

**INTERGOVERNMENTAL AGREEMENT BETWEEN
COLUMBIA COUNTY AND THE CITY OF ST. HELENS**

This Agreement is made by and between Columbia County, a political subdivision of the State of Oregon (hereinafter the "County"), and the City of St. Helens, a municipality (hereinafter the "City").

RECITALS

WHEREAS, the County and the City are authorized under ORS 190.003 to 190.030 and ORS 221.410 to enter into intergovernmental agreements for the performance of any and all functions that the County and the City have authority to perform; and

WHEREAS, Columbia Boulevard is a County Road that is within the city limits of the City of St. Helens; and

WHEREAS, the City applied for and was awarded grant funds by the Oregon Department of Transportation (ODOT) Safe Routes to School Program (Grant Agreement No. 33106) for sidewalk improvements and other safety improvements on Columbia Boulevard, between Gable Road and Sykes Road; and

WHEREAS, the City therefore requests permission to perform construction activities on Columbia Boulevard; and

WHEREAS, in addition, Columbia Boulevard contains a culvert that needs to be replaced, and the County desires to provide the City with funding to replace the culvert while the City performs its sidewalk and other safety improvements; and

WHEREAS, the County and the City have determined that it is in the public interest for both parties to coordinate efforts to complete improvements on Columbia Boulevard; and

WHEREAS, the City has entered into a contract with David Evans and Associates for the engineering and design of the pedestrian improvements, and has amended the contract to include the engineering and design of the culvert replacement; and

WHEREAS, the parties therefore wish to enter into an intergovernmental agreement to set forth each party's duties and obligations; and

AGREEMENT

NOW THEREFORE, in consideration of the benefits that will accrue to the County and City, and the covenants set forth herein, the parties agree to the following:

1. **Recitals True.** The recitals set forth above are true and correct and are

incorporated herein by this reference.

2. **Term.** This Agreement shall become effective on the date last signed, below, and shall terminate on December 31, 2024

3. **Purpose.** The purpose of this Agreement is to set forth the duties and obligations of each party for the completion of Columbia Boulevard improvements (hereinafter referred to as the "Project"), as described in Grant Agreement No. 33106 between the State of Oregon Department of Transportation and the City of St. Helens (hereinafter referred to as the "Grant Agreement"), attached hereto as **Exhibit A** and incorporated herein by this reference, and the City's Engineering Contract (hereinafter referred to as "Engineering Contract"), attached hereto as **Exhibit B** and incorporated herein by this reference.

4. **County's Obligation.** The County shall:

- a. Provide representative that will be point of contact for all interests and speak on behalf of the County at all project meetings.
- b. Accept construction materials and services that the County deems are acceptable pursuant to the contract specifications.
- c. Allow the City to access the project property to perform project activities, compliance monitoring and reporting in accordance with the needs of the City interest in the project and as approved by the County.
- d. Provide the necessary approvals and permits related to the replacement of the culvert at Columbia Boulevard and Gable Road.
- e. Provide reimbursement to City for costs associated with the replacement of the culvert at Columbia Boulevard and Gable Road pursuant to Amendment 1 of the Engineering Contract. **County will be responsible for up to \$25,000 in Preliminary and Final Engineering Costs and \$250,000 in Construction Costs**, of which funds will be placed in a budget line to be drawn from. The construction cost estimate for the culvert replacement is attached hereto as Exhibit C.
- f. This Agreement 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 therefor. Any provisions herein which would conflict with Article XI, Section 10 are deemed inoperative to that extent.

5. **City's Obligation.** In accordance with the terms and conditions of the Grant Agreement and this Agreement,

- a. Coordinate with all parties that are stakeholders in project, including

County, City, State, and Regulatory Agencies.

- b. Manage construction activities, which include: overseeing consultants, supervising contractors, inspecting construction work, and submitting data to Oregon Department of Transportation or through selected Consultant.
- c. Provide representative that will be point of contact for all interests and speak on behalf of the City at all project meetings.
- d. Coordinate with County on utility relocations discussions on City owned utilities, or connections to City owned utilities within Right of Way.
- e. Provide assistance with discussions with City Staff over approval of needed permits or planning approval.
- f. Obtain advance approval from the County regarding access rights and timing of work to minimize impact of City and County residents
- g. Inspect all Project work to assure that it meets City Standards
- h. Pay all other costs associated with the Columbia Boulevard Sidewalk and Safety Improvements project beyond those related to the replacement of the culvert at Columbia Boulevard and Gable Road.
- i. At project completion, ensure that all construction equipment, materials, and debris are removed from the project site and restore the site to the same or better condition as prior to commencement of activities. The City shall be responsible for the safekeeping of construction equipment and materials associated with the project.
- j. The City shall be fully responsible and liable for the acts or omissions of all subcontractors and suppliers including persons directly or indirectly employed by them. The City shall have sole responsibility for managing and coordinating the operations of its subcontractors and suppliers, including the settlement of disputes with or between the City and any subcontractor.
- k. The City shall, by contract, cause all subcontractors to indemnify, defend, save, and hold harmless the County, its officers, agents and employees from any and all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature, resulting from, arising out of, relating to the activities of the subcontractor or subcontractor's officers, employees, subcontractors, or agents for the work described herein
- l. The City shall require any subcontractor performing project work to purchase and maintain for the entire period that work is performed under this Agreement the following policies of insurance to protect Owner and its officers, agents and employees:

- (a) Commercial general liability insurance coverage from an insurance company authorized to do business in Oregon in an amount not less than \$2,000,000 per occurrence for bodily injury and property damage.
- (b) Automobile liability insurance covering each automobile utilized in the performance of this Agreement from an insurance company authorized to do business in Oregon in an amount not less than \$2,000,000 per occurrence for bodily injury and property damage.
- (c) Workers' Compensation and Employer's liability meeting statutory limits mandated by State and federal laws.

Prior to commencing work, any subcontractors shall provide County a certificate or certificates of insurance in the amounts required which names Columbia County, its officers, agents and employees as additional insureds to the Commercial General and Automobile Liability policies as stated above. The certificates shall be accompanied by additional insured endorsements identifying Columbia County, its officers, agents and employees as additional insureds. Coverage will be primary and non-contributory with any other insurance and self-insurance. City agrees to require its subcontractor to provide County at least thirty (30) days prior written notice that any insurance coverage required by this paragraph will be canceled, not renewed, modified in any material way, or changed to make the coverages no longer meet the minimum requirements of this Contract. In the event of any discrepancy in the various provisions of this Agreement as to the amount and types of insurance required, the highest policy limits specified and all of the coverage types specified shall be required.

6. **No Employee/Employer Relationship.** In the performance of this Agreement, County employees shall not be considered City employees, and City employees shall not be considered County employees.

7. **Termination.**

This Agreement may be terminated upon the mutual consent of both parties. Unless otherwise agreed by the parties in writing prior to termination, all funds contributed by the City shall remain in the County's possession and be applied to the completion of the project, as provided in this Agreement. No funds will be returned until the project is completed, and the County in its sole discretion has determined those funds to be in excess of project costs.

8. **Contract Representatives.** Contract representatives for this Agreement shall be:

For County:
Mike Russell
Public Works Director

For City:
Mouhamad Zaher
Public Works Director

1054 Oregon Street
St. Helens, OR 97051
503-397-5090

265 Strand Street
St, Helens, OR 97051
503-397-6272

All correspondence shall be sent to the above addressees when written notification is necessary. Contract representatives can be changed by providing written notice to the other party at the address listed.

9. **Time.** Time is of the essence in this Agreement.

10. **Indemnity.** County agrees to indemnify and hold harmless City, its officers, agents and employees from and against all third party claims, suits, actions, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected to County's performance of, or failure to perform, its obligations under this Agreement, or for any other negligent or willful act or omission by County. City agrees to indemnify and hold harmless County, its officers, agents and employees from and against all third party claims, suits, actions, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected to City's performance of, or failure to perform, its obligations under this Agreement or any other negligent or willful act or omission by City. The indemnification and hold harmless provisions set forth in this paragraph are subject to the limits and provisions of the Oregon Tort Claims Act, ORS 30.260 to 30.300, and as to the County, Article XI, Section 10 of the Oregon Constitution, and, as to the City, its Charter debt limitations.

11. **Insurance.** The parties shall maintain comprehensive general liability and property damage insurance in amounts up to the limits of the Oregon Tort Claims Act as to any and all work performed under this Agreement.

12. **Severability.** If any term or provision of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement, including the application of any term or provision to persons or circumstances other than those as to which the application is declared invalid or unenforceable, shall not be affected.

13. **Attorney Fees.** If suit or action is instituted arising out of this Agreement, each party shall be responsible for its own attorney fees.

14. **Governing Law; Venue.** This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed under the laws of the State of Oregon (without regard to conflicts of law principles). Venue shall lie exclusively in the Circuit Court of the State of Oregon for Columbia County in St. Helens, Oregon.

