

# CLARK COUNTY STAFF REPORT

**DEPARTMENT:** Public Works / Clean Water Division

**DATE:** November 22, 2016

**REQUESTED ACTION:** Approve grant contract with the Lower Columbia Fish Recovery Board for Clean Water Restoration Fund grant – Downspout Disconnect Project #16-06 and authorize County Manager to approve an interlocal agreement with Clark Conservation District as sole project partner.

Consent     Hearing     County Manager

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### **PUBLIC WORKS GOALS:**

- Provide safe and efficient transportation systems in Clark County
- Create and maintain a vibrant system of parks, trails and green spaces
- Continue responsible stewardship of public funds
- Promote family-wage job creation and economic development to support a thriving community
- Maintain a healthy, desirable quality of life
- Increase partnerships and foster an engaged, informed community
- Cultivate a nimble, responsive work force
- Make Public Works a great place to work

### **BACKGROUND**

Clark County Public Works is requesting approval for a contract for the 2016 grant round of the Clean Water Restoration Fund (CWRF), as administered by the Lower Columbia Fish Recovery Board, for the Downspout Disconnect project #16-06. Funding for the grant comes from the negotiated settlement and consent decree of the Rosemere Neighborhood Association et al. versus Clark County. This is the first grant round for the funds. Clark County will enter into an Interlocal Agreement with the Clark Conservation District to disconnect downspouts at 80 homes in the Salmon Creek and Cougar Creek watersheds in the North Salmon Creek, NE Hazel Dell, Sherwood Hills and Felida neighborhoods. The project will provide technical assistance and materials reimbursement to create infiltration projects on their property to protect stormwater. The project will include marketing and outreach to the 800 eligible households in the targeted neighborhoods on the value of disconnecting downspouts to direct sewer connections (increase infiltration). Clark County will create marketing/outreach materials, technical assistance forms, mapping of eligible neighborhoods and a project web page with all necessary design guidance information. The grant is for a two-year period for \$91,500. The project will provide a total of \$9,428 of match through in-kind labor of the volunteer homeowners for installation of materials. The total project cost is \$100,928.

### **COUNCIL POLICY IMPLICATIONS**

Approve the contract with Lower Columbia Fish Recovery Board for the Downspout Disconnect project, Project Number 16-06 as described in Exhibits A1, A2, and A3 attached herein. Funding for the project is included in the Clean Water Division 2017-2018 biennial budget submittals. Funding for initial work in Q4 of 2016 will be covered in the approved 2015-2016 budget.

### **ADMINISTRATIVE POLICY IMPLICATIONS**

The project supports the underlying goals of the County's Stormwater Management Program to protect surface water and groundwater resources from polluted stormwater. The CWRF represent opportunities to address stormwater issues in places that no regulated program activity is currently

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PW16-136

able to be cost-effective. By partnering with the Clark Conservation District, we are engaging a community partner who is can provide technical assistance to work with homeowners.

**COMMUNITY OUTREACH**

Clark County will complete community outreach to the project area neighborhoods to solicit interest in participation in the downspout disconnect program. Solicitation postcards will be sent to 800 homes to direct interested parties to the project web page. Additional information about the program will be included in follow up conversations and technical site visits with homeowners. The Clean Water Division will maintain a project website to provide project information and updates.

**BUDGET IMPLICATIONS**

YES	NO	
X		Action falls within existing budget capacity for 2016.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation.
X		Budget capacity will be requested in the 2017-2018 and 2019-2020 biennial budget submittals. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

**BUDGET DETAILS**

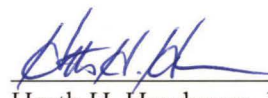
Local Fund Dollar Amount	\$9,428 local community support through volunteer hour match
Grant Fund Dollar Amount	\$91,500
Account	4420 Clean Water Fund
Company Name	Grant contract with Lower Columbia Fish Recovery Board

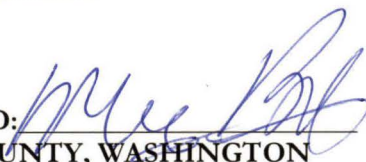
**DISTRIBUTION:**

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

Attachments: Contract, Scope of Work (3 originals)

  
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 Dean Boening  
 Clean Water Division

