

AGENDA

Thursday, April 25, 2019 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2019-46

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. PRESENTATION

Health, Housing & Human Services

1. Resolution No. _____ Promoting Investments in Young Children and Families for Early Childhood Education (Rod Cook, Children, Youth & Families)

II. 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.)*

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

A. Health, Housing & Human Services

1. Approval of an Intergovernmental Agreement with the Housing Authority of Clackamas County for Hillside Manor Emergency Assistance – *Community Development*
2. Approval of Intergovernmental Agreements with Clackamas Fire District #1, City of Lake Oswego and Tualatin Valley Fire & Rescue District for Advanced Life Support Emergency Medical System Integration – *Public Health*
3. Approval of Amendment No. 17 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County – *Public Health*
4. Approval of an Intergovernmental Agreement with the Gladstone School District for the Food Pantry Program – *Public Health*
5. Approval of a Purchase and Sale Agreement for the Purchase of Property in Sandy, Oregon – *Health Centers*

B. Department of Transportation & Development

1. Board Order No. _____ Related to the Previously Approved Vacation of McNary Road

C. Finance Department

1. Resolution No. _____ Approving the Submission of the Assessor's CAFFA Grant Application for FY 2019-20
2. Approval of a Contract with Tapani, Inc. for the Utilidor Piping and Conduit Extension Project

IV. DEVELOPMENT AGENCY

1. Approval of Easements to Water Environment Services for Pipeline and Access Purposes Adjacent to the Carli Creek Water Quality Facility and Release of Existing Easements Affecting the Same
2. Delegation of Authority to Execute a Property Line Adjustment Deed with Water Environment Services to Adjust Approximately .33 Acres of Land on Property Located On Capps Road West of SE 120th Avenue

V. WATER ENVIRONMENT SERVICES

1. Approval of Easements to Water Environment Services for Pipeline and Access Purposes Adjacent to the Carli Creek Water Quality Facility and Release of Existing Easements Affecting the Same
2. Delegation of Authority to Execute a Property Line Adjustment Deed with the Development Agency to Adjust Approximately .33 Acres of Land on Property Located On Capps Road West of SE 120th Avenue
3. Approval of a Professional Services Contract between Water Environment Services and Otak, Inc. for the Water Environment Services & Happy Valley Storm System Master Plan – *Procurement*

VI. COUNTY ADMINISTRATOR UPDATE

VII. 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.

<https://www.clackamas.us/meetings/bcc/business>

April 25, 2019

Board of Commissioners
Clackamas County

Approval of a Resolution Promoting Investments in
Young Children and Families for Early Childhood Education

| | |
|--|--|
| Purpose/Outcomes | This resolution is an opportunity to demonstrate the county's leadership and commitment to strengthening services, programs, policies and systems vital to the success of all infants and toddlers. The resolution aligns with the National Collaborative for Infants and Toddlers (NCIT) and National Association of Counties (NACo) effort to ensure families have the support they need to give their infants and toddlers the foundation for a strong start in life. |
| Dollar Amount and Fiscal Impact | No fiscal impact to the County – County receives funds from the State of Oregon to coordinate the Clackamas County Early Learning Hub. |
| Funding Source | N/A |
| Duration | This is an on-going resolution to support the work of the Early Learning Hub to coordinate with community partners to deliver equitable, comprehensive, and complex programming that, together, are critical to the success of young children, families and communities. |
| Previous Board Action | The Board has supported the County's role in being the backbone organization for the Early Learning Hub and its associated initiatives and programs. |
| Strategic Plan Alignment | Individuals and families in need are healthy and safe Ensure safe, healthy and secure communities |
| Contact Person | Rodney A. Cook, Director Children, Youth & Families Division 503-650-5677 |

BACKGROUND:

Recent brain science shows that the most rapid period of brain development occurs within the first three years of life - developing faster from birth to age three than at any later period, building the foundation for all future learning, behavior and health. Although there are opportunities to intervene later, there is a potential for large gains if investments in quality programs and services are made early.

Counties play pivotal role in the development of their youngest residents, often working in coordination with community partners to deliver equitable, comprehensive, and complex programming that, together, are critical to the success of young children, families and communities. These programs and services:

* Ensure children have a healthy start in life providing access to prenatal care, immunizations, developmental and behavioral health screenings and consultation, and early intervention services.

Healthy Families. Strong Communities.

* Support families through child welfare and court models, parent education classes, home visiting, and federally mandated programs like WIC, CHIP and Medicaid.

* Provide access to affordable, high-quality child care and early learning through Early Head Start, child care subsidies, and professional development and training opportunities for caregivers.

Counties are not only responsible for service delivery, but many times are also the catalyst for national, state and local systems change - coordinating intake and referral to a continuum of supports; building data systems that allow agencies to share information and measure progress; coordinating planning and financing to target resources most in need; fostering community and political will to enhance support for investing in infants and toddlers; and creating continuous quality improvement processes to sustain improvements.

This resolution is an opportunity to demonstrate our county's leadership and commitment to strengthening services, programs, policies and systems vital to the success of all infants and toddlers. Please join the National Collaborative for Infants and Toddlers (NCIT) and National Association of Counties (NACo) in this national effort to ensure families have the support they need to give their infants and toddlers the foundation for a strong start in life by passing this resolution today.

RECOMMENDATION:

Staff recommends the Board approve the Resolution Promoting Investments in Young Children and Families for Early Childhood Education.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

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

Resolution to Promote Investments
in Early Childhood Services for Young
Children and Families



Resolution No. _____

Page 1 of 2

WHEREAS, Counties routinely provide an array programs and services to an estimated 16 million children ages birth to three in the United States; and in 2017 about 29 percent of counties had more than a quarter of all children living in poverty; and

WHEREAS, The most rapid period of brain development occurs within the first years of life with the brain developing faster from birth to age three than at any later period in life, building the foundation for all future learning, behavior and health; and toddlers receive what their growing brains need, they become healthy children who are confident, empathetic and ready for school and life; and

WHEREAS, Research shows that when we invest in the first three years of a child's life the returns for the community are the highest, and we can reduce the need for more expensive interventions later; and research also shows that high-quality early childhood development programs can deliver an annual return of up to 13 percent per child on upfront costs through better outcomes in education, health, employment and social behavior in the decades that follow; and economists attribute local economic growth and prosperity to high-quality early child care programs; and

WHEREAS, Parents are a child's most important caregivers and play the lead role in their child's healthy development; at the same time, communities and governments can effectively provide families with an array of comprehensive support at an especially critical time; and

WHEREAS, Programs and policies should start early to ensure healthy beginnings at birth, support families with infants and toddlers and make high-quality child care and learning environments more accessible and affordable to all; and

WHEREAS, High-quality child care is often unavailable or unaffordable for parents who need it, and many families are not connected to networks or early childhood supports that can offer guidance and confidence to navigate the earliest months and years of their children's lives; and

WHEREAS, Clackamas County and all counties take pride in protecting and enhancing the health, welfare and safety of residents in cost-effective ways, especially for the 13,000 children under the age of three in our area; and

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

Resolution to Promote Investments
in Early Childhood Services for
Young Children and Families



Resolution No. _____
Page 2 of 2

WHEREAS, Clackamas County lacks a supply of quality, affordable child care options for our youngest children. The price of infant toddler child care is 1.5 times that of tuition at Oregon’s Public Universities and families bear the burden of the cost.

WHEREAS, The Early Learning Hub of Clackamas County is working with partners in health, education, social services and other sectors to assure that all children and families have the resources and support they need to be successful in school and life by facilitating readiness for Kindergarten, safe, stable and attached Families, and an aligned, coordinated and family-centered early learning system; and

WHEREAS, the National Association of Counties (NACo) and other national organizations joined the National Collaborative for Infants and Toddlers (NCIT), a project of the Pritzker Children’s Initiative (PCI), in a groundbreaking partnership to work with communities and states across the country to focus on early childhood development for young children from birth to three, and;

NOW, THEREFORE, the Clackamas County Board of Commissioners, do hereby resolve to prioritize and invest in Early Childhood efforts that promote a healthy start at birth, support for families with infants and toddlers, high-quality care and learning environments, and utilize the resources available through NACo and the NCIT to:

- Be a champion for change by prioritizing and investing in high-quality early childhood programs so children, families and communities can thrive;
- Designate authority to the Early Learning Hub of Clackamas County to coordinate and maximize county services to optimize child and family outcomes and leverage additional resources;
- Support the Early Learning Hub to convene a diverse team of leaders, decision-makers and community stakeholders committed to early childhood investments;
- Support the Early Learning Hub to inventory local programs and services for children and families, create a plan with in alignment with Performance Clackamas goals, implement evidence-based approaches that promote a comprehensive and equitable continuum of care that begins before birth and spans into adulthood, with specific recommendations for children under three and their families;
- Support the Early Learning Hub to leverage local, state and federal investments and explore innovative funding strategies and revenue streams to support early childhood programming; and
- Support the Early Learning Hub to promote prenatal-to-three policies, best practices and cross coordination to improve child and family outcomes as well as service delivery and efficacy in government through streamlined processes.

DATED this 25th day of April, 2019

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

April 25, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the
Housing Authority of Clackamas County
for Hillside Manor Emergency Assistance

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|--|--|
| Purpose/Outcomes | The Agreement will allow for the Community Development Division to fund Emergency Assistance to pay for temporary relocation expenses for tenants displaced by a fire at the Hillside Manor in Milwaukie in February 2019. |
| Dollar Amount and Fiscal Impact | \$25,000 of Community Development Block Grant funds |
| Funding Source | U.S. Department of Housing and Urban Development No County General Funds are involved. |
| Duration | Effective February 11, 2019 to February 10, 2020 |
| Previous Board Action | 2018 Action Plan and the 3 -Year Funding Recommendations were approved by the BCC on May 3, 2018 agenda item 050318 - A1 |
| Strategic Plan Alignment | 1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities |
| Counsel Review | County Counsel has reviewed and approved this document. April 9, 2019 |
| Contact Person | Mark Sirois, Housing and Community Development - (503) 655-5664 |
| Contract No. | 9190 |

BACKGROUND:

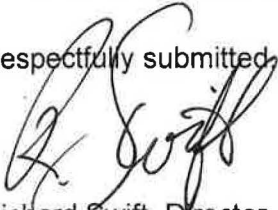
The Housing and Community Development Division of the Health, Housing and Human Services Department requests the approval of this Intergovernmental Agreement with the Housing Authority of Clackamas County for emergency assistance to pay for temporary relocation expenses for tenants displaced by a fire at the Hillside Manor in Milwaukie in February 2019. The fire damage has been repaired and tenants have been allowed to move back into their units. Expenses involved are for temporary relocation expenses and rent of hotel rooms while the public housing units damaged by fire were being repaired.

The Agreement was reviewed and approved by County Counsel on April 9, 2019.

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,

A handwritten signature in black ink, appearing to read "R. Swift", written over the text "Respectfully submitted,".

Richard Swift, Director
Health, Housing & Human Services

INTERGOVERNMENTAL AGREEMENT

BETWEEN

CLACKAMAS COUNTY, OREGON

AND

HOUSING AUTHORITY OF CLACKAMAS COUNTY

I) Purpose:

- (A) This Intergovernmental Agreement ("Agreement") is entered into pursuant to ORS Chapter 190 and is between Clackamas County, a political subdivision of the State of Oregon ("County"), by and through its Housing and Community Development Division, and the Housing Authority of Clackamas County, an Oregon public corporation organized under ORS Chapter 456 ("HACC"). The purpose of this Agreement is to provide financial assistance to support necessary temporary relocation of public housing clients and other services and activities in response to a recent fire at the Hillside Manor public housing property ("Project"). Services and activities covered under this Agreement are being funded, in part, with Community Development Block Grant ("CDBG") funds. HACC is the owner and operator of the facility, located at 2889 SE Hillside Ct, Milwaukie, OR 97222.

The emergency assistance activities covered under this Agreement are necessary to assist low income public housing clients who have been displaced due to a fire. Funds will be used for temporary relocation of clients until their rental units are repaired by the Housing Authority pursuant to 24 CFR 570.207(b)(4) *Income payments. The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, "income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.*

I) Scope of Responsibilities:

- (A) Under this Agreement the responsibilities of HACC shall be as follows:
- 1) HACC will be solely responsible for the Project.
 - 2) HACC agrees to report, using the form attached hereto as Attachment A, to the County demographic information on HACC clientele who are assisted with temporary relocation rental assistance payments. The report shall be submitted to the County no later than the 31st day of August of each such year during the term of this Agreement.
 - 3) HACC will ensure that CDBG funds expended under this Agreement are used solely in compliance with applicable federal regulations and are not used to pay for the cost of materials, services or other expenses, where such costs are being recovered by any insurance claim made on behalf of HACC.

- (B) Under this Agreement the responsibilities of the County shall be as follows:
- 1) The County agrees to provide and administer available CDBG funds granted by the U.S. Department of Housing and Urban Development (“HUD”) to finance the Project.
 - 2) The County shall conduct necessary environmental reviews described in 24 CFR part 570.604 of the CDBG regulations for compliance with requirements of the CDBG program.
 - 3) The County shall conduct due diligence to determine the feasibility of the Project.
 - 4) The County has determined that the Project will meet the CDBG objective of benefiting primarily low and moderate income persons as a Limited Clientele Activity as described in 24 CFR part 570.208(a)(2)(i)(A). County may conduct periodic reviews of the Project to ensure that the CDBG national objective is being met.
 - 5) The County shall provide reasonable and necessary staff for administration of this Agreement.

II) Budget and Financial

- (A) The County will provide up to **\$25,000** dollars of CDBG funds to HACC for the activities covered under this Agreement.
- (B) The County will distribute the CDBG funds within thirty (30) days of receipt from HACC of a request for reimbursement of eligible expenditures, as determined by the County in its sole administrative discretion. Reimbursement requests will be made to the County on a monthly basis. Reimbursement will be based on an itemized reimbursement form developed by HACC and will include all corroborating receipts.
- (C) The obligations of the County are expressly subject to the County receiving funds from HUD for the Project, and in no event shall the County's financial contribution exceed the amount finally granted, released, and approved by HUD for this Project.
- (D) HACC will be financially responsible for all funds needed for the covered activities beyond the County's \$25,000 available for the Project. In addition, HACC shall match at least 20% of all CDBG funds distributed under this Agreement by expending not less than \$5,000 toward the costs of renovation and relocation. HACC has the sole authority to determine the source of any monies used or expended toward the costs of the covered activities.
- (E) If HACC fails to meet a national objective for allowed use from the CDBG Program under the HUD guidelines, or otherwise uses the funds for an ineligible purpose under the CDBG Program, the County reserves the right to demand repayment of all CDBG funds issued under this Agreement.

III) Liaison Responsibility

Rich Malloy will act as liaison from HACC for this Project. Mark Sirois will act as liaison from the County.

IV) Special Requirements

- (A) Law and Regulations. The County and HACC agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- (B) Relationship of Parties. Each party is an independent contractor with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- (C) Indemnification. Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, HACC agrees to indemnify, defend and hold harmless the County, its officers, elected officials, agents and employees from and against all liability, loss and costs arising from actions, suits, claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of HACC or its employees or agents, in performance of this Agreement. Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, the County agrees to indemnify, defend and hold harmless HACC, its officers, agents and employees from and against all liability, loss costs arising from actions, suits, claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or its employees or agents, in performance of this Agreement.
- (D) Notice of Claims. Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Agreement.
- (E) Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- (F) Access to Records. HACC will ensure that the County, the State of Oregon, 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.
- (G) Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Obligations of the County are also expressly subject to the County receiving funds from HUD for this Project and in no event shall the County's financial contribution exceed the amount finally granted, released and approved by HUD for this Project or eighty percent of the costs of acquisition and renovation of the Property, whichever is less.
- (H) Conflict of Interest. No officer, elected official, board member, employee, or agent of HACC or County who exercises any functions or responsibilities in connection with the planning and carrying out of the CDBG Program, or any other person who exercises any functions or

CDBG AGREEMENT: 2019 HACC FIRE TEMPORARY RELOCATION

responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the Parties shall take appropriate steps to assure compliance. The Parties will insure that no contractor, subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his or her services.

- (I) Insurance. HACC will bear the risk of loss from fire, personal injury, extended coverage, and will purchase and maintain property insurance on all affected HACC Property. HACC will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. If applicable, HACC shall be required to maintain flood insurance. HACC shall keep in effect during the term of this Agreement, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of the County, its officers, elected officials, agents, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. Each party agrees to maintain insurance, or self-insurance, in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270. HACC must meet these insurance requirements until the termination of the Agreement.
- (J) Nondiscrimination. HACC and the County agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, religion, sex, marital status, race, creed, color, national origin, familial status, or the presence of any mental or physical handicap. These requirements are specified in ORS chapter 659; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.
- (K) Handicapped Accessibility. HACC agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.
- (L) Nonsubstituting for Local Funding. The CDBG funding made available under this Agreement shall not be utilized by HACC to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.
- (M) Evaluation. HACC agrees to participate with the County in any evaluation process or performance report, as designed by the County or the appropriate Federal department, and to make available all information required by any such evaluation process.

VI) Amendment

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

VII) Term of Agreement

- A) This Agreement becomes effective February 11, 2019.
- B) The term of this Agreement is a period beginning when it becomes effective and ending 1 year (1) years from the date signed by both Parties. The expiration date of this Agreement will be February 11, 2020.
- C) Termination.
 - 1. Either the County or HACC may terminate this Agreement for convenience at any time upon thirty (30) days written notice to the other party. If HACC terminates for convenience, it shall return any unspent CDBG funds distributed under this Agreement to the County within thirty (30) days of termination.
 - 2. Either the County or HACC may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
 - 3. The County or HACC 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.
 - 4. Either Party may terminate this Agreement in the event it 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 a Party is prohibited from paying for such work from the planned funding source.
 - 5. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

VIII. Integration

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

IX. Severability

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

X. Oregon Law and Forum

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

XI. Waiver

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

[Signature Page Follows]

CDBG AGREEMENT: 2019 HACC FIRE TEMPORARY RELOCATION

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

**HOUSING AUTHORITY OF
CLACKAMAS COUNTY**

13930 Gain Street,
Oregon City, Oregon 97045

CLACKAMAS COUNTY

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

Signing on Behalf of the Board



Jill Smith, Director
Housing Authority of Clackamas County

4/15/19
Date

Richard Swift, Director
Health, Housing and Human Services
Department

Date

Reinke, Derek

From: Wilson, James
Sent: Thursday, April 11, 2019 2:18 PM
To: Reinke, Derek
Cc: Cockrell, Deborah
Subject: MFR Updates for 2019-2020 budget

Hi Derek

Here is the additional information for the MFR budget documents.

Patient and Visit counts

2018

| | Patients | Visits |
|-------------------|----------|--------|
| Primary Care | 10,907 | 31,844 |
| Dental | 5,670 | 15,638 |
| Behavioral Health | 5,628 | 46,167 |

2017

| | Patients | Visits |
|-------------------|----------|--------|
| Primary Care | 11,495 | 33,958 |
| Dental | 5,457 | 13,973 |
| Behavioral Health | 6,536 | 57,555 |

2016

| | Patients | Visits |
|-------------------|----------|--------|
| Primary Care | 15,252 | 35,699 |
| Dental | 5,276 | 13,698 |
| Behavioral Health | 8,357 | 71,225 |

2015

| | Patients | Visits |
|-------------------|----------|--------|
| Primary Care | 12,620 | 37,667 |
| Dental | 4,756 | 14,490 |
| Behavioral Health | 8,182 | 69,999 |

2018 Dental Patients between the ages of 6 and 14: 847

(This is an approximate number due to complications of patient date-of-birth and date of visit, which would take programmer development time to address)

Global Distress

Clackamas Health Centers measure the intensity of need of behavioral health patients based on their perception of suffering related to their symptoms. This measure is referred to as Global Distress. It is a statistically validated indicator of an individual's difficulties in personal relationships and impaired function and performance at work or school. Global Distress is measured through patient report at each visit using questionnaires developed in partnership with the A Collaborative Outcome Resource Network (ACORN).

Dental Sealants

Childhood tooth decay causes needless pain and has the potential to lead to future adverse outcomes. Applying dental sealants is an evidence-based clinical practice which is now recommended universally (Centers for Medicare and Medicaid Services; Centers for Disease Control and Prevention; U.S. Department of Health and Human Services American Dental Association; American Academy for Pediatric Dentistry) as an effective preventive method to avoid decay in permanent teeth in children.

Clackamas Health Centers measure the percentage of dental patients aged 6 to 14 who receive dental sealants as a leading measure of outcome which will have positive impact on patients for years into the future.

It replaces the lagging measure of Dental Service Plans completed within 1 year. The 1 year completion timeline rate did not prove to be an effective measure of outcomes for the population of Health Centers' Dental patients.

Please let me know if anything else would be useful in putting together our budget documents.

Have a great afternoon

James

April 25, 2019

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreements with Clackamas Fire District #1,
City of Lake Oswego and Tualatin Valley Fire & Rescue District
for Advanced Life Support Emergency Medical System Integration.

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| Purpose/Outcomes | Extends the current Agreement as additional time is needed to negotiate new Agreement that assures elements of the newly adopted EMS Strategic Plan is incorporated. |
| Dollar Amount and Fiscal Impact | No County general funds are involved. Each agency receives a share of the funds provided to Participating Providers for providing medical first- response services within specified response times. |
| Funding Source | Funds for this purpose are received by the County from the franchised ambulance provider based upon increased efficiency as provided for in the current agreement for ambulance services. |
| Duration | Effective upon signature and terminates on December 31, 2019 |
| Previous Board Action | Board approved original Agreement on April, 24, 2014, Agenda 042414-A4 |
| Strategic Plan Alignment | 1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities |
| Counsel Review | County Counsel has reviewed and approved this document on April 10, 2019 |
| Contact Person | Richard Swift, H3S , 503-650-5694 or Philip Mason-Joyner , 503-742-5956 |
| Contract No. | 6346-01, 6347-01, 6348-01 |

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #01 to the Intergovernmental Agreement with Clackamas County Fire District #1, Lake Oswego Fire Department, and Tualatin Valley Fire & Rescue District

The County's Ambulance Service Plan, adopted July 12, 2012, encourages partnerships in the emergency medical services system. Intergovernmental Agreements (IGAs) are currently in place between the County and three fire service agencies - Clackamas County Fire District #1, Lake Oswego Fire Department, and Tualatin Valley Fire & Rescue District. These agreements commit each agency to meet response time standards in providing emergency medical services to the public as established in the Ambulance Service Plan. Meeting these response times enables the franchised ambulance provider, American Medical Response NW (AMR), to reduce the number of staffed ambulances because it can rely on the fire agency response commitment.

The reduction in ambulances results in savings which AMR passes to the County. The savings are then distributed to the fire agencies in accordance with the terms of the IGA(s).

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 · Phone: (503) 742-5300 · Fax: (503) 742-5352

www.clackamas.us/community_health

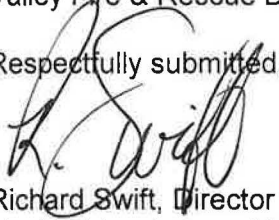
This cooperative relationship is referred to as "Integration" of advanced life support (ALS) services. These IGAs all terminate on May 1, 2019, unless extended by mutual agreement of the parties. It has been reviewed and approved by County Counsel.

This Amendment is effective upon signature and continues through December 31, 2019.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the Intergovernmental Agreements with Clackamas Fire District #1, City of Lake Oswego and Tualatin Valley Fire & Rescue District for Advanced Life Support Emergency Medical System Integration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", is written over the text "Respectfully submitted,".

Richard Swift, Director
Health, Housing, and Human Services

**AMENDMENT #01 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CLACKAMAS FIRE DISTRICT #1**

Agreement #6346-01

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Clackamas Fire District #1 ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 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;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date;

WHEREAS, the parties agree to accept the current compensation amount during the extension and understand that no adjustments will be made retrospectively should an increase be negotiated for the new Intergovernmental Agreement;

NOW, THEREFORE, 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 to amend the Agreement as follows:

1. **Term.** Section 11, Term of Agreement, is hereby amended to extend the term of the Agreement to December 31, 2019. The parties have performed under the Agreement following expiration of the original term, and hereby approve and ratify work performed as of the date of this Amendment.
2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to current compensation amount of \$10,912. per month.

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

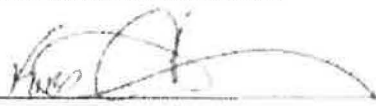
[Signatures on Following Page]

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

Clackamas County

Clackamas Fire District #1

Chair, Board of County Commissioners



By: Fred Charlton
Its: Fire Chief

Date

4-15-2019

Date

**AMENDMENT #01 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CITY OF LAKE OSWEGO**

Agreement #6347-01

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and City of Lake Oswego ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 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;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date;

WHEREAS, the parties agree to accept the current compensation amount during the extension and understand that no adjustments will be made retrospectively should an increase be negotiated for the new Intergovernmental Agreement;

NOW, THEREFORE, 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 to amend the Agreement as follows:

1. **Term.** Section 11, Term of Agreement, is hereby amended to extend the term of the Agreement to December 31, 2019. The parties have performed under the Agreement following expiration of the original term, and hereby approve and ratify work performed as of the date of this Amendment.
2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to current compensation amount of \$3,274. per month.

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

[Signatures on Following Page]

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

Clackamas County

Chair, Board of County Commissioners

Date

City of Lake Oswego

Scott Lazenby

Digitally signed by Scott Lazenby
DN: cn=Scott Lazenby,
email=slazenby@ci.lakeoswego.or.us, ou=ADOBE(r)-
CDS, c=US, o=City of Lake Oswego
Date: 2019.04.12 15:27:33 -07'00'

By: Scott Lazenby
Its: City Manager

Date

**AMENDMENT #01 TO INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND TUALATIN VALLEY FIRE & RESCUE**

Agreement #6348-01 ADVANCED LIFE SUPPORT EMERGENCY MEDICAL SYSTEM INTEGRATION

THIS AMENDMENT ("Amendment") is entered into by and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Tualatin Valley Fire & Rescue ("Agency") and shall become a part of that Intergovernmental Agreement entered between the parties on April 24, 2014 (the "Agreement").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 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;

WHEREAS, the parties are in the process of negotiating a new Intergovernmental Agreement;

WHEREAS, the parties desire to keep the existing Agreement in place during the negotiations, but wish to amend it to reflect the new termination date;

WHEREAS, the parties agree to accept the current compensation amount during the extension and understand that no adjustments will be made retrospectively should an increase be negotiated for the new Intergovernmental Agreement;

NOW, THEREFORE, 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 to amend the Agreement as follows:

1. **Term.** Section 11, Term of Agreement, is hereby amended to extend the term of the Agreement to December 31, 2019. The parties have performed under the Agreement following expiration of the original term, and hereby approve and ratify work performed as of the date of this Amendment.
2. **Compensation.** Section 3, Compensation, of the Agreement, all parties agree to current compensation amount of \$4,001. per month.

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect. By signature below, the parties agree to this Amendment, effective upon the date of the last signature below.

[Signatures on Following Page]

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

Clackamas County

Chair, Board of County Commissioners

Date

Tualatin Valley Fire & Rescue



By: Deric Weiss
Its: Assistant Fire Chief

4/15/19

Date

April 25, 2019

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #17 for the Intergovernmental Agreement with the
State of Oregon, acting by and through its Oregon Health Authority,
for Operation as the Local Public Health Authority for Clackamas County

| | |
|--|---|
| Purpose/Outcomes | Amendment #17 makes the following changes: Increases PE44 – School Based Health Centers (SBHC) |
| Dollar Amount and Fiscal Impact | Amendment #17 increases this Agreement by \$71,600. for a new Contract maximum value of \$6,550,663. |
| Funding Source | State of Oregon, Oregon Health Authority. No County General Funds are involved. |
| Duration | Effective upon signature and terminates on June 30, 2019 |
| Previous Board Action | The Board previously reviewed and approved this agreement on October 26, 2017 Agenda item 102617-A6, June 22, 2017, Agenda item 062217-A3 and October 5, 2017, Agenda item 100517-A2, April 12, 2018 Agenda item 041218-A2, June 7, 2018, Agenda item 060718-A11, June 14, 2018, Agenda item 061418-A3, September 27, 2018 , 092718-A5, November 8, 2018, Agenda item 110818- A-1, November 29, 2018 – Agenda Item 112918-A1, January 24, 2019 – Agenda Item 012419-A-2 |
| Strategic Plan Alignment | 1. Improved community safety and health 2. Ensure safe, health and secure communities |
| Counsel Review | County Counsel has reviewed and approved this document on April 10, 2019 |
| Contract No. | 8327-17 |

BACKGROUND:

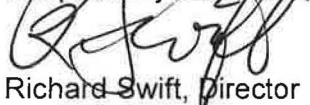
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #17 for the Intergovernmental Agreement with State of Oregon, Oregon Health Authority. Amendment #17 increases this Agreement by \$71,600. for a new Contract maximum value of \$6,550,663.00.

This Amendment is effective upon signature and continues through June 30, 2019.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing, and Human Services

Agreement #154103



**SEVENTEENTH AMENDMENT TO OREGON HEALTH AUTHORITY
2017-2019 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Seventeenth Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2017, and restated July 1, 2018 (as amended the "Agreement"), is between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and Clackamas County, acting by and through its Public Health Department ("LPHA"), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County.

RECITALS

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2019 (FY19) Financial Assistance Award set forth in Exhibit C of the Agreement;

WHEREAS, OHA and LPHA wish to modify the Public Health Division Revenue and Expenditure Report" Forms and Instructions, set forth in Exhibit C of the Agreement; and

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows

AGREEMENT

1. Section 1 of Exhibit C entitled "Financial Assistance Award" of the Agreement for FY19 is hereby superseded and replaced in its entirety by Attachment A attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C as restated July 1, 2018, entitled "Explanation of Financial Assistance Award" of the Agreement.
2. Exhibit C "Public Health Revenue and Expenditure Reporting Forms" and "Public Health Division Revenue and Expenditure Report" Forms and Instructions, are hereby superseded and replaced in their entirety as per Attachment B attached hereto and incorporated herein by this reference.
3. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 2 of Exhibit E of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
5. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
6. The parties expressly ratify the Agreement as herein amended.
7. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

8. This Amendment becomes effective on the date of the last signature below.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

9. **Signatures.**

By: _____
Name: /for/ Lillian Shirley, BSN, MPH, MPA
Title: Public Health Director
Date: _____

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: _____
Name: Richard Swift
Title: Director, Health, Housing, and Human Services
Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Agreement form group-approved by D. Kevin Carlson, Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on August 16, 2018, copy of email approval in Agreement file.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

By: _____
Name: Derrick Clark (or designee)
Title: Program Support Manager
Date: _____

**Attachment A
Financial Assistance Award (FY19)**

| State of Oregon Oregon Health Authority Public Health Division | | | Page 1 of 3 | |
|--|---------------|---|---------------|--|
| 1) Grantee Name: Clackamas County | | 2) Issue Date March 12, 2019 | | This Action AMENDMENT FY 2019 |
| Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045 | | 3) Award Period From July 1, 2018 Through June 30, 2019 | | |
| 4) OHA Public Health Funds Approved | | | | |
| Program | Award Balance | Increase/ (Decrease) | New Award Bal | |
| PE01 State Support for Public Health | 486,823 | | 486,823 | |
| PE03 Tuberculosis Case Management | 0 | | 0 | |
| PE07 HIV Prevention Services | 130,555 | | 130,555 | |
| PE12 Public Health Emergency Preparedness and Response (PHEP) | 184,568 | | 184,568 | |
| PE13 Tobacco Prevention and Education Prgram (TPEP) | 227,587 | | 227,587 | |
| PE13-02 Tobacco Prevention and Education (TPEP) - SPArC | 299,211 | | 299,211 | |
| PE27-02 PDOP - Opiod State Targeted Response (OSTR) | 79,583 | 0 | 79,583 | |
| PE40-01 WIC NSA: July - September | 200,074 | | 200,074 | |
| PE40-02 WIC NSA: October - June | 600,221 | | 600,221 | |
| PE40-03 BFPC: July - September | 17,353 | | 17,353 | |
| PE40-04 BFPC: October - June | 52,058 | | 52,058 | |
| PE40-05 Farmer's Market | 3,769 | | 3,769 | |
| PE42-01 MCAH Title V CAH | 36,671 | | 36,671 | |
| PE42-02 MCAH Title V Flexible Funds | 85,564 | | 85,564 | |
| PE42-03 MCAH Perinatal General Funds & Title XIX | 11,490 | | 11,490 | |
| PE42-04 MCAH Babies First! General Funds | 36,708 | | 36,708 | |
| PE42-05 MCAH Oregon Mothers Care Title V | 8,834 | | 8,834 | |
| PE42-06 MCAH General Funds & Title XIX | 21,556 | | 21,556 | |

| State of Oregon Oregon Health Authority Public Health Division | | | Page 2 of 3 | |
|--|--|--|----------------------|--|
| 1) Grantee Name: Clackamas County | | 2) Issue Date March 12, 2019 | | This Action AMENDMENT FY 2019 |
| Street: 2051 Kaen Rd., Suite 637 | | 3) Award Period From July 1, 2018 Through June 30, 2019 | | |
| City: Oregon City | | | | |
| State: OR Zip Code: 97045 | | | | |
| 4) OHA Public Health Funds Approved | | | | |
| Program | | Award Balance | Increase/ (Decrease) | New Award Bal |
| PE43 | Public Health Practice (PHP) - Immunization Services (Vendors) | 91,961 | | 91,961 |
| PE44-01 | SBHC Base | 280,000 | 71,600 | 351,600 |
| PE44-02 | SBHC - Mental Health Expansion | 344,884 | | 344,884 |
| PE46 | RH Community Participation & Assurance of Access | 34,947 | | 34,947 |
| PE50 | Safe Drinking Water (SDW) Program (Vendors) | 147,475 | 0 | 147,475 |
| 5) Foot Notes: | | 3,381,892 | 71,600 | 3,453,492 |
| PE03 | 1 | Tuberculosis funding has been changed to a fee for service model. | | |
| PE12 | 1 | 02/2019 Footnote: Funding being added to all LPHAs for the purpose of sending staff to Oregon Prepared Workshop in March, 2019 and OR-EPI in April 2019. | | |
| PE13-02 | 1 | The LPHA award amount is designated for the agency-approved SPArC work plan on file with OHA. The performance period is Aug. 1, 2018 - June 30, 2019. A separate expenditure report for this funding is required for SPArC work done under Project Element 13. | | |
| PE40-01 | 1 | Award for July - September should be spent by 9/30/18 | | |
| PE40-02 | 1 | Award for October - June should be spent by 6/30/19 | | |
| PE40-03 | 1 | Award for July - September to be spent by 9/30/18 | | |
| PE40-04 | 1 | Award October - June to be spent by 6/30/19 | | |
| PE40-05 | 1 | Award is one-time funding to be spent by 11/30/18 | | |
| PE42-01 | 1 | For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid). | | |
| PE42-01 | 2 | Funds for the MCH Title V programs: Flexible funds, Child & Adolescent Health, and Oregon MothersCare for the period 7/1/18 – 9/30/18 must be spent by 9/30/18. | | |
| PE42-02 | 1 | For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid). | | |
| PE42-02 | 2 | Funds for the MCH Title V programs: Flexible funds, Child & Adolescent Health, and Oregon MothersCare for the period 7/1/18 – 9/30/18 must be spent by 9/30/18. | | |
| PE42-03 | 1 | Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid). | | |
| PE42-04 | 1 | For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid). | | |
| PE42-05 | 1 | For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid). | | |

| State of Oregon Oregon Health Authority Public Health Division | | Page 3 of 3 |
|---|---|---|
| 1) Grantee Name: Clackamas County Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045 | | 2) Issue Date March 12, 2019 3) Award Period From July 1, 2018 Through June 30, 2019 |
| 4) OHA Public Health Funds Approved | | |
| Program | Award Balance | Increase/ (Decrease) |
| PE42-05 2 | Funds for the MCH Title V programs: Flexible funds, Child & Adolescent Health, and Oregon MothersCare for the period 7/1/18 – 9/30/18 must be spent by 9/30/18. | |
| PE42-06 1 | For all MCH funds: Funds will not be shifted between categories or fund types. The same program may be funded by more than one fund type, however, federal funds may not be used as match for other federal funds (such as Medicaid). | |
| PE43 1 | All Award Must be Spent by the End of June 30, 2019 | |
| PE43 2 | Immunization Special Payments is Funded by State General Fund and Matched dollar for Dollar with Federal Medicaid Match. | |
| 6) Comments: PE03 \$3,248 must be spent by 12/31/18 PE07 \$40,282 must be spent by 12/31/18 PE12 Operation OX: MCM Mini Grant Award \$4,999 PE27-02 \$79,583 in FY19 is balance of OSTR Year 2 Funding available 7/1/18-4/30/19 only. PE40-01 Nutrition Ed of \$40,015 & BF of \$7,314 to be spent by 9/30/18 PE40-02 Nutrition Ed of \$120,044, BF of \$21,942 to be spent by 6/30/19 PE42-01 \$9,168 must be spent from 7/1/18 to 9/30/18. \$27,503 must be spent from 10/1/18 to 6/30/19. PE42-02 \$21,391 must be spent from 7/1/18 to 9/30/18. \$64,173 must be spent from 10/1/18 to 6/30/19. PE42-05 \$2,208 must be spent from 7/1/18 to 9/30/18. \$6,626 must be spent from 10/1/18 to 6/30/19. PE44-01 Nov-2018 Certification of Rex Putnam SBHC PE44-01 PE44-01 Additional Funding Award 03-2019 PE44-02 Dec 2018 PE44-02 \$46,500 is Roll over of unspent FY18 award PE44-02 2/2019 Reduction of -\$38,316 is correction to previous \$46,500 rollover of unspent SFY18 funding PE46 \$5,038 for period 7/1/18 to 8/31/18. Remaining award for 9/1/18 to 3/31/19 PE50 \$13,273 must be spent from 7/1/18 to 9/30/18. \$39,818 must be spent from 10/1/18 to 6/30/19. (for portion of award with federal funding source CFDA 66.432) PE50 2/15/19: Remove prior comments regarding funding limitations and dates. | | |
| 7) Capital outlay Requested in this Action: Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year. | | |
| PROGRAM | ITEM DESCRIPTION | COST |
| | | PROG APPROV |
| | | |

OHA - 2017-2019 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES

Attachment B

OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION EXPENDITURE AND REVENUE REPORT
EMAIL TO: OHA-PHD.ExpendRevReport@dhs.ohs.state.or.us

Agency: [Enter your agency name]
Program: [Enter the Program Element Number / Sub Element and Title]
Fiscal Year: July 1, [start year] to June 30, [end year]

| BREAKDOWN BY FISCAL YEAR QUARTER | | | | | | | | | | |
|--|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|
| REVENUE | Q1: Jul, Aug, Sep | | Q2: Oct, Nov, Dec | | Q3: Jan, Feb, Mar | | Q4: Apr, May, Jun | | Fiscal Year To Date | |
| | Non-OHA/PHD Revenue | LPHA Revenue | Non-OHA/PHD Revenue | LPHA Revenue | Non-OHA/PHD Revenue | LPHA Revenue | Non-OHA/PHD Revenue | LPHA Revenue | Non-OHA/PHD Revenue | LPHA Revenue |
| A. PROGRAM INCOME/REVENUE | | | | | | | | | | |
| 1. Revenue from Fees | | | | | | | | | | \$ - |
| 2. Donations | | | | | | | | | | \$ - |
| 3. 3rd Party Insurance | | | | | | | | | | \$ - |
| 4. Other Program Revenue | | | | | | | | | | \$ - |
| TOTAL PROGRAM INCOME | | \$ - | | \$ - | | \$ - | | \$ - | | \$ - |
| 5. Other Local Funds (Identify) | | | | | | | | | \$ - | |
| 5a. | | | | | | | | | \$ - | |
| 5b. | | | | | | | | | \$ - | |
| 6. Medicaid/OHP/Ccare | | | | | | | | | \$ - | |
| 7. Volunteer and In-Kind (estimate value) | | | | | | | | | \$ - | |
| 8. Other (Specify) | | | | | | | | | \$ - | |
| 9. Other (Specify) | | | | | | | | | \$ - | |
| 10. Other (Specify) | | | | | | | | | \$ - | |
| TOTAL REVENUE | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| EXPENDITURES | | | | | | | | | | |
| | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures |
| B. EXPENDITURES | | | | | | | | | | |
| 1. Personal Services (Salaries and Benefits) | | | | | | | | | \$ - | \$ - |
| 2. Services and Supplies (Total) | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2a. Professional Services/Contracts | | | | | | | | | \$ - | \$ - |
| 2b. Travel & Training | | | | | | | | | \$ - | \$ - |
| 2c. General Supplies | | | | | | | | | \$ - | \$ - |
| 2d. Medical Supplies | | | | | | | | | \$ - | \$ - |
| 2e. Other (enter total from the "Other Services & Supplies Expenditures" Form) | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 3. Capital Outlay | | | | | | | | | \$ - | \$ - |
| 4. Indirect Cost (\$) | | | | | | | | | \$ - | \$ - |
| 4a. Indirect Rate (%) | | | | | | | | | | |
| TOTAL EXPENDITURES | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Less Total Program Income | | | | | | | | | | \$ - |
| TOTAL REIMBURSABLE EXPENDITURES | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

Check Box if amounts have been revised since report previously submitted

| WIC PROGRAM ONLY: Enter the Public Health Division Expenditures breakdown in the following categories for each quarter. | | | | | |
|--|-------------------|-------------------|-------------------|-------------------|---------------------|
| ** General Ledger report is required effective 1/1/19 and first report will be due with FY19 Quarter 3 Expenditure reports** | | | | | |
| C. CATEGORY | Q1: Jul, Aug, Sep | Q2: Oct, Nov, Dec | Q3: Jan, Feb, Mar | Q4: Apr, May, Jun | Fiscal Year To Date |
| 1. Client Services | | | | | \$ - |
| 2. Nutrition Education | | | | | \$ - |
| 3. Breastfeeding Promotion | | | | | \$ - |
| 4. General Administration | | | | | \$ - |
| TOTAL WIC PROGRAM | \$ - | \$ - | \$ - | \$ - | \$ - |

D. CERTIFICATE

I certify to the best of my knowledge and belief that the report is true, complete and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (2 CFR 200.415)

PREPARED BY _____ PHONE _____ AUTHORIZED AGENT SIGNATURE _____ DATE _____

OHA - 2017-2019 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES

OREGON HEALTH AUTHORITY
 PUBLIC HEALTH DIVISION EXPENDITURE AND REVENUE REPORT
 EMAIL TO: OHA-PHD.ExpendRevReport@dhsosha.state.or.us

Agency: [Enter your agency name] _____

Program: [Enter the Program Element Number / Sub Element and Title] _____

Fiscal Year: July 1, [start year] to June 30, [end year] _____

OTHER SERVICES & SUPPLIES EXPENDITURES FORM

BREAKDOWN BY FISCAL YEAR QUARTER

| OTHER SERVICES & SUPPLIES EXPENDITURES | | Q1: Jul, Aug, Sep | | Q2: Oct, Nov, Dec | | Q3: Jan, Feb, Mar | | Q4: Apr, May, Jun | | Fiscal Year To Date | |
|--|---|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|
| 2e. OTHER SERVICES & SUPPLIES* | | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures | Non-OHA/PHD Expenditures | OHA/PHD Expenditures |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | Enter Other S&S Category | | | | | | | | | \$ - | \$ - |
| | TOTAL OTHER S&S EXPENDITURES** | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

Form Number 23-152 Other S&S Expenditures

Revised Mar. 2019

*Note: For each line under 2e. OTHER SERVICES & SUPPLIES, enter the type of other expenditures and the amount for both the Non-OHA/PHD Expenditures column and OHA/PHD Expenditures Column.

