

AGENDA

Wednesday, November 23, 2016 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2016-121

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

1. Presentation of a Video “Inside Clackamas County” Showcasing Drive to Zero Campaign (Tim Heider, Public & Government Affairs)

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

1. Second Reading of Ordinance No. 07-2016 Amending County Code Chapter 2.10, Hamlets and Villages and Declaring an Emergency (Jeffery Munns, County Counsel)
(first reading was 11-9-16)

IV. 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 a Non-Federal Sub-recipient Agreement with Oregon Child Development Coalition, Inc. (OCDC) for Preschool Promise Services – *Children, Youth & Families*
2. Approval of an Intergovernmental Sub-recipient Agreement with Oregon Trail School District No. 46 for Preschool Promise Services – *Children, Youth & Families*

B. Department of Transportation & Development

1. Board Order No. _____ Adopting the Vacation of a Portion of Nickel Road

2. Approval of a Contract with Parametrix, Inc. for On-Call Environmental Consultation Service – 2016-2020 - *Procurement*

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Approval of the Annual Clackamas County Investment Policy - *Treasurer*
3. Approval of an Entry and Construction Agreement Clackamas County Sheriff's Office and the Clackamas County Peace Officers Benevolent Foundation – *ccso*

D. Department of Disaster Management

1. Approval of Fiscal Year State Homeland Security Grant Program Agreement with the State of Oregon for a Clackamas County Pubic Information Plan

V. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

1. Approval of a Land and Water Conservation Fund Grant Agreement with Oregon Parks and Recreation Department, North Clackamas Parks and Recreation District, and City of Milwaukie for the Development of Wichita Park

VI. DEVELOPMENT AGENCY

1. Approval of a Quitclaim Deed for Development Agency Surplus Property

VII. WATER ENVIRONMENT SERVICES

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

1. Approval of a Joint Funding Agreement between Clackamas County Service District No. 1 and the U.S. Geological Survey for Johnson Creek Monitoring
2. Approval of a Joint Funding Agreement between the Surface Water Management Agency of Clackamas County and the U.S. Geological Survey for Tualatin River Monitoring
3. Approval of an Intergovernmental Agreement between Clackamas County Service District No. 1 and the Oregon Department of Transportation for a Flexible Service Agreement for Equipment and Services
4. Approval of an Intergovernmental Agreement between the Surface Water Management Agency of Clackamas County and the Oregon Department of Transportation for a Flexible Service Agreement for Equipment and Services

VIII. COUNTY ADMINISTRATOR UPDATE

IX. COMMISSIONERS COMMUNICATION

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



November 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Ordinance No. 07-2016 Amending County Code
Chapter 2.10, Hamlets and Villages and Declaring an Emergency

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
Assistants

Purpose/Outcomes	To amend County Code Chapter 2.10, to require training of hamlet and village Board members, procedures for the BCC to remove hamlet and village Board members, and improved procedures for the BCC to dissolve hamlets and villages.
Dollar Amount and Fiscal Impact	Not Applicable.
Funding Source	Not applicable.
Duration	Indefinite until amended
Previous Board Action	Chapter 2.10 was last amended in 2015. The Board held a policy session discussion on October 4, 2016 where the Board agreed to hold a public hearing on the proposed amendments. November 9, 2016 First Reading.
Strategic Plan Alignment	Build Public Trust through Good Government
Contact Person	Jeffrey D. Munns, Assistant County Counsel x 5984

Background:

The BCC voted on February 9, 2016 to dissolve the Board of Directors for the Villages at Mt. Hood. Due to this situation and the desire to have a clear process to remedy similar situations in the future the BCC has asked staff to examine Chapter 2.10. There were several provisions not present in the code that would assist with the oversight provided by the BCC. A proposed amendment to Chapter 2.10 is attached for discussion and comment.

Chapter 2.10 of the County Code currently does not require training for those citizens serving on the Board of Directors of a hamlet or village, does not provide the BCC with a procedure to remove a Board member of a hamlet or village, nor does it provide a procedure to dissolve a hamlet or village absent a vote at a town hall meeting to dissolve.

The present code does not provide for any required training of hamlet or village board members to assist them in the effective execution of their office. This has been addressed by adding a provision to section 2.10.60 to require all hamlet or village board members to satisfactorily complete training provided by County Staff. The training will consist of review and education regarding the hamlet or village bylaws, procedures, governance, public meetings, public records, elections, and governmental ethics. This training must be completed prior to participating in board deliberations or voting.

The current code only allows for a village or hamlet board member to be removed, after first providing 14 days' notice of intent to move for a director's removal, by a vote of 2/3 of the citizens present at a Town Hall meeting. In a policy session on October 4, 2016 the members of the BCC discussed the need for the BCC to have a procedure to remove a hamlet or village Board member who was not following the bylaws of the organization, not acting in the best interests of the citizens of the hamlet or village, or has not satisfied the requirements of Chapter 2.10. A procedure has been added to the draft section 2.10.060 to allow the BCC to remove a Board member of a hamlet or village by Order. The Order must be based on the criteria listed above and incorporated into section 2.10.060.

Similarly section 2.10.080 has been amended to include a process by which the BCC may dissolve a hamlet or village by Order based upon criteria that it be in the best interests of the citizens of the hamlet or village, that the hamlet or village board members failed to regularly follow its adopted bylaws, or that the hamlet or village board members failed to meet the requirements of Chapter 2.10. The County Code presently requires a town hall vote of the hamlet or village to dissolve. However, if the BCC initiates dissolution and the town hall vote does not occur, or they vote not to dissolve, there is not presently a process by which the BCC may dissolve a hamlet or village. The proposed amendments address this problem by providing a process for the BCC to dissolve a hamlet or village if it finds that to be the best course of action.

The BCC may also consider amending Chapter 2.10 to require a hamlet or village to be dissolved by Order after public hearing. The current BCC practice to hold a public hearing prior to the entry of an Order is not a requirement. Should the BCC desire to formally include the need for a public hearing then the alternative process of resolution after public hearing would allow for the current practice to be codified in this circumstance. The current code requires a public hearing prior to the entry of a resolution to form a hamlet or village. Section 2.10.050.

Recommendation:

Staff respectfully recommends that the Board approve the attached ordinance after a second reading by title only, so that it can be adopted at this meeting and become effective immediately in light of the emergency declared.

Respectfully submitted,

Jeffrey D. Munns
Assistant County Counsel

Ordinance No. 07-2016

An Ordinance Amending Chapter 2.10, Hamlets and Villages,
of the Clackamas County Code and Declaring an Emergency

WHEREAS, Chapter 2.10, Hamlets and Villages was adopted in 2007 and amended in 2015; and

WHEREAS, it has become apparent that procedural and substantive changes are necessary to more accurately address the operational needs and requirements of the hamlet and village program;

WHEREAS, The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this Ordinance shall be effective upon its adoption.
NOW, THEREFORE,

THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1: Chapter 2.10, Hamlets and Villages is hereby amended to read as follows:

2.10.010 Preamble

- A. Policy objectives. The Board of County Commissioners is committed to engaging its citizens by encouraging them to participate in decision-making processes that affect their lives. This Chapter is intended to further these policy objectives by creating a legal framework to enhance the connection between county government and its citizens.
- B. This Chapter represents the work of citizens, staff, and professional consultants who assisted the county in developing ways to meet these policy objectives. Information was gathered through community meetings and events, random opinion sampling, and mail-back questionnaires. Central to the project were two major phases:

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.020. Purpose, intent, authority.

- A. This Chapter establishes the organizational structure and process for hamlets and villages, which are intended to provide a forum for citizens residing, owning property or having businesses within defined geographic areas. Under this Chapter, citizens may form local hamlets or villages for the purpose of considering and making advisory recommendations to the county concerning a broad range of issues affecting the livability and quality of life in their communities. Hamlets and villages are advisory to the Board of County Commissioners, and are not local governments.
- B. It is intended that the powers created by this Chapter be interpreted and applied to enable the broadest exercise of the powers granted by this Chapter, to the extent not pre-empted by state or federal law. Hamlets and villages are intended to be a form of participatory democracy to the extent that they promote the active involvement of citizens in county affairs and provide an opportunity for greater participation in matters affecting their local communities.

- C. It is a matter of local concern and a proper subject for county legislation to promote the active involvement of citizens in county affairs so that citizens may have a greater opportunity to participate in matters affecting their local communities.

2.10.030 Definitions as used in this Chapter

- A. BCC means the Board of County Commissioners.
- B. BOARD means the board of directors of a hamlet or village.
- C. CITIZEN means:
 - 1. A person domiciled within the boundaries of a proposed or existing hamlet or village; a person who owns real property within the boundaries of a hamlet or village, but is domiciled outside those boundaries; or
 - 2. A business entity that is established under ORS Chapters 56-70, 554, 748, or that qualifies as a Business Trust under ORS Chapter 128 if the entity or trust owns real property or maintains a business located within a hamlet or village.
To participate in formation activities, sign petitions, vote, or serve on the board of directors of a hamlet or village, a citizen who is an individual must be at least 18 years of age.
- D. COMMUNITY PLANNING ORGANIZATION (CPO), as described in Chapter 2 (Citizen Involvement) of the Clackamas County Comprehensive Plan, means a community organization which acts in an advisory capacity to the Board of County Commissioners, Planning Commission, and Planning Division on land use matters affecting its area. The CPO program is the method Clackamas County uses to meet Goal 1, Citizen Involvement, of the Statewide Planning Goals. A CPO is not considered an agent of the County.
- E. COUNTY LIAISON means the person designated by the County Administrator to facilitate communications among citizens, county staff, the Board and the BCC. The liaison will also render advice and assistance to citizens to accomplish the goals and objectives of this chapter.
- F. DOMICILE means the place where individuals have their true, fixed, permanent and principal home.
- G. HAMLET means an unincorporated area that is an organized forum for citizens to express issues of concern, prioritize activities, and coordinate community-based activities, as may be approved by the Board of County Commissioners. A hamlet is financed primarily through contributions, grants or volunteer fundraising activities.
- H. VILLAGE means an unincorporated area that is an organized forum for citizens to express issues of concern, prioritize activities, and coordinate community-based activities, as may be approved by the Board of County Commissioners and that, after approval by village citizens and the Board of County Commissioners, may be financed through a range of means.
- I. TOWN HALL MEETING means a general meeting of the hamlet or village that is open to the community and provides an opportunity to discuss and decide matters of hamlet or village concern.
- J. AGENTS OF THE COUNTY means that Hamlet and Village board members acting within the scope of authority granted by the organization bylaws and county policies are advisory to the Board of County Commissioners and shall be treated as agents of the county for claims against them for purposes of the Oregon Tort Claims Act.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.040 CPO Functions, memoranda of understanding

A hamlet or village may assume the functions of a CPO upon agreement of the existing CPO, the hamlet or village, and the BCC. If a hamlet or village seeks to assume the functions of a CPO, it must first meet with the CPO to discuss the proposed transfer of responsibility. If the CPO agrees to assumption of its functions by the hamlet or village, a memorandum of understanding shall be negotiated between the CPO and the hamlet or village. The memorandum shall outline how the assumption will take place, the scope of responsibility transferred, the ongoing status of the CPO once the transfer occurs, and how the CPO will resume functioning if the hamlet or village is ever dissolved. The memorandum will state that a hamlet or village board shall not be considered an agent of the county when acting in the capacity of a CPO. The memorandum may be signed by a proposed hamlet or village and CPO prior to formation, but must be approved by the BCC at the final formation hearing and signed by the BCC before going into effect.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.050 Formation of a Hamlet or Village

- A. Pre-petition process. One or more citizens desiring to form a hamlet or village will be known as “chief petitioner(s)” and shall comply with all of the following steps in the formation process:
1. Chief petitioner(s) must hold a public meeting to discuss the proposed formation. Notice of the meeting may be given by publication in a newspaper of general circulation or by any other means reasonably calculated to provide notice to citizens of the affected community.
 2. If the proposed hamlet or village has community support, the chief petitioner(s) shall then meet with county staff to discuss the proposal. Terms to be discussed with county staff include, but are not limited to, preliminary purposes, boundaries, activities, name, projected short and long-term needs, and possible methods of financing.
 3. Hamlet or village chief petitioner(s) shall communicate their proposal to special districts and cities within three miles of the proposed hamlet or village boundaries prior to circulating a petition for formation.
 4. Within 150 days of county staff approval of the proposed hamlet or village, chief petitioner(s) shall complete the hamlet or village application and gather the required number of signatures petitioning for formation of the hamlet or village. Application and petition forms may be obtained from the county staff liaison.
- B. Hamlet petition. A petition for formation of a hamlet must be signed by at least 10% of the citizens located within the proposed hamlet boundary (based on the latest U.S. census or most recent county-acknowledged survey) or 100 citizens, whichever is the lesser number, and shall state the proposed name, preliminary purposes, preliminary boundaries, and proposed activities.
- C. Village petition. A petition for a village must be signed by at least 15% of the citizens located within the proposed village boundary (based on the latest U.S. census or most recent county-acknowledged survey) or 150 citizens, whichever is the lesser number, and shall state the proposed name, preliminary purposes, preliminary boundaries, proposed activities, and any proposed methods of financing for the village.

- D. Notice of public hearing. When a completed application and petition is received by the county staff liaison, the county shall set a public hearing within sixty (60) days on the question of formation. The county shall provide the appropriate public notice as determined by the county's department of Public and Government Affairs.
- E. Public hearing. At the public hearing, any person having an interest in the matter may appear and support or object to the formation of the hamlet or village. The BCC will consider the application and revise it as it deems appropriate.
- F. Resolution authorizing organizational process to complete formation. At the conclusion of the public hearing, the BCC may pass a resolution authorizing the chief petitioner(s) to proceed with the organizational steps necessary to complete the formation process as presented, or it may modify or reject the application.
 - 1. The resolution authorizing further organizational steps shall include the hamlet or village name, preliminary purposes, proposed activities, and preliminary boundaries. The resolution may also include the date for a final public hearing on the proposed formation.
 - 2. During the organizational process, the BCC retains discretion to adjust the name, purposes, activities, and boundaries. The BCC may also set or adjust the date of the final public hearing on the proposed formation.
- G. CPO status. A vote by the BCC on the formation of a hamlet or village does not affect an existing CPO, unless otherwise provided in an approved memorandum of understanding.
- H. Organizational meeting(s). If the BCC passes a resolution authorizing the organizational steps necessary to complete the formation process, the chief petitioner(s) shall schedule one or more organizational meetings. Notice shall be by publication in a newspaper of general circulation in the affected area, or by other means reasonably calculated to provide notice to potential citizens of the proposed hamlet or village.
 - 1. The chief petitioner(s) shall convene the first organizational meeting no later than sixty (60) days from the date on which the authorizing resolution is signed by the BCC.
 - 2. The chief petitioner(s) shall form one or more work groups for the purpose of developing bylaws, accepting nominations for board of director positions, and conducting other organizational activities, including but not limited to discussion of boundaries, purposes, and activities. Work groups may be formed at any organizational meeting.
 - 3. Candidates for positions on the board of directors of the proposed hamlet or village must be citizens of the proposed hamlet or village. Candidates shall complete an application form indicating their eligibility.
- I. Bylaws and board members. Bylaws shall define the qualifications, roles and responsibilities of board members, their terms of office, attendance requirements, the manner of filling vacancies, and the grounds and process for removal. A majority of the total number of board members shall constitute a quorum.
 - 1. Bylaws shall also set forth purposes, activities, methods of action, and the process for amending the bylaws. Examples of hamlet or village activities include communications, transportation, CPO functions, and working with other hamlets, villages, cities, CPOs, service providers, other organizations, or the county to achieve community goals.
 - 2. In the case of a village, bylaws shall also expressly address the authority of, and process by which, a recommendation may be made to the BCC for establishment of additional taxes or fees to be paid by citizens of the village. A village has no independent authority to levy taxes or fees.

- J. BCC preliminary approvals. At least thirty (30) days before a town hall vote, the chief petitioner(s) shall submit proposed bylaws and eligible board candidates to the BCC for preliminary approval at a public work session.
1. Other organizational issues may also be brought to the BCC in public work sessions for discussion and preliminary approvals.
 2. Preliminary approvals by the BCC in public work sessions must be ratified at the final public hearing on the question of formation of the proposed hamlet or village.
 3. Following preliminary approval by the BCC and prior to final ratification by the BCC, the county shall submit the question of formation of the proposed hamlet or village, the proposed bylaws, and board candidates, to the citizens of the proposed hamlet or village for a vote at one or more town hall meetings.
- K. Town hall voting. Citizens of a proposed or existing hamlet or village are eligible to vote at a town hall meeting. If a business entity is owned by more than one person, only one person may claim to be a citizen because of such ownership. A non-resident owner of multiple parcels of real property may claim to be a citizen because of such ownership, but may cast only one vote. Multiple non-resident owners of the same real property may claim citizenship because of such ownership but may cumulatively cast only one vote and hold only one board position based on that property. Business entities and trusts are entitled to one representative vote. If more than one person claims to be the authorized representative of a business or real property, the votes cast by those persons shall be made by provisional ballots.
1. The voting process will be conducted by the county. Since the town hall model is designed to encourage citizen participation, citizens must be present at a town hall meeting to vote during the formation process. At each such meeting, a written agenda shall be available identifying the issues to be voted on to facilitate citizen participation.
 2. More than one citizen may be a candidate in an election based on joint ownership of a business or property. Where this occurs, only the candidate receiving the most votes may take office.
 3. If a majority of citizens present at the town hall meeting vote to support formation of the proposed hamlet or village, approve the bylaws and choose the board of directors, the chief petitioner(s) shall recommend the formation, bylaws and board, to the BCC for ratification at the final public hearing.
 4. If a majority of citizens present at a town hall meeting vote not to support formation of the hamlet or village, the chief petitioner(s) shall so notify the BCC in writing, and the BCC may enter an order rescinding its resolution authorizing formation of the hamlet or village at the final hearing.
 5. The outcome of town hall voting is not binding on the BCC. However, the BCC shall consider the voting results as a factor in deciding whether to approve formation of a hamlet or village, or other matters, at the final hearing.
- L. Provisional ballots. A provisional ballot is a vote that is conditionally counted, as set forth in this section. Provisional ballots shall be given to attendees at a town hall meeting who cannot provide proof of hamlet or village citizen status at the time of the meeting, or in the event there is a dispute as to the authorized representative of a business or property.
1. In the event of a dispute over authorized representative status for a business or property, the burden is on the business or property owners to designate their authorized representative. Until then, the vote will be classified as provisional.

2. To receive a provisional ballot, individuals must provide their name, address, contact telephone number, and basis for their claim of citizen status. If available, an email address must also be provided.
 3. Provisional ballots will be examined only upon a determination by the county that a sufficient number have been cast to possibly affect the outcome of the vote. In such event, public notice will be posted on the county's website of the intent to verify provisional ballots.
 4. If provisional ballots are to be examined, ballot-casters shall be notified of the need to provide proof of identification or other required information that verifies their status as citizens of the proposed hamlet or village who are eligible to cast votes. Voters casting provisional ballots will be given five (5) business days from the date of notification to provide proof of citizenship.
 5. Votes shall be counted by county staff or a designee.
- M. Final public hearing on formation and organizational issues. At the final public hearing, persons may present testimony on any matter relevant to the proposed formation of the hamlet or village. At the conclusion of the public hearing, the BCC shall enter an order approving, approving with modification, or rejecting formation of the hamlet or village. If the Board approves formation, it shall enter an order that includes the approval of the name, purposes, activities, boundaries, initial board members, and bylaws of the hamlet or village.
- N. Hamlet and village boundaries. There can be only one hamlet or village in any given geographic area. The boundaries of the hamlet or village shall not overlap the boundaries of another hamlet, village or city. To the extent permitted by law, the BCC will not permit encroachment into the hamlet or village boundaries by other entities.
- M. All villages and hamlets must formally acknowledge the strategic plan adopted by the Board of County Commissioners.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.060 Post-Formation Management of Hamlet and Village Affairs

- A. Board of Directors. The interests of the hamlet or village are represented by a board of directors. The board is the representative voice of its citizens and serves in an advisory capacity to the BCC on issues of concern to the hamlet or village. All Board members must satisfactorily complete training required by the BCC and provided by County staff. Such training may include but not be limited to board rules, procedure and governance, public meetings and public records, elections, and governmental ethics. No Board member may participate in Board deliberations or voting until completing the training required by this section.
- B. Code of Conduct for Board Members:
1. Serve the best interest of the hamlet or village as a whole regardless of personal interests.
 2. Conduct open, fair and well-publicized elections.
 3. Provide opportunities for the community to comment on decisions facing the hamlet or village.
 4. Perform duties without bias for or against any individual or group.
 5. Act within the boundaries of board authority as advisory to the BCC.
 6. Comply with all other aspects of Oregon law applicable to public officials, including the public records law, public meeting law, ethics law, and election laws.

- C. Removal of a Board member.
1. At a Town Hall. Any member of the Board of Directors of a hamlet or village may be removed by a vote of 2/3 majority of voting members at a town hall meeting. The matter of removal may only be acted upon at a town hall meeting of the hamlet or village. Notice of intent to consider removal shall be given to each Board member and the county staff liaison at least 14 days prior to the meeting at which removal is to be considered and included on the meeting agenda; or
 2. By the BCC. Any member of the Board of Directors of a hamlet or village may be removed by a vote of the BCC. The BCC may enter an Order removing a Board member of a hamlet or village if the BCC finds:
 - a. It to be in the best interests of the citizens of the hamlet, village, or the county, to remove the Board member;
 - b. That the hamlet or village Board member has failed to regularly follow the Board's adopted bylaws; or
 - c. That the hamlet or village Board member has failed to satisfy the requirements of this Chapter.
- D. Meetings, public participation, action. Each hamlet or village board shall meet with members at least quarterly at town hall meetings to identify, discuss, and prioritize community issues. All such town hall meetings shall be open to the public.
1. Members and non-members may attend and speak at town hall meetings.
 2. Voting shall be conducted in accordance with Section 2.10.050(K), unless otherwise specified in approved hamlet or village bylaws. Town hall votes by members are advisory to the hamlet or village board, and shall guide the board in setting policy direction in hamlet and village affairs.
 3. Official hamlet or village action shall be taken only by a vote of the board. If the hamlet or village board takes action contrary to a town hall vote, that action, and the board's reasoning, shall be presented to the county liaison, and to members at the next town hall meeting.
- E. Bylaw amendments. Proposed bylaw amendments shall be presented to the BCC for review and approval at a public work session scheduled at least thirty (30) days prior to a town hall vote on the amendments.
- F. Boundary changes. Using the process contained in its bylaws, a hamlet or village may request that the BCC modify its boundaries.
- G. Agreements. Upon approval of the BCC, a hamlet or village may enter into memoranda of understanding with neighboring jurisdictions or other organizations. The county may, on behalf of a hamlet or village, enter into an intergovernmental agreement with other governments.
- H. Activities, changes. Individual projects to be undertaken within activity areas identified in the hamlet or village bylaws must first be reviewed and approved by the county liaison to ensure consistency with the approved bylaws. Proposed changes to a hamlet or village activity list must first be presented by the board to the BCC for review and approval. If approved by the BCC, the change must also be approved by a majority vote of those citizens of the hamlet or village who are present at the town hall meeting at which approval is sought. If the change is approved, the hamlet or village bylaws must also be amended to reflect the change.
- I. Annual report. Each hamlet and village shall provide the BCC with an annual report, which will be coordinated by the county staff liaison.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.070 Financing

- A. Hamlet. A hamlet shall be financed primarily through contributions, grants, and volunteer fundraising activities. All such funds will be deposited with and administered by the county on behalf of the hamlet.
- B. Village. A village may generate revenue through a range of means, including contributions, grants, and volunteer fund-raising activities. All such funds will be deposited with and administered by the county on behalf of the village. A village may enter into agreements for the sharing of revenue with the county. If approved by a vote of the citizens at a town hall meeting, the board may also request that the BCC take any of the following actions:
 - 1. Fund proposed activities within the boundaries of the village through the establishment of a tax, fee or other charge. The BCC may implement such a recommendation if the tax, fee or charge is permitted by law, the revenue generated is intended to support the delivery of an enhanced level of service, and the level of service would not otherwise be provided from appropriated county funds.
 - 2. Initiate formation of a county service district with a permanent rate limit for operating taxes. If approved by the BCC, formation will be initiated in accordance with ORS Chapter 451, which includes public hearings and a vote on the question of formation by registered voters within the boundaries of the proposed district.
 - 3. Authorize the village to circulate a petition for the formation of a local improvement district pursuant to Chapter 4.02 of the Clackamas County Code pertaining to construction of public roads, sidewalks, traffic-calming, street lighting, and related facilities.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.080 Dissolution

- A. Dissolution of a village or hamlet may be by:
 - 1. An Order of the BCC.
The BCC may enter an Order dissolving the hamlet or village if the BCC finds:
 - a. It to be in the best interests of the citizens of the hamlet, village, or the county, to dissolve the hamlet or village;
 - b. That the hamlet or village board members have failed to regularly follow its adopted bylaws; or
 - c. That the hamlet or village board members have failed to meet the requirements of this Chapter.
- C. CPO status. Dissolution of a hamlet or village does not affect any existing CPO, except to the extent required by a written memorandum of understanding.
- D. Disposition plan. An Order for dissolution of a hamlet or village shall include a plan for disposing of assets and for payment of any indebtedness. In the case of a village, the plan must include a recommendation on whether to dissolve or continue any districts formed to serve the village. A BCC Order approving dissolution shall include a plan for dissolution. If the Order requires the dissolution of any districts, the dissolution of such districts shall be conducted in accordance with state and local law.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.090 Public meetings, public records

- A. Public meetings. Meetings of hamlet and village boards, including town hall meetings where a quorum of the board is in attendance, are public meetings under the Oregon public meetings law. The requirements for public meetings include, but are not limited to, providing adequate meeting notice, opening the meetings to the public, recording votes, and keeping minutes.
- B. Public records. Hamlet and village records are public records subject to disclosure unless exempt. Public record requests must be submitted to the county staff liaison for processing. The hamlet or village shall cooperate with the county in responding to each request.
- C. Records retention. All original records shall be retained by each hamlet or village as required by law, with copies provided to the county staff liaison. Copies of all meeting minutes shall be submitted to the county staff liaison within forty-five (45) days from the date of the meeting. Changes to the bylaws and a list of current board members shall be submitted to the county staff liaison within thirty (30) days of any changes in bylaws or board members.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.100 Local budget and audit law, operating and miscellaneous expenditures, contracts

- A. Local budget and audit law. Hamlets and villages may receive financial support from the county or other public or private fund sources, and shall cooperate with the county in complying with the requirements of the local budget and audit laws of the State of Oregon.
- B. County trust accounts. Working with the county liaison, a hamlet or village shall open a trust account with the County Treasurer to accumulate contributions. The account shall be established according to County Treasurer protocol. Authorized requests for funds held by the county in trust for the hamlet or village shall be made in writing to the county.
- C. Imprest petty cash or bank account. A hamlet or village may maintain an imprest petty cash fund or an imprest bank account in an amount authorized by the BCC for operating expenditures, if provided in the hamlet or village bylaws. If the hamlet or village chooses to use an imprest bank account, all banking decisions must be coordinated with the County Treasurer or delegate. In addition, the County Treasurer or delegate must be an authorized signatory on the account and copies of all bank statements and reconciliations must be forwarded to the County Treasurer's office. Deposits in financial institutions must comply with all requirements of ORS Chapter 295.
 - 1. As used in this section, "imprest" means a petty cash fund or a bank account into which a fixed amount of money is placed for the purpose of making minor disbursements for small, routine operating expenses. As disbursements are made, a voucher is completed to record the date, amount, nature, and purpose of the disbursement. The total of cash and the substantiating vouchers must always equal the total fixed amount of money set aside in the imprest fund or account.
- D. County contract authority. Hamlets and villages shall not enter into contracts unless expressly authorized in writing by the BCC or its delegate. All Clackamas County contracts are subject to the Clackamas County Local Contract Review Board rules.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

2.10.110 Liability, risk management

- A. Agency status. Hamlet and village board members acting within the scope of authority granted by the organization bylaws and county policies are advisory to the BCC and shall be treated as agents of the county for claims against them for purposes of the Oregon Tort Claims Act. When acting in the capacity of a CPO, a hamlet or village board shall not be considered an agent of the county.
- B. Fund-raising activities. A hamlet or village board must obtain approval from the county Risk Manager prior to staging public fund-raising activities.
- C. Ethical standards. Directors and officers are public officials subject to the Oregon Government Ethics laws (Oregon Revised Statutes Chapter 244), and may be removed from office by the BCC if found to be in violation thereof.

[Adopted by Ord. 03-2007, 2/22/07, Amended by Ord. 03-2015, 2/19/15]

ADOPTED this ____ day of _____, 2016.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

November 23, 2016

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a non-federal Subrecipient Agreement with
Oregon Child Development Coalition, Inc.(OCDC) for Preschool Promise Services

Purpose/Outcomes	OCDC will provide 900 Classroom hours to 10 children, ages 3-5 living at or below 200 percent of the Federal Poverty Level to improve educational outcomes
Dollar Amount and Fiscal Impact	\$107,540 No County General Funds are involved
Funding Source	Oregon Department of Education Early Learning Division
Duration	From July 1, 2016 through June 30, 2017
Previous Board Action	N/A
Strategic Plan Alignment	<ul style="list-style-type: none"> • Individuals and families in need are healthy and safe • Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook, 503-650-5677
Contract No.	8014

BACKGROUND:

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a non-federal Subrecipient Agreement with Oregon Child Development Coalition for Preschool Promise programming designed to promote healthy child development and early learning to underserved families to improve educational outcomes. OCDC will provide 900 Classroom hours to 10 children, ages 3-5 living at or below 200 percent of the Federal Poverty Level, using strength-based approaches and asset-based mindsets to facilitate and support statewide efforts to institutionalize equity.

