COPY B.1

CLACKAMAS COUNTY

M. BARBARA CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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

April 2, 2015

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Special Public Works Fund Financing Contract with Oregon Infrastructure Finance Authority for the Design and Construction of Improvements to Last Road

Purpose/Outcomes	Financing Contract with Oregon Infrastructure Finance Authority (IFA) for Special Public Works Funds (SPWF) to construct infrastructure improvements on Last Road
Dollar Amount and Fiscal Impact	Total Project Cost Estimate: $418,800 The County is not required to contribute to the construction of this project.
Funding Source	SPWF Grant: $250,000 General Sheet Metal: $168,800
Safety Impact	This project will meet requirements for access and safety improvements as a result of commercial development on Last Road and allow better pedestrian connections on Last Road, Evelyn Street and Jennifer Street.
Duration	Project shall begin when all required signatures are obtained and will not exceed 36 months after the date of execution.
Previous Board Action	At the March 11, 2014 BCC Work Session the BCC approved the grant application.
Contact Person	Mike Bezner, Assistant Director of Transportation 503-742-4651

BACKGROUND:
Clackamas County Business and Community Services (BCS) has been working with General Sheet Metal (GSM) in the Clackamas Industrial Area to expand their business. As part of their expansion and in order to accommodate the increased demand on the transportation system adjacent to their business, Clackamas County Department of Transportation and Development (DTD) required GSM to complete infrastructure improvements on Last Road, Evelyn Street and Jennifer Street. In an effort to alleviate GSM of the cost of the infrastructure improvements, BCS applied for and was awarded a Special Public Works Fund (SPWF) Grant through the Oregon Infrastructure Finance Authority (IFA), which assists agencies to prepare industrial land with the intention of attracting, retaining and expanding local businesses.

The improvements on Last Road required by DTD include constructing a 21-foot half street over 540 linear feet consisting of curbs, sidewalks, landscaping and stormwater facilities, as well as improving the existing sidewalks on Evelyn Street and Jennifer Street that are adjacent to the GSM property. DTD has entered into an agreement with GSM to construct these improvements on their behalf. DTD will be the recipient of the SPWF Grant and will also be reimbursed by GSM for up to $168,800 in order to complete the improvements.

The total project cost is estimated at $418,800. The SPWF Grant has been awarded for $250,000 and GSM will contribute $168,800. The cost associated with DTD staff time to complete this project is included in the total project estimate.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:
Staff respectfully recommends approval of the attached Financing Contract with Oregon Infrastructure Finance Authority for the design and construction of improvements on Last Road.

Respectfully submitted,

Mike Bezner, PE
Assistant Director of Transportation

SPECIAL PUBLIC WORKS FUND
FINANCING CONTRACT

Project Name: Clackamas Industrial Area Last Road Improvements (General Sheet Metal)

Project Number: L15002

This financing contract ("Contract"), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through the Oregon Infrastructure Finance Authority ("IFA"), and Clackamas County ("Recipient") for financing of the project referred to above and described in Exhibit D ("Project"). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in Section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	NOT APPLICABLE
Exhibit C	NOT APPLICABLE
Exhibit D	Project Description; Project Special Condition
Exhibit E	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

Estimated Project Cost: $418,800.

Financing Availability Deadline: The earlier of 90 days after the Project Completion Date or 39 months after the date of this Contract.

Grant Amount: $250,000.

Project Close-Out Deadline: 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

Project Completion Deadline: 36 months after the date of this Contract.

SECTION 2 - FINANCIAL ASSISTANCE

The IFA shall provide Recipient, and Recipient shall accept from IFA, a grant (the "Grant") in an aggregate amount not to exceed the Grant Amount.

SECTION 3 - DISBURSEMENTS

A. Disbursements. The Financing Proceeds shall be disbursed to Recipient on an expense reimbursement or cost incurred basis. The Recipient must submit each disbursement request for the Financing Proceeds on an IFA-provided or IFA-approved disbursement request form ("Disbursement Request").

B. Financing Availability Deadline. The IFA's obligation to make and Recipient's right to request disbursements under this Contract shall terminate on the Financing Availability Deadline.