**Note: The Total Other S&S Expenditures for each quarter here needs to be entered into the corresponding cells in Line 2e. Other under the Expenditure Section of the Expenditure and Revenue Report.

TITLE OF FORM: OHA Public Health Division Expenditure and Revenue Report
FORM NUMBER: 23-152 (Instructions)

WHO MUST COMPLETE THE FORM 23-152: All agencies receiving funds awarded through Oregon Health Authority Intergovernmental Agreement for Financing Public Health Services must complete this report for each grant-funded program. Agencies are responsible for assuring that each report is completed accurately, signed and submitted in a timely manner.

WHERE TO SUBMIT REPORT: OHA-PHD.ExpendRevReport@dhsaha.state.or.us

WHEN TO SUBMIT: Reports for grants are due **25 days** following the end of the 3-, 6-, and 9-month periods (10/25, 1/25, 4/25) and **50 days** after the 12-month period (8/25) in each fiscal year. **Any** expenditure reports due and not received by the 25th could delay payments until reports have been received from the payee for the reporting period.

WHAT TO SUBMIT: Submit both the main Expenditure and Revenue Report and the Other Services & Supplies Expenditures (Other S&S) Form.

INSTRUCTIONS FOR COMPLETING THE FORM

Report expenditures for both Non-OHA/PHD and OHA/PHD funds for which reimbursement is being claimed. This reporting feature is necessary for programs due to the requirement of matching federal dollars with state and/or local dollars.

- YEAR TO DATE expenditures are reported when payment is made or a legal obligation is incurred.
- YEAR TO DATE revenue is reported when recognized.

OHA/PHD: Oregon Health Authority/Public Health Division

Enter your **Agency name, Program Element Number and Title, and Fiscal Year** start and end dates.

Gray shaded areas do not need to be filled out.

A. REVENUE

Revenues that support program are to be entered for each quarter of the state fiscal year as either Program Revenue or Non-OHA/PHD Revenue.

Program Revenue Report this income in Section A. PROGRAM INCOME/REVENUE, Program Revenue column, Lines 1 through 4, for each quarter. Program income will be deducted from total OHA/PHD expenditures.

TOTAL PROGRAM INCOME The total Program Revenue for each quarter and fiscal year to date. On the Excel report template, this is an auto sum field.

Non-OHA/PHD Revenue Report this revenue in Section A. PROGRAM INCOME/REVENUE, Non-OHA/PHD Revenue column Lines 5 to 10, for each quarter. If applicable, identify sources of Line 5. Other Local Funds and specify type of Other for Lines 8 - 10. Non-OHA revenue are not subtracted from OHA/PHD expenditures.

TOTAL REVENUE The total of Program and Non-OHA/PHD revenue for each quarter and fiscal year to date. On the Excel report template, this is an auto sum field.

Fiscal Year To Date The YTD total Program or Non-OHA/PHD revenue for each line for the fiscal year. On the Excel report template, this is an auto sum field.

B. EXPENDITURES

Expenditures are to be entered for each quarter of the state fiscal year as either Non-OHA/PHD Expenditures or OHA/PHD Expenditures.

Non-OHA/PHD Expenditures Program expenditures not reimbursed by the OHA Public Health Division.

OHA/PHD Expenditures Reimbursable expenditures less program income.

Line 1. Personal Services Report total salaries and benefits that apply to the program for each quarter. Payroll expenses may vary from month to month. Federal guidelines, 2 CFR 225 Appendix B.8. (OMB Circular A-87), require the maintenance of adequate time activity reports for individuals paid from grant funds.

Line 2. Services and Supplies (Total) The total from the four subcategories (Lines 2a. through 2e.) below this category. On the Excel report template, this is an auto sum field.

Line 2a. Professional Services/Contracts Report contract and other professional services expenditures for each quarter.

Line 2b. Travel & Training Report travel and training expenditures for each quarter.

Line 2c. General Supplies Report expenditures for materials & supplies costing less than \$5,000 per unit for each quarter.

| | |
|--|---|
| <p>Line 2d. Medical Supplies Line 2e. Other</p> | <p>Report expenditures for medical supplies for each quarter.</p> <p>Report the Total Other S&S Expenditures from the Other S&S Expenditures Form. Data entry is done in the 'Other S&S Expenditures' Form by entering the type and amount of other services and supplies expenses.</p> |
| <p>Line 3. Capital Outlay</p> | <p>Report capital outlay expenditures for each quarter. Capital Outlay is defined as expenditure of a single item costing more than \$5,000 with a life expectancy of more than one year. Itemize all capital outlay expenditures by cost and description. Federal regulations require that capital equipment (desk, chairs, laboratory equipment, etc.) continue to be used within the program area. Property records for non-expendable personal property shall be maintained accurately per Subtitle A-Department of Health and Human Services, 45 Code of Federal Regulation (CFR) Part 92.32 and Part 74.34.</p> <p><i>Prior approval must be obtained for any purchase of a single item or special purpose equipment having an acquisition cost of \$5,000 or more (PHS Grants Policy Statement; WIC, see Federal Regulations Section 246.14).</i></p> |
| <p>Line 4. Indirect Cost (\$)</p> <p>Line 4a. Indirect Rate (%)</p> <p>TOTAL EXPENDITURES</p> <p>Less Total Program Income</p> <p>TOTAL REIMBURSABLE EXPENDITURES</p> <p>Fiscal Year To Date</p> | <p>Report indirect costs for each quarter.</p> <p>Report the approved indirect rate percent within the (____%) area, in front of the % symbol. If no indirect rate or if you have a cost allocation plan, enter "N/A".</p> <p>The total of OHA/PHD and Non-OHA/PHD expenditures for each quarter and fiscal year to date. On the Excel report template, this is an auto sum field.</p> <p>Take from the Program Revenue, TOTAL PROGRAM INCOME line in the Revenue section for each quarter and fiscal year to date. This is the OHA/PHD income that gets deducted from OHA/PHD total expenditures. On the Excel report template, this is an auto fill field.</p> <p>The total OHA/PHD expenditures less total program income for each quarter and fiscal YTD. The amount reimbursed by OHA-PHD. On the Excel report template, this is an auto calculate field.</p> <p>The YTD total of each expenditure category/subcategory of both OHA/PHD and Non-OHA/PHD for the fiscal year. On the Excel report template, this is an auto sum field.</p> |
| <p>C. WIC PROGRAM ONLY</p> <p>WIC GENERAL LEDGER REPORTING</p> <p>TOTAL WIC PROGRAM</p> <p>Fiscal Year to Date</p> | <p>Report the Public Health Division expenditures for the 4 categories listed in the WIC Program section for each quarter. Refer to Policy 315: Fiscal Requirements of the Oregon WIC Program Policy and Procedure Manual for definitions of the categories.</p> <p>Effective 1/1/19 General Ledger reports must be submitted with quarterly Expenditure and Revenue Report. First report due is for FY19 Quarter 3. Reports should be cumulative for FY.</p> <p>The total of the four WIC expenditure categories for each quarter and fiscal year. On the Excel report template, this is an auto sum field.</p> <p>The YTD total of each WIC category for the fiscal year. On the Excel report template, this is an auto sum field.</p> |
| <p>D. CERTIFICATE</p> <p>Prepared By</p> <p>Authorized Agent Signature</p> <p>Where to Submit Report</p> <p>REIMBURSEMENT FROM THE STATE</p> <p>WHEN A BUDGET REVISION IS REQUIRED</p> | <p>Certify the report.</p> <p>Enter the name and phone number of the person preparing the report.</p> <p>Obtain the signature, name and date of the authorized agent.</p> <p>Email the report to the Email To: address indicated on the form.</p> <p>Transfer document will be forwarded to the county treasurer (where appropriate) with a copy to the local agency when OHA Public Health Division makes reimbursement</p> <p>It is understood that the pattern of expenses will follow the estimates set forth in the approved budget application. To facilitate program development, however, transfers between expense categories may be made by the local agency except in the following instances, when a budget revision will be required:</p> <ul style="list-style-type: none"> ● If a transfer would result in or reflect a significant change in the character or scope of the program. ● If there is a significant expenditure in a budget category for which funds were not initially budgeted in approved application. |

April 25, 2019

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the Gladstone School District for the Food Pantry Program.

| | |
|--|---|
| Purpose/Outcomes | The Gladstone School District a recipient of the Blueprint Grants Program. They will enhance their food pantry by connecting clients with wrap around services and education are nutrition. |
| Dollar Amount and Fiscal Impact | Contract maximum value \$20,000. |
| Funding Source | Clackamas County Public Health Division approved budget. No Additional County General Funds are involved. |
| Duration | Effective July 01, 2019 and terminates on June 30, 2020 |
| Previous Board Action | No previous board action |
| Strategic Plan Alignment | 1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities |
| Counsel Review | County Counsel has reviewed and approved this document on April 15, 2019 |
| Contact Person | Richard Swift, H3S , 503-650-5694 or Philip Mason-Joyner , 503-742-5956 |
| Contract No. | 9167 |

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Intergovernmental Agreement with the Gladstone School District for the food pantry program.

The Blueprint for a Healthy Clackamas County is the county's external facing initiative to help coordinate, connect and align priorities for partners to collectively make an impact on improving the health and quality of life for residents within our communities.

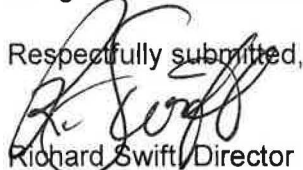
Gladstone School District has been selected to receive a grant for their project "Food Pantry" This Agreement provides funding for the FY 19-20. Continued financial support will be dependent on the project's success and availability of funds.

This Agreement is effective July 1, 2019 and continues through June 30, 2020.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", is written over the text "Respectfully submitted,".

Richard Swift, Director
Health, Housing, and Human Services

INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY, OREGON
PUBLIC HEALTH DIVISION
AND
GLADSTONE SCHOOL DISTRICT

Agreement #9167

I. Purpose

This agreement is entered into between Clackamas County Department of Health, Housing and Human Services, Public Health Division (CLACKAMAS) and GLADSTONE SCHOOL DISTRICT (AGENCY) for the cooperation of units of local government under the authority of ORS 190.010.

Background:

[The Blueprint for a Healthy Clackamas County is the county's external facing initiative to help coordinate, connect and align priorities for partners to collectively make an impact on improving the health and quality of life for residents within our communities.](#)

Over the past year, Clackamas County Public Health has convened community members and organizations to prioritize the goals, objectives and strategies within the Blueprint report.

The Blueprint for a Healthy Clackamas County Community Grants fund community-driven projects that can work to implement the identified goals, objectives and strategies within the plan. There is an emphasis on funding projects that will create coalitions in advancing health equity and trauma-informed approaches within specific communities in Clackamas County.

Gladstone School District has been selected to receive a grant for their project "Gladstone Food Pantry" This Agreement provides funding for the FY 19-20. Continued financial support will be dependent on the project's success and availability of funds.

II. Scope of Work and Cooperation

A. AGENCY agrees to:

1. Complete the work described in Exhibit "A", which by this reference is hereby made a part hereof and incorporated herein.
2. Hold one United Way workplace campaign between July 1, 2019 and June 30, 2020 details to be navigated with United Way.
3. Participate in Blueprint Committee meetings to be held quarterly dates to be determined. In-person attendance is required for 2 out of 4 meetings. Phone attendance is acceptable for 1 of 4 meetings.

III. Compensation

- A. CLACKAMAS shall compensate AGENCY for satisfactorily completing activities described in Section II.A. above and Exhibit A.

- B. The total payment from CLACKAMAS shall not exceed **\$20,000.**
- C. AGENCY shall submit a request for reimbursement for true and verifiable expenses on a monthly basis the month following that in which activities are performed. The request may use any format approved by the CLACKAMAS, shall list the contract #9167, list work accomplished for which reimbursement is requested, and total amount due for the billing period. Requests for reimbursement shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

or electronically to:

PublicHealthFiscalAP@clackamas.us

Within thirty (30) days after receipt of the bill, provided that the Program Manager, has approved the activities specified on the request for reimbursement, the CLACKAMAS shall pay the amount requested to the AGENCY.

IV. REPORTING REQUIREMENTS

- A. Agency is required to report out and share progress at meetings either by written report, verbal report, or presentation.
- B. Agency shall submit receipts and expenditure reports with requests for reimbursement.
- C. Agency shall submit a written final report is due July 31, 2020 to include budget expenditures.

V. Notices and Liaison Responsibility

- A. **Notices:** 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 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.
- B. **Liaisons:** Lennie Bjornsen, Executive Director, will act as liaison from AGENCY for this project. Kirsten Ingersol, Program Planner, will act as liaison from CLACKAMAS.

VI. Special Requirements

- A. CLACKAMAS and AGENCY agree to comply with all applicable local, state and federal ordinances, statutes, laws and regulations, including Oregon Public Contract laws and all

applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, 45 CFR Parts 160-164, as well as all applicable provisions in each party's Intergovernmental Agreement with the Oregon Health Authority.

- B. Subject to the limits of the Oregon Tort Claims Act, AGENCY agrees to protect and save CLACKAMAS, its elected and appointed officials, agents, and employees while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising against CLACKAMAS' employees on account of personal injuries, death or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of AGENCY, and/or its agents, employees, subcontractors, or representatives under this agreement.

Within the limits of the Oregon Tort Claims Act, and the Oregon Constitution Article XI, Section 10, CLACKAMAS agrees to protect and save AGENCY, its elected and appointed officials, agents, and employees while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising against AGENCY's employees on account of personal injuries, death or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of CLACKAMAS, and/or its appointed officials, agents, employees, subcontractors, or representatives under this agreement.

- C. Access to Records. Each party to this agreement, and their duly authorized representatives shall have access to the books, documents, papers, and records of the other party to this agreement which are directly pertinent to the agreement for the purpose of making audit, examination, excerpts, and transcripts.
- D. This agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon appropriation of funds. Any provisions herein that would conflict with above-referenced laws are deemed inoperative to that extent.
- E. 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 County and Agency 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 the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- F. 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.

- G. **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.
- H. **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.
- I. **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.
- J. **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.
- K. **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.
- L. **No Third-Party Beneficiary.** Agency and County 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.
- M. **Subcontract and Assignment.** Agency shall not 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 County, which shall be granted or denied in the County's sole and absolute discretion. County's

consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.

- N. 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.
- O. Survival. All provisions in sections VI (B), (D), (E), and (S), and all other rights and obligations which by their context are intended to survive, shall survive the termination of this Agreement.
- P. 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.
- Q. 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.
- R. Force Majeure. Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency 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.
- S. Confidentiality. Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency 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 Agreement.

VII. Amendment

This Agreement may be amended at any time with the written concurrence of both parties. Any changes in the proposed budget or scope of work will be negotiated between the designated liaisons. Amendments become a part of this Agreement only after the written amendment has been signed by both parties.

VIII. Term and Termination

A. Term of Agreement

This agreement becomes effective July 1, 2019 and will terminate June 30, 2020.

B. Termination


1. Either the County or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
2. Either the County or the Agency may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
3. The County or the Agency 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.
4. Either Party may terminate this Agreement in the event that Party fails to receive expenditure authority sufficient to allow it, 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 work under this Agreement is prohibited or the Party is prohibited from paying for such work from the planned funding source.
5. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

This agreement consists of eight (8) sections plus the following Exhibits that by this reference are incorporated herein:

| | |
|-----------|---|
| Exhibit A | Scope of Work, Reporting Requirements, and Performance Measures |
| Exhibit B | Budget |
| Exhibit C | Insurance Requirements |

Signature on Next Page

GLADSTONE SCHOOL DISTRICT


Samantha Nelson

Date

17789 Webster Rd.

Street Address

Gladstone, OR 97027

City / State / Zip

503-655-2777 / nelsons@gladstone.k12.or.us

Phone

/ E-mail

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

Date

Exhibit A
Scope of Work, Reporting Requirements, and Performance Measures

| <p>Scope of Work:</p> <p>Will increase availability of healthy foods along with nutrition education, and awareness of health care systems. Will deepen our customer base of households with infants, children, adolescents, elders, and extended families.</p> <p>Will work to connect food pantry shoppers with wraparound health supports and care-coordination entities and increase the distribution of healthy local foods and nutrition skills for local households. The Gladstone Pantry will become a hub for family stability and a culture of health throughout the McLoughlin corridor</p> | | |
|---|--|---|
| <p>Reporting Requirements:</p> <p>A. Required to report out and share progress at meetings either by written report, verbal report or presentation.</p> <p>B. Receipts and expenditure reports shall be submitted with request for reimbursement.</p> <p>C. A written final report is due July 31, 2020 to include budget.</p> | | |
| <p>Performance Measures:</p> <p>1) Evaluation: Please describe the anticipated outcomes of this project and how the outcomes (results) will be collected and analyzed.</p> | | |
| Outcome | Data Source | Data Point |
| <i>Example: Conduct trainings with youth.</i> | <i>Example: Attendance records.</i> | <i>Example: Number of trainings conducted.</i> |
| Increase numbers of households and individuals provided healthy foods. | Oregon Food Bank database; Link 2 Feed | 10% increase per year |
| Increase distribution of fresh produce. | Weekly OFB delivery inventory & produce hubs | 10% increase over year 1 baseline |
| Increase numbers of Pantry shopping households referred to other human services | Oregon Food Bank database; Link 2 Feed | 10% increase over year 1 baseline |
| Increase number of healthy food preparation demonstrations during Pantry shopping shifts. | Customer survey during Pantry shopping shifts with food prep education demonstrations; participation, increase in knowledge, value added. | Number of food demos per calendar quarter. |
| Increase number of Pantry shopping households aware of local health care, insurance, and system navigation resources | Semi annual pantry customer survey | 10% increase over year 1 baseline |
| Increase number of shopping households provided information on human services, health care, chronic disease prevention, nutrition, meal planning, and preparation. | Semi annual pantry customer survey | 10% increase over year 1 baseline |

| 2) Provide Projected Work Plan / Timeline / Milestones | | | | |
|---|-------------------|--|--|---|
| Note: Only complete what is necessary to accurately detail your project work plan / timeline / milestones. *School based projects may negotiate an alternate timeline that coincides with the academic calendar. | | | | |
| Task / Activity | Start Date | Completion Date | People Involved | Milestone / Result |
| 1) Supplemental foods and nutrition advice for 60+ local households each week; inventory, ordering, merchandizing, scheduling, coordination. | July 2019 | Weekly | Pantry Coordinator VanPelt and 60+ community volunteers. | 60+ weekly household visits, most with children from local communities, occasional shoppers each month Food supply chains through OFB, Bob's Mill, Dave's Bread, community & school food drives, corporate donations, gardeners. |
| 2) Develop community steering committee of volunteers, customers and advocates | July 2019 | Monthly meetings | School district program administrator Bjornsen 12+ community advocates and pantry customers. | Advocacy, Resource development, Equity and trauma informed supports Diverse membership Continuous improvement and connections for Gladstone food pantry to health equity zone needs, conditions, and expectations. |
| 3) Pantry volunteer recruitment, roles and values, orientation, task training, and value-add supports of volunteerism. | July 2019 | Regularly scheduled volunteer development events Constant documentation of volunteer screening, orientation and training. | Coordinator VanPelt and lead volunteers. OFB to assist and counsel. Coordination with school district volunteer history check process, documentation. | Improved volunteer skills and abilities with assisting shoppers, nutrition education, basic information and referral, routines/relationships of trauma informed organization. |
| 4) Sustainable resource development; Donations & grants for operations and specialty supplies. Other resource development for program upgrades, routine | July 2019 | Monthly task group meeting, activities, and documentation | GSD Bjornsen Community Steering Committee OFB connections and resources | Multi-year resource needs assessment, resource options, documentation. Donation spreadsheet Fiscal dashboard |

| | | | | |
|---|------------|--|--|--|
| operation, agency consulting and supporting shoppers, infrastructure and durable equipment | | | | Grant application writing |
| 5) Develop the information & referral logistics, process, system awareness materials. Plus translated documents. | July 2019 | September '19 | Coordinator VanPelt Gladstone School District [GSD] liaison Bjornsen | Proficient ways and suitable methods for pantry volunteers to share information about health and human service systems. |
| 6) Develop the visiting agency process, calendar, mutual, objectives, logistics, supplies, data, advising shoppers. | August '19 | Periodic agency visits with pantry shopping shifts Continuous improvement | Coordinator VanPelt GSD Bjornsen Volunteer leaders Partner agencies | Consistent calendar for service agencies to visit with Pantry shoppers, volunteers to share information about nutrition, chronic diseases, and health systems. |
| 7) Design and implement evaluation calendar, logistics, process, tools, data gathering, analysis, reporting and continuous improvement cycle | July 2019 | Monthly implementation stages | FP Coordinator VanPelt Mary Z – NWFS Volunteer leaders | Data and analysis systems to generate output and outcomes data indicators for reporting, investor & supplier supports, and continuous systems improvement. |
| 8) Develop information and reporting upgrades such as wit OFB, suppliers, volunteers, grantors, and other stakeholders. | August '19 | Continuous Improvement throughout FY 2019-20 | Coordinator Van Pelt Volunteer leaders Community Steering Committee GSD Bjornsen | Update notices, communications plan including community newsletters and social media. |
| 9) Consumer, customer, client needs and satisfaction surveys, feedback loops and suggestions. | August '19 | Quarterly inquiry | Coordinator VanPelt | Quarterly feedback presented to Steering Committee. |
| 10) Professional implementation and continuous improvement of Gladstone Food Pantry – nutrition education, information & referral, health & human service awareness, trauma informed environment, routines and relationships. | July 2019 | Continuous Improvement throughout FY 2019-20 | NW Family Services Gladstone School District Oregon Food Bank Community advocates and investors Community Steering Committee | Clackamas County Health Blueprint goals, aspirations and vision. |

**EXHIBIT B
 Blueprint Grant Budget**

| Budget | | |
|--|--|--------------------|
| Projected expenses (cannot be less than \$10,000 or exceed \$100,000) If asking for multi-year funding, please, break down expenses by County fiscal year of July 1-June 30. Multi-year awards are not guaranteed and contingent upon the availability of funding. (FY July 2018/June 2019, FY July 2019/June 2020, FY July 2020/June 2021) | | |
| Item (Materials, Staffing, Evaluation) | Explanation | Cost |
| Pantry Coordinator | Part time employee of NW Family Services to coordinate pantry functions; volunteers, schedules, inventory, food drives & donations quality assurance, meal demos, visiting agencies, OFB reporting and communications. | \$18,000 |
| Services and supplies | Pantry program support supplies and services; Nutrition education, meal demonstration supplies, visiting agencies cost subsidies, volunteer training, cleaning & maintenance. | \$2,000 |
| In-kind and other resources: | OFB weekly food and produce delivery. Weekly and monthly food business donations. Garden & gleaning, civic –school – church food drives. Over 3000#/wk | |
| | 65+ volunteers including high school students. Averaging four hours per month pp; shopping helpers, information & referral, food supply chains transporting, unloading and merchandizing, cleaning. | |
| | Gladstone School District facility and utilities. \$10,000/yr | |
| | Community grants for operations, equipment, supplies \$10,000/yr | |
| | Community Steering Committee volunteer members [12] | |
| | Oregon Food Bank materials and supplies account. Computer, Quality assurance, equity development, needs analysis, data base & analysis, volunteer supports. | |
| | Foundation & Government donations / grants for Pantry Coordinator, volunteer training, and advertising. \$10,000/yr | |
| | Partner agencies; information & referral, expedited access, pantry visits, navigators, advocacy. | |
| | TOTAL (cannot exceed \$100,000) | \$20,000.00 |

EXHIBIT C INSURANCE

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

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/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

2. Commercial Automobile Liability

Required by COUNTY Not required by COUNTY

AGENCY shall also obtain at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

3. Professional Liability

Required by COUNTY Not required by COUNTY

AGENCY agrees to furnish the COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Additional Insured Provisions

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

5. Notice of Cancellation

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

6. Insurance Carrier Rating

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.

7. 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. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

8. Independent Contractor Status

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

9. Primary Coverage Clarification

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

10. Cross-Liability Clause

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

11. Abuse Reporting

AGENCY shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050, mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124-050 – 124.092) as if AGENCY were a mandatory abuse reporter. If AGENCY is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. AGENCY shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

April 25 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Purchase and Sale Agreement
For the Purchase of Property in Sandy, Oregon

| | |
|--|---|
| Purpose/ Outcome | Approval of a Purchase and Sales Agreement for the purchase of property located at 39831 Highway 26, Sandy, Oregon to be used as a Primary Care and Behavioral Health Clinic. |
| Dollar Amount and Fiscal Impact | \$795,000 from Clackamas County Health Clinics Division fund balance. No County General Funds are included in this Agreement |
| Funding Source | Local Fund balance |
| Duration | N/A |
| Previous Board Action/ Review | Two Executive Sessions have been held to discuss this property: March 26, 2019 and April 9, 2019 |
| Strategic Plan Alignment | Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities. |
| Counsel Review | The PSA has been reviewed by County Counsel. |
| Contact Person | Debra Cockrell – Health Clinics |
| Contract No. | |

BACKGROUND: The Health Clinics Division of the Health, Housing and Human Services Department (H3S) requests the approval of a Purchase and Sales Agreement for the purchase of a 6,700 square foot, vacant building located at 39831 Highway 26, Sandy, Oregon. The building will to be used as a Primary Care and Behavioral Health Clinic.

The property is located on about .25 acres with an asking price of \$795,000. Rehabilitation is estimated at \$1,072,000. The total cost of \$1,867,000 will be funded by the Health Clinics from their available fund balance. No County General Funds will be used.

The Sandy Behavioral Health Clinic is currently operating out of rental space located at 38872 Proctor Blvd., Sandy, Oregon. The facility is overcapacity, has limited patient parking, is not ADA accessible, and does not have a fire suppression system. The existing facility is 2-storys and approximately 6,300 square feet in size. Half of the bottom floor is used by the Women, Infants and Children program. With no ADA access to the 2nd floor only about 1/3 of the space is used. The clinic is operating on a year-to-year lease. As the building ages, additional maintenance issues arise.

While this space can continue to work for the short term, a long term solution is needed. The Sandy Primary Care Clinic operates from 3:00 pm-8:00 pm at the Sandy High School located at 37400 Bells St., Sandy, Oregon. The space and hours of operation are limited due to school schedules. Physician retention and recruitment have been very challenging due to the hours of operation. The clinic currently staffs with temporary physicians, which is very expensive and doesn't provide continuity of care for patients. There are no dental services at either clinic site.

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

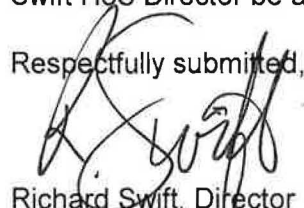
www.clackamas.us

H3S proposes to relocate the clinics to the property located at 39831 Hwy 26, Sandy, Oregon. The new facility will allow an expansion of medical exam rooms, the addition of dental operatories, and offer an integrated care model with behavioral health, primary care, and dental co-located.

It also will allow the County to apply for Federal Health Resources and Services Administration (HRSA) operating funds in an amount up to \$650,000 per year.

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", is written over the text "Respectfully submitted,".

Richard Swift, Director
Health, Housing Human Services

EXHIBIT B

LEAD-BASED PAINT DISCLOSURE ADDENDUM
(TO BE COMPLETED IF THE PROPERTY CONSISTS OF RESIDENTIAL HOUSING BUILT PRIOR TO 1978)

Seller and Buyer are parties to that certain Commercial Association of Realtors® Oregon / SW Washington Purchase and Sale Agreement and Receipt for Earnest Money (Oregon Commercial Form) dated _____, 20____ (the "Sales Agreement") for the sale of the Property described therein. Capitalized terms used in this addendum without definition shall have the meanings given them in the Sales Agreement. Except as expressly modified by this addendum and any other addendum to the Sales Agreement executed by Buyer and Seller, the Sales Agreement is unmodified. This addendum and the Sales Agreement may not be modified except in a writing signed by both Seller and Buyer.

LEAD WARNING STATEMENT

EVERY PURCHASER OF ANY INTEREST IN RESIDENTIAL REAL PROPERTY ON WHICH A RESIDENTIAL DWELLING WAS BUILT PRIOR TO 1978 IS NOTIFIED THAT SUCH PROPERTY MAY PRESENT EXPOSURE TO LEAD FROM LEAD-BASED PAINT THAT MAY PLACE YOUNG CHILDREN AT RISK OF DEVELOPING LEAD POISONING. LEAD POISONING IN YOUNG CHILDREN MAY PRODUCE PERMANENT NEUROLOGICAL DAMAGE, INCLUDING LEARNING DISABILITIES, REDUCED INTELLIGENCE QUOTIENT, BEHAVIORAL PROBLEMS AND IMPAIRED MEMORY. LEAD POISONING ALSO POSES A PARTICULAR RISK TO PREGNANT WOMEN. THE SELLER OF ANY INTEREST IN RESIDENTIAL REAL PROPERTY IS REQUIRED TO PROVIDE THE BUYER WITH ANY INFORMATION ON LEAD-BASED PAINT HAZARDS FROM RISK ASSESSMENTS OR INSPECTIONS IN THE SELLER'S POSSESSION AND NOTIFY THE BUYER OF ANY KNOWN LEAD-BASED PAINT HAZARDS. A RISK ASSESSMENT OR INSPECTION FOR POSSIBLE LEAD-BASED PAINT HAZARDS IS RECOMMENDED PRIOR TO PURCHASE.

AGENT'S ACKNOWLEDGMENT

Seller Agent has informed Seller of Seller's obligations under 42 U.S.C. 4852(d) and Agent is aware of his/her responsibility to ensure compliance.

SELLER'S DISCLOSURE

.1 Presence of lead-based paint and/or lead-based paint hazards (check one below):

Seller has knowledge of lead-based paint and/or lead-based paint hazards in the housing (explain).

Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

.2 Records and reports available to Seller (check one below):

Seller has provided Buyer with all available records and reports relating to lead-based paint and/or lead-based paint hazards in the housing (list documents below):

X Seller has no reports or records relating to lead-based paint and/or lead-based paint hazards in the housing.

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they provided is true and accurate. A photocopy of this completed LEAD-BASED PAINT DISCLOSURE ADDENDUM, together with a copy of any documents listed in Section 2 of Seller's Disclosure above, may be treated as an original.

Seller Agent _____ Date _____ ← Seller _____ Date _____

Selling Firm _____ Seller _____ Date _____

Before Buyer is obligated to purchase this property under any sale agreement, Buyer's and Seller's signatures are required on the form below.

BUYER'S ACKNOWLEDGMENT

- .1 Buyer has received copies of all information listed above in Section 2 of Seller's Disclosure of this form.
- .2 Buyer has received the pamphlet "Protect Your Family from Lead in Your Home."
- .3 Buyer has (check one below):

Elected a ten (10) day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards, providing Buyer the right to rescind the Sales Agreement by written notice to Seller no later than the end of such agreed upon 10 day period if Buyer is not satisfied in Buyer's sole discretion with the results of such risk assessments or inspection, as applicable. Buyer and Seller hereby agree the ten (10) day period described in the preceding sentence shall begin _____ and end _____. Buyer's failure to provide written notice of Buyer's election to rescind the Sales Agreement to Seller on or before _____, 20____ shall be deemed a waiver of Buyer's right to rescind as provided in this addendum. If Buyer timely elects to rescind the Sales Agreement as provided herein, the Earnest Money shall be returned to Buyer, together with any interest thereon.

Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Buyer _____ Date _____ ←

Buyer _____ Date _____ ←

CERTIFICATION OF ACCURACY

This section must be signed by Buyer before Seller signs lines below. The following parties have reviewed the information and certify, to the best of their knowledge, that the information they provided herein is true and accurate.

Buyer _____ Date _____ Seller _____ Date _____

Buyer _____ Date _____ Seller _____ Date _____

Buyer Agent _____ Date _____ Seller Agent _____ Date _____

Buying Firm _____ Seller Firm _____

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE

COMMERCIAL ASSOCIATION OF REALTORS® OREGON/SW WASHINGTON
PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY
(Oregon Commercial Form)

AGENCY ACKNOWLEDGMENT

Buyer shall execute this Acknowledgment concurrent with the execution of the Agreement below and prior to delivery of that Agreement to Seller. Seller shall execute this Acknowledgment upon receipt of the Agreement by Seller, even if Seller intends to reject the Agreement or make a counter-offer. In no event shall Seller's execution of this Acknowledgment constitute acceptance of the Agreement or any terms contained therein.

Pursuant to the requirements of Oregon Administrative Rules (OAR 863-015-0215), both Buyer and Seller acknowledge having received the Oregon Real Estate Agency Disclosure Pamphlet, and by execution below acknowledge and consent to the agency relationships in the following real estate purchase and sale transaction as follows:

(a) Seller Agent: Alan Fleischman of Windermere/Sandy Real Estate firm (the "Selling Firm") is the agent of (check one):
 Buyer exclusively; Seller exclusively; both Seller and Buyer ("Disclosed Limited Agency").

(b) Buyer Agent: Brad Christiansen and Mike Holzgang of Colliers International firm (the "Buying Firm") is the agent of (check one): Buyer exclusively; Seller exclusively; both Seller and Buyer ("Disclosed Limited Agency").

If the name of the same real estate firm appears in both Paragraphs (a) and (b) above, Buyer and Seller acknowledge that a principal broker of that real estate firm shall become the Disclosed Limited Agent for both Buyer and Seller, as more fully set forth in the Disclosed Limited Agency Agreements that have been reviewed and signed by Buyer, Seller and the named real estate agent(s).

ACKNOWLEDGED

Buyer: (print) Clackamas County Health (sign) _____ Date: _____

Seller: (print) P & R Bldg LLC (sign) _____ Date: _____

[No further text appears on this page.]

PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY

1 This Purchase and Sale Agreement and Receipt for Earnest Money (this "Agreement") supersedes any prior communication
2 or offers by Buyer and Seller, is accepted, made and entered into on the later of the two dates shown beneath the parties' signatures on
3 the signature page attached hereto (the "Execution Date");

4
5 BETWEEN: P & R Bldg LLC ("Seller")
6 Address: 43464 SE Phelps Road, Sandy, OR 97055
7 Office Phone:
8 E-Mail:
9

10
11 AND: Clackamas County, a political subdivision of the State of Oregon("Buyer")
12
13

14 Upon mutual execution of this Agreement, Buyer agrees to buy and acquire from Seller, and Seller agrees to sell to Buyer the following, all of
15 which are collectively referred to in this Agreement as the "Property:" (a) the real property and all improvements thereon located at 39831
16 Highway 26 in the City of Sandy, County of Clackamas, Oregon legally described on Exhibit A, attached hereto (the "Real Estate"); (b) all of
17 Seller's right, title and interest, if any, in and to any and all improvements, fixtures, appurtenances, easements, and any lease(s) by which the
18 Real Estate is demised (each, a "Lease"); and (c) any and all personal property located on and used in connection with the operation of the Real
19 Estate and owned by Seller (the "Personal Property"). If there are any Leases to assign, see Section 20.1, below. If there is any Personal
20 Property to be conveyed, see Section 20.2, below.
21

22 1. Purchase Price; 1031 Exchange.

23
24 1.1 Purchase Price. The purchase price for the Property shall be Seven hundred Ninety-five Thousand dollars
25 (\$795,000.00) (the "Purchase Price") payable as follows: Cash at Closing.
26

27 1.1.1 Earnest Money Deposit. Within three (3) days of the Execution Date, Buyer shall deliver into Escrow
28 (as defined herein), for the account of Buyer, \$25,000.00 as earnest money (the "Earnest Money") in the form of a Check. If the Earnest Money
29 is being held by the Buying Firm, the firm holding such Earnest Money shall deposit the Earnest Money no later than 5:00 PM Pacific Time
30 three (3) days after execution of the Agreement by Buyer and Seller in Escrow. The purchase and sale of the Property shall be accomplished
31 through an escrow (the "Escrow") that Buyer and Seller will establish with Fidelity Title Company (the "Title Company") within 2 days after the
32 Execution Date, and the Earnest Money shall be deposited with Title Company. The Earnest Money shall be applied to the payment of the
33 Purchase Price at Closing. Any interest earned on the Earnest Money shall be considered to be part of the Earnest Money. The Earnest
34 Money shall be returned to Buyer if, through no fault of Buyer, any condition to Buyer's obligation to purchase the Property shall fail to be
35 satisfied or waived. If Buyer fails to timely make the Earnest Money deposit, Seller shall have no further obligations under this Agreement.
36

37 1.1.2 Balance of Purchase Price. Buyer shall pay the balance of the Purchase Price, Seven Hundred
38 Seventy Thousand dollars (\$770,000) in cash at Closing.
39

40 1.2 Section 1031 Like-Kind Exchange. Seller and Buyer each acknowledge that in connection with Buyer's
41 acquisition of the Property from Seller, either party (as applicable, the "Exchanging Party") may elect to exchange the Property (or any portion
42 thereof) in a like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended (a "1031 Exchange"). The non-
43 exchanging party with respect to a particular 1031 Exchange is referred to herein as the "Non-Exchanging Party." Buyer and Seller each hereby
44 agrees to reasonably cooperate with the other in closing out each such 1031 Exchange; provided, however, that such cooperation shall be at
45 the Exchanging Party's sole expense and shall not delay the Closing for the Property. Accordingly, the Exchanging Party may assign the
46 Exchanging Party's rights under this Agreement with respect to the Property (or a portion thereof) to a person or entity for the purpose of
47 consummating a 1031 Exchange ("Intermediary"), provided that such assignment does not delay the Closing for the Property (or applicable
48 portion thereof), or otherwise reduce or diminish the Exchanging Party's liabilities or obligations hereunder. Such assignment by the
49 Exchanging Party shall not release the Exchanging Party from the performance of the covenants to be performed by the Exchanging Party
50 under this Agreement. The Non-Exchanging Party shall not suffer any costs, expenses or liabilities for assisting the Exchanging Party and shall
51 not be required to take title to the exchange property. The Exchanging Party agrees to indemnify, defend and hold the cooperating party
52 harmless from any liability, damages and costs incurred as a result of cooperating in accomplishing the 1031 Exchange.
53
54

1 2. Conditions to Purchase.

2
3 2.1 Buyer's obligation to purchase the Property is conditioned on the following:

4
5 I. Within forty-five 45 calendar days of the Execution Date, Buyer's approval, as determined in its sole
6 discretion, of the results of (collectively, the "General Conditions"): (a) the Property inspection
7 described in Section 3 below; (b) the document review described in Section 4 below; (c)
8 environmental inspections to include a phase I inspection on the property; (d) acceptance by Buyer
9 of the proposed construction costs to renovate the premises for Buyer's use; and (e) parking stalls
10 secured to meet the City of Sandy's requirements for occupancy.

11
12 Upon the General Conditions being satisfied by the Buyer, Buyer shall give written waiver and
13 instruct Escrow to release an initial \$12,500 earnest money to the Seller.

14
15 II. Buyer shall be given up to an additional forty-five (45) days to complete its due diligence (for a total
16 of 90 days) subject to the conditions referenced not being satisfied.

17
18 Upon the General Conditions being satisfied by the Buyer, Buyer shall give written waiver and
19 instruct Escrow to release the remaining \$12,500 earnest money to the Seller.

20
21 III. Buyer's acceptance of the Title Report and Exceptions, as set forth in Section 5, below.

22
23 IV. Final written approval by the Clackamas County Board of Commissioners (the "Board") to proceed
24 with closing of the sale, as determined by the Board in its sole administrative discretion.

25
26 V. Appropriation by the Board of sufficient funds, as determined by Buyer in its sole administrative
27 discretion, to permit Buyer to proceed with closing of the sale.

28
29 If, for any reason in Buyer's sole discretion, Buyer has not given written waiver of the conditions set forth in Section 2.1, or stated in writing that
30 such conditions have been satisfied, by notice given to Seller within the time periods for such conditions set forth above, this Agreement shall
31 be deemed automatically terminated, the Earnest Money, and accrued interest, shall be promptly returned to Buyer, and thereafter, except as
32 specifically provided to the contrary herein, neither party shall have any further right or remedy hereunder. However, if Buyer gives written
33 waiver of its satisfaction of the conditions set forth in Section 2.1, then the earnest money shall become non-refundable as stated.

34
35 3. Property Inspection. Seller shall permit Buyer and its agents, at Buyer's sole expense and risk, to enter the Property at
36 reasonable times after reasonable prior notice to Seller and after prior notice by Seller to the Tenants as required by the applicable Leases, if
37 any, to conduct any and all inspections, tests, and surveys concerning the structural condition of the improvements, all mechanical, electrical
38 and plumbing systems, hazardous materials, pest infestation, soils conditions, wetlands, Americans with Disabilities Act compliance, zoning,
39 and all other matters affecting the suitability of the Property for Buyer's intended use and/or otherwise reasonably related to the purchase of the
40 Property including the economic feasibility of such purchase. Notwithstanding the foregoing, any and all invasive tests requested by Buyer shall
41 require Seller's prior written consent which may be withheld or granted in Seller's sole discretion.

42
43 3.1 Should the sale contemplated by this Agreement not close, the restoration of the Property to the current 'as-is'
44 condition must be promptly completed by the Buyer at its sole cost and expense. Buyer shall indemnify, hold harmless, and defend Seller from
45 all liens, costs, and expenses, including reasonable attorneys' fees and experts' fees, arising from or relating to Buyer's entry on and inspection
46 of the Property. This agreement to indemnify, hold harmless, and defend Seller shall survive closing or any termination of this Agreement.

47
48 4. Seller's Documents. Within 5 days after the Execution Date, Seller shall deliver to Buyer or Buyer's designee, legible and
49 complete copies of the following documents, including without limitation, a list of the Personal Property, and other items relating to the
50 ownership, operation, and maintenance of the Property to the extent now in existence and to the extent such items are or come within Seller's
51 possession or control: any/all leases, engineering/environmental studies, governmental notices or other specific information pertaining to the
52 Property.

53
54 5. Title Insurance. Within 5 days after the Execution Date, Seller shall deliver to Buyer a preliminary title report from the Title
55 Company (the "Preliminary Report"), showing the status of Seller's title to the Property, together with complete and legible copies of all
56 documents shown therein as exceptions to title ("Exceptions"). Buyer shall have 7 days after receipt of a copy of the Preliminary Report and
57 Exceptions within which to give notice in writing to Seller of any objection to such title or to any liens or encumbrances affecting the Property.
58 Within 5 days after the date of such notice from Buyer, Seller shall give Buyer written notice of whether it is willing and able to
59 remove the objected-to Exceptions. Within 5 days after the date of such notice from Seller (the "Title Contingency Date"), Buyer shall elect
60 whether to: (i) purchase the Property subject to those objected-to Exceptions which Seller is not willing or able to remove; or (ii) terminate this

1 Agreement. If Buyer fails to give Seller notice of Buyer's election, then such inaction shall be deemed to be Buyer's election to terminate this
2 Agreement. On or before the Closing Date (defined below), Seller shall remove all Exceptions to which Buyer objects and which Seller agrees,
3 or is deemed to have agreed, Seller is willing and able to remove. All remaining Exceptions set forth in the Preliminary Report and those
4 Exceptions caused by or agreed to by Buyer shall be deemed "Permitted Exceptions."