No County General Funds are involved in this Agreement. It has been reviewed and approved by County Counsel. It becomes effective retroactively, starting July 1, 2016 and terminates June 30, 2017. It is retroactive because the state funding agency amended the revenue agreement, changing the insurance language. This Agreement has a maximum value of \$107,540.

RECOMMENDATION:

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

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

CLACKAMAS COUNTY, OREGON
AGENCY SERVICES AGREEMENT CYF- 0014

Project Name: **OREGON CHILD DEVELOPMENT COALITION**

Project Number:

This Agreement is between **Clackamas County, Oregon**, acting by and through its Health, Housing and Human Services Department – Children, Youth & Families Division (COUNTY) and **Oregon Child Development Coalition, Inc.** (SUBRECIPIENT), an Oregon Non-profit Organization.

Clackamas County Data

CYF Fiscal Representative: Bryant Scott	Program Manager: Korene Mather
Clackamas H3S, Children, Youth & Families Division 150 Beaver Creek Road, Suite 305 Oregon City, OR 97045 503-650-5675 BryantS@clackamas.us	Clackamas H3S, Children, Youth & Families Division 150 Beaver Creek Road, Suite 305 Oregon City, OR 97045 503-650-5683 Korenemat@clackamas.us

SUBRECIPIENT Data

Finance/Fiscal Representative: Angela Gomez	Program Representative: Donalda Dodson
Oregon Child Development Coalition, Inc. 9140 SE Pioneer Court, Suite E Wilsonville OR, 97070 971-224-1044 Email: angela.gomez@ocdc.net	Oregon Child Development Coalition, Inc. 9140 SE Pioneer Court, Suite E Wilsonville OR, 97070 971-224-1004 Email: donalda.dodson@ocdc.net
FEIN: 93-0591240	

RECITALS

1. Clackamas Children Youth & Families Division (CYF) supports Clackamas County and H3S goals to ensure safe, healthy and secure communities and that individuals and families in need are healthy and safe. CYF desires to engage Oregon Child Development Coalition (OCDC) to support Preschool Promise, programming designed to promote healthy child development and early learning to disadvantaged families to improve educational outcomes. OCDC will provide 900 Classroom hours to 10 children, ages 3-5 living at or below 200 percent of the Federal Poverty Level, using strength-based approaches and asset-based mindsets to facilitate and support statewide efforts to institutionalize equity.
2. Oregon Department of Education Early Learning Division (ELD) funds will be used to deliver Preschool Promise services in Clackamas County, in accordance with and subject to the ELD Preschool Promise Operational Guidelines (Exhibit E).
3. Funding will support:
 - a) A Lead Teacher who holds a Bachelor's Degree in early childhood education or field related to early childhood education as indicated in the Oregon Center for Career Development's Step Registry. A waiver may be requested for this requirement;
 - b) An Assistant Teacher who meets Oregon's personnel qualification requirements of one of the top two tiers of the QRIS; and
 - c) Transportation costs, classroom furniture, equipment, materials and supplies.
4. This Grant Agreement (Agreement) of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall be effective as of **July 1, 2016** and shall expire on **June 30, 2017**, unless sooner terminated or extended pursuant to the terms hereof.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. SUBRECIPIENT agrees to perform the Project in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Oregon Department of Education (ODE), Early Learning Division (ELD) and the Early Learning Council (ELC) Intergovernmental Agreement that is the source of this funding, in addition to compliance with the statutory requirements stated in Exhibits F and G.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the **EARLY LEARNING DIVISION PRESCHOOL PROMISE** contract #5803 issued to the COUNTY by the State of Oregon, Early Learning Division. The maximum, not to exceed, Contract amount that the COUNTY will pay on this Agreement with Oregon Childhood Development Coalition is **\$107,540**.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment. County may extend this Agreement for additional periods, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on COUNTY'S satisfaction with performance of the work or services provided by SUBRECIPIENT under this Agreement.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by Email.
7. **Funds Available and Authorized.** The COUNTY certifies that it has received an Oregon Department of Education grant award (Intergovernmental Agreement #5503) in the amount of \$343,840 and is authorized to finance the costs of this Agreement within the current fiscal year budget. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
8. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for these activities.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:

- a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
- b) **Revenue Accounting.** Agreement revenue advanced to SUBRECIPIENT should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the Agreement have been met. Revenue may be recognized throughout the life cycle of the Agreement as the funds are "earned". All Agreement revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
- c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer Agreement funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original application or Agreement.
- d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this agreement and shall execute the program according to the ELD Preschool Promise Operational Guidelines (dated 8/2016), which are included as an attachment to this Agreement (Exhibit E).
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period. Cost incurred prior to this date will be disallowed.
- f) **Match.** Matching funds are not required for this Agreement.
- g) **Payment.** SUBRECIPIENT shall submit monthly itemized invoices for actual expenses related to the execution of this Agreement.
- h) **Performance and Financial Reporting.** SUBRECIPIENT must submit a Performance Report as follows: 1) Monthly Activity Reports and Reimbursement Requests – Submit by the 10th of each month for the previous month; 2) Quarterly Program and Demographic Reports – Submit by the 15th of October, January, April and July utilizing the work plan and demographic reporting documents (Exhibits C and H); 3) Annual Reports – Submit an expense report and progress towards Outcomes and Targets report by the 15th of July each year utilizing the work plan Annual Report document as specified in Exhibit C. SUBRECIPIENT must submit a preliminary and final Financial Report by July 10, 2017 as specified in Exhibit D. All reports must be submitted on the forms provided, must reference this agreement number, and be signed and dated by an authorized official of SUBRECIPIENT.
- i) **Lobbying.** SUBRECIPIENT agrees that no portion of the Agreement funds will be used to engage in lobbying of the Federal, State, or County Government or in litigation against the United States unless authorized under existing law. In addition, the SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- j) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- k) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial records for the purpose of monitoring. COUNTY, the Early Learning Division, the Secretary of the State of Oregon, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and

writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.

- l) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the Project End Date (June 30, 2017), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
- m) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original agreement and this agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT Agreement funds until compliance is met or to terminate this relationship including the original agreement and all associated amendments.

10. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement. SUBRECIPIENT shall comply with the terms of the Preschool Promise Operational Guidelines (Exhibit E), incorporated herein by reference.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

11. State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements in excess of \$100,000 must receive prior written approval from County in addition to any other approvals required by law applicable to the SUBRECIPIENT. Justification for sole-source procurement in excess of \$100,000 should include a description of the project and what is being funded, an explanation of why it is necessary to fund noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.

- b) County's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under ORS 279C.520 and 279C.530, which are incorporated by reference herein.
- c) SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among sub-contractors that may restrict or eliminate competition or otherwise restrain trade. Sub-contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use subcontractors, SUBRECIPIENT shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

12. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY harmless with respect to any claim, cause, damage, action, penalty or other cost and its elected officials, officers, employees and agents arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- b) **Insurance.** During the term of this agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
 - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance for the protection of COUNTY, its officers, commissioners, and employees covering:
 - i) Bodily injury or death – Not less than \$1,000,000 per occurrence limit for any single claimant and \$2,000,000 per occurrence limit for multiple claimants;
 - ii) Property damage – Not less than \$113,400 per occurrence for any single claimant and \$566,900 per occurrence limit for multiple claimants.

This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

2) **Commercial Automobile Liability.**

If the SUBRECIPIENT **does not** transport children, Automobile Liability Insurance covering all owned, non-owned and hired vehicles coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability") is required in the following amounts:

- i. Bodily Injury or Death – Not less than \$1,000,000 per occurrence limit for any single claimant and \$3,000,000 per occurrence limit for multiple claimants.
- ii. Property Damage – Not less than \$113,400 per occurrence limit for any single claimant and \$566,900 per occurrence limit for multiple claimants.

If the SUBRECIPIENT transports children, Automobile Liability Insurance covering all owned, non-owned and hired vehicles coverage may be written in combination with the Commercial

General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability") is required in the following amounts:

- i. Bodily Injury or Death – Not less than \$1,000,000 per occurrence limit for any single claimant and \$5,000,000 per occurrence limit for multiple claimants.
 - ii. Property Damage – Not less than \$113,400 per occurrence limit for any single claimant and \$566,900 per occurrence limit for multiple claimants.
- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this agreement, with limits not less than \$2,000,000 per occurrence for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.
 - 4) **Abuse and Molestation.** Abuse and Molestation Insurance covering physical abuse and sexual molestation in a form and with coverage that are satisfactory to the State. This insurance shall include coverage for the SUBRECIPIENT, and SUBRECIPIENT's employees, agents, volunteers and staff. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit. Coverage shall be written on an occurrence basis in an amount of not less than: \$100,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence) and \$300,000 annual aggregate limit.
 - 5) **Workers' Compensation.** Insurance must be in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If SUBRECIPIENT is a subject employer, as defined in ORS 656.023, SUBRECIPIENT shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
 - 6) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County and State of Oregon, its agents, officers, and employees" as an additional insured. Additional insured shall include the Early Learning Division, its officers, employees and agents as Additional Insureds but only with respect to SUBRECIPIENT's activities under this agreement.
 - 7) **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the SUBRECIPIENT shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Sub-agreement, for a minimum of 24 months following the later of: (i) the SUBRECIPIENT's completion and COUNTY's acceptance of all services required under the Sub-agreement or, (ii) the expiration of all warranty periods provided under the Sub-agreement. Notwithstanding the foregoing 24-month requirement, if the SUBRECIPIENT elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the SUBRECIPIENT may request and COUNTY may Agreement approval of the maximum "tail" coverage period reasonably available in the marketplace. If COUNTY approval is granted, the SUBRECIPIENT shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

- 8) **Notice of Cancellation or Change.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
 - 9) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
 - 10) **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the agreement have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
 - 11) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insured listed above.
 - 12) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the agreement.
 - 13) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- c) **Assignment.** SUBRECIPIENT shall not enter into any sub-agreements for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part without the express written approval of the COUNTY.
 - d) **Independent Status.** SUBRECIPIENT is independent of the COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of the COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind the COUNTY in any transaction or activity.
 - e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
 - f) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between the COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas

County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.

- g) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- i) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements.
- l) **Additional Terms and Conditions.** In addition to COUNTY general provisions, SUBRECIPIENT agrees to comply with State of Oregon Standard Terms and Conditions and Special Terms and Conditions as outlined in Exhibits F and G.

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT
(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

CLACKAMAS COUNTY, OREGON

OREGON CHILD DEVELOPMENT COALITION

By: _____
Richard Swift, H3S Director
Signing on behalf of the Board

By: 

xxx, **Donald L. Horseman**

Dated: _____

Dated: **Director Financial Services** 11/4/2010

By: _____
Rodney A. Cook, CYF Director

Dated: _____

By: _____
Recording Secretary

Dated: _____

Approved to Form



County Counsel

- Exhibit A: SUBRECIPIENT Statement of Program Objectives
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Performance Reporting
- Exhibit D: Reimbursement Request Form
- Exhibit E: Preschool Promise Operating Guidelines
- Exhibit F: Standard Terms and Conditions
- Exhibit G: Special Terms and Conditions
- Exhibit H: Demographic Reporting Form

EXHIBIT A

STATEMENT OF PROGRAM OBJECTIVES

Scope

SUBRECIPIENT will use ELD Funds to initiate a Preschool Promise Site in Clackamas County with a goal of increasing access to quality preschool and enhance quality in existing early education programs for preschool aged children in Clackamas County.

The Program Year for the Preschool Promise program is July 1 to June 30. The schedule of service delivery may vary within the Program Year but the hours of direct service requirement must be satisfied no later than June 30 for the Program Year then ended regardless of the start date of services during that year.

SUBRECIPIENT will use ELD funds to:

- Hire appropriate level of classroom teachers and support staff;
- Purchase necessary classroom furniture, equipment, material/supplies, and transportation.

Activities

1. SUBRECIPIENT will provide 900 direct service hours to 10 Preschool Promise Classroom students adhering to Preschool Promise Operating Guidelines (Exhibit E).
2. SUBRECIPIENT will collect required data monthly about its services including demographic information (Exhibit H).
3. SUBRECIPIENT will address the needs of marginalized and underserved students and their families most immediately through participation in the integration of support services provided by Early Learning Hub Family Resource coordinators.
4. SUBRECIPIENT will adhere to Preschool Promise Operating Guidelines (Exhibit E) to ensure compliance with programmatic specifications and reporting requirements.

November 23, 2016

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Subrecipient Agreement with
Oregon Trail School District #46 for Preschool Promise Services

Purpose/Outcomes	OTSD will provide 900 Classroom hours to 18 children, ages 3-5 living at or below 200 percent of the Federal Poverty Level to improve educational outcomes
Dollar Amount and Fiscal Impact	\$224,400 No County General Funds are involved
Funding Source	Oregon Department of Education Early Learning Division
Duration	From July 1, 2016 through June 30, 2017
Previous Board Action	N/A
Strategic Plan Alignment	<ul style="list-style-type: none"> • Individuals and families in need are healthy and safe • Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook, 503-650-5677
Contract No.	8013

BACKGROUND:

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of a non-federal Subrecipient Intergovernmental Agreement with Oregon Trail School District #46 for Preschool Promise programming designed to promote healthy child development and early learning to underserved families to improve educational outcomes. OTSD will provide 900 Classroom hours to 18 children, ages 3-5 living at or below 200 percent of the Federal Poverty Level, using strength-based approaches and asset-based mindsets to facilitate and support statewide efforts to institutionalize equity.

No County General Funds are involved in this Agreement. It has been reviewed and approved by County Counsel. It becomes effective retroactively, starting July 1, 2016 and terminates June 30, 2017. It is retroactive because the state funding agency amended the revenue agreement, changing the insurance language. This Agreement has a maximum value of \$224,400.

RECOMMENDATION:

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

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services

**CLACKAMAS COUNTY, OREGON
INTERGOVERNMENTAL AGREEMENT CYF-001**

Project Name: **OREGON TRAIL SCHOOL DISTRICT #46**

Project Number:

This Agreement is between **Clackamas County, Oregon**, acting by and through its Health, Housing and Human Services Department – Children, Youth & Families Division (COUNTY) and **Oregon Trail School District #46** (SUBRECIPIENT), an Oregon Unit of Local Government.

Clackamas County Data

CYF Fiscal Representative: Bryant Scott	Program Manager: Korene Mather
Clackamas H3S, Children, Youth & Families Division 150 Beavercreek Road, Suite 305 Oregon City, OR 97045 503-650-5675 BryantS@clackamas.us	Clackamas H3S, Children, Youth & Families Division 105 Beavercreek Road, Suite 305 Oregon City, OR 97045 503-650-5683 Korenemat@clackamas.us

SUBRECIPIENT Data

Finance/Fiscal Representative: Tim Belanger	Program Representative: Debbie Johnson
Oregon Trail School District #46 36525 Industrial Way Sandy OR, 97055 503-668-5541 x4007 Email: timothy.belanger@ortrail.k12.or.us	Oregon Trail School District #46 36525 Industrial Way Sandy, OR, 97055 503-668-5541 x4002 Email: Debbie.johnson@ortrail.k12.or.us
FEIN: 93-6000232	

RECITALS

1. Clackamas Children Youth & Families Division (CYF) supports Clackamas County and H3S goals to ensure safe, healthy and secure communities and that individuals and families in need are healthy and safe. CYF desires to engage Oregon Trail School District #46 (OTSD) to support Preschool Promise, programming designed to promote healthy child development and early learning to underserved families to improve educational outcomes. OTSD will provide 900 Classroom hours to 18 children, ages 3-5 living at or below 200 percent of the Federal Poverty Level, using strength-based approaches and asset-based mindsets to facilitate and support statewide efforts to institutionalize equity.
2. Oregon Department of Education Early Learning Division (ELD) funds will be used to deliver Preschool Promise services in Clackamas County, in accordance with and subject to the ELD Preschool Promise Operational Guidelines (Exhibit E).
3. Funding will support:
 - a. A Lead Teacher with a Bachelor's Degree in early childhood education or closely related field, as indicated in the Oregon Center for Career Development's Step Registry. A waiver may be requested for this requirement;
 - b. An Assistant Teacher who meets Oregon's personnel qualification requirements of one of the top two tiers of the QRIS;
 - c. Transportation costs, classroom furniture, equipment, materials and supplies.
4. This Grant Agreement (Agreement) of financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

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

AGREEMENT

1. **Term and Effective Date.** This Agreement shall be effective as of the **July 1, 2016** and shall expire on **June 30, 2017**, unless sooner terminated or extended pursuant to the terms hereof.
2. **Program.** The Program is described in Attached Exhibit A: SUBRECIPIENT Statement of Program Objectives. SUBRECIPIENT agrees to perform the Project in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Oregon Department of Education (ODE), Early Learning Division (ELD) and the Early Learning Council (ELC) Intergovernmental Agreement that is the source of the Agreement funding, in addition to compliance with the statutory requirements stated in Exhibits F and G.
4. **Grant Funds.** The COUNTY's funding for this Agreement is the **EARLY LEARNING DIVISION PRESCHOOL PROMISE** contract #5803 issued to the COUNTY by the State of Oregon, Early Learning Division. The maximum, not to exceed, Contract amount that the COUNTY will pay on the agreement with Oregon Trail School District is **\$224,400**.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment. County may extend this Agreement for additional periods, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on COUNTY'S satisfaction with performance of the work or services provided by SUBRECIPIENT under this Agreement.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other. This notice may be transmitted in person, by mail, facsimile, or by Email.
7. **Funds Available and Authorized.** The COUNTY certifies that it has received an Oregon Department of Education grant award (Intergovernmental Agreement #5503) in the amount of \$343,840 and is authorized to finance the costs of this Agreement within the current fiscal year budget. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on the COUNTY receiving appropriations or other expenditure authority sufficient to allow the COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
8. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for these activities.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a SUBRECIPIENT, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.

- b) **Revenue Accounting.** Agreement revenue advanced to SUBRECIPIENT should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the Agreement have been met. Revenue may be recognized throughout the life cycle of the Agreement as the funds are "earned". All Agreement revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
- c) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer Agreement funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original application or Agreement.
- d) **Allowable Uses of Funds.** SUBRECIPIENT shall use funds only for those purposes authorized in this agreement and in accordance with the Early Learning Operational Guidelines (Exhibit E).
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period. Cost incurred prior to this date will be disallowed.
- f) **Match.** Matching funds are not required for this Agreement.
- g) **Payment.** SUBRECIPIENT shall submit monthly itemized invoices for actual expenses related to the execution of this Agreement.
- h) **Performance.** SUBRECIPIENT shall execute the program according to the ELD Preschool Promise Operational Guidelines (dated 8/2016), which are included as an attachment to this Agreement (Exhibit E).
- i) **Performance and Financial Reporting.** SUBRECIPIENT must submit a Performance Report as follows:
 - 1) Monthly Activity Reports – Submit by the 15th of each month for the previous month along with the monthly reimbursement request;
 - 2) Quarterly Program and Demographic Reports – Submit by the 15th of October, January, April and July utilizing the work plan and demographic quarterly reporting documents;
 - 3) Annual Reports – Submit an expense report and progress towards Outcomes and Targets report by the 15th of July each year utilizing the work plan Annual Report document as specified in Exhibit C. SUBRECIPIENT must submit a preliminary and final Financial Report by July 10, 2017 as specified in Exhibit D. All reports must be submitted on the templates provided, must reference this agreement number, and be signed and dated by an authorized official of SUBRECIPIENT.
- j) **Lobbying.** SUBRECIPIENT agrees that no portion of the Agreement funds will be used to engage in lobbying of the Federal, State, or County Government or in litigation against the United States unless authorized under existing law. In addition, the SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- k) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- l) **Monitoring.** SUBRECIPIENT agrees to allow access to conduct site visits and inspections of financial records for the purpose of monitoring. COUNTY, the Early Learning Division, the Secretary of the State of Oregon, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at the COUNTY's discretion.
- m) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years

following the Project End Date (June 30, 2017), or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

- n) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original agreement and this agreement. Such material breach shall give rise to the COUNTY's right, but not obligation, to withhold SUBRECIPIENT Agreement funds until compliance is met or to terminate this relationship including the original agreement and all associated amendments.

10. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to SUBRECIPIENT.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement. SUBRECIPIENT shall comply with the terms of the Preschool Promise Operational Guidelines (Exhibit E), incorporated herein by reference.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, SUBRECIPIENT shall in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

11. State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements in excess of \$100,000 must receive prior written approval from County in addition to any other approvals required by law applicable to the SUBRECIPIENT. Justification for sole-source procurement in excess of \$100,000 should include a description of the project and what is being funded, an explanation of why it is necessary to fund noncompetitively, time constraints and any other pertinent information. Intergovernmental agreements between units of government are excluded from this provision.
- b) SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among sub-contractors that may restrict or eliminate competition or otherwise restrain trade. Sub-contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- c) SUBRECIPIENT agrees that, to the extent they use subcontractors, SUBRECIPIENT shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

12. General Agreement Provisions.

- a) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- b) **Insurance.** During the term of this agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:

1. **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance for the protection of COUNTY, its officers, commissioners, and employees covering:

- i. Bodily Injury or death – Not less than \$1,000,000 per occurrence limit for any single claimant and \$2,000,000 per occurrence limit for multiple claimants;
- ii. Property damage – Not less than \$113,400 per occurrence for any single claimant and \$566,900 per occurrence limit for multiple claimants.

This coverage shall include Contractual Liability Insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

2. **Commercial Automobile Liability.**

If the SUBRECIPIENT **does not** transport children, Automobile Liability Insurance covering all owned, non-owned and hired vehicles coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability") is required in the following amounts:

- i. Bodily Injury or Death – Not less than \$1,000,000 per occurrence limit for any single claimant and \$3,000,000 per occurrence limit for multiple claimants.
- ii. Property Damage – Not less than \$113,400 per occurrence limit for any single claimant and \$566,900 per occurrence limit for multiple claimants.

If the SUBRECIPIENT transports children, Automobile Liability Insurance covering all owned, non-owned and hired vehicles coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability") is required in the following amounts:

- i. Bodily Injury or Death – Not less than \$1,000,000 per occurrence limit for any single claimant and \$5,000,000 per occurrence limit for multiple claimants.
- ii. Property Damage – Not less than \$113,400 per occurrence limit for any single claimant and \$566,900 per occurrence limit for multiple claimants.

3. **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish the COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this agreement, with limits not less than \$2,000,000 per occurrence for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

4. **Abuse and Molestation.** Abuse and Molestation Insurance covering physical abuse and sexual molestation in a form and with coverage that are satisfactory to the State. This insurance shall include coverage for the SUBRECIPIENT, and SUBRECIPIENT's employees, agents, volunteers and staff. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit. Coverage shall be written on an occurrence basis in an amount of not less than: \$100,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence) and \$300,000 annual aggregate limit.
5. **Workers' Compensation.** Insurance must be in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If SUBRECIPIENT is a subject employer, as defined in ORS 656.023, SUBRECIPIENT shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
6. **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County and State of Oregon, its agents, officers, and employees as an additional insured. Additional insured shall include the Early Learning Division, its officers, employees and agents as Additional Insureds but only with respect to SUBRECIPIENT's activities under this agreement.
7. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the SUBRECIPIENT shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Sub-agreement, for a minimum of 24 months following the later of: (i) the SUBRECIPIENT's completion and COUNTY 's acceptance of all services required under the Sub-agreement or, (ii) the expiration of all warranty periods provided under the Sub-agreement. Notwithstanding the foregoing 24-month requirement, if the SUBRECIPIENT elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the SUBRECIPIENT may request and COUNTY may Agreement approval of the maximum "tail" coverage period reasonably available in the marketplace. If COUNTY approval is granted, the SUBRECIPIENT shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
8. **Notice of Cancellation or Change.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 day notice of cancellation provision shall be physically endorsed on to the policy.
9. **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
10. **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the agreement have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
11. **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insured listed above.

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

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT AGREEMENT
(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

CLACKAMAS COUNTY, OREGON

OREGON TRAIL SCHOOL DISTRICT #46

By: _____
Signing on behalf of the Board

By:  _____
Aaron Bayer, Superintendent

Dated: _____

Dated: 11-9-16

By: _____
Rodney A. Cook, CYF Director

Dated: _____

By: _____
Recording Secretary

Dated: _____

Approved to Form

By:  _____
County Counsel

- Exhibit A: SUBRECIPIENT Statement of Program Objectives
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Performance Reporting
- Exhibit D: Reimbursement Request Form
- Exhibit E: Preschool Promise Operating Guidelines
- Exhibit F: Standard Terms and Conditions
- Exhibit G: Special Terms and Conditions



M. BARBARA CARTMILL
DIRECTOR

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

November 23, 2016

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order Adopting the Vacation of Nickel Road

Purpose/Outcomes	Vacates a portion of Nickel Road
Dollar Amount and Fiscal Impact	Application and processing fee received.
Funding Source	N/A
Duration	Upon execution; permanent vacation.
Previous Board Contact	N/A
Strategic Plan Alignment	Building trust through good government.
Contact Person	Doug Cutshall, Engineering Technician 503-742-4669

BACKGROUND

Nickel Road, Local Access Road Number P4084, is situated in the northeast and southeast one quarters of Section 34, T.2 S., R.4 E., W.M. and Erle Crest, Plat Number 287, Clackamas County Plat Records. Nickel Road, was dedicated to the public by the Erle Crest Plat, April 7, 1911. This portion of Nickel Road was constructed outside of the legal right of way. The petitioner views the road as though it is their exclusive driveway. The petitioner has provided an errant vehicle turn around area at the end of the as traveled road. The portion of Nickel Road to be vacated will not deprive public access to adjoining properties.

This portion of Nickel Road is a 40 foot wide, 380 foot long right-of-way that serves no public need and is not a benefit to the traveling public. Vacating this portion of Nickel Road will not affect traffic flow nor reduce the established width of 40 feet of the remaining road.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of the affected owners of property proposed to be vacated pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation Maintenance, Engineering, Planning, and Traffic Divisions, along with all local utility companies including the Bureau of Land Management, have been contacted and do not have any objections to this vacation.

County Counsel has reviewed and approved this vacation.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of a portion of Nickel Road, Local Access Road Number P4084.

Sincerely,

Mike Bezner, PE
Assistant Director of Transportation

In the matter of the Vacation
Of a portion of Nickel Road
Local Access Road No. P4084
Situating in the NE 1/4 & SE 1/4 of
Section 34, T.2 S., R.4 E., WM

Order No.

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 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of the affected owners of property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, M. Barbara Cartmill, Director, have been submitted in the matter of the vacation of a portion of Nickel Road, Local Access Road Number P4084, described as follows:

A portion of Nickel Road, Local Access Road Number P4084, situated in the NE 1/4 & SE 1/4 of Section 34, T.2 S., R.4 E., WM, and Erle Crest, Plat Number 287, Clackamas County Plat Records, as more particularly described and shown on attached Exhibits "A" and "B".

IT FURTHER APPEARING that the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of roadway to be in the public interest; and,

IT FURTHER APPEARING that Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies, including the Bureau of Land Management, have been contacted and do not have any objections to this vacation; now therefore,

IT IS HEREBY ORDERED that the attached described portion of Nickel Road, Local Access Road Number P4084, containing 15,170 square feet, more or less, be vacated; and,

IT IS FURTHER ORDERED that rights for all exiting utilities within the vacated portion of Nickel Road be reserved. Nothing contained herein shall cause or require the removal or abandonment of any storm or sanitary sewer, water main, gas line, conduit of any kind, wires or poles which are now installed in said right-of-way and used or intended to be used for any public service or utility. In addition, the rights are reserved to maintain, repair, construct or reconstruct, install, renew, and enlarge all utilities that are now used for any public service or utility; 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 _____, 2016

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

November 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with Parametrix, Inc. for
On-Call Environmental Consultation Services – 2016-2020

Purpose/Outcomes	Approval to proceed with a contract for On-Call Environmental Consultation Services: 2016-2020
Dollar Amount and Fiscal Impact	The annual contract amount is not to exceed \$50,000.00 with a total contract compensation not to exceed \$200,000.00.
Funding Source	County Road Fund
Duration	The contract term is from contract execution through June 30, 2020.
Previous Board Contact	None.
Strategic Plan Alignment	This work promises to honor, utilize, promote and invest in our natural resources.
Contact Person	Devin Patterson, DTD Engineering, Bridge Scour/Fish-Passage Project Coordinator 503-742-4666.

The Clackamas County Department of Transportation and Development (DTD) recently requested proposals for on-call environmental consultation services. A total of 12 proposals were received. The proposals were scored and ranked by three employees of DTD. Five separate scoring criteria were used and a total of 100 points were available. The two consultants with the highest number of points out of 100 were selected.

Work may include, but not be limited to: site visits for wetland delineation; determination of bank-full width and ordinary high water; compliance monitoring; reports relating to wetland delineation; no-rise analysis; stream stability; fish salvage; environmental technical studies; acquiring permits from local, state and federal agencies and acting as a liaison on behalf of Clackamas County in regulatory-based discussions; and, providing assistance and guidance with respect to cultural resource regulations.

Upon approval, the annual contract amount is not to exceed \$50,000.00 with a total contract compensation not to exceed \$200,000.00. The contract term is from contract execution through June 30,2020. This contract has been reviewed and approved by County Counsel. Funds for this project are budgeted under account line 215-7433-00-431000 for fiscal years 2016/2017, 2017/2018, 2018/2019 and 2019/2020.

RECOMMENDATION:

Staff respectfully recommends that the Board approve and sign this contract with Parametrix, Inc. for On-Call Environmental Consultation Services: 2016-2020.

Respectfully submitted,

Mike Bezner, PE
Assistant Director of Transportation

Placed on the ____ November 23, 2016 ____ Agenda by the Purchasing Division.