15. **Amendment.** This Agreement may only be amended by a writing signed by the County and City.

16. **No Waiver.** Waiver by either party of the strict performance of any term or covenant of this Agreement or any right under this Agreement shall not be construed

as a continuing waiver.

17. **Successors and Assigns.** This Agreement and the covenants, agreements, obligations, and restrictions herein contained shall be binding upon and shall inure to the benefit of the parties hereto and to their respective representatives, successors, and permitted assigns.

18. **Entire Agreement.** This is the entire agreement between the parties and supersedes all prior agreements, proposals or understandings, whether written or oral. All such previous agreements, proposals or understandings, whether written or oral, are rescinded.

19. **Counterparts.** 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

IN WITNESS WHEREOF the parties have caused this agreement to be executed and do each hereby warrant and represent that their respective officers, whose signatures appear below, have been and are on the date of this agreement authorized by all necessary and appropriate legal action to execute this agreement.

DATED this ____ day of _____, 2021.

CITY OF ST. HELENS:

COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS:

Rick Scholl, Mayor

Margaret Magruder, Chair

Attest:

Casey Garrett, Commissioner

Kathy Payne, City Recorder

Henry Heimuller, Commissioner

Approved as to Form:

Approved as to Form:

City Attorney for Contracts

Office of County Counsel

GRANT AGREEMENT
SAFE ROUTES TO SCHOOL PROGRAM (SRTS)
OREGON DEPARTMENT OF TRANSPORTATION
Project Name Columbia Blvd: Sidewalk and Crosswalk Construction
(Oregon Governmental Entity)

This Agreement is made and entered into between the **State of Oregon**, acting by and through its Department of Transportation, (“ODOT”), and **City of St. Helens**, acting by and through its Governing Body, (“Recipient”), both referred to in this Agreement individually as “Party” and collectively as “Parties.”

Agreement Documents. This Agreement consists of this document and the following documents:

- a. Exhibit A: **Project Description, Key Milestones, Schedule and Budget**
- b. Exhibit B: **Recipient Requirements**
- c. Exhibit C: **Subcontractor Insurance**
- d. Exhibit D: **Application and documents provided by Recipient to ODOT before execution of the Agreement**

Exhibits A through D are incorporated by reference into this Agreement. Exhibits A through C are attached. 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: this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C; Exhibit D.

BACKGROUND

1. The State of Oregon has established the Safe Routes to Schools Fund (the “SRTS Fund”) and the Safe Routes to School Program (the “Program”) pursuant to ORS 184.740 *et seq.*
2. The purpose of the Program is to assist Oregon communities in identifying and reducing barriers and hazards to children walking or bicycling to and from school.
3. Moneys in the SRTS Fund are continuously appropriated to ODOT to implement the Program and provide certain matching grants for safety improvement projects near schools.
4. Recipient applied for a grant through the Program to undertake the project described in Exhibit A, attached and incorporated by this reference (the “Project”).
5. ODOT approved a grant in the maximum amount of **\$322,536** and is willing to provide the grant to Recipient for the Project on the terms and conditions of this Agreement.
6. Recipient desires to receive the grant on the terms and condition of this Agreement,
7. ODOT and Recipient desire to enter into this Agreement to implement the grant.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

AGREEMENT

1. Effective Date and Availability of Grant Funds. This Agreement is effective on the date that it is fully executed and approved as required by applicable law (the “Effective Date”). The availability of Grant Funds (as defined in section 2) and ODOT’s obligation to disburse Grant Funds shall end on the earlier of the following dates (the “Availability Termination Date”):

(i) Five (5) years after the Effective Date; or

(ii) 45 days after the Final Payment Conditions are satisfied pursuant to section 6.a.

No Grant Funds are available after the Availability Termination Date.

2. Grant. In accordance with the terms and conditions of this Agreement, ODOT shall provide Recipient with a maximum of **\$322,536** (the “Grant Funds”) from the SRTS Fund to support and assist Recipient’s implementation of the Project.

3. Estimated Project Cost, Scope and Schedule; Recipient Match. The total Project cost is estimated at \$403,170, which is subject to change. The Project’s scope and schedule are set forth in Exhibit A. While the total Project cost may change, ODOT will reimburse Eligible Costs (as that term is defined in section 4.b) only up to the maximum Grant Funds amount stated in section 2. ODOT’s reimbursement of Eligible Costs under section 6.a. is subject to, and calculated based upon, Recipient’s cash match requirement as set forth in paragraph 5 of Exhibit B (“Recipient’s Cash Match”). Recipient will be responsible for all Project costs, whether Eligible Costs or otherwise, not covered by the Grant Funds.

4. Project:

a. Use of Grant Funds. The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by ODOT by amendment pursuant to Section 11.c.

b. Eligible Costs.

Recipient may seek reimbursement for its actual costs to develop the Project, consistent with the terms of this Agreement (“Eligible Costs”).

i. Eligible Costs are actual costs of Recipient to the extent those costs are:

(A) reasonable, necessary and directly used to develop and construct the Project;

(B) permitted by generally accepted accounting principles established by the Governmental Accounting Standards Board, as reasonably interpreted by ODOT;

(C) incurred no earlier than 24 months before the application deadline for this grant; and

(D) eligible or permitted uses of the Grant Funds under the Oregon Constitution Article IX Section 3a, the statutes and laws of the state of Oregon, and this Agreement.

ii. Eligible costs do NOT include:

- (A) operating and working capital or operating expenditures charged to the Project by Recipient or payments made to related parties;
- (B) loans or grants to be made to third parties;
- (C) any expenditures incurred after this Agreement's termination or expiration; or
- (D) costs associated with a Project that substantially deviate from the Application submission, identified in Exhibit D, unless such changes are approved by ODOT by amendment of this Agreement.

c. Project Change Procedures.

- i. If Recipient anticipates a change in the Project's scope or the Project's completion date identified in Exhibit A (the "Project Completion Date"), Recipient shall submit a request for change to SRTSProgramMailbox@odot.state.or.us. The request for change must be submitted before the change occurs.
- ii. Recipient shall not proceed with any changes to the Project's scope or the Project Completion Date without first executing an amendment to this Agreement that documents ODOT's approval of Recipient's request for such a change. A request for a change in the Project's scope or the Project Completion Date may be rejected at ODOT's sole discretion.

5. Progress Reports.

- a. Quarterly Reports.** Recipient shall submit quarterly progress reports to ODOT using a format that ODOT provides. Recipient must submit the reports to SRTSProgramMailbox@odot.state.or.us by the first Wednesday of March, June, September, and December.
- b. Final Report.** Recipient shall submit a final written report (the "Final Report") to SRTSProgramMailbox@odot.state.or.us that identifies how hazards have been reduced to children walking or bicycling to and from school as a direct result of this Project. Recipient must submit the Final Report within six (6) months after the Project Completion Date. Recipient's obligation to provide the Final Report will survive this Agreement's expiration or termination.

6. Reimbursement Process for Eligible Costs.

- a.** In accordance with the terms and conditions of this Agreement, ODOT shall provide Recipient Grant Funds in an amount not to exceed (i) \$322,536 or (ii) 80% of Eligible Costs (the "Reimbursement Rate"), whichever is less. ODOT shall reimburse Eligible Costs at the Reimbursement Rate within forty-five (45) days of ODOT's receipt and approval of a request for reimbursement from Recipient. Recipient must pay its contractors, consultants and vendors before submitting invoices to ODOT for reimbursement. Recipient must submit to ODOT its first invoice within two (2) years of the Effective Date and must submit its final invoice (the "Final Invoice") within six (6) months of the Project Completion Date. Upon ODOT's receipt of the Final Invoice, ODOT will conduct a final on-site review of the Project. ODOT will withhold payment of the Final Invoice until both (i) its SRTS Program Manager, or designee, has completed the final inspection and accepted the Project as complete and (ii)

Recipient has submitted the Final Report required by section 5.b (collectively, the “Final Payment Conditions”).

- b. Recipient shall present monthly invoices for the Eligible Costs directly to SRTSProgramMailbox@odot.state.or.us for review and approval. Such invoices shall include the Agreement number, invoice number, total Grant Funds amount, total amount of previously reimbursed invoices, the start and end date of billing period, and itemize all expenses for which reimbursement is claimed. Invoices shall include supporting documentation, e.g., labor hours should be supported by timesheets/work logs, proof of payment to vendors (if applicable), receipts, etc. Invoices must be based on actual expenses incurred and clearly specify the percentage of Project completion. Invoices shall not be presented for period of less than one month. Recipient shall also include with the invoice a summary describing the work invoiced for the period being invoiced and work expected for the next invoicing period.
- c. **Conditions Precedent to Reimbursement of Eligible Costs.** ODOT’s obligation to reimburse Recipient for Eligible Costs is subject to satisfaction, with respect to each reimbursement, of each of the following conditions precedent:
 - i. ODOT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to make the reimbursement;
 - ii. Recipient is in compliance with the terms of this Agreement;
 - iii. Recipient’s representations and warranties set forth in Section 7 below are true and correct on the date of reimbursement with the same effect as though made on the date of the request for the reimbursement, and
 - iv. Recipient has provided to ODOT a request for reimbursement in accordance with Section 6.b.
- d. **Recovery of Funds.** Any funds disbursed to Recipient under this Agreement that are expended in violation of one or more of the provisions of this Agreement, including falsifying information contained in the application, (“Misexpended Funds”) must be returned to ODOT. Overstatement of the match requirement in the application is a violation of this Agreement. Recipient shall return all Misexpended Funds to ODOT promptly after ODOT’s written demand and no later than fifteen (15) days after ODOT’s written demand. If Recipient fails to reimburse ODOT, ODOT may withhold Recipient’s proportional share of State Highway Fund distribution necessary to reimburse ODOT for costs incurred by such Recipient breach. Recipient shall pay back all of the funds to ODOT if Project is not completed or if funds are Misexpended.

