Staff is presently negotiating with the contractor to reduce the costs of additional flagging. A spread sheet is included in the packet listing the change orders for the project, as well as the cost difference in the bid line items. Cost increases and decreases associated with Amendment #2 are labeled. Staff is presently evaluating if

claims can be made against the consultant or utilities for cost increases resulting from the construction issues noted in this report.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve the contract amendment with Tapani, Inc. for construction of the SE Bell Avenue Improvement Project-Phase 2.

Respectfully submitted,

Dan Johnson, Manager
Development Agency

Placed on the _____ Agenda by the Purchasing Division

AMENDMENT #2

**TO THE CONTRACT DOCUMENTS WITH TAPANI, INC. FOR THE
SE BELL AVENUE IMPROVEMENT PROJECT – PHASE 2**

This Amendment #2 is entered into between Tapani, Inc. (“Contractor”) and the Clackamas County Development Agency (“Agency”) and it shall become part of the Contract documents entered into between both parties on March 31, 2016.

The Purpose of the Amendment #2 is to make the following changes to the Contract;

1. Section 3. **Work to be Done:** The Contract price is amended to include change orders to date for a total of \$236,822.22. The project reconciliation sheet is attached as **Exhibit A** and all associated Change Orders are attached as **Exhibit B** and hereby incorporated by reference. The maximum Contract Price authorized under this Contract shall not exceed **\$3,244,783.22**.

Original Contract Amount	\$ 2,197,961.00
Amendment #1	\$ 810,000.00
Amendment #2	\$ 236,822.22
Contract Total	\$ 3,244,783.22

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect.

By signature below, the parties agree to this Amendment #2, effective upon the date of the last signature below.

Tapani, Inc.
1904 SE 6th Place
Battle Ground, WA 98604

CLACKAMAS COUNTY BOARD OF COUNTY
COMMISSIONERS Acting as the Governing Body
of the Development Agency by:

Authorized Signature

Chair

Name / Title (Printed)

Recording Secretary

Date

Date

360-687-1148

Telephone

079387-80

Oregon Business Registry Number

FBC / Washington

Entity Type / State of Formation

63434

OREGON CCB#

APPROVED AS TO FORM

County Counsel

Date



Gregory L. Geist
Director

May 18, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution of the Clackamas County Board of Commissioners
Terminating the Memorandum of Agreement between Clackamas County and
the Oregon Department of Environmental Quality
for Issuing 1200-C Surface Water Discharge Permits for Construction Activities

Purpose/Outcomes	Terminate Clackamas County’s role as an agent of the DEQ for “1200-C” erosion control permits for construction activities larger than 5 acres
Dollar Amount and Fiscal Impact	Neutral budget impact. A reduction in fee revenue paid by applicants for 1200-C erosion permitting and inspection is offset by the reduction in labor expense for doing the work. No impact on FTE.
Funding Source	CCSD1 Operating Budget
Duration	Indefinite
Previous Board Action/Review	Board Order 92-209, February 20 th , 1992
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This supports the WES Strategic Plan that customers will continue to benefit from a well-managed utility. 2. This project supports the County Strategic Plan to build public trust through good government.
Contact Person	Ron Wierenga, WES Surface Water Manager, 503-742-4581
Contract No.	N/A

BACKGROUND:

In 1992, the Clackamas County Board of County Commissioners (BCC) signed a Memorandum of Agreement (MOA) with the Oregon Department of Environmental Quality (DEQ) for Clackamas County to become an Agent of the DEQ for construction stormwater (pollution prevention/erosion control) permits known as “1200-C permits.” As an ORS 451 entity, Clackamas County Service District No. 1 (CCSD1), which is administered by WES, had the ability to create and enforce the programs covered under such a permit. WES implemented a 1200-C program for all of CCSD1, as well as Surface Water Management Agency of Clackamas County (SWMACC), the City of Gladstone, Oak Lodge Sanitary District (OLSD), and the unincorporated areas of Clackamas County.