November 23rd, 2016

MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of November 23rd, 2016, this contract with Parametrix, Inc. for **On-Call Environmental Consultation Services - 2016**. This project was requested by Devin Patterson, DTD Engineering Division and was publicly advertised in accordance with ORS 279. Thirty-three proposal packets were requested and sent out with twelve proposal responses received: AKS Engineering; Biohabitats; Cascade Environmental; Cascara Ecological; Environmental Science Associates; Henderson Environmental; Mason, Bruce & Girard; OBEC Consulting; Parametrix; Point Environmental; Summit Solutions; and SWCA Environmental. A selection panel reviewed and evaluated the Request for Proposals based on the selection criteria outlined in the RFP documents. Parametrix, Inc. and Environmental Science Associates, A California Corporation were the highest ranking firms and were selected to enter into contract. The annual contract amount is not to exceed \$50,000.00 with a total contract compensation not to exceed \$200,000.00. The contract term is from contract execution through June 30, 2020. This contract has been reviewed and approved by County Counsel. Funds for this project are budgeted under account line 215-7433-00-431000 for fiscal years 2016/2017, 2017/2018, 2018/2019/ and 2019/2020.

Respectfully Submitted,

George Marlton
Procurement Division Director

This Professional Services Contract (“Contract”) is entered into between **PARAMETRIX, INC.**, (“Contractor”) and Clackamas County (“County”) to provide **ON-CALL ENVIRONMENTAL CONSULTATION SERVICES – 2016.**

I **SCOPE**

This Contract covers the services as described in the Request for Proposals and the Contractor’s Proposal Response. Upon notification from the County, a scope for specific work will be mutually developed with the Contractor for work to be delivered, an estimated time for delivery, fee basis (either fixed or time and material), and a not-to-exceed price. A Field Purchase Order or an amendment to this Contract must be issued by the County before any such work may begin, which shall incorporate by reference all applicable provisions of this Contract. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The Contract shall commence upon contract execution and continue through June 30, 2020.

II. **COMPENSATION:**

Invoices submitted for payment in connection with this agreement shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed monthly and will be paid net 30 days from receipt of invoice. This contract has a County fiscal year not to exceed amount of **\$50,000.00** with a maximum compensation authorized under this Contract of **\$200,000.00**. This agreement covers the period beginning from **contract execution and continuing through June 30, 2020.**

B. The Contractor is engaged hereby as an independent contractor and will be so deemed for purposes of the following:

1. The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract. The Contractor at all times shall observe and comply with all federal and state laws and lawful regulations issued there under and local bylaws, ordinances, regulations and codes which in any manner affect the activities of the Contractor under this Contract, and further shall observe and comply with all orders or decrees as exist at present and those which may be enacted later by bodies or tribunals having any jurisdiction or authority over such activities of the Contractor.

2. The Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Any violation shall entitle the County to terminate this Contract, to pursue and recover any all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

a. Termination of this Contract, in whole or in part;

b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to the Contractor, in an amount equal to the County's setoff right, without penalty; and

c. Initiation of an action of proceeding for damages, specific performance, declaratory or injunctive relief. The County shall be entitled to recover any and all damages suffered as the result of the Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

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

3. This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Contract to the Contractor are 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 (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Oregon Public Employees Retirement System).

4. 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 and pay employees for the term of work in accordance with this Contract as an insured employer under Oregon Revised Statutes ("ORS") 279B.020 and ORS 279B.235, which are incorporated herein by this reference.

C. The Contractor certifies that, at present, he or she, if an individual is not a program, County, or Federal employee.

D. The Contractor, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

III. CONSTRAINTS

The Contractor agrees:

A. If the services to be provided pursuant to Section I Scope are professional and/or consultative, the Contractor shall not delegate the responsibility for providing those services to any other individual or agency.

B. Pursuant to the requirements of state law, the following terms and conditions are made a part of this Contract:

1. The Contractor shall:

- a. 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.
 - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract.
 - c. Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- 2.** 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 Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract.
- 3.** The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which are 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.
- 4.** The Contractor shall promptly, as due, make payment to any person or copartnership, 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.
- 5.** 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.
- 6.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work as described in Attachment A under this Contract.
- 7.** To the extent the Contractor is negligent, the Contractor shall indemnify, hold harmless and defend the County, its 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 negligent acts, errors, omissions, or fault of the Contractor or the Contractor's employees or agents.
- 8.** The Contractor's failure to perform the scope of work identified or failure to meet established performance standards shall be subject to consequences that include but are not limited to any or all of:

- a. Reducing or withholding payment;
- b. Requiring the Contractor to perform, at the Contractor's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
- c. Declaring a default, terminating the Contract and seeking damages and other relief under the terms of the Contract or other applicable law.

IV. INSURANCE REQUIREMENTS

A. Commercial General Liability

Required by County Not required by County

The Contractor agrees to furnish the County evidence of commercial general 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 County, its 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 this Contract. The County, at its option, may require a complete copy of the above policy.

B. Automobile Liability

Required by County Not required by County

The Contractor agrees to furnish the County evidence of business automobile liability insurance in the amount of not less than \$500,000 combined single limit for bodily injury and property damage for the protection of the County, its officers, elected officials, agents and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The County, at its option, may require a complete copy of the above policy.

C. Professional Liability

Required by County Not required by County

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

D. POLLUTION LIABILITY INSURANCE

Required by County Not required by County

The Contractor shall obtain, at the Contractor's expense and keep in effect during the term of the Contract, Contractor's Pollution Liability insurance covering the Contractor's liability for a third party bodily injury and property damage arising from pollution conditions caused by the Contractor while performing their operations under the Contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to the insurer must be accepted by the County. The insurance coverage shall also respond to cleanup cost. This coverage may be written in combination with the commercial general liability insurance or professional liability insurance. The policy's limits shall not be less than \$1,000,000 each loss / \$1,000,000 aggregate. The policy shall be endorsed to state that the general aggregate limit of liability shall apply separately to this Contract. Any self-insured retention / deductible amount shall be submitted to the County for review and approval.

E. If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The Contractor shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

F. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided the coverage's retroactive date is on or before the effective date of this Contract.

G. The insurance, other than the professional liability and workers compensation insurance, shall include the County as an additional insured. Proof of insurance must include a copy of the endorsement showing the County as an additional insured. Such insurance shall provide thirty (30) days written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

H. The Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County in writing.

V. LAWS, REGULATION AND ORDERS AND TAX LAW COVENANT

A. The Contractor at all times shall observe and comply with all federal and state laws and lawful regulations issued there under and local bylaws, ordinances, regulations and codes which in any manner affect the activities of the Contractor under this Contract, and further shall observe and comply with all orders or decrees as exist at present and those which may be enacted later by bodies or tribunals having any jurisdiction or authority over such activities of the Contractor.

B. The Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Any violation shall entitle the County to terminate this Contract, to pursue and recover any 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:

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

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

C. 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:

1. All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316,317, and 318;
2. Any tax provisions imposed by a political subdivision of this state that applied to the Contractor, to the Contractor's property, operations, receipts, or income, or to the Contractor's performance of or compensation for any work performed by the Contractor;
3. Any tax provisions imposed by a political subdivision of this state that applied to the Contractor, or to goods, services, or property, whether tangible or intangible, provided by the Contractor; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

VI. SUBCONTRACTS:

The Contractor shall be responsible to the County for the actions of persons and firms performing subcontract work. The Contractor certifies that the Contractor has not discriminated and will not discriminate against any minority, women or emerging small business enterprise that is owned or controlled by or that employs a disabled veteran, in obtaining any subcontract.

The Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County in writing.

VII. TERMINATION - AMENDMENT

A. This Contract may be terminated for the following reasons:

- 1.** This Contract may be terminated at any time by mutual consent of the parties, or by County for convenience upon thirty (30) days' written notice to the Contractor;
- 2.** The County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County if:
 - a.** 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 County is prohibited from paying for such work from the planned funding source; or
 - b.** 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.
- 3.** This Contract may also be immediately terminated by the County for default (including breach of Contract) if:
 - a.** The Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or
 - b.** The Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger the performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days;
- 4.** If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, the County may terminate this Contract without further liability by giving the Contractor not less than thirty (30) days' notice.

B. This Contract and any amendments to this contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County.

C. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

VIII. 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.

By signature below, the parties agree to this Contract, effective upon the date of the last signature below.

Parametrix, Inc.
700 NE Multnomah, Suite 1000
Portland, OR 97232

Board of County Commissioners

Authorized Signature

Chair

Name / Title (Printed)

Recording Secretary

Date

Date

Telephone Number / Fax Number

APPROVED AS TO FORM

080125-93

*Oregon Business Registry #

County Counsel

FBC Washington

Entity Type / State of Formation

Date

*Please do not provide assumed business names or trade names. Please provide only the correct legal name of the entity or individual entering into the Contract as shown in the State of Oregon Business Registry.

DRAFT

Approval of Previous Business Meeting Minutes:

October 20, 2016

October 27, 2016

(draft minutes attached)

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

Thursday, October 20, 2016 – 6:00 PM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Housing Authority Commissioner, Paul Reynolds

EXCUSED: Commissioner Tootie Smith

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

Announce the Board will recess as the Board of County Commissioners and convene as the Housing Authority Board for the item.

I. HOUSING AUTHORITY CONSENT AGENDA

1. Resolution No.1916 Award of 5 Project Based Vouchers to Northwest Housing Alternatives
2. Resolution No.1915 Award of 20 Project Based Vouchers and \$1,100,000 in Public Housing Disposition Proceeds

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

MOTION:

Commissioner Reynolds: I move we approve the Housing Authority consent agenda.
Commissioner Bernard: Second.
Clerk calls the poll.
Commissioner Reynolds: Aye.
Commissioner Bernard: Aye.
Commissioner Schrader: Aye.
Commissioner Savas: Aye.
Chair Ludlow: Aye – the motion passes 5-0.

Chair Ludlow adjourned as the Housing Authority Board and re-convened as the Board of County Commissioners for the remainder of the meeting.

II. PRESENTATION

1. Presentation of a Video “Inside Clackamas County” Showcasing Winter Recreational Opportunities in Clackamas County
Tim Heider, Public & Government Affairs introduce a video produced by the Clackamas County Cable office regarding Winter Recreational opportunities in Clackamas County.

III. CITIZEN COMMUNICATION

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

Sherry Hall, Clackamas County Clerk gave an update on the upcoming election.

1. Les Poole, Gladstone –
2. Jeff Goodman – Candidate for State Treasurer.

IV. CONSENT AGENDA

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

MOTION:

Commissioner Bernard: I move we approve the consent agenda.

Commissioner Schrader: Second.

Clerk calls the poll.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Commissioner Bernard: Aye.

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

A. Health, Housing & Human Services

1. Approval of a Professional Services Agreement with Oregon Health & Science University for Consulting Services for Children Covered by the Oregon Health Plan – *Behavioral Health*
2. Approval of Letter of Agreement with the Healthy Columbia Willamette Collaborative (HCWC) Participants for the Continuing Assessment and Reporting of Health Care Needs in our Four-County Community – *Public Health*
3. Approval of an Amendment to the Sub-Recipient Agreement No.16-024 with Clackamas Women's Services for Advocacy in Rural Clackamas County – *Children, Youth & Families*
4. Approval of Amendment No. 2 to a Professional Services Agreement with Robert Half, Inc. for Temporary Administrative Staff – *Public Health*

B. Department of Transportation & Development

1. Approval of an Intergovernmental Agreement with the City of Lake Oswego Regarding a Transfer of a Portion of Carman Drive
2. Approval of an Intergovernmental Agreement with Metro to Implement the Fiscal Years 2016-2018 (Year 27 & 28) Annual Waste Reduction and Recycle at Work Program

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Request by the Clackamas County Sheriff's Office to Enter into an Intergovernmental Agreement with Colton School District for a School Resource Officer for the 2016-17 School Year – *ccso*
3. Request by the Clackamas County Sheriff's Office to Enter into an Intergovernmental Agreement with North Clackamas School District for a School Resource Officer for the 2016-17 School Year – *ccso*
4. Request by the Clackamas County Sheriff's Office (CCSO) to Enter into an Annual Operating Plan & Financial Plan with the Oregon State Marine Board for the Clackamas County Boating Safety Action Plan – *ccso*
5. Request by the Clackamas County Sheriff's Office to Enter into an Intergovernmental Agreement with Oregon Department of Human Services for Funding to Conduct a Specialist Interview Training - *ccso*

D. Business & Community Services

1. Approval of a Memorandum of Understanding between Clackamas County Parks and the Madrone Wall Preservation Committee for the Donation to Madrone Wall Park Capital Construction Project

V. COUNTY ADMINISTRATOR UPDATE

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

VI. COMMISSIONERS COMMUNICATION

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

MEETING ADJOURNED – 6:51 PM

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

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

Thursday, October 27, 2016 – 6:00 PM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

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

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. PRESENTATION

1. Presentation from the County Assessor Regarding the 2016 Property Tax Statements
Bob Vroman, Clackamas County Assessor gave a tour of the Assessment and Taxation web page: www.clackamas.us/at/ He explained upcoming town hall meetings, how to view tax statements on line, where/how to pay your taxes, deadlines, etc.

~Board Discussion~

Sherry Hall, Clackamas County Clerk gave an update regarding the Nov. 8, 2016 election.

II. CITIZEN COMMUNICATION

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

1. Les Poole, Gladstone – spoke regarding road funding, living wage jobs and traffic congestion.
2. Skip Ormsby, Portland – Birdshill CPO – concerns regarding the Twilliger Blvd. sewer project.

III. CONSENT AGENDA

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

MOTION:

Commissioner Smith: I move we approve the consent agenda.

Commissioner Bernard: Second.

~Board Discussion~

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – the motion passes 5-0.

A. Health, Housing & Human Services

1. Approval of a Grant Agreement with Northwest Family Services for Strengthening, Preserving, Reunifying Families Parenting Education and Coaching Services – *Children, Youth & Families*
2. Approval of Amendment No. 10 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*

B. Department of Transportation & Development

1. Acceptance of Oregon Department of Transportation Grant to Fund the Clackamas County Safe Routes to School Project
2. Approval of an Intergovernmental Agreement with the City of Portland to Provide Plan Review Services and Inspection Coordination for the Sewer Project on Terwilliger Blvd
3. Approval of a Contract with Environmental Science Associates, California Corporation, for On-Call Environmental Consultation Services – 2016 - *Procurement*

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Acceptance of the Victims of Crime Act 2016-2017 One-Time Non-Competitive Grant Award for the District Attorney's Office – *District Attorney*

D. Public and Government Affairs

1. **Board Order No. 2016-113** for an Extension to the Cable Television Franchise Agreement with Canby Telephone Association, Canby Telcom

E. Technology Services

1. Approval to Enter into an Intergovernmental Agreement between Clackamas Broadband eXchange and the City of Portland to Co-Build a Dark Fiber Network for Fiber Cable Over the Sellwood Bridge and South Along Hwy. 43 into Lake Oswego

IV. WATER ENVIRONMENT SERVICES

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

1. Approval and Acceptance of a Service Connection Mortgage in the North Clackamas Service Area for Clackamas County Service District No. 1
2. Approval of an Intergovernmental Agreement between Clackamas County Service District No. 1, Multnomah County, Clean Water Services, and the City of Gresham for a Regional Public Awareness and Media Campaign for TMDL and NPDES Stormwater Permit Requirements
3. Approval of an Intergovernmental Agreement between Surface Water Management Agency of Clackamas County, Multnomah County, Clean Water Services, and the City of Gresham for a Regional Public Awareness and Media Campaign for TMDL and NPDES Stormwater Permit Requirements

V. COUNTY ADMINISTRATOR UPDATE

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

VI. COMMISSIONERS COMMUNICATION

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

MEETING ADJOURNED – 11:11 AM



SHARI A. ANDERSON, CPA
TREASURER

OFFICE OF THE COUNTY TREASURER
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

November 16, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Annual approval of the Clackamas County Investment Policy

Purpose/Outcomes	Provides investment framework for Clackamas County investment portfolio
Dollar Amount and Fiscal Impact	None
Funding Source	None
Duration	Effective November 23, 2016
Previous Board Action	The Board last reviewed and approved this agreement on April 23, 2015
Strategic Plan Alignment	Build public trust through good government
Contact Person	Shari Anderson, Treasurer 503-742-5995
Contract No.	N/A

BACKGROUND:

The Clackamas County Investment Policy provides the framework for the investment of the County's public funds by the Treasurer's office. The County chooses to purchase investments with a maturity between 18 and 36 months so the Oregon Short Term Fund Board requires annual adoption of the plan by the Board of County Commissioners. There are no changes made to the policy from the previous version.

RECOMMENDATION:

Staff recommends the Board approve the Clackamas County Investment Policy.

Respectfully submitted,

Shari Anderson
Treasurer

Clackamas County
Office of the Treasurer

Investment Policy

2051 Kaen Rd, #430

Oregon City, Oregon 97045

503-742-5995 FAX 503-742-5996

shariand@co.clackamas.or.us

Clackamas County Investment Policy

I. Objectives:

The primary objectives of investment activities shall be safety, liquidity, and yield:

Safety:

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.

Credit Risk: Clackamas County will minimize credit risk, the risk of loss due to the financial failure of the security issuer or backer, by:

- Limiting exposure to poor credits and concentrating the investments in the safest types of securities.
- Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with which Clackamas County will do business.
- Diversifying the investment portfolio so that potential losses on individual securities will be minimized.
- Actively monitoring the investment portfolio holdings for ratings changes, changing economic/market conditions, etc.

Interest Rate Risk: Clackamas County will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- Investing operating funds primarily in shorter-term securities or short-term investment pools.
- Diversifying the portfolio by maturity dates to mitigate the impact of reinvestment risk.

Liquidity:

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity).

Yield:

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of lesser importance compared to the safety and liquidity objectives described above. The majority of the portfolio is limited to highly rated/low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities are generally held to maturity unless declining credit or liquidity needs warrant a pre-maturity sale.

II. Scope:

This policy applies to the investment of both short-term operating funds and long-term capital funds including bond proceeds and bond reserve funds. This policy applies to all component units of Clackamas County unless specific, written exclusion has been granted by the County Treasurer and the unit has a policy which has been adopted by the Board of Commissioners and submitted to the Oregon Short Term Fund Board.

Investments of employees' retirement funds, deferred compensation plans, and other funds are not covered by this policy.

III. Standards of Care:

Prudence:

The standard of care to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

Ethics and Conflicts of Interest:

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees, officers and their families shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of Clackamas County. Officers and employees shall, at all times, comply with the State of Oregon Government Standards and Practices code of ethics set forth in ORS 244.

Delegation of Authority:

Treasurer: Authority to manage the investment program is granted to the publicly elected County Treasurer, and derived from the following: ORS 294.035 to 294.053, 294.125 to 294.145, and 294.810. The Treasurer shall be responsible for all transactions undertaken and with the Investment Manager, shall establish a system of controls to regulate the activities of subordinate officials. No person may engage in an investment transaction without approval of the Treasurer

Treasury Manager: Administration of the investment program is hereby delegated to the Treasury Manager, who under the direction of the Treasurer shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy.

IV. Safekeeping and Custody:

Purchased investment securities will be delivered by Fed book entry, DTC, or physical delivery and to the extent feasible, held in third party safekeeping with a designated custodian. The trust department of a bank may be designated as custodian for safekeeping specific securities. The custodian shall issue a safekeeping receipt to Clackamas County listing the specific instrument, selling broker/dealer, issuer, coupon, maturity, CUSIP number, purchase or sale price, transaction date, and other pertinent information.

V. Accounting Method:

Accounting Standards:

Clackamas County Department of the Treasurer shall comply with required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies including, but not necessarily limited to, the American Institute of Certified Public Accountants (AICPA); the Financial Accounting Standards Board (FASB); and the Government Accounting Standards Board (GASB).

Investment Return:

Investment returns are calculated as total return, including interest earned, premiums, discounts and appreciation or depreciation of investment values. Investment return for purposes of benchmarking against performance indicators will be compared on a total portfolio basis.

Investment Costs:

Investments will be carried at par. Losses on the sale of investments will be recognized at time of sale. Premiums or discounts on securities will be amortized or accreted over the life of the securities.

Investment Fee:

Where allowable, an investment fee of .01% of portfolio par value may be deducted from interest earned and credited to the County General Fund each month. After deducting the investment fee, interest earnings will be credited as of the last day of each month to the funds from which the investment was made based on the average daily balance in the fund.

VI. Internal Controls:

The Treasurer is responsible for establishing and maintaining an adequate internal control structure designed to reasonably protect the assets of Clackamas County from loss, theft or misuse. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived and (2) the valuations of costs and benefits require estimates and judgments by management.

The internal controls shall address, at a minimum, the following points:

- Control of collusion.
- Separation of transaction authority from accounting and record keeping.
- Custodial safekeeping.
- Avoidance of physical delivery of securities whenever possible and address control requirements for physical delivery where necessary.
- Clear delegation of authority to subordinate staff members.
- Written confirmation of transactions for investments and wire transfers.
- Wire transfer and ACH agreements.
- Compliance and oversight with investment parameters including diversification and maximum maturity.

VII. Reporting Requirements:

Reports to Governing Body:

The Clackamas County Treasurer will provide a monthly report to the County Commissioners, the County Administrator, and the directors of all component units. This report will include but not necessarily be limited to: Portfolio activity, instruments held, market valuation, as well as any narrative necessary for adequate clarification.

Management Reports:

The investment officer shall maintain up-to-date computer reports of portfolio activity providing reports which are timely and available both daily and weekly.

VIII. Investment Policy Adoption:

This Investment Policy will be formally adopted by the Clackamas County Board of Commissioners, and will be readopted annually even if there are no changes.

Maximum investment maturity under this policy exceeds 18 months. As required, this investment policy was submitted to the OSTF Board for comment prior to its approval by the Clackamas County Board of Commissioners, and complies with the requirements of ORS 294.135.

IX. Qualified Financial Institutions:

Providers of Investment Services:

The Treasurer will maintain a list of all authorized Broker/Dealers and Financial Institutions authorized to provide investment services. To qualify for the list they must be an approved security Broker/Dealer selected by credit worthiness that is authorized to provide investment services in the State of Oregon.

These may include "primary" dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposits exceeding federal insurance limits shall be made except in a qualified public depository as established by the State of Oregon.

Broker/Dealer Questionnaire:

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with the following information:

- Audited financial statement
- Proof of National Association of Security Dealers certification
- Proof of state registration.
- Completed Broker/Dealer Questionnaire.
- Certification of having read and understood the Clackamas County Investment Policy

Firm Approval:

After due consideration and approval, the firm may be added to the list. The Treasurer will conduct a periodic review of the financial condition and registration requirements of qualified Broker/Dealers. Preferably, firms shall have a local office and Registered Representative in Oregon. However, the County will not exclude Broker/Dealers located outside the state as long as they are licensed in Oregon and meet all other qualifications.

An updated Broker/Dealer Questionnaire will be mailed to each firm periodically, and should be completed and returned to the Treasurer's office. Failure to complete the update questionnaire may lead to removal from the approved list.

Additions or deletions to the list will be made at the Treasurer's discretion.

X. Suitable and Authorized Investments

The following investments will be permitted by this policy, ORS 294.035 and 294.810:

- U.S. Treasury Obligation (bills, notes and bonds)
- U.S. Government Agency Securities and Instruments of Government Sponsored Corps
- Banker's Acceptances (BA's) from qualified institutions
- State of Oregon Investment Pool
- Certificates of Deposits (CD's)
(Subject to ORS 295 collateralization)
- Repurchase Agreements
- State and Local Government Securities
- Corporate Indebtedness

XI. Portfolio Diversification

Diversification will be sought within the following guidelines with the purpose of reduction of overall portfolio risk while attaining market average rates of return. The investments shall be diversified by investment type, issuer and maturity.

Diversification will be measured on a total portfolio basis. Diversification within individual portfolios may deviate from the total portfolio requirements due to liquidity requirements.

Due to fluctuations in the aggregate surplus funds balance, maximum percentages for a particular issuer, investment type or maturity may be exceeded at a point in time subsequent to the purchase of a particular security. Securities need not be liquidated to realign the portfolio; however, consideration should be given to this matter when future liquidations are made.

Diversification by Type and Issuer:

<u>Security</u>	<u>% limitation of total portfolio</u>
US Treasury	No Limit
US Government Agencies	No limit 50% in any single Government Sponsored Enterprise
State of Oregon Investment Pool	50% of total portfolio, or the maximum imposed by statute
Certificates of Deposit	50% of total portfolio 25% in any single qualified financial institution
Banker's Acceptances	50% of total portfolio 25% in any single qualified financial institution
Commercial Paper and Corporate Notes	35% of total portfolio, per ORS 294.035 5% in any one corporation, their subsidiaries or affiliates
State and Local Government Securities	25% of total portfolio
Repurchase Agreements	25% of total portfolio 10% in any single qualified financial institution

Diversification by Maturity:

Maturity limitations shall depend upon whether the funds being invested are considered short term or long term funds. All funds shall be considered short term except those reserved for capital projects (i.e., bond sale proceeds) and special assessment repayments being held for debt retirement.

• **Short Term Portfolio (maturity up to 3 years):**

Investment maturity for operating funds shall be scheduled to coincide with projected cash flow needs and timed to comply with the following guidelines:

Maturity will be laddered to provide for interest rate fluctuations and to minimize investment interest rate risk. Careful monitoring of interest rate fluctuation will provide a basis for evaluating risk and return.

1 to 90 day maturity	Minimum of 25% of total portfolio
1 to 365 day maturity	No limit
12 months to 24 months maturity	Maximum of 40% of total portfolio
24 months to 36 months maturity	Maximum of 30% of total portfolio

- **Long Term Portfolio (Capital Projects and Special Assessment Repayments):**

Maturity scheduling shall be timed according to anticipated need. For example, investment of capital project funds shall be timed to meet projected contractor payments. Investment of prepaid assessment funds shall be tied to bond payment dates, after cash flow projections are made using a forecasting model which considers prepayment rate, delinquency rate, interest on bonds, and income on investments.

The investments of bond proceeds are restricted under bond covenants that may be more restrictive than the investment parameters included in this policy. Bond proceeds shall be invested in accordance with the most restrictive parameters of this policy and the applicable bond covenants and tax laws.

This investment policy has been submitted for review by the OSTF Board as specified above and in accordance with ORS 294.135(1) (a), debt service reserves may be invested to a maturity date not exceeding five years. Otherwise debt service reserves shall not be invested to a maturity date exceeding one year.

XII. Bids and Offers

Before any security purchase or sale is initiated, the Investment Officer shall first determine the appropriateness of seeking competitive bids or offers. Such factors to consider include where the securities are held, the size of the transaction, and the term to maturity. When required by tax laws or bond covenants competitive bids and offers shall always be sought for security purchases and sales of bond funds.

XIII. Collateralization:

All bank deposits shall be held in qualified Oregon depositories in accordance with ORS Chapter 295.

Certificates of Deposit are considered investments under this policy, and are subject to the collateral requirements of ORS Chapter 295, except those specifically exempted under ORS 295.027.

ORS 294.035 (11) requires repurchase agreement collateral to be limited in maturity to three years and priced according to percentages prescribed by written policy of the Oregon Investment Council or the Oregon Short-Term Fund Board. On March 12, 1996, the OSTF Board adopted the following margins:

US Treasury Securities: 102%

US Agency Discount and Coupon Securities: 102%

Mortgage Backed and other: 103%

*Limited to those securities described in ORS 294.035(1)

XIV. Performance Indicators:

The performance of the County's portfolio shall be measured against the performance of the Oregon Local Government Investment Pool and the 90-day Treasury bill rate. It is the goal of the County to maintain an annualized yield that is not more than ½ percent (.5%) lower than the Oregon Local Government Investment Pool and is not less than ¼ percent (.25%) higher than the 90 day Treasury Bill yield. The County may also benchmark against any other indices it deems appropriate.

XV. Securities Lending:

Pursuant to a formal securities lending policy, the Treasurer may enter into agreements to lend, for compensation, certain investments under a formal security lending agreement. At this time, the Treasurer has no agreements for security lending services, and no Clackamas County Securities Lending Policy is in place.

XVI. Additional Documents

Other documents are used in conjunction with this policy, and are available from the Treasurer's office upon request.



Clackamas County Sheriff's Office

November 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

A Entry and Construction Agreement between Clackamas County and
the Clackamas County Peace Officers' Benevolent Foundation

Purpose/Outcome	This Entry and Construction Agreement allows for the construction of a memorial to Clackamas County police officers who have fallen in the line of duty. It will be placed on Clackamas County owned property located at 9101 SE Sunnybrook Boulevard, known as the Brooks Building.
Dollar Amount and Fiscal Impact	The County shall have no obligation for any costs relating to this project.
Funding Source	The Clackamas County Peace Officers' Benevolent Foundation will solely bear all project costs to complete this project.
Safety Impact	The project will be in compliance will all safety requirements that apply to the design and construction of this memorial.
Duration	Construction will begin immediately and continue until complete.
Previous Board Action/Review	None
Contact Person	Don Howard, Lieutenant –(503) 785-5099
Contract No.	None

BACKGROUND:

I, along with my fellow deputies, want to honor all law enforcement officers of Clackamas County that have fallen in the line of duty, and feel that a law enforcement memorial located at the Brooks Building's public entrance would be an ideal location. It is convenient and accessible to families, friends and the public. The Clackamas County Peace Officers' Benevolent Foundation has graciously offered to pay for its construction to honor our heroes who have made the ultimate sacrifice to serve and protect our community.

RECOMMENDATION:

Staff recommends the Board approve and sign this agreement to construct this memorial.

Respectfully submitted,

Craig Roberts, Sheriff

ENTRY & CONSTRUCTION AGREEMENT

This Construction Agreement (this "Agreement") is made and entered into by and between Clackamas County, a political subdivision of the state of Oregon, (the "County") and Clackamas County Peace Officers Benevolent Foundation, an Oregon public benefit corporation ("Foundation"), effective October 24, 2016.