5
6 6. Default; Remedies. If the conditions, if any, to Buyer's obligation to consummate this transaction are satisfied or waived by Buyer
7 and Buyer fails, through no fault of Seller, to close on the purchase of the Property, Seller's sole remedy shall be to retain the Earnest Money
8 paid by Buyer. In the event Seller fails, through no fault of Buyer, to close the sale of the Property, Buyer shall be entitled to pursue
9 any remedies available at law or in equity, including without limitation, the remedy of specific performance. In no event shall Buyer be entitled
10 to punitive or consequential damages, if any, resulting from Seller's failure to close the sale of the Property.

11
12 7. Closing of Sale.

13
14 7.1 Buyer and Seller agree the sale of the Property shall be closed thirty (30) days after the conditions set forth in
15 Sections 2.1, 3, 4 and 5 have been satisfied or waived by Buyer (the "Closing" or the "Closing Date"). The sale of the Property shall be deemed
16 "Closed" when the document(s) conveying title to the Property is/are recorded and the Purchase Price (increased or decreased, as the case
17 may be, by the net amount of credits and debits to Seller's account at Closing made by the holder of the Escrow pursuant to the terms of this
18 Agreement) is disbursed to Seller.

19
20 7.2 At Closing, Buyer and Seller shall deposit with the Title Company all documents and funds required to close
21 the transaction in accordance with the terms of this Agreement. At Closing, Seller shall deliver a certification in a form provided by the Title
22 Company confirming that Seller is not a "foreign person" as such term is defined in the Internal Revenue Code and the Treasury Regulations
23 promulgated under the Internal Revenue Code. If Seller is a foreign person and this transaction is not otherwise exempt from FIRPTA
24 regulations, the Title Company shall be instructed by the parties to withhold and pay the amount required by law to the Internal
25 Revenue Service.

26
27 7.3 At Closing, Seller shall convey fee simple title to the Property to Buyer by statutory warranty deed
28 (the "Deed"). At Closing, Seller shall cause the Title Company to deliver to Buyer a standard ALTA form owner's policy of title insurance (the
29 "Title Policy") in the amount of the Purchase Price insuring fee simple title to the Property in Buyer subject only to the Permitted Exceptions and
30 the standard preprinted exceptions contained in the Title Policy. Seller shall cooperate in all reasonable respects with the delivery to Buyer of
31 an ALTA extended form policy of title insurance and any endorsements required by Buyer, but Buyer shall pay the difference in the premium to
32 upgrade the Title Policy from standard coverage to extended coverage.

33
34 8. Closing Costs; Prorations. Seller shall pay the premium for the Title Policy, provided, however, if Buyer elects to obtain an ALTA
35 extended form policy of title insurance and/or any endorsements, Buyer shall pay the difference in the premium relating to such election. Seller
36 and Buyer shall each pay one-half (1/2) of the escrow fees charged by the Title Company, any excise tax, and any transfer tax. Real property
37 taxes for the tax year of the Closing, assessments (if a Permitted Exception), personal property taxes, rents and other charges arising from
38 existing Tenancies paid for the month of Closing, interest on assumed obligations, and utilities shall be prorated as of the Closing Date.
39 Prepaid rents, security deposits, and other unearned refundable deposits relating to Tenancies shall be assigned and delivered to Buyer at
40 Closing. Seller shall be responsible for payment of all taxes, interest, and penalties, if any, upon removal of the Property from any special
41 assessment or program.

42
43 9. Possession. Seller shall deliver exclusive possession of the Property to Buyer.

44
45 ~~10. Lease Back Agreement. During the Contingency Period, Seller and Buyer shall negotiate in good faith towards a commercially~~
46 ~~reasonable lease on terms and conditions mutually acceptable to both parties (the "Lease") in which Seller will lease back from the Buyer the~~
47 ~~Property. The Lease will be a gross lease for a period of three (3) months (including an extension right for up to an additional three (3) months~~
48 ~~for a total of six (6) months. The Lease will commence immediately upon the close of escrow. The Base Rent will be \$12/sf gross for the~~
49 ~~portion of space occupied by the Seller.~~

50
51 11. Title and Condition of Property. Seller represents and warrants it the sole owner of the Property and has authority to convey fee
52 simple title to the Property by statutory warranty deed. Seller represents that Seller has received no written notices of violation of any laws,
53 codes, rules, or regulations applicable to the Property ("Laws"). Seller represents there are no suits, actions, arbitrations, judgments, legal,
54 administrative or other proceedings, claims, liens, or inquiries pending or threatened against the Property, or any portion thereof, which could
55 affect Seller's right or title to the Property, or any portion thereof, affect the value of the Property, or any portion thereof, or subject an owner of
56 the Property, or any portion thereof, to liability. Seller represents no work on the Property has been done or will be done, or materials provided,
57 giving rise to actual or impending mechanic's liens, private liens, or any other liens, against the Property or any portion thereof. Seller
58 represents that it has not entered into, and will not enter into, any other contracts for the sale of the Property, nor do there exist nor will there be
59 any rights of first refusal, options to purchase the Property, leases, mortgages, licenses, easements, prescriptive rights, permits, or other rights
60 or agreement, written or oral, express or implied, which in any way affect or encumber the Property or any portion thereof. Seller represents

1 that, to the best of Seller's knowledge without specific inquiry, Seller is not aware of any such violations or any concealed material defects in the
2 Property except that the roof may require repair. Unless caused by Buyer, Seller shall bear all risk of loss and damage to the Property until
3 Closing, and Buyer shall bear such risk at and after Closing. BUYER AND SELLER AGREE THAT THE REAL ESTATE AGENTS NAMED IN
4 THIS AGREEMENT HAVE MADE NO REPRESENTATIONS TO ANY PARTY REGARDING THE CONDITION OF THE PROPERTY, THE
5 OPERATIONS ON OR INCOME FROM THE PROPERTY, THE TENANCIES, OR WHETHER THE PROPERTY OR THE USE THEREOF
6 COMPLIES WITH LAWS. Except for Seller's representations set forth in this Section 10, Buyer shall acquire the Property "AS IS" with all faults
7 including any deficiencies with the roof membrane, mechanical systems and/or building structure and Buyer shall rely on the results of its own
8 inspection and investigation in Buyer's acquisition of the Property. It shall be a condition of Buyer's Closing obligation that all of Seller's
9 representations and warranties stated in this Agreement are materially true and correct on the Closing Date. Seller's representations and
10 warranties stated in this Agreement shall survive Closing for one (1) year.

11
12 If Seller discovers any information or facts that would materially change the foregoing warranties and representations or the transactions
13 contemplated by this Agreement, Seller shall immediately give written notice to Buyer of those facts and information. If any of the foregoing
14 warranties and representations cease to be true before the close of escrow, Seller shall be obligated to use its best efforts to remedy the
15 problem, at its sole expense, before the close of escrow. If the problem is not remedied before close of escrow, Buyer may elect to either: (a)
16 terminate this Agreement in which case Buyer shall have no obligation to purchase the Property and all escrow payments shall be refunded to
17 Buyer, or (b) defer the Closing Date for a period not to exceed ninety (90) days or until such problem has been remedied, whichever occurs first.
18 If the problem is not remedied within that timeframe, Buyer may elect to terminate this Agreement and receive a refund of the Earnest Money
19 Deposit and accrued interest. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability
20 suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this
21 Agreement or by law or equity.

22
23 12. Operation of Property. Between the Execution Date and the Closing Date, Seller shall continue to operate the Property as it has
24 in the past and carry insurance in the same manner as before the making of this Agreement, as if Seller were retaining the Property. After
25 Buyer has satisfied or waived the conditions to Buyer's obligation to purchase the Property, and the Earnest Money is non-refundable, Seller
26 may not, without Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed, enter into: (a) any
27 new leases or occupancy agreements for the Property; (b) any material amendments or modification agreements for any existing Leases or
28 occupancy agreements pertaining to the Property, if applicable; or (c) any service contracts effecting the Property that are not terminable at the
29 Closing.

30
31 13. Assignment. Buyer may assign its interest under this Agreement only if the assignee is an entity owned and controlled by Buyer
32 and Buyer and its assignee shall both be obligated to perform on the terms as stated herein.

33
34 14. No Prevailing Party Fees. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to
35 enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

36
37 15. Statutory Notice. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT
38 PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY
39 NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS
40 DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD
41 INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424,
42 OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS
43 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE
44 APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY
45 ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY
46 THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF
47 ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9
48 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

49
50 16. Cautionary Notice About Liens. UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO PERFORMS CONSTRUCTION-
51 RELATED ACTIVITIES MAY CLAIM A LIEN UPON REAL PROPERTY AFTER A SALE TO THE PURCHASER FOR A TRANSACTION OR
52 ACTIVITY THAT OCCURRED BEFORE THE SALE. A VALID CLAIM MAY BE ASSERTED AGAINST THE PROPERTY THAT YOU ARE
53 PURCHASING EVEN IF THE CIRCUMSTANCES THAT GIVE RISE TO THAT CLAIM HAPPENED BEFORE YOUR PURCHASE OF THE
54 PROPERTY. THIS INCLUDES, BUT IS NOT LIMITED TO, CIRCUMSTANCES WHERE THE OWNER OF THE PROPERTY CONTRACTED
55 WITH A PERSON OR BUSINESS TO PROVIDE LABOR, MATERIAL, EQUIPMENT OR SERVICES TO THE PROPERTY AND HAS NOT
56 PAID THE PERSONS OR BUSINESS IN FULL.

57
58 17. Brokerage Agreement. Seller agrees to pay a commission to the firms of Windermere/Sandy Real Estate and Colliers
59 International ("Broker"), all due at closing. Unless otherwise provided in a separate written agreement, Seller shall cause the holder of the
Escrow to deliver to Broker the real estate commission on the Closing Date or upon Seller's breach of this Agreement, whichever occurs first.

1
2 18. Notices. Unless otherwise specified, any notice required or permitted in, or related to this Agreement must be in writing and
3 signed by the party to be bound. Any notice will be deemed delivered: (a) when personally delivered or delivered by facsimile or electronic mail
4 transmission (in either case, with confirmation of delivery); or (b) on the day following delivery of the notice by reputable overnight courier; or (c)
5 three (3) days after mailing by certified or registered U.S. mail, postage prepaid, return receipt requested, by the applicable party, to the address
6 of the other party shown at the beginning of this Agreement, unless that day is a Saturday, Sunday, or federal or Oregon State legal holiday, in
7 which event such notice will be deemed delivered on the next following business day. If the deadline under this Agreement for delivery of a
8 notice or performance of any obligation is a Saturday, Sunday, or federal or Oregon State legal holiday, such deadline will be deemed extended
9 to the next following business day.

10
11 19. Miscellaneous. Time is of the essence of this Agreement. The facsimile and/or electronic mail transmission of any signed
12 document including this Agreement, in accordance with Section 17, shall be the same as delivery of an original. At the request of either party,
13 the party delivering a document by facsimile and/or electronic mail will confirm such transmission by signing and delivering to the other party a
14 duplicate original document. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of
15 which together shall constitute one and the same Agreement. This Agreement contains the entire agreement and understanding of the parties
16 with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements between them with respect
17 thereto. Without limiting the provisions of Section 12 of this Agreement, this Agreement shall be binding upon and shall inure to the benefit of
18 the parties and their respective successors and assigns. The person signing this Agreement on behalf of Buyer and the person signing this
19 Agreement on behalf of Seller each represents, covenants and warrants that such person has full right and authority to enter into this
20 Agreement and to bind the party for whom such person signs this Agreement to the terms and provisions of this Agreement. Neither this
21 Agreement nor a memorandum hereof shall be recorded unless the parties otherwise agree.

22
23 20. Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10,
24 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are
25 deemed inoperative to that extent

26
27 21. Risk of Loss, Condemnation. Seller shall bear the risk of all loss or damage to the Property from all causes, until the Property is Closed
28 pursuant to Section 7. If, before the Property is Closed pursuant to Section 7, all or part of the Property is damaged by fire or by any other
29 cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give
30 Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within fifteen (15) days following
31 receipt by Buyer of written notice from Seller of such casualty or condemnation and the Earnest Money Deposit, with accrued interest, will be
32 returned to Buyer.

33
34
35 22. Governing Law. This Agreement is made and executed under, and in all respects shall be governed and construed by, the laws
36 of the State of Oregon. Any claim, action, or suit that arises out of or relates to the performance of this Agreement shall be brought and
37 conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such
38 claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District
39 Court for the District of Oregon. In no event shall this section be construed as a waiver by Buyer of any form of defense or immunity, whether
40 sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise,
41 from any claim or from the jurisdiction of any court. All parties, by execution of this contract, hereby consents to the in personam jurisdiction of
42 the courts referenced in this section.

43
44
45 23. Personal Property.

46 23.1 Personal Property. No Personal Property .

47
48 24. Residential Lead-Based Paint Disclosure. IF THE PROPERTY CONSISTS OF RESIDENTIAL HOUSING BUILT PRIOR TO
49 1978, BUYER AND SELLER MUST COMPLETE THE LEAD-BASED PAINT DISCLOSURE ADDENDUM ATTACHED HERETO AS EXHIBIT
50 D.

51
52 25. Addendums; Exhibits. The following named addendums and exhibits are attached to this Agreement and incorporated within
53 this Agreement:

- 54 Exhibit A – Legal Description of Property
55 Exhibit B – Assignment of Lessor's Interest under Lease (if applicable)
56 ~~Exhibit C – Bill of Sale (if applicable)~~
57 Exhibit D – Lead Paint Disclosure Addendum (if applicable)

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[Remainder of page intentionally left blank.]

1 26. Time for Acceptance. If Seller does not return to Buyer a signed and dated version of this Agreement on or before 5:00 PM
2 Pacific Time on _____ then the Earnest Money shall be promptly returned to Buyer and thereafter, neither party shall have any
3 further right or obligation hereunder.
4

5 CONSULT YOUR ATTORNEY. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR REVIEW AND
6 APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE COMMERCIAL ASSOCIATION OF
7 REALTORS® OREGON/SW WASHINGTON OR BY THE REAL ESTATE AGENTS INVOLVED WITH THIS DOCUMENT AS TO THE LEGAL
8 SUFFICIENCY OR TAX CONSEQUENCES OF THIS DOCUMENT.
9

10 THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING, INSERTION MARKS, OR
11 ADDENDA.
12

13 Buyer _____
14 By _____
15 Title _____
16 Date _____
17

18
19 Seller Acceptance. By execution of this Agreement, Seller agrees to sell the Property on the terms and conditions in this Agreement.
20

21 Seller _____
22 By _____
23 Title _____
24 Date _____
25
26
27

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CRITICAL DATE LIST:

The last party to execute this Agreement shall complete the information below (the "Critical Date List"), initial where indicated, and return a copy of the same to the other party for such party's approval thereof, which approval shall be evidenced conclusively by such party's initialing thereof. The Critical Date List shall have no force or effect unless and until each of Buyer and Seller initial where indicated below, provided, however, the failure of either or both parties to complete and/or approve the Critical Date List shall in no way be deemed to terminate or otherwise affect the validity of the Agreement. If either or both of the parties hereto fail to initial the Critical Date List, the text of this Agreement shall govern all issues of timing.

| | DATE: |
|--|-------|
| • Execution Date (Introductory paragraph): | |
| • Earnest Money due date (Section 1.1.1): | |
| • Seller shall open Escrow with the Title Company (Section 1.1.1): | |
| • Seller shall deliver Seller's documents to Buyer (Section 4): | |
| • Seller shall deliver Preliminary Report to Buyer (Section 5): | |
| • Buyer's title objection notice due to Seller (Section 5): | |
| • Seller's title response due to Buyer (Section 5): | |
| • Title Contingency Date (Section 5): | |
| • Expiration date for satisfaction of General Conditions (Section 2.1): | |
| • Expiration date for satisfaction of Financing Condition (Section 2.1): | |
| • Closing Date (Section 7.1): | |

11
12

Initials of Buyer: _____
Initials of Buyer: _____

Initials of Seller: _____
Initials of Seller: _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

To be added by Escrow Agent

A complete legal description to be attached prior to closing.

EXHIBIT A-1



EXHIBIT B

LEAD-BASED PAINT DISCLOSURE ADDENDUM
(TO BE COMPLETED IF THE PROPERTY CONSISTS OF RESIDENTIAL HOUSING BUILT PRIOR TO 1978)

Seller and Buyer are parties to that certain Commercial Association of Realtors® Oregon / SW Washington Purchase and Sale Agreement and Receipt for Earnest Money (Oregon Commercial Form) dated _____, 20____ (the "Sales Agreement") for the sale of the Property described therein. Capitalized terms used in this addendum without definition shall have the meanings given them in the Sales Agreement. Except as expressly modified by this addendum and any other addendum to the Sales Agreement executed by Buyer and Seller, the Sales Agreement is unmodified. This addendum and the Sales Agreement may not be modified except in a writing signed by both Seller and Buyer.

LEAD WARNING STATEMENT

EVERY PURCHASER OF ANY INTEREST IN RESIDENTIAL REAL PROPERTY ON WHICH A RESIDENTIAL DWELLING WAS BUILT PRIOR TO 1978 IS NOTIFIED THAT SUCH PROPERTY MAY PRESENT EXPOSURE TO LEAD FROM LEAD-BASED PAINT THAT MAY PLACE YOUNG CHILDREN AT RISK OF DEVELOPING LEAD POISONING. LEAD POISONING IN YOUNG CHILDREN MAY PRODUCE PERMANENT NEUROLOGICAL DAMAGE, INCLUDING LEARNING DISABILITIES, REDUCED INTELLIGENCE QUOTIENT, BEHAVIORAL PROBLEMS AND IMPAIRED MEMORY. LEAD POISONING ALSO POSES A PARTICULAR RISK TO PREGNANT WOMEN. THE SELLER OF ANY INTEREST IN RESIDENTIAL REAL PROPERTY IS REQUIRED TO PROVIDE THE BUYER WITH ANY INFORMATION ON LEAD-BASED PAINT HAZARDS FROM RISK ASSESSMENTS OR INSPECTIONS IN THE SELLER'S POSSESSION AND NOTIFY THE BUYER OF ANY KNOWN LEAD-BASED PAINT HAZARDS. A RISK ASSESSMENT OR INSPECTION FOR POSSIBLE LEAD-BASED PAINT HAZARDS IS RECOMMENDED PRIOR TO PURCHASE.

AGENT'S ACKNOWLEDGMENT

Seller Agent has informed Seller of Seller's obligations under 42 U.S.C. 4852(d) and Agent is aware of his/her responsibility to ensure compliance.

SELLER'S DISCLOSURE

.1 Presence of lead-based paint and/or lead-based paint hazards (check one below):

Seller has knowledge of lead-based paint and/or lead-based paint hazards in the housing (explain).

Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

.2 Records and reports available to Seller (check one below):

Seller has provided Buyer with all available records and reports relating to lead-based paint and/or lead-based paint hazards in the housing (list documents below):

X Seller has no reports or records relating to lead-based paint and/or lead-based paint hazards in the housing.

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they provided is true and accurate. A photocopy of this completed LEAD-BASED PAINT DISCLOSURE ADDENDUM, together with a copy of any documents listed in Section 2 of Seller's Disclosure above, may be treated as an original.

Seller Agent _____ Date _____ ← Seller _____ Date _____

Selling Firm _____ Seller _____ Date _____

Before Buyer is obligated to purchase this property under any sale agreement, Buyer's and Seller's signatures are required on the form below.

BUYER'S ACKNOWLEDGMENT

.1 Buyer has received copies of all information listed above in Section 2 of Seller's Disclosure of this form.

.2 Buyer has received the pamphlet "Protect Your Family from Lead in Your Home."

.3 Buyer has (check one below):

Elected a ten (10) day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards, providing Buyer the right to rescind the Sales Agreement by written notice to Seller no later than the end of such agreed upon 10 day period if Buyer is not satisfied in Buyer's sole discretion with the results of such risk assessments or inspection, as applicable. Buyer and Seller hereby agree the ten (10) day period described in the preceding sentence shall begin ____ and end _____. Buyer's failure to provide written notice of Buyer's election to rescind the Sales Agreement to Seller on or before _____, 20____ shall be deemed a waiver of Buyer's right to rescind as provided in this addendum. If Buyer timely elects to rescind the Sales Agreement as provided herein, the Earnest Money shall be returned to Buyer, together with any interest thereon.

Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Buyer _____ Date _____ ←

Buyer _____ Date _____ ←

CERTIFICATION OF ACCURACY

This section must be signed by Buyer before Seller signs lines below. The following parties have reviewed the information and certify, to the best of their knowledge, that the information they provided herein is true and accurate.

Buyer _____ Date _____ Seller _____ Date _____

Buyer _____ Date _____ Seller _____ Date _____

Buyer Agent _____ Date _____ Seller Agent _____ Date _____

Buying Firm _____ Seller Firm _____

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE



DAN JOHNSON
DIRECTOR

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

April 25, 2019

Board of Commissioners
Clackamas County

Members of the Board:

Adoption of an Order Related to the Previously Approved Vacation of McNary Road

| | |
|--|--|
| Purpose/Outcomes | To adopt an order implementing the Board's prior decision finding that the vacation of a portion of McNary road is in the public interest. |
| Dollar Amount and Fiscal Impact | Application and processing fee received. |
| Funding Source | N/A |
| Duration | N/A |
| Previous Board Contact | October 16, 2018 Policy Session; February 28, 2019 public hearing. |
| Strategic Plan Alignment | Build public trust through good government. |
| Counsel Review | Reviewed and approved by County Counsel on 4/16/19 |
| Contact Person | Doug Cutshall, Engineering Technician, 503-742-4669 |

BACKGROUND

McNary Road, (Tourtellotte Road) County Road No. 2132 is situated in the SW1/4 of Section 8, T.2 S., R.2 E., W.M. The petitioner wishes to vacate an unimproved and unused portion of McNary Road that lies northeasterly of its intersection with Norma Road and, northwesterly of and adjoining the petitioners property.

The petitioner did not acquire 100% of the adjoining property owners signatures required to allow the Board to vacate the right of way without a hearing. ORS 368.346 required the Board to hold a hearing to determine if the road vacation is in the public interest. As required by statute, a report was provided to the Board from the County Road Official describing the ownership and uses of the property to be vacated, as well as the assessment of the County Road Official as to whether the vacation is in the public interest.

On February 28, 2019, a duly noticed public hearing was held and testimony was received. Clackamas County Code Section 7.03.095(4) provides that the Board consider the following criteria when determining whether a vacation is in the public interest:

- a. Whether the vacation would inhibit or preclude access to an abutting property, and

From: Rose MZ Freeby <jamjr21@comcast.net>
Sent: Thursday, February 28, 2019 11:19 AM
To: 'Cutshall, Doug' <DougCut@co.clackamas.or.us>
Subject: FW: McNary road Vacation - Board of Commissioners public question and for the record

We watched the hearing at home and were concerned a vote occurred before this issue email was in the record? Can you please forward it to the Commissioners and County Counsel?
Was written input not considered?
Could they have conditioned the vacation on this access? The roadway is private and the transportation plan loses another link? Public loses access?

From: Rose MZ Freeby <jamjr21@comcast.net>
Sent: Thursday, February 28, 2019 9:34 AM
To: 'Cutshall, Doug' <DougCut@co.clackamas.or.us>
Cc: 'Westb5@comcast.net' <Westb5@comcast.net>; 'tcrawley40@gmail.com' <tcrawley40@gmail.com>
Subject: McNary road Vacation - Board of Commissioners public question and for the record

Good morning Doug:

We cannot make it in person and submit this as concerned neighbors. We are concerned about the vacation of the easement and how this fits with long term capital projects and transportation plans. We were hoping to have this information in for the Commissioners' consideration and also to be on the list for a copy of their decision. We appreciate your assistance with this. Thank you .

We live on Oetkin and there are not suitable bike and pedestrian facilities to connect Oatfield and Webster . We saw in the U of O archives:
project number 3062 Table 5 3 C Long term capital projects in the 3 1 14 Ordinance Zdo246 Ex A.:
McNary Rd/Mabel Avenue

And wonder how vacating the easement fits with adding a bike way and pedestrian facility (Table 5 3 c long term capital projects #3062 Map 11 c?)

We note that both Oetkin and Thiessen are narrow and busy through ways and we could see the easement being used for this purpose ?
We did not see this addressed in the report. What happened to this planning and project and is now a good time to look at how it fits in ?

We appreciate the Commissions time and consideration . We are unable to attend in person so submit this for the record.

Thank you
Please copy us with the decision .
Have an excellent Thursday .

Jesse and Rose Freeby
5301 SE Oetkin Rd
Milwaukie Or 97267

MEMORANDUM

TO: Board of Commissioners

FROM: Dan Johnson, Director D.T.D.

DATE: February 20, 2019

SUBJ: **ROAD OFFICIAL'S REPORT FOR THE VACATION OF MCNARY ROAD**

LOCATION: McNary Road, (Tourtellotte Road) County Road No. 2132 is situated in the SW1/4 of Section 8, T.2 S., R.2 E., W.M.

FACTS AND FINDINGS: The petitioner wishes to vacate an unimproved and unused portion of McNary Road that lies northeasterly of its intersection Norma Road and, northwesterly of and adjoining the petitioners property. McNary Road was dedicated to the public through deeds from several property owners which were then accepted by the Court, July 6th 1939, to be used for a county road. This unused and unconstructed portion of McNary Road right of way is a dead end road, provides no connectivity to any through streets, and is not used to access adjoining property. Vacating this 60 foot wide, 960 foot long portion of McNary Road will not deprive public access to adjoining properties and will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and, pursuant to ORS 368.346(1)(c) allows the Board to request additional information be added to this report, and (4) The county governing body shall establish a time and place for a hearing to consider whether the proposed vacation is in the public interest.

Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies have been contacted and do not have any objections to this vacation. This road vacation does not violate any portion of Clackamas County Code 7.03.095 (4).

It is my assessment that the proposed vacation is in the public interest.

whether an access reservation would be adequate to protect that access;

b. Whether it is physically possible to build a road that meets contemporary standards over the existing terrain or right-of-way;

c. Whether it is economically feasible to build a road that meets contemporary standards over the existing terrain or right-of-way;

d. Whether there is another nearby road that can effectively provide the same access as the right-of-way to be vacated;

e. Whether the right-of-way to be vacated has present or future value in terms of development potential, use in transportation linkages, or use in road replacements;

f. Whether there are present and future likely benefits of the right-of-way to the traveling public;

g. Whether anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated;

h. Whether the right-of-way proposed to be vacated leads to a creek, river, or other waterway that can be used for public recreation; and

i. Whether the right-of-way proposed to be vacated leads to federal, state or local public lands that can be used for public recreation.

At the conclusion of the hearing, the Board determined that, in light of the testimony and the criteria in Clackamas County Code Section 7.03.095(4), the vacation of a portion of McNary Road is in the public interest.

Approximately 30 minutes prior to the start of the February 28, 2019 public hearing, Jesse and Rose Freeby sent an email to staff that contained testimony related to this matter. Staff did not receive this message in time to provide the testimony to the Board. The email is provided with this report. The Board does retain the discretion to reopen the public hearing and reconsider its earlier decision. The Board is not, however, obligated to do so.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the order related to the previously approved vacation of a portion of McNary Road, County Road No. 2132.

Sincerely,

Douglas Cutshall
Engineering Technician D.T.D.

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

In the matter of the Vacation of
A portion of McNary Road,
Co. Rd. 2132, situated
In Section 08, T.2 S., R.2 E., W.M.
Clackamas County, Oregon



Order No.
Page 1 of 3

Whereas This matter coming before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.346, a petition has been filed with the determined fee, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, Director, have been submitted in the matter of the vacation of an unconstructed portion of McNary Road, County Road No.2132, described as follows:

All that portion of McNary Road, Co. Rd. 2132, situated in the southwest ¼ of Section 08, T.2 S., R.2 E., W.M., Clackamas County, Oregon, lying northeasterly of the southerly extension a line that is one foot northeasterly of the southwest line of that property described in Deed Document 2005-066529, Clackamas County Deed Records and, as shown on attached Exhibits "A" and, being a part of this description.

Whereas ORS 368.356 requires the Board of County Commissioners to determine whether the proposed vacation is in the public interest, and Clackamas County Code Section 7.03.095(4) provides that the Board consider the following criteria when determining whether a vacation is in the public interest:

- a. Whether the vacation would inhibit or preclude access to an abutting property, and whether an access reservation would be adequate to protect that access;
- b. Whether it is physically possible to build a road that meets contemporary standards over the existing terrain or right-of-way;
- c. Whether it is economically feasible to build a road that meets contemporary standards over the existing terrain or right-of-way;
- d. Whether there is another nearby road that can effectively provide the same access as the right-of-way to be vacated;
- e. Whether the right-of-way to be vacated has present or future value in terms of development potential, use in transportation linkages, or use in road replacements;
- f. Whether there are present and future likely benefits of the right-of-way to the traveling public;
- g. Whether anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated;
- h. Whether the right-of-way proposed to be vacated leads to a creek, river, or other waterway that can be used for public recreation; and

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

In the matter of the Vacation of
A portion of McNary Road,
Co. Rd. 2132, situated
In Section 08, T.2 S., R.2 E., W.M.
Clackamas County, Oregon



Order No.
Page 2 of 3

i. Whether the right-of-way proposed to be vacated leads to federal, state or local public lands that can be used for public recreation; and

Whereas the Board finds that the vacation would not inhibit or preclude access to an abutting property; and

Whereas the Board finds that it's not physically possible to build a road that meets contemporary standards over the existing terrain or right-of-way; and

Whereas the Board finds that it's not economically feasible to build a road that meets contemporary standards over the existing terrain or right-of-way; and

Whereas the Board finds that another nearby road can effectively provide the same access as the right-of-way to be vacated; and

Whereas the Board finds that the right-of-way to be vacated has no present or future value in terms of development potential, use in transportation linkages, or use in road replacements; and

Whereas the Board finds that there is no present or future likely benefit of the right-of-way to the traveling public; and

Whereas the Board finds that anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated and the land under the right-of-way is better suited to support the proposed development;

Whereas the Board finds that the right-of-way proposed to be vacated leads to a creek, river, or other waterway, but the terrain is such that it is not well-suited for public recreation; and

Whereas the Board finds that the right-of-way proposed to be vacated does not lead to any federal, state or local public lands that can be used for public recreation; and

Whereas the Board having read said petition and report from the County Road Official and having heard public testimony, have determined that on all things considered, the vacation of the above described portion of roadway to be in the public interest; and,

Whereas Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies, have been contacted and do not have any objections to this vacation; now therefore,

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

In the matter of the Vacation of
A portion of McNary Road,
Co. Rd. 2132, situated
In Section 08, T.2 S., R.2 E., W.M.
Clackamas County, Oregon



Order No.
Page 3 of 3

IT IS HEREBY ORDERED that the attached described portion of McNary Road,
Co. Rd. 2132, containing, 52,038 square feet, more or less, be vacated; and,

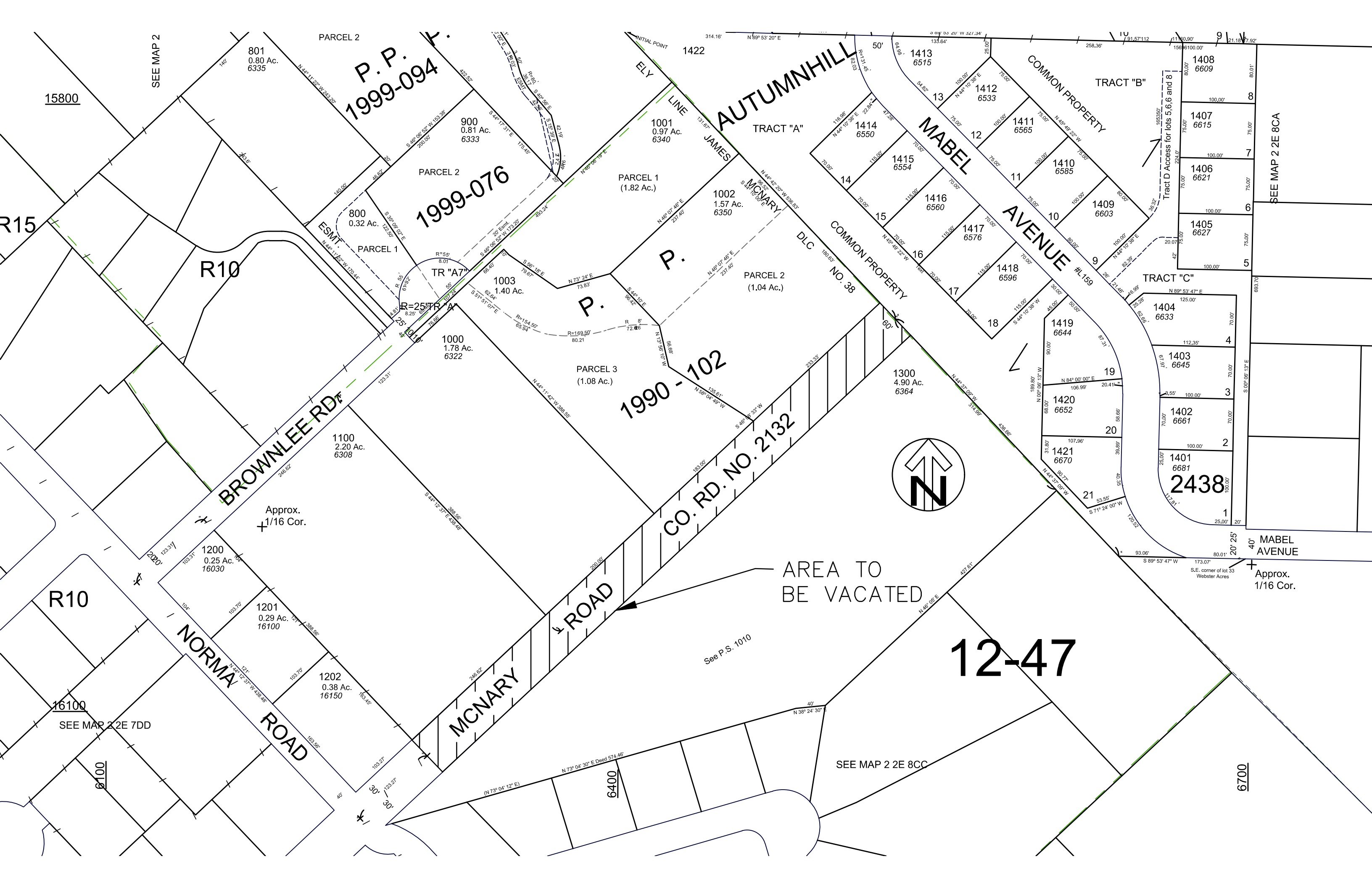
IT IS FURTHER ORDERED, that this Order and attached exhibits be
recorded in the Deed Records for Clackamas County and that a copy be filed with the County
Surveyor, County Assessor, and Finance Office/Fixed Assets.

ADOPTED this _____ day of _____, 2019

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



P. P. 1999-094

1999-076

1990-102

CO. RD. NO. 2132

See P.S. 1010

AREA TO BE VACATED

12-47

SEE MAP 2 2E 8CC

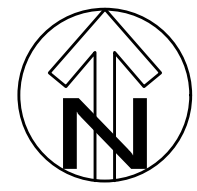
SEE MAP 2

SEE MAP 2 2E 8CA

Tract D Access for lots 5, 6, 6 and 8

Approx. 1/16 Cor.

Approx. 1/16 Cor.



15800

R10

16100

SEE MAP 2 2E 7DD

6100

R10

NORMA ROAD

ROAD

MCNARY ROAD

ROAD

6400

6700

AVENUE

MABEL AVENUE

AUTUMNHILL

COMMON PROPERTY

MABEL

COMMON PROPERTY

TRACT "C"

2438

TRACT "A"

COMMON PROPERTY

TRACT "B"

PARCEL 1 (1.82 Ac.)

PARCEL 2 (1.04 Ac.)

PARCEL 3 (1.08 Ac.)

PARCEL 1

PARCEL 2

PARCEL 2

1200 0.25 Ac. 16030

1201 0.29 Ac. 16100

1202 0.38 Ac. 16150

1000 1.78 Ac. 6322

1003 1.40 Ac. 6322

1100 2.20 Ac. 6308

1002 1.57 Ac. 6350

1001 0.97 Ac. 6340

900 0.81 Ac. 6333

801 0.80 Ac. 6335

1300 4.90 Ac. 6364

1419 6644

1420 6652

1421 6670

1422

1413 6515

1414 6550

1415 6554

1416 6560

1417 6576

1418 6596

1411 6565

1410 6585

1409 6603

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

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1401 6681

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1408 6609

1407 6615

1406 6621

1405 6627

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1403 6645

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1401 6681

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1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

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1408 6609

1407 6615

1406 6621

1405 6627

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1403 6645

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1408 6609

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1403 6645

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1401 6681

1400

1408 6609

1407 6615

1406 6621

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1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

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1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

1400

1408 6609

1407 6615

1406 6621

1405 6627

1404 6633

1403 6645

1402 6661

1401 6681

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1405 6627



CHRISTA BOSSERMAN WOLFE, CPA
DIRECTOR

DEPARTMENT OF FINANCE
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

April 25, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

A Resolution Approving the Submission of
The Assessor's CAFFA Grant Application for FY 2019-20

| | |
|--|---|
| Purpose/Outcome | This resolution is an annual requirement to accompany the application for a grant from the State of Oregon Department of Revenue to the Clackamas County Assessor's Office. |
| Dollar Amount and Fiscal Impact | The grant provides approximately 18% of the revenue for the Assessor's Office. |
| Funding Source | The State of Oregon |
| Duration | Effective July 1, 2019 to June 30, 2020 |
| Previous Board Action | None |
| County Counsel Review | Reviewed and approved by County Counsel on 4-17-2019. |
| Strategic Plan Alignment | Build public trust through good government |
| Contact Person | Tami Little, County Assessor 503-655-8302 Jian Zhang, Finance Department 503-742-5434 |

BACKGROUND:

County Assessment Function Funding Assistance (CAFFA) is a grant from the State of Oregon to Clackamas County Assessor's Office. The grant provides approximately 18% of the revenue for the Assessor's Office. All documents required to be included in the grant application are attached. They include a summary of expense, two staffing reports, two narrative reports, and two work activity forms, Grant Application Resolution and Racial and Ethnic Impact Statement.

The application and accompanying documents must be received in Salem by May 1, 2018, and this material has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of Commissioners approve this resolution, so that this grant application may be submitted to the state.

Respectfully submitted,

Jeff Aldridge
Grants Manager



Form 1 Grant Application Staffing

2019-2020

| | Column 1 | Column 2 | Column 3 |
|--|--|---|--|
| County <u>CLACKAMAS</u> | Approved FTE current year (2018-19) | Budgeted FTE coming year (2019-20) | Change (Column 2 less Column 1) |
| A. Assessment administration | | | |
| Assessor, deputy, etc. | 2.00 | 2.00 | 0.00 |
| Assmt. support staff, deed clerks and data entry staff | 17.50 | 18.50 | 1.00 |
| Total assessment administration staff | 19.50 | 20.50 | 1.00 |
| B. Valuation and appraisal staff | | | |
| Chief appraisers/appraiser supervisor | 3.00 | 3.00 | 0.00 |
| Lead appraisers | 5.00 | 6.00 | 1.00 |
| Residential appraisers | 3.50 | 5.50 | 2.00 |
| Commercial/industrial appraisers | 4.25 | 3.50 | (0.75) |
| Farm/forest/rural appraisers..... | 2.75 | 2.00 | (0.75) |
| Manufactured structure/floating structure appraisers | 1.00 | 0.50 | (0.50) |
| Personal property appraisers..... | 0.50 | 0.50 | 0.00 |
| Personal property clerks..... | 2.00 | 2.00 | 0.00 |
| Sales data analyst..... | 2.00 | 2.00 | 0.00 |
| Data gatherers and appraisal techs..... | 0.00 | 0.00 | 0.00 |
| Total valuation and appraisal staff | 24.00 | 25.00 | 1.00 |
| C. Board of Property Tax Appeals (BoPTA) | | | |
| | 1.00 | 1.00 | 0.00 |
| D. Tax collection and distribution administration | | | |
| Administration, deputy, etc..... | 1.00 | 1.00 | 0.00 |
| Support and collection | 6.75 | 5.50 | (1.25) |
| Tax distribution | 1.00 | 1.25 | 0.25 |
| Foreclosure and garnishment..... | 0.75 | 0.75 | 0.00 |
| Total tax collection and distribution | 9.50 | 8.50 | (1.00) |
| E. Cartography and GIS administration | | | |
| Cartographic/GIS supervisor..... | 0.00 | 0.00 | 0.00 |
| Leadcartographers | 1.00 | 1.00 | 0.00 |
| Cartographers..... | 4.50 | 5.00 | 0.50 |
| GIS specialists..... | 1.20 | 1.20 | 0.00 |
| Total cartographic and GIS staff | 6.70 | 7.20 | 0.50 |
| F. Dedicated IT services for A&T | | | |
| | 2.00 | 2.00 | 0.00 |
| G. Total assessment and taxation staffing | | | |
| | 62.70 | 64.20 | 1.50 |

County CLACKAMAS

In this section, explain any difference between approved staffing for the current year and staffing for the budgeted year. Explain why any funded positions were unfilled for the current year. Use this form to describe the intended use of nonpermanent workers (temporary help, project temporaries, and contractors) by A&T function, along with their cost. Note any special or unique aspects regarding who accomplishes the work and how they accomplish it related to Forms 4, 5, and 6. For example, if you use staff to perform personal property functions, other than those reported on Form 1, Section B, note that here and include the FTE.

Vacancies continue to be filled and lag time due to the recruitment process can impact specific workloads at certain times of the year. We completed 6 recruitments in 2018 which is the equivalent of 17% of our 59 FTE for 2018-19. We are currently recruiting to fill 3 vacancies.

Temporary help is budgeted at \$60,000 and is used to support personal property processing, document scanning, appraisal data entry, and entering diagrams and photos into our appraisal system. We are adding 3 additional temporary support staff as explained below in the applicable area.

A. Assessment & Administration: Assessment support FTE increased by 1 due to balancing existing FTE between assessment and tax collection. We recently hired 1 temporary for assessment support and data entry.

B. Valuation – Appraisal Staff: Some minor adjustments were made to better reflect the residential appraisal staff needed due to real estate sales activity, new construction and other exception events that continue to show significant increases. We recently hired 1 temporary for support in personal property and data entry.

For the 2019-20 budget we are requesting one additional FTE to add a Senior Appraiser position. The additional FTE - Senior Appraiser will be dedicated to the integration of our newly purchased aerial imagery and GIS information with our CAMA system. This will allow us to enhance and improve efficiencies on how we perform our annual Ratio Study in order to ensure that all property is valued at 100% of real market value. This GIS/CAMA integration will also be used to enhance valuations, reduce the need for physical inspections, improve the quality of our inventory, which aligns with the strategic goal of building public trust.