SECTION 4 - CONDITIONS PRECEDENT

A. Conditions to Closing. The IFA's obligations are subject to the receipt of the following items, in form and substance satisfactory to IFA and its Counsel:

(1) This Contract duly signed by an authorized officer of Recipient;

(2) Such other certificates, documents, opinions and information as IFA may reasonably require.

B. Conditions to Disbursements. As to any disbursement, IFA has no obligation to disburse funds unless all following conditions are met:

(1) There is no Default or Event of Default.

(2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.

(3) The IFA, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.

(4) The IFA (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as IFA may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.

(5) Recipient has delivered documentation satisfactory to IFA that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.

(6) Any conditions to disbursement elsewhere in this Contract are met.

SECTION 5 - USE OF FINANCIAL ASSISTANCE

A. Use of Proceeds. The Recipient shall use the Financing Proceeds only for the activities described in Exhibit B and according to the budget in Exhibit E. Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of IFA.

B. Costs of the Project. The Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act and Oregon law as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, except as permitted by Exhibit D.

C. Costs Paid for by Others. The Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project from another State of Oregon agency or any third party.

SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to IFA:

A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in Section 1, and the Project is fully funded.

B. Organization and Authority.

(1) The Recipient is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon.

(2) The Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive financing for the Project.

(3) This Contract has been duly executed by Recipient, and when executed by IFA, is legal, valid and binding, and enforceable in accordance with their terms.

C. Full Disclosure. The Recipient has disclosed in writing to IFA all facts that materially adversely affect the Project, or the ability of Recipient to perform all obligations required by this Contract. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in Exhibit D and Exhibit E is true and accurate in all respects.

D. Pending Litigation. The Recipient has disclosed in writing to IFA all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.

E. No Defaults.

(1) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract.

(2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.

F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (i) cause a breach of any agreement or instrument to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the undertaking and completion of the Project.

SECTION 7 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

A. Notice of Adverse Change. Recipient shall promptly notify IFA of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to perform all obligations required by this Contract.

B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract, the Project and the operation of the roadway system of which the Project is a component. In particular, but without limitation, Recipient shall comply with the following, as applicable:

(1) State procurement regulations found in the Oregon Public Contracting Code, ORS Chapters 279A, 279B and 279C.

(2) State labor standards and wage rates found in ORS Chapter 279C.

(3) OAR 123-042-0165 (5) requirements for signs and notifications.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

C. Project Completion Obligations. Recipient shall:

(1) Provide IFA with copies of all plans and specifications relating to the Project, and a timeline for the bidding/award process, at least ten (10) days before advertising for bids.

(2) Provide a copy of the bid tabulation and notice of award to IFA within ten (10) days after selecting a construction contractor.

(3) Permit IFA to conduct field engineering and inspection of the Project at any time.

(4) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.

(5) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by the IFA in writing.

(6) No later than the Project Closeout Deadline, provide IFA with a final project completion report on a form provided by IFA, including Recipient's certification that the Project is complete, all payments are made, and no further disbursements are needed; provided however, for the purposes of this Contract, IFA will be the final judge of the Project's completion.

(7) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.

D. Ownership of Project. For not less than ten years after the Project Completion Date, the Project is and will continue to be owned by Recipient and will be operated by Recipient or by a person under a management contract or operating agreement with Recipient.

E. Operation and Maintenance of the Project. Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long term public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements for not less than ten years after the Project Completion Date. On or before the Project Closeout Date, Recipient shall adopt a plan acceptable to IFA for the on-going operation and maintenance of the Project without reliance on IFA financing and furnish IFA, at its request, with evidence of such

adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.

F. Insurance, Damage. The Recipient shall maintain, or cause to be maintained, for not less than ten years after the Project Completion Date, insurance policies with responsible insurers or self insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from exerting a defense against any party other than IFA, including a defense of immunity

G. Sales, Leases and Encumbrances. Except as specifically described in the Project Description, for ten years after the Project Completion Date, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, IFA may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations hereunder and receipt by IFA of an opinion of Bond Counsel to the effect that such disposition complies with applicable law and will not adversely affect the exclusion of interest on any Lottery Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code. The term "Bond Counsel" means a law firm determined by IFA to have knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds.

H. Condemnation Proceeds. Until ten years after the Project Completion Date, if the Project or any portion is condemned, within 30 days of receipt of any proceeds from such disposition, Recipient shall pay such proceeds to IFA, not to exceed the Grant Amount, unless IFA agrees otherwise in writing.