7. Representations and Warranties of Recipient. Recipient represents and warrants to ODOT as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient 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 Recipient’s 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 Recipient is a party or by which Recipient 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 Recipient of this Agreement.

- b. Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable 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.** Recipient's 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 of its benefits.
- d. No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from any federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify ODOT immediately if it is debarred, suspended or otherwise excluded from any federally assisted transaction for any reason or if circumstances change that may affect this status, including, without limitation, any relevant criminal indictments or convictions.
- e. Compliance with Oregon Taxes, Fees and Assessments.** Recipient is, to the best of the undersigned(s) knowledge, and for the useful life of the Project will remain, current on all applicable state and local taxes, fees and assessments.
- f.** The warranties set forth in this Section 7 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.** Recipient 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. Recipient shall ensure that each of its subrecipients and subcontractors complies with these requirements. ODOT, the Secretary of State of the State of Oregon ("Secretary") and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, ODOT, the Secretary and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of ODOT or the Secretary to perform site reviews of the Project, and to examine all real property and facilities purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. Retention of Records.** Recipient shall retain and keep all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a period of six (6) years after

final payment. Recipient should consult with the State of Oregon before final destruction of Project records. If there are unresolved audit questions at the end of the period described in this section, Recipient shall retain the records until the questions are resolved.

- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by ODOT under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODOT to verify how the Grant Funds were expended.
- d. **Survival.** This Section 8 shall survive any expiration or termination of this Agreement.

9. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, “subagreements”) for performance of the Project.

- i. All subagreements must be in writing, executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
- ii. Recipient shall require all of its contractors performing work under this Agreement to name ODOT as a third party beneficiary of Recipient’s subagreement with the Contractor and to name ODOT as an additional obligee on contractors’ bonds.
- iii. Recipient agrees to provide ODOT with a copy of any signed subagreement upon ODOT’s request. Recipient must report to ODOT any substantial breach of a term or condition of a subagreement relating to this Agreement within ten (10) days of Recipient discovering the breach.

- b. **Subagreement indemnity; insurance.**

- i. *Recipient shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in Oregon Revised Statute (ORS) 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, the Oregon 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 (“Claims”), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Recipient’s contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that ODOT shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of ODOT, be indemnified for all Claims caused or alleged to be caused by the contractor or subcontractor.*
- ii. Any such indemnification shall also provide that neither Recipient’s contractor or subcontractor, nor any attorney engaged by Recipient’s contractor or subcontractor, shall defend any claim in the name 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 any time at its election, assume its own defense and settlement

in the event that it determines that Recipient's contractor is prohibited from defending the State of Oregon, or that Recipient's 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 Recipient's contractor if the State of Oregon elects to assume its own defense.

iii. Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

c. Procurements. Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules, ensuring that:

- i. all applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
- ii. all procurement transactions are conducted in a manner providing full and open competition; and
- iii. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements).

10. Termination

a. Termination by ODOT. ODOT may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by ODOT in such written notice, if:

- i. Recipient fails to perform the Project within the time specified in this Agreement or any extension of the Agreement or commencement, continuation or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, or illegal; or
- ii. ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
- iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
- iv. The Project would not produce results commensurate with the further expenditure of funds; or
- v. Recipient takes any action pertaining to this Agreement without the approval of ODOT and which under the provisions of this Agreement would have required the approval of ODOT.

- b. Termination by Recipient.** Recipient may terminate this Agreement effective upon delivery of written notice of termination to ODOT, or at such later date as may be established by Recipient in such written notice, if:
- i. The requisite local funding to continue the Project becomes unavailable to Recipient;
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
 - iii. ODOT fails to make payments due in accordance with this Agreement.
- c. Termination by Either Party.** Either Party may terminate this Agreement upon at least ten (10) days' notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.
- d. Rights upon Termination; Remedies.** Any termination of this Agreement shall not prejudice any rights or obligations accrued before termination. The remedies set forth in this Agreement are cumulative and are in addition to any other rights or remedies available at law or in equity.

11. GENERAL PROVISIONS

a. Contribution.

- i. 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 Recipient 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.
- ii. With respect to a Third Party Claim for which ODOT is jointly liable with Recipient (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 Recipient in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Recipient 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 Recipient 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 ODOT had sole liability in the proceeding.

- iii. With respect to a Third Party Claim for which Recipient is jointly liable with ODOT (or would be if joined in the Third Party Claim), Recipient 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 ODOT in such proportion as is appropriate to reflect the relative fault of Recipient 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 Recipient 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. Recipient'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.
- 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. Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- d. Duplicate Payment.** Recipient is 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.
- e. No Third Party Beneficiaries.** ODOT and Recipient 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 in this Agreement and expressly described as an intended beneficiary of the terms of this Agreement.
- f. Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties or notices to be given under this Agreement shall be given in writing by personal delivery, facsimile, email or mailing the same, postage prepaid, to Recipient Contact or ODOT 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 11.f. 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 ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.
- g. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by, construed in accordance with, and enforced under the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODOT (or any other agency or department of the State of Oregon) and Recipient 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 consents to the exclusive jurisdiction of the Circuit Court of Marion County in the State of Oregon court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

- h. Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Recipient expressly agrees 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.
- i. Insurance; Workers' Compensation.** All employers, including Recipient, 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. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- j. Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of ODOT. Recipient has no right or authority to incur or create any obligation for or legally bind ODOT in any way. ODOT cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of ODOT, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- k. 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.
- l. 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.
- m. Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the Parties on the Agreement's subject matter. There are no other understandings, agreements, or representations, oral or written, not specified in this Agreement regarding its subject matter. 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. Recipient, by the signature below of its authorized representative, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

ODOT/Recipient
Agreement No. 33106

THE PARTIES, by executing this Agreement, 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 at its January 17, 2019 meeting approved the Safe Routes to School project application list and directed the Transportation Development Division Administrator to enter into project agreements.

City of St. Helens, by and through its
Governing Body

By *Rick Scholl*
(Legally designated representative)

Name Rick Scholl, Mayor
(printed)

Date 2/6/19

By *John Walsh*

Name John Walsh, City Administrator
(printed)

Date 2/7/19

**LEGAL REVIEW APPROVAL (If required
in Recipient's process)**

By _____
Recipient's Legal Counsel

Date _____

Recipient Contact:

Jennifer Dimsho, Associate Planner
PO Box 278
St Helens, OR 97051
503-366-8207
jdimsho@ci.st-helens.or.us

STATE OF OREGON, by and through its
Department of Transportation

By *John A. Bohard*
Transportation Development Division Administrator

Date 2/7/19

APPROVAL RECOMMENDED

By *LeeAnne*
SRTS Program Manager

Date 2/7/19

BY *na*
State Traffic-Roadway Engineer

Date _____

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

By Sam Zeigler via email dated 1/24/19
Assistant Attorney General

SRTS Program Manager:

LeeAnne Ferguson
555 13th Street NE
Salem, OR 97301-4178
Phone: 503-986-5805
Leeanne.fergason@odot.state.or.us

EXHIBIT A
Project Description, Key Milestones, Schedule and Budget

Agreement No. 33106

Application Number: 11-52

Project Name: Columbia Blvd: Sidewalk and Crosswalk Construction

A. PROJECT DESCRIPTION

The project will construct approximately 1,100 feet of sidewalk on the south side of Columbia Blvd. between Gable Rd. and Sykes Rd., a rapid flashing beacon at existing crosswalk along Columbia Blvd. to McBride Elementary, and a raised pedestrian refuge island at Columbia Blvd. and Sykes Rd.

Recipient acknowledges that such Project improvements funded under this Agreement may trigger other Recipient responsibilities under the Americans with Disabilities Act. Recipient agrees that it is solely responsible for ensuring Americans with Disabilities Act compliance pursuant to Exhibit B, Recipient Requirements, #10.

B. PROJECT KEY MILESTONES AND SCHEDULE

The Project has six (6) Key Milestone(s). Key Milestones are used for evaluating performance on the Project as described in the Agreement. Neither Key Milestone 1, Scoping and planning, nor Key Milestone 6, Project completion, can be changed without an amendment to the Agreement.