We continue to hire a contract Commercial/Industrial Appraiser to handle major appeals, assist with the valuation of more complex properties and consult on market studies. His time is equivalent to .75 FTE and is budgeted at \$70,000 for 2019-2020 year. As an independent contractor, this resource is not included in the FTE count.

C. Clerk / BOPTA staff: The projected FTE are .5 from the Assessor's office and .5 from the Clerk

D. Tax Collection & Distribution Administration: The FTE reduced by 1 due to moving them to Assessment administration.

E. Cartography & GIS Admin: The .5 FTE increase is due to now fully funding a previously shared FTE with Technical Services. The 1.2 GIS Specialists listed are fully funded by Technical Services (noted in #4 under ORMAP below) and provide support to our Cartographic section and the ORMAP project. This count was reduced in 2018 because of the progress made by TS map production.

Last fall we received approval of an ORMAP Grant Application of \$15,000 for tax map annotation work for the Assessor's part of the project converting Mylar maps to final digital maps. We are in the hiring process for 2 temporary GIS Cartographer to utilize those funds. We also applied for the 2019 spring grant to be able to continue through calendar year 2019. We have 700 maps that need final annotation before they can be retired.

GIS/ORMAP: The County continues to provide support and resources to progress toward ORMAP

goals. To date we have retired 2,384 Mylar Maps out of a total of 3,386. Additional in-kind support for the GIS data creation part of the project includes:

1. \$125,000 from the Assessor's office for plat and deed research, tax map conversion and annotation.
2. \$35,000 in General Fund support to supplement the ORMAP funding contract work.
3. \$5,000 from the County Surveyor's office for collection of section corners and ground control points.
4. \$151,000 from the County Technical Services Department for project management, quality control, data input, and survey and deed research.

F. A&T Data Processing Staff: This is support from County Technical Services Department for Database support, maintenance, programming, and web services.

Form 4

#7 Other Valuation Appraiser Activity: 1.5 FTE is attributed to appraisal time directed to the ProVal CAMA system upgrade testing and development, neighborhood boundary maintenance, special projects and outlier analysis. Resource limitations and strong real estate sale activity have impacted the ability to direct additional resources to populate our CAMA system with the commercial/industrial property characteristic data and build income property valuation models to enable valuation and recalculation of these types of property within our system. This remains a strategic goal. We continue to make progress capturing commercial, industrial and multi-family diagrams in our CAMA system. The valuation section completed the update of residential cost factors in our CAMA system last year and will complete the update of the farm cost factors this year.

Form 5

#15 Assessment and Taxation is combined under the Assessor.



Form 3 General Comments

2019-2020

County CLACKAMAS

Use this form to describe any issue in your budget that needs further clarification. Examples include significant changes on Form 7, purchase of a new data processing system, salary increases, new car purchases, personnel services, costs for mapping, etc. You can also use this form to document any miscellaneous comments about this grant application.

Our 2019-20 budget increase is 7.7% over the prior year. The increase is primarily due to an increase in personnel expenses with year over year COLA's at 2.8% each year, costs in allocations per employee, fringe benefits, and PERS.

We are now fully transitioned to a strategic budget planning process called Managing for Results (MFR). It's designed to provide openness, transparency, and deliver more integrated and better services toward building public trust. We now allocate funds by line of business to achieve actual costs in each area which will help us achieve the best allocation of resources to accomplish our work. This MFR transition may make the budget information seem challenging to follow in this first year. We can explain the adjustments made moving FTE to their appropriate program. Next year the changes will be easy to quickly identify. For example, Form 1 A has 20.5 FTE –on our ORG chart that is a combination from Administration, Property Records (less 6 FTE for Cartography), and 5 FTE from Valuation. Our Cartography staff in Property Records is in CAFFA Form 1, E. Form 1, B does not request FTE counts for appraisal support staff.

Our business process continues to focus support to appraisal needs. Our appraisers primarily complete field work inspecting new construction, make and review value decisions and assist public on valuation issues. The current real estate market has again resulted in a moderate level of appeals at the Board of Property Tax Appeals. A reduced level of resources has been directed toward appeal management allowing reallocation of those resources towards new construction, quality of inventory, and outlier sales analysis utilizing the online services available to more thoroughly research construction and remodeling activity resulting in the discovery of 515 omitted property corrections with value previously not captured on the assessment roll. The legal complexity of appeals and the complexity of properties under appeal still require participation by County Counsel for representation at Magistrate, Regular Division Tax Court, and Supreme Court cases. Although the level of sales activity has slowed, it continues to require significant appraisal resource to verify sales, research listings, and field inspect property to support appeals, general market analysis and the ratio study. The volume of real estate sales activity, new construction and other exception events remains strong. Our automated appraisal database allows us to monitor our appraisal activity in real time and has increased the efficiency of our business practices. Analysis of market areas and neighborhood maintenance remains a high priority and we continue finalizing new, or modifying some, of our existing market areas for the 2019-2020 year. We expect to improve our neighborhood alignments with the use of our new aerial imagery from Pictometry. We are exploring and implementing as resources allow the integration of GIS data with our CAMA system. The capability for more geographic analysis and reporting, including the design and development of special databases and modeling to support valuation decisions, is being explored. Workload demands continue to impact our ability to direct additional resources to populate our CAMA system with CIM project data, (commercial/industrial and multi-family) property characteristics, diagrams, and income property valuation models will enable valuation and recalculation of these types of properties online. This remains a strategic goal and progress was achieved with the start of our CIM project which is now in the early stages. We noted hiring additional temporary staff on form 2 in order to continue our data entry progress. We are actively committed to exploring the potential for developing collaborative projects with other departments and jurisdictions to achieve a better use of resources. This year's budget request includes \$122,000 as part of the second year acquisition cost for oblique aerial photography and software which is now integrated in our CAMA/GIS system. This technology will allow more effective use of an appraiser's office time and increase appraiser field time efficiency. As well as, help achieve the statutory requirement to maintain uniformity and equity in the valuation of property. The current contract for the flight in November 2018 will be paid over three years and a second flight is planned in 2021. We are requesting one additional FTE as a Senior Property Appraiser to lead the Pictometry project.



Form 4 Valuation and Appraisal Resources

2019-2020

| County <u>CLACKAMAS</u> | Number of accounts by activity | | Number of FTE by activity | |
|--|-----------------------------------|------------------------|------------------------------|------------------------|
| | Actual (2018-19) | Estimated (2019-20) | Actual (2018-19) | Estimated (2019-20) |
| Activities | | | | |
| 1. Real property exceptions, special assessments and exemptions | | | | |
| New construction..... | 8,133 | 7,639 | 5.00 | 5.50 |
| Zone changes..... | 125 | 105 | 0.25 | 0.25 |
| Subdivisions, segregations, and consolidations.. | 2,370 | 2,061 | 1.75 | 1.75 |
| Omitted properties | 515 | 500 | 0.50 | 1.50 |
| Special assessment qualification and disqualification | 388 | 380 | 2.00 | 2.00 |
| Exemptions..... | 169 | 200 | 0.50 | 0.50 |
| Subtotal..... | <u>11,700</u> | <u>10,885</u> | <u>10.00</u> | <u>11.50</u> |
| 2. Appeals and assessor review | | | | |
| Assessor review and stipulations | 27 | 25 | 0.25 | 0.25 |
| BOPTA | 302 | 295 | 3.50 | 2.50 |
| Department of Revenue..... | 0 | 2 | 0.25 | 0.25 |
| Magistrate Division of the Oregon Tax Court..... | 36 | 40 | 1.75 | 1.75 |
| Regular Division of the Oregon Tax Court | 2 | 4 | 0.25 | 0.25 |
| Subtotal..... | <u>367</u> | <u>366</u> | <u>6.00</u> | <u>5.00</u> |
| 3. Real property valuation | | | | |
| Physical reappraisal..... | 2,320 | 0 | 0.50 | 0.50 |
| Recalculation only—no appraisal review | 164,819 | 168,617 | 2.25 | 2.25 |
| Subtotal..... | <u>167,139</u> | <u>168,617</u> | <u>2.75</u> | <u>2.75</u> |
| 4. Business personal property (returns mailed) | <u>12,001</u> | <u>12,121</u> | <u>2.00</u> | <u>2.00</u> |
| 5. Ratio | | | <u>2.00</u> | <u>2.00</u> |
| 6. Continuing education | | | <u>0.50</u> | <u>0.50</u> |
| 7. Other valuation—appraisal activity | | | <u>1.50</u> | <u>1.25</u> |
| 8. Total valuation and appraisal staff (FTE) | | | <u>24.75</u> | <u>25.00</u> |



Form 5 Tax Collection and Distribution Work Activity

2019-2020

County CLACKAMAS

| Number of accounts by activity | |
|-----------------------------------|------------------------|
| Actual (2018-19) | Estimated (2019-20) |

| | | |
|---|---|-------|
| 1. Number of accounts requiring roll corrections | 88 | 84 |
| Business personal property | 15 | 16 |
| Personal property manufactured structures | 1,285 | 1,302 |
| Real property | | |
| 2. Number of accounts requiring a refund | 86 | 89 |
| Business personal property | 52 | 54 |
| Personal property manufactured structures | 1,198 | 1,234 |
| Real property | | |
| 3. Number of delinquent tax notices sent | 574 | 400 |
| Business personal property | 2,471 | 1,500 |
| Personal property manufactured structures | 5,888 | 5,850 |
| Real property | | |
| 4. Number of foreclosure accounts processed | 657 | 675 |
| Real property only | | |
| 5. Number of accounts issued redemption notices | 55 | 60 |
| Real property only | | |
| 6. Number of warrants | 891 | 825 |
| 7. Number of garnishments | 0 | 3 |
| 8. Number of seizures | 0 | 0 |
| 9. Number of bankruptcies | 196 | 200 |
| 10. Number of accounts with an address change processed | 12,708 | 7,814 |
| 11. How many second trimester statements do you mail? | 18,160 | |
| 12. How many third trimester statements do you mail? | 17,653 | |
| 13. Does the county contract for lock box service? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| 14. Does the county use in-house remittance processing? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 15. Is tax collecting combined with another county function? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |

If yes, describe that function on Form 2.



Form 6 Assessment and Administrative Support and Cartography Work Activity

2019-2020

County CLACKAMAS

Assessment and administrative support work activity

| | Numbers by activity | |
|---------------------------------|---------------------|------------------------|
| | Actual (2018-19) | Estimated (2019-20) |
| 1. Number of deeds worked | 16,013 | 16,493 |

Cartography work activity

| | Numbers by activity | |
|--|---------------------|------------------------|
| | Actual (2018-19) | Estimated (2019-20) |
| 1. Number of new tax lots | 1,346 | 1,300 |
| 2. Number of lot line adjustments | 202 | 146 |
| 3. Number of consolidations | 317 | 226 |
| 4. Number of new maps | 5 | 8 |
| 5. Number of tax code boundary changes | 10,225 | 8,350 |



Form 7 Summary of Expenses

2019-2020

County CLACKAMAS

| | A. Assessment Administration | B. Valuation | C. BOPTA | D. Tax Collection & Distribution | E. Cartography* | F. Dedicated IT services for A&T | Totals |
|---|---------------------------------|-----------------|-------------|-------------------------------------|--------------------|-------------------------------------|-----------|
| Current operating expenses | | | | | | | |
| 1. Personnel services | 2,026,409 | 2,856,812 | 109,136 | 756,379 | 600,860 | 105,935 | 6,455,531 |
| 2. Materials and services | 722,466 | 897,988 | 38,881 | 257,673 | 226,870 | 38,000 | 2,181,878 |
| 3. Transportation | 0 | 19,000 | 0 | 0 | 0 | 0 | 19,000 |
| 4. Total current operating expenses (Total direct expenses) | 2,748,875 | 3,773,800 | 148,017 | 1,014,052 | 827,730 | 143,935 | 8,656,409 |

* Include approved grant funding for ORMAP

Indirect expenses

| | |
|---|-----------|
| 5. Total direct expenses (line 4) | 8,656,409 |
| 6. If you use the 5 percent method to calculate your indirect expenses, enter 0.05 in this box. | 0.05 |
| Total indirect expenses (line 5 multiplied by line 6) | 432,820 |
| 6A. If you use a percent amount approved by a federal granting agency to calculate your indirect expenses, enter that percentage in this box..... | 0.00000 |
| Total indirect expenses (line 6A multiplied by the direct expense amount for the category/categories that your certificate allows) | 0 |
| 7. Total indirect expenses | 432,820 |

Capital outlay

| | Assessment Administration | Valuation | BOPTA | Tax Collection & Distribution | Cartography | Data Processing Support (IT, AT) | Total capital outlay without regard to limitation |
|--|---------------------------|-----------|-------|-------------------------------|-------------|----------------------------------|---|
| 8. Enter the actual capital outlay without regard to limitation. | 0 | 122,947 | 0 | 0 | 0 | 0 | 122,947 |
| 9. Total direct and indirect expenses (sum of lines 4 and 7) | | | | | | | 9,089,229 |
| 10. Direct and indirect expenses multiplied by 0.06 | | | | | | | 545,354 |
| 11. The greater of line 10 or \$50,000..... | | | | | | | 545,354 |
| 12. Capital outlay (the lesser of line 8 or line 11) | | | | | | | 122,947 |
| 13. Total expenditures for CAFFA consideration (sum of lines 4, 7, and 12) | | | | | | | 9,212,176 |

Form 8

Grant Application Resolution

CLACKAMAS County is applying to the Department of Revenue to participate in the County Assessment Function Funding Assessment Program.

This state grant provides funding for counties to help them come into compliance or remain in compliance with ORS 308.232, 308.234, Chapters 309, 310, 311, 312, and other laws requiring equity and uniformity in the system of property taxation.

CLACKAMAS County has undertaken a self-assessment of its compliance with the laws and rules that govern the Oregon property tax system. The County is generally in compliance with ORS 308.232, 308.234, Chapters 309, 310, 311, 312, and all requiring equity and uniformity in the system of property taxation.

CLACKAMAS County agrees to appropriate budgeted dollars based on 100 percent of the expenditures certified in the grant application. The total expenditure amount for consideration in the grant is \$9,212,176. If 100 percent isn't appropriated, no grant shall be made to the county for each quarter in which the county is out of compliance.

The County designates the following individual as the contact for this grant application.

| | | |
|----------------------|-----------------------|-------------------------------|
| <u>JEFF ALDRIDGE</u> | <u>(503) 742-5420</u> | <u>jaldridge@clackamas.us</u> |
| Name | Phone | Email |

County Approval

By selecting the "I Accept" checkbox, you are signing this Resolution electronically and certifying the Resolution has been approved by the board. You agree your electronic signature is the legal equivalent of your manual signature.

I Accept

| | | |
|--------------------------|-------|-----------|
| <hr/> | <hr/> | <hr/> |
| Chair/Judge or Appointee | Title | Sign Date |

RACIAL AND ETHNIC IMPACT STATEMENT

This form is used for informational purposes only and must be included with the grant application.

Chapter 600 of the 2013 Oregon Laws require applicants to include with each grant application a racial and ethnic impact statement. The statement provides information as to the disproportionate or unique impact the proposed policies or programs may have on minority persons¹ in the State of Oregon if the grant is awarded to a corporation or other legal entity other than natural persons.

1. The proposed grant project policies or programs could have a disproportionate or unique positive impact on the following minority persons:

Indicate all that apply:

- Women
- Persons with Disabilities
- African-Americans
- Hispanics
- Asians or Pacific Islanders
- American Indians
- Alaskan Natives

2. The proposed grant project policies or programs could have a disproportionate or unique negative impact on the following minority persons:

Indicate all that apply:

- Women
- Persons with Disabilities
- African-Americans
- Hispanics
- Asians or Pacific Islanders
- American Indians
- Alaskan Natives

3. The proposed grant project policies or programs will have no disproportionate or unique impact on minority persons.

If you checked numbers 1 or 2 above, on a separate sheet of paper, provide the rationale for the existence of policies or programs having a disproportionate or unique impact on minority persons in this state. Further provide evidence of consultation with representative(s) of the affected minority persons.

I HEREBY CERTIFY on this 15 day of April, 2019, the information contained on this form and any attachment is complete and accurate to the best of my knowledge.

Printed Name: JEFF ALDRIDGE

¹ "Minority persons" are defined in SB 463 (2013 Regular Session) as women, persons with disabilities (as defined in ORS 174.107), African-Americans, Hispanics, Asians or Pacific Islanders, American Indians and Alaskan Natives.

Clackamas County, OR.
Revenue and Expense by Fund and Organization

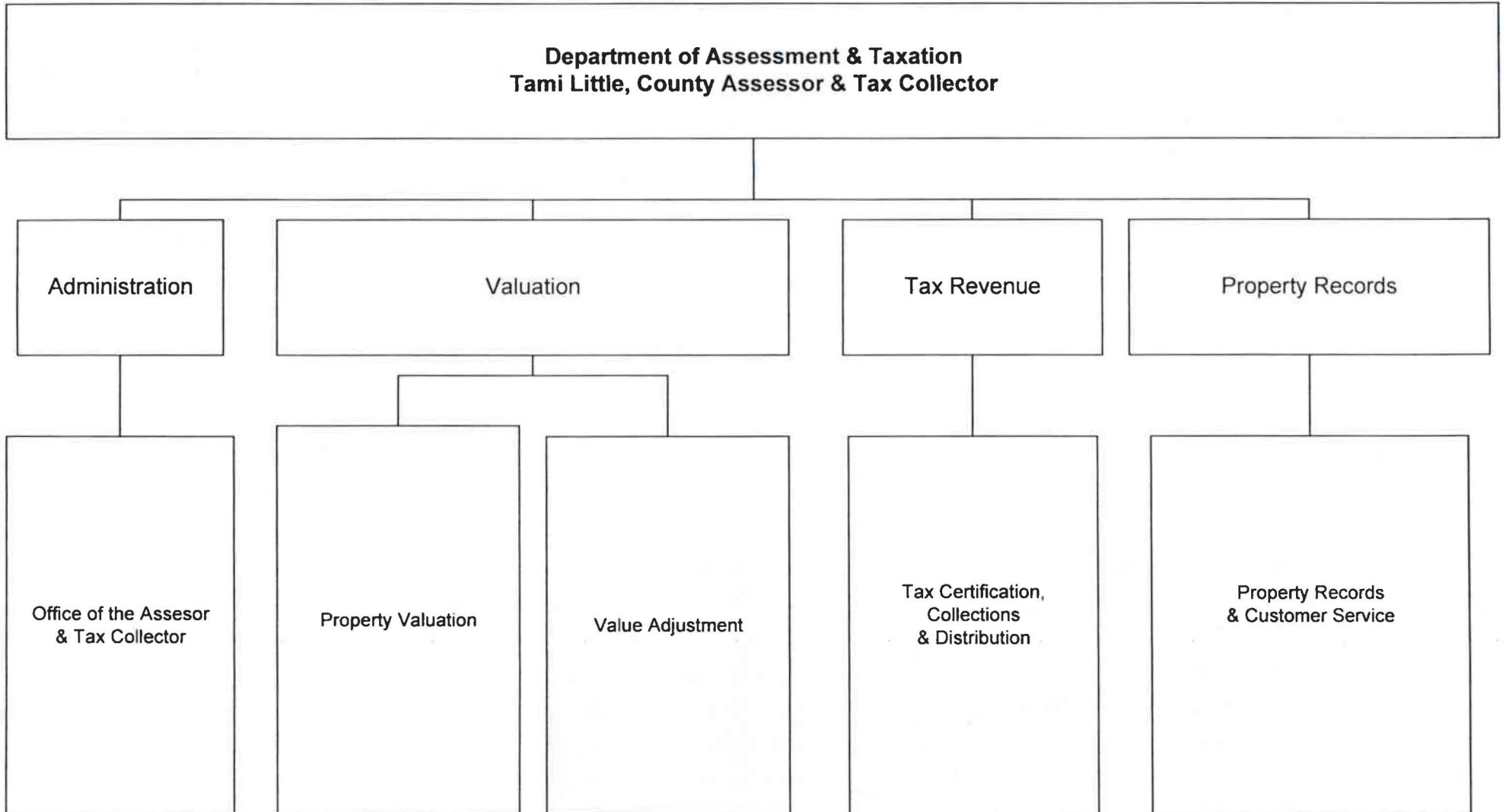
| Assessor | 2016-17 Actual | 2017-18 Actual | 2018-19 Amended Budget | 2018-19 1st Half | 2018-19 Projected Year End | 2019-20 Proposed Budget | Change from Prior Year Budget | Pct. Change from Prior Year Budget |
|---|-------------------|-------------------|------------------------------|---------------------|----------------------------------|-------------------------------|-------------------------------------|--|
| 0105 Assessor | | | | | | | | |
| 100 General Fund | | | | | | | | |
| 332205 County Assesment Function Funding | 1,432,640 | 1,442,067 | 1,400,000 | 785,799 | 1,400,000 | 1,400,000 | 0 | 0.00 |
| 332500 State Shared Revenue | 0 | 0 | 0 | 0 | 0 | 15,000 | 15,000 | 0.00 |
| 341880 Other Internal County Services | 0 | 13,885 | 0 | 0 | 0 | 0 | 0 | 0.00 |
| 360001 Miscellaneous Revenue | 985,983 | 846,666 | 775,000 | 1,104,800 | 1,105,000 | 850,000 | 75,000 | 9.68 |
| 390214 I/F Transfer From Planning | 0 | 0 | 10,000 | 0 | 10,000 | 0 | (10,000) | (100.00) |
| Total Revenue | 2,418,623 | 2,302,619 | 2,185,000 | 1,890,599 | 2,515,000 | 2,265,000 | 80,000 | 3.66 |
| 411100 Regular Full Time Employees | 3,103,318 | 3,246,120 | 3,549,026 | 1,501,395 | 3,443,958 | 3,735,387 | 186,361 | 5.25 |
| 413000 Temporary Workers | 54,619 | 28,453 | 60,000 | 13,358 | 28,358 | 60,000 | 0 | 0.00 |
| 414030 Overtime | 26,784 | 34,430 | 60,000 | 14,391 | 58,440 | 60,000 | 0 | 0.00 |
| 415000 Fringe Benefits | 1,890,080 | 2,181,372 | 2,422,263 | 1,032,894 | 2,366,103 | 2,761,833 | 339,570 | 14.02 |
| 415020 Worker Compensation | 31,411 | 6,441 | 7,078 | 3,534 | 7,078 | 7,391 | 313 | 4.42 |
| 415030 Unemployment | 4,992 | 8,118 | 3,837 | 3,837 | 3,837 | 2,823 | (1,014) | (26.43) |
| 421100 General Office Supplies | 51,545 | 68,390 | 45,000 | 8,972 | 49,373 | 41,250 | (3,750) | (8.33) |
| 421110 Postage | 82,689 | 96,129 | 115,000 | 60,900 | 100,901 | 110,000 | (5,000) | (4.35) |
| 421200 Computer Supplies | 6,059 | 22,189 | 20,000 | 4,337 | 22,340 | 20,000 | 0 | 0.00 |
| 421210 Computer Non-Capital | 4,295 | 16,928 | 0 | 0 | 0 | 0 | 0 | 0.00 |
| 422931 Drafting Supplies | 10,331 | 1,786 | 3,700 | 0 | 0 | 2,500 | (1,200) | (32.43) |
| 424610 Fuel & Vehicle Rental | 33,529 | 35,513 | 40,000 | 13,667 | 40,000 | 40,000 | 0 | 0.00 |
| 431350 Appraisal Services | 76,902 | 76,946 | 77,000 | 37,407 | 77,000 | 70,000 | (7,000) | (9.09) |
| 431450 Licenses & Permits | 53,868 | 64,024 | 72,500 | 13,008 | 63,008 | 67,500 | (5,000) | (6.90) |
| 432100 Telephone | 47,823 | 52,131 | 50,000 | 18,920 | 40,728 | 50,000 | 0 | 0.00 |
| 432410 Legal Notices | 6,706 | 4,591 | 15,000 | 5,329 | 7,329 | 15,000 | 0 | 0.00 |
| 433100 Travel and Per Diem (no mileage) | 4,143 | 10,703 | 16,000 | 4,769 | 10,664 | 16,000 | 0 | 0.00 |
| 433110 Mileage Reimbursement | 424 | 1,011 | 2,000 | 1,357 | 2,957 | 3,000 | 1,000 | 50.00 |
| 434100 Printing & Duplicating Services | 24,552 | 14,619 | 27,000 | 11,933 | 24,134 | 27,000 | 0 | 0.00 |
| 434101 Printing & Mailing Svcs-Outside Venc | 31,268 | 36,827 | 40,000 | 20,897 | 35,897 | 40,000 | 0 | 0.00 |
| 435180 Casualty Insurance | 77,909 | 59,258 | 42,100 | 21,054 | 42,100 | 46,017 | 3,917 | 9.30 |
| 437100 Building Repairs & Maintenance | 272 | 820 | 5,000 | 0 | 5,000 | 5,000 | 0 | 0.00 |
| 437210 Office Equipment Repair & Maint | 272,679 | 282,788 | 303,636 | 290,761 | 300,531 | 318,072 | 14,436 | 4.75 |
| 438110 Office Rental | 272,040 | 276,934 | 285,485 | 142,743 | 285,485 | 294,050 | 8,565 | 3.00 |
| 439100 Dues & Memberships | 14,782 | 15,906 | 17,000 | 15,250 | 17,050 | 17,000 | 0 | 0.00 |
| 439200 Training & Staff Development | 6,287 | 10,785 | 20,000 | 4,571 | 13,256 | 20,000 | 0 | 0.00 |
| 439400 Publications & Subscriptions | 34,803 | 40,987 | 43,700 | 32,858 | 42,858 | 43,700 | 0 | 0.00 |
| 439990 Judgements & Settlements | 3,348 | 0 | 9,000 | 181 | 181 | 1,000 | (8,000) | (88.89) |

Clackamas County, OR.
Revenue and Expense by Fund and Organization

| Assessor | 2016-17 Actual | 2017-18 Actual | 2018-19 Amended Budget | 2018-19 1st Half | 2018-19 Projected Year End | 2019-20 Proposed Budget | Change from Prior Year Budget | Pct. Change from Prior Year Budget |
|--------------------------------------|--------------------|--------------------|------------------------------|---------------------|----------------------------------|-------------------------------|-------------------------------------|--|
| 0105 Assessor | | | | | | | | |
| 100 General Fund | | | | | | | | |
| 465002 Payments to Local Governments | 13,836 | 0 | 0 | 0 | 0 | 0 | 0 | 0.00 |
| 478101 Finance Alloc Cost | 19,919 | 21,797 | 21,270 | 10,638 | 21,270 | 22,980 | 1,710 | 8.04 |
| 478102 Tech Svc Alloc Cost | 319,742 | 344,571 | 338,188 | 169,098 | 338,188 | 358,267 | 20,079 | 5.94 |
| 478103 Building Maint Alloc Cost | 185,533 | 209,985 | 185,214 | 92,610 | 185,214 | 233,993 | 48,779 | 26.34 |
| 478104 PGA Alloc Cost | 37,175 | 38,570 | 15,786 | 7,902 | 15,786 | 37,245 | 21,459 | 135.94 |
| 478105 Records Mgt Alloc Cost | 10,167 | 9,826 | 3,840 | 1,926 | 3,840 | 4,507 | 667 | 17.37 |
| 478106 Purchasing Alloc Cost | 3,617 | 2,887 | 4,137 | 2,070 | 4,137 | 2,988 | (1,149) | (27.77) |
| 478107 Courier Alloc Cost | 2,148 | 3,290 | 2,692 | 1,344 | 2,692 | 2,811 | 119 | 4.42 |
| 478111 Personnel Admin Alloc Cost | 72,037 | 82,788 | 87,887 | 43,944 | 87,887 | 103,317 | 15,430 | 17.56 |
| 478112 County Admin Alloc Cost | 28,555 | 30,709 | 29,623 | 14,808 | 29,623 | 29,736 | 113 | 0.38 |
| 478117 Mailroom Overhead Allocation | 11,523 | 19,141 | 14,019 | 14,019 | 14,019 | 12,985 | (1,034) | (7.38) |
| 478201 Electric Utility Alloc | 25,830 | 25,190 | 25,532 | 12,768 | 25,532 | 25,271 | (261) | (1.02) |
| 478202 Natural Gas Utility Alloc | 1,690 | 1,688 | 4,528 | 2,262 | 4,528 | 171 | (4,357) | (96.22) |
| 478203 Water Utility Alloc | 3,856 | 4,135 | 3,840 | 1,926 | 3,840 | 3,833 | (7) | (0.18) |
| 478204 Trash Removal Alloc | 1,970 | 2,095 | 2,279 | 1,140 | 2,279 | 2,510 | 231 | 10.14 |
| 485320 Computer Software Purchases | 0 | 0 | 115,000 | 0 | 122,947 | 122,947 | 7,947 | 6.91 |
| Total Expense | 6,965,054 | 7,490,869 | 8,205,160 | 3,654,779 | 7,950,348 | 8,838,084 | 632,924 | 7.71 |
| Total General Fund | (4,546,431) | (5,188,250) | (6,020,160) | (1,764,180) | (5,435,348) | (6,573,084) | (552,924) | 9.18 |
| Total Assessor | (4,546,431) | (5,188,250) | (6,020,160) | (1,764,180) | (5,435,348) | (6,573,084) | (552,924) | 9.18 |
| Grand Total | (4,546,431) | (5,188,250) | (6,020,160) | (1,764,180) | (5,435,348) | (6,573,084) | (552,924) | 9.18 |

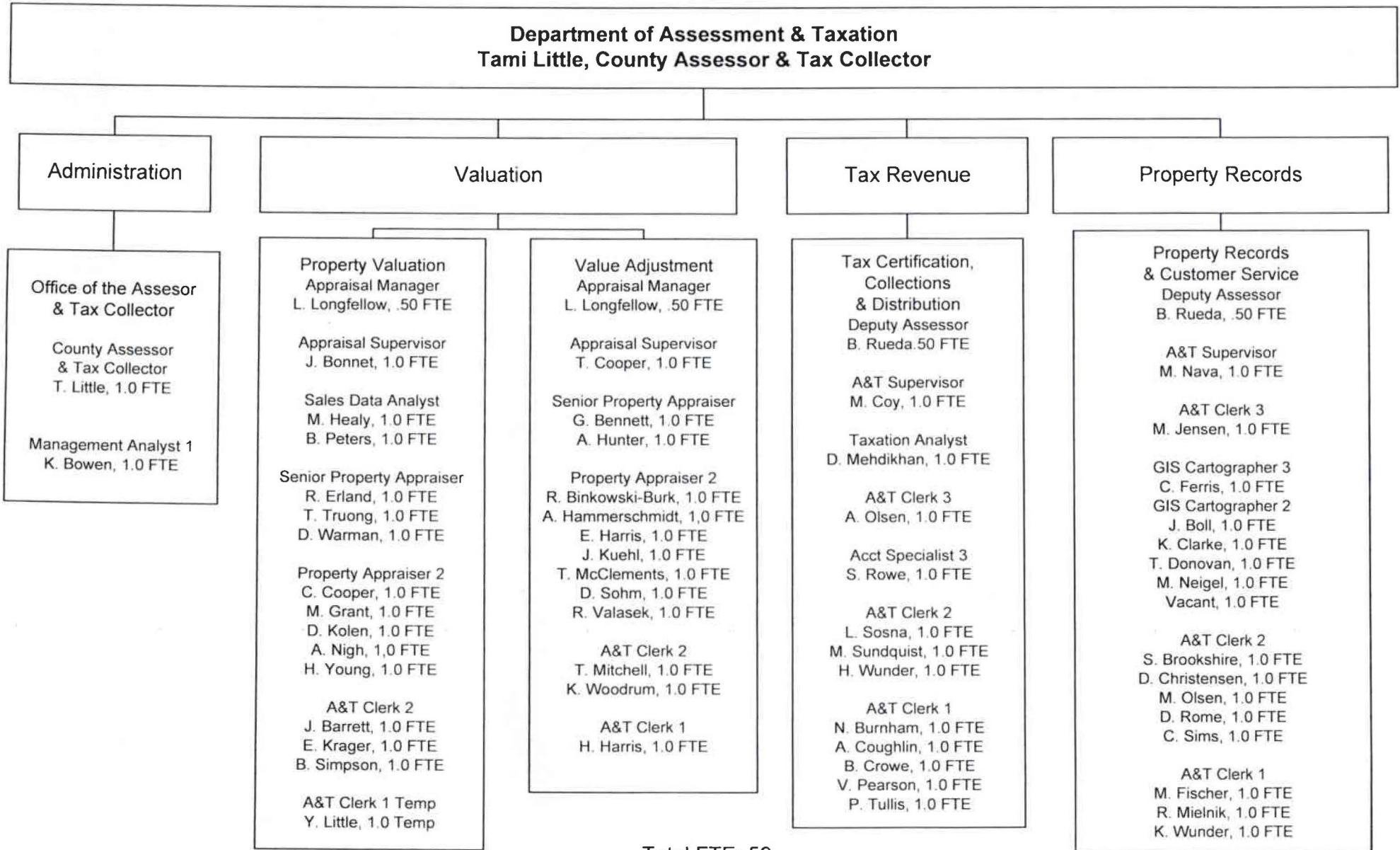
**DEPARTMENT OF ASSESSMENT & TAXATION
2019-2020**

**Department of Assessment & Taxation
Tami Little, County Assessor & Tax Collector**



**DEPARTMENT OF ASSESSMENT & TAXATION
2019-2020**

**Department of Assessment & Taxation
Tami Little, County Assessor & Tax Collector**



Total FTE: 59



CHRISTA BOSSERMAN WOLFE, CPA
INTERIM DIRECTOR

DEPARTMENT OF FINANCE

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Contract with Tapani, Inc. for the
Utilidor Piping and Conduit Extension Project**

| | |
|---------------------------------|--|
| Purpose/Outcome | Approval of contract |
| Dollar Amount and fiscal Impact | \$843,700.00 |
| Funding Source | Budget Line: 420-0221-00-482300-76175; department funds Fiscal year 2019/2020 |
| Duration | Contracting through September 30 th , 2019 |
| Previous Board Action/Review | N/A |
| Strategic Plan Alignment | Build public trust through good government, build a strong infrastructure and ensure safe, healthy and secure communities. |
| Contact Person | Gabe Tafoya, 503-557-6420 |

BACKGROUND:

The direct bury water distribution system, known as the Utilidor, has been a part of Clackamas County since the introduction of the Central Utility Plant (CUP) and the Development Services Building (DSB). Both in development in 2007, and ending with the buildings commissioning in 2009. Crucial to the Main Heating Ventilation and Air Conditioning (HVAC) system, the Utilidor service today has privilege and connectability to the PSB's chiller system. The water distribution system presently provides Chill and Hot water service to the Evidence Suite, which is part of the Silver Oaks Building, and its commissioning took place in the latter part of 2016.

As per the campus's master plan, the expandability of the Utilidor design, leads with a primary extension choice. The primary choosing will be the Beavercreek Clinic, which is schedule to be adapted to receive the campus service the latter part of 2019, to early 2020. In addition, the new Oregon State University (OSU) building breaks ground in spring 2019 - fall 2020, and the new County Courthouse groundbreaking should be taking place in 2021.

The Utilidor design will continue its advancement and development. The Utilidor Extension Project obligates itself to the future progress of all County buildings for the Red Soils Campus.

PROCUREMENT PROCESS:

This project advertised in accordance with ORS 279C and LCRB Rules on February 26, 2019. Bids were publicly opened on March 21, 2019. The County received three (3) bids: K&C Plumbing, \$1,592,074.00; Tapani, Inc., \$843,700.00; and Moore Excavating, \$1,471,100.00. After review of the bids it was determined that Tapani, Inc. was the lowest responsive and responsible bidder.

This contract has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends the Board approve the contract with Tapani, Inc. for the Utilidor Piping and Conduit Extension Project.

Sincerely,

Christa Bosserman Wolfe
Finance Director

Placed on the board agenda of _____ by the Procurement Division.



CLACKAMAS COUNTY PUBLIC IMPROVEMENT CONTRACT

This Public Improvement Contract (the "Contract"), is made by and between the Clackamas County, a political subdivision of the State of Oregon, hereinafter called "Owner," and **Tapani, Inc.**, 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.

Project Name: **#2019-06 Utilidor Piping and Conduit Extension Project**

1. Contract Price, Contract Documents and Work.

The Contractor, in consideration of the sum of **eight hundred forty-three thousand seven hundred dollars (\$843,700.00)** (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 (11/1/2017) ("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.

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

- Notice of Contract Opportunity
- Supplemental Instructions to Bidders
- Bid Bond
- Performance Bond and Payment Bond
- Supplemental General Conditions
- Payroll and Certified Statement Form
- Addendum #1
- Instructions to Bidders
- Bid Form
- Public Improvement Contract Form
- Clackamas County General Conditions
- Prevailing Wage Rates
- Plans, Specifications and Drawings

2. Representatives.

Contractor has named Shane Tapani as its Authorized Representative to act on its behalf. Owner designates, or shall designate, its Authorized Representative as indicated below (check one):

Unless otherwise specified in the Contract Documents, the Owner designates Gabe Tafoya 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: Josh Brock shall be the Contractor's project executive, and will provide oversight and guidance throughout the project term.

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

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

Project Engineer: Karen Pietz shall be the Contractor's project engineer, providing assistance to the project manager, and subcontractor and supplier coordination throughout the project term.

4. Contract Dates.

COMMENCEMENT DATE: Upon Issuance of Notice to Proceed

SUBSTANTIAL COMPLETION DATE: August 31, 2019

FINAL COMPLETION DATE: September 30, 2019

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 be 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. 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 (“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. Required Terms.

In addition to the terms and conditions contained in this Contract and the Contract Documents, the following terms and conditions are required by Oregon law:

- A. If the Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this contract as the claim becomes due, the proper officer representing the Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against the funds due or to become due the Contractor by reason of the contract.
- B. If the Contractor or a first-tier subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract within 30 days after receiving payment from the contracting agency or a contractor, the Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.
- C. If the Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
- D. The Contractor shall include in each subcontract those provisions required under ORS 279C.580.
- E. For demolition tasks, if any, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective.

9. 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.

10. 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.

11. Compliance with Applicable Law. Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract including, but not limited to, compliance with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default.

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

Contractor CCB # 63434 Expiration Date: 1/22/2021
Oregon Business Registry # 079387-80 Entity Type: FBC State of Formation: Washington

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.

Tapani, Inc.

Clackamas County Board of County Commissioners

Authorized 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

April 25, 2019

Development Agency Board
Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Easements to Water Environment Services for Pipeline
and Access Purposes Adjacent to the Carli Creek Water Quality Facility
and Release of Existing Easements Affecting the Same**

| | |
|--|--|
| Purpose/Outcomes | Approval of an easement related to a permanent pipeline, stormwater and maintenance detention, and another easement for permanent access to a pump station and the Carli Creek Water Quality Facility, and release of existing easements affecting the same. |
| Dollar Amount and Fiscal Impact | None identified |
| Funding Source | N/A |
| Duration | Permanent |
| Previous Board Action | Original Intergovernmental Agreement with WES approved on July 27, 2017, and amended by the Board on July 12, 2018. Original easements approved by the Board on July 12, 2018. |
| Counsel Review | Reviewed and Approved by County Counsel on April 16, 2019 |
| Strategic Plan Alignment | 1. Build public trust through good government. |
| Contact Person | David Queener, 503-742-4322 |

BACKGROUND:

On July 27, 2017, the Development Agency and Clackamas County Service District No. 1 (CCSD #1) executed an intergovernmental agreement (“IGA”) to facilitate the Carli Creek Project by accommodating the construction of a new stormwater pipeline to divert runoff currently discharged to Carli Creek to the new water quality treatment facility. The new stormwater pipeline is located on adjacent property to the east of the Carli Creek Project site. The adjacent property is currently owned by the Clackamas County Development Agency. The Development Agency is under contract to sell the adjacent property as a part of the Capps Road/Clackamas Industrial Area Opportunity Project. In order to fill wetlands on this property to facilitate development, the Agency is required to perform wetland mitigation. This

mitigation has been incorporated as part of the Carli Creek Project.

The IGA was assigned from CCSD#1 to Water Environment Services (“WES”) in July 2018. The IGA requires the Agency to convey a permanent pipeline, stormwater detention, and maintenance easement to WES, along with a second permanent access easement. These easements were originally granted in July, 2018. As the Development Agency approaches closing with the end user of the adjacent property, amendments to the existing easements have become necessary to accommodate certain requirements of the future development. Prior to the Development Agency conveying its interest in the portion of the Capps Road/Clackamas Industrial Area Opportunity Project to Bottling Group, LLC, Development Agency staff recommends finalizing the amendments to the existing easements. Amending these easements will occur by way of releasing the existing easements, and replacing those easements with the updated easements, which are attached to this report.

The updated access easement will relocate the existing access to better accommodate the proposed building footprint. Terms of both the pipeline and access easements will limit access to secured areas within the easement area to certain times.

RECOMMENDATION:

Staff recommends the Board approve the easements and releases as described above.

Respectfully submitted,

David Queener
Development Agency Program Supervisor

Attachments:

- Permanent Non-Exclusive Access Easement
- Permanent Non-Exclusive Pipeline, Stormwater Detention, and Maintenance Easement
- Release of Recorded Easement (Access)
- Release of Recorded Easement (Pipeline, Stormwater Detention, and Maintenance)

| | |
|--|-----------------|
| Grantor: Clackamas County Development Agency | State of Oregon |
| Address: 150 Beaver Creek Road Oregon City, OR 97045 | |
| Grantee: Water Environment Services | |
| Address: 150 Beaver Creek Road Oregon City, OR 97045 | |
| After Recording Return to: Water Environment Services 150 Beaver Creek Road Oregon City, OR 97045 | |
| Until a change is requested, all taxes shall be sent to: No Change | |

PERMANENT NON-EXCLUSIVE ACCESS EASEMENT
(Corporate or Non Profit Grantor)

KNOW ALL PERSONS BY THESE PRESENTS, THAT Clackamas County Development Agency, the urban renewal agency of Clackamas County, a corporate body politic, ("Grantor"), for value received, hereby grants and conveys to Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, ("Grantee"), its heirs, successors and assigns, a permanent non-exclusive easement for ingress and egress, in, under, upon, and across Grantor's real property located in Clackamas County, State of Oregon, and with Grantor's real property more particularly described in Exhibit "A" which is attached hereto and by this reference made a part hereof (the "Property").

The permanent easement for ingress and egress is more particularly depicted in Exhibit "B" which is attached hereto and by this reference made a part hereof (the "Easement Area").

This is a grant from one entity of Clackamas County to another in an intergovernmental transfer. Other consideration than money was the true and actual consideration for this conveyance.

Grantee shall have the right to enter upon and utilize the Easement Area for the purposes described in this document, which includes, but is not necessarily limited to ingress and egress to the Carli Creek Water Quality Facility, which is located to the west of Grantor's Property and owned by Grantee (see Clackamas County Document # 2019-013922), and ingress and egress to a pump station facility located within the easements described in Clackamas County Document # 2001-063320, Document # 2006-076888 and Document # 1982-020628. Grantee may remove trees, shrubs, brush, paving or other materials within the Easement Area whenever necessary to accomplish these purposes. Grantee shall be responsible to restore any property disturbed by its use of the Easement Area to its original condition upon completion of their work or use and shall be responsible for any damage caused by same.

