



**BUSINESS AND COMMUNITY SERVICES  
NORTH CLACKAMAS PARKS AND RECREATION DISTRICT**  
Development Services Building  
150 Beaver Creek Road, Oregon City, OR 97045

Laura Zentner, BCS Director

October 29th, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement between  
North Clackamas Parks and Recreation District (NCPRD) and Clackamas Water  
Environment Services (WES)**

<b>Purpose/Outcome</b>	Approval of an Intergovernmental Agreement Between North Clackamas Parks and Recreation District and Water Environment Services.
<b>Dollar Amount and Fiscal Impact</b>	NCPRD will receive funds, approximately \$90,000 annually, for an amount not to exceed \$450,000 over five years.
<b>Funding Source</b>	WES surface water fees paid by property owners in WES' service area.
<b>Duration</b>	The Agreement ends June 30, 2025, with an option to extend one additional 5-year term.
<b>Previous Board Action/Review</b>	Board approved a previous IGA on 8/6/2013, Board Agenda Item 7/18/2013-IX.2.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This grant funding will help protect our natural resources by reducing negative water quality impacts to our watershed.</li> <li>2. This grant will further support good governance by leveraging state funds and local partnerships with the cost savings being transparent in the budget.</li> </ol>
<b>Counsel Review</b>	County Counsel Review Date: October 8, 2020. Counsel Initials: JDM
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/></li> <li>2. If no, provide brief explanation: Item is a IGA</li> </ol>
<b>Contact Person</b>	Scott Archer, NCPRD Director, 503-742-4421 Tonia Williamson, Trails and Natural Areas, 503-742-4357
<b>Contract No.</b>	NA

**BACKGROUND:**

North Clackamas Parks and Recreation District (NCPRD), a division of Business and Community Services (BCS), manages natural areas with a focus on both access for our residents and protection and enhancement of habitat for wildlife. WES and NCPRD formed an agreement in 2013 to establish a cooperative working relationship for the purpose of undertaking public projects

aimed at improving water quality, enhancing natural resources areas, and providing public access for passive recreation and environmental education activities.

In the 2013 Agreement, WES and NCPRD partnered to manage natural areas and team on projects of mutual benefit and interest that fit the missions of both departments. Since the 2013 Agreement was implemented, WES and NCPRD's needs have evolved and changes to the 2013 Agreement are proposed to further our partnership for maximum efficiencies and benefits. WES and NCPRD desire to terminate the 2013 Agreement and enter into this new Agreement to ensure that past and future investments in these public assets will be protected.

WES owns and manages several natural areas, as well as a few passive recreational facilities such as trails. However, WES does not have field staff to take on this maintenance. NCPRD manages a Natural Resources Program and employs Natural Area staff, knowledgeable and skilled to provide stewardship of natural areas for fish and wildlife habitat, recreation, as well as water quality benefits.

NCPRD and WES have maintained a positive, cooperative partnership. Managing natural areas together in accordance with our shared values will ensure consistent treatment and maximum effectiveness of NCPRD resources within natural areas.

The specific WES sites that will be managed by NCPRD staff and the budget that NCPRD will be provided to manage the sites would be detailed within the annual work plan that is established between WES and NCPRD.

**RECOMMENDATION:**

Staff recommends the Board, acting as the governing body of North Clackamas Parks and Recreation District, approve the Intergovernmental Agreement between North Clackamas Parks and Recreation District and Water Environment Services.

**ATTACHMENTS:**

1. Intergovernmental Agreement between NCPRD and WES
2. Exhibit A - Scope of Work
3. Exhibit B – 2020-2021 Annual Work Plan

Respectfully submitted,



Laura Zentner, Director  
Business and Community Services

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN NORTH CLACKAMAS PARKS AND RECREATION DISTRICT  
AND WATER ENVIRONMENT SERVICES**

THIS AGREEMENT (this "Agreement") is entered into and between North Clackamas Parks and Recreation District ("NCPRD"), a county service district formed pursuant to ORS Chapter 451, and Water Environment Services ("WES"), an intergovernmental entity formed pursuant to ORS Chapter 190, collectively referred to as the "Parties" and each a "Party."