  
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 Heath H. Henderson, PE  
 Public Works Director/County Engineer

APPROVED:   
 CLARK COUNTY, WASHINGTON  
 BOARD OF COUNTY COUNCILORS  
 DATE: NOV. 22, 2016  
 SR# SR 237-16



## BUDGET IMPACT ATTACHMENT

### Part I: Narrative Explanation

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

Authorize Clark County Public Works Department to contract with the Lower Columbia Fish Recovery Board for the full grant amount of \$91,500. Clark County will enter into an Interlocal Agreement to implement the technical assistance component of the project. The total project cost is \$100,928 for both the grant (\$91,500) and the match (\$9,428). The first biennium will use \$13,500 and the second biennium will use \$87,428 for a total of \$100,928.

### Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
4420 / Clean Water Fund		\$13,500		\$87,428		
<b>Total</b>		\$13,500		\$87,428		

II. A – Describe the type of revenue (grant, fees, etc.)

Clark County Clean Water Restoration Fund grant #16-06 as administered by the Lower Columbia Fish Recovery Board.

### Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
4420 / Clean Water Fund			\$13,500		\$87,428		
<b>Total</b>			\$13,500		\$87,428		

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits		\$10,000		\$47,428		
Contractual		\$3,000		\$15,500		
Supplies		\$500		\$500		
Travel						
Other controllables						
Capital Outlays				\$24,000		
Inter-fund Transfers						
Debt Service						
<b>Total</b>		\$13,500		\$87,428		

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**LOWER COLUMBIA FISH RECOVERY BOARD  
PROJECT AGREEMENT**

PW 16-35

**Project Name:** Downspout Disconnection Project  
**Project Sponsor:** Clark County

**Project Number:** 16-06  
**Tax ID:** 91-6001299  
**Vendor #:** 1834

**I. PARTIES TO THIS AGREEMENT**

This Project Agreement (Agreement) is entered into between the Lower Columbia Fish Recovery Board (LCFRB), 2127 8<sup>TH</sup> Avenue, Longview Washington, 98632 and Clark County (Sponsor) 1300 Franklin Street, Vancouver, WA 98660 and collectively referred to as the "parties".

**II. PURPOSE OF THE AGREEMENT**

This Agreement sets out the terms and conditions by which a grant is made from the Clark County Clean Water Restoration Fund, a dedicated general fund account. The grant is administered by the LCFRB to the Sponsor for the project named above per the director's authority granted in RCW 77.85.200.

**III. PERIOD OF PERFORMANCE**

The period of performance begins on October 1, 2016 (project start date) and ends on October 31, 2018 (project end date). No allowable costs incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment to this Agreement.

The Sponsor must request an extension of the period of performance at least 60 days before the project end date.

**IV. PROJECT FUNDING**

The total grant award provided by the LCFRB for this project shall not exceed \$150,000. The LCFRB shall not pay any amount beyond that approved for grant funding unless an additional amount has been approved in advance by the LCFRB administration and incorporated by written amendment into this Agreement. The Sponsor shall be responsible for all total project costs that exceed this amount. The matching share provided by the Sponsor shall be indicated below:

	Percent	Dollar Amount
<b>Clark County Clean Water Restoration Fund – Local</b>	<b>91%</b>	<b>\$91,500</b>
<b>Sponsor Match</b>	<b>9%</b>	<b>\$9,428</b>
<b>Total</b>	<b>100%</b>	<b>\$100,928</b>

The Sponsor agrees that funds received from the LCFRB can be expended for only public purposes and the Sponsor will keep identifiable financial and performance books and records of all funds received pursuant to this Agreement from the LCFRB detailing the receipts and expenditures of such funds; that these detailed accounting records shall be made available at all reasonable times to any county, state, or federal auditor, whose duties include auditing these funds.

## **V. REIMBURSEMENT OF COSTS**

Invoices may be submitted monthly or quarterly by the fifteenth (15<sup>th</sup>) day of the month to the LCFRB for work completed. All invoices must be itemized to reflect the following:

- Tasks performed;
- Employee, secondary sponsor employee or subcontractor assigned to task performed;
- Employee, secondary sponsor employee or subcontractor rate of pay; and
- Date and duration of work performed.