RECITALS

WHEREAS, County is the owner of certain real property generally located at 9101 Sunnybrook Blvd., known as the Brooks Building (the "Property"); and

WHEREAS, Foundation desires to construct a memorial to Clackamas County police officers who have fallen in the line of duty on the Property consistent with the plans attached hereto as Exhibit A (the "Project"); and

WHEREAS, Foundation has established an arrangement with certain organizations for design, labor, materials and management support in completing the Project on the direction of the Foundation, and desires the County to authorize the Foundation and their agents to enter onto the Property to undertake the work necessary related thereto; and

WHEREAS, County is willing to give permission for the same;

NOW, THEREFORE, THE COUNTY AND FOUNDATION AGREE:

1. Property Access. The Parties hereby agree that Foundation and their agents may enter the Property for the purposes of the Project. Foundation (including through their agents) shall be responsible for all tools, equipment, apparatus, facilities, labor and materials necessary to perform and complete in a good and workmanlike manner the Project.
2. Project Performance. Foundation shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the work. In the performance of the work to be done under this Agreement, the Foundation shall use every reasonable and practicable means to avoid damage to property and injury to persons. Foundation shall use no means or methods which will unnecessarily endanger either persons or property.
3. Project Integration. County staff will be consulted in material Project and construction issues and kept up to date on progress and timelines. County expressly reserves the right to refuse changes to the Property that have not been expressly agreed to in this Agreement. Any proposed changes to the Project must be agreed to in writing by the County before such work may be initiated. County agrees that it will devote reasonable staff time to support the Project and will execute such documents as may be necessary as owner of the Property and

existing facilities to allow the Project to go forward. At the completion of the Project, Foundation shall deliver complete "as-built" drawings and a complete set of construction documentation for the records of the County.

4. Project Costs. The parties acknowledge and agree that all Project costs, whether anticipated or unanticipated, or arising from known or unknown conditions of the Property and fixtures or otherwise, shall be the sole and exclusive responsibility of Foundation. County shall have no obligation for any costs relating therefrom, including but not limited to undiscovered Property conditions, expenses relating to the demolition or condition of the existing building, required improvements or conditions of approval, or any other cost that arising out of or due to the Project.
5. Responsibility for Work. Prior to completion and final acceptance of the Project, Foundation shall be responsible for any injury or damage to the work or to any part thereof by action of the elements, or from any cause whatsoever, and Foundation shall make good all injuries or damages to any portion of the work. The parties agree that this work is being undertaken at the initiative and direction of Foundation, and is not being done at the direction of the County.
6. Term & Project Completion. This Agreement shall commence on the date of execution thereof, and continue until the Project is complete, accepted by County, and title is fully vested in the County as set forth in Section 7 below.
7. Title. Title to materials, improvements and other property anticipated as part of the Project that are fixtures shall vest in and become the property of the County at the time such are tendered by Foundation and, after passing inspection and review, accepted by the County. Foundation and/or Agents shall not allow any liens (including but not limited to workman's liens), claims and encumbrances for the Project.
8. Default and Termination.

8.1. Default. The failure or delay by either Foundation or the Builders to perform any term or provision of this Agreement constitutes a default under this Agreement. Upon discovery of a default:

8.1.1. The County shall give written notice of default to Foundation, specifying the default complaint.

8.1.2. If Foundation is able to cure, correct, or remedy the default within thirty (30) days after receipt of a notice specifying the default, then Foundation shall not be in default.

8.1.3. If the default is not cured by the 31st day after notice is given, default shall be grounds for the termination of this Agreement, ejection of Foundation and/or Agents from the Property, or exercise of the performance

bond. County may also exercise all other remedies available to it in law or equity.

8.2. Termination. This Agreement may be terminated prior to the expiration of its term by default or the mutual written agreement of the parties.

8.2.1. The termination of the Agreement becomes effective upon the 31st day after notice of a default is given unless cured, unless otherwise agreed. Neither Foundation nor the Agents shall incur any new obligations after the effective date of the termination, and turn over to County all materials and documentation relating to the Project.

9. Miscellaneous.

9.1. Merger. This Agreement constitutes the entire agreement between the parties on the subject matter hereof.

9.2. Amendment. Modifications, amendments, or change of terms of this Agreement shall be made by mutual consent of the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing. Any waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.

9.3. Waiver. The failure of Foundation or the County to enforce any part of this Agreement shall not constitute a waiver of that or any other provision.

9.4. Notice. Any notice required or permitted under this Agreement shall be given in writing, shall be effective when actually received, and may be given in any manner consistent with communication between units of county government. Until such time as the parties name other individuals, for purposes of providing notice under this Agreement the parties designate the individuals set out below:

For the County: Jeff Jorgensen, CCFM Manager

For Foundation: Jay Weitman, CCPOBF President

9.5. Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be effected or impaired thereby.

9.6. Indemnification. Foundation shall hold harmless and indemnify the County, and its elected and appointed officials, officers, agents, and employees, from and against all claims, demands, and causes of action of any kind or character arising on account of the Project or this Agreement.

9.7. Compliance with the law. Foundation on behalf of itself and its agents, agree to comply with all applicable local, state, and federal ordinances, statutes, laws, and regulations. Foundation shall give County immediate written notice of any action or suit filed or any claim made against them or Agents or any agent related to the Project that may result in litigation in any way related to this Agreement.

9.8. No third party beneficiaries. While the County and Foundation intend, as a natural consequence of their actions, to improve the level of service to the public, there are no third party beneficiaries to this Agreement. The only parties able to enforce its terms are the County and Foundation.

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

Clackamas County

**Clackamas County Peace Officers
Benevolent Foundation**

Chair



President

Recording Secretary

10-24-16

Date

Date

EXHIBIT A

Project Description

CLACKAMAS COUNTY LAW ENFORCEMENT TRIBUTE AND MEMORIAL PLAZA

Sheriff Craig Roberts and his fellow deputies wanted a way to honor all of the police officers of Clackamas County that have fallen in the line of duty. It was decided that a law enforcement memorial, located at the Clackamas County Sheriff's Office Brooks Building public entrance plaza would be ideal. It would be a convenient and accessible location for all officers, their families, friends and the public to come to remember and honor their police officers.

The Clackamas County Sheriff's Office and the Clackamas County Peace Officers Benevolent Foundation has partnered to construct an appropriate memorial that will reflect our intentions and values. All costs will be met by volunteer funds and a variety of fund raisers.

Professional services, such as design and construction architecture and construction project management has been graciously donated by LRS Architects and P&C Construction. It will be through the efforts of the officers, our professional partners and the community that all will benefit and fully appreciate our memorial. The memorial will remember and honor all of the Clackamas County deputies and police officers of Clackamas County who have been killed or severely injured in the line of duty.

The memorial will feature bronze castings designed and manufactured by renowned artist, Mr. Rip Caswell. The castings include two Honor Guards and a police K-9 at attention and guarding the fallen officer. The fallen officer is depicted by an unworn campaign hat and duty belt on a center podium. This scene is stands on a 5-point star patterned after the original badge worn by Sheriff's in the past and similar to the 75-year commemorative badge collected by many. A concrete cast image of Mt. Hood and foothills provides an impressive recognizable backdrop to the memorial plaza. There will also be an electrical supply for P.A. systems and for some special lighting in the Memorial Plaza.

We are excited and humbled to provide this place of honor and memory for families, friends and colleagues, to gather together and reflect upon the lives of our heroes who given the ultimate sacrifice to serve and protect their communities.

[See attached plans]



NANCY S. BUSH
DIRECTOR

DEPARTMENT OF EMERGENCY MANAGEMENT
COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER
2200 KAEN ROAD OREGON CITY, OR 97045

November 23, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of FY16 State Homeland Security Grant Program Agreement between Clackamas County and the State of Oregon for a Clackamas County Public Information Plan

Purpose/Outcomes	State Homeland Security Grant Program (SHSP) agreement #16-211 provides funding to reimburse Clackamas County Disaster Management for the development of a Clackamas County Public Information Plan.
Dollar Amount and Fiscal Impact	The grant agreement value is \$50,000. The grant is a 100% federal share grant that will reimburse Clackamas County up to the grant agreement amount for project costs.
Funding Source	FY 2016 State Homeland Security Grant Program via the State of Oregon Military Department, Office of Emergency Management
Duration	The FY16 SHSP grant award period is from September 15, 2016 through September 30, 2017.
Previous Board Action	The Board approved the application for this grant in study session on January 26, 2016.
Strategic Plan Alignment	1. Coordination and Integration of Planning and Preparedness 2. Ensure Safe, Healthy and Secure Communities
Contact Person	Nancy Bush, Director, 503-655-8665
Contract No.	Grant agreement #16-211

BACKGROUND:

Each year, Clackamas County Disaster Management leads the development of the application for that fiscal year's State Homeland Security Grant Program. The projects are nominated and selected by the Homeland Security Task Force which is a group of Clackamas County public safety stakeholders. The funding provided in the grant awards allows the Disaster Management Department to maintain and enhance important emergency operations capabilities.

County Counsel has approved the agreement as to form.

RECOMMENDATION:

Staff respectfully recommends Board approval of SHSP grant agreements #16-211.

Respectfully submitted,

Nancy Bush, Director



November 23, 2016

Board of County Commissioners acting as the Governing Body
of the North Clackamas Parks and Recreation District

Members of the Board:

Approval of a Land and Water Conservation Fund Grant Agreement with
Oregon Parks and Recreation Department, North Clackamas Parks and
Recreation District, and City of Milwaukie
for the Development of Wichita Park

Purpose/Outcomes	Provides grant funding to implement the development of the master plan design for Wichita Park.
Dollar Amount and Fiscal Impact	Contract maximum value is \$265,000.
Funding Source	North Clackamas Parks and Recreation District funds. No County General Funds are involved.
Duration	Effective when signed and terminates October 31, 2018
Previous Board Action	BCC signed a resolution to apply for the grant on February 25, 2016 (Order 2016-23)
Strategic Plan Alignment	1. Honor, utilize, promote and invest in our natural resources 2. Build public trust through good government.
Contact Person	<i>Scott Archer, NCPRD Director, 503-742-4421</i> <i>Tonia Williamson, Natural Areas Coordinator, 503-742-4357</i>

BACKGROUND:

The North Clackamas Parks and Recreation District (“NCPRD”) requests the approval of a Land and Water Conservation Fund Grant Agreement with Oregon Parks and Recreation Department.

The District Advisory Board and the NCPRD Board of Directors have identified neighborhood park improvements at Wichita Park, within the Linwood neighborhood in Milwaukie, as a high priority project need in the NCPRD 2007 Parks and Recreation System Development Charges (SDC) Update Methodology Report and Capital Improvement Plan.

This grant agreement provides funding to implement development of neighborhood park elements at Wichita Park. Reimbursement is on a performance based fee-for-service basis.

This agreement is effective once signed by all partnering agencies’ representatives and terminates October 31, 2018.

This agreement has a maximum contract value of \$265,000, which amounts to half the total project cost. No County General Funds are involved.

County Counsel has reviewed and approved the Grant Agreement.

RECOMMENDATION:

Staff recommends the Board approve this agreement and authorizes Gary Barth, BCS Director, or Laura Zentner, BCS Deputy Director, to sign on behalf of Clackamas County.

ATTACHMENT:

1. Land and Water Conservation Fund Grant Agreement with Oregon Parks and Recreation Department, North Clackamas Parks and Recreation District, and City of Milwaukie for the Development of Wichita Park

Respectfully submitted,

Scott Archer, Director
North Clackamas Parks and Recreation District

**STATE-LOCAL AGREEMENT
LAND AND WATER CONSERVATION FUND**

OPRD Grant Number: OP 2531

NPS Grant Number: 41- 01595

Project Title: Wichita Park Development

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Oregon Parks and Recreation Department (OPRD), hereinafter referred to as “State,” and **North Clackamas Parks and Recreation District**, and **City of Milwaukie**, hereinafter referred to as “Grantees,” and collectively referred to as the “Parties.”

1. Effective Date. This Agreement shall become effective on the later of October 15, 2016 or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **October 31, 2018** (Project Completion Date). No Grant Funds are available for any expenditures after the Project Completion Date. This Agreement expires on the earlier of the date final reimbursement is paid by State or 46 days after the Project Completion Date if State has not received Grantees’ final request for reimbursement as provided in Section 6.b.iv.

2. Agreement Documents. This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: **Project Description; Grant Application**

Exhibit B: **Federal Requirements**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B; this Agreement without Exhibits; Exhibit A.

3. Project Cost; Grant Funds; Match. The total project cost is estimated at **\$530,000**. In accordance with the terms and conditions of this Agreement, State shall provide Grantees an amount not to exceed **\$265,000** or **50** percent of the total eligible Project Costs, whichever is less, of Grant Funds for eligible costs described in Section 6 hereof. Grantees shall provide matching funds or the equivalent in labor, materials, or services, in accordance with the rules, policies and guidelines for the Land and Water Conservation Fund governing eligible match, including for all Project Costs as described in Exhibit A

4. Project; Notice to Proceed; Changes. The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. Grantees may begin work upon receipt of a Notice to Proceed from the State and shall have one year from the date of the Notice to Proceed to commence substantial work (i.e., to award contracts for work or show at least 25% of the Project is complete). Failure to comply with this requirement may result in cancellation of the Project and termination of this Agreement and no expenses incurred by Grantees will be eligible for reimbursement. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 10.d hereof.

5. Progress Reports. At least once each three months beginning three months after the effective date of this Agreement, or with each reimbursement request if such requests are made more often than once every three months, Grantees shall submit progress reports to State on forms provided by State. A final report must be included with final request for reimbursement described in Section 6.b.iv.

6. Disbursement and Recovery of Grant Funds.

a. Disbursement. State shall disburse Grant Funds to Grantees in response to Grantees' properly submitted Requests for Reimbursement of Grantees' eligible costs and expenses incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. The source of the Grant funds is the United States Department of the Interior, National Park Service, as specified in the Land and Water Conservation Fund Project Agreement. State shall make reimbursements within 30 days of the approval by State of Grantees' request for reimbursement, provided that such request (1) is made using a form designated and provided by State; and (2) is supported by copies of project invoices and appropriate documentation confirming that project invoices have been paid. Grantees may submit payment requests no more than once per calendar quarter. State shall disburse up to **75 percent** of the Grant Funds to Grantees on a cost reimbursement basis upon approval of invoices submitted to State. State will disburse the final 25 percent of the Grant Funds upon approval by State of the Final Report and the completed Project. Grantees must submit the final request for reimbursement following completion of the Project and no later than 45 days after the Project Completion Date. If Grantees fails to submit the final request for reimbursement within 45 days after the Project Completion Date, State may elect not to disburse the final 25 percent of Grant Funds. Final payment will be made upon satisfactory completion, as determined by State, of the Project. Eligible costs are the reasonable and necessary costs incurred by Grantees in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit. Within 90 days of the earlier of the Project Completion Date or the Project Expiration Date, administrative and financial closeout of the Grant must occur. During this 90 day period, the following documents must be provided to the National Park Service before the Service can approve and process any Final Payment:

- i. a final report attesting to the completion of the project in accordance with the approved project agreement/amendment;
- ii. a final on-site inspection report for development projects;
- iii. a completed site plan (up to 14 inches x 17 inches in size) indicating the type and location of Fund-assisted facilities and/or acquired properties along with the official park or site name unless previously submitted or evident on the signed and dated Section 6(f) map;
- iv. a signed and dated Section 6(f)(3) project boundary map if more accurate than the current one in the NPS file including the delineation of any newly added parcels as a result of the project;
- v. if applicable, a completed certification (PD/ESF page 12) by the State Liaison Officer that the State has reviewed each appraisal associated with this project per federal requirements;
- vi. other required documentation not previously submitted; and
- vii. Digital images of completed project.

b. Conditions Precedent to Disbursement. State's obligation to disburse Grant Funds to Grantees is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.

- ii. Grantees are in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
- iii. Grantees' representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- iv. Grantees have provided to State a request for reimbursement as described in Section 6.a

c. Recovery of Grant Funds. Any funds disbursed to Grantees under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to State. Grantees shall return all Misexpended Funds to State promptly after State's written demand and no later than 15 days after State's written demand. Grantees shall return all Unexpended Funds to State within 14 days after the earlier of expiration or termination of this Agreement.

7. Representations and Warranties of Grantees. Grantees represents and warrants to State as follows:

a. Organization and Authority. Grantees are duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Grantees have full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Grantees of this Agreement (1) have been duly authorized by all necessary action of Grantees and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Grantees' Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Grantees are a party or by which Grantees or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantees of this Agreement.

b. Binding Obligation. This Agreement has been duly executed and delivered by Grantees, and each of them, and constitutes a legal, valid and binding obligation of the Grantees, and is jointly and severally enforceable against each of them, in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. No Solicitation. Grantees' officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

d. No Debarment. Neither Grantees nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Grantees agrees to notify State immediately if it is debarred, suspended or otherwise excluded from this federally-assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

a. Records, Access to Records and Facilities. Grantees shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Grantees shall ensure that each of its subGrantees and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of the Interior their duly authorized representatives shall have access to the books, documents, papers and records of Grantees that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, the United States Department of the Interior and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Grantees shall permit authorized representatives of State, the Secretary, or their designees to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Grantees as part of the Project, and any transportation services rendered by Grantees.

b. Retention of Records. Grantees shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following expiration or termination of this Agreement. If there are unresolved audit questions at the end of the six-year period, Grantees shall retain the records until the questions are resolved.

c. Expenditure Records. Grantees shall document the expenditure of all funds disbursed by State under this Agreement. Grantees shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the moneys were expended.

d. Audit Requirements.

i. Grantees receiving federal funds in excess of \$750,000 in a fiscal year are subject to audit conducted in accordance with 2 CFR Part 200, Subpart F. If subject to this requirement, Grantees shall, at Grantees' own expense, submit to State, a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement.

ii. Grantees shall save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Grantees acknowledges and agrees that any audit costs incurred by Grantees as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Grantees and either State or State of Oregon.

9. Termination. This contract may be terminated by mutual consent of both parties, or by either party upon a 30-day notice in writing, delivered by certified mail or in person to the other party's contact identified in the Agreement. On termination of this contract, all accounts and payments will be processed according to the

financial arrangements set forth herein for approved services rendered to date of termination. Full credit shall be allowed for reimbursable expenses and the non-cancelable obligations properly incurred up to the effective date of the termination.

10. GENERAL PROVISIONS

a. Contribution; Subcontractor Indemnity and Insurance. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against State or Grantees with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party’s liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which State is jointly liable with Grantees (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Grantees in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Grantees on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Grantees on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

With respect to a Third Party Claim for which Grantees are jointly liable with State (or would be if joined in the Third Party Claim), Grantees shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Grantees on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Grantees on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Grantees’ contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

Grantees shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort (as now or

hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantees' contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

b. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

c. Responsibility for Grant Funds. Any Grantees of Grant Funds, pursuant to this Agreement with State, shall assume sole liability for that Grantees' breach of the conditions of this Agreement, and shall, upon Grantees' breach of conditions that requires State to return funds to the federal government, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the Grantees of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

d. Amendments; Process for Project Change Requests This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

Notwithstanding any other provision to the contrary, if Grantees seek any changes in either the Project Scope or the Project Budget (a "Project Change") Grantees must obtain prior approval of State as specified below. The Grantees shall be fully responsible for all costs that occur outside the established Project Scope, schedule or budget and prior to State's approval of a Project Change. State may in its sole discretion, approve or disapprove of any proposed Project Change in Project Scope or Project Budget. In the event State approves Project Change, such the Change must be reduced to writing and implemented as an amendment to this Agreement. The following Project Changes must be approved by State to be eligible for funding under this Agreement:

Any significant change or reduction in the Scope of Work described in the Project Description of Attachment B (Project Application, including the Project description and project budget).

Any deviation from the original Project Budget set forth in Attachment B. Any budget change request must explain in detail what change is requested, the reason for the requested change, and any efforts that Grantor has made or will make to mitigate the effect of the proposed budget change.

e. Duplicate Payment. Grantees are not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.

f. No Third Party Beneficiaries. State and Grantees 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 or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Grantees acknowledge and agree that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Grantees, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from this Agreement.

g. Notices. Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Grantees Contact or State Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 10.g. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the Grantees of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.

h. Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any other agency or department of the State of Oregon) and Grantees that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

i. Compliance with Law; Remedies. Grantees shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the Project, including without limitation OAR chapter 736, Division 8 (the Land and Water Conservation Fund administrative rules) and laws prohibiting discrimination on the basis of race, religion, sex, color, national origin, family status, marital status, sexual orientation, age, and source of income or mental or physical disability in the performance of this Agreement. Without limiting the generality of the forgoing, Grantees shall comply with the LAND AND WATER CONSERVATION FUND PROJECT AGREEMENT (the Federal Project Agreement), attached hereto as Exhibit B as though the term "State" as used in Exhibit B means "Grantees" except where the intent of the terms means only the State of Oregon. The benefit to be derived from full compliance by the Grantees with the terms of this Agreement is the preservation, protection, and the net increase in the quantity and quality of public outdoor recreation facilities and resources which are available to the people of the State of Oregon and of the United States, and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money and other assistance furnished under the terms of this Agreement, Grantees agree that payment by the Grantees to State of an amount equal to the value of any assistance extended under this Agreement would be inadequate compensation to State for any breach by the Grantees of this Agreement. Grantees further agrees, therefore, that the appropriate remedy for State in the event of a breach by the Grantees of this Agreement shall be the specific performance of the Agreement.

j. Insurance; Workers' Compensation. All employers, including Grantees, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Grantees shall ensure that each of its subGrantee(s), contractor(s), and subcontractor(s) complies with these requirements.

k. Independent Contractor. Grantees shall perform the Project as an independent contractor and not as an agent or employee of State. Grantees have no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Grantees performs the Project, except as specifically set forth in this Agreement. Grantees are responsible for determining the appropriate means and manner of performing the Project. Grantees acknowledges and agrees that Grantees is not an "officer", "employee", or "agent" of State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

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

m. Counterparts. This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

n. Integration and Waiver. This Agreement, including all Exhibits, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Grantees, by the signature below of each of its authorized representatives, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

o. Publicity. Sponsor shall make every effort to acknowledge and publicize ORPD's participation and assistance with the project. Sponsor agrees to place signs at the Project location acknowledging ORPD's grant program support. Sponsor also agrees to maintain the signs throughout the life of the project. State may withhold final reimbursement payment until signage has been placed.

p. Contractor or Sub-Recipient Determination

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, OHA's determination is that:

X Recipient is a sub-recipient; OR Recipient is a contractor.

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: [_15.916_]

p. Information required by 2 CFR § 200.331(a)(1)

Federal Award Identification:

- (i) Subrecipient name (which must match registered name in DUNS): North Clackamas Parks and Recreation District and City of Milwaukie
- (ii) Subrecipient's DUNS number: 93-6002286 - North Clackamas Parks and Recreation District; 002005155 City of Milwaukie
- (iii) Federal Award Identification Number (FAIN): 41-01595
- (iv) Federal Award Date: August 10, 2016
- (v) Sub-award Period of Performance Start and End Date: From October 15, 2016 to October 30, 2018
- (vi) Total Amount of Federal Funds Obligated by this Agreement: \$303,928.50
- (vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement: \$265,000
- (viii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$265,000
- (ix) Federal award project description: Development of neighborhood park including a playground, walking paths, native landscaping, water fountain, benches, picnic tables, a disc golf basket, irrigated grass, fencing and signage, and indirect rate.
- (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
 - (a) Name of Federal awarding agency: National Park Service, Department of the Interior
 - (b) Name of pass-through entity: Oregon Parks and Recreation Department
 - (c) Contact information for awarding official of the pass-through entity: Lisa Sumption, State Liaison Officer (503) 986-0660
- (xi) CFDA Number and Name: __15.916 Outdoor Recreation_Acquisition, Development and Planning
Amount:
- (xii) Is Award R&D? No
- (xiii) Indirect cost rate for the Federal award: 0%

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

North Clackamas Parks and Recreation District

By _____
(Legally designated representative)

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY
(If required in local process)

By _____
Grantee’s Legal Counsel

Date _____

City of Milwaukie

By _____
(Legally designated representative)

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY
(If required in local process)

By _____
Grantee’s Legal Counsel

Date _____

Grantees Contacts:

North Clackamas Parks and Recreation District

Scott Archer, Director
150 Beaver Creek Road
Oregon City, OR 97045
(503) 742-4421

SArcher@co.clackamas.or.us

City of Milwaukie

Ann Ober, City Manager
10722 SE Main Street
Milwaukie, OR 97222
(503) 786-7501
obera@milwaukieoregon.gov

State Contact:

Michele Scalise, Lead Grant Program Coordinator
725 Summer Street NE, Suite C
Salem, OR 97301
(503) 986-0708
michele.scalise@oregon.gov

STATE OF OREGON, by and through its
Department of Parks and Recreation

By _____
Tracy Louden, Business and Technology Solutions Administrator

Date _____

APPROVAL RECOMMENDED

By _____

Michele Scalise, Grant Program Coordinator

Date _____

By _____

Jan Hunt, Recreation Grants Section Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY
(For funding over \$150,000)

By: Approved for legal sufficiency by Assistant
Attorney General Marvin Fjordbeck by
email dated October 21, 2016

Name _____
(printed)

Date _____

EXHIBIT A

Project Description and Budget

- 1. Project.** Development of neighborhood park including a playground, walking paths, native landscaping, water fountain, benches, picnic tables, a disc golf basket, irrigated grass, fencing and signage, and other work as described in **Grantee's Project Application** attached hereto and incorporated into this Exhibit A.
- 2. Public Access to the Project:** The Project Sponsor shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin or place of primary residence.
- 3. Continued Operation:** Upon completion of the Project, Project Sponsor shall be responsible for the operation and maintenance of said facility for public outdoor recreation in the manner and according to the standards set forth in the Department of the Interior Manual.

Grant Application for

Wichita Park Development

Contact

Sponsor Name:

North Clackamas Parks and Recreation District

First Name:

Scott

Last Name:

Archer

Address 1:

150 Beaver Creek Road

Address 2:**City:**

Oregon City

State:

OR

Zip Code:

97045

Contact Phone:

503-742-4421

Contact Fax:

503-742-4349

Contact Email:

sarcher@clackamas.us

Federal Tax ID:

93-6002286

Organizational DUNS Number:

93-6002286

Project

Project Name:

Wichita Park Development

Funds Requested:

\$265,000.00

Matching Funds:

\$265,000.00

Total Cost:

\$530,000.00

Brief Project Description should be a concise overview of the project elements limited to 40 words or less.:

Brief Project Description:

Construction of Wichita Park, a neighborhood park in Milwaukie, including a playground, walking paths, and native landscaping. A water fountain, benches, picnic tables, a disc golf basket, irrigated grass, fencing and signage will also be included in the park.

Enter estimated project start and end dates below.:

Start Date:

September 1, 2016

End Date:

September 1, 2017

Percent of Grant:

0.5000000000000000

Percent of Match:

0.5000000000000000

Site Name:

Wichita Park

Site Acreage:

0.91

Site Town - City:

Milwaukie

Site County:

Clackamas

Site Description:

Wichita Park is a 0.91-acre undeveloped neighborhood park within the Linwood Neighborhood in Milwaukie. Currently the park features field grass and eight native trees planted by neighbors. The park is flat and does not include any wetlands or sensitive habitat. It is located on Monroe Street, designated a "neighborhood greenway".

Is the proposed project within an existing 6(f) boundary?:

No

Land Control:

Fee Simple

Latitude:

45.444332896936778

Longitude:

-122.601810693740840

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Supplemental

1. PROJECT NARRATIVE :

a. Describe all elements of the project, the need for assistance and project objectives. Describe who will do the work and who will provide supervision. :

The Wichita Park Development project includes final design and construction of a .91-acre neighborhood park, including a playground, paved and soft surface trails, benches, picnic tables, a disk golf basket, a water fountain, bicycle parking and a split-rail fence. Native trees and plants will be planted around the perimeter of the park, and all current trees on-site will be retained. A new, fully irrigated lawn will provide for an open recreational experience. The Wichita Park project provides new park facilities for 4,900 residents that live within a ½-mile radius in the fully developed Linwood neighborhood. The proposed project is identified in the NCPRD Master Plan, is a priority project in the District Capital Improvement Plan, and the park master plan is adopted in the City of Milwaukie Comprehensive Plan. A District-wide survey in 2012 identified neighborhood parks as the most visited facilities and most important facility to residents. Over 81% of park users responded that they had used a neighborhood park in the last year. The proposed project is championed by the Linwood Neighborhood District Association (NDA) and has strong support from the District's Board of Directors, the District Advisory Board, and Milwaukie City Council. Wichita Park is surrounded by residential homes and has access to SE Monroe Street, a Neighborhood Greenway that is planned to receive future bicycle and pedestrian improvements. The park site is currently an undeveloped neighborhood park, with eight native trees planted by neighbors and field grass that is mowed regularly by the District. The park site was acquired by the City of Milwaukie in 1987 from the Wichita Water District. The City of Milwaukie joined the North Clackamas Parks and Recreation District when the District formed in 1990. The District provides park and recreation services, including park development, maintenance, operations, and programming within City of Milwaukie parks under an Intergovernmental Agreement (IGA). The Linwood Neighborhood, where the Wichita Park is located, is a highly populated and fully developed area. There is only one other developed neighborhood park located in this neighborhood, leaving this neighborhood of the District underserved. The neighborhood has a lower average household income, higher unemployment rate, and a higher percentage of households with children than the District average and Portland Metropolitan region. Over 70% of children in the local school are eligible for free or reduced lunch. The neighborhood is also more diverse than the District average, with over 12% Latino residents and a higher population of senior citizens than the Region. The District and City worked together with the Linwood NDA to develop a master plan for the park, which was adopted in 1999. The master plan was updated in 2014, and the District worked with Lango Hansen Landscape Architects to complete preliminary construction plans and specifications in 2015. The only dedicated source of funding available to NCPRD for land acquisition and the development of new parks is System Development Charges (SDCs). However, the City of Milwaukie is largely built-out, and there is limited opportunity for new development (and SDC funds) within the City. This provides a funding gap, and explains why it has taken NCPRD and the City so long to prepare to develop Wichita Park. Without grant funding and Linwood NDA donations the District is unable to fund the Wichita Park construction. After receiving the

grant notice to proceed NCPDR plans to complete playground design and construction documents later this year. The designs for the park will be completed by an engineering firm, and NCPDR will engage a qualified construction contractor to build the park. Construction would occur as soon as possible, as weather permits, and the official opening of the park is projected to be summer, 2017. The NCPDR Construction Manager will provide supervision of the project, with assistance by the Maintenance Supervisor and Senior Planner, who will provide grant management.

b. Describe any facilities to be constructed, existing facilities which are to be renovated, removed or demolished. Describe the present development on the site and how proposal fits in with future development. :

NCPDR will work with a qualified construction contractor to install and construct the following facilities: a playground including a slide, swings, and modern play structures, and a rubber tile play surface, paved and soft surface trails, three benches, three picnic tables, a disk golf basket, water fountain and bicycle parking. The contractor will install site drainage, irrigation, and landscaping, including over twenty new native trees and fifty new native shrubs, which will join the trees that will be retained on-site. The park is currently undeveloped, and has an open lawn area with a few trees planted by neighborhood volunteers. Field grass grows on the site and is currently maintained as necessary by the NCPDR Maintenance Team. The site is flat and will not require excessive fill or removal to develop as a neighborhood park. The proposed park is within a fully developed residential neighborhood, mostly built between 1960 and 1970, that has experienced some in-fill development recently. The park fits in well with the current neighborhood development and will fit in with whatever future changes might occur in the neighborhood. The park is intended to include active recreation, and the proposed improvements are appropriately planned for the size of the park. No additional development of the park is planned beyond that which is included in this grant application.