Neither Grantor nor Grantor's successors in title shall construct or maintain any building or other structures upon the above described Easement Area which will unreasonably interfere with Grantee's exercise of this easement.

Grantee shall be solely responsible for determining the location of all utilities in the Easement Area that may be affected by work performed in the Easement Area by or on behalf of Grantee. Grantee shall provide all required notification to the applicable utility companies and shall take all steps necessary to prevent damage to or disruption of all utilities and utility service and other equipment and systems in the Easement Area.

Grantor shall provide Grantee access to the Easement Area at all times for purposes of accessing the pump station facility, described above. Grantor shall provide Grantee access to the Easement Area during the weekday hours of 7:00am-6:00pm (PST) for the purposes of accessing the Carli Creek Water Quality Facility, described above. In all other instances, except in an emergency creating an immediate risk of environmental damage, personal injury or property damage, Grantee may not enter upon and utilize the Easement Area for the purposes described in this document unless the Grantor is provided notice at least forty eight (48) hours before work is commenced or access is needed. Notice may be arranged by any delivery method reasonably calculated to provide actual notice to Grantor, including email directed to Grantor's registered agent.

Except as otherwise provided, the Easement Area shall be non-exclusive. Grantor shall have the right to grant easements to others to cross or use the Easement Area now or in the future, provided the use, construction and installation of such does not unreasonably interfere with the repair, maintenance or operation of Grantee's facilities and related appurtenances.

Grantor shall pay all real property taxes assessed to Grantor's parcel without apportionment thereof relating to this easement.

As part of the consideration for this Agreement, Grantee agrees to construct a gate, or other barrier, on its property to restrict vehicular access between the Property and the Carli Creek Water Quality Facility by way of the Easement Area. Grantee agrees to construct this gate or barrier no later than December 31, 2019.

Subject to the limitations in the Oregon Constitution and the Oregon Tort Claims Act, Grantee covenants to and does hereby agree to indemnify, hold harmless and defend the Grantor and his successors and assigns, from and against all claims and all costs, expenses and liabilities (including reasonable attorneys' fees) incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of the death of any person or persons, or any accident, personal injury, loss or damage whatsoever caused to any person or entity or to the property of any person or entity as shall occur on or about the Easement Area as the result of the Grantee's exercise of the rights granted in this Agreement, or Grantee's failure to perform the obligations set forth in this Agreement. There shall be excluded from the foregoing indemnification the damages, costs and expenses to the extent that such damages, costs and expenses are caused by the negligence of Grantor, his agents, employees, representatives, or their successors and assigns.

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest

practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this _____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
a corporate body politic under ORS Chapter 457

By: _____
Jim Bernard, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of _____ 2019,

by Jim Bernard as Chair of the Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

ACCEPTED BY GRANTEE:
WATER ENVIRONMENT SERVICES,
a municipal partnership entity under ORS Chapter 190

Chair

Date

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE ¼ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.

Exhibit B

| | |
|--|-----------------|
| Grantor: Clackamas County Development Agency | State of Oregon |
| Address: 150 Beaver Creek Road Oregon City, OR 97045 | |
| Grantee: Water Environment Services | |
| Address: 150 Beaver Creek Road Oregon City, OR 97045 | |
| After Recording Return to: Water Environment Services 150 Beaver Creek Road Oregon City, OR 97045 | |
| Until a change is requested, all taxes shall be sent to: No Change | |

**PERMANENT NON-EXCLUSIVE PIPELINE,
STORMWATER DETENTION, MAINTENANCE**
(Corporate or Non Profit Grantor)

KNOW ALL PERSONS BY THESE PRESENTS, THAT Clackamas County Development Agency, the urban renewal agency of Clackamas County, a corporate body politic, ("Grantor"), for value received, hereby grants and conveys to Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, ("Grantee"), its heirs, successors and assigns, a permanent non-exclusive easement to lay down, construct, reconstruct, replace, operate, inspect and perpetually maintain a storm water pipeline and underground water quality structures in, under, upon, and across Grantor's real property located in Clackamas County, State of Oregon, and with Grantor's real property more particularly described in Exhibit "A" which is attached hereto and by this reference made a part hereof (the "Property").

The permanent easement described herein is more particularly depicted in Exhibit "B" which is attached hereto and by this reference made a part hereof (the "Easement Area").

This is a grant from one entity of Clackamas County to another in an intergovernmental transfer. Other consideration than money was the true and actual consideration for this conveyance.

Grantee shall have the right to enter upon and utilize the Easement Area for the purposes described in this document. This easement shall include the right of Grantee to excavate for, and to construct, place, operate, maintain, repair, replace, relocate, inspect, and remove an underground storm drain pipeline and underground water quality structures with all appurtenances incident thereto or necessary therewith, including manholes, for the purpose of conveying stormwater through said Property, together with the right of Grantee to place, excavate, replace, repair, install, maintain, operate, inspect, and relocate pipelines and necessary appurtenances, and make excavations therefor from time to time, in, under, and through the above-described Property within said Easement Area, and to cut and remove from said Easement Area any trees and other obstructions which may endanger the safety or interfere with the use of said pipelines or underground water quality structures, and any appurtenances attached to or connected therewith; and the right of ingress and egress to and over said above-described Easement Area for the purpose of repairing, renewing, excavating, replacing, inspecting, maintaining the number of pipelines and underground water

quality structures, and any appurtenances attached to or connected therewith, and for doing anything necessary, useful, or convenient for the enjoyment of the easement hereby granted. No buildings, sidewalks or paths shall be constructed over the pipeline easement and no earthfill or embankment shall be placed within the Easement Area without a specific written agreement between Grantee and Grantor, or its successors or assigns. Should such a specific agreement be executed, Grantee will set forth the conditions under which such fill or embankment may be placed, including a stipulation that all risks of damage to the pipeline shall be assumed by Grantor, or its successors or assigns. Grantor may pave over the Easement Area for purpose of providing parking or vehicle access areas.

Grantee shall be responsible to restore any property disturbed by its use of the Easement Area to its original condition upon completion of their work or use and shall be responsible for any damage caused by same.

Grantee shall be solely responsible for determining the location of all utilities in the Easement Area that may be affected by work performed in the Easement Area by or on behalf of Grantee. Grantee shall provide all required notification to the applicable utility companies and shall take all steps necessary to prevent damage to or disruption of all utilities and utility service and other equipment and systems in the Easement Area.

Except in an emergency creating an immediate risk of environmental damage, personal injury or property damage, Grantee may not enter upon and utilize the Easement Area for the purposes described in this document unless at least forty eight (48) hours before work is commenced or access is needed, the Grantor is provided notice. Notice may be arranged by any delivery method reasonably calculated to provide actual notice to Grantor, including email directed to Grantor's registered agent. Except in an emergency or unless otherwise agreed to by the Grantor, Grantor shall provide access to the Easement Area during the weekday hours of 7:00am-6:00pm (PST), subject to the forty eight (48) hour notice requirement described in this paragraph.

Except as otherwise provided, the Easement Area shall be non-exclusive. Grantor shall have the right to grant easements to others to cross or use the Easement Area now or in the future, provided the construction and installation of such do not unreasonably interfere with the repair, maintenance or operation of Grantee's facilities and related appurtenances.

Subject to the limitations in the Oregon Constitution and the Oregon Tort Claims Act, Grantee covenants to and does hereby agree to indemnify, hold harmless and defend the Grantor and his successors and assigns, from and against all claims and all costs, expenses and liabilities incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of the death of any person or persons, or any accident, personal injury, loss or damage whatsoever caused to any person or entity or to the property of any person or entity as shall occur on or about the Easement Area as the result of the Grantee's exercise of the rights granted in this Agreement, or Grantee's failure to perform the obligations set forth in this Agreement. There shall be excluded from the foregoing indemnification the damages, costs and expenses to the extent that such damages, costs and expenses are caused by the negligence of Grantor, his agents, employees, representatives, or their successors and assigns.

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify

the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this _____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
a corporate body politic under ORS Chapter 457

By: _____
Jim Bernard, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of _____ 2019.

by Jim Bernard as Chair of the Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

ACCEPTED BY GRANTEE:
WATER ENVIRONMENT SERVICES,
a municipal partnership entity under ORS Chapter 190

Chair

Date

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE ¼ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.

Exhibit B

MAIL TAX STATEMENTS TO:

No Change

AFTER RECORDING RETURN TO:

Water Environment Services
150 Beaver creek Rd.
Oregon City, OR 97045

GRANTOR'S ADDRESS:

Clackamas County Development Agency
150 Beaver creek Rd.
Oregon City, OR 97045

GRANTEE'S ADDRESS:

Water Environment Services
150 Beaver creek Rd.
Oregon City, OR 97045

RELEASE OF RECORDED EASEMENT

The purpose of this conveyance is to release and relinquish all of the right, title, and interest of Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, ("Grantee"), in the premises described in Exhibit "A" attached hereto and incorporated herein, arising by reason of that certain Permanent Non-Exclusive Access Easement granted by the Clackamas County Development Agency ("Grantor") recorded on October 30, 2018 in the Real Property Records of Clackamas County, Oregon as document number 2018-066562.

In witness whereof, the parties hereto execute this document on this ____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
a corporate body politic under ORS Chapter 457

By: _____
Jim Bernard, Chair

WATER ENVIRONMENT SERVICES,
a municipal partnership entity under ORS Chapter 190

By: _____
Jim Bernard, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of the Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of Water Environment Services.

Notary Public for State of Oregon
My Commission Expires: _____

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE $\frac{1}{4}$ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.

MAIL TAX STATEMENTS TO:

No Change

AFTER RECORDING RETURN TO:

Water Environment Services
150 Beaver Creek Rd.
Oregon City, OR 97045

GRANTOR'S ADDRESS:

Clackamas County Development Agency
150 Beaver Creek Rd.
Oregon City, OR 97045

GRANTEE'S ADDRESS:

Water Environment Services
150 Beaver Creek Rd.
Oregon City, OR 97045

RELEASE OF RECORDED EASEMENT

The purpose of this conveyance is to release and relinquish all of the right, title, and interest of Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, ("Grantee"), in the premises described in Exhibit "A" attached hereto and incorporated herein, arising by reason of that certain Permanent Non-Exclusive Pipeline, Stormwater Detention, Maintenance Easement granted by the Clackamas County Development Agency ("Grantor") recorded on October 30, 2018 in the Real Property Records of Clackamas County, Oregon as document number 2018-066563.

In witness whereof, the parties hereto execute this document on this ____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
a corporate body politic under ORS Chapter 457

By: _____
Jim Bernard, Chair

WATER ENVIRONMENT SERVICES,
a municipal partnership entity under ORS Chapter 190

By: _____
Jim Bernard, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of the Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of Water Environment Services.

Notary Public for State of Oregon
My Commission Expires: _____

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE $\frac{1}{4}$ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

April 25, 2019

Development Agency Board
Board of County Commissioners
Clackamas County

Members of the Board:

**Delegation of Authority to Execute a Property Line Adjustment Deed with
Water Environment Services to Adjust Approximately .33 Acres of Land on
Property Located On Capps Road West of SE 120th Avenue**

| | |
|--|--|
| Purpose/Outcomes | Delegate authority to the director of the Department of Transportation and Development to finalize a transfer of excess property adjacent to the Carli Creek Water Quality Facility, to facilitate the development of industrial land. |
| Dollar Amount and Fiscal Impact | None identified |
| Funding Source | N/A |
| Duration | Permanent |
| Previous Board Action | Original Intergovernmental Agreement with WES approved on July 27, 2017, and amended by the Board on July 12, 2018. |
| Counsel Review | Reviewed and approved by Counsel on 4-17-19 |
| Strategic Plan Alignment | 1. Build public trust through good government. |
| Contact Person | David Queener, 503-742-4322 |

BACKGROUND:

In January 2012, Clackamas County Service District No. 1 (“CCSD #1”) purchased a 15-acre property owned by the Carli family to construct a regional stormwater facility in support of water quality and stream health. The project also fulfills state and federal regulatory requirements to improve stormwater treatment in older areas that drain to urban creeks, like Carli Creek, which discharges into the Clackamas River. The main elements of the Carli Creek Enhancement and Water Quality Project (“Carli Creek Project”) includes:

- 1) Re-routing stormwater conveyance systems along SE 120th St and SE Capps Road;
- 2) Regional water quality treatment facility;
- 3) Wetlands and upland habitat enhancement; and
- 4) Carli Creek habitat restoration for fish.

The Carli Creek Project has since been completed and is now operational.

On July 27, 2017, the Development Agency and CCSD #1 executed an intergovernmental agreement (“IGA”) to facilitate the Carli Creek Project by accommodating the construction of a new stormwater pipeline to divert runoff currently discharged to Carli Creek to the new water quality treatment facility. The new stormwater pipeline is located on adjacent property to the east of the Carli Creek Project site. The adjacent property is currently owned by the Clackamas County Development Agency. The Development Agency is under contract to sell the adjacent property as a part of the Capps Road/Clackamas Industrial Area Opportunity Project. In order to fill wetlands on this property to facilitate development, the Agency is required to perform wetland mitigation. This mitigation has been incorporated as part of the Carli Creek Project.

The IGA was assigned to WES in July, 2018. In Section 3.D of the IGA, WES has granted the Agency the option to purchase certain excess property not necessary for the Carli Creek Project (the “Option Parcel”). The Option Parcel is shown on the map, attached to the IGA as Exhibit “A”. The IGA is attached to this report. This provision recognized that development was planned to occur on property owned by the Agency, adjacent to the Carli Creek Project, and that the Option Parcel could enhance development opportunities in the event the Option Parcel was not needed for the Carli Creek Project. As part of the consideration for the Agency granting CCSD #1 the right to construct and operate a pipeline over its property, CCSD #1 provided a credit for the future purchase of the Option Parcel by the Agency.

The Development Agency is rapidly approaching closing with the end user of the adjacent property, and acquisition of a portion of the Option Parcel has become necessary to accommodate certain requirements of the future development. Prior to the Development Agency conveying its interest in the portion of the Capps Road/Clackamas Industrial Area Opportunity Project to Bottling Group, LLC, Development Agency staff recommends the Development Agency Board exercise its option under Section 3.D of the IGA and acquire the necessary portion of the Option Parcel. The portion of the Option Parcel to be acquired is highlighted in blue on the attached map. Given the timing of closing with Bottling Group, LLC, staff requests that the Board delegate its authority to execute a property line adjustment deed with WES to complete the transaction, consistent with the terms of Section 3.D of the IGA.

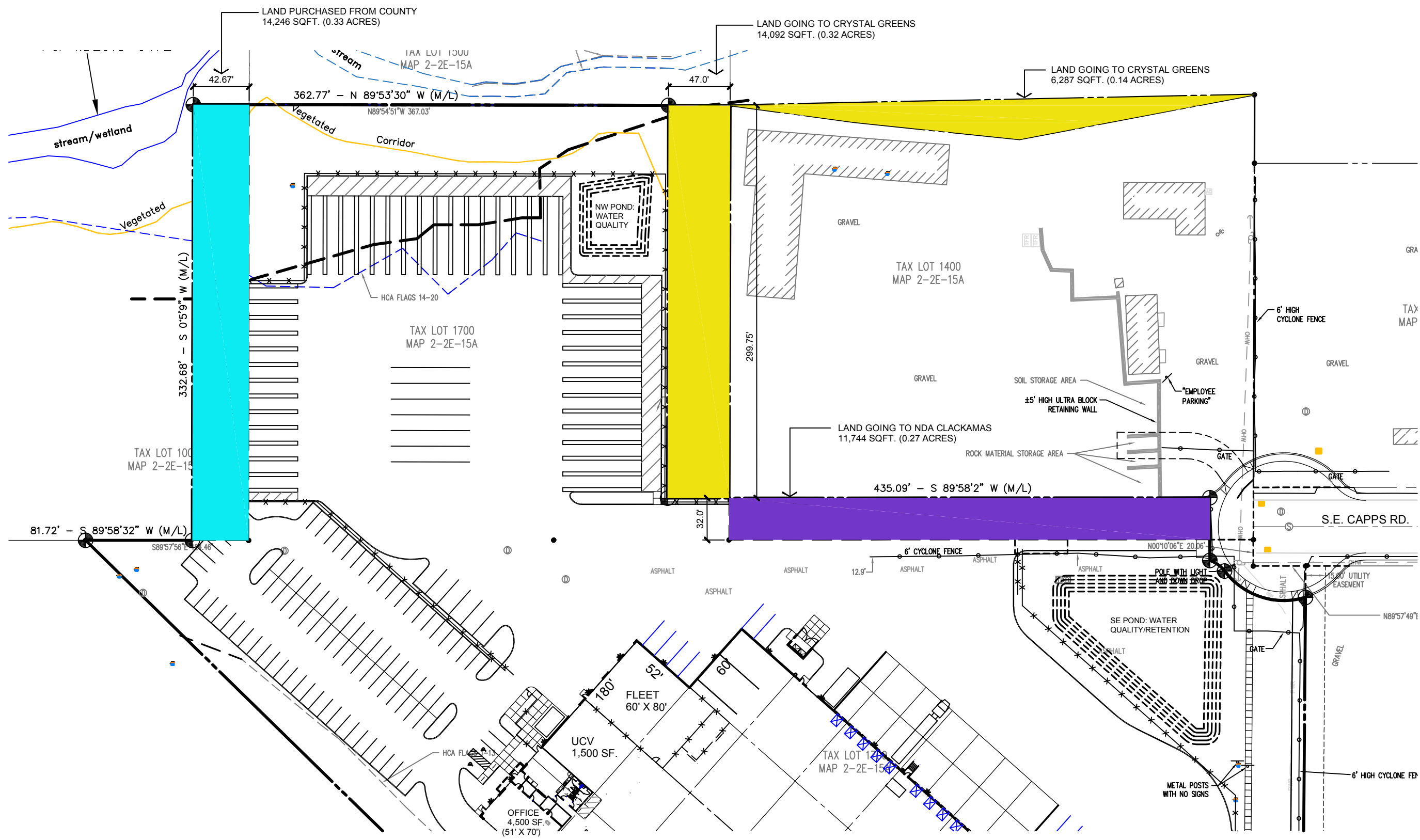
RECOMMENDATION:

Staff recommends the Board delegate authority to the Director of the Department of Transportation and Development to execute a property line adjustment deed with WES to complete the transaction, consistent with the terms of Section 3.D of the IGA.

Respectfully submitted,

David Queener
Development Agency Program Supervisor

Attachments:
Map



- LAND GOING TO CRYSTAL GREENS
(20,379 SF. / 0.46 AC.)
- LAND GOING TO NDA CLACKAMAS
(11,744 SF. / 0.27 AC.)
- ADDITIONAL LAND PURCHASE BY NDA CLACKAMAS
(14,246 SF. / 0.33 AC.)



Gregory L. Geist
Director

April 25, 2019

Water Environment Services Board
Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Easements to Water Environment Services for Pipeline
and Access Purposes Adjacent to the Carli Creek Water Quality Facility
and Release of Existing Easements Affecting the Same

| | |
|--|--|
| Purpose/Outcomes | Approval of an easement related to a permanent pipeline, stormwater and maintenance detention, and another easement for permanent access to a pump station and the Carli Creek Water Quality Facility, and release of existing easements affecting the same. |
| Dollar Amount and Fiscal Impact | None identified |
| Funding Source | N/A |
| Duration | Permanent |
| Previous Board Action | Original Intergovernmental Agreement with the Development Agency of Clackamas County and WES approved on July 27, 2017, and amended by the Board on July 12, 2018. Original easements approved by the Board on July 12, 2018. |
| Strategic Plan Alignment | 1. Build public trust through good government. |
| Contact Person | Ron Wierenga, 503-742-4581 |
| Contract No. | <i>None</i> |

BACKGROUND:

On July 27, 2017, the Development Agency and Clackamas County Service District No. 1 (“CCSD #1”) executed an intergovernmental agreement (“IGA”) to facilitate the Carli Creek Project by accommodating the construction of a new stormwater pipeline to divert runoff currently discharged to Carli Creek to the new water quality treatment facility. The new stormwater pipeline is located on adjacent property to the east of the Carli Creek Project site. The adjacent property is currently owned by the Clackamas County Development Agency. The Development Agency is under contract to sell the adjacent property as a part of the Capps Road/Clackamas Industrial Area Opportunity Project. In order to fill wetlands on this property to facilitate development, the Agency is required to perform wetland mitigation. This mitigation has been incorporated as part of the Carli Creek Project.

The IGA was assigned from CCSD#1 to Water Environment Services (“WES”) in July 2018. The IGA requires the Agency to convey a permanent pipeline, stormwater detention, and maintenance easement to WES, along with a second permanent access easement. These

easements were originally granted in July, 2018. As the Development Agency approaches closing with the end user of the adjacent property, amendments to the existing easements have become necessary to accommodate certain requirements of the future development. Prior to the Development Agency conveying its interest in the portion of the Capps Road/Clackamas Industrial Area Opportunity Project to Bottling Group, LLC, WES staff recommends finalizing the amendments to the existing easements. Amending these easements will occur by way of releasing the existing easements, and replacing those easements with the updated easements, which are attached to this report.

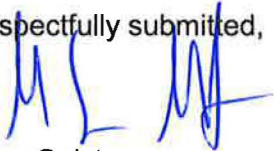
The updated access easement will relocate the existing access to better accommodate the proposed building footprint. Revised terms of both the pipeline and access easements will limit access to secured areas within the easement area to certain times.

County Counsel has reviewed and approved the easements, as well as the releases.

RECOMMENDATION:

WES staff recommends the Board approve the easements and releases as described above.

Respectfully submitted,



Greg Geist
Director, Water Environment Services

Attachments:

- Permanent Non-Exclusive Access Easement
- Permanent Non-Exclusive Pipeline, Stormwater Detention, and Maintenance Easement
- Release of Recorded Easement (Access)
- Release of Recorded Easement (Pipeline, Stormwater Detention, and Maintenance)

| | | |
|-------------------------------|--|-----------------|
| Grantor: Clackamas County | | State of Oregon |
| Development Agency | | |
| Address: 150 Beavercreek Road | | |
| Oregon City, OR 97045 | | |
| Grantee: Water Environment | | |
| Services | | |
| Address: 150 Beavercreek Road | | |
| Oregon City, OR 97045 | | |
| After Recording Return to: | | |
| Water Environment Services | | |
| 150 Beavercreek Road | | |
| Oregon City, OR 97045 | | |
| Until a change is requested, | | |
| all taxes shall be sent to: | | |
| No Change | | |

**PERMANENT NON-EXCLUSIVE PIPELINE,
STORMWATER DETENTION, MAINTENANCE**
(Corporate or Non Profit Grantor)

KNOW ALL PERSONS BY THESE PRESENTS, THAT Clackamas County Development Agency, the urban renewal agency of Clackamas County, a corporate body politic, (“Grantor”), for value received, hereby grants and conveys to Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, (“Grantee”), its heirs, successors and assigns, a permanent non-exclusive easement to lay down, construct, reconstruct, replace, operate, inspect and perpetually maintain a storm water pipeline and underground water quality structures in, under, upon, and across Grantor’s real property located in Clackamas County, State of Oregon, and with Grantor’s real property more particularly described in Exhibit “A” which is attached hereto and by this reference made a part hereof (the “Property”).

The permanent easement described herein is more particularly depicted in Exhibit “B” which is attached hereto and by this reference made a part hereof (the “Easement Area”).

This is a grant from one entity of Clackamas County to another in an intergovernmental transfer. Other consideration than money was the true and actual consideration for this conveyance.

Grantee shall have the right to enter upon and utilize the Easement Area for the purposes described in this document. This easement shall include the right of Grantee to excavate for, and to construct, place, operate, maintain, repair, replace, relocate, inspect, and remove an underground storm drain pipeline and underground water quality structures with all appurtenances incident thereto or necessary therewith, including manholes, for the purpose of conveying stormwater through said Property, together with the right of Grantee to place, excavate, replace, repair, install, maintain, operate, inspect, and relocate pipelines and necessary appurtenances, and make excavations therefor from time to time, in, under, and through the above-described Property within said Easement Area, and to cut and remove from said Easement Area any trees and other obstructions which may endanger the safety or interfere with the use of said pipelines or underground water quality structures, and any appurtenances attached to or connected therewith; and the right of ingress and egress to and over said above-described Easement Area for the purpose of repairing, renewing, excavating, replacing, inspecting, maintaining the number of pipelines and underground water

quality structures, and any appurtenances attached to or connected therewith, and for doing anything necessary, useful, or convenient for the enjoyment of the easement hereby granted. No buildings, sidewalks or paths shall be constructed over the pipeline easement and no earthfill or embankment shall be placed within the Easement Area without a specific written agreement between Grantee and Grantor, or its successors or assigns. Should such a specific agreement be executed, Grantee will set forth the conditions under which such fill or embankment may be placed, including a stipulation that all risks of damage to the pipeline shall be assumed by Grantor, or its successors or assigns. Grantor may pave over the Easement Area for purpose of providing parking or vehicle access areas.

Grantee shall be responsible to restore any property disturbed by its use of the Easement Area to its original condition upon completion of their work or use and shall be responsible for any damage caused by same.

Grantee shall be solely responsible for determining the location of all utilities in the Easement Area that may be affected by work performed in the Easement Area by or on behalf of Grantee. Grantee shall provide all required notification to the applicable utility companies and shall take all steps necessary to prevent damage to or disruption of all utilities and utility service and other equipment and systems in the Easement Area.

Except in an emergency creating an immediate risk of environmental damage, personal injury or property damage, Grantee may not enter upon and utilize the Easement Area for the purposes described in this document unless at least forty eight (48) hours before work is commenced or access is needed, the Grantor is provided notice. Notice may be arranged by any delivery method reasonably calculated to provide actual notice to Grantor, including email directed to Grantor's registered agent. Except in an emergency or unless otherwise agreed to by the Grantor, Grantor shall provide access to the Easement Area during the weekday hours of 7:00am-6:00pm (PST), subject to the forty eight (48) hour notice requirement described in this paragraph.

Except as otherwise provided, the Easement Area shall be non-exclusive. Grantor shall have the right to grant easements to others to cross or use the Easement Area now or in the future, provided the construction and installation of such do not unreasonably interfere with the repair, maintenance or operation of Grantee's facilities and related appurtenances.

Subject to the limitations in the Oregon Constitution and the Oregon Tort Claims Act, Grantee covenants to and does hereby agree to indemnify, hold harmless and defend the Grantor and his successors and assigns, from and against all claims and all costs, expenses and liabilities incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of the death of any person or persons, or any accident, personal injury, loss or damage whatsoever caused to any person or entity or to the property of any person or entity as shall occur on or about the Easement Area as the result of the Grantee's exercise of the rights granted in this Agreement, or Grantee's failure to perform the obligations set forth in this Agreement. There shall be excluded from the foregoing indemnification the damages, costs and expenses to the extent that such damages, costs and expenses are caused by the negligence of Grantor, his agents, employees, representatives, or their successors and assigns.

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify

the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this _____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
a corporate body politic under ORS Chapter 457

By: _____
Jim Bernard, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of _____ 2019.

by Jim Bernard as Chair of the Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

ACCEPTED BY GRANTEE:
WATER ENVIRONMENT SERVICES,
a municipal partnership entity under ORS Chapter 190

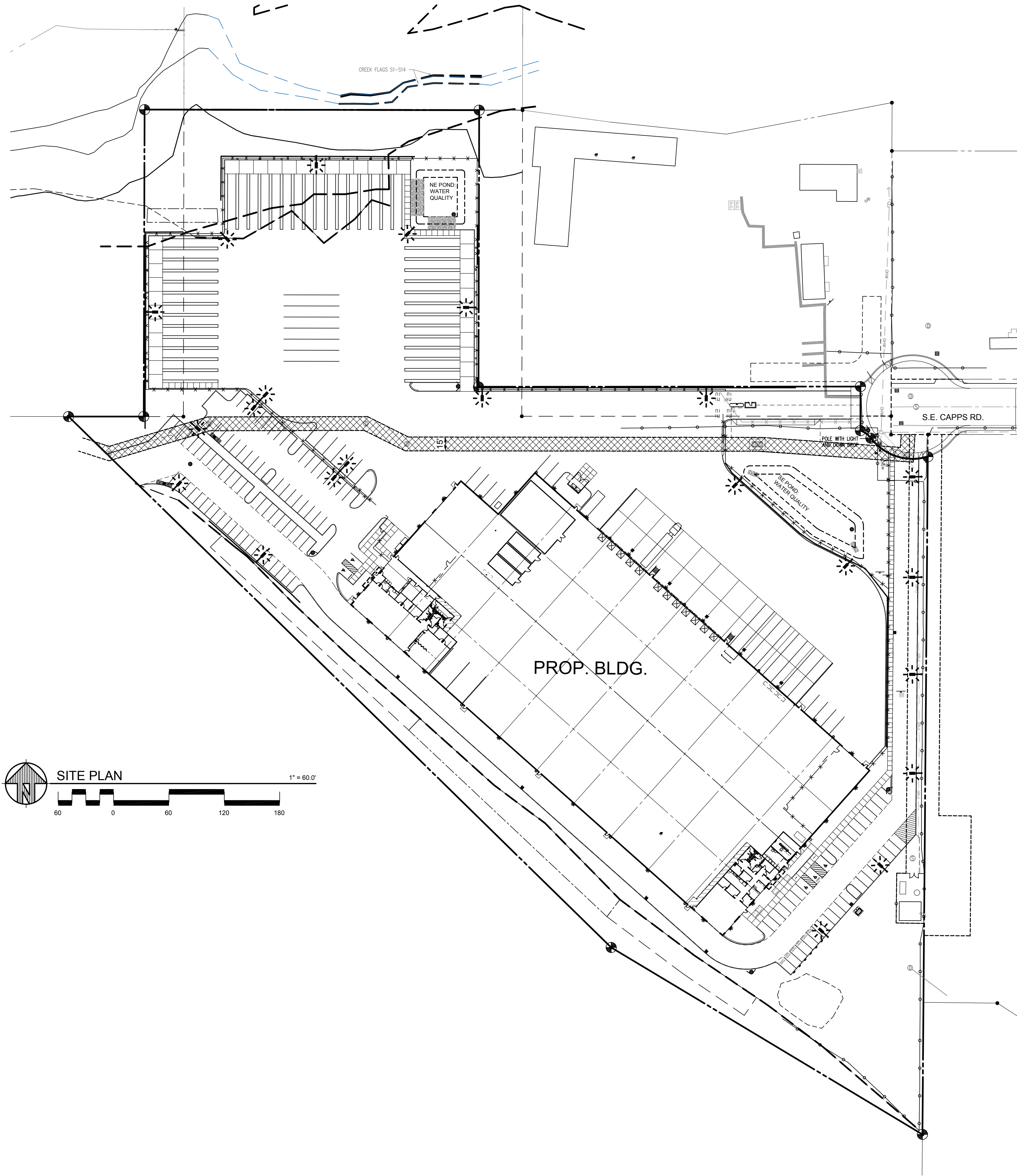
Chair

Date

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE $\frac{1}{4}$ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.

Exhibit B

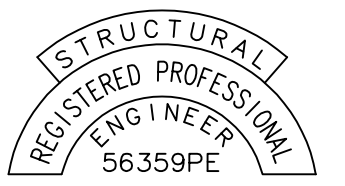


PROJECT NAME
NDA CLACKAMAS

11650 SE CAPPS ROAD
CLACKAMAS, OR.

REVISIONS

| NO. | DATE | DESCRIPTION |
|-----|----------|---------------------------------------|
| 1 | 11-13-18 | REVS PER COUNTY REVIEW |
| 2 | 01-30-19 | NO CHANGES THIS SHEET |
| 3 | 03-20-19 | REVS PER COUNTY AND VLMK/OWNER REVIEW |
| 4 | 03-29-19 | NO CHANGES THIS SHEET |



| | |
|-----------|-----------|
| DATE | JUNE 2018 |
| SCALE | AS NOTED |
| DRAWN | BGL |
| CHECKED | JS |
| PROJ. NO. | 20180294 |

MASTER SITE PLAN

| | | |
|-------------------------------|--|-----------------|
| Grantor: Clackamas County | | State of Oregon |
| Development Agency | | |
| Address: 150 Beavercreek Road | | |
| Oregon City, OR 97045 | | |
| Grantee: Water Environment | | |
| Services | | |
| Address: 150 Beavercreek Road | | |
| Oregon City, OR 97045 | | |
| After Recording Return to: | | |
| Water Environment Services | | |
| 150 Beavercreek Road | | |
| Oregon City, OR 97045 | | |
| Until a change is requested, | | |
| all taxes shall be sent to: | | |
| No Change | | |

PERMANENT NON-EXCLUSIVE ACCESS EASEMENT
(Corporate or Non Profit Grantor)

KNOW ALL PERSONS BY THESE PRESENTS, THAT Clackamas County Development Agency, the urban renewal agency of Clackamas County, a corporate body politic, (“Grantor”), for value received, hereby grants and conveys to Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, (“Grantee”), its heirs, successors and assigns, a permanent non-exclusive easement for ingress and egress, in, under, upon, and across Grantor’s real property located in Clackamas County, State of Oregon, and with Grantor’s real property more particularly described in Exhibit “A” which is attached hereto and by this reference made a part hereof (the “Property”).

The permanent easement for ingress and egress is more particularly depicted in Exhibit “B” which is attached hereto and by this reference made a part hereof (the “Easement Area”).

This is a grant from one entity of Clackamas County to another in an intergovernmental transfer. Other consideration than money was the true and actual consideration for this conveyance.

Grantee shall have the right to enter upon and utilize the Easement Area for the purposes described in this document, which includes, but is not necessarily limited to ingress and egress to the Carli Creek Water Quality Facility, which is located to the west of Grantor’s Property and owned by Grantee (see Clackamas County Document # 2019-013922), and ingress and egress to a pump station facility located within the easements described in Clackamas County Document # 2001-063320, Document # 2006-076888 and Document # 1982-020628. Grantee may remove trees, shrubs, brush, paving or other materials within the Easement Area whenever necessary to accomplish these purposes. Grantee shall be responsible to restore any property disturbed by its use of the Easement Area to its original condition upon completion of their work or use and shall be responsible for any damage caused by same.

Neither Grantor nor Grantor’s successors in title shall construct or maintain any building or other structures upon the above described Easement Area which will unreasonably interfere with Grantee’s exercise of this easement.

Grantee shall be solely responsible for determining the location of all utilities in the Easement Area that may be affected by work performed in the Easement Area by or on behalf of Grantee. Grantee shall provide all required notification to the applicable utility companies and shall take all steps necessary to prevent damage to or disruption of all utilities and utility service and other equipment and systems in the Easement Area.

Grantor shall provide Grantee access to the Easement Area at all times for purposes of accessing the pump station facility, described above. Grantor shall provide Grantee access to the Easement Area during the weekday hours of 7:00am-6:00pm (PST) for the purposes of accessing the Carli Creek Water Quality Facility, described above. In all other instances, except in an emergency creating an immediate risk of environmental damage, personal injury or property damage, Grantee may not enter upon and utilize the Easement Area for the purposes described in this document unless the Grantor is provided notice at least forty eight (48) hours before work is commenced or access is needed. Notice may be arranged by any delivery method reasonably calculated to provide actual notice to Grantor, including email directed to Grantor's registered agent.

Except as otherwise provided, the Easement Area shall be non-exclusive. Grantor shall have the right to grant easements to others to cross or use the Easement Area now or in the future, provided the use, construction and installation of such does not unreasonably interfere with the repair, maintenance or operation of Grantee's facilities and related appurtenances.

Grantor shall pay all real property taxes assessed to Grantor's parcel without apportionment thereof relating to this easement.

As part of the consideration for this Agreement, Grantee agrees to construct a gate, or other barrier, on its property to restrict vehicular access between the Property and the Carli Creek Water Quality Facility by way of the Easement Area. Grantee agrees to construct this gate or barrier no later than December 31, 2019.

Subject to the limitations in the Oregon Constitution and the Oregon Tort Claims Act, Grantee covenants to and does hereby agree to indemnify, hold harmless and defend the Grantor and his successors and assigns, from and against all claims and all costs, expenses and liabilities (including reasonable attorneys' fees) incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of the death of any person or persons, or any accident, personal injury, loss or damage whatsoever caused to any person or entity or to the property of any person or entity as shall occur on or about the Easement Area as the result of the Grantee's exercise of the rights granted in this Agreement, or Grantee's failure to perform the obligations set forth in this Agreement. There shall be excluded from the foregoing indemnification the damages, costs and expenses to the extent that such damages, costs and expenses are caused by the negligence of Grantor, his agents, employees, representatives, or their successors and assigns.

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest

practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this _____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
 the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
 a corporate body politic under ORS Chapter 457

By: _____
 Jim Bernard, Chair

STATE OF OREGON)
) ss.
 County of _____)

This instrument was signed and attested before me this _____ day of _____ 2019,
 by Jim Bernard as Chair of the Clackamas County Development Agency.

 Notary Public for State of Oregon
 My Commission Expires: _____

ACCEPTED BY GRANTEE:
 WATER ENVIRONMENT SERVICES,
 a municipal partnership entity under ORS Chapter 190

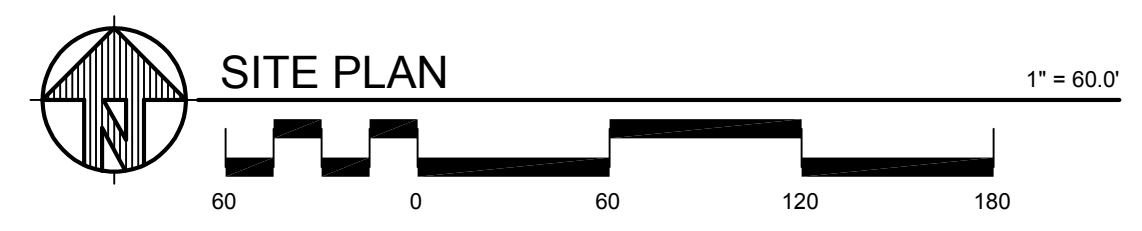
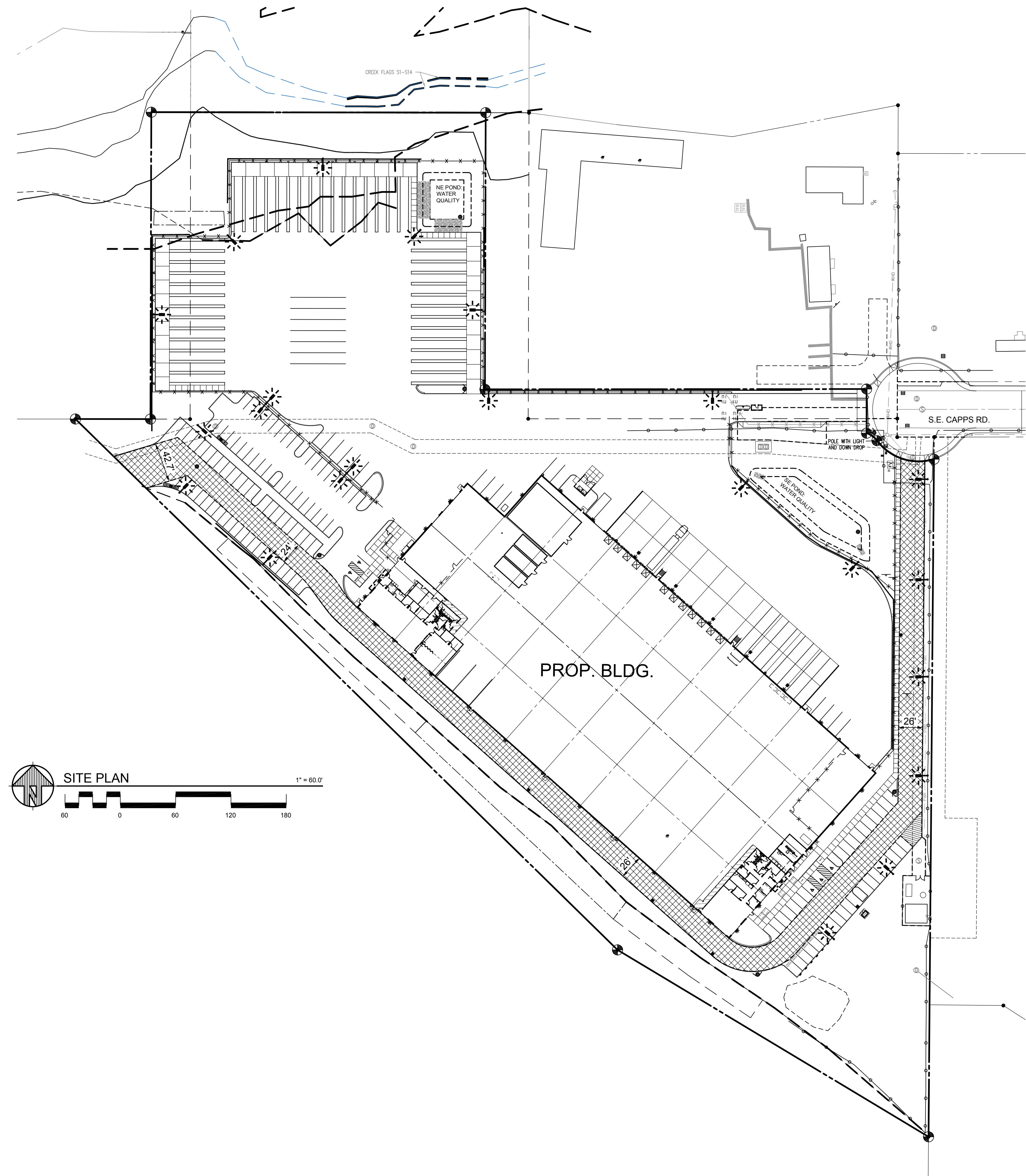
 Chair

 Date

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE $\frac{1}{4}$ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.

Exhibit B

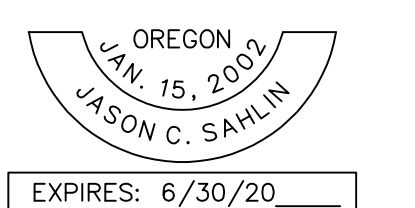
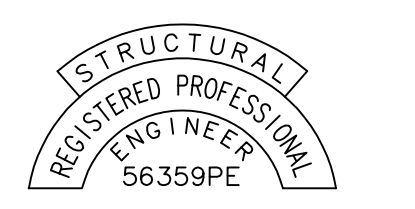


PROJECT NAME
NDA CLACKAMAS

11650 SE CAPPS ROAD
CLACKAMAS, OR.

REVISIONS

| NO. | DATE | DESCRIPTION |
|-----|----------|---------------------------------------|
| 1 | 11-13-18 | REVS PER COUNTY REVIEW |
| 2 | 01-30-19 | NO CHANGES THIS SHEET |
| 3 | 03-20-19 | REVS PER COUNTY AND VLMK/OWNER REVIEW |
| 4 | 03-29-19 | NO CHANGES THIS SHEET |



| | |
|-----------|-----------|
| DATE | JUNE 2018 |
| SCALE | AS NOTED |
| DRAWN | BGL |
| CHECKED | JS |
| PROJ. NO. | 20180294 |

MASTER SITE PLAN

MAIL TAX STATEMENTS TO:

No Change

AFTER RECORDING RETURN TO:

Water Environment Services
150 Beaver Creek Rd.
Oregon City, OR 97045

GRANTOR'S ADDRESS:

Clackamas County Development Agency
150 Beaver Creek Rd.
Oregon City, OR 97045

GRANTEE'S ADDRESS:

Water Environment Services
150 Beaver Creek Rd.
Oregon City, OR 97045

RELEASE OF RECORDED EASEMENT

The purpose of this conveyance is to release and relinquish all of the right, title, and interest of Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, ("Grantee"), in the premises described in Exhibit "A" attached hereto and incorporated herein, arising by reason of that certain Permanent Non-Exclusive Access Easement granted by the Clackamas County Development Agency ("Grantor") recorded on October 30, 2018 in the Real Property Records of Clackamas County, Oregon as document number 2018-066562.