I. Books and Records. The Recipient shall keep accurate books and records for the use of all Financing Proceeds and the expenditure or utilization of all resources used in the Project, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time.

J. Inspections; Information. The Recipient shall permit IFA and any party designated by IFA: (i) to inspect, at any reasonable time, the property, if any, regarding the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters. The Recipient shall supply any related reports and information as IFA may reasonably require.

K. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds until the date that is three years following the later of the final maturity of the Lottery Bonds, or the final maturity or redemption date of any obligation, or series of obligations, that refinanced the Lottery Bonds, or such longer period as may be required by other provisions of this Contract or applicable law. Such documentation includes, but may not be limited to, all documentation necessary to establish the uses and investment of the Grant proceeds, all construction contracts and invoices detailing the costs paid from Grant proceeds, and all contracts related to the uses of the Project, including leases, management contracts, and service contracts that relate to the use of the Project.

L. Economic Benefit Data. The IFA may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by IFA.

M. Minority, Women & Emerging Small Business. ORS 200.090 requires all public agencies to "aggressively pursue a policy of providing opportunities for available contracts to emerging small businesses..." The IFA encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at http://www.leg.state.or.us/ors/200.html. Additional resources are provided by the Director of Economic & Business Equity at http://www.oregon.gov/gov/MWESB/Pages/index.aspx. Also, the Office of Minority, Women, and Emerging Small Business at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: http://imd10.cbs.state.or.us/ex/dir/omwesb/.

N. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for any construction design for the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.

O. Notice of Default. The Recipient shall give IFA prompt written notice of any Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes a Default is likely.

P. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless IFA and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this Section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

Q. Exclusion of Interest from Federal Gross Income and Compliance with Code.

(1) The Recipient shall not take any action or omit to take any action that would result in the loss of the exclusion of the interest on any Lottery Bonds used by IFA to fund the Financing Proceeds from gross income for purposes of federal income taxation, as governed by Section 103(a) of the Code. IFA may decline to disburse Financing Proceeds if it finds that the federal tax exemption of the Lottery Bonds cannot be assured.

(2) The Recipient shall not take any action (including but not limited to the execution of a management agreement for the operation of the Project) or omit to take any action that would cause any Lottery Bonds to be "private activity bonds" within the meaning of Section 141(a) of the Code. Accordingly, unless Recipient receives the prior written approval of IFA, Recipient shall not permit in excess of ten percent (10%) of either (a) the Financing Proceeds or (b) the Project financed or refinanced with the Financing Proceeds to be directly or indirectly used in any manner that would constitute "private business use" within the meaning of Section 141(b)(6) of the Code, including not permitting more than one half of any permitted private business use to be "disproportionate related business use" or private business use unrelated to the government use of the Financing Proceeds. Unless Recipient

receives the prior written approval of IFA, Recipient shall not directly or indirectly use any Financing Proceeds to make or finance loans to persons other than governmental units, as that term is used in Section 141(c) of the Code.

(3) The Recipient shall not directly or indirectly use or permit the use of any of the Financing Proceeds or any other funds, or take any action or omit to take any action, which would cause any Lottery Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(4) The Recipient shall not cause any Lottery Bonds to be treated as "federally guaranteed" for purposes of Section 149(b) of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to "federally guaranteed" obligations described in Section 149(b) of the Code. For purposes of this paragraph, any Lottery Bonds will be treated as "federally guaranteed" if: (a) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (b) five percent (5%) or more of the proceeds of the Lottery Bonds will be (i) used in making loans if the payment of principal or interest is guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (ii) is invested directly or indirectly in federally insured deposits or accounts, and (c) none of the exceptions described in Section 149(b)(3) of the Code apply.

(5) The Recipient shall assist IFA to ensure that all required amounts are rebated to the United States of America pursuant to Section 148(f) of the Code. The Recipient shall pay to IFA such amounts as may be directed by IFA to satisfy the requirements of Section 148(f) applicable to the portion of the proceeds of any tax-exempt bonds. The Recipient further shall reimburse IFA for the portion of any expenses it incurs related to the Financing Proceeds that is necessary to satisfy the requirements of Section 148(f) of the Code.

