



**CITY OF MILWAUKIE**

*"Dogwood City of the West"*

**Resolution No. 58-2014**

**A resolution of the City Council of the City of Milwaukie, Oregon, that authorizes the City Manager to sign an Intergovernmental Agreement with North Clackamas Park and Recreation District (NCPRD) for inspection services tied to Riverfront Park Phase II.**

**WHEREAS**, Pursuant to ORS Chapter 190.010, governmental entities such as Milwaukie and NCPRD are authorized to enter into written agreements for the performance of any or all functions and activities that either Party has the authority to perform on its own; and

**WHEREAS**, CITY is in need of construction management services during the period from May 1, 2014 through December 31, 2014 for the construction of Riverfront Park - Phase II; and

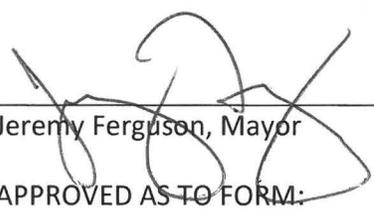
**WHEREAS**, NCPRD has capacity for construction management staff during that Contract Period; and

**WHEREAS**, NCPRD is willing to allocate some of its capacity to CITY, so long as NCPRD retains first call for the services of its personnel and NCPRD incurs no overtime costs as a result of the arrangement.

**Now, Therefore, be it Resolved** that the City Manager may enter into an Intergovernmental Agreement with NCPRD for the purpose of inspection services tied to Riverfront Park Phase II.

Introduced and adopted by the City Council on 6/17/14.

This resolution is effective on 6/17/14.

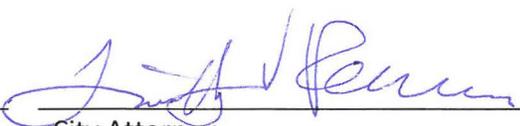
  
\_\_\_\_\_  
Jeremy Ferguson, Mayor

APPROVED AS TO FORM:

Jordan Ramis PC

ATTEST:

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney

## AGREEMENT TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into as of the last date of signature indicated below (the “Effective Date”), by and between North Clackamas Parks and Recreation District (“NCPRD”), a county service district established pursuant to Oregon Law, and the City of Milwaukie (“CITY”), an Oregon municipal corporation (collectively, the “Parties” and individually “Party”).

### RECITALS

- A. Pursuant to ORS Chapter 190.010, governmental entities such as CITY and NCPRD are authorized to enter into written agreements for the performance of any or all functions and activities that either Party has the authority to perform on its own.
- B. CITY is in need of construction management services during the period from May 1, 2014 through December 31, 2014 (“Contract Period”) for the construction of Phase 2 of Riverfront Park (“project”).
- C. NCPRD has capacity for construction management staff during that Contract Period.
- D. NCPRD is willing to allocate some of its capacity to CITY, so long as NCPRD retains first call for the services of its personnel and NCPRD incurs no overtime costs as a result of the arrangement with CITY.

NOW THEREFORE, the Parties agree as follows:

### TERMS

**1. Services Provided.** NCPRD shall provide project and construction management services, described in more detail in the Scope of Services document (“Scope of Services”) attached as Exhibit A (“Exhibit A”). In addition, NCPRD will identify the need for specific inspection and materials testing requirements for the project, and will contract directly with qualified firms to perform these services for the subject project (examples include: concrete testing and geotechnical analysis). The City will participate in the solicitation and selection of these inspection and testing firms, and will be billed by NCPRD for these services on a cost basis. The initial estimate for these services is approximately TWENTY THOUSAND and 00/100 DOLLARS (\$20,000) based on available information.

**2. Staffing.** Parties shall continue to serve as employer of their respective employees. Jeroen Kok, Katie Dunham and Kevin Cayson are NCPRD full-time employees; and Dennis Everson is an NCPRD part-time employee, who will perform

construction management duties under the coverage provided by NCPRD workers compensation insurance policy, throughout the period of this Agreement.