2. SCORP CRITERIA: Consistency With the following Statewide Priorities (0-20 points):

a. Major rehabilitation projects involve the restoration or partial reconstruction of eligible recreation areas and facilities. If the project includes major rehabilitation, please check all that apply: :

i. Please list the specific facilities that are in need of rehabilitation. Upload photos in the Attachments tab showing the facilities in need of rehabilitation.:

No rehabilitation proposed.

ii. If only part of the project is rehabilitation, approximately what percentage of the project is rehabilitation?:

0

b. Non-motorized trail connectivity. Trail connectivity involves linking urban trails to outlying Federal trail systems; linking neighborhood, community and regional trails; connecting community parks and other recreational public facilities; connecting

parks to supporting services and facilities; connecting neighboring communities; and providing alternative transportation routes. To what extent does the project address non-motorized trail connectivity? :

The Wichita Park project promotes non-motorized trail connectivity because it provides a hard surface trail connecting the playground to the future sidewalks of SE Monroe Street, and a features a small soft surface loop trail in an area currently underserved by trails. The park also is planned to include bike parking and a water fountain that neighbors and cyclists will utilize. NCPRD will separately build and fund sidewalks and a bike lane in conjunction with this project along SE Monroe Street, which currently does not have bicycle and pedestrian improvements. As an important east-west route across Milwaukie, Monroe Street connects several Neighborhoods and Downtown Milwaukie, and has been identified in the City's Transportation System Plan (TSP) as a "Neighborhood Greenway."

Neighborhood Greenways are low-volume, low-speed routes that provide safe, quiet routes for motorists, pedestrians, and bicycles. Future improvements to Monroe Street will be supported by the proposed facilities at Wichita Park, and bring more people safely to the park.

c. Projects supporting or providing a base for individual active participation. 'Active' means those forms of recreation that rely predominantly on human muscles, and includes walking, sports of all kinds, bicycling, running, and other activities that help people achieve currently accepted recommendations for physical activity levels. To what extent does the project support or improve access to individual active participation? :

Wichita Park provides a base for individual active participation through offering a new park in a neighborhood that is currently underserved. The Linwood neighborhood has only one other playground that serves over 4,900 residents. The playground is designed to encourage children to play together or separately, and has a number of climbing and swinging elements that will encourage children to be more active and is designed to be accessible for all. Members of the Linwood NDA and other members of the community chose the modern style playground elements because they were unlike anything else in the City of Milwaukie. The playground will provide a variety of developmentally appropriate activities, offer healthy risk, and challenge children of all abilities, creating a place where everyone wants to play. The Supernova is specifically designed for children to get together to make it work and is accessible to all children. The proposed park has both paved and soft surface trails including a small loop trail that can be used by caregivers as their children are playing on the playground, or by children that want to explore the surrounding trees and planted landscaped areas. The disk golf basket featured in park is the first of its kind in the District, and will allow friends, families, and neighbors to try their skill at a new game. When the disc golf basket is not in use, the park features a flat grass field that children can run and play on, or kick or throw a ball around in, participating in "free play".

d. Sustainability. To what extent does the project address sustainability recommendations for OPRD-administered grant programs? Please see Chapter Seven (pages 115-117) of SCORP for sustainability recommendations for land acquisition, new facility development, major rehabilitation, and trail projects.:

NCPRD is committed to designing, constructing, and managing its park facilities in a sustainable manner and will follow best management practices. The Wichita Park project will reflect this commitment through maximizing the use of open space within a fully

developed neighborhood, including active recreation at the playground, and providing contemplative and gathering spaces in the trail and picnic areas. NCPRD and the City always practice careful site selection so that new park sites protect existing ecosystems and sensitive habitat areas and utilize in-fills for new developed park locations. Wichita Park is a convenient site for neighbors within the community, and has been designed to fit in with the surrounding residential homes. The Wichita Park uses water efficient landscaping and identifies the use of native and locally grown trees and plant species, which will increase their propensity to survive, including Maple, Oregon Ash, and Oregon White Oak. NCPRD construction contractors will practice care in retaining the current native trees that were planted by neighbors. NCPRD will install a centrally controlled irrigation system that adjusts output according to the amount of rain, and is only used when necessary. Public recycling containers will be provided at the park when it is complete. The NCPRD Parks Maintenance and Natural Resources Management Teams will work together to control invasive plants. NCPRD works with Clackamas County and the City of Milwaukie to sustainably manage the use of pesticides within the District and has developed an Integrated Pest Management Plan (IPMP). NCPRD will use bioswales to handle storm run-off along the Monroe Street Right-of-Way. The City of Milwaukie and NCPRD have identified the walkways on-site to include permeable pavement where feasible. Wichita Park creates a diverse set of recreational experiences which are currently underserved in the local area and addresses an identified unmet need. There are only two other small neighborhood parks in the Linwood neighborhood, only one of which is developed with a playground. The Linwood NDA specifically designed this park with NCPRD to have play elements different from anything else in the community. Additionally, all neighborhood parks within Milwaukie are small, averaging one acre in size, because they have been built where opportunities present themselves, and where land is available within a fully developed community. The Wichita Park will give neighborhood families a park to walk to, encouraging physical fitness and reducing the obesity rate among Oregon residents and will provide community children a new place to play. People living in the Linwood Neighborhood are currently challenged to find outdoor active places to play. The Wichita Park project will increase equitable distribution of park and recreation facilities in Milwaukie and provide for an unmet need in the neighborhood. The Wichita Park project will provide recreational opportunities for underserved and underrepresented populations. Specifically, 12% of the Linwood neighborhood population is Latino, compared to 10% in the rest of the District. Additionally, the neighborhood is economically disadvantaged, with the average household income less than the rest of the District. Over 70% of students at Linwood Elementary and over 75% of students at Lewelling Elementary School are eligible to receive free or reduced-price lunches. These students are especially in need of free recreational outdoor opportunities in their community. NCPRD provides a RecMobile program in the summer that provides weekly recreational opportunities to children throughout the community. This opportunity is not currently offered in the Linwood neighborhood. The free drop-in program includes crafts, games, and fun themes, and could be offered at Wichita Park after it is fully developed.

3. SCORP CRITERIA: Local Needs and Benefits (0-30 points) :

A map clearly identifying the project location and UGB or unincorporated community boundary or Tribal community boundary drawn on it must be uploaded

in the attachments section of this application. Is your project in a CLOSE-TO-HOME area (located within an urban growth boundary (UGB), unincorporated community boundary, or a Tribal Community) or in a DISPERSED AREA (located outside of these boundaries)? :

close-to-home

a. Please identify how the project satisfies the county- level needs by using priorities identified in either the Public Recreation Provider Survey, Oregon Resident Survey, Local Planning Document, and/or other local public planning process::

i. Public Recreation Provider Identified Need. Does the project satisfy county-level needs identified by the Public Recreation Provider Survey on page 86 in the SCORP? If so, enter which priority or priorities are identified for the project county. Please use either the Close-to-Home Priorities or Dispersed Area Priorities, not both. :

The Wichita Park project provides for Clackamas County Close-To-Home Priorities by supporting urban bike routes and trails connecting communities and parks through including a water fountain and bicycle parking and hard surface and soft surface trails that will provide an enjoyable place for neighbors to walk.

ii. Oregon Resident Identified Need. Does the priority project satisfy county-level need identified by the Oregon Resident Survey on page 86 in the SCORP? If so, enter which priority or priorities are identified for the project county.:

The Wichita Park project provides the following Oregon Resident Survey priorities: dirt/soft surface and paved/hard surface walking trails and paths, and children's playgrounds and play areas.

iii. To what extent does the project satisfy priority needs, as identified in a current local planning document (park and recreation master plan, city or county comprehensive plan, trails master plan, transportation system plan or bicycle and pedestrian plan)?:

The Wichita Park project is identified in a number of current local planning documents and is a priority for development for NCPDR, the City of Milwaukie, and the Linwood NDA. Development of Wichita Park is recognized in the District's Master Plan and Capital Improvement Plan as a Priority Project, and is identified in the 2016-2017 FY Capital Projects Fund budget. NCPDR hosted two publicly advertised community meetings in 1998 to develop the Wichita Park Master Plan and it was adopted by the City of Milwaukie as a Comprehensive Plan Document in 1999. The NCPDR District Advisory Board, Milwaukie Planning Commission, and Milwaukie City Council all held public meetings to discuss and approve the Master Plan. In 2014 NCPDR, City of Milwaukie Staff, the Linwood NDA, and a landscape architecture firm worked together to update the Master Plan, reflecting the current needs of the neighborhood and maintenance standards of the District. The Master Plan updates were approved by the Milwaukie Planning Commission in 2014. NCPDR then hired Lango Hansen Landscape Architects (LHLA) to develop preliminary design documents and a 30% Construction Document Design Estimate, which were completed in partnership in May, 2015. The Final NCPDR Draft District Master Plan 2015 document identifies neighborhood park development as a priority for district citizens in areas that are underserved. The Linwood neighborhood is specifically identified as an area with park

service below threshold, with only one other developed neighborhood park and playground that serves approximately 4,900 residents. A key recommendation of the Final Draft Master Plan (2015) is to develop unimproved park sites to improve level of service. The proposed mix of recreational opportunities for Wichita Park supports healthy and constructive lifestyles and appeals to a wide cross section of local residents and provides a park that is designed for family use. This will be an increasingly important social benefit as the population of the District is projected to grow from 116,000 residents to 130,000 residents over the next 20 years. Correspondingly, the number of youth within the District is projected to grow from 19,600 to 26,000 during the same period, requiring a higher playground and neighborhood park level of service than is currently offered in the District.

iv. If the project is not included in a current local planning document, describe the public involvement effort that led to the identification of the priority project including citizen involvement through public workshops, public meetings, surveys, and local citizen advisory committees during the project's planning process.:

Wichita Park development is identified in the following local planning documents: Wichita Park Master Plan, NCPRD Master Plan and Capital Improvement Plan, and City of Milwaukie Comprehensive Plan.

4. SCORP CRITERIA: Long Term Commitment to Maintenance (0-15 points):

a. Explain how you plan to continue area/facility operation and maintenance after the project is complete by providing the following information::

i. How will the project's future maintenance be funded? Please include specific maintenance funding sources such as tax levies, fee increases, and other funding sources which will be used. A Resolution to Apply submitted with this application should address funding for on-going operation and maintenance for this project.:

Residents of the City of Milwaukie voted to join the NCPRD in 1990. NCPRD maintains all parks within the City through an intergovernmental agreement (IGA) that outlines maintenance standards. NCPRD is a full service park district experienced in managing and maintaining public parks and facilities and has established maintenance policies and practices that apply to all District parks. Maintenance of District facilities is funded by the District's general fund which is supported by a dedicated property tax of \$.53/\$1000 assessed value. As such, long-term maintenance of the Park is not dependent upon future grant monies. Currently NCPRD maintains Wichita Park as an undeveloped neighborhood park and will continue to provide maintenance at Wichita Park at completion of the proposed neighborhood park improvements. The District has budgeted additional funds in the 2016-2017 Maintenance Budget to maintain the park to a higher standard upon completion of the proposed neighborhood park improvements. NCPRD's committed maintenance team has the capacity to carry out weekly playground inspections to identify and resolve maintenance issues as they arise. This includes monitoring playground facilities and repairing them to national standards when necessary to ensure user safety as well as to maintain playground appearance. Additionally, in line with current NCPRD protocols, an annual National Playground Safety Inspection will be carried out by a Certified Playground Safety Inspector.

ii. How much do you expect to spend annually or number of hours needed to maintain?:

NCPRD estimates approximately \$14,200 in annual maintenance budget for this park when construction is complete. This cost includes weekly maintenance service (mowing, blowing, and edging, garbage service and dog bag station maintenance); fertilization twice a year, leaf removal and weatherization, hard surface maintenance, and playground inspections and improvements as necessary. It also includes park utilities. This estimate was generated by evaluating other one-acre neighborhood parks within the District.

iii. Do you have partnerships with other agencies or volunteer maintenance? Provide documentation such as letters of support from volunteer organizations, cooperative agreements, donations, private project applicant support letters, or signed memoranda of understanding to demonstrate commitment to maintenance.:

The Linwood Neighborhood District Association (NDA) performs yearly volunteer clean-up events in the other two Linwood neighborhood parks and has provided a letter of support for this grant application. NDA members may also provide a regular neighborhood watch. The District has an Adopt-A-Park program in place that encourages community ownership and involvement in their neighborhood parks.

5. OVERALL SITE SUITABILITY CRITERIA: Site and Design Suitability Evaluation (0-10 points):

a. To what extent is the site suitable for the proposed development? Also describe the extent to which the site or project design minimizes negative impacts on the environment and surrounding neighborhood and integrates sustainable elements. :

The proposed Wichita Park site is suitable for park development due to its central location within a residential neighborhood. The proposed improvements are within a site that is currently an undeveloped park, and is in a currently underserved area of the District. The proposed park site is relatively flat and does not contain any wetlands, riparian areas, native vegetation or critical wildlife habitat. The site contains eight native trees that will be retained. The land on which the park will be built was previously owned by the now defunct Wichita Water District and the site is clear of any impedance to future development. The proposed park site is prominently located along SE Monroe Street and all development will be highly visible from the street, which will contribute positively to the security of the park and oversight of users. The District intends to fully evaluate and implement where appropriate, the latest technologies and designs for sustainable development when completing park project design and engineering. Park design features integrate sustainable elements, including storm water management, the exclusive use of native and local plant materials, and the use of recycled materials where feasible. The City of Milwaukie requires that all walkways be paved in a permeable concrete or asphalt. Impacts to surrounding neighborhoods are minimized by locating the playground in the central area of the park well away from perimeter areas and residential neighbors. Park hours will be limited to daytime hours.

6. COMMUNITY SUPPORT AND FINANCIAL COMMITMENT :

a. Community Support (0-5 points):

i. Can you demonstrate community support for the project by providing information such as letters of support and/or survey analysis? If yes, supply supporting documentation with this application.:

Yes

b. Financial Commitment (0-10 points):

i. What is the source of local matching funds for the project? A Resolution to Apply must be submitted with this application to indicate a commitment of local match funding for the project.:

The Wichita Park construction project is budgeted in the NCPRD 2016-2017 Capital Projects Fund budget. Specifically, funds include System Development Charges and a \$10,000 donation from the Linwood NDA. A Resolution to Apply is attached to this grant application.

ii. Project applicants are encouraged to develop project applications involving partnerships between the project applicant, other agencies, or non-profit organizations. Project applicants are also encouraged to demonstrate solid financial commitment to providing necessary project maintenance and upkeep. To what extent does the project involve partnerships with other agencies or groups? Are donations and/or funding from other agencies or groups secured? :

The Linwood NDA has been dedicated to raising community awareness of this undeveloped neighborhood park site for the last five years. The NDA has done fundraising for the new park, dedicating approximately \$10,000 to park development, and is committed to assisting the District in future fundraising and volunteer efforts. The NDA provides regular clean-up events in two other neighborhood parks and is ready to assist with maintenance of this park. The City of Milwaukie is a partner with the District through their ownership of this park property, and fully endorses this application.

iii. To what extent has funding been secured to complete the project?:

NCPRD has secured System Development Charges (SDCs) and donations for the project. All matching funds for this project are identified in the NCPRD Fiscal Year 16-17 Capital Projects Fund budget. The NCPRD Board of Directors approved this application and the commitment of matching funds in their February 25, 2015 public Business Meeting.

7. ACCESSIBILITY COMPLIANCE :

a. Does your agency have a board or city council adopted/approved ADA Transition Plan and/or Self Certification? :

Yes

b. How will your proposed project meet the current accessibility standards?:

Wichita Park has been designed to meet current accessibility standards. The proposed walkway to the playground will have slopes of less than 5% and will be hard-surfaced. The entrances to the park and playground will meet required grade standards. The playground is accessible and features a fully accessible rubber tile play surface. NCPRD will also include an accessible picnic table in the park.

7.1. OPPORTUNITY FOR INCLUSION IN RECREATION: Does the proposed project provide an inclusive recreational opportunity? Inclusive recreation elements allow individuals with and without disabilities to participate in recreational activities together. Please describe how the project will provide an active recreation opportunity to individuals with disabilities along with their peers without disabilities.:

The new playground will provide an opportunity for individuals with disabilities to play alongside their peers without disabilities. The playground is designed to provide play activities along a developmentally appropriate continuum that allows children to work together or individually, gaining skills, confidence, and engaging in healthy challenges. The Kompan Supernova is fun for all children and is specifically designed for all children to be able to take part in the activities. The large play structure is mostly ground-level and children will be able to talk and play all around the structures. The play surface will be rubber tiles, which will be universally accessible for children and caregivers with disabilities. There are a number of activities provided in the playground that will appeal to a variety of interests, including slides, climbing, swinging, and will give children ways to make choices and demonstrate what they can accomplish. Climbing activities will promote motor-planning, hand-eye coordination, and self-esteem while influencing the affective domain as children experience various states of motivation, stress, and relaxation. All trails and walkways will be fully accessible. Accessible tables will allow people of all abilities comfortable seating options to enjoy the outdoors.

8. READINESS TO PROCEED:

a. Have you submitted a signed Land Use Compatibility Statement with this application? :

Yes

b. Have you submitted construction or concept plans with this application?:

Yes

c. List required permits and status of permit applications for the project (i.e. Corps of Engineers, Division of State Land, Building Permits, etc.). Describe any possible delays or challenges that could occur in receiving permits. :

NCPRD will acquire the necessary construction and building permits from the City of Milwaukie to complete the park. NCPRD does not anticipate any delays in receiving permits because the park master plan is already approved as an element of the City's Comprehensive Plan and a Conditional Service Use Permit has already been approved for the park. It is not anticipated that any State or Federal permits will be required for this project, and the play structure will not require a structural permit. The City of Milwaukie has confirmed that the following permits and applications will be required and NCPRD is

prepared to submit the required information after park construction funding is fully secured: Plumbing permit for irrigation and drinking fountain connection/service and payment of associated SDCs for construction of a sewer lateral for the drinking fountain, Land Use Type I Development Review application, and an erosion control permit.

9. ACTIVE AND PAST GRANTS PERFORMANCE:

a. Describe your performance and compliance with all active and past OPRD grant awards.:

NCPRD is in compliance with applicable guidelines at all active and previously assisted OPRD grant award project sites, and OPRD Grant signs are present at all parks that have received State funding. NCPRD has just completed the Spring Park Local Government Grant Program project, and is currently constructing the Sunnyside Village Trail with assistance by a Recreational Trails Program Grant.

Project Budget Worksheet

Standard & Pervious Pedestrian Concrete, Play Area Curbs	\$27,000.00
Play Area Surfacing	\$65,740.00
Site Prep & Finish Grading	\$8,542.00
Shrubs & Groundcover	\$35,574.00
Site Seeding & Irrigation	\$54,780.00
Drinking Fountain, Bollard	\$4,125.00
Play Equipment	\$88,605.00
Sitework (Mobilization, Tree Protection, Erosion/Sediment Control, etc.	\$67,636.00
Construction Management, Design, Permits	\$64,104.00
Disc Golf Basket	\$297.00
Mulch Trail	\$5,511.00
Site Earthwork	\$16,808.00
Trees	\$8,855.00
Split Rail Wood Fence & 6' Fence	\$12,100.00
Benches (3), Picnic Tables (3), Bike Racks (2)	\$5,907.00
Park Signage	\$1,100.00
Electrical	\$11,000.00
Sanitary Sewer	\$12,947.00
Storm Sewer	\$28,435.00
Water System	\$10,934.00

Total Project Cost:

\$530,000.00

Source of Funding Worksheet

NCPRD SDCs: NCPRD SDCs	\$255,000.00
Linwood NDA Donation: Linwood NDA	\$10,000.00

Total Match for Sponsor: \$265,000.00
Grant Funds Requested: \$265,000.00
Total: \$530,000.00

As an authorized representative of North Clackamas Parks and Recreation District, I certify that the project sponsor agrees that as a condition of receiving federal Land and Water Conservation Fund assistance, I will comply with all applicable local, state, and federal laws and regulations.

This application has been prepared with full knowledge of and in compliance with the Oregon Administrative Rules Chapter 736, Division 8, For the Distribution of Land and Water Conservation Fund Assistance to Units of Local Government and State Agencies for Public Outdoor Recreation, Oregon's LWCF Grants Manual and the National Park Service LWCF Grants Manual.

I also certify that to my best knowledge, information contained in this application is true and correct. I will cooperate with OPRD by furnishing any additional information that may be requested in order to execute a State/Local Agreement, should the project receive funding assistance.

EXHIBIT B
Federal Requirements

LAND AND WATER CONSERVATION FUND
PROJECT AGREEMENT GENERAL PROVISIONS

Part I – Definitions

- A. The term "NPS" or "Service" as used herein means the National Park Service, United States Department of the Interior.
- B. The term "Director" as used herein means the Director of the National Park Service, or any representative lawfully delegated the authority to act for such Director.
- C. The term "Manual" as used herein means the Land and Water Conservation Fund State Assistance Program Manual.
- D. The term "project" as used herein means a Land and Water Conservation Fund grant, which is subject to the project agreement and/or its subsequent amendments.
- E. The term "State" as used herein means the State or Territory that is a party to the project agreement, and, where applicable, the political subdivision or public agency to which funds are to be transferred pursuant to this agreement. Wherever a term, condition, obligation, or requirement refers to the State, such term, condition, obligation, or requirement shall also apply to the recipient political subdivision or public agency, except where it is clear from the nature of the term, condition, obligation, or requirement that it is to apply solely to the State. For purposes of these provisions, the terms "State," "grantee," and "recipient" are deemed synonymous.
- F. The term "Secretary" as used herein means the Secretary of the Interior, or any representative lawfully delegated the authority to act for such Secretary.

Part II - Continuing Assurances

The parties to the project agreement specifically recognize that the Land and Water Conservation Fund project creates an obligation to maintain the property described in the project agreement and supporting application documentation consistent with the Land and Water Conservation Fund Act and the following requirements.

Further, it is the acknowledged intent of the parties hereto that recipients of assistance will use monies granted hereunder for the purposes of this program, and that assistance granted from the Fund will result in a net increase, commensurate at least with the Federal cost-share, in a participant's outdoor recreation.

It is intended by both parties hereto that assistance from the Fund will be added to, rather than replace or be substituted for, State and local outdoor recreation funds.

- A. The State agrees, as recipient of this assistance, that it will meet the following specific requirements and that it will further impose these requirements, and the terms of the project agreement, upon any political subdivision or public agency to which funds are transferred pursuant to the project agreement. The State also agrees that it shall be responsible for compliance with the terms of the project agreement by such a political subdivision or public agency and that failure by such political subdivision or public agency to so comply shall be deemed a failure by the State to comply with the terms of this agreement.
- B. The State agrees that the property described in the project agreement and the signed and dated project boundary map made part of that agreement is being acquired or developed with Land and Water Conservation Fund assistance, or is integral to such acquisition or development, and that, without the approval of the Secretary, it shall not be converted to other than public outdoor recreation use but shall be maintained in public outdoor recreation in perpetuity or for the term of the lease in the case of leased property. The Secretary shall approve such conversion only if it is found to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions deemed necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location pursuant to Title 36 Part 59.3 of the *Code of Federal Regulations*. This replacement land becomes subject to Section 6(f)(3) protection. The approval of a conversion shall be at the sole discretion of the Secretary, or his designee.

Prior to the completion of this project, the State and the Director may mutually alter the area described and shown in the project agreement and the signed and dated project boundary map to provide the most satisfactory public outdoor recreation unit, except that acquired parcels are afforded Section 6(f)(3) protection as Fund reimbursement is provided.

In the event the NPS provides Land and Water Conservation Fund assistance for the acquisition and/or development of property with full knowledge that the project is subject to reversionary rights and outstanding interests, conversion of said property to other than public outdoor recreation uses as a result of such right or interest being exercised will occur. In receipt of this approval, the State agrees to notify the Service of the potential conversion as soon as possible and to seek approval of replacement property in accord with the conditions set forth in these provisions and program regulations. The provisions of this paragraph are also applicable to: leased properties acquired and/or developed with Fund assistance where such lease is terminated prior to its full term due to the existence of provisions in such lease known and agreed to by the Service; and properties subject to other outstanding rights and interests that may result in a conversion when known and agreed to by the Service.

- C. The State agrees that the benefit to be derived by the United States from the full compliance by the State with the terms of this agreement is the preservation, protection, and the net increase in the quality of public outdoor recreation facilities and resources which are available to the people of the State and of the United States, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the United States by way of assistance under the terms of this agreement. The State agrees that payment by the State to the United States of an amount equal to the amount of assistance extended under this agreement by the United States would be inadequate compensation to the United States for any breach by the State of this agreement.

The State further agrees, therefore, that the appropriate remedy in the event of a breach by the State of this agreement shall be the specific performance of this agreement or the submission and approval of a conversion-of-use request as described in Section II.B above.

- D. The State agrees to comply with the policies and procedures set forth in the Manual. Provisions of said Manual are incorporated into and made a part of the project agreement.
- E. The State agrees that the property and facilities described in the project agreement shall be operated and maintained as prescribed by Manual requirements and published post-completion compliance regulations (Title 36 Part 59 of the *Code of Federal Regulations*).
- F. The State agrees that a notice of the grant agreement shall be recorded in the public property records (e.g., registry of deeds or similar) of the jurisdiction in which the property is located, to the effect that the property described and shown in the scope of the project agreement and the signed and dated project boundary map made part of that agreement, has been acquired or developed with Land and Water Conservation Fund assistance and that it cannot be converted to other than public outdoor recreation use without the written approval of the Secretary of the Interior.
- G. Nondiscrimination
1. By signing the LWCF agreement, the State certifies that it will comply with all Federal laws relating to nondiscrimination as outlined in the Civil Rights Assurance appearing at Part III-I herein.
 2. The State shall not discriminate against any person on the basis of residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence as set forth in the Manual.

Part III - Project Assurances

- A. Applicable Federal Requirements

The State shall comply with applicable regulations, policies, guidelines and requirements as they relate to the application, acceptance, and use of Federal funds for this federally assisted project, including:

2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;

2 CFR Parts 182 & 1401, Government-wide Requirements for a Drug-Free Workplace;

2 CFR Part 180 & 1400, Non-Procurement Debarment and Suspension, previously located at 43 CFR Part 42, "Government-wide Debarment and Suspension (Non-Procurement)";

43 CFR Part 18, New Restrictions on Lobbying;

FAR Clause 52.203-12, Paragraphs (a) and (b), Limitation on Payments to Influence Certain Federal Transactions;

2 CFR Part 25, System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS); and

2 CFR Part 170, Reporting Subawards and Executive Compensation

B. Project Application

1. The Application for Federal Assistance bearing the same project number as the agreement and associated documents is by this reference made a part of the agreement.
2. The State possesses legal authority to apply for the grant, and to finance and construct the proposed facilities. A resolution, motion, or similar action has been duly adopted or passed authorizing the filing of the application, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the State to act in connection with the application and to provide such additional information as may be required.
3. The State has the capability to finance the non-Federal share of the costs for the project. Sufficient funds will be available to assure effective operation and maintenance of the facilities acquired or developed by the project.

C. Project Execution

1. The project period shall begin at the date specified on the project agreement or the effective date of a waiver of retroactivity and shall terminate at the end of the stated or amended project period, unless the project is completed or terminated sooner in which event the project shall end on the date of completion or termination.
2. The State shall transfer to the project sponsor identified in the Application for Federal Assistance or the Description and Notification Form all funds granted hereunder except those reimbursed to the State to cover eligible expenses derived from a current approved negotiated indirect cost rate agreement.
3. The State will cause work on the project to start within a reasonable time after receipt of notification that funds have been approved and assure that the project will be implemented to completion with reasonable diligence.
4. The State will require the facility to be designed to comply with the Architectural Barriers Act of 1968 (Public Law 90-480) and DOI Section 504 Regulations (43 CFR Part 17). The State will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
5. The State shall secure completion of the work in accordance with approved construction plans and specifications, and shall secure compliance with all applicable Federal, State, and local laws and

regulations.