If Recipient anticipates either that Key Milestone 1 will require material changes or that Key Milestone 6 will be delayed by more than ninety (90) days, Recipient shall submit a Request for Change Order, as described in Section 4(c) of the Agreement, to SRTSPProgramMailbox@odot.state.or.us as soon as Recipient becomes aware of any possible change or delay. Recipient must submit the Request for Change Order before materially changing the project scope (Key Milestone 1) or delaying the Project completion more than 90 days (Key Milestone 6), as the case may be. Adjustments to all milestone dates must be noted in the quarterly reports.

Table 1: Key Milestones

Key Milestone	Description	Estimated Due Date
1	Scoping and planning	10 weeks from Agreement Execution
2	Community Outreach	30 weeks from Agreement Execution
3	Right of way and land acquisition	N/A
4	Permits	24 weeks from Agreement Execution
5	Final plans/bidding engineering documents	72 weeks from Agreement Execution

6	Construction contract award	96 weeks from Agreement Execution
7	Utilities Relocation	N/A
8	Project completion (Project must be completed within 5 years of agreement execution.)	11/25/2022

Table 2 – Funding Breakdown

1	TOTAL PROJECT COST	\$403,170
2	RECIPIENT’S CASH MATCH (minimum 20% of Total Project Cost and any portion of the Project which is not covered by SRTS Grant Funds. \$0 in prior expenditures are included in Recipient’s Cash Match.)	\$80,634 (20%)
3	SRTS GRANT FUNDS	\$322,536

EXHIBIT B
Recipient Requirements

1. Recipient shall comply with all applicable requirements of ORS 184.740 to 184.742 and Oregon Administrative Rule (OAR) 737-025-0010 through 737-025-0093.
2. Recipient shall comply with all applicable provisions of ORS 279C.800 to 279C.870 pertaining to prevailing wage rates and including, without limitation, that workers on the Project shall be paid not less than rates in accordance with ORS 279C.838 and 279C.840 pertaining to wage rates and ORS 279C.836 pertaining to having a public works bond filed with the Construction Contractors' Board.
3. Recipient acknowledges and agrees that, whenever OAR 839-025-0230(4) requires ODOT as the public agency providing public funds for a project that is a public work under ORS 279C.800(6)(a)(B) to pay the fee required under ORS 279C.825, ODOT will calculate and pay the fee and deduct the amount of the fee from Recipient's Grant Funds under this Agreement.
4. Recipient shall notify ODOT's SRTS Program Manager in writing when any contact information changes during the term of this Agreement.
5. Recipient must provide a "cash match," as that term is defined in OAR 737-025-0010, in an amount equal to **20%** of the Eligible Costs. ODOT will reimburse Recipient pursuant to section 6.a of the Agreement. Recipient is responsible for all Project costs, whether Eligible Costs or otherwise, in excess of the Grant Funds.
6. Recipient shall pay back all of the Grant Funds to ODOT if Project is not completed in accordance with, or consistent with Exhibit A and Exhibit D, as each may be amended. Recipient obligations for Recovery of Grant Funds are provided in Section 6.d of this Agreement.
7. Recipient and ODOT's SRTS Program Manager, or designee, shall, upon completion of all on-site work for the Project, perform a final on-site review. Once the review is completed, the ODOT SRTS Program Manager may recommend acceptance of the Project by providing written documentation affirming that the Project is complete.
8. Recipient shall, at its own expense, maintain and operate Project upon completion and throughout the useful life of Project at a minimum level that is consistent with normal depreciation or service demand or both. ODOT and Recipient agree that the useful life of Project is defined as twenty (20) years. Recipient has, by submitting its application for this grant, represented and certified to sufficient funds and to its ability to operate and maintain Project. Recipient may not transfer, convey, sell or lease the property and assets of the Project during the useful life of the Project without the prior written approval of ODOT. Such approval shall not be unreasonably withheld. Recipient agrees to require any successor owner of the Project property to comply with this requirement. Failure to comply with this requirement may be remedied by Recipient or its successor in interest by (a) restoring the property to the uses(s) required by this Agreement or (b) repaying expended funds. In the event repaying expended funds is required, the amount determined using the Straight Line Depreciation (SLD) method must be repaid to ODOT. The SLD is calculated by taking the grant amount divided by twenty years. ODOT may conduct site reviews of the Project as provided in Section 8.a of this Agreement throughout the useful life of the Project. This paragraph shall survive any expiration or termination of this Agreement.

9. Recipient shall provide pre-construction Project photographs within thirty (30) days of the execution of this Agreement. Recipient shall provide Project photographs thirty (30) days after Project is completed.

10. **Americans with Disabilities Act Compliance:**

- a. **State Highway:** For portions of the Project located on or along the State Highway System or a State-owned facility (“state highway”):
- i. Recipient shall utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, “ADA”), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Recipient shall follow ODOT’s processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, Recipient shall send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form and to State’s Project Manager for each curb ramp constructed, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT’s fillable Curb Ramp Inspection Form and instructions are available at the following address:

<http://www.oregon.gov/ODOT/CONSTRUCTION/Pages/Forms.aspx>
 - iv. Recipient shall promptly notify ODOT of Project completion and allow ODOT to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Recipient and prior to release of any Recipient contractor.
 - v. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Recipient shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction, to the greatest extent possible.
- b. **Local Roads:** For portions of the Project located on Recipient roads or facilities that are not on or along a state highway:
- i. Recipient shall ensure that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, is designed, constructed and maintained in compliance with the ADA.
 - ii. Recipient may follow its own processes or may use ODOT’s processes for design, modification, upgrade, or construction of Project sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT

Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current Curb Ramp Inspection form, available at:
<http://www.oregon.gov/ODOT/CONSTRUCTION/Pages/Forms.aspx>;

Additional ODOT resources are available at:
<http://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

ODOT has made its forms, processes, and resources available for Recipient's use and convenience.

- iii. Recipient assumes sole responsibility for ensuring that the Project complies with the ADA, including when Recipient uses ODOT forms and processes. Recipient acknowledges and agrees that ODOT is under no obligation to review or approve Project plans or inspect the completed Project to confirm ADA compliance.
 - iv. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian route. Recipient shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations prior to the start of construction, to the greatest extent possible.
- c. Recipient shall ensure that any portions of the Project under Recipient's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Recipient ensuring that:
- i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Recipient identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Any repairs or removal of obstructions needed to maintain Project features in compliance with the ADA requirements that were in effect at the time of Project construction are completed by Recipient or abutting property owner pursuant to applicable local code provisions,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- d. Maintenance obligations in this section shall survive termination of this Agreement.

11. Additional requirements

General Standards. The Project shall be completed within industry standards and best practices to ensure that the functionality and serviceability of the Program's investment meets the intent of the application and the Program.

EXHIBIT C
Subcontractor Insurance Requirements

GENERAL.

Recipient shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Recipient and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Recipient. Recipient shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Recipient permit a contractor to work under a Subcontract when the Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the Recipient directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

TYPES AND AMOUNTS.

1. **WORKERS COMPENSATION.** Insurance 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). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

2. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to ODOT. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by ODOT:

Bodily Injury, Death and Property Damage:

Not less than \$2,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Annual aggregate limit shall not be less than \$4,000,000.

3. **AUTOMOBILE LIABILITY INSURANCE: AUTOMOBILE LIABILITY.** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by ODOT:

Bodily Injury, Death and Property Damage:

Not less than \$2,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

4. **ADDITIONAL INSURED.** The Commercial General Liability Insurance and Automobile Liability insurance must include the State of Oregon, ODOT, its officers, employees and agents as Additional Insureds, but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.
5. **"TAIL" COVERAGE.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor 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 Subcontract, for a minimum of twenty-four (24) months following the later of : (i) the contractor's completion and Sponsor's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and ODOT may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If ODOT approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
6. **NOTICE OF CANCELLATION OR CHANGE.** The contractor or its insurer must provide thirty (30) days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s). Any failure to comply with the reporting provisions of this clause shall constitute a material breach of this Agreement and shall be grounds for immediate termination of this Agreement.
7. **CERTIFICATE(S) OF INSURANCE.** Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees) and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage. Required insurance coverages shall be obtained from insurance companies acceptable to ODOT and the contractor shall pay for all deductibles, self-insured retention or self-insurance.
8. **INSURANCE REQUIREMENT REVIEW.** Recipient agrees to periodic review of insurance requirements by ODOT under this Agreement and to provide updated requirements as mutually agreed upon by ODOT and Recipient.
9. **ODOT ACCEPTANCE.** All insurance providers are subject to ODOT acceptance. If requested by ODOT, Recipient shall provide complete copies of its Contractors' insurance policies, endorsements, self-insurance documents and related insurance documents to ODOT's representatives responsible for verification of the insurance coverages required under this Exhibit C.

The Recipient shall immediately notify ODOT of any change in insurance coverage.