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

WES and NCPRD formed an agreement in 2013 ("2013 Agreement") to establish a cooperative working relationship for the purpose of undertaking public projects aimed at improving water quality, managing storm water runoff, enhancing natural resources areas, and providing public access for passive recreation and environmental education activities.

In the 2013 Agreement, WES and NCPRD partnered to manage natural areas and team on projects of mutual benefit and interest that fit the missions of both departments. Since the 2013 Agreement was implemented, WES and NCPRD's needs have evolved and changes to the 2013 Agreement are proposed to further our partnership for maximum efficiencies and benefits to each department. WES and NCPRD desire to terminate the 2013 Agreement and enter into this new Agreement to ensure that past and future investments in these public assets will be protected.

WES owns and has the responsibility to manage several natural areas and stormwater management facilities in the WES service area, as well as a few passive recreational facilities such as trails. However, WES does not have field staff to take on this maintenance. NCPRD implements a Natural Resources Program and employs Natural Area staff, knowledgeable and skilled to provide stewardship of natural areas for fish and wildlife habitat, as well as water quality benefits. NCPRD Natural Resources Program staff are also qualified and skilled in restoration ecology, stewardship planning, implementing volunteer events and communicating with the public about issues these areas face.

WES has determined that NCPRD is well-equipped to provide these services and, because their service areas are similar, their staff is familiar with many of the properties. We have had a positive, cooperative partnership to date. Managing natural areas together in accordance with our shared values will ensure consistent treatment and maximum effectiveness of NCPRD resources within natural areas.

The specific WES sites that will be managed and the budget that NCPRD will be provided to manage the sites would be detailed within the annual work plan that is established between WES and NCPRD.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Termination of Previous Agreement.** The Parties agree that the 2013 Agreement is hereby terminated and replaced in its entirety by this Agreement.
2. **Term.** This Agreement shall be effective upon execution, and shall expire upon June 30, 2025 ("Term"). The Parties may renew this Agreement for one additional term of 5 years upon a writing signed by both Parties.
3. **Scope of Work.** The Parties agree to perform the obligations identified in Exhibit A ("Scope of Work"), in addition to the services further identified in the Annual Work Plan in Exhibit B ("Work Plan"), both attached hereto and incorporated herein (collectively referred to as the "Work"). The Parties will develop a new Annual Work Plan each year and will update Exhibit B accordingly without the need for formal amendment to this Agreement.
4. **Consideration.** WES agrees to pay NCPRD an amount not to exceed Four Hundred Fifty Thousand Dollars (\$450,000.00) over the Term of this Agreement.
5. **Payment.** Unless otherwise specified, NCPRD shall submit quarterly invoices for Work performed and shall include the total amount billed to date by NCPRD prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. NCPRD shall also submit the annual reporting form provided by WES at the end of each fiscal year documenting information on the Work performed. Payments shall be made to NCPRD following WES' review and approval of invoices submitted by NCPRD. NCPRD shall not submit invoices for, and WES will not pay, any amount in excess of the maximum compensation amount set forth above.
6. **Representations and Warranties.**
  1. *WES Representations and Warranties:* WES represents and warrants to NCPRD that WES has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of WES enforceable in accordance with its terms.
  2. *NCPRD Representations and Warranties:* NCPRD represents and warrants to WES that NCPRD has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of NCPRD enforceable in accordance with its terms.
  3. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
7. **Termination.**
  1. Either the NCPRD or WES may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
  2. NCPRD or WES shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
  3. Either Party may terminate this Agreement in the event a Party fails to receive expenditure authority sufficient to allow that Party, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or

interpreted in such a way that either the Project under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.