6. In the event the project covered by the project agreement, cannot be completed in accordance with the plans and specifications for the project; the State shall bring the project to a point of recreational usefulness agreed upon by the State and the Director or his designee.
7. The State will provide for and maintain competent and adequate architectural/engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the NPS may require.
8. The State will comply with the terms of Title II and Title III, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), 94 Stat. 1894 (1970), and the applicable regulations and procedures implementing such Act for all real property acquisitions and where applicable shall assure that the Act has been complied with for property to be developed with assistance under the project agreement.
9. The State will comply with the provisions of: Executive Order 11988, relating to evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution, and Executive Order 11990 relating to the protection of wetlands.
10. The State will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available, as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes, for use in any area that has been identified as an area having special flood hazards by the Flood Insurance Administration of the Federal Emergency Management Agency. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
11. The State will assist the NPS in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to effects (see CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
12. It is national policy to award a fair share of contracts to small and women- and minority-owned firms. The Department of the Interior and the National Park Service are strongly committed to the objectives of this policy and encourage all grant recipients to take affirmative steps to ensure such fairness. Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises whenever possible. In accordance with Executive Orders 11625, 12138, and 12432, recipients shall take the following steps to further this policy:
 - a) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
 - b) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
 - c) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
 - d) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

- e) Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small business, minority-owned firms and women's business enterprises.

The National Park Service Regional Offices will work closely with the States to ensure full compliance and that grant recipients take affirmative action in placing a fair share of purchases with minority business firms.

13. If applicable, the State will comply with the intergovernmental review requirements of Executive Order 12372.

D. Construction Contracted for by the State Shall Meet the Following Requirements:

1. Contracts for construction shall comply with the applicable provisions of 2 CFR 200.
2. No grant or contract may be awarded by any grantee, subgrantee, or contractor of any grantee or subgrantee, to any party that has been debarred or suspended under Executive Order 12549. By signing the LWCF agreement, the State certifies that it will comply with debarment and suspension provisions appearing at Part III-J herein.

E. Retention and Custodial Requirements for Records

1. All Recipient financial and programmatic records, supporting documents, statistical records, and all other grant-related records shall be retained in accordance with 2 CFR 200.333 to .337 for a period of three years; except the records shall be retained beyond the three-year period if audit findings have not been resolved.
2. The retention period starts from the date of the final expenditure report for the project.
3. State and local governments are authorized to substitute copies in lieu of original records.
4. The Secretary of the Interior and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local governments and their subgrantees which are pertinent to a specific project for the purpose of making audit, examination, excerpts and transcripts.

F. Project Termination

1. The Director may temporarily suspend Federal assistance under the project pending corrective action by the State or pending a decision to terminate the grant by the Service.
2. The State may unilaterally terminate the project at any time prior to the first payment on the project. After the initial payment, the project may be terminated, modified, or amended by the State only by mutual agreement.
3. The Director may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The Director will promptly notify the State in writing of the determination and the reasons for the termination, together with the effective date. Payments made to States or recoveries by the Service under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
4. The Director or State may terminate grants in whole, or in part at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall

cancel as many outstanding obligations as possible. The NPS may allow full credit to the State for the Federal share of the non-cancelable obligations, properly incurred by the grantee prior to termination.

5. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the State and the Director or that all funds provided by the National Park Service be returned.

G. Lobbying with Appropriated Funds

The State must certify, for the award of grants exceeding \$100,000 in Federal assistance, that no Federally appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding, extension, continuation, renewal, amendment, or modification of this grant. In compliance with 31 USC 1352, the State certifies, as follows:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

H. Provision of a Drug-Free Workplace

In compliance with the Drug-Free Workplace Act of 1988 (2 CFR Parts 182 & 1401), the State certifies that it will or continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of a grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

I. Civil Rights Assurance (Ref: DI-1350)

The State certifies that, as a condition to receiving any Federal assistance from the Department of the Interior, it will comply with all Federal requirements relating to nondiscrimination. These include, but are not limited to: (a) Executive Order 11246, as amended; (b) Title VI of the Civil Rights Act of 1964, as amended (78 Stat. 252; 42 U.S.C. §§2000d *et seq.*), which prohibits discrimination on the basis of race, color, or national origin; (c) Title V, Section 504 of the Rehabilitation Act of 1973, as amended (87 Stat. 394, 29 U.S.C. §794), which prohibits discrimination on the basis of disability; (d) the Age Discrimination Act of 1975, as amended (89 Stat. 728, 42 U.S.C. §§6101 *et seq.*), which prohibits discrimination on the basis of age; and with all other applicable federal laws and regulations prohibiting discrimination, to the end that no person in the United States shall, on the grounds of race, color, sexual orientation, national origin, disability, religion, age, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the applicant.

THE APPLICANT HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE shall apply to all aspects of the applicant's operations including those parts that have not received or benefited from Federal financial assistance.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date.

The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, and subrecipients and the person whose signature appears on the grant agreement and who is authorized to sign on behalf of the Applicant.

J. Debarment and Suspension

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The State further agrees that it will include the clause "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions" appearing below in any agreement entered into with lower tier participants in the implementation of this grant. Department of Interior Form 1954 (DI-1954) may be used for this purpose.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this application that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.

K. Anti-Deficiency Act.

Pursuant to 31 U.S.C. §1341 nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of the appropriations made by Congress, for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations.

L. Audit Requirements.

- 1) Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and 2 CFR Part 200, Subpart F, which is available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ceea3fa13e665e525051f4&node=sp2.1.200.f&rgn=div6>
- 2) Non-Federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
- 3) Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 2 CFR Part 200, Subpart F, as applicable. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.

M. Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights

- 1) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).
- 2) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.
- 3) The Award Recipient shall insert the substance of this clause, including this paragraph (3), in all subawards or subcontracts over the simplified acquisition threshold, 42 CFR § 52.203-17 (as referenced in 42 CFR § 3.908-9).

N. Reporting Subawards and Executive Compensation

a) Reporting of first-tier sub-awards.

1. Applicability. Unless you are exempt as provided in paragraph D. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery Act funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a sub-award to an entity (see definitions in paragraph E. of this award term).
2. Where and when to report.
 - i. You must report each obligating action described in paragraph a)1. of this award term to <http://www.fsrs.gov>.
 - ii. For sub-award information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b) Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. The total Federal funding authorized to date under this award is \$25,000 or more;

- ii. In the preceding fiscal year, you received—
 - a. 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - b. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report executive total compensation described in paragraph A.1. of this award term:
- i. As part of your registration profile at <https://www.sam.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c) Reporting of Total Compensation of Subrecipient Executives.
1. Applicability and what to report. Unless you are exempt as provided in paragraph D. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
- i. In the subrecipient's preceding fiscal year, the subrecipient received—
 - a. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - b. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
- i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year

(i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d) Exemptions.

1. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
 - i. Subawards, and
 - ii. The total compensation of the five most highly compensated executives of any subrecipient.

e) Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.
3. Subaward:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term includes your procurement of property and services needed to carry out the project or program. The term does not include procurement of incidental property and services needed to carry out the award project or program.
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. Subrecipient means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax-qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

O. Conflict of Interest

- 1) The Recipient must establish safeguards to prohibit its employees and Sub-recipients from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Recipient is responsible for notifying the Awarding Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Recipient or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Sub-recipients in the matter.
- 2) The Awarding Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the Awarding Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the Awarding Officer in writing.
- 3) Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR § 200.338, Remedies/or Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

P. Reporting of Matters Related to Recipient Integrity and Performance (Note: Applicable only to grants where the LWCF share is \$500,000 or greater)

1) General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you, as the recipient, during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2) Proceedings You Must Report

Submit the information required about each proceeding that:

- a) Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b) Reached its final disposition during the most recent five year period; and
- c) Is one of the following:
 - 1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and payment of either a monetary fine or penalty of \$5,000 or more; or reimbursement, restitution, or damages in excess of \$100,000; or
 - 4) Any other criminal, civil, or administrative proceeding if:
 - i. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - ii. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - iii. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3) Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4) Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

- a) Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b) Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c) Total value of currently active grants, cooperative agreements, and procurement contracts includes—
 - 1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - 2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
LAND AND WATER CONSERVATION FUND
PROJECT AGREEMENT

State:	Project Number (LWCF/FBMS):
Oregon	41-01595 / P16AP00209

Project Title:
Wichita Park Development

Project Period:
09/30/2016 - 06/30/2019

Proposal Scope (Description of Project):

Development of neighborhood park including a playground, walking paths, native landscaping, water fountain, benches, picnic tables, a disc golf basket, irrigated grass, fencing and signage, and indirect rate.

Total Project Cost	\$ <u>607,857.00</u>	The following are hereby incorporated into this agreement:
LWCF Amount	\$ <u>303,928.50</u>	
(Fund amount not to exceed 50% of total)		1. General Provisions
		2. LWCF State Assistance Program Manual
		3. Project Application and Attachments
		4. 2 CFR Part 200
		5. 43 CFR Part 12
		6. 36 CFR Part 59

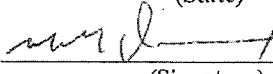
The United States of America, represented by the Director, National Park Service, United States Department of the Interior, and the State named above (hereinafter referred to as the State), mutually agree to perform this agreement in accordance with the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964), the provisions and conditions of the Land and Water Conservation Fund State Assistance Program Manual, and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, assurances, and certificates attached hereto or retained by the State and hereby made a part hereof.

The United States hereby promises, in consideration of the promises made by the State herein, to obligate to the State the amount of money referred to above, and to tender to the State that portion of the obligation which is required to pay the United States' share of the costs of the above project, based upon the above percentage of assistance. The State hereby promises, in consideration of the promises made by the United States herein, to execute the project described above in accordance with the terms of this agreement.

The following special project terms and conditions were added to this agreement before it was signed by the parties hereto:

Notice to Proceed for LWCF project construction shall not be initiated prior to NPS determination that the requirements of both section 106 of the Historic Preservation Act and the National Environmental Policy Act have been met, or the grant may be terminated for cause.

In witness whereof, the parties hereto have executed this agreement as of the date entered below.

THE UNITED STATES OF AMERICA	STATE
By: <u>Elizabeth J. Kondratick</u> (Signature)	<u>Oregon</u> (State)
National Park Service Department of the Interior	<u></u> (Signature) MG Devereux (Name)
Date: <u>8/10/16</u> (entered by NPS)	<u>Alternate State Liaison Officer</u> (Title)

Paperwork Reduction Act Statement: This information collection is authorized by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.). Your response is required to obtain or retain a benefit. We use this information to provide data input into an NPS project database, which provides timely data on projects funded over the life of the program. We estimate that it will take 3 hours to complete this form, including the time necessary to review instructions, gather data, and review the form.

You may send comments on the burden estimate or any aspect of this form to the Information Collection Clearance Officer, National Park Service, 1849 C Street, NW (2601), Washington, DC 20240. We may not collect or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Grant and Cooperative Agreement

CHOOSE ONE:
 COOPERATIVE AGREEMENT
 GRANT

CHOOSE ONE: EDUCATION FACILITIES RESEARCH SDCR TRAINING

1. GRANT/COOPERATIVE AGREEMENT NUMBER P16AP00209		2. SUPPLEMENT NUMBER		3. EFFECTIVE DATE 09/30/2016		4. COMPLETION DATE 06/30/2019			
5. ISSUED TO NAME/ADDRESS OF RECIPIENT (No., Street, City/County, State, Zip) STATE PARKS AND RECREATION, OREGON Attn: ATTN GOVERNMENT POC 725 SUMMERS ST NE STE C SALEM OR 97301-1266				6. ISSUED BY NPS, Land & Water Conserv Grants Mailing Address: State and Local Assistance Programs 1201 I Street NW Washington DC 20005					
7. TAXPAYER IDENTIFICATION NO. (TIN)				9. PRINCIPAL INVESTIGATOR/ORGANIZATION'S PROJECT OR PROGRAM MGR. (Name & Phone) Michele Scalise, OPRD (503) 986-0708					
8. COMMERCIAL & GOVERNMENT ENTITY (CAGE) NO. 3NQD8									
10. RESEARCH, PROJECT OR PROGRAM TITLE 41-01595 Wichita Park Development									
11. PURPOSE See Schedule									
12. PERIOD OF PERFORMANCE (Approximately) 09/30/2016 through 06/30/2019									
13A.		AWARD HISTORY			13B.		FUNDING HISTORY		
PREVIOUS		\$0.00			PREVIOUS		\$0.00		
THIS ACTION		\$303,928.50			THIS ACTION		\$303,928.50		
CASH SHARE		\$0.00			TOTAL		\$303,928.50		
NON-CASH SHARE		\$0.00							
RECIPIENT SHARE		\$0.00							
TOTAL		\$303,928.50							
14. ACCOUNTING AND APPROPRIATION DATA See Schedule									
PURCHASE REQUEST NO.		JOB ORDER NO.			AMOUNT		STATUS		
0020108058									
15. POINTS OF CONTACT									
	NAME		MAIL STOP	TELEPHONE		E-MAIL ADDRESS			
TECHNICAL OFFICER	Heather Ramsay			(206) 220-4123		Heather_Ramsay@nps.gov			
NEGOTIATOR									
ADMINISTRATOR									
PAYMENTS									
16. THIS AWARD IS MADE UNDER THE AUTHORITY OF: P.L. 88-575 Land and Water Conservation Fund Act									
17. APPLICABLE STATEMENT(S), IF CHECKED: <input type="checkbox"/> NO CHANGE IS MADE TO EXISTING PROVISIONS <input type="checkbox"/> FDP TERMS AND CONDITIONS AND THE AGENCY-SPECIFIC REQUIREMENTS APPLY TO THIS GRANT				18. APPLICABLE ENCLOSURE(S), IF CHECKED: <input checked="" type="checkbox"/> PROVISIONS <input checked="" type="checkbox"/> SPECIAL CONDITIONS <input type="checkbox"/> REQUIRED PUBLICATIONS AND REPORTS					
UNITED STATES OF AMERICA				COOPERATIVE AGREEMENT RECIPIENT					
CONTRACTING/GRANT OFFICER Elisabeth Morgan			DATE 08/10/2016	AUTHORIZED REPRESENTATIVE			DATE		

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
	CFDA Number: 15.916 DUNS Number: 809580350 Land and Water Conservation Fund State and Local Assistance 11. PURPOSE: Development of neighborhood park including a playground, walking paths, native landscaping, water fountain, benches, picnic tables, a disc golf basket, irrigated grass, fencing and signage, and indirect rate. Legacy Doc #: 41-01595 Delivery: 4 Days After Award Period of Performance: 09/30/2016 to 06/30/2019				
00010	Wichita Park Development FY11 GM Obligated Amount: \$4,226.00 Accounting Info: 01 Account Assignment: K G/L Account: 6900.D0000 Business Area: P000 Commitment Item: 411G00 Cost Center: PPWOSLGROR Functional Area: POC00GMGM.GR0000 Fund: XXXP5536GM Fund Center: PPWOSLGROR Project/WBS: PN.G41G15951.00.1 PR Acct Assign Line: 01 Funded: \$4,226.00				4,226.00
00020	Wichita Park Development FY11 LW SRA Obligated Amount: \$65,510.11 Accounting Info: 01 Account Assignment: K G/L Account: 6900.D0000 Business Area: P000 Commitment Item: 411G00 Cost Center: PPWOSLGROR Functional Area: Continued ...				65,510.11

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
00030	<p>PSCSGSLW.GR0000 Fund: XXXP5035LW Fund Center: PPWOSLGROR Project/WBS: PN.G41L15951.00.1 PR Acct Assign Line: 01 Funded: \$65,510.11</p> <p>Wichita Park Development FY15 LW Obligated Amount: \$234,192.39</p> <p>Accounting Info: 01 Account Assignment: K G/L Account: 6900.D0000 Business Area: P000 Commitment Item: 411G00 Cost Center: PPWOSLGROR Functional Area: PSCSGSLW.GR0000 Fund: 15XP5035LW Fund Center: PPWOSLGROR Project/WBS: PN.G41L15955.00.1 PR Acct Assign Line: 01 Funded: \$234,192.39</p> <p>Delivery Location Code: 0009060783 NPS, Land & Water Conserv Grants State and Local Assistance Programs 1201 I Street NW Washington DC 20005 US</p> <p>National Park Service</p> <p>The total amount of award: \$303,928.50. The obligation for this award is \$303,928.50.</p>				234,192.39



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

November 23, 2016

Development Agency Board
Clackamas County

Members of the Board:

Approval of Quitclaim Deed for Development Agency Surplus Property

Purpose/Outcomes	Finalize sale of Development Agency surplus property.
Dollar Amount and Fiscal Impact	All proceeds from the property sale in excess of the actual expenses incurred by the Sheriff's office to conduct the Public Auction will be distributed to the Development Agency.
Funding Source	No General Fund resources are currently allocated to this program.
Duration	N/A.
Previous Board Action	A Study Session with the Board was held on 4-7-15 to discuss these parcels. The Board approved the list of properties for sale at the Public Oral Auction. The Board approved the sale of this specific property, along with minimum bid amount, at its 6-16-16 business meeting.
Strategic Plan Alignment	Build Public Trust Through Good Government
Contact Person	Dan Johnson, Development Agency Manager 503.742.4325

BACKGROUND: The Development Agency placed surplus property on the list of County owned properties to be sold at the Public Auction, which was held on November 7, 2016. The high bidder on the property did not have sufficient funds to make the required 20% deposit at the time of the auction. Consequently, the Sheriff's Department was unable to present the buyer with the Certificate of Sale.

The bidder is now prepared to transfer the full purchase price to the Development Agency in order to complete the sale. Since the Public Auction has been completed, it is now necessary for the Development Agency to transfer the property to the buyer by providing a deed. The purchase price is \$35,187, which represented the high bid at the time of the Public Auction and the minimum required bid for this property. The Agency respectfully requests that the Board approve the attached Quitclaim Deed so that the sale can be finalized. County Counsel has reviewed and approved this item.

RECOMMENDATION: Staff recommends that the Board of County Commissioners, acting as the governing body of the Clackamas County Development Board, approve the attached Quitclaim Deed for Development Agency property

Respectfully submitted,

Dan Johnson, Manager
Clackamas County Development Agency

Grantor: Clackamas County Development Agency	
Grantee: DJZ, LLC	
After Recording Return to:	
DJZ, LLC 11735 SE Sunny Way Happy Valley, OR 97086	
Until a change is requested, all taxes shall be sent to:	
DJZ, LLC 11735 SE Sunny Way Happy Valley, OR 97086	

QUITCLAIM DEED of FEE LAND
(Corporate or Non-Profit Grantor)

KNOW ALL PERSONS BY THESE PRESENTS, THAT, the Clackamas County Development Agency, (Grantor), for value received, hereby releases and quitclaims to DJZ, LLC an Oregon limited liability company, its heirs, successors and assigns, all fee interest in that certain real property situated in Clackamas County, Oregon, and being more particularly described as set forth in Exhibit "A" which is attached hereto and incorporated herein.

The Parcel is hereby conveyed subject to those encumbrances of record recorded in the Records of Clackamas County, Oregon.

The true and actual consideration for this conveyance is Thirty-Five Thousand One Hundred Eight-Seven Dollars (\$35,187).

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 _____ 2016.

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

By: _____
John Ludlow, Chair

STATE OF OREGON)
) ss.
County of _____)

This instrument was signed and attested before me this ___ day of _____
2016, by John Ludlow, Chair, Clackamas County Development Agency.

Notary Public for State of Oregon
My Commission Expires: _____

S:RW/Lawnfield I/Mahar/RW Quitclaim - County Dev. Agency to DJZ, LLC

Exhibit A

Legal Description for Tax Lots 22E02BB0400 and 22E02BB00500

PARCEL 1:

Part of the West one-half of the Northwest one-quarter of Section 2, Township 2 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at an iron pipe which is South 841.5 feet and east 594 feet (iron pipe) and South 495 feet from the Northwest corner of Section 2, Township 2 South, Range 2 East, of the Willamette Meridian, for the true point of beginning; thence West 197.5 feet to an iron pipe; thence South 26° West 150 feet to the center of County road; thence on center of County Road South 57°45' East 242 feet to a point; thence South 79°26' East 58 feet to a point in center of County Road due South of the true point of beginning; thence North 274.5 feet to the true point of beginning.

EXCEPTING THEREFROM the following:

Part of the West one-half of the Northwest one-quarter of Section 2, Township 2 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at a point marked by an iron pipe which is South 841.5 feet East 594 feet, and South 495 feet from the Northwest corner of said Section 2; thence West 60 feet to the true point of beginning of the tract herein described; said point of beginning being the Northwest corner of the tract of land conveyed to William R. and Christine A. Baillie, husband and wife, by deed dated July 27, 1970, recorded July 31, 1970 as Fee No. 70-15082; thence West 137.5 feet to an iron pipe; thence South 20° West 150 feet to the center of the County Road No. 96; thence South 57°45' East along the center line of the County Road, a distance of 205 feet; thence Northerly a distance of 230 feet, more or less, to the true point of beginning.

PARCEL II:

Beginning at an iron rod at the Northwest corner of the tract of land conveyed to William R. and Christine A. Baillie, husband and wife, by deed dated July 27, 1970, recorded July 31, 1970 as Fee No. 70-15082, said point being the true place of beginning of the herein described tract; thence along the Westerly line of the said Baillie tract South 6°54'00" West 210.00 feet, more or less, to the Northerly line of Sunnyside Road; thence Westerly along the Northerly line of said road 50.0 feet, more or less, to a point which is South 20°19'23" West from the point of beginning; thence North 20°19'23" East 195.0 feet, more or less, to the place of beginning.

EXCEPTING THEREFROM that portion conveyed to Clackamas County, a political subdivision of the State of Oregon, by deed recorded September 11, 1985 as Fee No. 85 32137, Clackamas County Deed Records.

Legal Description – Tax Lot 22E02BB00600

Part of the West one-half of the Northwest one-quarter of Section 2, Township 2 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at a point marked by an iron pipe which is South 841.5 feet East 594 feet and South 495 feet from the Northwest corner of said section 2; thence West 60 feet to the true point of beginning of the tract herein described; said point of beginning being the Northwest corner of the tract of and conveyed to William R. and Christine A. Baillie, husband and wife, by Deed dated July 27, 1970, recorded July 31, 1970, File No. 70 15082, Deed Records; thence West 137.5 feet to an iron pipe; thence South 26° West, 150 feet to the center of the County Road No. 96; thence South 57°45' East along the center line of the County Road, a distance of 205 feet; thence Northerly, a distance of 230 feet, more or less, to the true point of beginning.

EXCEPTING THEREFROM the following:

Beginning at an iron rod at the Northwest corner of the tract of land conveyed to William R. and Christine A. Baillie, husband and wife, by Deed dated July 27, 1970, recorded July 31, 1970, File No. 70 15082, Deed Records, said point being the true place of beginning of the herein described tract; thence along the Westerly line of the said Baillie tract, South 6°54'00" West, 210.00 feet, more or less, to the Northerly line of Sunnyside Road; thence Westerly along the Northerly line of said road, 50.0 feet, more or less, to a point which is South 20°19'23" West from the point of beginning; thence North 20°19'23" East, 195.0 feet, more or less, to the place of beginning.

AND FURTHER EXCEPTING THEREFROM that portion described in Deed to Clackamas County recorded September 4, 1985 as Fee No. 85 31247.



Gregory L. Geist
Director

November 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Joint Funding Agreement between
Clackamas County Service District No. 1 and the U.S. Geological Survey
for Johnson Creek Monitoring

Purpose/Outcomes	This annual funding agreement between Clackamas County Service District No. 1 and the USGS supports the operation and maintenance of a continuous creek flow monitoring gauge on Johnson Creek.
Dollar Amount and Fiscal Impact	\$10,000 from the Clackamas County Service District No. 1 FY2015-2016 budget
Funding Source	CCSD1 Operating Fund. No General Funds are impacted.
Duration	October 1, 2016 to September 30, 2017
Previous Board Action/Review	Previous Joint Funding Agreements have been signed by the Board authorizing the use of CCSD#1 funds since October 1, 1999.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This action aligns with WES's Watershed Protection program result to measure and improve stream health, and the Regulatory Management program result to fully implement compliance strategy measures. 2. This action aligns with the County's goal to Honor, Utilize, Promote and Invest in our Natural Resources.
Contact Person	Ron Wierenga, (503) 742-4581, WES Surface Water Manager
Contract No.	N/A

BACKGROUND:

A cooperative, multi-jurisdictional hydrology study between the USGS and local governments in the Johnson Creek watershed is proposed to continue during Federal fiscal year 2017. In 1999, Clackamas County Service District No. 1 (CCSD#1) joined this long-term study. Other local governments who plan to participate this year include the Cities of Gresham, Milwaukie, and Portland, Multnomah County, and the East Multnomah County Soil & Water Conservation District. Funds would be used by the USGS to maintain a network of several continuous creek water quality and/or flow monitoring stations, and to maintain an existing network of monitoring stations which measure groundwater levels. The benefits of the overall Project include:

- Compliance with Willamette River Total Maximum Daily Load Implementation Plan strategy for Johnson Creek.
- High quality flow and water quality data, which can be used to: 1) revise FEMA floodplain maps, and 2) calculate the river's pollutant mass loads (i.e. pounds of phosphorus per day) when combined with water quality data.
- Public access to real-time and historic water quality and flow conditions from various locations in the watershed via the USGS' website.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

District staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of Clackamas County Service District No. 1, approve the Joint Funding Agreement between Clackamas County Service District No. 1 and the U.S. Geological Survey for Johnson Creek Monitoring.

Respectfully submitted,

Greg Geist, Director
Water Environment Services

Form 9-1366
(April 2015)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Agreement#: 17WNOR000180102
Customer#: 6000001801
Project #: YF00D7U
TIN #: 93-6002286
USGS DUNS #: 137883463

Fixed Cost Agreement YES X | NO |

THIS AGREEMENT is entered into as of the October 1, 2016, by the U.S. GEOLOGICAL SURVEY, Oregon Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the Clackamas County Service District No. 1, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Water Resource Investigations (per attachment), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of \$0.00

- (a) \$6,670 by the party of the first part during the period
October 1, 2016 to September 30, 2017
- (b) \$10,000 by the party of the second part during the period
October 1, 2016 to September 30, 2017
- (c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of

Description of the USGS regional/national program:

- (d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties
- (e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During **the** course of this program, all field **and** analytical work of either party pertaining to this program shall be open to the inspection of the other party, and **if the work** is not being carried **on in** a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the **party of the second part** reserves the right to publish the results of this program and, if already published by the party of **the first part** shall, upon request; be furnished by the party of the **first part**; at cost, impressions suitable for purposes of reproduction similar to that for which **the** original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties.

9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered annually. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.).

Form 9-1366
(April 2015)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Agreement#: 17WNOR000180102
Customer#: 6000001801
Project #: YFOOD7U
TIN #: 93-6002286
USGS DUNS #: 137883463

USGS Technical Point of Contact

Name: Adam Stonewall
Address: 2130 SW 5th Avenue
Portland, OR 97201
Telephone: (503) 251-3276
Fax: (503) 251-3470
Email: stonewal@usgs.gov

Customer Technical Point of Contact

Name: Ron Wierenga
Surface Water Manager, Clackamas
County Water Environment Services
Address: 150 Beaver Creek Road
Oregon City, Oregon 97045
Telephone: (503) 742-4581
Fax:
Email: rwierenga@co.clackamas.or.us

USGS Billing Point of Contact

Name: Andrew Kerslake
Financial Specialist
Address: 2130 SW 5th Avenue
Portland, OR 97201
Telephone: (503) 251-3253
Fax:
Email: kerslake@usgs.gov

Customer Billing Point of Contact

Name: Ron Wierenga
Surface Water Manager, Clackamas
County Water Environment Services
Address: 150 Beaver Creek Road
Oregon City, Oregon 97045
Telephone: (503) 742-4581
Fax:
Email: rwierenga@co.clackamas.or.us

U.S. Geological Survey
United States
Department of Interior

Clackamas County Service District No. 1


Signature

Signatures

By _____ Date: Jun 8, 2016
Name: James D. Crammond
Title: Center Director

By _____ Date: _____
Name:
Title:

By _____ Date: _____
Name:
Title:

By _____ Date: _____
Name:
Title:



Gregory L. Geist
Director

November 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Joint Funding Agreement between the Surface Water Management Agency of
Clackamas County and the U.S. Geological Survey
for Tualatin River Monitoring

Purpose/Outcomes	This annual funding agreement between SWMACC and the USGS supports the operation and maintenance of a continuous river flow monitoring gauge on the Tualatin River.
Dollar Amount and Fiscal Impact	\$5,270 from the SWMACC FY2016-2017 budget
Funding Source	SWMACC Operating Fund. No General Funds are impacted.
Duration	October 1, 2016 to September 30, 2017
Previous Board Action/Review	Previous Joint Funding Agreements have been signed by the Board authorizing the use of SWMACC funds since October 1, 1999.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This action aligns with WES's Watershed Protection program result to measure and improve stream health, and the Regulatory Management program result to fully implement compliance strategy measures. 2. This action aligns with the County's goal to Honor, Utilize, Promote and Invest in our Natural Resources.
Contact Person	Ron Wierenga, (503) 742-4581, WES Surface Water Manager
Contract No.	N/A

BACKGROUND:

A coordinated water resources monitoring project (Project) in the Tualatin River watershed has been underway since October 1999. In one element of this Project, Clean Water Services (CWS) of Washington County, the Cities of West Linn and Lake Oswego, and the Surface Water Management Agency of Clackamas County (SWMACC) partner with the USGS to fund the operation and maintenance of a continuous Tualatin River flow measuring station located within SWMACC. The operation of this station is the only element of the Project for which SWMACC funds are allocated. The other elements of the Project, such as the operation of a continuous water quality monitoring station in SWMACC, are funded by CWS and the USGS. The benefits of the overall Project include:

- Compliance with the Tualatin River Total Maximum Daily Load Implementation Plan strategy to monitor the Tualatin River.
- High quality flow data, which can be used to: 1) revise FEMA floodplain maps, and 2) calculate the river's pollutant mass loads (i.e. pounds of phosphorus per day) when combined with water quality data.