**FIRST AMENDMENT TO
David Evans & Associates, Inc. Personal Service Agreement
Columbia Boulevard Sidewalk and Safety Improvements, Project No. R-679**

This agreement is entered into this 15th day of December 2021, by and between the City, (hereinafter "City"), and David Evans & Associates, Inc., (hereinafter "Contractor").

RECITALS

- A. City and Contractor entered into a Personal Service Agreement on February 21, 2020, and said contract, hereinafter "original contract", is on file at St. Helens City Hall.
- B. The City has determined that additional Scope of Work is necessary to replace an existing culvert and construct a retaining wall adjacent to the new sidewalk.
- C. The Contractor has provided a revised Scope of Work to include the design of the culvert replacement and retaining wall with the plans.
- D. Columbia County will be responsible for costs associated with the design and construction of the culvert replacement per the attached intergovernmental agreement.

NOW, THEREFORE, in consideration for the mutual covenants contained herein the receipt and sufficiency of which are hereby acknowledged, Contractor and City agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by this reference.
2. Additional compensation for Work Order No. 1 shall be a not to exceed amount of \$19,071.
3. All other terms of the original contract not specifically amended by this agreement remain in full force and effect.

Dated this 15th day of December 2021.

Contractor

Paul Tappan

Date: 12/7/21

City

Rick Scholl

Rick Scholl, Mayor

Date: 12/15/21

Attest:

By: Kathy Payne
Kathy Payne, City Recorder

AMENDMENT # 01 to
CITY OF ST. HELENS
STANDARD PROFESSIONAL SERVICES CONTRACT
 (for Architectural, Engineering, Land Surveying and Related Services)

Contract Title: Columbia Boulevard Sidewalk and Safety Improvements

1. This is Amendment No. 01 to Contract No. R-679 (as amended from time to time the "Contract") dated **February 21, 2020** between the City of St. Helens hereafter called OWNER, and DAVID EVANS and ASSOCIATES, INC. hereafter called Consultant.
2. The Contract is hereby amended as follows:

The Amendment provides for retaining wall and culvert work:

Contract Exhibit A, **Statement of Work**

Task 1 – Project Administration

Consultant shall coordinate and administer the additional work.

Task 3 – Plans, Specification, and Estimate

Consultant shall prepare calculations for the selected retaining wall solution and basic structural calculations.

Task 3.1 – Preliminary (60%) Design

- Culvert replacement details
- Retaining wall plan sheets and calculations

Task 3.2 – Advance (95%) Design

- Culvert replacement details
- Retaining wall plan sheets and calculations

Task 3.3 – Final (100%) Design

- Culvert replacement details
- Retaining wall plan sheets and calculations

DELIVERABLES – Task 3:

- Retaining wall plan sheets at each submittal, for each wall.
 - Plan sheets will include:
 - Plan and elevation sheet
 - Detail sheet (as needed)
- Retaining wall construction cost estimate
- Retaining wall specifications

Assumptions:

- IBC/OSSC for wall structures will be used to determine allowable bearing pressure, and excavation of poor soils below the wall will be required.
- City will provide geotechnical reports for any projects in the City

3. Except as expressly amended above, all other terms and conditions of original Contract are still in full force and effect. Consultant certifies that the representations, warranties and certifications

contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

Certification: The individual signing on behalf of Consultant hereby certifies and swears under penalty of perjury: (a) the number shown on this form is Consultant's correct taxpayer identification; (b) Consultant is not subject to backup withholding because (i) Consultant is exempt from backup withholding, (ii) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Consultant that Consultant is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Consultant, s/he has authority and knowledge regarding Consultant's payment of taxes, and to the best of her/his knowledge, Consultant is not in violation of any Oregon tax laws (including, without limitation, the following pursuant to OAR 150-305.385(6)-(B): For purposes of this certification, "Oregon tax laws" means the tax laws names is ORS 305.380 (4), including without limitation the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax., 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue (Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan District Self-Employment Tax; (d) Consultant is an independent Consultant as defined in ORS 670.600; and (e) the supplied Consultant data is true and accurate.

CONSULTANT

By Paul Teppa 12/7/2021
Title: Associate Date:

OWNER

By Mouhamad Zaher 12/7/2021
Title: Date:



PERSONAL SERVICES AGREEMENT
Columbia Boulevard Sidewalk
and Safety Improvements
Preliminary and Final Engineering
David Evans and Associates, Inc.

This PERSONAL SERVICES AGREEMENT (this “Agreement”) is made and entered into by and between the **City of St. Helens** (the “City”), an Oregon municipal corporation, and **David Evans and Associates, Inc.** (“Contractor”).

RECITALS

A. The City is in need of consulting services for survey, preliminary, and final engineering design of a new sidewalk and other safety improvements on Columbia Boulevard between Gable and Sykes Road and at McBride Elementary School, and Contractor is qualified and prepared to provide such services.

B. The purpose of this Agreement is to establish the services to be provided by Contractor and the compensation and terms for such services.

AGREEMENT

1. Engagement. The City hereby engages Contractor to provide services (“Services”) related to survey and engineered design of sidewalks, and Contractor accepts such engagement. The principal contact for Contractor shall be Paul Tappana, phone 503-480-1347.

2. Scope of Work. The duties and responsibilities of Contractor, including a schedule of performance, shall be as described in Attachment A attached hereto and incorporated herein by reference.

3. Term. Subject to the termination provisions of Section 11 of this Agreement, this Agreement shall commence once executed by both parties and shall terminate on November 25, 2022. The City reserves the exclusive right to extend the contract for a period of two (2) years in one (1) year increments. Such extensions shall be in writing with terms acceptable to both parties. Any increase in compensation for the extended term shall be as agreed to by the parties but shall not exceed five percent (5%) of the then-current fees.

4. Compensation. The terms of compensation for the initial term shall be as provided in Attachment A.

5. Payment.

5.1 The City agrees to pay Contractor for and in consideration of the faithful performance of the Services, and Contractor agrees to accept from the City as and for compensation for the faithful performance of the Services, the fees outlined in Attachment C, except that the hourly fee shall include all local travel, local telephone expense, computer expense, and routine document copying. Reimbursable expenses shall be billed at cost without markup and shall include travel and related expenses in compliance with the City’s travel and expense policy, reproduction of documents or reports with prior written approval, and

long-distance telephone expenses. Contractor's cost for approved sub-consultants may be marked up a maximum of five percent (5%) by Contractor for management and handling expenses.

5.2 Contractor shall make and keep reasonable records of work performed pursuant to this Agreement and shall provide detailed monthly billings to the City. Following approval by the City Administrator, billings shall be paid in full within thirty (30) days of receipt thereof. The City shall notify Contractor of any disputed amount within fifteen (15) days from receipt of the invoice, give reasons for the objection, and promptly pay the undisputed amount. Disputed amounts may be withheld without penalty or interest pending resolution of the dispute.

5.3 The City may suspend or withhold payments if Contractor fails to comply with requirements of this Agreement.

5.4 Contractor is engaged by the City as an independent contractor in accordance with the standards prescribed in ORS 670.600. Contractor shall not be entitled to any benefits that are provided by the City to City employees.

5.5 Any provision of this Agreement that is held by a court to create an obligation that violates the debt limitation provision of Article XI, Section 9 of the Oregon Constitution shall be void. The City's obligation to make payments under this Agreement is conditioned upon appropriation of funds pursuant to ORS 294.305 through 294.565.

6. Document Ownership. Upon acceptance of the Services and payment for such Services by the City, all work products, including, but not limited to, documents, drawings, papers, computer programs and photographs, performed or produced by Contractor for the benefit of the City under this Agreement shall become the property of the City. Any reuse or alteration of any work produced under this Agreement, except as contemplated herein, shall be at the City's sole risk.

7. Notices. All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

CITY: City of St. Helens
Attn: City Administrator
PO Box 278
St. Helens OR 97051

CONTRACTOR: David Evans and Associates, Inc.
Attn: Paul Tappana
530 Center Street NE, Suite 605
Salem, OR 97301

When so addressed, such notices, bills and payments shall be deemed given upon deposit in the United States mail, postage-prepaid.

8. Standard of Care. Contractor shall comply with applicable standards of professional care in the performance of the Services. Contractor shall prepare materials and

deliverables in accordance with generally accepted standards of professional practice for the intended use of the project.

9. Consequential Damages. Neither party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by either party's breach of contract, willful misconduct, negligent act or omission, or other wrongful act.

10. Insurance.

10.1 At all times during the term of this Agreement, Contractor shall carry, maintain and keep in full force and effect a policy or policies of insurance as specified in Attachment B attached hereto and incorporated herein by reference.

10.2 All insurance policies shall provide that the insurance coverage shall not be canceled or reduced by the insurance carrier without thirty (30) days' prior written notice to the City. Contractor agrees that it will not cancel or reduce said insurance coverage.

10.3 Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, the City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, the City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon. If the City procures such insurance, the City shall retain any cost incurred for same from moneys due Contractor hereunder.