(6) Upon IFA's request, Recipient shall furnish written information regarding its investments and use of Financing Proceeds, and of any facilities financed or refinanced therewith, including providing IFA with any information and documentation that IFA reasonably determines is necessary to comply with the arbitrage and private use restrictions that apply to the Lottery Bonds.

(7) Notwithstanding anything to the contrary, so long as is necessary to maintain the exclusion from gross income for purposes of federal income taxation of interest on any Lottery Bonds, the covenants contained in this subsection will survive the payment of the Lottery Bonds, and the interest thereon, including the application of any unexpended Financing Proceeds. The Recipient acknowledges that the Project may be funded with the proceeds of the Lottery Bonds and that failure to comply with the requirements of this subsection could adversely affect any exclusion of the interest on the Lottery Bonds from gross income for federal income tax purposes.

(8) Neither Recipient nor any related party to Recipient, within the meaning of 26 C.F.R. §1.150-1(b), shall purchase any Lottery Bonds from which proceeds were used to finance the Project, in an amount related to the amount of the Grant.

SECTION 8 - DEFAULTS

Any of the following constitutes an "Event of Default":

A. Any false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to the Project or in regard to compliance with the requirements of section 103 and sections 141 through 150 of the Code.

B. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsection A of this section 8, and the failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by IFA. The IFA may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 9 - REMEDIES

A. Remedies. Upon any Event of Default, IFA may pursue any or all remedies in this Contract and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to any one or more of the following:

(1) Terminating IFA's commitment and obligation to make the Grant or disbursements under the Contract.

(2) Barring Recipient from applying for future awards.

(3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449; however, this provision is not to be construed in a way that Recipient's obligations would constitute debt that violates Section 10, Article XI of the Oregon Constitution.

(4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.

B. Application of Moneys. Any moneys collected by IFA pursuant to section 9.A will be applied first, to pay any attorneys fees and other fees and expenses incurred by IFA; then, as applicable, to repay any Grant proceeds owed; then, to pay any other amounts due and payable under this Contract.

C. No Remedy Exclusive; Waiver; Notice. No remedy available to IFA is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract shall preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The IFA is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 8 of this Contract.

D. Default by IFA. In the event IFA defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of IFA's obligations.

SECTION 10 - MISCELLANEOUS

A. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.

B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.

(1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.

(2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.

(3) This Contract will be binding upon and inure to the benefit of IFA, Recipient, and their respective successors and permitted assigns.

(4) Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract without the prior written consent of IFA. The IFA may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to IFA, any fees or costs incurred because of such assignment, including but not limited to attorneys fees of IFA's Counsel and Bond Counsel. Any approved assignment is not to be construed as creating any obligation of IFA beyond those in this Contract, nor does assignment relieve Recipient of any of its duties or obligations under this Contract.

(5) Recipient hereby approves and consents to any assignment, sale or transfer of this Contract that the IFA deems to be necessary.

C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:

(1) The IFA makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.

(2) In no event are IFA or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.

D. Notices. All notices to be given under this Contract must be in writing and addressed as shown below, or to other addresses that either party may hereafter indicate pursuant to this section. Notices may only be delivered by personal delivery or mailed, postage prepaid. Any such notice is effective five calendar days after mailing, or upon actual delivery if personally delivered.

If to IFA:
Program Services Division Manager
Infrastructure Finance Authority
Oregon Business Development Department
775 Summer Street NE, Suite 200
Salem, OR 97301-1280

If to Recipient:
Michael Bezner
Clackamas County
150 Beavercreek Road
Oregon City, OR 97045

E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.

F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.

G. Amendments, Waivers. This Contract may not be amended without the prior written consent of IFA (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.

H. Attorneys Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys fees and costs at trial and on appeal. Reasonable attorneys fees cannot exceed the rate charged to IFA by its attorneys.

I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). 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.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

J. Integration. This Contract (including all exhibits, schedules or attachments) constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

STATE OF OREGON
acting by and through the
Oregon Infrastructure Finance Authority

CLACKAMAS COUNTY

By: _____
Paulina Layton, Manager
Program Services Division

Date: _____

By: _____
John Ludlow, Chair
Board of County Commissioners

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Lynn T. Nagasako as per email dated 4 August 2014
Lynn T. Nagasako, Sr. Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

"Act" means ORS 285B.410 through 285B.482, as amended.

