



Gregory L. Geist
Director

June 21, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment No. 1 to an Intergovernmental Agreement between
The City of Milwaukie and Water Environment Services

Purpose/Outcome	Amending agreement to reflect contributions for bridge construction.
Dollar Amount and Fiscal Impact	\$200,000 contribution to the City of Milwaukie
Funding Source	No General Funds involved. This is a capital expenditure.
Duration	permanent
Previous Board Action/Review	Board policy discussion May 2016; Issues discussion April 2018
Strategic Plan Alignment	Build public trust through good government.
Contact Person	Chris Storey, Assistant Director – Water Environment Services – 503-742-4543

BACKGROUND:

Clackamas County Service District No. 1 (“CCSD#1”) and the City of Milwaukie entered into an Intergovernmental Agreement on November 28, 2014 (“2014 IGA”) for the purpose of access and development near the Kellogg Creek Water Resource Recovery Facility (“Kellogg”). In addition to other items, the IGA defined a methodology for developing a cost sharing agreement for capital repairs to the bridge. CCSD1 liquid biosolids trucks currently use the bridge for access to the Washington Street/McLoughlin Blvd traffic signal, which allows a left turn onto McLoughlin Blvd. Without this access, the trucks are required to take a circuitous route along McLoughlin Blvd to their destination, which increases traffic and pedestrian exposure. Current truck traffic is 5-6 trucks/day across the bridge. After construction of dewatering facilities at Kellogg Creek WRRF within the next 5 years, traffic will decrease to less than one truck per day.

The bridge was damaged during extreme wet weather in December 2015. The rebuilding of the bridge is eligible for Federal Assistance for Public Infrastructure under the Federal Emergency Management Agency (“FEMA”) Public Assistance Program (FEMA-4258_DR_Oregon). Under this program, FEMA will pay for a portion of temporary facilities and up to 75% of cost of the total bridge replacement. The City of Milwaukie has been advised that FEMA will fully fund temporary facilities and some portion of a permanent replacement. Temporary improvements are complete. The City of Milwaukie is currently constructing the permanent bridge, which is anticipated to be complete in fall 2018.

The City's initial planning estimates for bridge work range from \$946,000 (for an existing bridge repair) to \$1.8M for a full replacement with other functions and cosmetic enhancements (e.g. sidewalks, etc.). However, due to the need to shift the bridge location to improve fish passage and mitigate certain risks, the final replacement cost is now estimated at \$2.8 million.

At a policy session in May 2016, the Board approved a contribution to the bridge project based on the planning estimates at \$130,000. Based on the revised cost estimates and after discussions with the City of Milwaukie, staff is now recommending a contribution of \$200,000 towards the cost of the permanent bridge replacement.

The City of Milwaukie will be considering an identical amendment on the City Council agenda on June 19, 2018. This agreement has the support of the city as a reasonable approach and partner contribution from WES towards a municipal asset serving not only WES trucks (which represent approximately 11% of the traffic thereon) but Milwaukie Bay Park users as well.

Attached for the BCC's consideration is an amendment to the 2014 IGA that reflects updated language regarding the contribution to be made to the City of Milwaukie's bridge replacement efforts, and language regarding the continued shared use of the bridge by both WES trucks and park users.

Since this agreement amendment would be executed in the 2017-18 Fiscal Year, CCSD#1 remains the appropriate legal party. However, this agreement as amended will be automatically transferred to and become the responsibility of Water Environment Services, the municipal partnership, in the 2018-19 Fiscal Year and thereafter pursuant to the terms of the ORS 190 Partnership Agreement which CCSD#1, amongst others, has executed.

RECOMMENDATION:

Staff respectfully recommends approval of the amendment to the 2014 IGA allowing for the contribution of \$200,000 to the City of Milwaukie towards the permanent bridge replacement effort and related changes.

Sincerely,

Chris Storey
Water Environment Services Assistant Director

**AMENDMENT No. 1
TO THE
INTERGOVERNMENTAL AGREEMENT BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 AND
THE CITY OF MILWAUKIE
REGARDING ACCESS AND DEVELOPMENT
NEAR KELLOGG CREEK PLANT**

This AMENDMENT NO. 1 to the INTERGOVERNMENTAL AGREEMENT (this “Amendment No. 1”) is made and entered into on June __, 2018, by and between CLACKAMAS COUNTY SERVICE DISTRICT NO.1, a county service district formed under ORS 451 (“CCSD#1”), and the City of Milwaukie, an Oregon municipality (“City”), to establish a mutual understanding regarding access and development near the Kellogg Creek Water Resource Recovery Facility (“Kellogg Plant”).