4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
8. **Indemnification.** Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, NCPRD agrees to indemnify, save harmless and defend WES, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of NCPRD or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which NCPRD has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, WES agrees to indemnify, save harmless and defend NCPRD, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of WES or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which WES has a right to control.

9. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
10. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

1. Tonia Williamson or their designee will act as liaison for NCPRD.

**Contact Information:**

Tonia Williamson  
North Clackamas Parks and Recreation District  
150 Beaver Creek Road  
Oregon City, OR 97045  
503-742-4357  
[twilliamson@NCPRD.com](mailto:twilliamson@NCPRD.com)

Gail Shaloum or their designee will act as liaison for WES.

**Contact Information:**

Gail Shaloum, PLA  
Clackamas County Water Environment Services  
150 Beaver Creek Rd., Suite 430  
Oregon City, OR 97045  
(503) 742-4597  
[gshaloum@clackamas.us](mailto:gshaloum@clackamas.us)

**11. General Provisions.**

1. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between NCPRD and WES that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by WES or NCPRD of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. NCPRD and WES, by execution of this Agreement, hereby consent to the in personam jurisdiction of the courts referenced in this section.
2. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
3. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
4. **Access to Records.** Both parties shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. All financial records shall be maintained in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. At either party's request, the other party shall provide the

requesting party with paper or electronic version of all documents, engineering designs, warranties, and other materials directly related to a Project that have been produced or recorded. The Parties are not obligated to provide confidential documentation or produce materials in electronic media if the materials do not already exist in electronic media.

5. **Work Product.** Reserved.
6. **Hazard Communication.** Reserved.
7. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
8. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
9. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
10. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
11. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
12. **No Third-Party Beneficiary.** WES and NCPRD are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any

benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

13. **Subcontract and Assignment.** Neither WES nor NCPRD shall enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the other Party, which shall not be unreasonably withheld. Either Party's consent to any subcontract shall not relieve the other Party of any of its duties or obligations under this Agreement.
14. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
15. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
16. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
17. **Time is of the Essence.** WES and NCPRD agree that time is of the essence in the performance this Agreement.
18. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
19. **Force Majeure.** Neither WES nor NCPRD shall be held responsible for delay or default caused by events outside of WES or NCPRD's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, WES shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
20. **Confidentiality.** Reserved.
21. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

*[Signature Page Follows]*



**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**North Clackamas Park and Recreation District**

**Water Environment Services**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date

**Approved as to Form**

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Date

## Exhibit A

### SCOPE OF WORK

#### 1. **Obligations of WES.**

- i. WES agrees to lead the resolution of any property boundary issues, land surveys, etc. on WES owned properties.
- ii. WES agrees to notify NCPRD of special use permits related to sites that contain mitigation and to provide NCPRD with permit language, so that NCPRD understands what other uses of the site may be and can help provide recommendations based on day-to-day management.
- iii. WES agrees to notify NCPRD of partnership activities and educational events planned at WES sites where NCPRD may be conducting Work, so that NCPRD understands what other uses of the site may be and can help provide recommendations based on day-to-day management.
- iv. WES will provide its Rules for Public Property to NCPRD to guide NCPRD in interacting with the public on WES properties.
- v. WES will draft an annual work plan with input from NCPRD. The Parties will work together to finalize annual work plan documents that will guide NCPRD's day to day work during a fiscal year. Work tasks include, but are not limited to, 1) vegetation survey, monitoring, maintenance including hazard tree removal; 2) trails or facility monitoring and maintenance; and 3) trash monitoring and maintenance; 4) monitoring houseless persons activity on WES owned properties and posting necessary signage provided by WES in compliance with the Clackamas County Code, in addition to coordinating with representatives of the Clackamas County Sheriff's Office Exclusion Program as needed.

