



August 8, 2019

Board of County Commissioners
Clackamas County
Board of North Clackamas Parks and Recreation District

Approval of a RiverHealth Stewardship Grant Agreement with Water Environment Services

Purpose/Outcomes	Acceptance of a Grant Award for RiverHealth Stewardship from Water Environment Services (WES)
Dollar Amount and Fiscal Impact	This IGA will provide \$12,000 of revenue in FY 19-20
Funding Source	WES RiverHealth Stewardship Grant
Duration	July 1, 2019 through June 30, 2020
Strategic Plan Alignment	This IGA supports Performance Clackamas through: <ul style="list-style-type: none"> • Building public trust through good government • Ensuring safe, healthy and secure communities
Previous Board Action	<i>Business Meeting 9/6/2018</i> – Approval of the RiverHealth Stewardship Grant agreement with WES for FY 2018-19
Counsel Review	Approved as to form on July 18, 2019
Contact Person	Scott Archer, <i>NCPRD Director</i> , 503-742-4421 Tonia Williamson, <i>Natural Resources Coordinator</i> , 503-742-4357

BACKGROUND:

North Clackamas Parks and Recreation District (NCPRD), a division of Business & Community Services (BCS), requests approval of a RiverHealth Stewardship Grant Agreement with Water Environment Services (WES). This grant agreement will provide funding for multiple projects and education surrounding the health of local waterways. All projects will seek to implement restoration efforts along Mount Scott Creek, which flows through North Clackamas Park.

Mount Scott Creek is part of the larger Kellogg-Mt. Scott Watershed served by both the District and WES. In 2009, WES developed a Watershed Action Plan for the watershed with basin specific strategies for better watershed management. This grant agreement helps further implement the Watershed Action Plan and supports continued management of this local creek.

The projects completed as a part of this grant agreement support the strategic priorities of both NCPRD and WES to enhance habitat and improve water quality. Grant funding will also help support a watershed-wide clean up event in partnership with WES and the local watershed council, North Clackamas Urban Watersheds Council (NCUWC). Furthermore, the grant will support the creation of a plan to form a partnership to lead service learning for District residents with a focus on natural resources as well as equity, diversity and inclusion.

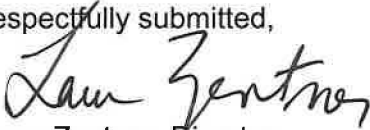
RECOMMENDATION:

Staff respectfully recommends the Board approve the RiverHealth Stewardship Grant with Water Environment Services (WES) and authorize the Business & Community Services Director or Deputy Director to execute any and all documents necessary to effectuate the same.

ATTACHMENT:

1. RiverHealth Watershed Stewardship Program Grant Agreement
2. WES River Health Stewardship Grant Lifecycle Form

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Laura Zentner". The signature is written in a cursive, flowing style.

Laura Zentner, Director
Business & Community Services

**RIVERHEALTH WATERSHED STEWARDSHIP PROGRAM
GRANT AGREEMENT**

THIS GRANT AGREEMENT (this “Agreement”), made and entered into on this _____ day of _____ in the year 20__ by and between Water Environment Services, a municipal partnership formed pursuant to ORS 190 (the “District”), and **North Clackamas Parks & Recreation District**, a county service district (the “Grantee”).

RECITALS

The District’s Watershed Protection Program is focused on improving the water quality of receiving streams within its service area. In order to accomplish this goal, the District provides a variety of services in both the upland areas (development review, maintenance of infrastructure, street sweeping, and erosion control) and along stream corridors (riparian enhancement, invasive species removal, bank stabilization, habitat enhancement, and water quality monitoring). The District works closely with local businesses, citizen groups, partner cities, watershed councils, and non-profit organizations to accomplish much of the on-the-ground work that is necessary to ensure the resiliency of receiving streams.

In an effort to expand and encourage these partner relationships, the District developed the RiverHealth Watershed Stewardship Program. The program awards project-based funding to successful applicants through a competitive process that ensures objectivity and accountability to District customers.

TERMS

The District and the Grantee agree as follows:

ARTICLE 1 – SCOPE OF WORK

- 1.1 Grant Activities.** The Grantee hereby agrees to perform the activities described in Exhibit A (“Work”), attached hereto and incorporated by reference, on the schedule set forth in Exhibit A (collectively, the “Project”).
- 1.2 Grantee Status.** The Grantee is an independent contractor and assumes full responsibility for the performance of the Work. Notwithstanding any statements or inferences to the contrary, the District neither intends nor accepts any 1) direct involvement in the Project; 2) sponsorship benefits or supervisory responsibility with respect to the events or activities funded; or 3) ownership or responsibility for care and custody of the tangible products that result from the Project.
- 1.3 Compliance.** The Grantee agrees to perform the Work in accordance with all applicable local, state and federal laws; ordinances; and rules and regulations.
- 1.4 Project Acknowledgment.** The District must be acknowledged as Project sponsors on any written or published material or grant product. This includes, but is not limited to: signage, event mailings, annual reports, print or film media and news stories. The program shall be

recognized as the “RiverHealth Watershed Stewardship Program.”

ARTICLE 2 - TERM

2.1 The term of this Agreement shall be for a period commencing on execution of the Agreement by both parties through June 30, 2020.