Mileage and other travel-related costs such as lodging, meals and parking shall be documented on reimbursement forms and include copies of receipts for all expenses.

An administrative fee for secondary sponsors and subcontractor services shall not be added to the cost of invoices.

If agreed to in advance, and, in writing by the LCFRB, the Sponsor may invoice the LCFRB for additional charges incurred in the event of an unanticipated increase in project-related taxes, fees or similar levies; or if project-related services, facilities or equipment must be modified to comply with new laws or regulations or changes to existing laws or regulations that become effective after execution of this Agreement.

## **VI. RETAINAGE HELD UNTIL PROJECT COMPLETE**

The LCFRB reserves the right to withhold disbursement of up to ten percent (10%) of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:

- All approved or required activities outlined in the Agreement are done;
- A final project report is submitted and accepted by the LCFRB;
- Any other required documents are complete and submitted to the LCFRB;
- A final reimbursement request is submitted and accepted by the LCFRB;
- The completed project has been accepted by the LCFRB; and
- Fiscal transactions are complete.

## **VII. ADVANCE PAYMENTS**

There shall be no advance payments made to the Sponsor. Compensation shall be provided on a cost reimbursement basis.

## **VIII. PROGRESS REPORTING**

The Sponsor will provide written quarterly progress reports. The report will summarize activities completed during the quarter, the current status of all tasks and percent complete, and the task budget and percent spent to date. The report shall identify problems encountered, their impacts to the schedule and budget and corrective actions taken or planned. The LCFRB will provide a progress report template to be completed and emailed to the LCFRB administration.

Reimbursement payments will be delayed if progress reporting is not current.

## **IX. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS**

All rights and obligations of the parties under this Agreement shall be interpreted in light of the information provided in the Sponsor's application and the project summary under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities and tasks report incorporated herein by reference. Provided, to the extent that

information contained in such documents is inconsistent with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definition of the Standard Terms and Conditions.

**X. AMENDMENTS MUST BE IN SIGNED WRITING**

Except as provided herein, no amendment/deletions of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by both parties. Except, extensions of the period of performance and minor scope adjustments need only be signed by LCFRB administration, unless the consent of the Sponsor to an extension is required by its auditing policies, regulations, or legal requirements, in which case, no extension shall be effective until so consented.

Time extensions are up to the discretion of the LCFRB.

**XI. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND LCFRB POLICIES**

This Agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, LCFRB published policies as of the effective date of this agreement, all of which are incorporated herein by this reference as if fully set forth.

**XII. SPECIAL CONDITIONS**

1. Clark Conservation District is named as secondary sponsor for work performed under this contract.  
District staff will:
  - Provide technical assistance to reach an additional 40 landowners beyond the 40 visits to be provided by the County; and
  - Administer and report on the reimbursement of funds to participating homeowners.
2. Clark County is responsible for coordinating their work and reporting services to the LCFRB.
3. To receive reimbursement for each homeowner participating in the downspout disconnection process, Clark County will provide documentation of the work completed, date and duration of the activity and a copy of the reimbursement voucher dispersed by Clark Conservation District.

**XIII. AGREEMENT CONTACTS**

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Project Contact Dean Boening Clean Water Manager 1300 Franklin Street Vancouver WA 98660 Dean.Boening@clark.wa.gov	LCFRB Melody Tereski Program Manager 2127 8 <sup>th</sup> Ave Longview WA 98632 mtereski@lcfrib.gen.wa.us
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These addresses shall be effective until receipt by one party from the other of a written notice of any change.

**XIV. ENTIRE AGREEMENT**

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

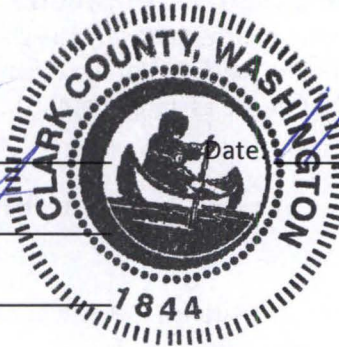
**XV. EFFECTIVE DATE**

This Agreement shall be subject to the written approval of the LCFRB's authorized representative and shall not be effective and binding until the date signed by both the Sponsor and the LCFRB, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in *Section III. Period of Performance* are allowed only when this Agreement is fully executed and an original is received by the LCFRB.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Clark County