#### 2. **Obligations of NCPRD.**

- i. NCPRD agrees to get approval from WES of any partnership or educational activities that NCPRD leads at WES sites and to include WES as a funding partner on any marketing materials, if funds from this IGA support the project.
- ii. NCPRD agrees to review information related to partnership activities and educational events planned at WES sites and to provide comments to WES in a timely fashion noting any conflict with the day-to-day management.
- iii. NCPRD will provide input on and review the annual work plan developed by WES. The two agencies will work together to finalize annual work plan documents that will guide NCPRD's day to day work during a fiscal year.
- vi. NCPRD will follow WES' Rules for Public Property to NCPRD in interacting with the public on WES properties.

- vii. Work tasks include but are not limited to 1) vegetation survey, monitoring, maintenance including hazard tree removal, 2) trails or facility monitoring and maintenance, 3) trash monitoring and maintenance. NCPRD follows specific best management practices, regulatory guidelines and policies and protocols to manage a site including Oregon Department of Agriculture regulations of control of invasive weeds, Clackamas County and NCPRD policies and protocols; 4) monitoring houseless persons activity on WES owned properties and posting necessary signage provided by WES in compliance with the Clackamas County Code, in addition to coordinating with representatives of the Clackamas County Sheriff's Office Exclusion Program as needed.
- iv. WES shall be listed as additionally insured on any contract insurance documents that NCPRD leads on WES property.

## Exhibit B

### ANNUAL WORK PLAN

<b>Property Name</b>	<b>Current Activity</b>	<b>Needs</b>	<b>Taxlot</b>	<b>Address</b>	<b>City</b>	<b>Zip</b>	<b>Acres</b>	<b>Taxpayer</b>	<b>Address</b>
Mt. Scott Creek - Oak Bluff Reach	Weed control, cleanups, sweeps for camps.	Continue as in past.	22E04B 00300	8970 SE OAK BLUFF RD	CLACKAMAS	97015	2.74	WES	8970 SE OAK BLUFF RD
Last Road Property	None to date	Weed control and re-planting, trash pickup--as time allows.	22E09DC01102	9557 SE LAST RD	CLACKAMAS	97015	0.20	WES	9557 SE LAST RD
84th Ave Property	None to date	Weed control and re-planting, trash pickup--as time allows.	22E04B 03700	12605 SE 84TH AVE	CLACKAMAS	97015	1.96	WES	12605 SE 84TH AVE
Rock Creek Confluence Property	Restoration completed by WES & CRBC; CRBC contract ended.	Occasional monitoring/maintenance. Weed spot treatment, mow around shelter, occasional sweeps for camping and cleanup.	22E12 00303	NO SITUS	NO SITUS	NO SITUS	9.20	WES	NO SITUS
Rose Creek	Weed control, trail maintenance, some planting, esp. streambank area.	Weed control, trail maintenance, some planting, bioengineering in streambank area.	22E01CD00100, 22E01CC11100, 22E01C 00312, 22E01CA07000	14001 SE 152ND DR	CLACKAMAS	97015	6.90	WES	14001 SE 152ND DR, 13944 SE HINES DR, NO SITUS
Echo Valley Meadows	Restoration completed, released from permit, in maintenance phase.	Needs continued maintenance (weed treatments/inter-planting).	22E03DD00519, 22E03DD00520, 22E03DD00527	14181 SE ECHO VALLEY CT	CLACKAMAS	97015	0.58	WES	14181 SE ECHO VALLEY CT, 14199 SE ECHO VALLEY CT, 14165 SE ECHO VALLEY CT
3-Creeks	Weed control, cleanups, sweeps for camping, volunteer event coordination.	Continue as in past.	22E04B 01300, 22E05 00200	NO SITUS	NO SITUS	NO SITUS	78.94	WES	NO SITUS and 7200 SE HARMONY RD
Hearthwood Wetlands easement area	Weed control, some inter-planting	Continue as in past.	22E09CC03000	NO SITUS	NO SITUS	NO SITUS	0.05	The Wetlands Conservancy	NO SITUS
North Clackamas Park riparian area	Weed control, inter-planting	Continue as in past.	22E06AC00100	SE Kellogg Creek Dr.	MILWAUKIE	97022	3.00	City of Milwaukie	SE Kellogg Creek Dr.