10.4 At all times during the term of this Agreement, Contractor shall maintain on file with the City a Certificate of Insurance or a copy of actual policies acceptable to the City showing that the aforesaid policies are in effect in the required amounts. The policies shall contain an endorsement naming the City, its officers, employees and agents, as additional insureds (except for the professional liability and workers' compensation insurance).

10.5 The insurance provided by Contractor shall be primary to any coverage available to the City. The insurance policies (other than workers' compensation) shall include provisions for waiver of subrogation. Contractor shall be responsible for any deductible amounts outlined in such policies.

11. Termination. Either party may terminate this Agreement upon seven (7) days' written notice if one of the following occurs: (a) the other party fails to substantially perform in accordance with the terms of this Agreement; or (b) the City, in its sole discretion, decides to abandon the project. If either party terminates this Agreement, Contractor shall receive compensation only for Services actually performed up to the date of termination.

12. No Third-Party Rights. This Agreement shall not create any rights in or inure to the benefit of any parties other than the City and Contractor.

13. Modification. Any modification of the provisions of this Agreement shall be set forth in writing and signed by the parties.

14. Waiver. A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

15. Indemnification. Contractor and the officers, employees, agents and subcontractors of Contractor are not agents of the City, as those terms are used in ORS 30.265. Contractor shall defend, indemnify and hold harmless the City and its officers, employees, elected officials, volunteers and agents from any and all claims for injury to any person or damage to property caused by the negligence or other wrongful acts, omissions, or willful misconduct of Contractor or officers, employees, agents, or subcontractors of Contractor. Contractor shall not be responsible for claims caused by the negligence or other wrongful acts or omissions of the City or the City's officers, employees, or agents.

16. Governing Laws. This Agreement shall be governed by the laws of the State of Oregon. Venue shall be in the Circuit Court for Columbia County, Oregon.

17. Compliance with Law.

17.1 Contractor shall comply with all applicable federal, state and local statutes, ordinances, administrative rules, regulations and other legal requirements in performance of this Agreement.

17.2 Contractor shall comply with applicable provisions of ORS 279B.020, 279B.220, 279B.225, 279B.230 and 279B.235. Pursuant to ORS 279B.235, any person employed by Contractor who performs Services shall be paid at least time and a half pay for all overtime in excess of forty (40) hours in any one (1) week, except for persons who are excluded or exempt from overtime pay under ORS 653.010 through 653.261 or under 29 USC Sections 201 through 209.

17.3 Contractor is a "subject employer," as defined in ORS 656.005, and shall comply with ORS 656.017.

17.4 Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, physical or mental disability, or disabled veteran or veteran status in violation of state or federal laws.

17.5 Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement. [Business License No. 04841]

18. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of that confidential information to which it is exposed by reason of this Agreement. Contractor warrants that its employees assigned to this Agreement shall maintain necessary confidentiality.

19. Publicity. Contractor shall not use any data, pictures, or other representations of the City in its external advertising, marketing programs, or other promotional efforts except with prior specific written authorization from the City.

20. Succession. This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and such parties' partners, successors, executors, administrators and assigns.

21. Assignment. This Agreement shall not be assigned by Contractor without the express written consent of the City. Contractor shall not assign Contractor's interest in this

Agreement or enter into subcontracts for any part of the Services without the prior written consent of the City.

22. Default.

22.1 A party will be in default under this Agreement if that party fails to comply with any provision of this Agreement within ten (10) days after the other party gives written notice specifying the breach. If the breach specified in the notice cannot be completely cured within the ten (10)-day period, a default will not occur if the party receiving the notice diligently begins curative action within the ten (10)-day period and proceeds to cure the breach as soon as practicable.

22.2 Notwithstanding Subsection 22.1, the City may declare a default immediately by written notice to Contractor if Contractor intentionally or repeatedly breaches material provisions of this Agreement or if Contractor's breach of contract creates unreasonable risk of injury to any person or damage to property.

22.3 Should a dispute arise between the parties to this Agreement, it is agreed that such dispute will be submitted to a mediator prior to any litigation. The parties shall exercise good-faith efforts to select a mediator who shall be compensated equally by both parties. Mediation shall be conducted in St. Helens, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good-faith efforts to resolve disputes covered by this section through the mediation process. If a party requests mediation and the other party fails to respond within ten (10) days, a mediator shall be appointed by the presiding judge of the Circuit Court of the State of Oregon for Columbia County upon request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this section. Nothing in this section shall preclude a party from seeking equitable relief to enjoin a violation of this Agreement.

22.4 If a default occurs, the party injured by the default may terminate this Agreement and enforce any remedies available under Oregon law. Litigation shall be conducted in the Circuit Court of the State of Oregon for Columbia County. Litigation initiated by the City must be authorized by the St. Helens City Council.

23. Attorney Fees. If legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred herein at trial and on appeal.

24. Inspection and Audit by the City.

24.1 Services provided by Contractor and Contractor's performance data, financial records, and other similar documents and records of Contractor that pertain, or may pertain, to the Services under this Agreement shall be open for inspection by the City or its agents at any reasonable time during business hours. Upon request, copies of records or documents shall be provided to the City free of charge.

24.2 The City shall have the right to inspect and audit Contractor's financial records pertaining to the Services under this Agreement at any time during the term of this Agreement or within two (2) years following the termination of this Agreement.

24.3 This Section 24 is not intended to limit the right of the City to make inspections or audits as provided by law or administrative rule.

25. **Entire Agreement.** This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the Services described herein.

26. **Severance.** If any provision of this Agreement is held to be invalid, it will not affect the validity of any other provision. This Agreement will be construed as if the invalid provision had never been included.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in duplicate originals by its duly authorized undersigned agents, and Contractor has executed this Agreement on the date written below.

CITY:

CONTRACTOR:

CITY OF ST. HELENS
Council Meeting Date: February 19, 2020

DAVID EVANS AND ASSOCIATES, INC.

Signature: *Rick Scholl*
Print: Rick Scholl
Title: Mayor

Signature: *Paul Tappana*
Print: Paul Tappana
Title: Associate

Date: 2/19/2020

Date: 02/21/20

APPROVED AS TO FORM:

By: *[Signature]*
City Attorney

ATTACHMENT A
Scope of Work

**Safe Routes to School
Columbia Boulevard Sidewalk and Safety Improvements**

Scope of Work for Professional Services

The City of St. Helens was recently awarded a grant through the Oregon Department of Transportation (ODOT) Safe Routes to School competitive grant program. The project entails construction of approximately 1,100 linear feet of curb and gutter and sidewalk along one side of Columbia Boulevard between Sykes Road and Gable Road, installation of a rapid flashing beacon at the existing crosswalk on Columbia Boulevard near McBride Elementary School, add a raised pedestrian refuge island at the intersection of Columbia Boulevard and Sykes Road, in addition to other intersection pedestrian safety improvements. Construction of this sidewalk will complete a pedestrian connection between the existing sidewalks on Sykes Road and the westerly branch of Columbia Boulevard, to Gable Road. New sidewalks are being constructed along Gable Road by Columbia County through another project.

PROJECT OVERVIEW

Professional services for this project shall include design and specification development services for the permitting and construction of sidewalks, retaining walls, raised pedestrian refuge island, flashing crosswalk beacon, stormwater drainage, and other associated pedestrian safety improvements. The Consultant will perform engineering, bidding assistance, construction administration and related services necessary for successful completion of this project. The basic elements of this project include obtaining the necessary permitting, development of full engineering plans, contract specifications and other related bid documents, project cost estimate, and provide construction administration for the project.

Tasks Provided by the City:

- Project management of the overall project
- Internal City communication and project coordination
- Provide existing project information and data

Anticipated Tasks to be Provided by Consultant:

- Project management of Consultant services
- Schedule, facilitate, and attend project meetings
- Collect and review existing relevant project data
- Field survey and base map
- Develop design and construction schedule
- Develop construction contract documents to construction the project
- Coordinate utility relocations, if necessary (not anticipated)
- Minor stormwater facilities

Scope of Work

1. General Statement

Consulting services for the **Columbia Boulevard Sidewalk and Safety Improvement Project** is intended to provide full engineered drawings and contract specifications for the construction of approximately 1,100 linear feet of sidewalk along one side of Columbia Boulevard between Sykes Road and Gable Road, installation of a rapid flashing beacon at the existing crosswalk on Columbia Boulevard near McBride Elementary School, add a raised pedestrian refuge island at the intersection of Columbia Boulevard and Sykes Road, in addition to other intersection pedestrian safety improvements. Detailed scope and cost of this work will be determined as part of the project deliverables. The project must be in harmony with the City of St. Helens Engineering Design Manual and Standard Drawings, City of St. Helens Development Code, and the latest version of the Oregon Standard Specifications for Construction.

2. Terms of Service

The contract term is anticipated to be for a maximum period of up to 34 months, ending November 25, 2022.