"Award" means the award of financial assistance to Recipient by IFA dated 28 July 2014.

"C.F.R." means the Code of Federal Regulations.

"Code" means the Internal Revenue Code of 1986, as amended, including any implementing regulations and any administrative or judicial interpretations.

"Costs of the Project" means Recipient's actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

"Counsel" means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, IFA or Recipient.

"Default" means an event which, with notice or lapse of time or both, would become an Event of Default.

"Financing Proceeds" means the proceeds of the Grant.

"Lottery Bonds" means any bonds issued by the State of Oregon that are special obligations of the State of Oregon payable solely from unobligated net lottery proceeds, the interest on which is exempt from federal income taxation, together with any refunding bonds, used to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Grant.

"Municipality" means any entity described in ORS 285B.410(8).

"ORS" means the Oregon Revised Statutes.

"Project Completion Date" means the date on which Recipient completes the Project.

EXHIBIT D - PROJECT DESCRIPTION; PROJECT SPECIAL CONDITION

I. Project Description

Recipient will, with the assistance of a licensed engineer, design and construct road and infrastructure improvements to Last Road in Clackamas, Oregon, in the vicinity of the new location of General Sheet Metal Works, Inc. at the southwest corner of the intersection of Evelyn Street and Last Road. Recipient will construct Last Road as half-street improvements with a 21-foot width over approximately 540 linear feet consisting of curbs, a 5-foot wide landscape strip, and a 5-foot wide sidewalk. Recipient will extend stormwater services with a 12-inch diameter pipe over approximately 460 linear feet. In addition, Recipient will improve Evelyn Street and Jennifer Street sidewalks and widen them to 6 feet, extending southwest approximately 1000 feet from the railroad tracks along Last Road.

II. Project Special Condition

Job Creation and Maintenance or Grant Repayment. In order to retain the Grant, Recipient is bound by the condition that General Sheet Metal Works, Inc. at its facility located in Clackamas, Oregon ("Facility"), retains at least 90 full-time equivalent jobs ("FTEs") and maintains those same FTEs for four consecutive calendar quarters beginning the calendar quarter immediately following the Project Completion Date (the "Maintenance Period").

If at least 90 FTEs are not maintained for the Maintenance Period, Recipient shall repay the portion of the Grant equal to $2,778 multiplied by the difference obtained by subtracting from 90 the total number of FTEs that were maintained for the Maintenance Period, less any portion of the Grant not disbursed. Any amount due under this section will be payable upon demand by IFA.

For purposes of this Contract, one FTE is equal to 1,820 hours worked during the Maintenance Period. "Hours worked" for an employee means all hours that the employee worked, if the employee is paid for those hours. "Hours worked" does not include vacation time, sick leave or any other paid time where no work is performed.

The IFA intends to obtain the number of hours worked by employees of General Sheet Metal Works, Inc. at the Facility, during the Maintenance Period through review of information obtained from the Oregon Employment Department. If IFA is not able to obtain information from the Oregon Employment Department to determine the number of hours worked, Recipient shall obtain and provide comparable information, as IFA may reasonably request, in order to determine the actual number of FTEs maintained.

IFA Project Budget

business oregon. IFA Infrastructure Finance Authority

Recipient: Clackamas County

Project Number: L15002 280-12

Project Name: Clackamas Industrial Area Last Road Improvements (General Sheet Metal)

Funding Programs: Special Public Works Fund

	IFA Funds				Other / Matching Funds				All Funds
(A)	(B)	(C)	(D)	(E) = [B-C-D]	(F)	(G)	(H)	(I) = [F-G-H]	(J) = [C+D+G+H]
Activity	Approved Budget	Prior Disbursements	Current Request	Balance	Approved Budget	Prior Expenditures	Current Expenditure	Balance	Disbursed & Expended
Engineering	$65,000								
Construction	185,000				90,000				
Construction Contingency					68,800				
Utility Relocation					10,000				
Total	$250,000				$168,800				

Preliminary Cost Estimate
Clackamas County

SECTION	REFERENCE NAME/PHONE	COUNTY	SHEETS
Last Road @ Evelyn St	Joel Howie 503-742-4658	Clackamas	2 Pages
KIND OF WORK	**Bridge #**	**DATE**	**NAME**
Roadway Improvements	Summary Sheet	03/03/2015	jorh