**BUSINESS AND COMMUNITY SERVICES  
NORTH CLACKAMAS PARKS AND RECREATION DISTRICT**

Development Services Building  
150 Beaver Creek Road, Oregon City, OR 97045

Laura Zentner, BCS Director

October 29, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement Amendment #1 between North Clackamas Parks and Recreation District (NCPRD) and Metro for Mapping and Data Services

<b>Purpose/Outcome</b>	Provides NCPRD with continued on-call Geographic Information System (GIS) services through Metro’s Research Center to support project work.
<b>Dollar Amount and Fiscal Impact</b>	\$30,000
<b>Funding Source</b>	NCPRD General Fund, Planning Budget
<b>Duration</b>	Through June 30, 2024 (three years and eight months)
<b>Previous Board Action/Review</b>	None
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Provides support service for economic development, public spaces, and community enrichment services to residents, businesses, visitors, and partners so they can thrive and prosper in healthy and vibrant communities</li> <li>2. Promote a <i>Healthy and Active Lifestyle</i> by providing support services to developing and maintaining NCPRD’s parks and trails.</li> </ol>
<b>Counsel Review</b>	<ol style="list-style-type: none"> <li>1. October 20, 2020</li> <li>2. JM</li> </ol>
<b>Procurement Review</b>	<ol style="list-style-type: none"> <li>1. <i>Was this item processed through procurement?</i> No</li> <li>2. This is an IGA.</li> </ol>
<b>Contact Person</b>	Kathryn Krygier, Planning and Development Manager 503-867-2820
<b>Contract No.</b>	N/A

**BACKGROUND:**

NCPRD entered into an IGA with Metro for on-call GIS services in October, 2017. These services provide NCPRD with custom mapping, data and analysis for special projects. The services include things such as providing the District maps for internal and public use, analysis of District boundaries and data management for annexations, new acquisitions and changes in District boundaries. The proposed amendment would allow these service to continue until June 30, 2024.

**RECOMMENDATION:**

Staff respectfully recommends the Board of County Commissioners of Clackamas County, acting as the Board of Directors of the North Clackamas Parks and Recreation District, approve the Intergovernmental Agreement Amendment #1 between North Clackamas Parks and Recreation District (NCPRD) and Metro for mapping and data services and allow BCS Director or Deputy Director to sign on their behalf.

**ATTACHMENTS:**

1. Intergovernmental Agreement
2. Amendment to Intergovernmental Agreement

Respectfully Submitted,



Laura Zentner, Director  
Business & Community Services

This AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (“Amendment”) is entered into on the last date of signature below (the “Effective Date”), by and between Metro, an Oregon municipal corporation (“Metro”), and the North Clackamas Parks and Recreation District, a county service district (“NCPRD”).

**RECITALS**

1. NCPRD and Metro are parties to an Intergovernmental Agreement effective 11/01/2017 for on-call professional consulting services through the Research Center (“Research Center NCPRD IGA”).
2. The Research Center NCPRD IGA establishes the responsibilities of the parties concerning Metro’s work performed for NCPRD.
3. The parties desire to amend the Research Center NCPRD IGA to extend the term and increase the funds for the extended term of the agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants of the parties set forth in this Amendment, the receipt and adequacy of which are acknowledged, the parties agree as follows:

**1. Term.** The term is extended:

Following the expiration of the initial three-year term, this Agreement will continue through June 30, 2024 (“Extended Term”), unless earlier terminated as provided in this Agreement.

**2. Funds.** In consideration for the services Metro completes and delivers under the Extended Term and identified in the Scope of Work in the Research Center NCPRD IGA, the District agrees to pay Metro a sum not to exceed a total of **THIRTY THOUSAND AND 00/100THS DOLLARS (\$30,000)**.