- Public access to real-time and historic water quality and flow conditions from various locations in the watershed via the USGS' website.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

District staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of the Surface Water Management Agency of Clackamas County, approve the Joint Funding Agreement between the Surface Water Management Agency of Clackamas County and the U.S. Geological Survey for Tualatin River Monitoring.

Respectfully submitted,

Greg Geist, Director
Water Environment Services

Form 9-1366
(April 2015)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Agreement#: 17WNOR000180101
Customer#: 6000001801
Project #: YFOOD7U
TIN #: 93-6002286
USGS DUNS #: 137883463

Fixed Cost Agreement YES X NO

THIS AGREEMENT is entered into as of the October 1, 2016, by the U.S. GEOLOGICAL SURVEY, Oregon Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the Surface Water Management Agency of Clackamas County, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Water Resource Investigations (per attachment), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of \$0.00

- (a) \$3,230 by the party of the first part during the period
October 1, 2016 to September 30, 2017
- (b) \$5,270 by the party of the second part during the period
October 1, 2016 to September 30, 2017
- (c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of :

Description of the USGS regional/national program:

- (d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties
- (e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the **direction of** or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party **pertaining to this** program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those **records. Upon request**, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the **second part reserves the** right to publish the results of this program and, if already published by the **party of the first part shall, upon request; be furnished** by the party of the first part; **at cost**, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations **between** the parties.

9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered annually. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.)

**U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations**

Agreement#: 17WNOR000180101
Customer#: 6000001801
Project #: YFOOD7U
TIN #: 93-6002286
USGS DUNS #: 137883463

USGS Technical Point of Contact

Name: Keith Overton
Supv. Hydrologist Data Chief
Address: 2130 SW 5th Avenue
Portland, OR 97201
Telephone: (503) 251-3246
Fax: (503) 251-3470
Email: koverton@usgs.gov

Customer Technical Point of Contact

Name: Ron Wierenga
Surface Water Manager, Clackamas
County Water Environment Services
Address: 150 Beaver Creek Road
Oregon City, Oregon 97045
Telephone: (503) 742-4581
Fax:
Email: rwierenga@co.clackamas.or.us

USGS Billing Point of Contact

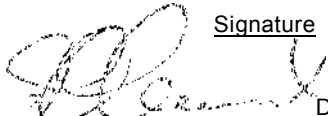
Name: Andrew Kerslake
Financial Specialist
Address: 2130 SW 5th Avenue
Portland, OR 97201
Telephone: (503) 251-3253
Fax:
Email: kerslake@usgs.gov

Customer Billing Point of Contact

Name: Ron Wierenga
Surface Water Manager, Clackamas
County Water Environment Services
Address: 150 Beaver Creek Road
Oregon City, Oregon 97045
Telephone: (503) 742-4581
Fax:
Email: rwierenga@co.clackamas.or.us

U.S. Geological Survey
United States
Department of Interior

Surface Water Management Agency of Clackamas
County


Signature
By _____ Date: Jun 3, 2016
Name: James D. Crammond
Title: Center Director

Signatures
By _____ Date: _____
Name:
Title:

By _____ Date: _____
Name:
Title:

By _____ Date: _____
Name:
Title:



Gregory L. Geist
Director

November 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between Clackamas County Service District No. 1
and the Oregon Department of Transportation
for a Flexible Service Agreement for Equipment and Services

Purpose/Outcomes	Become a signatory to an IGA with ODOT to allow for sharing equipment and services.
Dollar Amount and Fiscal Impact	\$150,000 annually with a total not-to-exceed contract total of \$750,000
Funding Source	Clackamas County Service District No. 1 District Budget. No General Funds impacted.
Duration	Upon signature to November 1, 2021
Previous Board Action/Review	Department of Transportation and Development signatory in 2007 and renewed on 12/13/2012
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This program supports the WES Strategic Plan objective that customers will continue to benefit from a well-managed utility and properly functioning infrastructure that supports healthy streams and reduces flooding, and that 50% of District streams are healthy. 2. This program supports the County's Strategic Plan objective of building a strong infrastructure that delivers services to customers.
Contact Person	Ron Wierenga (503) 742-4581, WES Surface Water Manager

BACKGROUND:

Throughout Clackamas County Service District No.1 (CCSD1), Water Environment Services (WES) administrates surface water management practices in accordance with a federal municipal separate storm sewer system (MS4) permit. State and interstate highways are located within CCSD1 boundary, and the Oregon Department of Transportation (ODOT) administers the maintenance associated with those rights-of-way.

In 2006, ODOT approved the creation of an intergovernmental agreement (IGA) that was designed to allow different municipalities to pool their resources to conduct road maintenance and stormwater management work across different local jurisdictions. Rather than re-deploying assets or hiring contractors, signatories of this IGA agree to share equipment, materials, and services to their mutual benefit, to the general public's benefit, and to promote the cost-effective efficient use of public resources. Under this agreement, a signatory municipality can issue a work-order request of ODOT to perform a service, and would then reimburse ODOT for that service. Clackamas County's Department of Transportation and Development became a signatory to this IGA in 2007, and renewed on December 13, 2012.

CCSD1 can use this agreement to share equipment and services to address drainage concerns caused by storm system malfunction, including flooding. CCSD1 can also use this agreement to conduct pollution prevention activities, such as eliminating illicit discharges to the storm system and spill cleanup, as well as for municipal operations like street sweeping that prevent pollution.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

CCSD1 recommends the Board of County Commissioners of Clackamas County, acting as the governing body of Clackamas County Service District No.1, approve the Intergovernmental Agreement between Clackamas County Service District No.1 and the Oregon Department of Transportation for a Flexible Service Agreement for Equipment and Services.

Respectfully submitted,

Greg Geist, Director
Water Environment Services

ODOT FLEXIBLE SERVICE AGREEMENT
Intergovernmental Agreement for Equipment and Services with
The Oregon Department of Transportation

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation and the cities and/or counties signing on to this Agreement, hereinafter referred to collectively as "Agencies". ODOT and Agencies shall be referred to collectively as "Parties".

RECITALS

1. By the authority granted in ORS 190.110, 366.572, 366.574 and 366.576, ODOT may enter into cooperative agreements with the counties, cities, and units of local government for the performance of work on certain types of maintenance or improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. ODOT and Agencies own certain equipment and materials, and provides services that may be useful to other Parties for transportation related activities.
3. The Parties agree that sharing equipment, materials, and services is both to their mutual benefit and to the general public's benefit and promotes the cost-effective and efficient use of public resources so long as used for transportation purposes.
4. A previous Intergovernmental Agreement (IGA) for shared services was signed by Multnomah County, the City of Gresham, City of Portland, City of Fairview, City of Troutdale, City of Wood Village and Oregon Department of Transportation in 1991 which expired in 1996. A subsequent three-year IGA for shared services was entered into by Multnomah County, City of Gresham and Oregon Department of Transportation in 1996 and by the provision of a 1999 ADDENDUM, other parties agreed to sign and join the 1996 agreement.
5. The previously mentioned IGA and addendum have expired and have been replaced by the Portland Metropolitan Area Transportation (PMAT) Agreement, executed on August 15, 2002. Said agreement is administered by Multnomah County. The parties to said agreement to-date are Multnomah County, Washington County, Marion County, City of Gresham, City of Wood Village, Clackamas County, City of Salem, City of Portland, Hood River County, Polk County, Columbia County, Wasco County and Benton County.

6. It has been determined that ODOT cannot sign said aforementioned PMAT agreement in its current form. Therefore, in an effort to commit to the obligations in said PMAT agreement, ODOT wishes to enter into this Agreement with Agencies.

DEFINITIONS

1. The term "Provider" shall be defined as the Party (either ODOT or Agencies) that is supplying the service, equipment or materials.
2. The term "User" shall be defined as the Party (either ODOT or Agencies) that is requesting or receiving services, equipment or materials.

NOW THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows

TERMS OF AGREEMENT

1. Under such authority, ODOT and Agencies desire to enter into this Agreement to establish procedures for sharing road and highway services, equipment and materials, and to define legal relationships and responsibilities for any services or equipment sharing between ODOT and any of the Agencies. Any services or equipment shared between the Agencies that *do not* involve ODOT should follow the existing PMAT agreement which is administered by Multnomah County, provided that the Agencies are signed parties to the PMAT agreement.
2. The Parties shall make available to each other vehicles, equipment, machinery, materials, related items, and services in the manner and on the terms and conditions provided herein. The vehicles, equipment and machinery covered by this Agreement shall only be such items appropriate for transportation related activities, and shall not include regular automobiles.
3. An Equipment Sharing Catalog will be provided upon request by each entity to the other parties of this Agreement. Said catalog shall describe available equipment and current rental rates. Upon receipt, ODOT's Region 1 Operations/Maintenance Manager will distribute said catalog to the appropriate ODOT personnel. Supplies or materials shall be charged at Provider's invoice cost plus an established administrative fee, or may be replaced by the User. Equipment usage and services shall be charged at Provider's rates used for its internal financial management of personnel and equipment.
4. The tasks associated with the responsibilities referred to above are as defined in the current editions of the ODOT Maintenance Guide, ODOT Maintenance Field Operations Manual, Maintenance Management System (MMS) Manual, Water Quality and Habitat Guide, and Best Management Practices Manual which, by this reference,

are incorporated herein. All services requested of ODOT shall follow procedures addressed in these manuals and will require a Work Order Authorization. All services provided to ODOT shall follow the accepted industry standard, and any specifics identified in the Work Order Authorization, and will require a Work Order Authorization. The Work Order Authorization shall include MMS Activity numbers. Other maintenance services may be included as defined on the Work Order by a MMS Activity number from the current manual edition.

5. The term of this Agreement shall begin upon signature by ODOT and the first Party to execute said Agreement and shall be in effect for a period of five (5) years. The Agreement may be extended at that time by mutual consent of all parties in the form of an amendment to this Agreement.
6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$100,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

SCOPE OF WORK

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Exhibit A and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed Work Order Authorization shall be completed and returned to the originating party within ten (10) working days.
2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on Exhibit A. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both

parties shall sign the faxed Work Order Authorization before work begins. An original signed Work Order Authorization shall be completed and returned to the originating party within ten (10) working days. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement.

3. The User shall provide instructions to the Provider's employees concerning work to be performed under the Work Order, and the Provider shall direct and supervise its employees who are assigned to assist the User.

REIMBURSEMENT INSTRUCTIONS

1. Provider shall submit an estimate for specific services, use of materials, or rental of equipment to the User at the request of the User. Provider shall maintain an accurate cost accounting system, track expenditures and provide monthly statements to User for actual costs incurred for work performed under this Agreement. Provider shall quarterly total all costs due based on the monthly statements of accounts sent to User and submit an invoice to User for payment within 45 days of receipt of the invoice. User shall reimburse Provider for materials, equipment and services based on invoice plus administrative fee for materials and supplies and the Provider's rates used for its internal financial management of personnel and equipment. User may replace materials or supplies with a like quantity and amount, as determined by Provider. If User elects to replace said materials, replacement shall be made within 45 days of the invoice date.
2. Billings to ODOT shall be submitted to ODOT's Region 1 Operations/Maintenance Manager at 123 NW Flanders St., Portland, OR 97204. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.
3. Under no condition shall ODOT's total obligation for payments exceed \$20,000,000 during the term of this Agreement.
4. Under no condition shall an individual Agency's total obligation for payments exceed \$500,000 during the term of this Agreement unless the signature page for the specific Agency identifies a different annual maximum amount.

EXPENDITURE AUTHORIZATION

1. All Parties certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of their current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. No Party shall assume any debts of the other Parties in violation of Article XI, Section 8, of the Oregon Constitution.

2. No Party shall be liable for any expenditure under this Agreement without proper appropriation pursuant to ORS Chapter 291 and ORS Chapter 294 respectively.

EQUIPMENT AND SERVICES

1. Each Party shall make available to the other Party vehicles, equipment, machinery, employees, related items and services in the manner and on the terms and conditions provided herein.
2. Services and equipment shall be provided upon reasonable request at mutually convenient times and locations. Each Party retains the right to refuse to honor a request if the services or equipment are needed for other purposes, if providing the equipment would be unduly inconvenient or if for any other reason the Party determines in good faith that it is not in its best interest to provide a particular item or service at the requested time. It is up to the discretion of the Provider as to whether an operator shall be provided with the equipment.
3. The User shall take proper precaution in its operation, storage, and maintenance of the Provider's equipment. Equipment shall be used only for its intended purpose. User shall permit the equipment to be used only by properly trained and supervised operators and shall be responsible for equipment repairs necessitated by misuse or negligent operation. User shall perform and document required written maintenance checks prior to and after use and shall provide routine daily maintenance of equipment during the period in which the equipment is in User's possession. User shall not, however, be responsible for scheduled maintenance or repairs other than repairs necessitated by misuse or negligent operation. User shall be responsible for damage to rented equipment considered beyond normal wear and tear, including repairs necessitated by misuse or negligent operation; however, shall not be responsible for scheduled maintenance and related normal repairs
4. If a piece of equipment requires repair while in use, a Provider mechanic and a User mechanic shall assess the problem and, in consultation with each other, determine which party is responsible for repair. In the event an agreement cannot be reached, ODOT's appropriate District Manager, or designee, and the other Party's authorized representative shall determine the responsible party.
5. The Provider shall endeavor to provide equipment in good working order and to inform User of any information necessary for the proper operation of the equipment. The equipment, however, is provided "as is", with no representations or warranties as to its fitness for a particular purpose. User shall be solely responsible for selecting the proper equipment for its needs and inspecting equipment prior to use. It is acknowledged by the Parties that the Provider is not in the business of selling, leasing, renting, or otherwise providing equipment to others and that the parties are acting only for their mutual convenience and efficiency.

6. The Parties shall provide equipment storage space to each other, at no charge, upon rental request when mutually convenient. It is recognized that such storage is for the benefit of the party requesting it. The Party storing the equipment shall be responsible only for providing a reasonably safe and secure area.
7. Service and usage times, established for the purpose of record keeping and rental charges, shall be defined as "hours used on the job". In the event the equipment being used does not have an hour meter, the User shall document the number of hours used performing an activity.
8. The Parties shall use their individual internal rental rates for labor and equipment. These rates may be adjusted only once per State fiscal year.
9. The Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of three years following termination of this Agreement.
10. The Parties shall furnish fuel, maintenance, and insurance for their equipment; however, fuel for vehicles and equipment shall be provided by the User during the period in which the equipment or vehicle is in the User's possession. Equipment shall be returned to the Provider with a like amount of fuel as when it was furnished to the User.

GENERAL PROVISIONS

1. The Parties hereby grant the other Parties authority to enter onto their right-of-way for the purpose of performing the maintenance services as stated on the Work Order.
2. The Parties shall only assign personnel to work on the other's right-of-way that have similar job experience on public right-of-way.
3. The Parties acknowledge and agree that each of the other Parties, the Oregon Secretary of State's office, and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of each Party that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts. The Parties shall retain and keep all files and records for a minimum of three years following termination of the Agreement.
4. All Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof; Without limiting the generality of the foregoing, all Parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations

and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

5. Each Party represents that this Agreement is signed by personnel who have been authorized to do so by that Party.
6. Provider personnel assigned to assist User shall not be considered employees of User. Each Party shall be responsible for the following items in regard to their own employees:
 - a) Payment of all wages and benefits that its employees are entitled to receive through their employment including, but not limited to, vacation, holiday and sick leave; other leaves with pay; medical, dental, life, and accident insurance; other insurance coverage; overtime; Social Security; Workers' Compensation; unemployment compensation, and retirement benefits.
 - b) Withholding Social Security, federal and state taxes, and other regular deductions from wages paid to employees.
 - c) Administration of applicable civil service statutes and rules, classification and compensation plans, collective bargaining agreements, and other laws and agreement governing personnel relations with employees.
7. The Parties to this Agreement are of equal authority. Each Party acts independently in the performance of its obligations and functions under this Agreement, and no Party shall be considered the agent of another Party.
8. To the extent permitted by Article XI, Section 7 and Section 10 of the Oregon Constitution and by the Oregon Tort Claims Act, each Party shall indemnify each other Party against liability for damage to life or property arising from the indemnifying Party's own activities under this Agreement, provided that a Party will not be required to indemnify the other Party for any such liability arising out of the wrongful acts of employees or agents of that other Party.
9. Notwithstanding the foregoing defense obligations under paragraph 8 above, no Party nor any attorney engaged by any Party(s) shall defend any claim in the name of the any Party(s) or any agency/department/division of such other Party(s), nor purport to act as legal representative of the any Party(s) or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of any such other Party(s). Each Party may, at anytime at its election assume its own defense and settlement in the event that it determines that the other Party(s) is/are prohibited from defending it, or other Party(s) is/are not adequately defending it's interests, or that an important governmental principle is at issue or that it is in the best interests of the Party(s) to do so. Each Party reserves all rights to pursue any claims it may have against the other Parties if it elects to assume its own defense.

10. All employers under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers, unless such employers are exempt under ORS 656.126. All employers shall ensure that each of its contractors complies with these requirements.
11. Any Party may terminate its participation by providing at least thirty (30) days written notice to the other Parties. Any amounts due and owing by a terminating Party shall be paid within thirty (30) days of termination. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
12. The Provider shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from the User.
13. Nothing herein shall be deemed to restrict authority of any of the Parties to enter into separate Agreements governing the terms and conditions for providing equipment or services on terms different than specified herein.
14. No Party to this Agreement shall be indebted or liable for an obligation created by this Agreement in excess of the debt limitation as stated in Article XI, Section 10, of the Oregon Constitution.
15. This Agreement and attached exhibit constitute the entire Agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind any Party unless in writing and signed by all 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 ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.
16. This Agreement may be executed in several counterparts [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.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

Agreement No. 20656
Agencies/ODOT

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

On November 10, 2004, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways; the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission such as the Traffic Safety Performance Plan, or in a line item in the biennial budget approved by the Director.

APPROVAL RECOMMENDED:

By *K. A. Brown*
State Highway Maintenance Engineer

Date 4/11/06

By *J. L. Teal*
Region 1 Manager

Date 3/30/06

STATE OF OREGON, by and through its
Department of Transportation

By *L. M. F. M.*
Deputy Director, Highways

Date 17 APR 06

**APPROVED AS TO FORM AND AS AN
AGREEMENT TO AGREE:**

By *D. K. W. ...*
Assistant Attorney General

Date 4/6/06

**AMENDMENT NUMBER 01
ODOT FLEXIBLE SERVICE AGREEMENT
Intergovernmental Agreement for Equipment and Services with
The Oregon Department of Transportation**

The **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," and the cities and counties which have signed on to this Agreement, hereinafter referred to collectively as "Agencies," entered into an Agreement on April 17, 2006. Said Agreement covers procedures for sharing road and highway services, equipment and materials and to define legal relationships and responsibilities for any services or equipment sharing between ODOT and any of the Agencies.

It has now been determined by ODOT and Agencies that the Agreement referenced above shall be amended to extend the term of the Agreement, correct and update standard language, update contact information and update Exhibit A. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

ODOT Flexible Services Maintenance Agreement Signature Page shall be deleted in its entirety and replaced with the attached Revised ODOT Flexible Services Maintenance Agreement Signature Page. All references to "ODOT Flexible Services Maintenance Agreement Signature Page" shall hereinafter be referred to as "Revised ODOT Flexible Services Maintenance Agreement Signature Page."

Exhibit A, Work Order Authorization, shall be deleted in its entirety and replaced with the attached Revised Exhibit A, Work Order Authorization. All references to "Exhibit A, Work Order Authorization" shall hereinafter be referred to as "Revised Exhibit A, Work Order Authorization."

TERMS OF AGREEMENT, Paragraph 5, Page 3, which reads:

5. The term of this Agreement shall begin upon signature by ODOT and the first Party to execute said Agreement and shall be in effect for a period of five (5) years. The Agreement may be extended at that time by mutual consent of all parties in the form of an amendment to this Agreement.

Shall be deleted in its entirety and replaced with the following:

5. a. The term of this Agreement shall begin upon the signature by ODOT and first Party to execute this Agreement and shall terminate April 17, 2021.
 - b. Amendment No. 1 extends this Agreement for another ten (10) years, but continued participation after April 17, 2011 by an individual Party will be viewed as

terminated unless the Party has signed Amendment No. 1. No activity after April 17, 2011 shall be considered as billable under this Agreement without a Party's execution of this Amendment 1. After April 17, 2011, the Agreement may still be extended by mutual consent of the Parties by signing Amendment No. 1, at any time during the term established by Amendment No. 1. Any Party's current Equipment Sharing Catalogue already on file for this Agreement shall remain active if the Party signs Amendment No. 1.

TERMS OF AGREEMENT, Paragraph 6, Page 3, which reads:

6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$100,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

Shall be deleted in its entirety and replaced with the following:

6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$150,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

SCOPE OF WORK, Paragraph 1, Page 3, which reads:

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Exhibit A and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed

Work Order Authorization shall be completed and returned to the originating party within ten (10) working days.

Shall be deleted in its entirety and replaced with the following:

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Revised Exhibit A Work Order Authorization and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Executed Work Order Authorizations shall be sent by the originating party to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503)731-8559;email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence.

SCOPE OF WORK, Paragraph 2, Page 3, which reads:

2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on Exhibit A. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed Work Order Authorization shall be completed and returned to the originating party within ten (10) working days. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement.

Shall be deleted in its entirety and replaced with the following:

2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on the attached Revised Exhibit A Work Order

Authorization. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement. Executed Work Order Authorizations shall be sent by the originating party sent to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503)731-8559; email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence.

REIMBURSEMENT INSTRUCTIONS, Paragraph 2, Page 4, which reads:

2. Billings to ODOT shall be submitted to ODOT's Region 1 Operations/Maintenance Manager at 123 NW Flanders St., Portland, OR 97204. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.

Shall be deleted in its entirety and replaced with the following:

2. Billings to ODOT shall be submitted to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503) 731-8559; email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.

EXPENDITURE AUTHORIZATION, Paragraph 1, Page 4, which reads:

1. All Parties certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of their current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. No Party shall assume any debts of the other Parties in violation of Article XI, Section 8, of the Oregon Constitution.

Shall be deleted in its entirety and replaced with the following:

1. Agencies certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of the current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the

debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. Agencies shall not be indebted or liable for any obligation created by this Agreement in excess of the debt limitation of Article XI, Section 10, of the Oregon Constitution.

EQUIPMENT AND SERVICES, Paragraph 9, Page 6, which reads:

9. The Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of three years following termination of this Agreement.

Shall be deleted in its entirety and replaced with the following:

9. All Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of six (6) years following termination of the Agreement.

Insert new EQUIPMENT AND SERVICES, Paragraph 11, to read as follows:

11. The user is responsible for any damage to rented equipment reasonably considered to be beyond normal wear and tear.

GENERAL PROVISIONS, Paragraph 3, Page 6, which reads:

3. The Parties acknowledge and agree that each of the other Parties, the Oregon Secretary of State's office, and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of each Party that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts. The Parties shall retain and keep all files and records for a minimum of three years following termination of the Agreement.

Shall be deleted in its entirety and replaced with the following:

3. The Agencies acknowledge and agree that ODOT, the Oregon Secretary of State's office and the federal government and their duly authorized representatives shall have access to the books, documents, papers, and records of the Agencies which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.

GENERAL PROVISIONS, Paragraphs 8 and 9, shall be deleted their entirety and shall be identified as RESERVED.

GENERAL PROVISIONS, Paragraph 10, Page 8, which reads:

10. All employers under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers, unless such employers are exempt under ORS 656.126. All employers shall ensure that each of its contractors complies with these requirements.

Shall be deleted in its entirety and replaced with the following:

10. All employers, including the Agencies, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. The Agencies shall ensure that each of its contractors complies with these requirements.

Insert new GENERAL PROVISIONS, Paragraphs 17 through 22, to read as follows:

17. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or any other Party or Parties with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

18. With respect to a Third Party Claim for which ODOT is jointly liable with any other Party or Parties (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Agency in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of the Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in

any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if the ODOT had sole liability in the proceeding.

19. With respect to a Third Party Claim for which any other Party or Parties is jointly liable with ODOT (or would be if joined in the Third Party Claim), the Party or Parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the ODOT in such proportion as is appropriate to reflect the relative fault of the Party or Parties on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Party or Parties on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
20. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
21. The Agencies shall require any contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agencies' contractor or any of the officers, agents, employees or subcontractors of the contractor("Claims"). It is the specific intention of the Parties that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by the contractor and subcontractor from and against any and all Claims.
22. Any such indemnification shall also provide that neither the Agencies' contractor and subcontractor nor any attorney engaged by Agencies' contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agencies' contractor is prohibited from

Agencies/ODOT
Agreement No. 20,656-01

defending the State of Oregon, or that Agencies' contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agencies' contractor if the State of Oregon elects to assume its own defense.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director. The Director may also delegate to other Administrators the authority to execute intergovernmental agreements over \$75,000 for specific programs such as transportation safety, growth management and public transit.

APPROVAL RECOMMENDED

By [Signature]
State Highway Maintenance Engineer

Date 4/12/11

By [Signature]
Region 1 Manager

Date 4/17/11

By [Signature]
Region 1 Maintenance and Operations
Manager

Date 4-7-11

STATE OF OREGON, by and through
its Department of Transportation

By [Signature]
Highway Division Administrator

Date 4/19/11

**APPROVED AS TO LEGAL
SUFFICIENCY**

By [Signature]
Assistant Attorney General

Date 4/14/11

REVISED

ODOT Flexible Services Maintenance Agreement Signature Page

IN THE WITNESS WHEREOF, Clackamas County Service District No. 1 (Party) has caused THIS AGREEMENT to be executed by its duly authorized representatives as the date of their signatures below:

_____ Signature of Officer	_____ Date	_____ Officer's title
_____ Signature of Officer	_____ Date	_____ Officer's title
_____ Signature of Counsel	_____ Date	_____ Counsel's title

Name and Title of the Agency's Authorized Signer for Work Orders:

Ron Wierenga, Surface Water Manager

Address: 150 Beaver Creek Road, Suite 430
Oregon City, OR 97045

Phone: (503) 742-4581 _____ Fax: _____

Email: rwierenga@clackamas.us

Name, Title, Address, Phone and email of **additional contact for coordination** of this Agreement and/or Work Order Authorizations:

Greg Eyerly, Operations Manager
15941 Agnes Ave., Oregon City OR 97045
(503) 557-2802 geyerly@clackamas.us

Agency's maximum annual total obligation, if different than established in Reimbursement Instructions, Paragraph 4, shall be \$150,000 annually for a contract cumulative total to November 1, 2021 not-to-exceed \$750,000.

Send the **original Agreement Signature Page (this page), and the Equipment Sharing Catalog (See: page 2, revised paragraph 5) or Updates** to:

Theodore C. Miller, ODOT Region 1 Operations/Maintenance Manager
ODOT Region 1, 123 NW Flanders Street, Portland, OR 97209,
Telephone: (503)731-8559, [Email: Theodore.C.Miller@odot.state.or.us](mailto:Theodore.C.Miller@odot.state.or.us)

REVISED
ODOT Flexible Services Maintenance Agreement Signature Page

IN THE WITNESS WHEREOF, the Surface Water Management Agency of Clackamas County (Party) has caused THIS AGREEMENT to be executed by its duly authorized representatives as the date of their signatures below:

Signature of Officer	Date	Officer's title
Signature of Officer	Date	Officer's title
Signature of Counsel	Date	Counsel's title

Name and Title of the Agency's Authorized Signer for Work Orders:

Ron Wierenga, Surface Water Manager

Address: 150 Beaver Creek Road, Suite 430
Oregon City, OR 97045

Phone: (503) 742-4581 _____ Fax: _____

Email: rwierenga@clackamas.us

Name, Title, Address, Phone and email of **additional contact for coordination** of this Agreement and/or Work Order Authorizations:

Greg Eyerly, Operations Manager
15941 Agnes Ave., Oregon City OR 97045
(503) 557-2802 geyerly@clackamas.us

Agency's maximum annual total obligation, if different than established in Reimbursement Instructions, Paragraph 4, shall be \$150,000 annually for a contract cumulative total to November 1, 2021 not-to-exceed \$750,000.

Send the **original Agreement Signature Page (this page), and the Equipment Sharing Catalog (See: page 2, revised paragraph 5) or Updates** to:

Theodore C. Miller, ODOT Region 1 Operations/Maintenance Manager
ODOT Region 1, 123 NW Flanders Street, Portland, OR 97209,
Telephone: (503)731-8559, [Email: Theodore.C.Miller@odot.state.or.us](mailto:Theodore.C.Miller@odot.state.or.us)

**REVISED EXHIBIT A
WORK ORDER AUTHORIZATION**

ODOT Requesting to Perform Work

Requesting ODOT to Perform Work

Agreement No. 20,656 Work Order No.

Under the terms of Agreement No. 20,656 between the Oregon Department of Transportation (ODOT) and _____, which is hereby incorporated by reference, the following Project work is authorized:

Project Name: Flexible Maintenance Services

Total Authorized Amt. this Work Order \$ _____ Expenditure Acct. No.: _____
 Work Order Start Date: _____ Work Order End Date: _____

Effective Date: No Work shall occur until signed by all parties.	Totals
Expenditure Account No.	No.
A. Amount authorized for this Work Order	\$
B. Amount authorized on prior Work Orders	\$
C. Total Amount authorized for all Work Orders (A+B=C)	\$
D. Agreement Not-to-Exceed amount	\$
E. Amount remaining on Agreement (D-C=E)	\$

SCOPE OF WORK (tasks, hours per task, estimated cost per task, and staff assigned to do the work and their hourly rate. Specify the Party responsible for providing materials and the Party responsible for material costs associated with the Project or services). Work necessary to complete Project or services as described in original Agreement scope of work: (Indicate which services are to be used by checking appropriate box(es)).