3. Scope of Work

This Scope of Work is intended to be a general outline of anticipated tasks and not an all-inclusive description of the professional and technical services that may be required to undertake and complete the Project. The Consultant will perform engineering, bidding assistance, construction administration and related services necessary for successful completion of this project. The basic elements of this project include obtaining the necessary permitting, development of full engineering plans, contract specification and other related bid documents, and provide construction administration for the project.

Task 1 – Project Management

1.1 Project Administration

Consultant shall select a Project Manager to direct, coordinate and monitor the activities of the project with respect to budget, schedule and contractual obligations. The Project Manager will work closely with City staff, other agencies as deemed appropriate, neighboring communities and other stakeholders as essential to the success of the Master Plan. This task includes coordination of meetings with staff, Council and public/stakeholder meetings and any necessary support material.

1.2 Kick-Off Meeting

Consultant shall initiate the project kickoff meeting and shall prepare an agenda for the kickoff meeting, invite necessary attendees, collect data, and discuss the schedule of the project. The meeting will be to develop project goals, vision, objectives and criteria after the contract is awarded. At this meeting, additional project stakeholders and outreach methods will be determined.

1.3 Quality Assurance and Quality Control Review

Consultant shall conduct internal Quality Assurance and Quality Control meetings and follow-up with technical experts as necessary during the course of the project.

Task 2 – Data Gathering

2.1 Collect, Compile and Evaluate Existing Data

Consultant shall perform data research to prepare for and support Project activities, and to produce Project maps and reports as called for in subsequent tasks. Records required for research must include vesting deeds, land sales contracts, county assessor plats and road records, subdivision plats, R/W drawings, railroad maps, city or county surveys, road dedications and vacations.

Existing County Records

Consultant shall research and obtain available copies of surveys, subdivision plats, and land partition plats filed in the county surveyor's office related to the properties impacted by the Project. Consultant shall use this information to find monuments that impact the Project and to establish property lines.

Consultant shall research and obtain available copies of county assessor maps, General Land Office plats, and city road records related to the properties potentially impacted by the Project. Consultant shall research and obtain available data about Government Public Lands Survey Corners and their references in the Project area.

Existing Horizontal/Vertical Control Stations

Consultant shall research and obtain available data about horizontal and vertical control points required for the Project area including triangulation stations, GPS stations, benchmarks, and prior Project control surveys from Federal, city, and other governmental agencies.

Existing Utility Records

Consultant shall research and obtain available facility maps and as-built construction plan data pertaining to all utilities in or near the Project area from Agency, One-Call Service, City, or other governmental agencies and utility companies.

2.2 Survey and Mapping

Control

The purpose of this task is to provide the means by which a Project can be located relative to horizontal and vertical datum, map projection, and coordinate systems. Consultant shall establish a horizontal and vertical control network for the Project using local benchmarks.

Horizontal Control

Consultant shall establish horizontal control according to City standards using Terrestrial (Theodolite and EDM), GPS (Static, Rapid Static and Real time Kinematics ("RTK")) or a combination of both. Consultant shall set and adjust monuments in conformance with City guidelines.

Vertical Control

Consultant shall establish Vertical Control using differential leveling methods. Consultant shall establish vertical control for horizontal control points needed for dimensional terrain mapping as described in this WOC.

Monument Recovery

The purpose of this task is to address the requirements of ORS 209.150 and 209.155, and other survey related statutes.

Field Survey of Recovered Monuments

Consultant shall survey for the following: Government corners, geodetic control stations, benchmarks, R/W monuments, property boundary markers, and roadway alignment markers. Consultant shall complete the monument recovery for the entire Project area as described in this WOC.

Consultant shall take measurements (survey) to the monuments recovered and tied (surveyed) from the control network. Consultant shall double tie the found monuments with conventional total station or GPS RTK methods. RTK methods must include tying recovered monuments the second time separated by a minimum ninety (90) minutes or by using a second base running at the same time to produce closing vector to each point.

Consultant shall locate, measure and document the location of all survey markers and monuments of record for property boundaries and R/W needed within the areas described above.

Topographic Data

Consultant shall collect existing topographic data of manmade and natural features using a variety of methods to create a base map. These methods include but are not limited to: Collecting the data using terrestrial (Theodolite and EDM), GPS ("RTK"), High Definition Scanning ("HDS"), and aerial photography.

Topographic Data Collection

Consultant shall collect topographic features, manmade or natural, which must be tied within the limits of the Project described above and which must have three-dimensional ("3d") coordinates associated with each feature. Consultant shall collect these tied features using accepted collection methods.

Basemap

Consultant shall take applicable topographic data collected in tasks above and create a basemap file. Basemap must have all features drafted in AutoCAD format.

Digital Terrain Model ("DTM")

Consultant shall create a 3D Digital Terrain Model surface using all of the topographical data collected within the areas described above.

Consultant shall collect the topographical data to create points and break lines in adequate quantity and in proper placement, to accurately represent the surface of the ground. Consultant shall create a DTM that meets City's criteria for surface triangulation. Consultant shall collect confidence points in the field and generate a confidence point report. Consultant shall generate one (1) foot minor contours and five (5) foot major contours throughout the DTM. DTM shots must not exceed a fifty (50) foot spacing to show the terrain. Consultant shall gather topographic data for this Project through techniques consistent with the construction of a DTM. Consultant shall use a combination of survey data at break lines, features, and spot locations to develop the DTM that will be for design. Consultant shall not use utility ties as part of the modeling.

Utility Features

The purpose of this task is to locate and map utilities, to provide surface evidence of above and underground features for inclusion in the topographic basemap or other mapping.

Consultant shall utilize the Oregon One Call system to locate utilities within the Project area.

Task 3 – Plans, Specifications, and Estimate

Consultant shall provide labor, equipment and materials as needed to develop plans on 11x17 paper assuming a 1" = 50' plan sheet scale, and cost estimate at each subtask submittal.

Plans and specifications shall be based on 2018 Oregon Standard Specifications for Construction and the City of St. Helens Construction Standards

3.1 Preliminary (60%) Design

Consultant shall prepare 60% design level plan sheets where the details are significant or important to describe the project footprint. Plan sheets shall include the survey base map, new sidewalk alignment and call out notes indicating work to be done.

3.2 Advance (95%) Design

Consultant shall prepare 95% design level plan sheets based on the review comments from the 60% design review and to advance the plan set from the previous submittal. Plan sheets shall include the survey base map, new sidewalk alignment and call out notes indicating work to be done.

3.3 Final (100%) Design

Consultant shall prepare 100% design level plan sheets based on the review comments from the 95% design review and to advance the plan set from the previous submittal. Plan sheets shall include the survey base map, new sidewalk alignment and call out notes indicating work to be done.

Task 4 – Community Outreach

The Consultant shall assist in preparing documentation and information for distribution to the public regarding the project and plan on facilitating one public forum.

Task 5 – Utility Coordination**5.1 Utility Relocations**

Consultant shall coordinate the efforts of the utility agencies in developing and executing a plan for relocating utilities to resolve conflicts with the project design. As part of that effort, Consultant shall complete the following:

- Preparation and transmitting of project Notification Letter(s)/Utility Conflict Notices
- Conflict notice to those utilities where a conflict is anticipated
- Review of Utility Relocation Plans and Preparation of Relocation Time Requirement Letters

Consultant shall examine all received utility relocation plans for completeness and accuracy. If relocation plans do not resolve utility conflict, Consultant shall provide comments to Utility for correction and re-submittal.

Consultant shall negotiate with each utility a utility construction work schedule that conforms to the project construction schedule.

Schedule A Engineering Services

EXHIBIT B

DAVID EVANS AND ASSOCIATES		City of St. Helens													
Fee Estimate		Columbia Boulevard Sidewalk and Safety Improvements													
Preliminary & Final Engineering Services		(See bottom right for classification descriptions)													
Task No.	Task Description	Name Classification	Tapanna PM	Imamura PJEN	G-W DENG	Weber PJEN	Wheeler PJEN	Berger DRFT	Twite SPEC	Reynolds OFFC	Total Hrs	Labor Total	Expenses	Non-Labor Sub-Consultants	Task Total
Task 1	Project Management & Coordination		20							34	54	\$6,553			\$6,553
1.1	Project Administration		12							24	36	\$4,278			\$4,278
1.2	Kick-Off Meeting		6								6	\$986			\$986
1.3	Quality Assurance and Quality Control Review		2							10	12	\$1,290			\$1,290
Task 2	Data Gathering		4								4	\$657		\$8,800	\$9,457
2.1	Collect, Compile and Evaluate Existing Data		2								2	\$329		\$1,470	\$1,799
2.2	Survey and Mapping		2								2	\$329		\$7,330	\$7,659
Task 3	Plans, Specifications, and Estimate		14	56	56		12	104	30		272	\$33,964			\$33,964
3.1	Preliminary (60%) Design		8	30	30		6	60			134	\$16,473			\$16,473
3.2	Advance (95%) Design		4	20	20		4	36	20		104	\$13,082			\$13,082
3.3	Final (100%) Design		2	6	6		2	8	10		34	\$4,408			\$4,408
Task 4	Community Outreach		12								12	\$1,972			\$1,972
4.0	Community Outreach		12								12	\$1,972			\$1,972
Task 5	Utility Coordination		2			40					42	\$5,785			\$5,785
5.1	Utility Relocations		2			40					42	\$5,785			\$5,785
TOTAL - NON-CONTINGENCY TASKS			52	56	56	40	12	104	30	34	384	\$48,930		\$8,800	\$57,730
Subcontractants															
KLS Surveying											\$8,800				\$8,800
Total Hours			52	56	56	40	12	104	30	34	384				
Billing Rate			\$164.30	\$130.20	\$108.50	\$136.40	\$155.00	\$117.80	\$139.50	\$96.10					
Labor Totals			\$8,544.	\$7,291.	\$6,076.	\$5,456.	\$1,960.	\$12,251.	\$4,185.	\$3,267.					