**3. Miscellaneous.** This Amendment may be executed digitally and in counterparts, and delivery by facsimile or e-mail is sufficient to form a binding agreement. Except as modified herein, the Research Center NCPRD IGA remains unmodified and in full force and effect.

**4. Miscellaneous.** The Intergovernmental Agreement dated 11/1/2017 between the parties is ratified and fully executed by the signatures below.

**BCC as the Board of North Clackamas Parks and Recreation District**

**Metro**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: Marissa Madrigal

Title: \_\_\_\_\_

Title: Chief Operating Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# INTERGOVERNMENTAL AGREEMENT

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Metro Contract No. 934898

THIS AGREEMENT is between Metro, an Oregon municipal corporation (Metro) and North Clackamas Parks and Recreation District, a county service district organized under ORS chapter 451 (District).

## RECITALS

- A. By the authority granted in ORS 190.110, units of local government may enter into agreements with units of local government to perform any or all functions and activities that the parties to the agreement, its officers, or agents have authority to perform.
- B. District desires Metro, through the Research Center, to provide on-call professional consulting services to the District.
- C. Metro manages data, including but not limited to district boundaries, maps of District assets, land uses, trends, and capital projects that the District desires to promote informed decision making.

In consideration of the foregoing recitals and the mutual promises herein, the parties agree as follows:

## TERMS OF AGREEMENT

### 1. Purpose

This Agreement is to establish the responsibilities of the parties concerning the Metro's work performed pursuant to the Scope of Work in Exhibit A.

### 2. Term

This Agreement is effective as of the date all required signatures are obtained (the Effective Date) and will automatically terminate three (3) years after the Effective Date, unless earlier terminated as provided for in this Agreement.

### 3. Metro Responsibilities

Metro agrees to:

- a. Furnish the necessary personnel, equipment, material and services and otherwise do all things necessary for or incidental to performing work set forth in the Scope of Work attached as Exhibit A and incorporated herein (the Work).
- b. Perform the Work as an independent contractor and be exclusively responsible for all costs and expenses related to Metro's employment of individuals performing the Work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.





**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

# INTERGOVERNMENTAL AGREEMENT

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- c. Comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement.

#### 4. District Responsibilities

District agrees to:

- a. In consideration for the services Metro completes and delivers under this Agreement and identified in the Scope of Work, pay Metro a sum not to exceed a total of **THIRTY THOUSAND AND NO/100THS DOLLARS (\$30,000.00)** for term of this Agreement. The price includes all fees, costs and expenses of whatever nature. Payment will be made as provided for by section 5 below. Work will be at an hourly rate and for costs as described in Exhibit B.
- b. Certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement.

#### 5. Billing invoices and Payment for Services

- a. Metro billing invoices to District must include:
  - (i) Metro contract number;
  - (ii) Remittance address;
  - (iii) Invoice date;
  - (iv) Invoice number;
  - (v) Invoice amount;
  - (vi) Itemized statement/description of expenses and work performed on each task during the billing period; and
  - (vii) Total amount billed to date.
- b. Metro billing invoices must not be submitted more frequently than monthly. Metro's billing invoices must be sent electronically to [kkrygier@ncprd.com](mailto:kkrygier@ncprd.com) with the Metro contract number referenced in the email subject line. Metro's billing invoices for goods and/or services through June 30 must be submitted to the District by July 15.
- c. District will issue payment within 30 days of approval of the completed work and deliverables identified as being Metro's responsibility in the Statement of Work.

#### 6. Notices: Project Managers

All notices and other written communication between the parties under this Agreement must be given in writing to the address set forth below and is deemed received (a) upon personal service, (b) three (3) days after deposit in the United States Mail, postage prepaid, or (c) one (1) day after deposit with a nationally recognized overnight courier service. The parties appoint the following representatives for receiving notice and as project managers for this Agreement.