In witness whereof, the parties hereto execute this document on this ____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
a corporate body politic under ORS Chapter 457

By: _____
Jim Bernard, Chair

WATER ENVIRONMENT SERVICES,
a municipal partnership entity under ORS Chapter 190

By: _____
Jim Bernard, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of the Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of Water Environment Services.

Notary Public for State of Oregon
My Commission Expires: _____

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE $\frac{1}{4}$ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.

MAIL TAX STATEMENTS TO:

No Change

AFTER RECORDING RETURN TO:

Water Environment Services
150 Beaver Creek Rd.
Oregon City, OR 97045

GRANTOR'S ADDRESS:

Clackamas County Development Agency
150 Beaver Creek Rd.
Oregon City, OR 97045

GRANTEE'S ADDRESS:

Water Environment Services
150 Beaver Creek Rd.
Oregon City, OR 97045

RELEASE OF RECORDED EASEMENT

The purpose of this conveyance is to release and relinquish all of the right, title, and interest of Water Environment Services, a municipal partnership entity formed pursuant to ORS Chapter 190, ("Grantee"), in the premises described in Exhibit "A" attached hereto and incorporated herein, arising by reason of that certain Permanent Non-Exclusive Pipeline, Stormwater Detention, Maintenance Easement granted by the Clackamas County Development Agency ("Grantor") recorded on October 30, 2018 in the Real Property Records of Clackamas County, Oregon as document number 2018-066563.

In witness whereof, the parties hereto execute this document on this ____ day of _____ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY,
a corporate body politic under ORS Chapter 457

By: _____
Jim Bernard, Chair

WATER ENVIRONMENT SERVICES,
a municipal partnership entity under ORS Chapter 190

By: _____
Jim Bernard, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of the Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this _____ day of
_____ 2019,

by Jim Bernard as Chair of Water Environment Services.

Notary Public for State of Oregon
My Commission Expires: _____

Exhibit A

Grantor's real property more particularly described as follows: A tract of fee land located in the NE $\frac{1}{4}$ of Section 15, T2S, R2E, WM, as more particularly described by that certain Warranty Deed recorded on October 8, 2009 as Document No. 2009-071163 in the Deed Records of Clackamas County, Oregon, and that Property Line Adjustment Deed (corrective) recorded on February 7, 2018 as Document No. 2018-008395.



Gregory L. Geist
Director

April 25, 2019

Water Environment Services Board
Board of County Commissioners
Clackamas County

Members of the Board:

Delegation of Authority to Execute a Property Line Adjustment Deed with
the Development Agency to Adjust Approximately .33 Acres of Land on
Property Located On Capps Road West of SE 120th Avenue

| | |
|--|--|
| Purpose/Outcomes | Delegate authority to the director of Water Environment Services to finalize a transfer of excess property adjacent to the Carli Creek Water Quality Facility, to facilitate the development of industrial land. |
| Dollar Amount and Fiscal Impact | None identified |
| Funding Source | N/A |
| Duration | Permanent |
| Previous Board Action | Original Intergovernmental Agreement with WES approved on July 27, 2017, and amended by the Board on July 12, 2018. |
| Strategic Plan Alignment | 1. Build public trust through good government. |
| Contact Person | Ron Wierenga, 503-742-4581 |
| Contract No. | <i>None</i> |

BACKGROUND:

In January 2012, Clackamas County Service District No. 1 (“CCSD #1”) purchased a 15-acre property owned by the Carli family to construct a regional stormwater facility in support of water quality and stream health. The project also fulfills state and federal regulatory requirements to improve stormwater treatment in older areas that drain to urban creeks, like Carli Creek, which discharges into the Clackamas River. The main elements of the Carli Creek Enhancement and Water Quality Project (“Carli Creek Project”) include:

- 1) Re-routing stormwater conveyance systems along SE 120th St and SE Capps Road;
- 2) Regional water quality treatment facility;
- 3) Wetlands and upland habitat enhancement; and
- 4) Carli Creek habitat restoration for fish.

The Carli Creek Project has since been completed and is now operational.

On July 27, 2017, the Development Agency and CCSD #1 executed an intergovernmental agreement (“IGA”) to facilitate the Carli Creek Project by accommodating the construction of a new stormwater pipeline to divert runoff currently discharged to Carli Creek to the new water quality treatment facility. The new stormwater pipeline is located on adjacent property to the east of the Carli Creek Project site. The adjacent property is currently owned by the Clackamas County Development Agency. The Development Agency is under contract to sell the adjacent property as a part of the Capps Road/Clackamas Industrial Area Opportunity Project. In order to fill wetlands on this property to facilitate development, the Agency is required to perform wetland mitigation. This mitigation has been incorporated as part of the Carli Creek Project.

The IGA was assigned to Water Environment Services (“WES”) in July 2018. In Section 3.D of the IGA, WES has granted the Agency the option to purchase certain excess property not necessary for the Carli Creek Project (the “Option Parcel”). The Option Parcel is shown on the map, attached to the IGA as Exhibit “A”. The IGA is attached to this report. This provision recognized that development was planned to occur on property owned by the Agency, adjacent to the Carli Creek Project, and that the Option Parcel could enhance development opportunities in the event the Option Parcel was not needed for the Carli Creek Project. As part of the consideration for the Agency granting CCSD #1 the right to construct and operate a pipeline over its property, CCSD #1 provided a credit for the future purchase of the Option Parcel by the Agency.

The Development Agency is rapidly approaching closing with the end user of the adjacent property, and acquisition of a portion of the Option Parcel has become necessary to accommodate certain requirements of the future development. The portion to be transferred is highlighted in blue on the attached map as Exhibit “B”. Development Agency staff have requested that its Board exercise its option under Section 3.D of the IGA and acquire the necessary portion of the Option Parcel. To help facilitate the timing of the Development Agency’s closing with Bottling Group, LLC, WES staff requests that the Board delegate its authority to execute a property line adjustment deed with the Development Agency to complete the transaction, consistent with the terms of Section 3.D of the IGA.

RECOMMENDATION:

WES staff recommends the Board delegate authority to the Director of WES to execute a property line adjustment deed with the Development Agency to complete the transaction, consistent with the terms of Section 3.D of the IGA.

Respectfully submitted,



Chris Storey
Assistant Director, Water Environment Services

Attachments:

July 27, 2017, IGA

July 12, 2018, Amendment to the IGA

Map

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 and
CLACKAMAS COUNTY DEVELOPMENT AGENCY For
CARLI CREEK RESTORATION AND MITIGATION**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is entered into and between Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County (hereafter called "Agency"), and Clackamas County Service District No. 1 ("District"), a county service district formed pursuant to ORS Chapter 451, collectively referred to as the "Parties" and each a "Party."

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 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;

WHEREAS, the District is planning to construct the Carli Creek Water Quality and Enhancement Project ("Project") to meet state and federal regulations; and

WHEREAS, the District desires to construct a portion of the Project on property located at 11436 SE Capps Rd on Tax lot 22E15A 01800 ("Capps Property") owned by Agency; and

WHEREAS, the Agency is required to perform wetland mitigation ("Mitigation") as a part of the Capps Road/Clackamas Industrial Area Opportunity Project ("CIAO Project") pursuant to Permit No. NWP-2012-181-1, attached hereto as Exhibit "C," issued by the U.S. Army Corps of Engineers ("Permit"); and

WHEREAS, the Agency is interested in incorporating wetland mitigation areas as part of the Carli Creek Restoration Project in order to meet the requirements of the Mitigation; and

WHEREAS, the District is willing to include additional wetland mitigation areas as a component of the Project in return for easements and land transfer from the Agency;

WHEREAS, the value of the property interests transferred from the Agency to the District is approximately \$330,000.00, and the value of the Mitigation provided by the District to the Agency is approximately \$330,000.00, as more specifically set forth in Exhibit "D"; and

WHEREAS, the coordination of these projects will be mutually beneficial, resulting in cost savings, while promoting efficiency and effectiveness in local government administration.

NOW, THEREFORE, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. **Term.** This Agreement shall be effective upon execution, and shall expire ten (10) years from the effective date or at the time the Mitigation requirements have been fulfilled under the Permit, whichever is sooner.
2. **Obligations of Clackamas County Development Agency**
 - A. Agency agrees to provide a temporary construction easement to the District for the duration of construction of the Project on the Capps Property, 35 feet in width and in the location shown in Exhibit A.
 - B. Agency agrees to provide a permanent pipeline, access and maintenance easement to the District on the portion of the Capps Property that contains the Project, fifteen (15) feet in width, as shown in Exhibit A, prior to completion of the Project. This easement shall include the right to operate and maintain a new stormwater pipeline.

- C. Agency agrees to provide a permanent access easement to the District related to the new stormwater pipeline located in the Capps Property, fifteen (15) feet in width and as shown in Exhibit A. The Parties acknowledge that, depending on the future development of the Capps Property, it may be necessary to relocate the access easement described herein and agree to negotiate in good faith to amend the easement to provide the District sufficient access to the new stormwater pipeline, and to mitigate the impacts such easement could have on future development.
- D. Agency agrees to provide a Right of Entry to the District on Tax Lot 22E15A 01700 for use as a construction staging area throughout the duration of the Project.
- E. Agency agrees to accept up to 20,000 cubic yards of clean fill material from the Project site. The location for placement of the fill material shall be as shown in Exhibit B. Costs associated with the relocation of the fill materials will be the responsibility of the District and shall include transportation, grading and compaction. Any fill material, and placement of such fill material, shall comply with the following standards:
 - i. All fills must be placed consistent with the excavation and grading provisions of the Clackamas County Code (Title 9). Site preparation must include the removal of vegetation, non-complying fill, topsoil, or other unsuitable materials prior to placement of the fill. Fill slopes shall not exceed a grade of two horizontal to one vertical.
 - ii. All cuts shall be made consistent with the excavation and grading provisions of the Clackamas County Code. No cut shall exceed a grade of two horizontal to one vertical unless approved beforehand by the project geotechnical engineer and Clackamas County.
 - iii. Appropriate benching of fills is required for fills over five feet in height on slopes in excess of five horizontal to one vertical. Bench must be done in accordance with the approved plans. Clackamas County shall inspect benches prior to fill placement.
 - iv. Cut and fill slopes shall be protected from erosion. Such control may consist of appropriate revegetation or other acceptable means and methods. Erosion control measures shall be in place prior to earthwork or site stripping as required by the local surface water management authority.
 - v. Placement and compaction of fill material shall be placed consistent with the relevant provisions of the Oregon Structural Specialty Code sections 330.42 and 330.43.
- F. Agency, or its successor, assign, or designee, shall remain the permittee under the Permit related to the wetland mitigation requirements imposed on the Agency. The District shall be responsible for those requirements imposed under the Permit that are specifically related to the Mitigation component of the Permit. Under no circumstances shall the District be responsible or held liable for any Agency non-compliance with any condition or requirement unrelated to the Mitigation component of the aforementioned permit, including but not limited to, those conditions and requirements affecting impacts to wetlands or construction on Tax Lot 22E15A 01900.

3. **Obligation of the District.**

- A. District agrees to oversee the administration of Project and manage the construction of the Project.

- B. District agrees to meet the requirements of the Mitigation, including the design and construction of 1.3 acres of mitigation wetlands as part of the Project to be used as compensatory mitigation on behalf of the Agency for impacts to wetlands related to construction of the CIAO Project, as shown in Exhibit C.
- C. District is solely responsible for ensuring compliance with the Mitigation requirements specifically identified in this section that have been imposed on the Agency as a result of the CIAO Project. District agrees to complete the following compensatory wetland mitigation monitoring and reporting requirements for the Agency, consistent with **Special Conditions Nos. 3, 5, 6, 7 and 8 of the Permit**. Where materials identified in the preceding special conditions of the permit require Agency to submit materials directly to the U.S. Army Corps of Engineers, District shall timely submit those materials on behalf of the Agency and provide a copy to the Agency.
- D. The District acknowledges that there may be opportunities to develop approximately one acre on the upland portion of property on which the Project will be located. The District shall grant to the Agency an option to purchase the one acre upland portion of property, approximately identified by red outline in Exhibit A, for fair market value. As set forth in Exhibit D, the Parties agree that the sum of \$100,000 shall be applied to any future acquisition by the Agency of the upland portion of the property referred to herein in the event the Agency chooses to exercise its option to purchase. The District agrees to work with the Agency to facilitate development opportunities that do not jeopardize the District's ability to complete the Project.
- E. Upon termination of the right of entry, the District agrees to return the construction staging area on Tax Lot 22E15A 01700 to the Agency in a condition that would support development of Tax Lot 22E15A 01700 in a manner consistent with the rest of the Capps Property. This may require the District to improve Tax Lot 22E15A 01700 to ensure it is vacant, graded and compacted in a manner that would permit building construction as permitted in the applicable zone.

4. **Work Plan and Scheduling of Work.**

- A. District will manage the Project and intends to complete construction of the Project by December 31, 2018. Agency acknowledges that said schedule is dependent on many conditions and may be subject to change. District will provide prompt notice to Agency of any anticipated delays in the schedule.
- B. With the exception of the monitoring requirements, District will ensure that the Mitigation is substantially complete no later than November 30, 2017 and that "as-built" reports are available to be submitted to the U.S. Army Corps of Engineers by December 2017, consistent with Special Condition No. 5 contained in the Permit.
- C. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
- D. In the event either Party changes plans or specifications, approves change orders or extends unit prices that affect Project costs following the execution of the construction contract, the Party requesting the change may be held financially responsible for any additional direct or indirect costs associated with the change. Notwithstanding the foregoing, District shall be liable for the additional Project costs if changes in plans or specifications are made due to an act of God or other circumstances beyond the reasonable control of District.

5. **Early Termination of Agreement**

- i. The District and Agency, by mutual written agreement, may terminate this Agreement at any time.
 - ii. Either the District or Agency may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
6. **Indemnification.** Subject to the limits of the Oregon Tort Claims Act and Oregon Constitution, each of the Parties agrees to hold harmless and indemnify the others, and their elected and appointed officials, agents, and employees, from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising on account of personal injuries, death or damage to property caused by or resulting from their own acts or omissions or those of their officials, agents and employees.
 7. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
 8. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.
 9. **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.
 10. **Record and Fiscal Control System.** All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
 11. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.

12. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
13. **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.
14. **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.
15. **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.
16. **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.
17. **No Third-Party Beneficiary.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the District.
18. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.
19. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
20. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.

21. **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.

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

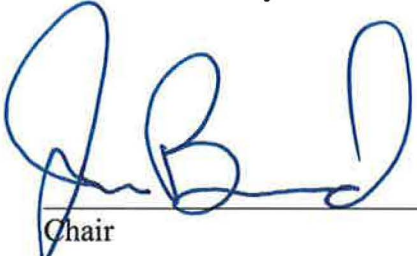
Clackamas County Development Agency



Chair
7-27-2017

Date IV . 1

Clackamas County Service District No. 1



Chair
7-27-2017

Date V.4

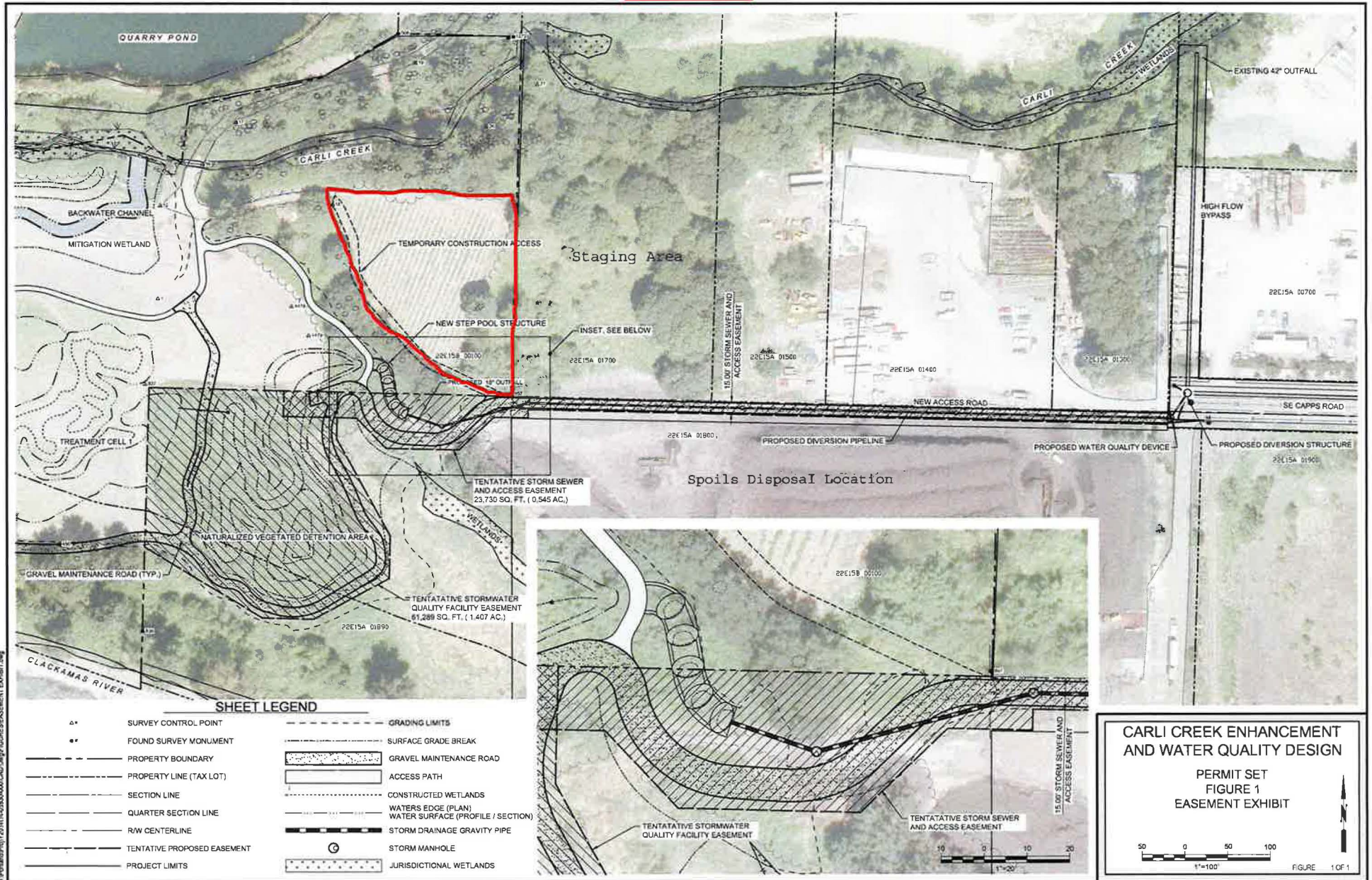


Recording Secretary

Exhibit List:

- Exhibit A: Easement Map
- Exhibit B: Fill Material Location Map
- Exhibit C: U.S. Army Corps of Engineers Permit No. NWP-2012-181-1
- Exhibit D: Value of Assets and Services

Exhibit A



SHEET LEGEND

| | | | |
|-------|-----------------------------|-------|-----------------------------------|
| △* | SURVEY CONTROL POINT | --- | GRADING LIMITS |
| •• | FOUND SURVEY MONUMENT | - - - | SURFACE GRADE BREAK |
| --- | PROPERTY BOUNDARY | ▨ | GRAVEL MAINTENANCE ROAD |
| - - - | PROPERTY LINE (TAX LOT) | --- | ACCESS PATH |
| --- | SECTION LINE | ▨ | CONSTRUCTED WETLANDS |
| --- | QUARTER SECTION LINE | --- | WATERS EDGE (PLAN) |
| --- | R/W CENTERLINE | --- | WATER SURFACE (PROFILE / SECTION) |
| --- | TENTATIVE PROPOSED EASEMENT | --- | STORM DRAINAGE GRAVITY PIPE |
| --- | PROJECT LIMITS | ⊙ | STORM MANHOLE |
| | | ▨ | JURISDICTIONAL WETLANDS |

CARLI CREEK ENHANCEMENT AND WATER QUALITY DESIGN

PERMIT SET
FIGURE 1
EASEMENT EXHIBIT

50 0 50 100
1"=100'

FIGURE 1 OF 1

Project: September 23, 2015
 O:\Portland\Proj\2015\14-000000\CAD\dwg\FIGURE EASEMENT EXHIBIT.dwg

EXHIBIT B



DEPARTMENT OF THE ARMY PERMIT

Permittee: Clackamas County Development Agency; Attention Mr. Dan Johnson

Permit No: NWP-2012-181-1

Issuing Office: U.S. Army Corps of Engineers

NOTE: The term "you" and its derivatives as used in this permit means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The project will permanently place 7,851 cubic yards of fill in 1.02 acres of Wetland A. The site will be levelled for complete build-out of two industrial pads, each with a warehouse, loading area, storage, and parking. The northern pad includes a 294,000 square-foot industrial building. The southern pad includes a 246,000 square-foot building. Stormwater will be collected and treated through an existing stormwater facility constructed under previous authorization in 2015.

Purpose: The overall purpose of the project is to provide industrial facilities that would meet statewide industrial development goals and to provide economic stimulus to Clackamas County. This project would address the need for large industrial sites greater than 20 acres and less than 50 acres in size. This project is Phase 2 of a multi-phase development project located in the former rock quarry.

Project Location: The project is located on a wetland near the Clackamas River, Mile 4.5. The site is in Section 15 of Township 2 South, and Range 2 East, in the City of Happy Valley, Clackamas County, Oregon (Lat. 45.398128; Lon. -122.540758).

Drawings: There are 13 drawings labelled NWP-2012-181-1 (Enclosure 1).

General Conditions:

1. The time limit for completing the work authorized ends on October 31, 2021. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. Permittee must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition No. 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions (Enclosure 2).
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Permittee shall notify the Regulatory Branch with the start date when the activities authorized in waters of the U.S. are scheduled to begin. Notification shall be sent by email to cenwp.notify@usace.army.mil or mailed to the following address:

U.S. Army Corps of Engineers
CENWP-OD-GC
Permit Compliance, Clackamas County
P.O. Box 2946
Portland, Oregon 97208-2946

The subject line of the message shall contain the name of the county in which the project is located followed by the Corps of Engineers permit number.

2. Permittee shall submit a signed certification regarding the completed work and any required mitigation. A "Compliance Certification" is provided (Enclosure 3).
3. Permittee shall fully implement the "Final Compensatory Wetland Mitigation Plan for Impacts to Wetlands for the Capps Road Industrial Site in Clackamas, Oregon" (Plan) dated January 28, 2016 (Enclosure 4). The mitigation site shall be constructed prior to or concurrently with the work authorized by this permit. The initial planting component of the Plan shall be completed by Fall 2017.
4. The fully executed Conservation Easement for the mitigation site shall be recorded with the Registrar of Deed or other appropriate official charged with maintaining records on real property. A copy of the fully executed Conservation Easement and proof of recording shall be submitted to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch within 60 days from the date of permit issuance.

5. Permittee shall submit an "as-built" report by December 2017. The contents of the report shall include a narrative summary of the mitigation actions completed as well as pre- and post-construction photos from fixed locations. Photos shall be sufficient in number and spacing to represent the site in its entirety. Photos shall be labelled with the date and location taken. A map showing the location and orientation of the photos shall also be provided.

6. The permittee shall monitor the mitigation site for a five-year period following completion of the initial construction and plantings. Monitoring reports shall be provided by December 31 of each year of monitoring. The expected first year monitoring report is due 2018. The contents of the monitoring reports shall be consistent with Regulatory Guidance Letter 08-03 (Enclosure 5). Photos of the site from locations established in the as-built report shall also be provided.

7. The permittee shall achieve 80% percent total cover with native vegetation by Year 3 without maintenance for one year. Dead or dying plants may be replaced within the first two years of monitoring. The permittee shall achieve a minimum of 1280 stems per acre by the end of the five-year monitoring period. Target species may include both planted and recruited native individuals. The permittee shall ensure less than 15% total cover by invasive species and less than 5% of total area bare ground.

8. The permittee shall submit a wetland delineation of the mitigation site to demonstrate a minimum of 1.27 acres have been created. The delineation report shall follow the most recent version of the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains Valleys and Coast Region. The delineation shall be submitted with the final fifth-year monitoring report.

9. Permittee's responsibility to complete the required compensatory mitigation as set forth in Special Conditions "3" through "9" will not be considered fulfilled until Permittee has demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers Portland District, Regulatory Branch.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
- () Section 103 of the Marine Protection, Research Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this Authorization:

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33

CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition No. 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below as permittee indicates that you accept and agree to comply with the terms and conditions of this permit.

 _____ 10/26/2016 _____
(PERMITTEE SIGNATURE) (DATE)

Dan Johnson _____ Development Agency Manager _____
(PRINTED NAME) (TITLE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

**FOR THE COMMANDER, JOSE L. AGUILAR, COLONEL, CORPS OF ENGINEERS,
DISTRICT COMMANDER:**

FOR Jaimee W. Davis _____ 16 NOV 2016 _____
(DISTRICT COMMANDER) (DATE)

Shawn H. Zinszer
Chief, Regulatory Branch

When the structures or work authorized by this individual permit are still in existence at the time the property is transferred and/or a new party obtains this permit, the terms and conditions of this permit will continue to be binding on the new permittee. The new permittee should sign and date below to accept the liabilities associated with complying with the terms and conditions of this permit, and to validate its transfer.

PERMIT TRANSFEREE:

Transferee Signature

DATE

Name (Please print)

Street Address

City, State, and Zip Code

NEW PROPERTY OWNER:

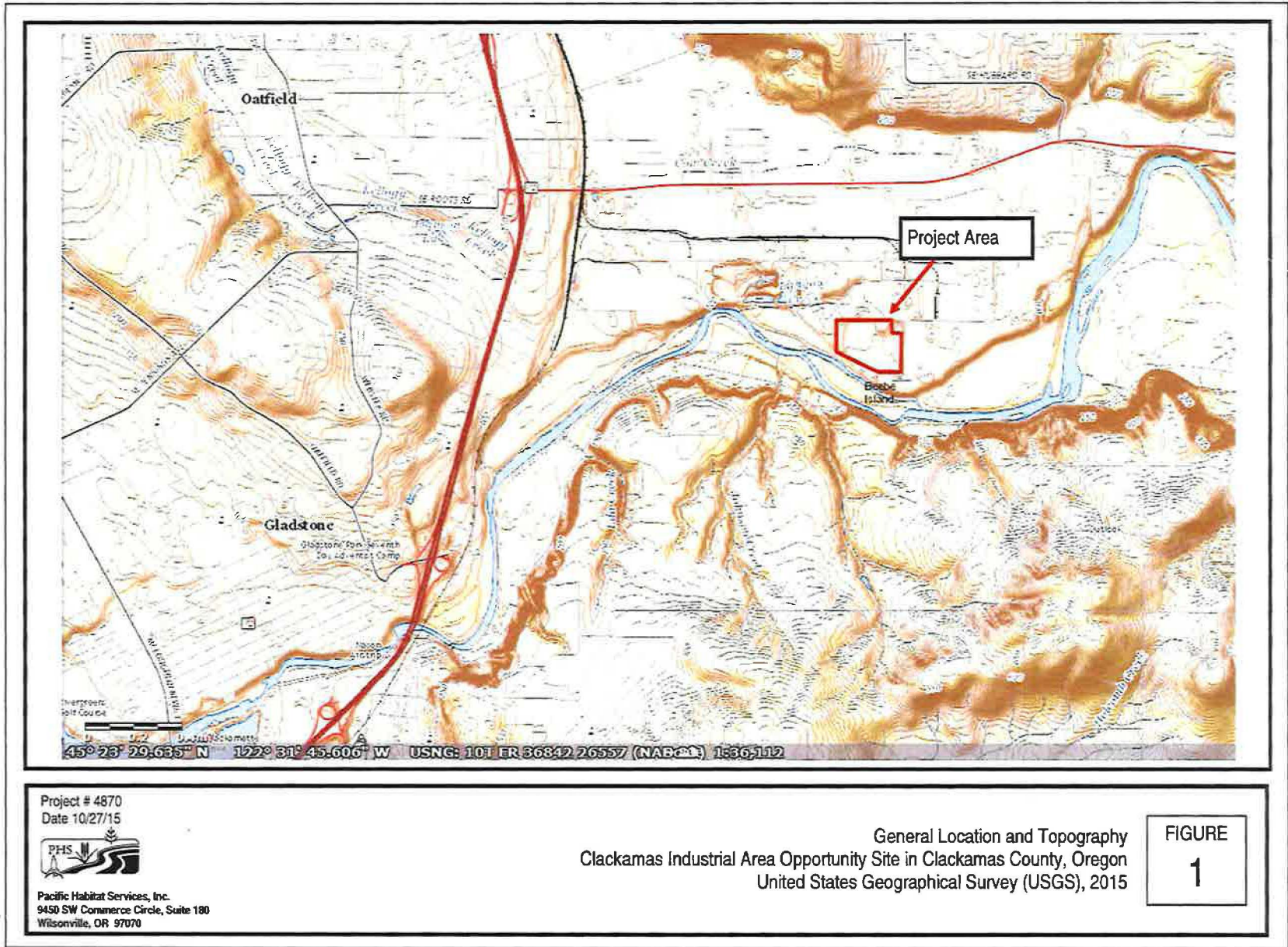
Property Owner Signature

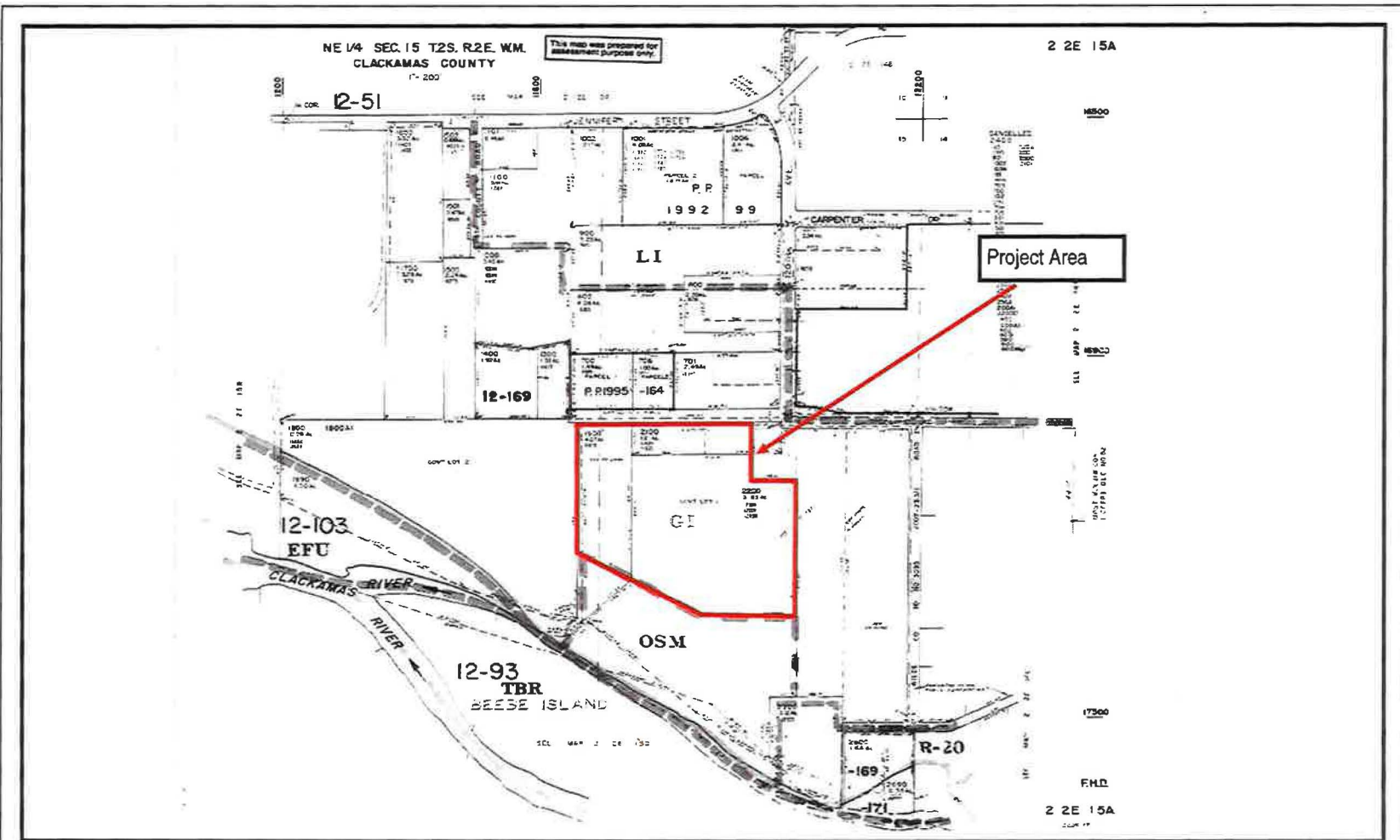
DATE

Name (Please print)

Street Address

City, State, and Zip Code





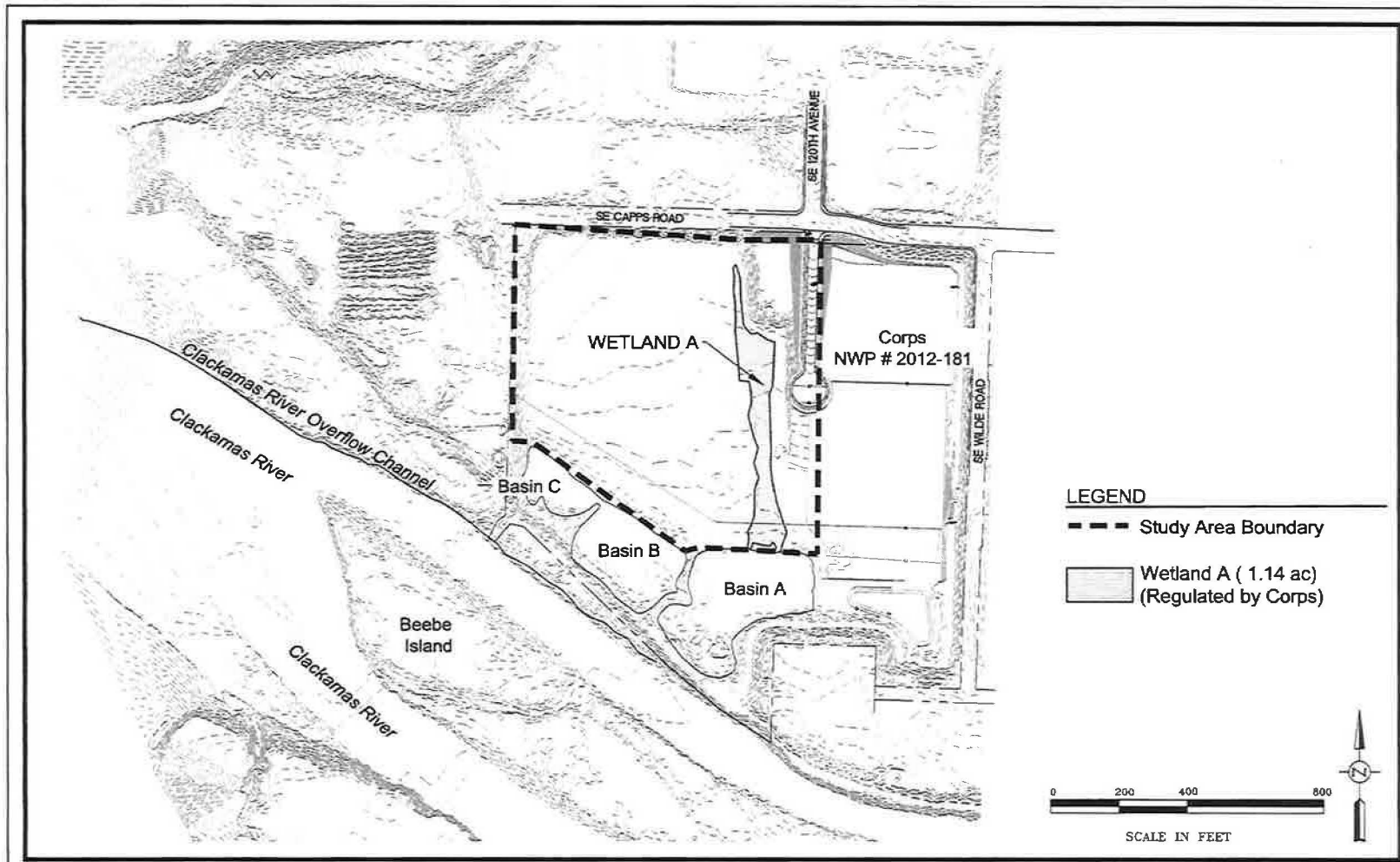
Project # 4870
Date 10/27/15



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, OR 97070

Tax Lot Map, Section 15A, Township 2 South, Range 2 East
Clackamas Industrial Area Opportunity Site in Clackamas County, Oregon
OrMap.net, 2015

FIGURE
2



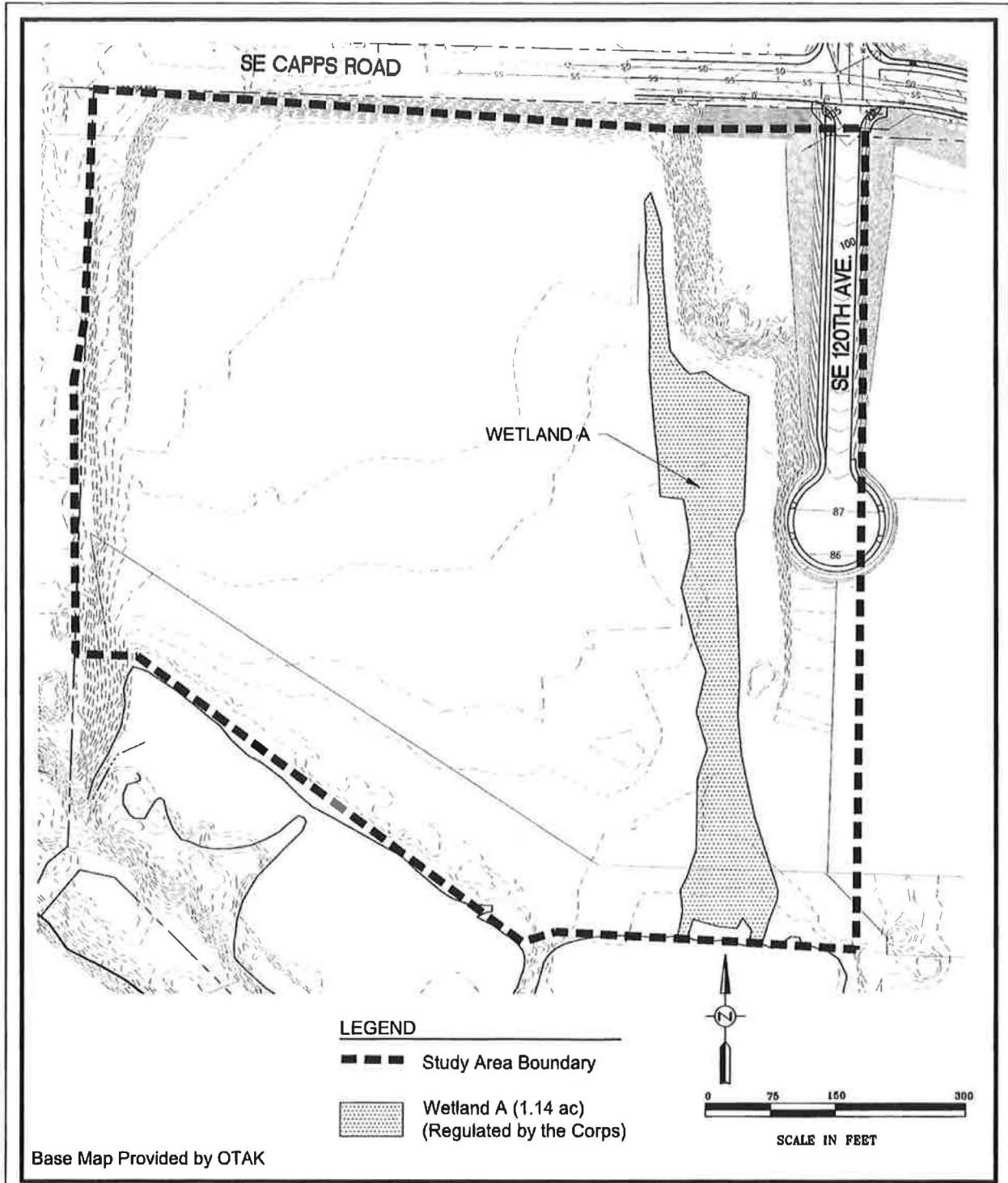
Base Map Provided by OTAK

Existing Conditions Site Overview
Capps Road Improvement Project - Oregon City, Oregon

FIGURE
4

1-22-2016

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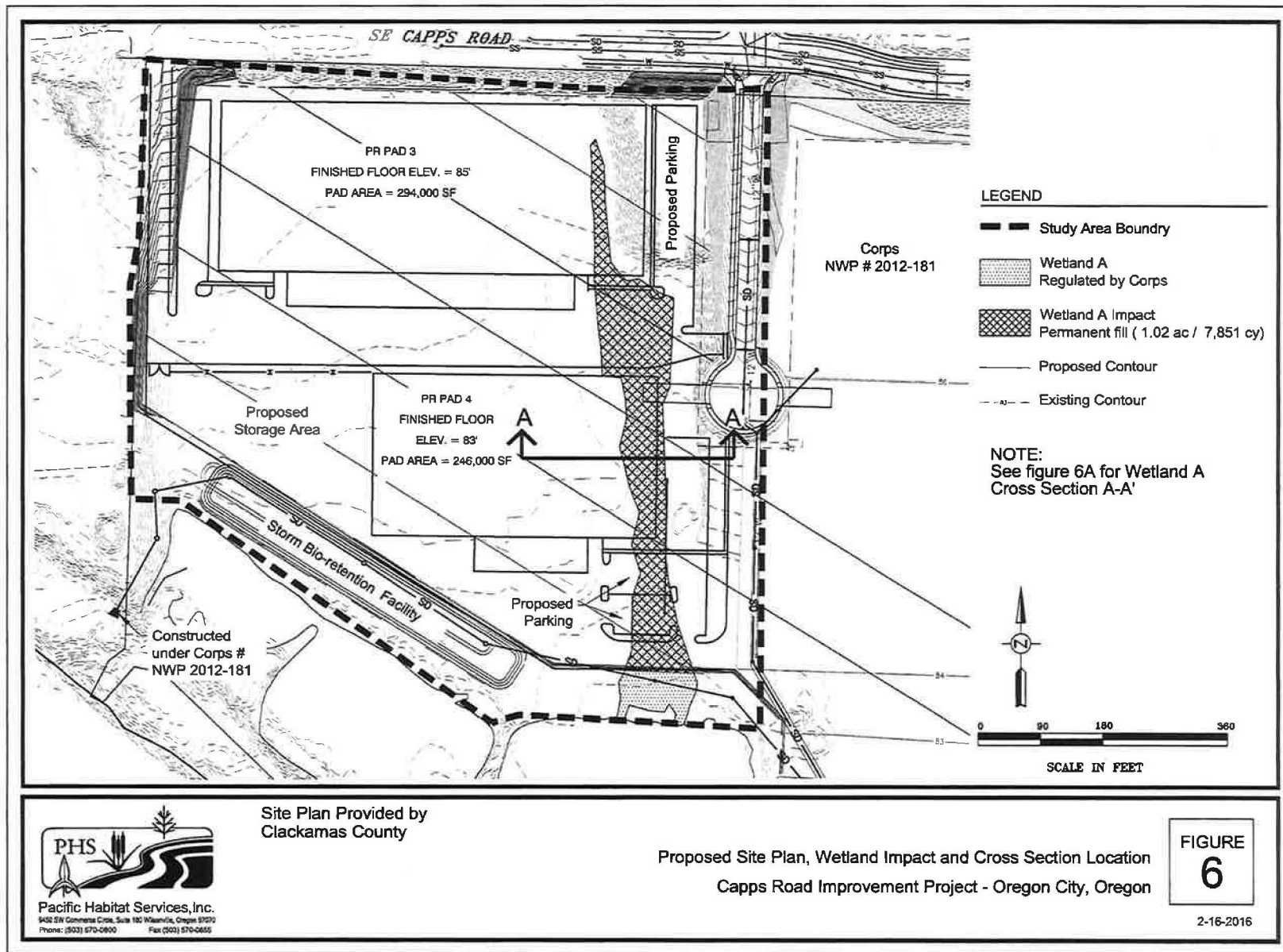