By: Maie Boldt Date: 1-22-16  
Name: Maie Boldt  
Title: Chair



**Lower Columbia Fish Recovery Board**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Steve Manlow  
Executive Director

Approved as to form only: ANTHONY F. GOLIK, CLARK COUNTY  
PROSECUTING ATTORNEY  
By: Christine M. Cook  
Deputy Prosecuting Attorney

## GENERAL TERMS AND CONDITIONS TO THE PROJECT AGREEMENT

### 1. Performance by the Sponsor

The Sponsor and secondary sponsor where applicable, shall undertake the project as described in this Agreement, the Sponsor's application, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the LCFRB. All submitted documents are incorporated by this reference as if fully set forth herein.

### 2. Assignment

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the LCFRB.

### 3. Responsibility for Project

While the LCFRB undertakes to assist the Sponsor with the project by providing a grant pursuant to this agreement, the project itself remains the sole responsibility of the Sponsor. The LCFRB undertakes no responsibilities to the Sponsor, a secondary sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is sponsored by more than one entity, any and all sponsors are equally responsible for the project and all post-completing stewardship responsibilities.

### 4. Independent Capacity of the Sponsor

The Sponsor is an independent contractor under this Agreement. This Agreement gives no rights or benefits to anyone not named as a party to this Agreement, and there are no third party beneficiaries to this Agreement.

The parties intend that the Sponsor be an independent contractor, responsible for its own employer/employee benefits such as Workmen's Compensation, Social Security, Unemployment, and health and welfare insurance. The parties agree that the Sponsor personal labor is not the essence of this Agreement; that the Sponsor will own and supply its own equipment necessary to perform this Agreement; that the Sponsor will employ its own employees; and, that except as to defining the work and setting the parameters of the work, the Sponsor shall be free from control or direction of the LCFRB over the performance of such services.

The Sponsor represents that it is capable of providing the services identified in the scope of work.

### 5. Equal Opportunity Employment.

The Sponsor shall not discriminate on the basis of race, color religion, sex, national origin, age, disability, marital or veteran status, political affiliation, or any other legally protected status in employment or the provision of services.

The Sponsor shall take affirmative action to ensure that employees are employed and treated during employment without discrimination because of their race, color, religion, sex, national origin, creed, marital status, age, Vietnam Era veteran status, disabled veteran status or disability. Such action shall include but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or selection for training, including apprenticeships and volunteers.



The Sponsor shall not, on the grounds of race, color, sex, religion, national origin, creed, age or disability:

- (1) Deny an individual any services or other benefits provided under this Agreement.
- (2) Provide any service(s) or other benefits to an individual which are different, or are provided in a different manner from those provided to others under this Agreement.
- (3) Subject an individual to unlawful segregation, separate treatment, or discriminatory treatment in any manner related to the receipt of any service(s), and/or the use of the Sponsor's facilities, or other benefits provided under this Agreement.
- (4) Deny any individual an opportunity to participate in any program provided by this Agreement through the provision of services or otherwise, or afford an opportunity to do so which is different from that afforded others under this Agreement. The Sponsor, in determining (a) the types of services or other benefits to be provided or (b) the class of individuals to whom, or the situation in which, such services or other benefits will be provided or (c) the class of individuals to be afforded an opportunity to participate in any services or other benefits, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, sex, religion, national origin, creed, age, or disability.

The Sponsor agrees to utilize minority-owned and women-owned businesses to the maximum extent possible in the servicing of this Agreement.