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Metro: Karen Scott Lowthian  
Metro  
600 N.E. Grand Avenue  
Portland, Oregon 97232-2736  
503-797-1725  
[Karen.Scott-Lowthian@oregonmetro.gov](mailto:Karen.Scott-Lowthian@oregonmetro.gov)

District: Kathryn Krygier  
Planning and Development Manager  
North Clackamas Parks and Recreation District  
150 Beaver Creek Road  
Oregon City, Oregon 97045  
503-742-4358  
[kkrygier@ncprd.com](mailto:kkrygier@ncprd.com)

The foregoing addresses may be changed by giving written notice. Notice given in any manner other than the manners set forth above will be effective when received by the party for whom it is intended.

## 7. Termination

This Agreement may be terminated as follows:

- a. By mutual written consent of both parties.
- b. By District, in whole or in part, immediately upon written notice to Metro, or at such later date as may be established by District, under any of the following conditions:
  - i. If Metro fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - ii. If Metro commits any other breach or default of any covenant, warranty, or obligation under this Agreement, or so fails to pursue the Work as to endanger performance of this Agreement in accordance with its terms. To be effective, District must give Metro written notice of District's intent to terminate. If Metro does not entirely cure such breach, default, or failure within thirty (30) days after receipt of District's notice, or such longer period of cure as District may specify in the notice, then District may terminate this Agreement at any time thereafter by giving a written notice of termination.
  - iii. If District fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the Agreement.
  - iv. If Federal or State laws, regulations or guidelines are modified or interpreted in such a way to prohibit the work under this Agreement or prohibit Metro from paying for such work from the planned funding source.



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- c. By Metro, in whole or in part, immediately upon written notice to District, or at such later date as may be established by Metro, if District commits any breach or default of any covenant or obligation under this Agreement.

Any termination of this Agreement will not prejudice any rights or obligations accrued to the parties prior to termination. No consequential or punitive damages are permitted. Metro's sole remedy is a claim for the sum designated for the work performed.

## **8. Insurance**

Metro and District are self-insured for general liability insurance and workers' compensation insurance coverage. Each party is responsible for the wages and benefits of its respective employees performing services under this Agreement.

## **9. Indemnification**

- a. Within the limits of the Oregon Tort Claims Act and the Oregon Constitution, District shall indemnify, defend, and hold harmless Metro, its officers, employees, and agents, including assigned personnel, from all claims, suits, actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of District, its agents or assigned personnel acting within the scope of employment or pursuant to the terms of this Agreement.
- b. Within the limits of the Oregon Tort Claims Act and the Oregon Constitution, Metro shall indemnify, defend, and hold harmless District, its officers, employees, and agents, including assigned personnel, from all claims, suits, actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of Metro, its agents or assigned personnel acting within the scope of employment or pursuant to the terms of this Agreement.

## **10. Maintenance and Access**

The parties shall maintain all fiscal records related to this Agreement in accordance with generally accepted accounting principles. The parties shall maintain books, documents, and other records related to the subject Agreement. The parties shall retain and keep accessible all such records for a period of six years from the date of final completion of this Agreement. Each party shall make records available to the other party and its authorized representatives, including but not limited to the staff of any department, at reasonable times and places regardless of whether litigation has been filed on any claims.

## **11. Ownership of Work Product**

All work products relating to this Agreement shall allow District unrestricted access to use data and information provided by Metro. Notwithstanding, to the extent either party uses any of its own property created or developed, whether arising from copyright, patent, trademark, trade

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secret or other similar right, in the performance of this Agreement, such property shall remain the property of the party.

## **12. Confidentiality**

Each party agrees that it will make all reasonable efforts to maintain the confidentiality of any Confidential Information received from the other party. Each party agrees that it will use any such Confidential Information only in performing its duties under this Agreement. "Confidential Information" means information marked or designated in writing by either party as "confidential" prior to its initial disclosure to the other party. Confidential Information if given orally must be reduced to writing within 30 days. The parties agree that nothing herein shall be construed to limit the applicability of Oregon Public Records Law.