PIC - Principal In-Charge
 PM - Project Manager
 OENG - Ofc Eng/Planner/Environmental Spec.
 PJEN - Project Engineer/Planner/Environmental
 DENG - Design Eng/Planner/Environmental
 SCPJM - Senior Construction Project Manager
 SPEC - Specification Writer
 PSVR - Project Surveyor
 2PER - 2-Person Survey Crew
 STECH - Sr. Technician/Draftsman
 DRFT - Technician/Draftsman
 OFFC - Office Administration

**ATTACHMENT B
INSURANCE REQUIREMENTS**

Contractor and its subcontractors shall maintain insurance acceptable to the City in full force and effect throughout the term of this Contract.

It is agreed that any insurance maintained by the City shall apply in excess of, and not contribute toward, insurance provided by Contractor. The policy or policies of insurance maintained by Contractor and its subcontractors shall provide at least the following limits and coverage:

TYPE OF INSURANCE	LIMITS OF LIABILITY		REQUIRED FOR THIS CONTRACT
General Liability	Each occurrence	\$1,000,000	YES
	General Aggregate	\$2,000,000	
	Products/Comp Ops Aggregate	\$2,000,000	
	Personal and Advertising Injury	\$1,000,000 w/umbrella or \$1,500,000 w/o umbrella	
Please indicate if Claims Made or Occurrence			
Automobile Liability	Combined Single – covering any vehicle used on City business	\$2,000,000	YES
Workers' Compensation	Per Oregon State Statutes If workers compensation is not applicable please initial here _____. State the reason it is not applicable: _____		YES
Professional Liability	Per occurrence	\$500,000 or per contract	YES
	Annual Aggregate	\$500,000 or per contract	

Contractor's general liability and automobile liability insurance must be evidenced by certificates from the insurers. The policies shall name the City, its officers, agents and employees, as additional insureds and shall provide the City with a thirty (30)-day notice of cancellation.

Workers' compensation insurance must be evidenced by a certificate from the insurer. The certificate need not name the City as an additional insured, but must list the City as a certificate holder and provide a thirty (30)-day notice of cancellation to the City.

Certificates of Insurance shall be forwarded to:

City Administrator
City of St. Helens
P.O. Box 278
St. Helens, OR 97051

Contractor agrees to deposit with the City, at the time the executed Contract is returned, Certificates of Insurance and Binders of Insurance if the policy is new or has expired, sufficient to satisfy the City that the insurance provisions of this Contract have been complied with and to keep such insurance in effect and the certificates and/or binders thereof on deposit with the City during the entire term of this Contract. Such certificates and/or binders must be delivered prior to commencement of the Work.

The procuring of such required insurance shall not be construed to limit Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury or loss caused by negligence or neglect connected with this Contract.



CERTIFICATE OF LIABILITY INSURANCE

EXHIBIT B

DATE (MM/DD/YYYY)

12/1/2020

3/4/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

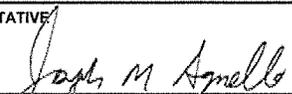
PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Zurich American Insurance Company		16535
INSURER B : Travelers Property Casualty Co of America		25674
INSURER C : Continental Casualty Company		20443
INSURER D : American Guarantee and Liab. Ins. Co.		26247
INSURER E : American Zurich Insurance Company		40142
INSURER F :		

COVERAGES DEAIN01 - MAIN CERTIFICATE NUMBER: 16621116 REVISION NUMBER: XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVP	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	N	GLO9830389	12/1/2019	12/1/2020	EACH OCCURRENCE \$ \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ \$300,000 MED EXP (Any one person) \$ \$10,000 PERSONAL & ADV INJURY \$ \$1,000,000 GENERAL AGGREGATE \$ \$2,000,000 PRODUCTS - COMP/OP AGG \$ \$2,000,000 OTHER: \$
D	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y	N	BAP9830390	12/1/2019	12/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ \$1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
B	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	N	N	ZUP-51N07076	12/1/2019	12/1/2020	EACH OCCURRENCE \$ \$1,000,000 AGGREGATE \$ \$1,000,000 OTHER: \$ XXXXXXXX
E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC 9336626	12/1/2019	12/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	PROFESSIONAL LIABILITY	N	N	AEH591924704	12/1/2019	12/1/2020	PER CLAIM \$1,000,000 ANNUAL AGGREGATE \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
THIS CERTIFICATE SUPERSEDES ALL PREVIOUSLY ISSUED CERTIFICATES FOR THIS HOLDER, APPLICABLE TO THE CARRIERS LISTED AND THE POLICY TERM(S) REFERENCED.
R-769; CITY OF ST. HELENS, COLUMBIA BOULEVARD SIDEWALK AND SAFETY IMPROVEMENTS. CITY OF ST. HELENS, ITS OFFICERS, AGENTS AND EMPLOYEES, AND OREGON DEPARTMENT OF TRANSPORTATION ARE ADDITIONAL INSURED(S) AS RESPECTS GENERAL LIABILITY AND AUTO LIABILITY, AND THESE COVERAGES ARE PRIMARY, AS REQUIRED BY WRITTEN CONTRACT. THE ADDITIONAL INSURED(S) OWN COVERAGE IS EXCESS OF AND NON-DAVID EVANS AND ASSOCIATES, INC. IF REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER 16621116 CITY OF ST. HELENS ATTN: CITY ADMINISTRATOR PO BOX 278 ST. HELENS OR 97301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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EXHIBIT C

CONCEPTUAL IGA CONSTRUCTION COST ESTIMATE

SECTION				COUNTY	
Columbia Blvd. Culvert				COLUMBIA	
DEA PROJECT #	KIND OF WORK	LENGTH	DATE	PREPARED BY	
STHN-002	Culvert Replacement			DEA, Inc.	
ITEM NUMBER	ITEM DESCRIPTION	UNIT	AMOUNT	UNIT COST	TOTAL
TEMPORARY FEATURES AND APPURTENANCES			TOTAL FOR GROUP	\$2,000	
0280-010000A	EROSION CONTROL	LS	1	\$ 2,000.00	\$ 2,000
ROADWORK			TOTAL FOR GROUP	\$14,410	
0310-010600A	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1	\$ 2,000.00	\$ 2,000
0350-010400J	RIPRAP GEOTEXTILE, TYPE 2	SQYD	170	\$ 3.00	\$ 510
0390-011400M	LOOSE RIPRAP, CLASS 700	TON	340	\$ 35.00	\$ 11,900
DRAINAGE AND SEWERS			TOTAL FOR GROUP	\$102,000	
0445-010070CF	72 INCH CULVERT PIPE, 20 FT DEPTH	FOOT	85	\$ 1,200.00	\$ 102,000
BASES			TOTAL FOR GROUP	\$2,500	
0640-010000M	AGGREGATE BASE	TON	50	\$ 50.00	\$ 2,500
WEARING SURFACES			TOTAL FOR GROUP	\$0	
0740-010000M	COMMERCIAL ASPHALT CONCRETE PAVEMENT	TON	25	\$ 250.00	\$ 6,250
RIGHT OF WAY DEVELOPMENT AND CONTROL			TOTAL FOR GROUP	\$6,400	
1040-017900E	PLANT CUTTINGS, LESS THAN 1 INCH	EACH	50	\$ 50.00	\$ 2,500
1091-010400K	STREAMBED GRAVEL	CUYD	65	\$ 60.00	\$ 3,900
SUBTOTAL, BIDDABLE ITEMS (w/o % Biddable)					\$ 133,560
SUBTOTAL, BIDDABLE ITEMS					\$ 133,560
CONTINGENCIES / CONSTRUCTION ENGINEERING			TOTAL FOR GROUP	\$98,492	
	CONSULTANT CONSTRUCTION ENGINEERING			20%	\$ 26,712.00
	AGENCY CONSTRUCTION ADMINISTRATION				\$ 5,000
	CONTINGENCIES			50%	\$ 66,780
TOTAL CONSTRUCTION COST					\$ 232,052