WHEREAS, the parties entered into that certain Intergovernmental Agreement dated February 28th, 2014, to establish an agreement regarding access and development near the Kellogg Plant (the “Agreement”); and

WHEREAS, Paragraph 4 of the Agreement identified the need for further analysis through an ODOT-funded bridge inspection and load rating of the Park Bridge to determine the percentage share of expenses the City and CCSD#1 would be responsible for with regards to maintenance, repair, upgrades or replacement; and

WHEREAS, the Park Bridge was damaged during an extreme weather event in December 2015; and

WHEREAS, the Federal Assistance for Public Infrastructure FEMA Public Assistance Program will pay up to 75% of the eligible cost of the permanent replacement; and

WHEREAS, the parties have negotiated in good faith, using recent bridge reports and reached a mutually agreed upon apportionment of the costs of replacement of the Park Bridge;

NOW, THEREFORE, for good and sufficient consideration, the parties hereby agree that:

1. To reflect the negotiations of the Park Bridge replacement, Paragraph 4 of the Agreement is hereby replaced in its entirety with the following:
 4. Park Bridge (Kellogg Creek Bridge #22142).
 - a. **General Terms.** The parties agree that the current bridge, which is accessed from the CCSD#1 Easement (“Park Bridge”), is essential for appropriate traffic flow and safe travel both for the Park and Kellogg Plant. To the extent that the Park Bridge is damaged by the acts of CCSD#1, such damage shall be repaired and paid by CCSD#1; to the extent the Park Bridge is damaged by the City or users of the Park, such damage shall be repaired and paid for by the City.

- b. **Replacement Due to December 2015 Storm Damage.** The Park Bridge was damaged in a December 2015 storm and requires replacement. The parties have negotiated in good faith and have agreed upon the following terms regarding responsibilities and apportionment of costs for the replacement:
- i. City Responsibilities:
 1. City will provide CCSD#1 with the opportunity to review and comment on the design and construction plans for the Park Bridge.
 2. City will allow access of CCSD#1 trucks to the signal at Washington Street during construction, except during scheduled closures to facilitate the project as required.
 3. City will provide the construction schedule and any updates as prepared by the contractor, including notice of scheduled bridge closures required to facilitate the project.
 4. City will acknowledge CCSD#1 in any publicity regarding funding of the Park Bridge.
 5. City will make all records available to CCSD#1 upon request.
 - ii. CCSD#1 Responsibilities:
 1. CCSD#1 will review design documents to confirm the replacement bridge will accommodate CCSD#1 trucks.
 2. CCSD#1 agrees to pay **\$200,000.00** within 30 days of the execution of this Agreement. This amount shall be CCSD#1's full contribution to the Kellogg Creek Bridge (22142) Emergency Replacement project. CCSD#1 shall not be responsible for any additional payments related to the Kellogg Creek Bridge (22142) Emergency Replacement project.
- c. **Future Major Bridge Repair.** The parties agree that the new bridge will require some ongoing maintenance responsibilities throughout the bridges useful life. The parties have negotiated in good faith and have agreed to the following terms regarding responsibilities and appointment of costs associated with ongoing work that may be needed to maintain and repair the Park Bridge.
- i. Major Repair is defined as those improvements identified in the results of a Certified Bridge Inspection Report (Bridge Report). A Bridge Report can be commissioned by the Oregon Department of Transportation, City of Milwaukie or CCSD#1.
 - ii. Once completed, a Bridge Report will be reviewed by the City and CCSD#1. Within six months of receipt of the Bridge Report, the parties will use the Bridge Report to determine what investments are needed to maintain, repair, upgrade, and if necessary replace, the Park Bridge.
 - iii. The City and CCSD#1 agree that a traffic study(s) will be utilized to determine each party's proportional share of the Major Repair costs of the useful life of the bridge.

iv. City Responsibilities:

1. Except as provided in the General Terms in Section 4(a) above, the City will be responsible for its proportional share of the Major Repair costs related to the Park Bridge, to be determined by a traffic study per Paragraph 4(c)iii.

v. CCSD#1 Responsibilities:

1. Except as provided in the General Terms in Section 4(a) above, CCSD#1 will be responsible for its proportional share, up to 30 percent, of Major Repair costs related to the Park Bridge, to be determined by a traffic study(s).

2. The District and the City ratify the remainder of the Agreement and affirm that no other changes are made hereby.

[Signature Page Follows]

In witness, thereof, the parties execute this Amendment No. 1 as of the date set forth above.

City of Milwaukie

Clackamas County Service District No. 1:

[Authorized Signatory]

Chair

Name

Date

Date

Recording Secretary

Approved as to Form

Approved as to Form

Milwaukie City Attorney

County Counsel