**3. Consideration.** NCPRD shall contribute the time of NCPRD staff listed in Section 2 above towards the Project without consideration from the CITY in support of the provision of park and recreational opportunities for District residents.

**4. Termination of Agreement.** Either Party may terminate this Agreement by providing thirty (30) days notice in writing to the other Party. In the event of termination of the Agreement, City shall pay for contracted services rendered up until the date of termination. Such termination shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination. If NCPRD terminates, it will transfer any documents relating to the project to City and take such other steps as may be reasonably necessary to assist city in ensuring that construction will not be unduly impacted.

**5. Amendment Provisions.** The terms of this Agreement may be amended by mutual agreement of the Parties. Any amendment shall be in writing, shall refer specifically to this Agreement, and shall be executed by the Parties.

**6. Defense and Indemnification.** Subject to the Oregon Constitution and the limits of the Oregon Tort Claims Act, each Party agrees to hold harmless, defend, and indemnify the other Party, its elected officials, officers, employees and agents against any and all claims, demands, actions or suits (including all attorneys' fees and costs) arising from this Agreement where the claim, suit, action, loss, damage, injury or liability is attributable to the acts or omissions of the indemnifying Party, its officers, employees or agents. Nothing in this section shall require a Party to indemnify the other Party from liability arising from the sole negligence of the other Party, its officers, employees, or agents.

**7. Governing Law and Forum.** The Parties expressly agree that this Agreement shall be governed and interpreted in accordance with the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof. Any litigation between the NCPRD and the CITY arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

**8. Assignment.** Neither party shall assign this Agreement, in whole or in part except by operation of law, or any right or obligation hereunder, without the prior written approval of the other, which may be granted or withheld in its sole and absolute discretion.

**9. Subcontract.** Neither party shall subcontract its work under this Agreement, in whole or in part, without the prior written approval of the other, except as provided in paragraphs 1 and 2.



## EXHIBIT A

### Scope of Services:

This scope defines the services to be provided pursuant to the Agreement for Construction Management Services between the City of Milwaukie ("City") and North Clackamas Parks and Recreation District ("NCPRD") from May 1, 2014 through December 31, 2014.

NCPRD shall provide construction management services to City in the form of part-time construction management and inspection work to be performed primarily by Dennis Everson, with support by Kevin Cayson, Jeroen Kok and Katie Dunham, as needed.. All services provided by NCPRD will be subject to the direction of the Milwaukie Engineering Director, and may also include direction from the Milwaukie Community Development Director.

In addition, NCPRD will identify the need for specific inspection and materials testing requirements for the project, and will contract directly with qualified firms to perform these services for the subject project (examples include: concrete testing and geotechnical analysis). The City will participate in the solicitation and selection of these inspection and testing firms, and will be billed for these services by NCPRD on a reimbursement cost basis. The initial estimate for these services is approximately \$20,000 based on available information.

Specific duties include:

- Consultation on bid award and construction contract negotiations.
- Monitoring and oversight of on-site construction project, including inspections, materials testing, specialized services and coordination with permitting agencies.
- Assistance with grant reporting and reimbursement requirements, as needed.
- Communication with the Milwaukie Engineering Director and the Milwaukie Community Development Director on Riverfront Park design and construction issues as they arise, including proposed changes to scope, schedule and/or budget.
- Oversight, inspection and review of construction work and recommendation on work completion, change orders and payment of contractors.

General duties are to act as on-site Construction Manager for Phase 2 of the Riverfront Park (Phase 2). Direction and guidance will be provided by the Milwaukie Engineering Director and the Milwaukie Community Development Director. Responsibilities may include interfacing with design staff from David Evans and Associates, Milwaukie Engineering staff, construction contractor and subcontractors and potentially representatives of other agencies such as Oregon Department of Transportation, Clackamas County Department of Transportation and Development, Clackamas County Service District No. 1 (CCSD #1), PGE, Oregon State Department of Fish & Wildlife and the Oregon State Marine Board.