## **13. Assignment**

Neither party shall subcontract, assign, or transfer any of the Work scheduled under this Agreement without the prior written consent of the other party.

## **14. Survival**

All obligations relating to indemnification, default or defect in performance, limitation of liability, publicity, proprietary rights, and obligations to make payments that become due under this Agreement prior to termination (except that payments for services not performed by the date of termination will be prorated) survive termination or expiration of this Agreement and, to the extent applicable, remain binding and in full force and effect.

## **15. Governing Law**

This Agreement is governed by Oregon law without giving effect to the conflict of law provisions thereof. Any litigation between the parties that arises out of or relates to the Agreement must occur in Clackamas County Circuit Court. Claims must be brought in the Circuit Court's small claims division if within jurisdictional claim allowances.

## **16. Miscellaneous**

Time is of the essence under this Agreement. Nothing in this Agreement provides any benefit or right to third persons. This Agreement is binding on each party, its successors, assigns, and legal representatives. This Agreement and attached exhibit(s) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The terms of this Agreement cannot be waived, altered, modified, supplemented or amended in any manner whatsoever, except by written amendment signed by both parties. Any waiver, consent, modification or change, if made, is effective only in the specific instance and for the specific purpose given. The failure of a party to enforce any provision of this Agreement does not constitute a waiver by that party of that provision or of any other provision. If any term or provision of this Agreement is declared by a court to be illegal or in conflict with any law the



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validity of the remaining Agreement terms are not affected and the rights and obligations of the parties must be construed and enforced as if the Agreement did not contain the offending term or provision.

The parties hereto have executed this Agreement as of the Effective Date.

**Metro**

**North Clackamas Parks and Recreation District**

By: \_\_\_\_\_

*Jeff Frkdnja*  
Jeff Frkdnja

By: \_\_\_\_\_

*Laura Zentner*  
Laura Zentner

Title: Research Center Director

Title: Interim Business & Community Services Director

Date: \_\_\_\_\_

*11/1/17*

Date: \_\_\_\_\_

*10/23/17*

Approved as to Form:

Approved as to Form:

By: \_\_\_\_\_

By: \_\_\_\_\_

*[Signature]*



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## **Exhibit A Scope of Work**

This Scope of Work describes District-funded Metro tasks.

The District executed this IGA to engage Metro for on call services for custom mapping, data, and analysis for special projects. Projects include but are not limited to:

- District Maps for internal and public use.
- Analysis of District boundaries.
- Maps of District assets and responsibilities such as park amenities, property ownership, and property management, and other property data.
- Data management including annexations, new acquisitions, changes in District boundaries.
- Data and maps for projects such as District Master Plan, SDC Methodology Update and Capital Improvement Plan.

It is anticipated deliverables will be electronic and printed.

Services under the Agreement are on an “on-call” or “as-needed basis.”

No work may be performed by Metro until a written task scope of work is developed and agreed to by the parties, in writing, for a specific project.

Each task’s scope of work must minimally include: a detailed description of services or products to be provided and a timeline for the task and a maximum fee for completion of the task.



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### **Exhibit B Rates**

**Personnel Charges:** Metro's incurred personnel costs for performing work requested by North Clackamas Parks and Recreation District and as described in Exhibit A will be paid by North Clackamas Parks and Recreation District. These actual personnel costs include salary, employee benefits, and Metro overhead. The hourly personnel rate to be charged ranges from \$75.00 per hour for an Assistant GIS Specialist to \$150.00 per hour for a GIS Manager. These rates will vary based upon the classification of employee(s) Metro assigns to fill a request and also can change as annual staff cost of living and merit increases occur.

**Map Printing Costs:** Metro's standard map printing costs for maps up to 34" X 44" range from \$5.00 to \$50.00 and may change if printing supply costs increase. Costs for printing oversize maps (larger than 34" X 44") are determined on an individual basis

**Other Costs:** Standard shipping and mailing charges may apply for items shipped through USPS or other mail services.