Existing Conditions
Capps Road Improvement Project - Oregon City, Oregon

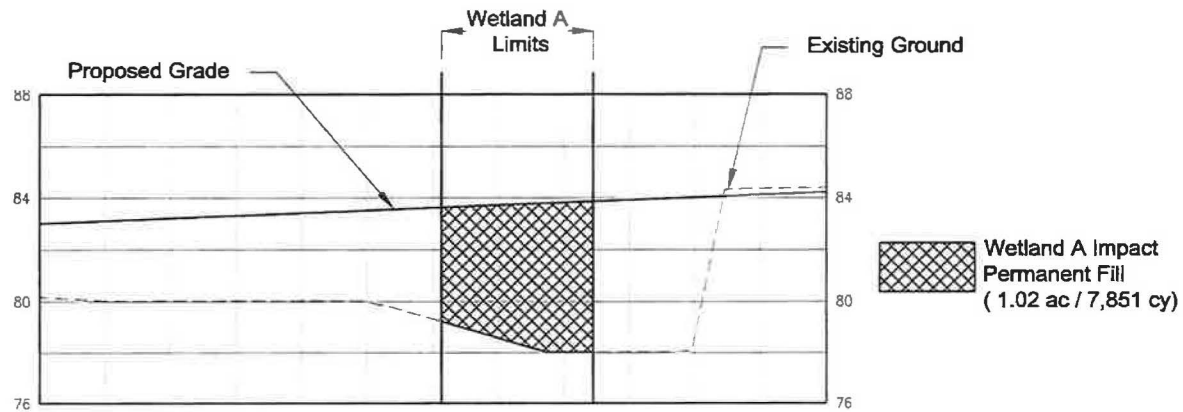
FIGURE
4A

1-22-2016

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WETLAND A CROSS SECTION A-A'

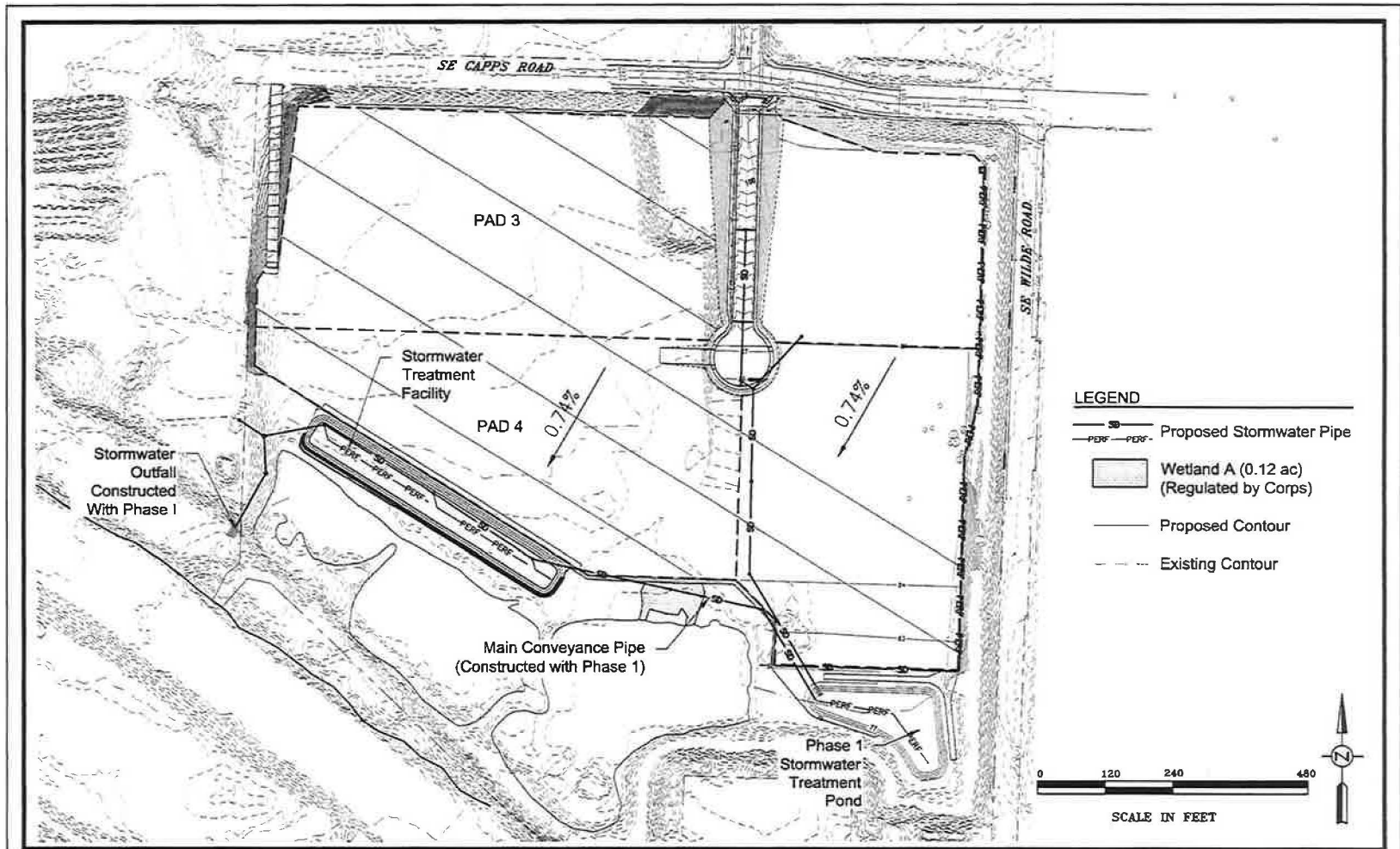
Cross Section Provided by OTAK



Wetland Impact Cross Section A-A'
Capps Road Improvement Project - Oregon City, Oregon

FIGURE
6A
1-22-2016

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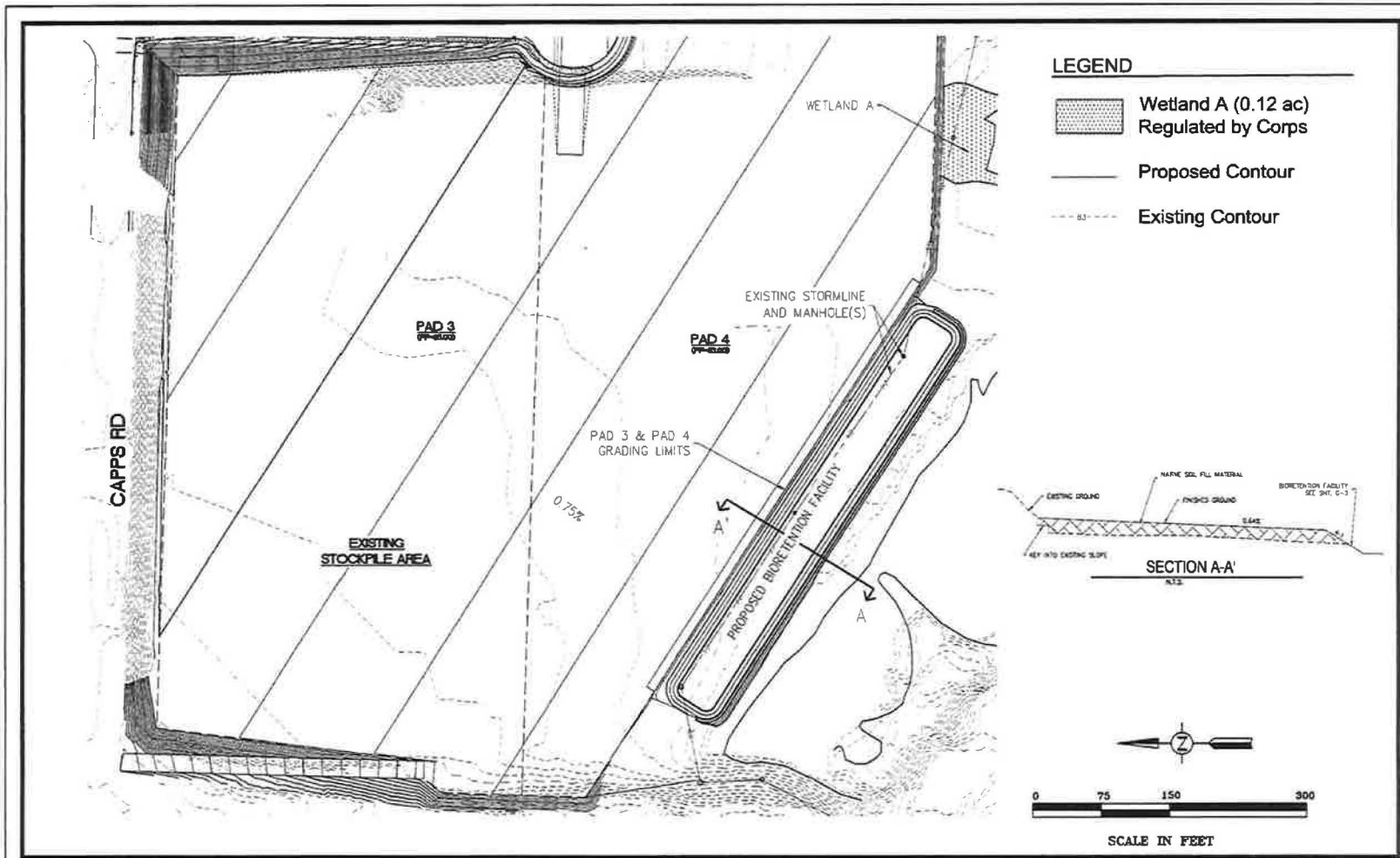
Plan Provided by OTAK

Proposed Stormwater Plan
Capps Road Improvement Project - Oregon City, Oregon

FIGURE
7

2-16-2016

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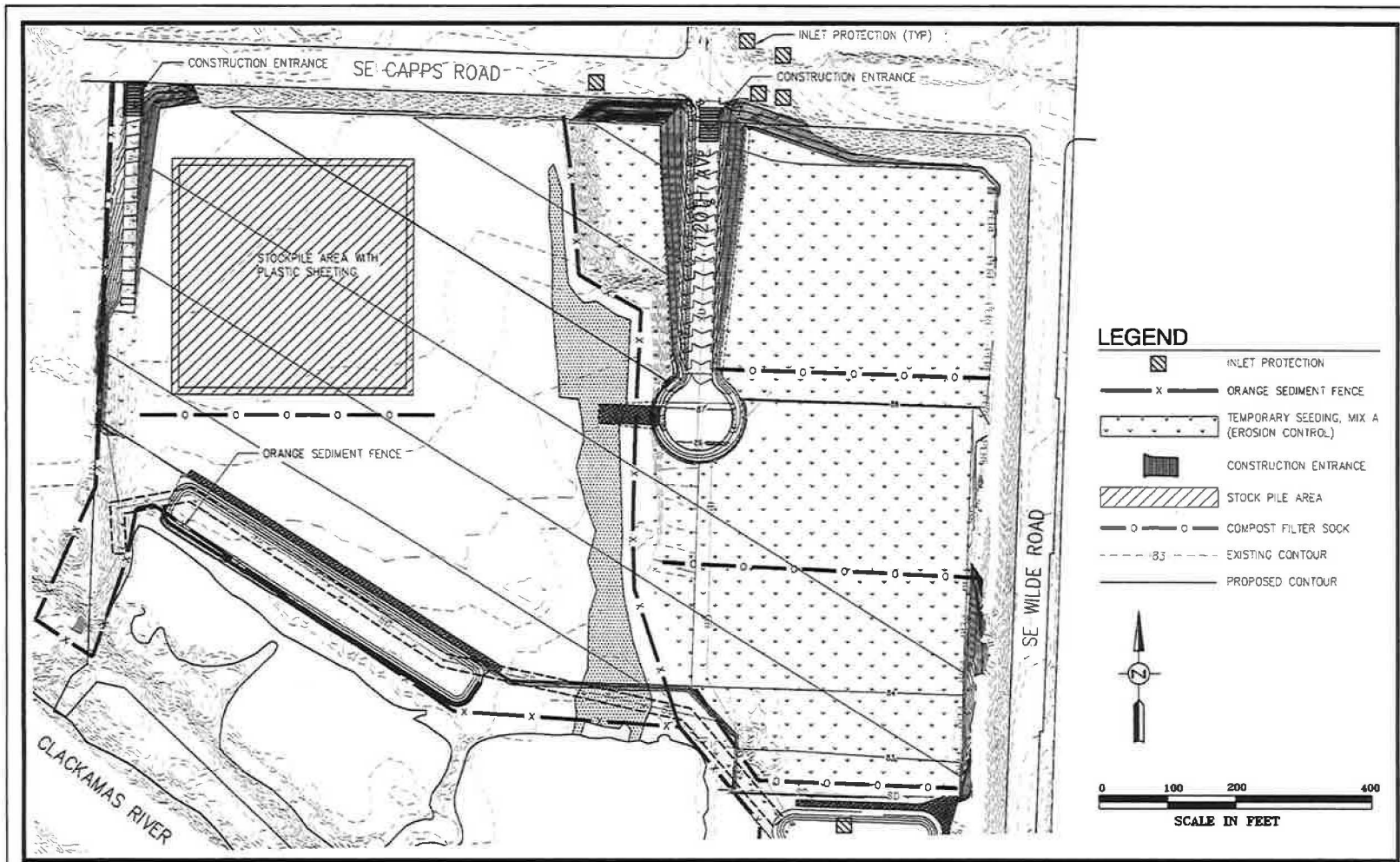
Plan Provided by OTAK

Proposed Grading Plan
 Capps Road Improvement Project - Oregon City, Oregon

FIGURE 8

2-16-2016

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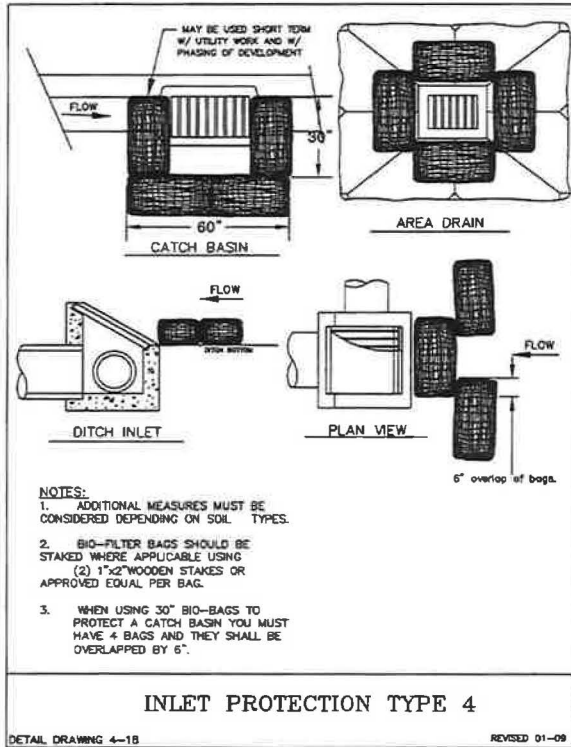
Plan Provided by OTAK

Erosion and Sediment Control Plan
Capps Road Improvement Project - Oregon City, Oregon

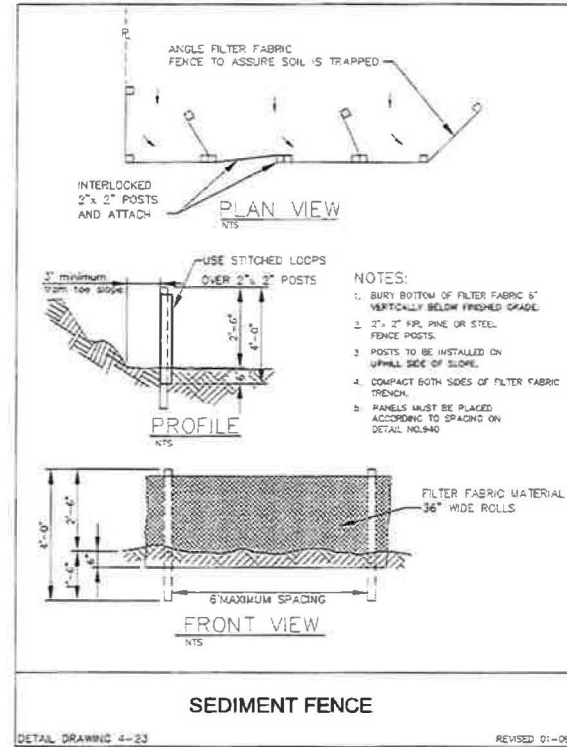
FIGURE
9

1-22-2016

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INLET PROTECTION TYPE 4



SEDIMENT FENCE

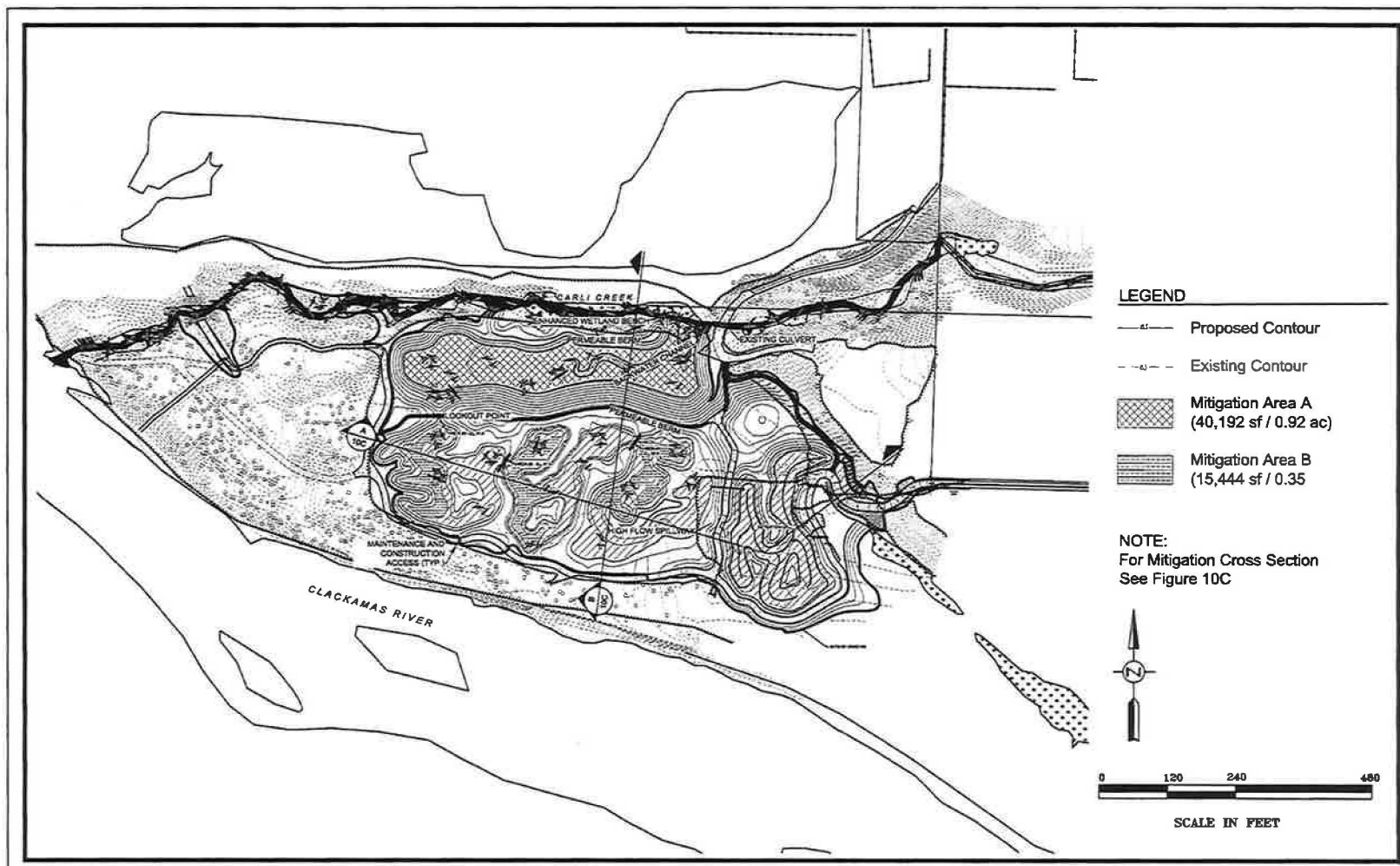


Details Provided By OTAK

Erosion Control Details
Capps Road Improvement Project - Oregon City, Oregon

FIGURE
9A

1-22-2015



LEGEND

- Proposed Contour
- - - Existing Contour
- Mitigation Area A
(40,192 sf / 0.92 ac)
- Mitigation Area B
(15,444 sf / 0.35 ac)

NOTE:
For Mitigation Cross Section
See Figure 10C

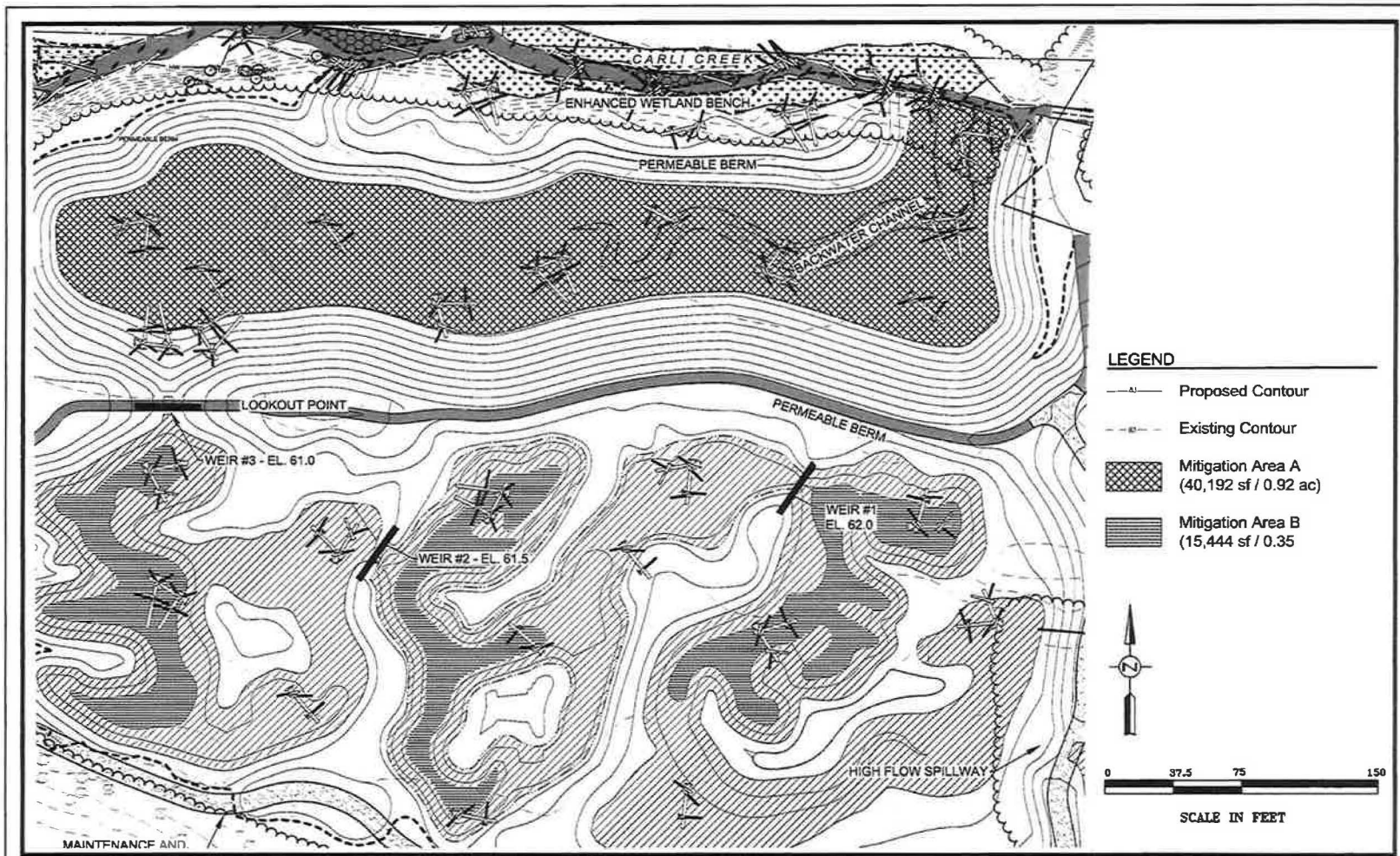
0 120 240 480
SCALE IN FEET



Carli Creek Enhancement and Water Quality Project and Mitigation Cross Section Locations
Capps Road Improvement Project - Oregon City, Oregon

FIGURE
10A
2-16-2016

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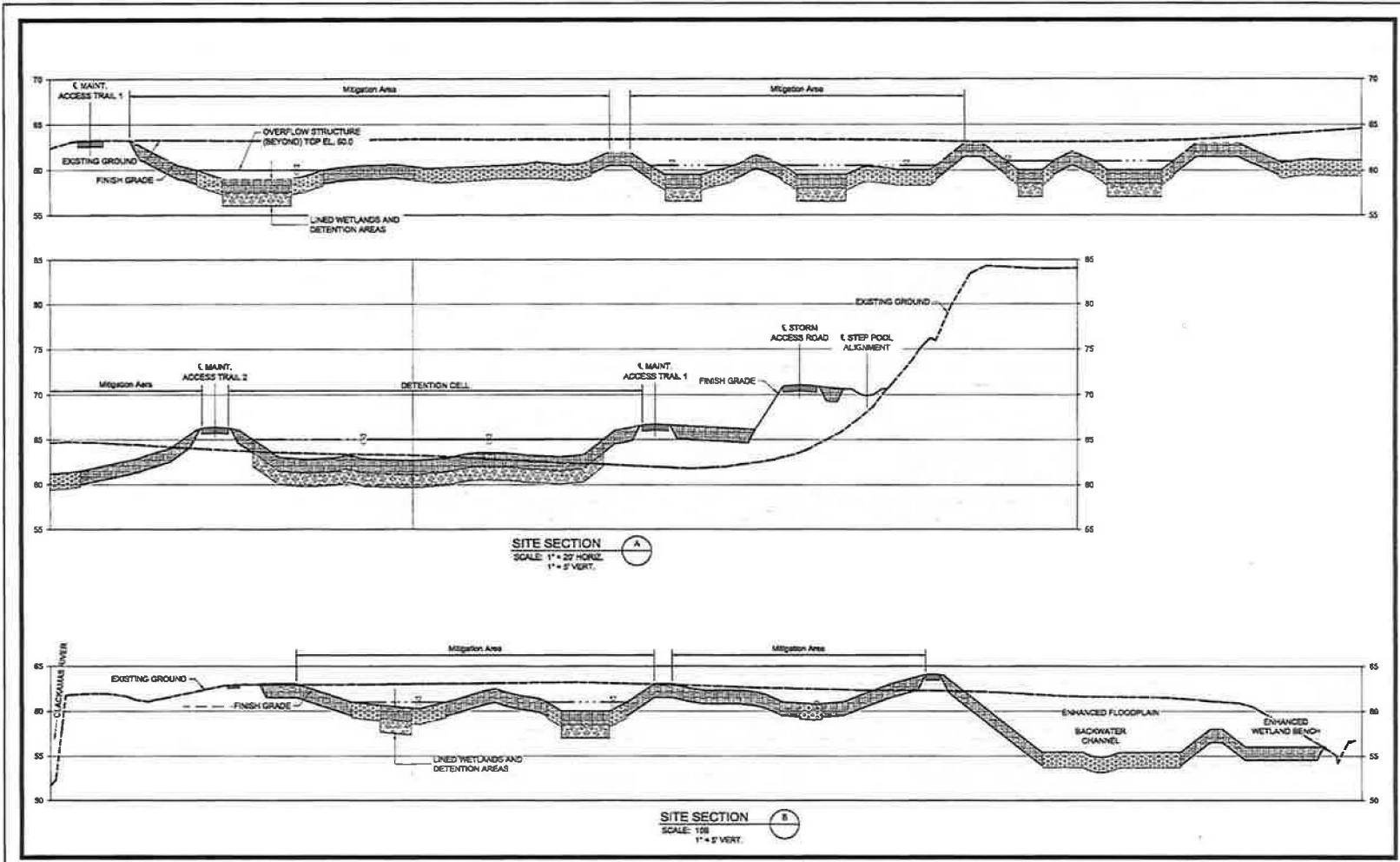


Mitigation Areas
Capps Road Improvement Project - Oregon City, Oregon

FIGURE 10B

1-22-2016

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Mitigation Cross Section
Capps Road Improvement Project - Oregon City, Oregon

FIGURE 10C

2-2-2016

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Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5263

FAX (503) 229-6945

TTY 711

September 8, 2016

Clackamas County Industrial Park
Attn: Dan Johnson
150 Beaver Creek Road
Oregon City, OR 97045

RE: 2012-00181-1; Clackamas County Industrial Area 401 Water Quality Certification

The Department of Environmental Quality (DEQ) has reviewed the U.S. Army Corps of Engineers (USACE) Permit application #2012-00181-1, pursuant to a request for a Clean Water Act Section 401 Water Quality Certification (WQC) received on March 11, 2016. DEQ's 401 WQC public comment opportunity was circulated with the USACE public notice, and DEQ received no water quality comments.

According to the application, Clackamas County Industrial Park ("the Applicant") proposes to construct the second phase of an industrial development to provide facilities for future industrial tenants. The project is located at 1200 SE Capps Road adjacent to the Clackamas River, in the City of Happy Valley, Clackamas County, Oregon (Section 15, Township 2 South, Range 2 East).

Project Description: The Applicant will permanently impact 1.02 acres of palustrine forested wetlands to complete the build-out of two industrial pads, each with a warehouse, loading area, storage and parking. A total of 0.012 acres of wetlands will remain on-site. A stormwater detention pond that was constructed under a separate Nationwide Permit (NWP-2012-00181) will treat the runoff generated at the site. The Applicant proposes to mitigate for impacts by creating a total of 1.27 acres of wetlands located west of the project site adjacent to Carli Creek and the Clackamas River.

Status of Affected Waters of the State: The Clackamas River is classified as water quality limited under the federal Clean Water Act for flow and habitat modification. The Clackamas River is on the Section 303(d) list of impaired water bodies for dissolved oxygen, *E. coli*, biological criteria, and has Environmental Protection Agency (EPA) approved Total Maximum Daily Loads (TMDLs) that have been developed for bacteria, mercury and temperature.

The above listed parameters impair the following beneficial uses in the Clackamas River: aquatic life, water contact recreation, anadromous fish passage and fish rearing. Additional beneficial uses designated in the Clackamas River include public domestic water supply, private domestic water supply, industrial water supply, irrigation, livestock watering, fish & aquatic life, wildlife & hunting, fishing, boating, water contact recreation, aesthetic quality, and hydro power.

Certification Decision: Based on the information provided by the Applicant and the USACE, DEQ is reasonably assured that implementation of the project will be consistent with applicable

provisions of Sections 301, 302, 303, 306, and 307 of the federal Clean Water Act, state water quality standards set forth in Oregon Administrative Rules Chapter 340 Division 41, and other appropriate requirements of state law, provided the following conditions strictly adhered to by the Applicant.

401 WQC GENERAL CONDITIONS

- 1) **Responsible Parties:** This 401 WQC applies to the Applicant. The Applicant is responsible for the work of its contractors and sub-contractors, as well as any other entity that performs work related to this 401 WQC.
- 2) **Work Authorized:** Work authorized by this 401 WQC is limited to the work described in the Joint Permit Application signed on January 27, 2016 and additional application materials, unless otherwise authorized by DEQ. If the project is operated in a manner not consistent with the project description contained in the permit application materials, the Applicant is not in compliance with this 401 WQC and may be subject to enforcement.
- 3) **Duration of Certificate:** This 401 WQC for impacts to waters, including dredge and fill activities, is valid for five years from the date of issuance of the USACE 404 permit. A new or modified 401 WQC must be requested prior to any modification of the USACE 404 permit. Post-construction stormwater facilities must be maintained for the life of the facility.
- 4) A copy of this 401 WQC letter must be kept on the job site and readily available for reference by the Applicant or its contractors, as well as by DEQ, USACE, National Marine Fisheries Service (NMFS), Oregon Department of Fish and Wildlife (ODFW), and other appropriate state and local government inspectors.
- 5) **Modification:** Any approved modifications to this 401 WQC will incur a Tier 1 fee of \$985 at a minimum. Complex modifications may be charged a higher fee.
- 6) The Applicant must notify DEQ of any change in ownership or control of this project and obtain DEQ review and approval before undertaking any change to the project that might affect water quality.
- 7) DEQ may modify or revoke this 401 WQC, in accordance with OAR 340-048-0050, if the project changes or project activities are having an adverse impact on state water quality or beneficial uses.
- 8) The Applicant and its contractors must allow DEQ access to the project site, staging areas, and mitigation sites to monitor compliance with these 401 WQC conditions, including:
 - a. Access to any records, logs, and reports that must be kept under the conditions of this 401 WQC;
 - b. To inspect best management practices (BMPs), monitoring or operational equipment or methods;
 - c. To collect samples or monitor any discharge of pollutants.

- 9) Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

CONSTRUCTION SPECIFIC CONDITIONS

- 10) **Erosion Control:** During construction, erosion control measures must be implemented to prevent or control movement of soil into waters of the state. The Applicant is required to develop and implement an effective erosion and sediment control plan. **Any project that disturbs more than one acre is required to obtain an NPDES 1200-C construction stormwater permit from DEQ.** In addition, the Applicant (or responsible party) must do the following, unless otherwise authorized by DEQ in writing:
- a. Maintain an adequate supply of materials necessary to control erosion at the project construction site.
 - b. Deploy compost berms, impervious materials, or other effective methods during rain events or when stockpiles are not moved or reshaped for more than 48 hours. Erosion of stockpiles is prohibited.
 - c. Inspect erosion control measures daily and maintain erosion control measures as often necessary to ensure the continued effectiveness of measures. Erosion control measures must remain in place until all exposed soil is stabilized.
 - i. If monitoring or inspection shows that the erosion and sediment controls are ineffective, the Applicant must mobilize immediately to make repairs, install replacements, or install additional controls as necessary.
 - ii. If sediment has reaches 1/3 of the exposed height of a sediment or erosion control, the Applicant must remove the sediment to its original contour.
 - d. Use removable pads or mats to prevent soil compaction at all construction access points through, and staging areas in, riparian or wetland areas to prevent soil compaction, unless otherwise authorized by DEQ.
 - e. Flag or fence off wetlands not specifically authorized to be impacted to protect from disturbance and/or erosion.
 - f. Place dredged or other excavated material on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands.
 - g. Place clean aggregate at all construction entrances, and utilize other BMPs, including, but not limited to as truck or wheel washes, when earth moving equipment is leaving the site and traveling on paved surfaces. The tracking of sediment off site by vehicles is prohibited.
 - h. This 401 WQC *does not* authorize the placement of BMPs into waters of the state unless specifically outlined in the application and authorized by DEQ.

- 11) **Deleterious Waste Materials:** The Applicant is prohibited from placing biologically harmful materials and construction debris including, but not limited to: petroleum products, chemicals, cement cured less than 24 hours, welding slag and grindings, concrete saw cutting by-products, sandblasted materials, chipped paint, tires, wire, steel posts, asphalt and waste concrete where such materials could enter waters of the state, including wetlands (wetlands are waters of the state). The Applicant must do the following:
- a. Ensure concrete, cement, or grout is cured for at least 24 hours prior to any contact with flowing waters;
 - b. Use only clean fill, free of waste and polluted substances;
 - c. Employ all practicable controls to prevent discharges of spills of deleterious materials to surface or ground water;
 - d. Maintain at the project construction site, and deploy as necessary, an adequate supply of materials needed to contain deleterious materials during a weather event;
 - e. Remove all foreign materials, refuse, and waste from the project area; and
 - f. Employ general good housekeeping practices at all times.
- 12) **Spill Prevention:** The Applicant must fuel, operate, maintain and store vehicles, and must store construction materials, in areas that will not disturb habitat either directly or due to potential discharges. In addition, the following specific requirements apply:
- a. Vehicle staging, cleaning, maintenance, refueling, and fuel storage must take place in a vehicle staging area placed 150 feet or more from any waters of the state. An exception to this distance may be authorized upon written approval by DEQ if all practicable prevention measures are employed and this distance is not possible because of any of the following site conditions:
 - i. Physical constraints that make this distance not feasible (e.g., steep slopes, rock outcroppings);
 - ii. Natural resource features would be degraded as a result of this setback; or
 - iii. Equal or greater spill containment and effect avoidance is provided even if staging area is less than 150 feet of any waters of the state.
 - b. If staging areas are within 150 feet of any waters of the state, as allowed under subsection (a) of this condition, full containment of potential contaminants must be provided to prevent soil and water contamination, as appropriate.
 - c. All vehicles operated within 150 feet of any waters of the state must be inspected daily for fluid leaks before leaving the vehicle staging area. Any leaks detected in

the vehicle staging area must be repaired before the vehicle resumes operation.

- d. Before operations begin and as often as necessary during operation, equipment must be steam cleaned (or undergo an approved equivalent cleaning) until all visible external oil, grease, mud, and other visible contaminants are removed if the equipment will be used below the bank of a waterbody.
- e. All stationary power equipment (e.g., generators, cranes, stationary drilling equipment) operated within 150 feet of any waters of the state must be covered by an absorbent mat to prevent leaks, unless other suitable containment is provided to prevent potential spills from entering any waters of the state.
- f. An adequate supply of materials (such as straw matting/bales, geotextiles, booms, diapers, and other absorbent materials) needed to contain spills must be maintained at the project construction site and deployed as necessary.
- g. All equipment operated in state waters must use bio-degradable hydraulic fluid.

13) Spill & Incident Reporting:

- a. In the event that petroleum products, chemicals, or any other deleterious materials are discharged into state waters, or onto land with a potential to enter state waters, the Applicant must promptly report the discharge to the Oregon Emergency Response System (OERS, 1-800-452-0311). The Applicant must immediately begin containment and complete cleanup as soon as possible.
- b. If the project operations cause a water quality problem which results in distressed or dying fish, the Applicant must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; collect fish specimens and water samples; and notify DEQ, ODFW and other appropriate regulatory agencies.

14) Vegetation Protection and Restoration:

- a. The Applicant must protect riparian, wetland, and shoreline vegetation in the authorized project area from disturbance through one or more of the following:
 - i. Minimization of project and impact footprint;
 - ii. Designation of staging areas and access points in open, upland areas;
 - iii. Fencing and other barriers demarcating construction areas; and/or
 - iv. Use of alternative equipment (e.g., spider hoe or crane).
- b. If authorized work results in vegetative disturbance and the disturbance has not been accounted for in planned mitigation actions, the Applicant must successfully reestablish vegetation to a degree of function equivalent or better than before the disturbance. The standard for success is 80% cover for native plant species. The vegetation must be reestablished by the completion of authorized work and

include the following:

- i. Restore damaged streambanks to a natural slope, pattern, and profile suitable for establishment of permanent woody vegetation, unless precluded by pre-project conditions (e.g., a natural rock wall).
 - ii. Replant or reseed each area requiring revegetation before the end of the first planting season following construction.
 - iii. Plant disturbed areas with native plants and trees in all cases except where the use of non-native plant materials may be essential for erosion control.
 - iv. The use of invasive species to re-establish vegetation is prohibited.
 - v. Herbicides, pesticides and fertilizers must be applied per manufacturer's instructions, and only if necessary for vegetation establishment.
 1. Unless otherwise approved in writing by DEQ, applying surface fertilizer within stormwater treatment facilities or within 50 feet of any stream channel is prohibited.
 2. Other than spot application to cut stems, no herbicides are allowed within stormwater treatment facilities or within 150 feet of waters of the state. Mechanical, hand, or other methods may be used to control weeds and unwanted vegetation within stormwater treatment facilities or within 150 feet of waters of the state.
 3. No pesticides may be used within stormwater treatment facilities or within 150 feet of waters of the state.
 - vi. Install wildlife-friendly fencing as necessary to prevent access to revegetated sites by livestock or unauthorized persons.
 - vii. Minimize soil compaction, especially in areas that are designated to be replanted. If soils are compacted, decompact staging areas and work construction areas prior to replanting. Leave topsoil when possible. Chip materials from clear and grub operation and spread on soil surface, unless cleared areas contained invasive species.
- 15) Provide a minimum 50-foot buffer zone to protect existing riparian areas and wetlands, unless otherwise authorized in writing by DEQ.
- 16) **Notification to DEQ:** The Applicant must provide pre-construction notification to DEQ one week prior to the start of construction. Contact information can be found at the end of this 401 WQC.

SPECIFIC CONDITIONS FOR POST CONSTRUCTION STORMWATER MANAGEMENT

- 17) **Post Construction Stormwater Management:** The Applicant must implement and comply with the terms of the approved post-construction stormwater management plan, which describes best management practices (BMPs) to prevent or treat pollution in stormwater anticipated to be generated by the project, in order to comply with state water quality standards. The Applicant must implement BMPs as proposed in the stormwater management plan, including operation and maintenance, dated January 27, 2016. If proposed stormwater facilities change due to site conditions, the Applicant must notify DEQ, and receive approval in writing

To treat stormwater, the Applicant has constructed a stormwater detention pond that was previously permitted for the first phase of this project (USACE Project # NWP-2012-00181). The pond will treat runoff from the parcels of both phases of the development based on no more than 85% impervious area. Runoff will be treated in the vegetated stormwater pond and then will be piped through a conveyance system to an approved discharge location on the Clackamas River.