In 2010, DEQ determined that WES’ erosion control program within the CCSD1 and SWMACC boundaries as part of another permitted program, the Municipal Separate Storm Sewer System (MS4), were equivalent to the 1200-C requirements. Because of this determination, WES could instead issue “1200-CN” permits along with its own local erosion control permits for sites of less than 5 acres within their service area. This simplified the permitting process and cost accounting by eliminating the need for issuing 1200-C permits on smaller development sites, submitting

permit info to DEQ, and fee sharing with DEQ. As a result of WES participating in the 1200-CN program, projects within CCSD1, SWMACC, Gladstone, and unincorporated county under 5 acres of soil disturbance no longer needed to have a 1200-C permit. Also in 2010, the City of Happy Valley assumed responsibility for erosion control permitting within city limits. Therefore, WES discontinued all erosion program activities within the city. These two changes greatly reduced the number of 1200-C permits issued by WES to about 10 per year.

Currently, the fees collected by WES for issuing 1200-C permits cover the administrative costs of issuance. There are, however, a number of other administrative changes that affect the 1200-C program, including:

- DEQ is finalizing a new agreement for 1200-C agents with more reporting and inspection requirements. These increased reporting requirements to DEQ, additional liability concerns, and WES' limited staff resources would make continued implementation more burdensome on the department.
- As WES' new Stormwater Management Plan is being developed for the next Municipal Stormwater Permit term, this is an opportune time to review the future of the 1200-C program.
- The small number of 1200-C permits processed indicates little demand for WES or the County to continue to provide this service. Low permit volume does not provide much help to the development community as a whole.

Thusly, by terminating the agreement with DEQ, WES customers with sites of less than 5 acres of disturbance will continue to receive locally issued permits. Development sites larger than 5 acres will need a permit issued by DEQ. Since most of the 1200-C demand within Clackamas County is within Happy Valley or other jurisdictions, DEQ's assumption of the low number of permits within our current service area will have little to no impact on the development community. The proposal was supported by the county's Development Liaison Committee when discussed at their November 2016 meeting. Pending Board approval staff will continue to reach out to applicants to inform them of the change and guide them through the permitting process both locally and at the state level.

This resolution has been reviewed and approved by County Counsel.

RECOMMENDATION:

District staff respectfully recommends that the Board of County Commissioners of Clackamas County discontinue to act as an Agent for all 1200-C permits within Clackamas County, by termination of the agreement between Clackamas County and the Oregon Department of Environmental Quality effective 30 June 2017.

Respectfully submitted,

Greg Geist, Director
Water Environment Services

A Resolution of the Clackamas County Board
of Commissioners Terminating the
Memorandum of Agreement between
Clackamas County and the Oregon Department
of Environmental Quality for Issuing Surface
Water Discharge Permits for Construction
Activities

RESOLUTION NO.

WHEREAS, Water Environment Services (“WES”), acting on behalf of Clackamas County (“County”), has been responsible for issuing surface water discharge permits for constructions activities pursuant to the Memorandum of Agreement executed between the County and the Oregon Department of Environmental Quality (“DEQ”) on February 20th, 1992 pursuant to Board Order 92-209 (“MOA”);

WHEREAS, DEQ desires the County to enter into a newly negotiated and revised MOA to cover these permitting activities; and

WHEREAS, WES staff reviewed the program and determined the administrative burden of administering the program is not outweighed by the benefit to the development community;

WHEREAS, WES staff recommends termination of the MOA, which will return the permitting authority to DEQ.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS ACTING ON BEHALF OF CLACKAMAS COUNTY THAT:

The agreement between Clackamas County and the Oregon Department of Environmental Quality is hereby terminated effective June 30, 2017.

ADOPTED this ____day of ____, 2017.

CLACKAMAS COUNTY

Chair

Recording Secretary