



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

June 29, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Funding Agreement between the Clackamas County Development Agency and
Government Camp Special Road District

Purpose/Outcomes	This Agreement will allow the Development Agency (Agency) to provide funds to the Road District to be used for minor road related improvements in Government Camp.
Dollar Amount and Fiscal Impact	Up to \$15,000
Funding Source	Clackamas County Development Agency: Government Camp Urban Renewal District – no County General Funds involved.
Duration	The Agreement will terminate 7 years from the effective date of the Agreement or 5 years from the completion of the improvements, whichever is sooner.
Previous Board Action	None
Strategic Plan Alignment	Build a strong infrastructure Ensure safe, healthy and secure communities
Contact Person	Dan Johnson, Development Agency Manager 503.742.4325
Contract No.	N/A

BACKGROUND:

The Government Camp Special Road District was established in 2012 to maintain roads, sidewalks, drainage facilities, lighting and signage improvements that were completed as part of the Urban Renewal District.

There are two minor improvements remaining, which includes electrical upgrades to a village entry sign and installation of removable barriers and signage at two sidewalk locations in order to protect pedestrians from shedding snow from adjacent buildings.

The Agency will not be budgeting funds in future years in the Government Camp Urban Renewal District, but the Agency does have a small amount of funds remaining this year that can be allocated to the Road District to complete these improvements.

Per the Agreement before you today, the Agency will transfer up to \$15,000 to the Road District for design and construction of the improvements, which are within the District boundary and consistent with the responsibilities of the District.

RECOMMENDATION:

Staff recommends the Board approve and sign the Funding Agreement with the Government Camp Special Road District in order to provide funding for minor road related improvements in Government Camp.

Respectfully submitted,

Dan Johnson, Manager
Development Agency

**GOVERNMENT CAMP SPECIAL ROAD DISTRICT
FUNDING AGREEMENT**

This Agreement is entered into and is effective as of this _____ day of _____, 2016 by and between Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County, Oregon (the "Agency"), and Government Camp Road District (the "District"). The Agency and District hereby agree as follows:

RECITALS:

A. The Agency is undertaking to carry out the Government Camp Urban Renewal Plan (the "Plan") pursuant to ORS Chapter 457. The Plan was duly adopted and approved by the Board of County Commissioners by Board Order No. 89-1143 on November 14, 1989.

B. The District is an entity organized pursuant to ORS Chapter 371 for the purpose of maintaining street related improvements in Government Camp.

C. The Agency desires to partner with the District to install seasonal barriers at two sidewalk locations to prevent snow shedding from adjacent buildings onto the sidewalk and to make minor improvements to the Government Camp Village Entry sign located at the east entrance to the Loop Road (collectively the "Project"). The Project is more particularly described in Exhibit "A" which is attached to this Agreement and fully incorporated by this reference.

D. In exchange for the Agency's assistance in designing and constructing the Project, the District agrees to operate and maintain those improvements described in Exhibit "A" for a period of at least 5 years from the date of substantial completion of all elements of the Project.

E. The proposed improvements are within the District boundary and are consistent with the services currently provided by the District.

F. The Agency is willing to allocate funds and the District is willing to accept those funds for the purpose of making the improvements as outlined in this Agreement.

AGREEMENT:

Section 1: Project Improvements

A. Within one year (1) year of the effective date of this Agreement, the District agrees to select and contract with a consultant as necessary to prepare design and construction related documents related to the Project and consistent with the Project description in Exhibit "A" and the Schedule of Performance, Exhibit "B".

B. The plans, drawings, and other documents as may be required for the Project as provided in the Project Description, Exhibit "A" shall be submitted to the appropriate governmental bodies for the purpose of compliance with all codes, regulations and other requirements for the construction of the Project. Within two (2) years of the effective date of this Agreement, the District agrees that the Project shall be substantially complete as provided in the Project Description, Exhibit "A" and the Schedule of Performance, Exhibit "B".

Section 2: Operation of Completed Facilities; Uses of Proceeds

Upon completion of the Project, the District agrees to maintain and operate the Project for the purpose stated herein for at least five (5) years from the date of substantial completion of the Project.

At all times the District or its successors shall own, and have all ownership responsibility and duties regarding the Project. Such ownership is subject to the terms of this agreement.

Section 3: Funding

A. In consideration of the obligations undertaken by the District pursuant to this Agreement, the Agency agrees to allocate up to \$ 15,000 (the "Agency Funds") for the purposes and subject to the terms and conditions provided herein.

In the event the Agency Funds are not used for the purpose expressly provided in Section 1 and 2 of this Agreement, or where the District has defaulted under this Agreement, the Agency shall require the District to reimburse all or part of the Agency Funds, as provided below in Section 4C.

B. The District acknowledges that the Agency has no more remaining funds to provide for the Project and that additional funds, if necessary to complete the Project, will be available from sources other than the Agency.

Section 4: Disbursement of Funds; Security for Performance

A. The Plan specifically authorizes the Agency to make funds available to fund the development and construction of the Project, described herein. The Agency shall make the Agency Funds available to the District for development and construction of the Project from the allocated funds as more specifically described in Section 3A of this Agreement, and as authorized by ORS Chapter 457.