6. **Noncompliance with Nondiscrimination Plan.** In the event of the Sponsor's noncompliance or refusal to comply with the above nondiscrimination plan, this Agreement may be rescinded, canceled or terminated in whole or in part, and the Sponsor may be declared ineligible for further Agreements with the LCFRB. The LCFRB shall, however, give the Sponsor reasonable time to cure this noncompliance. Any dispute may be resolved with the "disputes" procedure set forth herein.
7. **Wage and Hour Compliance.** The Sponsor shall comply with all applicable federal and state provisions concerning wages and conditions of employment, fringe benefits, overtime etc., as now exists or is hereafter enacted during the term of this Agreement, and shall save the LCFRB harmless from all actions, claims, demands, and expenses arising out of the Sponsor's failure to so comply.
8. **Subcontracts.** The Sponsor may use the services of a sub-contractors to perform a portion of its obligations under this Agreement however there shall be no markup on charges presented for these services. Sub-contractors are obligated to comply with the invoicing and reimbursement policies set forth in this Agreement.
9. **Insurance.**
  - a. **Insurance of the Sponsor.** The Sponsor will maintain throughout the performance of this Agreement the following types and amounts of insurance:
    - i. Worker's Compensation and Employer's Liability Insurance as required by applicable state or federal law.

- ii. Comprehensive Vehicle Liability Insurance covering personal injury and property damage claims arising from the use of motor vehicles with combined single limits of one million dollars and zero cents (\$1,000,000).
- iii. Commercial General Liability Insurance covering claims for personal injury and property damage with combined single limits of one million dollars and zero cents (\$1,000,000).
- iv. Professional Liability (Errors and Omissions, on a claims-made basis) Insurance with limits of one million dollars and zero cents (\$1,000,000).
- v. The Sponsor agrees to provide the LCFRB with evidence of liability insurance naming the LCFRB as an additionally insured party with respect to ii and iii above.

b. **Interpretation.** Notwithstanding any other provision(s) in this Agreement, nothing shall be construed or enforced so as to void, negate or adversely affect any otherwise applicable insurance held by any party to this Agreement.

**10. Mutual Indemnification.** The Sponsor agrees to indemnify and hold harmless LCFRB and its employees from and against any and all loss, cost, damage, or expense of any kind and nature (including, without limitation, court costs, expenses, and reasonable attorneys' fees) arising out of injury to persons or damage to property (including, without limitation, property of LCFRB, the Sponsor, and their respective employees, agents, licensees, and representatives) in any manner caused by the negligent acts or omissions of the Sponsor in the performance of its work pursuant to or in connection with this Agreement to the extent of the Sponsor's proportionate negligence, if any.

As part of this indemnity Agreement, the Sponsor specifically agrees to assume potential liability for personal injury claims by its own employees that may arise during LCFRB's performance under this Agreement, and the Sponsor hereby waives its immunity from such claims under RCW Title 51.

LCFRB agrees to indemnify and hold harmless the Sponsor and its employees from and against any and all loss, cost, damage, or expense of any kind and nature (including without limitation, court costs, expenses and reasonable attorneys' fees) arising out of injury to person(s) or damage to property (including, without limitation, property of LCFRB, the Sponsor, and their respective employees, agents, licensees and representatives) in any manner caused by the negligent acts or omissions of LCFRB or other(s) with whom LCFRB contracts ("LCFRB's agents") to perform work pursuant to or in connection with this Agreement, to the extent of LCFRB's or LCFRB's agents proportionate negligence, if any.

As part of this indemnity Agreement, LCFRB specifically agrees to assume potential liability for personal injury claims by its own employees that may arise during the Sponsor's performance under this Agreement, and LCFRB hereby waives its immunity from such claims under RCW Title 51.

**11. Interpretation.** Releases from, indemnifications against, limitations on, and assumptions of liability and limitations on remedies expressed in this Agreement shall apply even in the event of breach of Agreement or warranty, fault, or tort including negligence, strict liability, statutory or any other cause of action (except for willful or reckless disregard of obligations) of the party released or indemnified, or whose liability is limited or assumed, or against whom remedies are limited. Party, as used herein, includes the named parties, their officers, employees, agents, subcontractors, and affiliates.

**12. Limitation of Liability.** Notwithstanding any other provision in this Agreement to the contrary, the Sponsor's liability hereunder shall be limited as follows: (a) for insured liabilities arising out of the

Sponsor's negligence, to the amount of insurance coverage specified in Article 8 above; (b) for uninsured liabilities, to fifty percent (50%) of the fee earned by the Sponsor under this Agreement. In no event shall the Sponsor's liability exceed the aforementioned limits of liability.