Maintenance Services and Equipment Rental: *(List work shown below)*

- Patching (100-102, 107-108) Shouldering (111-112, 119) Ditching (120) Sweeping (116-117)
 Vegetation Control (131) Striping (140-141, 147) Winter Maintenance (170-171, 179-181, 192)
 Brushing (132-133) Signing (142-143) Landscaping (136) Drainage (121) Guardrail Repair (151) Bridge Repair (163, 169) Hazardous Material Spills (149) Equipment Rental (specify equipment)

General Description of Project: _____

This Work Order Authorization may be executed in several counterparts (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 Work Order Authorization so executed shall constitute an original.

--SIGNATURE PAGE TO FOLLOW--

ACCEPTANCE OF TERMS AND ACTION APPROVED BY ODOT: I acknowledge and certify that the work in this Work order authorization is within the scope of work of the original Agreement.

ODOT's 2_ District Manager Date

ACCEPTANCE OF TERMS BY LOCAL AGENCY:

Name / Title Date

APPROVED AS TO LEGAL SUFFICIENCY: If work exceeds \$150,000, signature required

Assistant Attorney General Date

cc: ODOT R1 Maintenance District # 2_ Manager
Ted Miller, ODOT's Region 1 Operations/Maintenance Manager, 123 N.W. Flanders St., Portland, OR 97209
Support Service, Procurement Office (OPO) for General Files

<p>EXHIBIT A</p> <p>Work Order – Local Agency Rev. 04-07-2011</p>
--



Gregory L. Geist
Director

November 23, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between the Surface Water Management Agency of Clackamas County and the Oregon Department of Transportation for a Flexible Service Agreement for Equipment and Services

Purpose/Outcomes	Become a signatory to an IGA with ODOT to allow for sharing equipment and services.
Dollar Amount and Fiscal Impact	\$150,000 annually with a cumulative contract total not to exceed \$750,000
Funding Source	Surface Water Management Agency of Clackamas County District Budget. No General Funds impacted.
Duration	Execution to November 1, 2021
Previous Board Action/Review	Department of Transportation and Development signatory in 2007 and renewed on 12/13/2012
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This program supports the Strategic Plan objective that customers will continue to benefit from a well-managed utility and properly functioning infrastructure that supports healthy streams and reduces flooding, and that 50% of SWMACC streams are healthy. 2. This program supports the County's Strategic Plan objective of building a strong infrastructure that delivers services to customers.
Contact Person	Ron Wierenga (503) 742-4581, Surface Water Manager

BACKGROUND:

Throughout the Surface Water Management Agency of Clackamas County (SWMACC), Water Environment Services (WES) administrates surface water management practices in accordance with a federal municipal separate storm sewer system (MS4) permit. State and interstate highways are located within the SWMACC boundary, and the Oregon Department of Transportation (ODOT) administers the maintenance associated with those rights-of-way.

In 2006, ODOT approved the creation of an intergovernmental agreement (IGA) that was designed to allow different municipalities to pool their resources to conduct road maintenance and stormwater management work across different local jurisdictions. Rather than re-deploying assets or hiring contractors, signatories of this IGA agree to share equipment, materials, and services to their mutual benefit, to the general public's benefit, and to promote the cost-effective efficient use of public resources. Under this agreement, a signatory municipality can issue a work-order request of ODOT to perform a service, and would then reimburse ODOT for that service. Clackamas County's Department of Transportation and Development became a signatory to this IGA in 2007, and renewed on December 13, 2012.

SWMACC can use this agreement to share equipment and services to address drainage concerns caused by storm system malfunction, including flooding. SWMACC can also use this agreement to conduct pollution prevention activities, such as eliminating illicit discharges to the storm system and spill cleanup, as well as for municipal operations like street sweeping that prevent pollution.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

SWMACC recommends the Board of County Commissioners of Clackamas County, acting as the governing body of the Surface Water Management Agency of Clackamas County, approve the Intergovernmental Agreement between the Surface Water Management Agency of Clackamas County and the Oregon Department of Transportation for a Flexible Service Agreement for Equipment and Services.

Respectfully submitted,

Greg Geist, Director
Water Environment Services

ODOT FLEXIBLE SERVICE AGREEMENT
Intergovernmental Agreement for Equipment and Services with
The Oregon Department of Transportation

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation and the cities and/or counties signing on to this Agreement, hereinafter referred to collectively as "Agencies". ODOT and Agencies shall be referred to collectively as "Parties".

RECITALS

1. By the authority granted in ORS 190.110, 366.572, 366.574 and 366.576, ODOT may enter into cooperative agreements with the counties, cities, and units of local government for the performance of work on certain types of maintenance or improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. ODOT and Agencies own certain equipment and materials, and provides services that may be useful to other Parties for transportation related activities.
3. The Parties agree that sharing equipment, materials, and services is both to their mutual benefit and to the general public's benefit and promotes the cost-effective and efficient use of public resources so long as used for transportation purposes.
4. A previous Intergovernmental Agreement (IGA) for shared services was signed by Multnomah County, the City of Gresham, City of Portland, City of Fairview, City of Troutdale, City of Wood Village and Oregon Department of Transportation in 1991 which expired in 1996. A subsequent three-year IGA for shared services was entered into by Multnomah County, City of Gresham and Oregon Department of Transportation in 1996 and by the provision of a 1999 ADDENDUM, other parties agreed to sign and join the 1996 agreement.
5. The previously mentioned IGA and addendum have expired and have been replaced by the Portland Metropolitan Area Transportation (PMAT) Agreement, executed on August 15, 2002. Said agreement is administered by Multnomah County. The parties to said agreement to-date are Multnomah County, Washington County, Marion County, City of Gresham, City of Wood Village, Clackamas County, City of Salem, City of Portland, Hood River County, Polk County, Columbia County, Wasco County and Benton County.

6. It has been determined that ODOT cannot sign said aforementioned PMAT agreement in its current form. Therefore, in an effort to commit to the obligations in said PMAT agreement, ODOT wishes to enter into this Agreement with Agencies.

DEFINITIONS

1. The term "Provider" shall be defined as the Party (either ODOT or Agencies) that is supplying the service, equipment or materials.
2. The term "User" shall be defined as the Party (either ODOT or Agencies) that is requesting or receiving services, equipment or materials.

NOW THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows

TERMS OF AGREEMENT

1. Under such authority, ODOT and Agencies desire to enter into this Agreement to establish procedures for sharing road and highway services, equipment and materials, and to define legal relationships and responsibilities for any services or equipment sharing between ODOT and any of the Agencies. Any services or equipment shared between the Agencies that *do not* involve ODOT should follow the existing PMAT agreement which is administered by Multnomah County, provided that the Agencies are signed parties to the PMAT agreement.
2. The Parties shall make available to each other vehicles, equipment, machinery, materials, related items, and services in the manner and on the terms and conditions provided herein. The vehicles, equipment and machinery covered by this Agreement shall only be such items appropriate for transportation related activities, and shall not include regular automobiles.
3. An Equipment Sharing Catalog will be provided upon request by each entity to the other parties of this Agreement. Said catalog shall describe available equipment and current rental rates. Upon receipt, ODOT's Region 1 Operations/Maintenance Manager will distribute said catalog to the appropriate ODOT personnel. Supplies or materials shall be charged at Provider's invoice cost plus an established administrative fee, or may be replaced by the User. Equipment usage and services shall be charged at Provider's rates used for its internal financial management of personnel and equipment.
4. The tasks associated with the responsibilities referred to above are as defined in the current editions of the ODOT Maintenance Guide, ODOT Maintenance Field Operations Manual, Maintenance Management System (MMS) Manual, Water Quality and Habitat Guide, and Best Management Practices Manual which, by this reference,

are incorporated herein. All services requested of ODOT shall follow procedures addressed in these manuals and will require a Work Order Authorization. All services provided to ODOT shall follow the accepted industry standard, and any specifics identified in the Work Order Authorization, and will require a Work Order Authorization. The Work Order Authorization shall include MMS Activity numbers. Other maintenance services may be included as defined on the Work Order by a MMS Activity number from the current manual edition.

5. The term of this Agreement shall begin upon signature by ODOT and the first Party to execute said Agreement and shall be in effect for a period of five (5) years. The Agreement may be extended at that time by mutual consent of all parties in the form of an amendment to this Agreement.
6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$100,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

SCOPE OF WORK

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Exhibit A and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed Work Order Authorization shall be completed and returned to the originating party within ten (10) working days.
2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on Exhibit A. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both

parties shall sign the faxed Work Order Authorization before work begins. An original signed Work Order Authorization shall be completed and returned to the originating party within ten (10) working days. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement.

3. The User shall provide instructions to the Provider's employees concerning work to be performed under the Work Order, and the Provider shall direct and supervise its employees who are assigned to assist the User.

REIMBURSEMENT INSTRUCTIONS

1. Provider shall submit an estimate for specific services, use of materials, or rental of equipment to the User at the request of the User. Provider shall maintain an accurate cost accounting system, track expenditures and provide monthly statements to User for actual costs incurred for work performed under this Agreement. Provider shall quarterly total all costs due based on the monthly statements of accounts sent to User and submit an invoice to User for payment within 45 days of receipt of the invoice. User shall reimburse Provider for materials, equipment and services based on invoice plus administrative fee for materials and supplies and the Provider's rates used for its internal financial management of personnel and equipment. User may replace materials or supplies with a like quantity and amount, as determined by Provider. If User elects to replace said materials, replacement shall be made within 45 days of the invoice date.
2. Billings to ODOT shall be submitted to ODOT's Region 1 Operations/Maintenance Manager at 123 NW Flanders St., Portland, OR 97204. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.
3. Under no condition shall ODOT's total obligation for payments exceed \$20,000,000 during the term of this Agreement.
4. Under no condition shall an individual Agency's total obligation for payments exceed \$500,000 during the term of this Agreement unless the signature page for the specific Agency identifies a different annual maximum amount.

EXPENDITURE AUTHORIZATION

1. All Parties certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of their current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. No Party shall assume any debts of the other Parties in violation of Article XI, Section 8, of the Oregon Constitution.

2. No Party shall be liable for any expenditure under this Agreement without proper appropriation pursuant to ORS Chapter 291 and ORS Chapter 294 respectively.

EQUIPMENT AND SERVICES

1. Each Party shall make available to the other Party vehicles, equipment, machinery, employees, related items and services in the manner and on the terms and conditions provided herein.
2. Services and equipment shall be provided upon reasonable request at mutually convenient times and locations. Each Party retains the right to refuse to honor a request if the services or equipment are needed for other purposes, if providing the equipment would be unduly inconvenient or if for any other reason the Party determines in good faith that it is not in its best interest to provide a particular item or service at the requested time. It is up to the discretion of the Provider as to whether an operator shall be provided with the equipment.
3. The User shall take proper precaution in its operation, storage, and maintenance of the Provider's equipment. Equipment shall be used only for its intended purpose. User shall permit the equipment to be used only by properly trained and supervised operators and shall be responsible for equipment repairs necessitated by misuse or negligent operation. User shall perform and document required written maintenance checks prior to and after use and shall provide routine daily maintenance of equipment during the period in which the equipment is in User's possession. User shall not, however, be responsible for scheduled maintenance or repairs other than repairs necessitated by misuse or negligent operation. User shall be responsible for damage to rented equipment considered beyond normal wear and tear, including repairs necessitated by misuse or negligent operation; however, shall not be responsible for scheduled maintenance and related normal repairs
4. If a piece of equipment requires repair while in use, a Provider mechanic and a User mechanic shall assess the problem and, in consultation with each other, determine which party is responsible for repair. In the event an agreement cannot be reached, ODOT's appropriate District Manager, or designee, and the other Party's authorized representative shall determine the responsible party.
5. The Provider shall endeavor to provide equipment in good working order and to inform User of any information necessary for the proper operation of the equipment. The equipment, however, is provided "as is", with no representations or warranties as to its fitness for a particular purpose. User shall be solely responsible for selecting the proper equipment for its needs and inspecting equipment prior to use. It is acknowledged by the Parties that the Provider is not in the business of selling, leasing, renting, or otherwise providing equipment to others and that the parties are acting only for their mutual convenience and efficiency.

6. The Parties shall provide equipment storage space to each other, at no charge, upon rental request when mutually convenient. It is recognized that such storage is for the benefit of the party requesting it. The Party storing the equipment shall be responsible only for providing a reasonably safe and secure area.
7. Service and usage times, established for the purpose of record keeping and rental charges, shall be defined as "hours used on the job". In the event the equipment being used does not have an hour meter, the User shall document the number of hours used performing an activity.
8. The Parties shall use their individual internal rental rates for labor and equipment. These rates may be adjusted only once per State fiscal year.
9. The Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of three years following termination of this Agreement.
10. The Parties shall furnish fuel, maintenance, and insurance for their equipment; however, fuel for vehicles and equipment shall be provided by the User during the period in which the equipment or vehicle is in the User's possession. Equipment shall be returned to the Provider with a like amount of fuel as when it was furnished to the User.

GENERAL PROVISIONS

1. The Parties hereby grant the other Parties authority to enter onto their right-of-way for the purpose of performing the maintenance services as stated on the Work Order.
2. The Parties shall only assign personnel to work on the other's right-of-way that have similar job experience on public right-of-way.
3. The Parties acknowledge and agree that each of the other Parties, the Oregon Secretary of State's office, and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of each Party that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts. The Parties shall retain and keep all files and records for a minimum of three years following termination of the Agreement.
4. All Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof; Without limiting the generality of the foregoing, all Parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations

and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

5. Each Party represents that this Agreement is signed by personnel who have been authorized to do so by that Party.
6. Provider personnel assigned to assist User shall not be considered employees of User. Each Party shall be responsible for the following items in regard to their own employees:
 - a) Payment of all wages and benefits that its employees are entitled to receive through their employment including, but not limited to, vacation, holiday and sick leave; other leaves with pay; medical, dental, life, and accident insurance; other insurance coverage; overtime; Social Security; Workers' Compensation; unemployment compensation, and retirement benefits.
 - b) Withholding Social Security, federal and state taxes, and other regular deductions from wages paid to employees.
 - c) Administration of applicable civil service statutes and rules, classification and compensation plans, collective bargaining agreements, and other laws and agreement governing personnel relations with employees.
7. The Parties to this Agreement are of equal authority. Each Party acts independently in the performance of its obligations and functions under this Agreement, and no Party shall be considered the agent of another Party.
8. To the extent permitted by Article XI, Section 7 and Section 10 of the Oregon Constitution and by the Oregon Tort Claims Act, each Party shall indemnify each other Party against liability for damage to life or property arising from the indemnifying Party's own activities under this Agreement, provided that a Party will not be required to indemnify the other Party for any such liability arising out of the wrongful acts of employees or agents of that other Party.
9. Notwithstanding the foregoing defense obligations under paragraph 8 above, no Party nor any attorney engaged by any Party(s) shall defend any claim in the name of the any Party(s) or any agency/department/division of such other Party(s), nor purport to act as legal representative of the any Party(s) or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of any such other Party(s). Each Party may, at anytime at its election assume its own defense and settlement in the event that it determines that the other Party(s) is/are prohibited from defending it, or other Party(s) is/are not adequately defending it's interests, or that an important governmental principle is at issue or that it is in the best interests of the Party(s) to do so. Each Party reserves all rights to pursue any claims it may have against the other Parties if it elects to assume its own defense.

10. All employers under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers, unless such employers are exempt under ORS 656.126. All employers shall ensure that each of its contractors complies with these requirements.
11. Any Party may terminate its participation by providing at least thirty (30) days written notice to the other Parties. Any amounts due and owing by a terminating Party shall be paid within thirty (30) days of termination. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
12. The Provider shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from the User.
13. Nothing herein shall be deemed to restrict authority of any of the Parties to enter into separate Agreements governing the terms and conditions for providing equipment or services on terms different than specified herein.
14. No Party to this Agreement shall be indebted or liable for an obligation created by this Agreement in excess of the debt limitation as stated in Article XI, Section 10, of the Oregon Constitution.
15. This Agreement and attached exhibit constitute the entire Agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind any Party unless in writing and signed by all 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 ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.
16. This Agreement may be executed in several counterparts [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.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

Agreement No. 20656
Agencies/ODOT

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

On November 10, 2004, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways; the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission such as the Traffic Safety Performance Plan, or in a line item in the biennial budget approved by the Director.

APPROVAL RECOMMENDED:

By *K. A. Brown*
State Highway Maintenance Engineer

Date 4/11/06

By *J. L. Teal*
Region 1 Manager

Date 3/30/06

STATE OF OREGON, by and through its
Department of Transportation

By *L. M. F. M.*
Deputy Director, Highways

Date 17 APR 06

**APPROVED AS TO FORM AND AS AN
AGREEMENT TO AGREE:**

By *D. K. W. ...*
Assistant Attorney General

Date 4/6/06

**AMENDMENT NUMBER 01
ODOT FLEXIBLE SERVICE AGREEMENT
Intergovernmental Agreement for Equipment and Services with
The Oregon Department of Transportation**

The **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," and the cities and counties which have signed on to this Agreement, hereinafter referred to collectively as "Agencies," entered into an Agreement on April 17, 2006. Said Agreement covers procedures for sharing road and highway services, equipment and materials and to define legal relationships and responsibilities for any services or equipment sharing between ODOT and any of the Agencies.

It has now been determined by ODOT and Agencies that the Agreement referenced above shall be amended to extend the term of the Agreement, correct and update standard language, update contact information and update Exhibit A. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

ODOT Flexible Services Maintenance Agreement Signature Page shall be deleted in its entirety and replaced with the attached Revised ODOT Flexible Services Maintenance Agreement Signature Page. All references to "ODOT Flexible Services Maintenance Agreement Signature Page" shall hereinafter be referred to as "Revised ODOT Flexible Services Maintenance Agreement Signature Page."

Exhibit A, Work Order Authorization, shall be deleted in its entirety and replaced with the attached Revised Exhibit A, Work Order Authorization. All references to "Exhibit A, Work Order Authorization" shall hereinafter be referred to as "Revised Exhibit A, Work Order Authorization."

TERMS OF AGREEMENT, Paragraph 5, Page 3, which reads:

5. The term of this Agreement shall begin upon signature by ODOT and the first Party to execute said Agreement and shall be in effect for a period of five (5) years. The Agreement may be extended at that time by mutual consent of all parties in the form of an amendment to this Agreement.

Shall be deleted in its entirety and replaced with the following:

5. a. The term of this Agreement shall begin upon the signature by ODOT and first Party to execute this Agreement and shall terminate April 17, 2021.
 - b. Amendment No. 1 extends this Agreement for another ten (10) years, but continued participation after April 17, 2011 by an individual Party will be viewed as

terminated unless the Party has signed Amendment No. 1. No activity after April 17, 2011 shall be considered as billable under this Agreement without a Party's execution of this Amendment 1. After April 17, 2011, the Agreement may still be extended by mutual consent of the Parties by signing Amendment No. 1, at any time during the term established by Amendment No. 1. Any Party's current Equipment Sharing Catalogue already on file for this Agreement shall remain active if the Party signs Amendment No. 1.

TERMS OF AGREEMENT, Paragraph 6, Page 3, which reads:

6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$100,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

Shall be deleted in its entirety and replaced with the following:

6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$150,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

SCOPE OF WORK, Paragraph 1, Page 3, which reads:

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Exhibit A and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed

Work Order Authorization shall be completed and returned to the originating party within ten (10) working days.

Shall be deleted in its entirety and replaced with the following:

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Revised Exhibit A Work Order Authorization and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Executed Work Order Authorizations shall be sent by the originating party to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503)731-8559;email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence.

SCOPE OF WORK, Paragraph 2, Page 3, which reads:

2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on Exhibit A. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed Work Order Authorization shall be completed and returned to the originating party within ten (10) working days. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement.

Shall be deleted in its entirety and replaced with the following:

2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on the attached Revised Exhibit A Work Order

Authorization. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement. Executed Work Order Authorizations shall be sent by the originating party sent to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503)731-8559; email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence.

REIMBURSEMENT INSTRUCTIONS, Paragraph 2, Page 4, which reads:

2. Billings to ODOT shall be submitted to ODOT's Region 1 Operations/Maintenance Manager at 123 NW Flanders St., Portland, OR 97204. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.

Shall be deleted in its entirety and replaced with the following:

2. Billings to ODOT shall be submitted to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503) 731-8559; email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.

EXPENDITURE AUTHORIZATION, Paragraph 1, Page 4, which reads:

1. All Parties certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of their current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. No Party shall assume any debts of the other Parties in violation of Article XI, Section 8, of the Oregon Constitution.

Shall be deleted in its entirety and replaced with the following:

1. Agencies certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of the current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the

debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. Agencies shall not be indebted or liable for any obligation created by this Agreement in excess of the debt limitation of Article XI, Section 10, of the Oregon Constitution.

EQUIPMENT AND SERVICES, Paragraph 9, Page 6, which reads:

9. The Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of three years following termination of this Agreement.

Shall be deleted in its entirety and replaced with the following:

9. All Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of six (6) years following termination of the Agreement.

Insert new EQUIPMENT AND SERVICES, Paragraph 11, to read as follows:

11. The user is responsible for any damage to rented equipment reasonably considered to be beyond normal wear and tear.

GENERAL PROVISIONS, Paragraph 3, Page 6, which reads:

3. The Parties acknowledge and agree that each of the other Parties, the Oregon Secretary of State's office, and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of each Party that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts. The Parties shall retain and keep all files and records for a minimum of three years following termination of the Agreement.

Shall be deleted in its entirety and replaced with the following:

3. The Agencies acknowledge and agree that ODOT, the Oregon Secretary of State's office and the federal government and their duly authorized representatives shall have access to the books, documents, papers, and records of the Agencies which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.

GENERAL PROVISIONS, Paragraphs 8 and 9, shall be deleted their entirety and shall be identified as RESERVED.

GENERAL PROVISIONS, Paragraph 10, Page 8, which reads:

10. All employers under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers, unless such employers are exempt under ORS 656.126. All employers shall ensure that each of its contractors complies with these requirements.

Shall be deleted in its entirety and replaced with the following:

10. All employers, including the Agencies, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. The Agencies shall ensure that each of its contractors complies with these requirements.

Insert new GENERAL PROVISIONS, Paragraphs 17 through 22, to read as follows:

17. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or any other Party or Parties with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

18. With respect to a Third Party Claim for which ODOT is jointly liable with any other Party or Parties (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Agency in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of the Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in

any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if the ODOT had sole liability in the proceeding.

19. With respect to a Third Party Claim for which any other Party or Parties is jointly liable with ODOT (or would be if joined in the Third Party Claim), the Party or Parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the ODOT in such proportion as is appropriate to reflect the relative fault of the Party or Parties on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Party or Parties on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
20. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
21. The Agencies shall require any contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agencies' contractor or any of the officers, agents, employees or subcontractors of the contractor("Claims"). It is the specific intention of the Parties that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by the contractor and subcontractor from and against any and all Claims.
22. Any such indemnification shall also provide that neither the Agencies' contractor and subcontractor nor any attorney engaged by Agencies' contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agencies' contractor is prohibited from

Agencies/ODOT
Agreement No. 20,656-01

defending the State of Oregon, or that Agencies' contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agencies' contractor if the State of Oregon elects to assume its own defense.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director. The Director may also delegate to other Administrators the authority to execute intergovernmental agreements over \$75,000 for specific programs such as transportation safety, growth management and public transit.

APPROVAL RECOMMENDED

By [Signature]
State Highway Maintenance Engineer

Date 4/12/11

By [Signature]
Region 1 Manager

Date 4/17/11

By [Signature]
Region 1 Maintenance and Operations
Manager

Date 4-7-11

STATE OF OREGON, by and through
its Department of Transportation

By [Signature]
Highway Division Administrator

Date 4/19/11

**APPROVED AS TO LEGAL
SUFFICIENCY**

By [Signature]
Assistant Attorney General

Date 4/14/11

REVISED
ODOT Flexible Services Maintenance Agreement Signature Page

IN THE WITNESS WHEREOF, Clackamas County Service District No. 1 (Party) has caused THIS AGREEMENT to be executed by its duly authorized representatives as the date of their signatures below:

_____ Signature of Officer	_____ Date	_____ Officer's title
_____ Signature of Officer	_____ Date	_____ Officer's title
_____ Signature of Counsel	_____ Date	_____ Counsel's title

Name and Title of the Agency's Authorized Signer for Work Orders:

Ron Wierenga, Surface Water Manager

Address: 150 Beaver Creek Road, Suite 430
Oregon City, OR 97045

Phone: (503) 742-4581 _____ Fax: _____

Email: rwierenga@clackamas.us

Name, Title, Address, Phone and email of **additional contact for coordination** of this Agreement and/or Work Order Authorizations:

Greg Eyerly, Operations Manager
15941 Agnes Ave., Oregon City OR 97045
(503) 557-2802 geyerly@clackamas.us

Agency's maximum annual total obligation, if different than established in Reimbursement Instructions, Paragraph 4, shall be \$150,000 annually for a contract cumulative total to November 1, 2021 not-to-exceed \$750,000.

Send the **original Agreement Signature Page (this page), and the Equipment Sharing Catalog (See: page 2, revised paragraph 5) or Updates** to:

Theodore C. Miller, ODOT Region 1 Operations/Maintenance Manager
ODOT Region 1, 123 NW Flanders Street, Portland, OR 97209,
Telephone: (503)731-8559, [Email: Theodore.C.Miller@odot.state.or.us](mailto:Theodore.C.Miller@odot.state.or.us)

REVISED
ODOT Flexible Services Maintenance Agreement Signature Page

IN THE WITNESS WHEREOF, the Surface Water Management Agency of Clackamas County (Party) has caused THIS AGREEMENT to be executed by its duly authorized representatives as the date of their signatures below:

Signature of Officer	Date	Officer's title
Signature of Officer	Date	Officer's title
Signature of Counsel	Date	Counsel's title

Name and Title of the Agency's Authorized Signer for Work Orders:

Ron Wierenga, Surface Water Manager

Address: 150 Beaver Creek Road, Suite 430
Oregon City, OR 97045

Phone: (503) 742-4581 _____ Fax: _____

Email: rwierenga@clackamas.us

Name, Title, Address, Phone and email of **additional contact for coordination** of this Agreement and/or Work Order Authorizations:

Greg Eyerly, Operations Manager
15941 Agnes Ave., Oregon City OR 97045
(503) 557-2802 geyerly@clackamas.us

Agency's maximum annual total obligation, if different than established in Reimbursement Instructions, Paragraph 4, shall be \$150,000 annually for a contract cumulative total to November 1, 2021 not-to-exceed \$750,000.

Send the **original Agreement Signature Page (this page), and the Equipment Sharing Catalog (See: page 2, revised paragraph 5) or Updates** to:

Theodore C. Miller, ODOT Region 1 Operations/Maintenance Manager
ODOT Region 1, 123 NW Flanders Street, Portland, OR 97209,
Telephone: (503)731-8559, [Email: Theodore.C.Miller@odot.state.or.us](mailto:Theodore.C.Miller@odot.state.or.us)

**REVISED EXHIBIT A
WORK ORDER AUTHORIZATION**

ODOT Requesting to Perform Work

Requesting ODOT to Perform Work

Agreement No. 20,656 Work Order No.

Under the terms of Agreement No. 20,656 between the Oregon Department of Transportation (ODOT) and _____, which is hereby incorporated by reference, the following Project work is authorized:

Project Name: Flexible Maintenance Services

Total Authorized Amt. this Work Order \$ _____ Expenditure Acct. No.: _____
 Work Order Start Date: _____ Work Order End Date: _____

Effective Date: No Work shall occur until signed by all parties.	Totals
Expenditure Account No.	No.
A. Amount authorized for this Work Order	\$
B. Amount authorized on prior Work Orders	\$
C. Total Amount authorized for all Work Orders (A+B=C)	\$
D. Agreement Not-to-Exceed amount	\$
E. Amount remaining on Agreement (D-C=E)	\$

SCOPE OF WORK (tasks, hours per task, estimated cost per task, and staff assigned to do the work and their hourly rate. Specify the Party responsible for providing materials and the Party responsible for material costs associated with the Project or services). Work necessary to complete Project or services as described in original Agreement scope of work: (Indicate which services are to be used by checking appropriate box(es)).

Maintenance Services and Equipment Rental: *(List work shown below)*

- Patching (100-102, 107-108) Shouldering (111-112, 119) Ditching (120) Sweeping (116-117)
 Vegetation Control (131) Striping (140-141, 147) Winter Maintenance (170-171, 179-181, 192)
 Brushing (132-133) Signing (142-143) Landscaping (136) Drainage (121) Guardrail Repair (151) Bridge Repair (163, 169) Hazardous Material Spills (149) Equipment Rental (specify equipment)

General Description of Project: _____

This Work Order Authorization may be executed in several counterparts (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 Work Order Authorization so executed shall constitute an original.

--SIGNATURE PAGE TO FOLLOW--

ACCEPTANCE OF TERMS AND ACTION APPROVED BY ODOT: I acknowledge and certify that the work in this Work order authorization is within the scope of work of the original Agreement.

ODOT's 2_ District Manager Date

ACCEPTANCE OF TERMS BY LOCAL AGENCY:

Name / Title Date

APPROVED AS TO LEGAL SUFFICIENCY: If work exceeds \$150,000, signature required

Assistant Attorney General Date

cc: ODOT R1 Maintenance District # 2_ Manager
Ted Miller, ODOT's Region 1 Operations/Maintenance Manager, 123 N.W. Flanders St., Portland, OR 97209
Support Service, Procurement Office (OPO) for General Files

<p>EXHIBIT A</p> <p>Work Order – Local Agency Rev. 04-07-2011</p>
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