Within 30 days of project completion, the Applicant must submit a copy of the 'As-Builts' or red-lined construction drawings showing all stormwater management facilities.

- 18) **Stormwater Management & System Maintenance:** The Applicant is required to implement effective operation and maintenance practices for the lifetime of the proposed facility. These include but are not limited to:
- a. Maintenance techniques and frequency for each system component must follow appropriate recommendations in accepted manuals.
 - b. Long-term operation and maintenance of stormwater treatment facilities will be the responsibility of the Clackamas County Development Agency, unless and until an agreement transferring that responsibility to another entity is submitted to DEQ.
- 19) **Corrective Action May Be Required:** The Department retains the authority to require corrective action in the event the stormwater management facilities are not built or performing as described in the plan.

If the Applicant is dissatisfied with the conditions contained in this 401 WQC, a contested case hearing may be requested in accordance with OAR 340-048-0045. Such request must be made in writing to the DEQ Office of Compliance and Enforcement at 811 SW 6th Avenue, Portland Oregon 97204 within 20 days of the mailing of this 401 WQC.

DEQ hereby certifies this project in accordance with the Clean Water Act and state rules, with the above conditions. If you have any questions, please contact Roxann Nayar at nayar.roxy@deq.state.or.us, by phone at 503-229-6414, or at the address on this letterhead.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Mrazik', written over a light blue horizontal line.

Steve Mrazik
Water Quality Manager
Northwest Region

2012-00181-1_ClackamasCoIndustrialPark_401 WQC_Final.docm

cc: Dominic Yballe, USACE
Anita Huffman, DSL
Marc Liverman, NOAA FISHERIES
Ashley Cantlon, OTAK



US Army Corps
of Engineers®
Portland District

Compliance Certification

- 1. **Permit Number:** NWP-2012-181-1
- 2. **Permittee Name:** Clackamas County Development Agency
- 3. **County Location:** Clackamas

Upon completing the activity authorized by the permit, please complete the sections below, sign and date this certification, and return it to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch. The certification can be submitted by email at cenwp.notify@usace.army.mil or by regular mail at the following address:

U.S. Army Corps of Engineers
CENWP-OD-GL
P.O. Box 2946
Portland, OR 97208-2946

- 4. **Corps-required Compensatory Mitigation (see permit special conditions):**
 - a. Mitigation Bank / In-lieu Fee Credit Transaction Documents:
 - Not Applicable Submitted Enclosed
 - b. Permittee-responsible mitigation (e.g., construction and plantings) has been constructed (not including future monitoring). As-built report:
 - Not Applicable Submitted Enclosed
- 5. **Endangered Species Act – Standard Local Operating Procedures (SLOPES)**
(see permit special conditions):
 - a. SLOPES Action Completion Report:
 - Not Applicable Submitted Enclosed
 - b. SLOPES Fish Salvage Report:
 - Not Applicable Submitted Enclosed
 - c. SLOPES Site Restoration / Compensatory Mitigation Report:
 - Not Applicable Submitted Enclosed

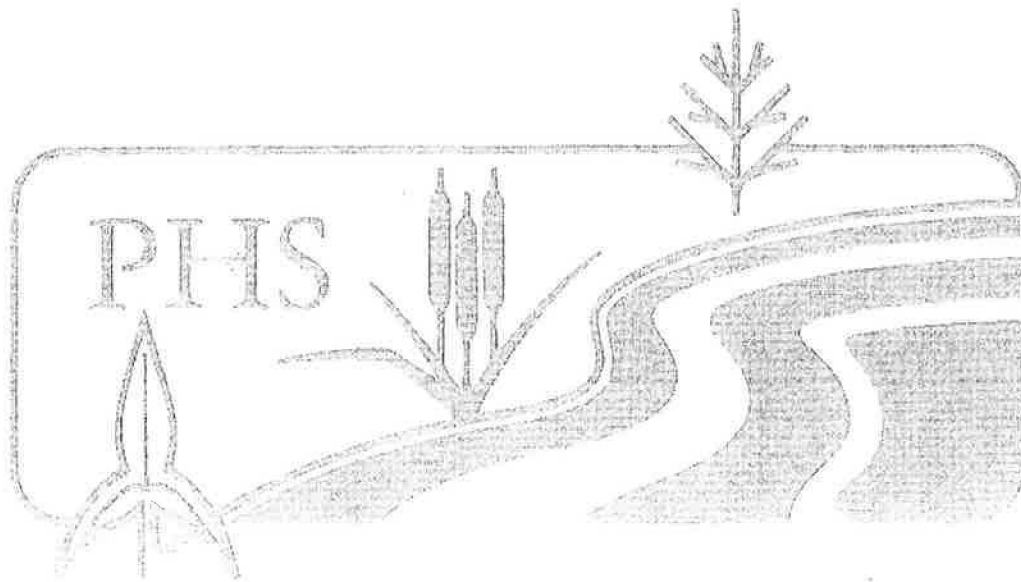
I hereby certify the work authorized by the above-referenced permit has been completed in accordance with all of the permit terms and conditions.

Signature of Permittee

Date

Attachment 5

Compensatory Wetland Mitigation Plan



**FINAL COMPENSATORY WETLAND MITIGATION PLAN
FOR IMPACTS TO WETLANDS FOR THE CAPPS ROAD INDUSTRIAL
SITE IN CLACKAMAS, OREGON**

**U.S. Army Corps of Engineers Permit No. NWP 2012-181(1)
January 28, 2016**

Below is a description of the Clackamas County Development Agency's proposed Compensatory Wetland Mitigation (CWM) Plan following the provisions of 33 CFR 332.4(c) 2 through (c) 14.

Objectives:

The primary objective is to provide wetland habitat as compensation for 1.02 acres of wetland impact. Four areas of wetland will be created, one area that is permanently inundated, and three areas that are seasonally inundated. The water for these wetlands will come from a stormwater facility associated with Carli Creek to the north of the mitigation site. The permanently inundated wetland will be also augmented with backwater flows from Carli Creek.

Site Selection:

Several options for mitigation of the impact were examined.

- 1) Filling the dragline quarried ponds (Basins A, B and C) (45.3967, -122.5406) located south of the impact site from their existing considerable depth to form a shallow wetland was considered and deemed unfeasible because of the significant amount of soil materials required to fill the ponds.
- 2) Extend a thin sliver of wetland (45.3989, -122.5459) at the base of a western slope of the recycling facility to the west of the former gravel pit was considered. The groundwater gradient to the Clackamas River along the terrace edge near the river probably makes the possibility of persistent wetland conditions over the requisite area unlikely.
- 3) Preferred Option: A regional stormwater plan (45.4001, -122.5487) for Carli Creek discharging to the Clackamas River to the west of the proposed project. This includes the possibility of wetland creation adjacent to stormwater treatment cells fed by treated stormwater discharge from nearby industrial facilities. Stormwater is to be treated in cells that will maintain hydrology for the adjacent created wetland.

Site Protection Instrument:

Clackamas County will record a conservation easement over the mitigation site. The easement will ensure long term protection of the mitigation areas. The conservation easement will be recorded at the completion of the monitoring period and will include the following:

- a. Identification of a third-party easement holder with a summary of the selected holder's capacity to ensure the WES's compliance with the Long-term Maintenance and Management Plan;
- b. Provisions for ensuring the maintenance and protection of the mitigation site from any conflicting uses; and
- c. Provisions requiring a 60-day advance notification to the Corps before any action is taken to void or modify the site protection instrument, or establish any other legal claims over the mitigation site.

Baseline Information:

The proposed mitigation site is along the north side of the Clackamas River south of the historic channel of Carli Creek, which discharges to the Clackamas River west of the proposed mitigation site. The site is east of a meander in the Clackamas River where the river appears to meet the northern edge of its meander belt (along the trajectory of Carli Creek). Several terrace scarps east of the mitigation site trend northwest-southeast from the edge of the meander belt to the Clackamas River. Terrace materials consist of Clackamas River alluvium that has been quarried for aggregate in several nearby areas (including the impact site). Historic aerial photographs suggest that the site has been used for pasture and haying for several decades. Herrera, Inc., which prepared the overall plan under contract with Water Environment Services (WES), has proposed a regional stormwater plan for industrial runoff that is discharged to Carli Creek along the north side of the proposed mitigation site.

After initial treatment near the creek, water will be discharged to mitigation areas south of the creek. These shallow basins are a maximum of 3 feet deep. Geotechnical investigations of the proposed mitigation site suggest that permeability of soil surface horizons can be made sufficiently low to maintain wetland hydrology. The stormwater inputs from Carli Creek that provide hydrology for the mitigation area will be seasonal with late summer drying of the mitigation site. Hydrologic modeling by Herrera indicates that the excavated wetland cells will remain inundated between 0.5 and 2.5 feet for 30 days during the wettest portion of the year. The site adjoins the Clackamas River riparian zone and the mitigation can be considered an extension of the river riparian zone. The total area of permanent wetland creation is 0.92 acre.

An additional area of mitigation is located just north of the shallow, stormwater treatment basins. This area is adjacent to a backwater channel of Carli Creek, and is separated from the stormwater treatment basins by a permeable berm. This area is expected to be permanently inundated throughout most years. The total area of seasonal wetland creation is 0.35 acre.

Determination of Credits:

The wetland to be impacted totals 1.02 acres. The areas of wetland designated by Herrera as wetland mitigation area totals 1.27 acres, and additional areas of emergent, scrub-shrub, and forested riparian areas will be created along Carli Creek, contributing to increased water quality and wildlife habitat adjacent to the mitigation wetlands.

An HGM rating of the proposed site was compared to an HGM rating of the impacted area. All of the wetland functions in the proposed site were greater than the functions in the impacted wetland except Nitrogen Removal, Primary Production, and Amphibian and Reptile Habitat. However, these functions are only slightly lower in the created wetlands as compared to the impact wetland. The proposed mitigation site will be contiguous with the riparian zone of the Clackamas River and may be considered an extension of the riparian zone.

| Function: | Calculated Function Capacity for SF sites | | | | | |
|--|---|---------|----------------------------|---------|---------------------------|---------|
| | Wetland A (Existing) | | Permanent Wetland Creation | | Seasonal Wetland Creation | |
| | if HFR: | if LAR: | if HFR: | if LAR: | if HFR: | if LAR: |
| Water Storage & Delay (ws) | 0.50 | 1.11 | 0.50 | 1.11 | 0.75 | 1.67 |
| Sediment Stabilization & Phosphorus Retention (sp) | 0.57 | 0.61 | 0.74 | 0.79 | 1.00 | 1.07 |
| Nitrogen Removal (n) | 0.73 | 0.86 | 0.57 | 0.67 | 0.84 | 0.99 |
| Primary Production (pp) | 0.67 | 0.67 | 0.52 | 0.52 | 0.62 | 0.82 |
| Invertebrate Habitat Support (i) | 0.22 | 0.22 | 0.23 | 0.23 | 0.30 | 0.30 |
| Amphibian & Turtle Habitat (at) | 0.60 | 0.79 | 0.53 | 0.70 | 0.58 | 0.76 |
| Breeding Waterbird Support (bw) | 0.00 | 0.00 | 0.98 | 1.13 | 0.00 | 0.00 |
| Wintering & Migrating Waterbird Support (ww) | 0.41 | 0.47 | 0.43 | 0.50 | 0.54 | 0.62 |
| Songbird Habitat Support (sb) | 0.34 | 0.53 | 0.89 | 1.36 | 0.66 | 1.01 |
| Support of Characteristic Vegetation (v) | 0.39 | 0.41 | 0.63 | 0.65 | 0.55 | 0.57 |

Mitigation Work Plan:

Construction of the proposed mitigation areas will be done in conjunction with construction of the Carli Creek stormwater treatment system. Construction of the mitigation site will be done in late summer before Carli Creek is allowed to flood into the site. Seeding of the created wetland areas will be done by the first of September 2016. Planting of the woody plants in the constructed mitigation site will be done during the late winter and early spring after construction is complete and stormwater from Carli Creek has been diverted into the site. Emergent plantings will be installed in late spring immediately before temporary irrigation is begun.

The wetland creation area will be planted with a minimum stem count of 1,600 stems per acre. The following table shows the native species to be planted within the mitigation wetland areas.

Table 1. Wetland Mitigation Areas A and B (55,636 sq. ft.)

| Botanical Name | Common Name | Stock Type |
|------------------------------|-------------------|---------------|
| Trees | | |
| <i>Fraxinus latifolia</i> | Oregon ash | Seedling 3"+ |
| <i>Populus balsamifera</i> | Black cottonwood | Seedling 3"+ |
| <i>Alnus rubra</i> | Red alder | Seedling 3"+ |
| Shrubs | | |
| <i>Cornus sericea</i> | Red-osier dogwood | 6' live stake |
| <i>Physocarpus capitatus</i> | Pacific ninebark | Seedling 36"+ |
| <i>Rosa nutkana</i> | Nootka rose | Seedling 36"+ |

| Botanical Name | Common Name | Stock Type |
|------------------------------|-----------------------|-------------------|
| <i>Rosa pisocarpa</i> | Swamp rose | Seedling 36"+ |
| <i>Spiraea douglasii</i> | Douglas spiraea | Seedling 12"-18" |
| <i>Salix hookeriana</i> | Piper's willow | 6' live stake |
| <i>Salix scouleriana</i> | Scouler willow | 6' live stake |
| <i>Salix sitchensis</i> | Sitka willow | 6' live stake |
| Herbs | | |
| <i>Camassia quamash</i> | Camas | Bulb |
| <i>Carex amplifolia</i> | Big-leaf sedge | 10" plug |
| <i>Carex deweyana</i> | Dewey's sedge | 10" plug |
| <i>Carex obturata</i> | Slough sedge | 10" plug |
| <i>Carex unilateralis</i> | One-side sedge | 10" plug |
| <i>Eleocharis obtuse</i> | Ovate spikerush | 10" plug |
| <i>Juncus acuminatus</i> | Tapertip rush | 10" plug |
| <i>Juncus ensifolius</i> | Dagger-leaf rush | 10" plug |
| <i>Juncus patens</i> | Spreading rush | 10" plug |
| <i>Juncus tenuis</i> | Slender rush | 10" plug |
| <i>Schoenoplectus acutus</i> | Hard-stemmed bulrush | 10" plug |
| <i>Scirpus microcarpus</i> | Small-fruited bulrush | 10" plug |

Maintenance Plan:

A temporary irrigation system will be installed for the first 2 years of plant establishment. The irrigation system will be operated weekly and provide the equivalent of 1.5 inches of rainfall at a rate no greater than 2 inches per hour. Weed control will be done on a monthly basis through the growing season.

Performance Standards:

At the end of 2 years after construction of the mitigation site, 80% of the installed woody plants will be alive. Native groundcover will cover 80% of the area at the end of 3 years. The mitigation site will meet wetland criteria at the end of 5 years.

Monitoring Requirements:

As-Built Report:

An as-built of the constructed facility surface elevations will be submitted to the Corps within 60 days of the construction completion.

Annual Monitoring Reports:

Annual monitoring reports will be submitted to the Corps by the end of the calendar year for each of the 5 years following the construction of the mitigation site. The reports will document survival of the woody plantings and provide estimates of the areal fraction of groundcover species. Sampling of the woody vegetation will be done with randomly positioned 15-foot radius discs throughout the mitigation site covering at least 5% of the mitigation area. Forb sampling will be done with 2 square meter quadrats for each of the woody plant sampling points.

The emergent wetland will be sampled with square meter quadrats covering at least 1% of the emergent wetland area. Hydrology of the mitigation area will be monitored between the vernal equinox and the summer solstice. Photographs of the mitigation site from established photopoints will be submitted with each annual monitoring report. Analyses of temporal vegetation changes and recommendations for vegetation management will be submitted with each report. During the 5th year, a delineation of the mitigation site will be done to determine if the mitigation site meets wetland criteria.

Long-term Maintenance and Management Plan:

Long-term maintenance of the mitigation site will be done by WES. Continuing maintenance will mainly consist of weed management after the 5-year establishment period.

Financial Assurances:

Should the Corps feel that financial assurance is required, WES will financially commit (e.g. bond) to ensure the mitigation is a success.



**US Army Corps
of Engineers**

REGULATORY GUIDANCE LETTER

No. 08-03

Date: 10 October 2008

SUBJECT: Minimum Monitoring Requirements for Compensatory Mitigation Projects Involving the Restoration, Establishment, and/or Enhancement of Aquatic Resources.

1. Purpose and Applicability

a. Purpose. This Regulatory Guidance Letter (RGL) provides the Districts and regulated public guidance on minimum monitoring requirements for compensatory mitigation projects, including the required minimum content for monitoring reports. This RGL replaces RGL 06-03.

b. Applicability. The final Mitigation Rule published on April 10, 2008, states that the submission of monitoring reports to assess the development and condition of compensatory mitigation projects is required, but the content and level of detail for those reports must be commensurate with the scale and scope of the compensatory mitigation projects as well as the compensatory mitigation project type (see 33 CFR 332.6(a)(1)).

This RGL applies to all Department of the Army (DA) permit authorizations under Section 404 of the Clean Water Act and Sections 9 and 10 of the Rivers and Harbors Act that contain special conditions requiring compensatory mitigation provided through aquatic resource restoration, establishment and/or enhancement. This guidance also applies to monitoring reports that are prepared for mitigation bank sites and in-lieu-fee project sites.

This RGL supports the Program Analysis and Review Tool (PART) program goals for the Regulatory Program. Specifically, this RGL supports the PART performance measures for mitigation site compliance and mitigation bank/ in-lieu-fee compliance. These measures apply to active mitigation sites, mitigation banks, and in-lieu-fee project sites that still require monitoring.

2. Background

Recent studies by the Government Accountability Office (GAO) and National Research Council (NRC) indicated that the U.S. Army Corps of Engineers (Corps) was not providing adequate oversight to ensure that compensatory mitigation projects were successfully replacing the aquatic resource functions lost as a result of permitted activities. For example, the GAO study determined that many project files requiring

mitigation lacked monitoring reports despite the fact that such reports were required as a condition of the permit. Similarly, the NRC study documented that a lack of clearly stated objectives and performance standards in the approved compensatory mitigation proposals made it difficult to ascertain whether the goal of no net loss of wetland resources was achieved.

On April 10, 2008, the Corps and Environmental Protection Agency published the “Compensatory Mitigation for Losses of Aquatic Resources: Final Rule” (Mitigation Rule) which governs compensatory mitigation for activities authorized by permits issued by the Department of the Army (33 CFR Parts 325 and 332). This RGL complements and is consistent with the final Mitigation Rule.

3. Discussion

Inconsistent approaches to monitoring compensatory mitigation projects are one of several factors that have affected the ability of Corps project managers (PMs) to adequately assess achievement of the performance standards of Corps-approved mitigation plans. Standardized monitoring requirements will aid PMs when reviewing compensatory mitigation sites, thereby allowing the Corps to effectively assess the status and success of compensatory mitigation projects.

This RGL addresses the minimum information needed for monitoring reports that are used to evaluate compensatory mitigation sites. Monitoring requirements are typically based on the performance standards for a particular compensatory mitigation project and may vary from one project to another.

Monitoring reports are documents intended to provide the Corps with information to determine if a compensatory mitigation project site is successfully meeting its performance standards. Remediation and/or adaptive management used to correct deficiencies in compensatory mitigation project outcomes should be based on information provided in the monitoring reports and site inspections.

4. Guidance

a. Monitoring guidelines for compensatory mitigation.

i. Performance Standards. Performance standards, as defined in 33 CFR 332.2, and discussed in more detail at 33 CFR 332.5, will be consistent with the objectives of the compensatory mitigation project. These standards ensure that the compensatory mitigation project is objectively evaluated to determine if it is developing into the desired resource type and providing the expected functions. The objectives, performance standards, and monitoring requirements for compensatory mitigation projects required to offset unavoidable impacts to waters of the United States must be provided as special conditions of the DA permit or specified in the approved final mitigation plan (see 33 CFR 332.3(k)(2)). Performance standards may be based on functional, conditional, or other suitable assessment methods and/or criteria and may be incorporated into the

special conditions to determine if the site is achieving the desired functional capacity. Compensatory mitigation projects offset the impacts to diverse types of aquatic resources, including riverine and estuarine habitats. Special conditions of the DA permits will clearly state performance standards specific to the type and function of the ecosystem in relation to the objectives of the compensatory mitigation project.

ii. Monitoring Timeframe. The special conditions of the DA permit (or the mitigation plan as referenced in the special conditions) must specify the length of the monitoring period (see 33 CFR 332.6(a)(1)). For mitigation banks, the length of the monitoring period will be specified in either the DA permit, mitigation banking instrument, or approved mitigation plan. For in-lieu fee projects, the length of the monitoring period will be specified in either the DA permit or the approved in-lieu fee project plan.

The monitoring period must be sufficient to demonstrate that the compensatory mitigation project has met performance standards, but not less than five years (see 33 CFR 332.6(b)). The District determines how frequently monitoring reports are submitted, the monitoring period length, and report content. If a compensatory mitigation project has met its performance standards in less than five years, the monitoring period length can be reduced, if there are at least two consecutive monitoring reports that demonstrate that success. Permit conditions will support the specified monitoring requirement and include deadlines for monitoring report submittal. Longer monitoring timeframes are necessary for compensatory mitigation projects that take longer to develop (see 33 CFR 332.6(b)). For example, forested wetland restoration may take longer than five years to meet performance standards.

Annual monitoring and reporting to the Corps is appropriate for most types of compensatory mitigation projects, though the project sponsor may have to monitor progress more often during the project's early stages. Certain compensatory mitigation projects may require more frequent monitoring and reporting during the early stages of development to allow project managers to quickly address problems and/or concerns. Annual monitoring can resume once the project develops in accordance with the approved performance standards. In cases where monitoring is required for longer than five years, monitoring may be conducted on a less than annual timeframe (such as every other year), though yearly monitoring is recommended until the project becomes established as a successful mitigation project. In this case, off-year monitoring should include some form of screening assessment such as driving by the mitigation site, telephone conversations regarding condition of the mitigation site, etc. On-site conditions, the complexity of the approved mitigation plan, and unforeseen circumstances will ultimately determine whether the monitoring period should be extended beyond the specified monitoring time frame for a particular project. Complex and/or ecologically significant compensatory mitigation projects should have higher priority for site visits.

As discussed above, the remaining monitoring requirements may be waived upon a determination that the compensatory mitigation project has achieved its performance standards. The original monitoring period may be extended upon a determination that

performance standards have not been met or the compensatory mitigation project is not on track to meet them (e.g., high mortality rate of vegetation). Monitoring requirements may also be revised in cases where adaptive management or remediation is required.

iii. Monitoring Reports. Monitoring requirements, including the frequency for providing monitoring reports to the District Commander and the Interagency Review Team (IRT), will be determined on a case-by-case basis and specified in either the DA permit, mitigation banking instrument, or approved mitigation plan. The content of the monitoring reports will be specified in the special conditions of the DA permit so that the requirements are clearly identified for the permittee or third-party mitigation sponsor. In addition, the monitoring reports should comply with the timeframes specified in the special conditions of the DA permit. Monitoring reports will not be used as a substitute for on site compliance inspections. The monitoring report will provide the PM with sufficient information on the compensatory mitigation project to assess whether it is meeting performance standards, and to determine whether a compliance visit is warranted. The party responsible for monitoring can electronically submit the monitoring reports and photos for review.

Visits to mitigation sites will be documented in the administrative record and will count toward District performance goals. An enforcement action may be taken if the responsible party fails to submit complete and timely monitoring reports.

b. Contents of Monitoring Reports. Monitoring reports provide the PM with a convenient mechanism for assessing the status of required compensatory mitigation projects. The PM should schedule a site visit and determine potential remedial actions if problems with the compensatory mitigation project are identified in a monitoring report.

The submittal of large bulky reports that provide mostly general information should be discouraged. While often helpful as background, reiteration of the mitigation and monitoring plan content, lengthy discussions of site progress, and extensive paraphrasing of quantified data are unnecessary. Monitoring reports should be concise and effectively provide the information necessary to assess the status of the compensatory mitigation project. Reports should provide information necessary to describe the site conditions and whether the compensatory mitigation project is meeting its performance standards.

Monitoring reports will include a Monitoring Report Narrative that provides an overview of site conditions and functions. This Monitoring Report Narrative should be concise and generally less than 10 pages, but may be longer for compensatory mitigation projects with complex monitoring requirements. Monitoring Report Narratives may be posted on each District's Regulatory web site.

Monitoring reports will also include appropriate supporting data to assist District Commanders and other reviewers in determining how the compensatory mitigation project is progressing towards meeting its performance standards. Such supporting data may include plans (such as as-built plans), maps, and photographs to illustrate site

conditions, as well as the results of functional, condition, or other assessments used to provide quantitative or qualitative measures of the functions provided by the compensatory mitigation project site.

c. Monitoring Report Narrative:

i. Project Overview (1 page)

(1) Corps Permit Number or Name of the Mitigation Bank or In-Lieu Fee Project
(2) Name of party responsible for conducting the monitoring and the date(s) the inspection was conducted.

(3) A brief paragraph describing the purpose of the approved project, acreage and type of aquatic resources impacted, and mitigation acreage and type of aquatic resources authorized to compensate for the aquatic impacts.

(4) Written description of the location, any identifiable landmarks of the compensatory mitigation project including information to locate the site perimeter(s), and coordinates of the mitigation site (expressed as latitude, longitudes, UTM's, state plane coordinate system, etc.).

(5) Dates the compensatory mitigation project commenced and/or was completed.

(6) Short statement on whether the performance standards are being met.

(7) Dates of any recent corrective or maintenance activities conducted since the previous report submission.

(8) Specific recommendations for any additional corrective or remedial actions.

ii. Requirements (1 page)

List the monitoring requirements and performance standards, as specified in the approved mitigation plan, mitigation banking instrument, or special conditions of the DA permit, and evaluate whether the compensatory mitigation project site is successfully achieving the approved performance standards or trending towards success. A table is a recommended option for comparing the performance standards to the conditions and status of the developing mitigation site.

iii. Summary Data (maximum of 4 pages)

Summary data should be provided to substantiate the success and/or potential challenges associated with the compensatory mitigation project. Photo documentation may be provided to support the findings and recommendations referenced in the monitoring report and to assist the PM in assessing whether the compensatory mitigation project is meeting applicable performance standards for that monitoring period. Submitted photos should be formatted to print on a standard 8 1/2" x 11" piece of paper, dated, and clearly labeled with the direction from which the photo was taken. The photo location points should also be identified on the appropriate maps.

iv. Maps and Plans (maximum of 3 pages)

Maps should be provided to show the location of the compensatory mitigation site relative to other landscape features, habitat types, locations of photographic reference points, transects, sampling data points, and/or other features pertinent to the mitigation plan. In addition, the submitted maps and plans should clearly delineate the mitigation site perimeter(s), which will assist PMs in locating the mitigation area(s) during subsequent site inspections. Each map or diagram should be formatted to print on a standard 8 1/2" x 11" piece of paper and include a legend and the location of any photos submitted for review. As-built plans may be included.

v. Conclusions (1 page)

A general statement should be included that describes the conditions of the compensatory mitigation project. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions proposed by the permittee or sponsor, including a timetable, should be provided. The District Commander will ultimately determine if the mitigation site is successful for a given monitoring period.

d. Completion of Compensatory Mitigation Requirements. For permittee-responsible mitigation projects, compensatory mitigation requirements will not be considered fulfilled until the permittee has received written concurrence from the District Commander that the compensatory mitigation project has met its objectives and no additional monitoring reports are required. PMs will review the final monitoring reports to make this determination. A final field visit should be conducted to verify that on-site conditions are consistent with information documented in the monitoring reports.

e. Special Condition. The following condition should be added to all DA permits that require permittee-responsible mitigation. This condition does not apply to mitigation banks or in-lieu-fee programs:

Your responsibility to complete the required compensatory mitigation as set forth in Special Condition X will not be considered fulfilled until you have demonstrated compensatory mitigation project success and have received written verification of that success from the U.S. Army Corps of Engineers.

5. Duration

This guidance remains in effect unless revised or rescinded.



STEVEN L. STOCKTON, P.E.
Director of Civil Works

**EXHIBIT D
Carli Creek IGA**

Development Agency Considerations

| Easement Type | Width | Length | Area | Market Value (PSF) | % of Market | Multiplier (2 years) | Value | Note: |
|--|--------|--------|---------|--------------------|-------------|----------------------|---------------------|---|
| Temporary Construction Easement (Upland) | 35 | 1230 | 43060.5 | \$7.00 | 8.50% | 2 | \$51,242.00 | Actual TCE 50 ft, width is delta between TCE and Permanent Area along northern property line. |
| Permanent Pipe/Access (Upland) | 15 | 1230 | 18454.5 | \$7.00 | 100.00% | Permanent | \$129,181.50 | |
| Temporary Construction Staging | 366.45 | 300 | 109935 | \$7.00 | 8.50% | 2 | \$130,822.65 | |
| Permanent Pipe/Access (Lowland) | | | 23730 | \$0.23 | 100.00% | Permanent | \$5,457.90 | Market Value: Per Carli Appraisal |
| Land Value (Mitigation Site) | | | 61289 | \$0.23 | 100.00% | Permanent | \$14,096.47 | Market Value: Per Carli Appraisal |
| Total Consideration | | | | | | | \$330,800.52 | |

CCSD No. 1 Considerations

| Item | Cost |
|---|----------------------|
| Engineering/Design (Herrera Contract) | \$ 65,400.00 |
| Mitigation Construction | |
| Planting | \$ 24,000.00 |
| Low Perm Soils (% of total based on wet) | \$ 18,837.00 |
| Habitat Structures (1-Type1; 4-Type2; 7-Type3) | \$ 16,700.00 |
| Option to Purchase with \$100,000 Purchase Credit | \$ 100,000.00 |
| Temporary Easement Improvement | \$ 30,000.00 |
| 5 Year Mitigation Permit Management (\$15,000) | \$ 75,000.00 |
| Total | \$ 329,937.00 |

**AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT
BETWEEN WATER ENVIRONMENT SERVICES AND
CLACKAMAS COUNTY DEVELOPMENT AGENCY FOR
CARLI CREEK RESTORATION AND MITIGATION**

THIS AMENDMENT ("Amendment") is made and entered into by and between the Clackamas County Development Agency (hereafter called "Agency"), the urban renewal agency of Clackamas County, and Water Environment Services (hereafter called "District"), a municipal partnership entity formed pursuant to ORS Chapter 190, to update the descriptions of the easements associated with the stormwater pipeline and access road.

WHEREAS, the Agency and Clackamas County Service District No. 1 ("CCSD#1") entered into a certain Intergovernmental Agreement, effective July 27, 2017 (the "IGA");

WHEREAS, the IGA related to certain improvements associated with the Carli Creek Water Quality and Enhancement Project, as more particularly described in the IGA;

WHEREAS, after execution of the IGA, a question arose as to the location of the boundary line of the Agency's property, which required CCSD#1 to adjust the location of a stormwater pipeline to ensure that the improvement did not encroach on the neighboring property;

WHEREAS, the parties desire to revise the IGA to correctly reflect the location of the stormwater pipeline and access road easement; and

WHEREAS, on July 1, 2018, Clackamas County Service District No. 1 assigned all of its rights and obligations under the IGA to District.


THEREFORE, the parties agree that the Agreement is amended as follows:

1. Exhibit A of the Agreement is hereby amended and replaced in its entirety with a revised Exhibit A-1 and Exhibit A-2, which are attached to this Amendment and fully incorporated herein.
2. Except as set forth herein, the Agreement is ratified and affirmed in all respects. No other amendment or modification of the IGA is intended or may be implied from the amendments set forth herein.

3. All terms not specifically defined herein shall be defined as set forth in the IGA.

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

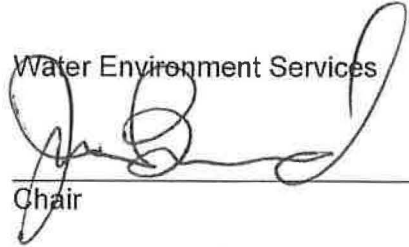
Clackamas County Development Agency



Chair

Mary Raethke V.1
Recording Secretary

Water Environment Services

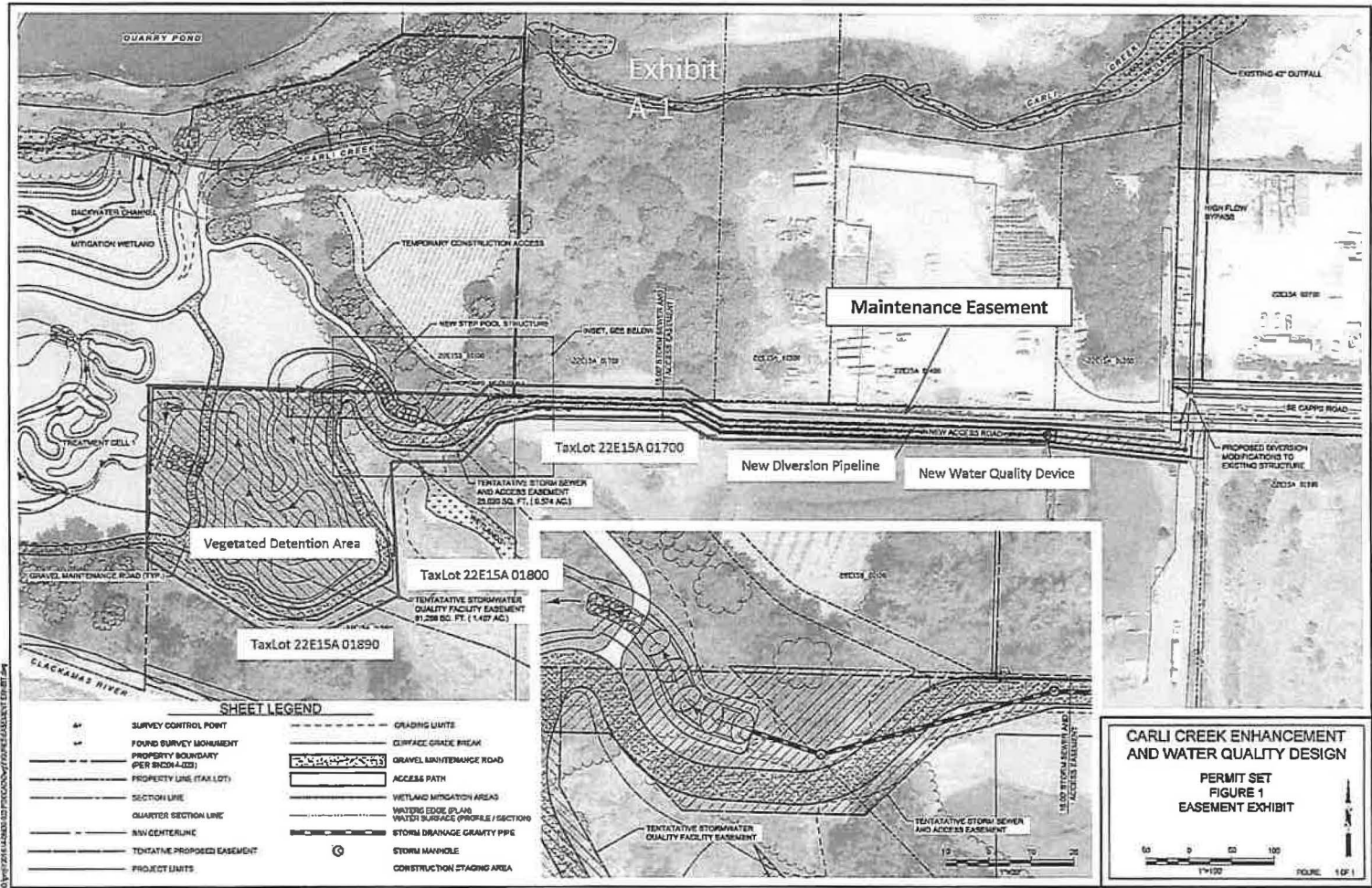


Chair

Exhibit List:

Exhibit A-1: Pipeline, Stormwater Detention, Maintenance, and Easement Map

Exhibit A-2: Access Easement Map



Project No. 22E15A 01890
 22E15A 01890 AND PROPOSED STORMWATER EASEMENT EXHIBIT



Gregory L. Geist
Director

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Professional Services Contract
between Water Environment Services and Otak, Inc. for the
Water Environment Services & Happy Valley Storm System Master Plan

| | |
|--|--|
| Purpose/Outcomes | Execution of the contract between Water Environment Services and Otak, Inc. for the Water Environment Services & Happy Valley Storm System Master Plan. |
| Dollar Amount and Fiscal Impact | The contract amount is not to exceed \$476,999.00. |
| Funding Source | WES Surface Water Operating Funds |
| Duration | Contract execution through January 31, 2021 |
| Previous Board Action | N/A |
| Strategic Plan Assignment | This project aligns with the County's strategic goals of building strong infrastructure and also honoring, utilizing, promoting, and investing in the county's natural resources. This project also supports WES's resiliency and infrastructure performance goals in two ways: <ul style="list-style-type: none"> • 30% of streams within WES' jurisdiction meet or exceed water quality standards • Initiative: By December 31, 2020, Clackamas County will adopt a Master Plan for surface water management that will enhance the quality of surface water. |
| Contact Person | Leah Johanson, Civil Engineer, 503-742-4620 Ron Wierenga, Environmental Services Manager 503-742-4581 |

BACKGROUND:

Clackamas County Water Environment Services ("WES") is preparing a Storm System Master Plan on behalf of WES, Clackamas County, and the City of Happy Valley. The plan will support WES's infrastructure planning, maintenance, and construction projects. The plan also supports Happy Valley's ongoing comprehensive land use planning for the Pleasant Valley/North Carver area.

The Consultant will write the plan under the direction of the WES Project Manager. The Plan will include a list of capital improvement projects and priorities, system management and maintenance recommendations, programmatic recommendations, summary fact sheets and maps, and recommendations for funding needs and strategies.

The objectives for this Storm System Plan are:

- Establish a foundation for evaluating storm system needs in WES's service area including unincorporated Clackamas County and the City of Happy Valley.
- Identify existing system deficiencies and provide conceptual solutions including maintenance recommendations or new/retrofitted/repared conveyance, treatment, and detention facilities.

- Identify areas for expansion and extension of the storm system to serve future growth, as well as under-served areas within the urbanized area.
- Prepare a list of capital improvement projects including new/retrofitted/repared storm system projects.
- Establish baseline cost estimates for priority storm system improvements that will be used for planning in the Capital Improvement Program and for budgeting and creation of a 5-year construction plan.

PROCUREMENT PROCESS:

This project was advertised in accordance with ORS and LCRB Rules on November 13, 2018. Proposals were opened on January 10, 2019. The County received four (4) Proposals: Brown and Caldwell, Cardno, Herrera Environmental Consultants, and Otak, Inc. Upon evaluation of the submitted proposals, the Evaluation Committee scored Otak, Inc. the highest and recommend a contract be awarded. Following award, the Project Manager entered into negotiations with Otak, Inc. and developed a final statement of work along with final billing rates and a contract total value.

The contract was reviewed and approved by County Counsel.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of Water Environment Services, approve and execute the Contract between Water Environment Services and Otak, Inc. for the Water Environment Services & Happy Valley Storm System Master Plan

Respectfully submitted,

Greg Geist, Director
Water Environment Services

Placed on the _____ agenda by Procurement.



PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this “Contract”) is entered into between **Otak, Inc.** (“Contractor”), and Water Environment Services, a political subdivision of the State of Oregon (“District”).

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **January 31, 2021**. However, such expiration shall not extinguish or prejudice the District’s right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

2. Scope of Work. Contractor will provide the following personal/professional services: **#2018-115 Water Environment Services & Happy Valley Storm System Master Plan** (“Work”), further described in **Exhibit A**.

3. Consideration. The District agrees to pay Contractor, from available and authorized funds, a sum not to exceed **four hundred seventy-six thousand nine hundred ninety-nine dollars (\$476,999.00)**, for accomplishing the Work required by this Contract. Consideration rates are on a time and material basis in accordance with the costs and rates specified in Exhibit F. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the Clackamas County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <http://www.clackamas.us/bids/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.

5. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A, B, C, D, E, and F.

6. Contractor Data.

Otak, Inc.

Address: 808 SW Third Avenue, Suite 300
Portland, Oregon 97204

Contractor Contract Administrator: Kevin Timmins, PE

Phone No.: 503-415-2340

Email: kevin.timmins@otak.com

MWESB Certification: DBE # MBE # WBE # ESB #

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

ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. District and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** District certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the District's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the District on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate District official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between District and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

- 7. HAZARD COMMUNICATION.** Contractor shall notify District prior to using products containing hazardous chemicals to which District employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon District's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the District and Clackamas County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
- 9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the District reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, District cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of District for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to District employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Exhibit C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the District at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us, or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any

communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of District. District and Contractor intend that such Work Product be deemed “work made for hire” of which District shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to District all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as District may reasonably request in order to fully vest such rights in District. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to District that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the District. In addition to any provisions the District may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. District’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** 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 District to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this

Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to District's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. District 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 District 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, Contractor 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.

20. TERMINATIONS. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the District for convenience upon thirty (30) days' written notice to the Contractor; (B) District may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the District, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the District is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the District for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the District, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the District (or from applicable federal, state, or other sources) to permit the District in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, District may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the District, less previous amounts paid and any claim(s) which the District has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to District on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the District shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless District expressly directs

otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to District all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon District's request, Contractor shall surrender to anyone District designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** District and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither District nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, District's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of District to enforce any provision of this Contract shall not constitute a waiver by District of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor 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 Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the District on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the District 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 to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

EXHIBIT A
PERSONAL/PROFESSIONAL SERVICES CONTRACT

SCOPE OF WORK

Contractor shall provide master plan services for Water Environment Services and Happy Valley as outlined in the Request for Proposal #2018-115 issued November 13, 2018, hereby attached as incorporated as **Exhibit D**; the Vendors Response and final negotiated work hereby attached and incorporated as **Exhibit E**; and the Rate Schedule hereby attached and incorporated as **Exhibit F**.

The District Contract administrator for this Contract is: Leah Johanson.

CONSIDERATION

- a. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Invoices shall be submitted to: Water Environment Services, 150 Beaver Creek Road, Oregon City, Oregon 97045 or via email at ljohanson@clackamas.us.
- b. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the District's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the District will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- c. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

**EXHIBIT B
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Required by District of Contractor with one or more workers, as defined by ORS 656.027.

Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.

2. Required by District Not required by District

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

3. Required by District Not required by District

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract.

4. Required by District Not required by District

Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

5. Certificates of Insurance. Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the District and Clackamas County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to District acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the District. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

6. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the District at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

EXHIBIT C
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the District to specify the desired result; **AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- _____ A. Maintains a business location that is: (a) Separate from the business or work of the District; or (b) that is in a portion of their own residence that is used primarily for business.
- _____ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- _____ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- _____ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- _____ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature _____ Date _____

EXHIBIT D
RFP #2018-115
WATER ENVIRONMENT SERVICES &
HAPPY VALLEY STORM SYSTEM MASTER PLAN
Issued November 13, 2018

EXHIBIT E
VENDOR RESPONSE AND NEGOTIATED SCOPE

NEGOTIATED SCOPE

**EXHIBIT F
FEE SCHEDULE**