B. Within 30 days of the Effective Date of this Agreement, the Agency shall transfer the Agency Funds to the District.

C. In the event the District is in default of its obligations under either Section 1 or Section 2, of this Agreement, then the Agency shall be entitled to recover from the District or its successors or assigns up to the full amount of the funds directed to the District in connection

with the Project. Amounts recoverable under this subsection shall be determined by evaluating the scope of the default and the default's effect on the Plan's goal. If the Agency intends to recover funds under this subsection, the Agency shall provide the District with reasonable written notice of the default as well as a reasonable opportunity for the District to cure and/or explain such default.

Section 5: Termination

So long as there is no outstanding event of default, this Agreement shall terminate seven (7) years from the date of the execution of this Agreement, or five (5) years from the date of substantial completion of the Project, whichever is sooner.

Section 6: Indemnification

- A. Subject to the tort limitations in the Oregon Tort Claims Act and Oregon Constitution, Agency agrees to indemnify, save harmless and defend the District, its officers, Board members, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of Agency or Agency's officers, Board members, employees, agents, or its subcontractors or anyone over which Agency has a right to control related to this Agreement
- B. Subject to the tort limitations in the Oregon Tort Claims Act and the Oregon Constitution, District agrees to indemnify, save harmless and defend Agency, its officers, commissioners, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of the District, its officers, Board members, agents, employees, its subcontractors or anyone over which the district has a right to control.

Section 7: Nonliability of Officials and Employees

No official or employee of the Agency shall be personally liable to the District for any obligation under the terms of this Agreement. No official or employee of the District shall be personally liable to the Agency for any obligation under the terms of this Agreement.

Section 8: Nonwaiver of Government Rights

This Agreement is no way intended to limit, restrict or modify the rights of Clackamas County or any other governmental agency to exercise ordinary police powers over the Project.

Section 9: General Provisions

A. **Prior Agreements.** This instrument is the entire, final and complete Agreement of the parties pertaining to the rights and obligations of the parties with respect to the Project and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives in connection therewith. Neither party shall be bound by any promises, representations or agreements except as are herein expressly set forth.

B. **Notices.** Any notice required or permitted under this Agreement shall be in writing and shall be given and actually delivered in person or deemed delivered 48 hours after having been deposited in the United States Mail as certified mail addressed to the addresses set forth below:

to: Government Camp Special Road District
Attn: Board Chair
PO Box 249
Government Camp, OR 97028

to: Clackamas County Development Agency
Attn: Agency Manager
150 Beavercreek Road
Oregon City, Oregon 97045

or as addressed in such other way in respect to either party, as that party may from time to time designate in writing dispatched as provided in this Section.

C. **Amendments.** This Agreement may be amended, modified or extended only by written instrument executed by both parties.

D. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon.

E. **Binding Effect.** Covenants, conditions and terms of this Agreement shall extend to and be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

F. **Execution and Counterparts.** This Agreement may be executed in any number of counterparts each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

H. **Non-Assignment.** This Agreement may not be assigned in whole or in part without the prior written consent of Agency, which may withhold its consent in its sole discretion.

I. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the

offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

J: **Waiver.** The Agency and District shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

IN WITNESS WHEREOF, the Agency and the District have executed this Agreement as of the date first above written.

"AGENCY"

BOARD OF COUNTY COMMISSIONERS acting as
the governing body of the Clackamas County
Development Agency

By: _____
John Ludlow
Chair

By: _____
Mary Raethke
Recording Secretary

"DISTRICT"

Government Camp Special Road District

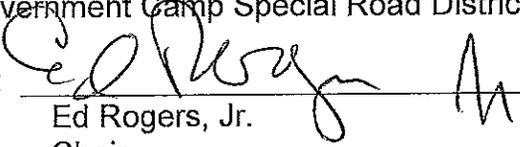
By:  _____
Ed Rogers, Jr.
Chair

EXHIBIT LIST

Exhibit A.....Project Description

Exhibit B Schedule of Performance

EXHIBIT A

PROJECT DESCRIPTION

Removable sidewalk barrier in the location of Palmer Lodge located at 88786 E. Government Camp Loop Road

- Provide a mechanism that can easily be installed during winter weather that prevents pedestrians from walking through the snow shed zone
- Work with snow removal contractors to design mechanism that minimizes impacts to their operation

Removable sidewalk barrier in the location of Charlie's Tavern located at 88462 E. Government Camp Loop Road

- Provide a mechanism that can easily be installed during winter weather that prevents pedestrians from walking through the snow shed zone.
- Work with snow removal contractors to design mechanism that minimizes impacts to their operation

Improvements to the east "Welcome to Government Camp" sign located in the Summit Ski Area parking lot

- Make improvements to the electrical system to provide better lighting of the sign
- Make improvements to the stone base to provide better stability of the structure

EXHIBIT "B"

SCHEDULE OF PERFORMANCE

- Complete design and construction related documents as necessary for the improvements identified in Exhibit A within one (1) year of the effective date of this Agreement.
- Substantially complete all improvements identified in Exhibit A within two (2) years of the effective date of this Agreement.