Each party's liability for damages provided under this Agreement shall be limited to liability for direct damages and shall in no event include liability for the other party's or their respective agents or employees remote, punitive, consequential or indirect damages for lost profits, loss of use, lost opportunity, financing, interest expense, business interruption or productivity or production loss, regardless of the breach of Agreement, breach of warranty, tort (including negligence), strict liability, or otherwise.

**13. Data, Documents and Records.** The Sponsor shall be entitled to rely upon the accuracy and completeness of all data furnished by LCFRB to the Sponsor that is used by the Sponsor in providing services under this Agreement. All data, documents and records provided by the LCFRB shall be used and maintained solely for this project and shall be returned to the LCFRB at the completion of the Agreement. Data, documents and records provided by the LCFRB shall not be sold, transferred or used for any purpose other than completion of this project. The Sponsor shall have the right to retain one copy of such data for its permanent project records.

**14. Ownership and Use of Documents and Electronic Media Deliverables.** All completed reports and other data or documents provided or prepared by the Sponsor in accordance with this Agreement are the property of LCFRB, and may be used by LCFRB. Ownership shall transfer to LCFRB only if the Sponsor has been paid in full for services under the terms of this Agreement. Third party use of reports, data, or other deliverables prepared in accordance with this Agreement without the consent of the Sponsor is at the risk of the third party. LCFRB shall release, defend, indemnify and hold harmless the Sponsor from all claims, costs, expenses, damage, or liability arising out of or resulting from the use or modification of any reports, data, documents, drawings, specifications, or other work product prepared by the Sponsor except use by LCFRB on those portions of the project for which such items were prepared.

All data, reports, equipment and other materials purchased by the Sponsor in direct support of this project are the property of LCFRB and shall be transferred to the LCFRB.

Any post-delivery changes to the Sponsor electronic media or Geographic Information System ("GIS") deliverables by anyone other than the Sponsor shall be the responsibility of the LCFRB. LCFRB agrees to remove the title blocks off of the Sponsor's GIS files if LCFRB alters such files and further agrees to defend, indemnify and hold the Sponsor harmless from all claims, costs, expenses, damages or liabilities arising out of or resulting from use of any GIS deliverables that have been altered by LCFRB or anyone else to whom LCFRB may have provided such GIS deliverables. The Sponsor's record set of GIS files shall prevail in determining whether any alternations have been made to such files.

Because data stored on electronic media can deteriorate undetected or can be modified without the Sponsor's knowledge, LCFRB agrees that the Sponsor will not be held liable for the completeness, correctness, readability, or compatibility of the electronic media after an acceptance period of thirty (30) days after delivery of the electronic files. During the thirty (30) days acceptance period, LCFRB may review and examine the electronic files; any errors detected during this time will be corrected by the Sponsor as part of the basic Agreement. Any changes requested after the acceptance period will

be considered additional services to be performed on a time and materials basis, at the Sponsor's standard cost plus terms and conditions.

**15. Resolution of Disputes.** The law of the State of Washington shall govern the interpretation of and the resolution of disputes under this Agreement. Venue for any action pursuant to this Agreement either interpreting the Agreement or enforcing a provision of the Agreement, or attempting to rescind or alter the Agreement shall be brought in Cowlitz County.

**16. Termination for Cause:** If the Sponsor fails to fulfill in a timely manner any of the covenants of this Agreement, the LCFRB shall have the right to terminate this Agreement by giving the Sponsor seven (7) days notice, in writing, of the LCFRB's intent to terminate and the reasons for said termination.

Upon termination for whatever reason, all finished and unfinished documents, data, studies, drawings, service maps, models, photographs and other work product resulting from this Agreement shall, at the option of the LCFRB, become the LCFRB's property. The Sponsor shall be entitled to payment for work completed and this Agreement shall terminate.

In the event the Sponsor is determined to be in default of this Agreement the LCFRB shall be entitled to damages, computed by subtracting from the cost to the LCFRB in completing any unfurnished work, the unpaid balance of the agreed upon Agreement price, and the LCFRB may withhold any payments owed to the Sponsor for the purposes of set off until such time as the exact amount of damages can be computed.

**17. Termination for Convenience:** Either party may terminate this Agreement for convenience upon fourteen (14) days written notice to the other.

Notwithstanding the term of this Agreement either party may terminate this Agreement without cause by giving the other party thirty (30) days written notice of said termination.