ARTICLE 3 - PAYMENT

In accordance with the terms and conditions of this Agreement, the District shall provide funding to the Grantee as follows:

3.1 Payment of Funds

- 3.1.1 The District agrees to provide grant funding to the Grantee in an amount not to exceed twelve thousand and 00/100 Dollars (\$12,000.00) (the “Maximum Amount”) to perform the Work in accordance with this Agreement. No changes in the Maximum Amount shall be made without prior written approval of the District. The District shall not be responsible for payment of any materials, expenses or costs other than those identified in Exhibit A.
- 3.1.2 The Grantee shall submit quarterly reimbursement requests for Work associated with the Project and progress reports in accordance with the payment terms and procedures contained in Exhibit A attached hereto.
- 3.1.3 Grantee is solely responsible for paying Grantee’s contractors and subcontractors.
- 3.1.4 The District may withhold from payments due to the Grantee such sums as are necessary, in the District’s sole and absolute discretion, to protect the District against any loss or damage which may result from the failure of the Grantee to perform as required under this Agreement, the failure of Grantee to make proper payment to subcontractors or suppliers, or upon claims filed against the Grantee or the District relating to the Grantee's Work or other work performed under this Agreement. All sums withheld by District under this Section shall become the property of District and Grantee shall have no right to such sums to the extent that Grantee has breached this Agreement.

3.2 Payment Procedure. Requests for payment shall be made consistent with the terms set forth on Exhibit B, attached hereto and incorporated by reference. The Grantee shall maintain detailed records to support these charges and such records shall be available to the District for audit and copying.

ARTICLE 4 - GENERAL CONDITIONS

4.1 Final Report. The Grantee agrees to complete a final report related to the Project, as required by District and described in Exhibit A, using the forms contained in Exhibit B, attached hereto and incorporated by reference.

4.2 Termination of Agreement. Both parties may terminate this Agreement at any point by a writing signed by both parties. The District, on seven (7) days' prior written notice to the Grantee, may terminate this Agreement for any reason deemed appropriate in its sole discretion. Termination by District will not waive any claim or remedies it may have against the Grantee.

4.3 Payment on Termination. In the event of early termination, the District shall pay the Grantee for Work performed in accordance with the Agreement prior to the termination date, subject to set off of excess costs. The District shall not be liable for indirect or consequential damages.

4.4 Indemnification. The Grantee agrees to indemnify, hold harmless and defend the District and Clackamas County, and their officers, commissioners, agents and employees from and against all claims and actions, and all expenses, except for attorney fees, 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 Grantee or the Grantee's employees or agents.

4.5 Insurance

4.5.1 The Grantee agrees to furnish the District evidence of commercial general (including contractual liability) and automobile liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence / \$2,000,000 general annual aggregate for personal injury and property damage for the protection of the District and Clackamas County, and their officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to the Grantee's, or any subcontractors, in the performance of this Agreement. Evidence of the Grantee's coverage by the Clackamas County Self Insured Risk Fund shall satisfy all insurance requirements.

4.5.2 The insurance coverage shall include the District and Clackamas County, their officers, elected officials, agents and employees, as additional insureds and refer to and support the Grantee's obligation to hold harmless the District, its officers, commissioners, agents, and employees.

4.5.3 There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without thirty (30) days written notice by the Grantee to the County.

4.6 Assignment. The Grantee shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the District which may be granted or

withheld in its sole and absolute discretion. District may assign this Agreement at any time and shall provide Grantee with notice of such assignment within thirty (30) days of such assignment.

4.7 Notice. Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing with such notice deemed delivered either upon actual receipt or three (3) days after deposit in U.S. Mail, whichever shall first occur:

If to the District: Water Environment Services
 150 Beaver Creek Road, 4th Floor
 Oregon City, Oregon 97045
 ATTN: Gail Shaloum

Copy to: Office of County Counsel
 Clackamas County
 2051 Kaen Road, 2nd Floor
 Oregon City, Oregon 97045
 ATTN: Amanda Keller

If to the Grantee: North Clackamas Parks & Recreation District
 150 Beaver Creek Rd.
 Oregon City, OR 97045
 ATTN: Tonia Williamson

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

4.9 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. Any litigation between the District and the Grantee arising under this Agreement or out of Work performed under this Agreement shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the District 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. Grantee, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

4.10 Integration. This Agreement contains the entire agreement between the District and the Grantee and supersedes all prior written or oral discussions or agreements.

4.11 Funds. The District certifies that sufficient funds are available and authorized for expenditure pursuant to this Agreement in Fiscal Year 2019-20. This Agreement is expressly

subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

4.12 Maintenance of Records. The Grantee shall maintain books and accounts of payroll costs, travel, subsistence, field contract services of others, and reimbursable expenses pertaining to the Project in accordance with generally accepted professional practices, appropriate accounting procedures and applicable local, state or federal laws, statutes, ordinances, or rules and regulations. The District or its authorized representative shall have the authority to inspect, audit and copy, upon reasonable notice and from time to time, any records of the Grantee regarding its billings or any record arising from or related to this Agreement. Records shall be maintained and available until three (3) years after the date of final Project billing or until three (3) years after the date of resolution of any litigation or claim.

4.13 Amendments. The District and the Grantee may amend this Agreement at any time only by written amendment executed by the District and the Grantee.

4.14 Waiver. District's failure to enforce any provision of this Agreement shall not constitute a waiver by District of that or any other provision of this Agreement.

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

4.16 Third Party Beneficiary. The Grantee and District intend that this Agreement does not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Grantee or District.

4.17 Execution and Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

4.18 Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

[Signature Page Follows]

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

GRANTEE:

Water Environment Services

North Clackamas Parks & Recreation District
Company

Gregory Geist, Director

150 Beaver Creek Rd.
Address

Date

Oregon City, OR 97045
City, State, Zip Code

Authorized Signature

Approved as to Form:

Title

County Counsel

Federal Tax ID Number

Date