Last Rd Frontage Improvements at GSM (540' by 21')

NO.	ITEM	UNIT	QUANTITY	UNIT COST	TOTAL	SECTION TOTALS
	Mobilization and Traffic Control					**$38,119**
	Mobilization (10%)	LS	1	$24,558	$24,558	
	Temp. Protection and Direction of Traffic (2%)	LS	1	$4,912	$4,912	
	Temporary Signs	ft2	50	$20	$1,000	
	Flaggers	hr	50	$40	$2,000	
	Erosion Control	LS	1	$2,000	$2,000	
	Construction Entrances	Each	1	$750	$750	
	Inlet Protection, Type 3	Each	4	$150	$600	
	Sediment Fence, Supported	ft	600	$3.00	$1,800	
	Pollution Control Plan	LS	1	$500	$500	
	Roadwork					**$22,320**
	Removal of Structures and Obstructions	LS	1	$2,500	$2,500	
	Clearing and Grubbing	LS	1	$2,000	$2,000	
	Asphalt Pavement Sawcutting	ft	1310	$2	$2,620	
	General Excavation	yd3	660	$17.50	$11,550	
	12 inch Subgrade Stabilization	yd2	50	$25	$1,250	
	Subgrade Geotextile	yd2	1200	$2.00	$2,400	
	Drainage and Sewers					**$31,300**
	12-inch Storm Sewer Pipe, 5 feet Depth	ft	460	$55	$25,300	
	Concrete Storm Sewer Manholes	ea	1	$2,500	$2,500	
	Concrete Inlets, Standard Catch Basin	ea	2	$1,750	$3,500	
	Bases					**$11,000**
	Aggregate Base	ton	550	$20	$11,000	
	Wearing Surface					**$147,050**
	Level 3, 1/2-in Dense HMAC Mixture	ton	450	$80	$36,000	
	Concrete Curbs	ft	650	$25	$16,250	
	Concrete Driveways, Reinforced	ft2	500	$30	$15,000	
	Concrete Walks	ft2	5220	$15	$78,300	
	Concrete Ramps	ea	1	$1,500	$1,500	
	Permanent Traffic Safety and Guidance Devices					**$3,025**
	Pavement Line Removal	ft	1100	$0.75	$825	
	Painted Permanent Pavement Striping	ft	1100	$2	$2,200	
	Permanent Traffic Control and Illumination Systems					**$1,660**
	Remove Existing Signs	LS	1	$150	$150	
	Remove and Reinstall Existing Signs	LS	1	$750	$750	
	Single Post Breakaway Sign Support	Each	2	$200	$400	
	Type "R" Signs in Place	ft2	9	$20	$180	
	Type "W3" Signs in Place	ft2	9	$20	$180	
	Right-of-Way Development and Control					**$8,970**
	Permanent Seeding, Mix No. 1	Ac	0.32	$5,000	$1,600	
	Topsoil	yd3	150	$30	$4,500	
	Shrubs, 1-gallon container	Each	140	$8	$1,120	
	Deciduous Trees, 3-gallon container	Each	7	$250	$1,750	
	Potable Water Pipe and Fittings					**$11,600**

Preliminary Cost Estimate
Clackamas County

SECTION	REFERENCE NAME/PHONE	COUNTY	SHEETS
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Last Rd Frontage Improvements at GSM (540' by 21')

8 inch Gate Valve	Each	1	$750	$750
8 inch Tapping Sleeve and 8 inch Valve Assembly	Each	1	$1,250	$1,250
8 inch Potable Water Pipe, Ftgs and Cplgs w Class B Backfill	ft	25	$100	$2,500
1.5 inch Potable Water Pipe, Ftgs and Cplgs w Class B Backfill	ft	40	$40	$1,600
Extra Trench Excavation with Class B Backfill	yd3	10	$150	$1,500
1.5 inch Connection to 8" Existing Main	Each	1	$4,000	$4,000
Engineer's Estimate of Contractor's Bid:				$275,000
25% **- Contingencies:**				$68,800
Preliminary Engineering				$50,000
Construction Engineering				$25,000
TOTAL COST:				**$418,800**