**18. Non-Appropriations.** If all or any part of the services to be performed hereunder are to be funded by revenues granted to the LCFRB from federal or state agencies and, in the event said grant monies should for any reason not be received by the LCFRB or should be terminated by the granting agency, then this Agreement shall terminate without damages to either party. PROVIDED THAT the Sponsor shall be entitled to be paid for the work performed satisfactorily completed and accepted by the LCFRB to date to the extent the LCFRB is entitled to receive reimbursement for any such payment; and, in that regard, the Sponsor agrees that it understands the LCFRB's source of funding for this project and assumes the risk involved in undertaking a project on a reimbursable basis.

**19. Integration, Modification and Severability.** This Agreement, including all amendments, shall be binding upon the parties and their respective successors and assigns. This is the entire Agreement between the parties, there are no other agreements or representations not set forth herein, and this Agreement incorporates and supersedes all prior negotiations, agreements, and representations. This Agreement may not be modified except in writing signed by an authorized representative of each party.

These terms and conditions survive the completion of the services under this Agreement and the termination of this Agreement, whether for cause or for convenience.

If any provision of this Agreement is ever held to be unenforceable, all remaining provisions will continue in full force and effect. The Sponsor and the LCFRB agree that they will attempt in good faith to replace any unenforceable provision with one that is valid and enforceable, and which conforms as closely as possible with the original intent of any unenforceable provision.

**20. Incorporated Documents.** The following exhibits and attachments are incorporated in this Agreement as if fully set forth herein:

**ATTACHMENT A:** Scope of Work including budget and deliverables, and as may be amended;

**ATTACHMENT B:** Sample Progress Report form.

**21. Headings, Assignment and Waiver.** The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof. Neither party to this Agreement shall assign its duties and obligations hereunder without the prior written consent of the other party. A waiver by any party of any provision or a breach of this Agreement must be provided in writing and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.

**LOWER COLUMBIA FISH RECOVERY BOARD  
DOWNSPOUT DISCONNECTION  
SCOPE OF WORK**

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The Downspout Disconnect Project will provide financial incentives and technical assistance to homeowners to disconnect existing roof downspouts from the county's Municipal Separate Storm Sewer System (MS4). The project will focus on two subwatersheds: Cougar Creek and Salmon Creek at river mile 03.83. Cougar Creek is a major tributary to lower Salmon Creek, while the Salmon Creek at river mile 03.83 subwatershed encompasses Suds Creek, Tenny Creek, Lalonde Creek, and several other smaller tributaries. Cougar Creek and the streams within the Salmon Creek at river mile 03.83 subwatershed are among the most heavily developed areas in Clark County. The project subwatersheds have impervious surfaces covering approximately 50 percent of their area, while only about 10 percent remains forested. Stream channels show obvious evidence of erosion from increased stormwater volumes, and many streams have degraded water quality. The county's most recent comprehensive Stream Health Report (2010) found poor water quality, depressed biological health, and severe flow impacts in Cougar Creek. This work is contingent upon identifying sufficient homeowners willing to participating in the project. If necessary Clark County will expand the target area to include Lakeshore subwatershed near Vancouver Lake or Lake River neighborhoods.

- Outcome: Reduction in the volume of stormwater entering streams where downspouts are piped directly to the curb.
- Outcome: Reduction in stream bank erosion and water turbidity by reducing stormwater run-off volume into streams.
- Outcome: Improvement in water quality in areas subject to the Salmon Creek bacteria Water Cleanup Plan by reducing untreated stormwater run-off.
- Outcome: Increase in summer base flows by increasing local water infiltration.
- Outcome: Improvement in community awareness and understanding of stormwater impacts by partnering with homeowners. Promote citizen stewardship.

## **TASKS**

The Downspout Disconnect Project is a two-year, pilot-scale effort to develop and implement a disconnection program in Clark County. Project elements include planning, outreach, technical assistance, confirmation, and reimbursement.

### **Task 1 Planning**

Clark County will determine priority drainage areas within the Cougar Creek and Salmon Creek at river mile 03.83 subwatersheds, then identify subdivisions with connected downspouts within those priority drainages. Clark County will begin with GIS analysis of existing Clark County datasets to select candidate drainage areas within the target subwatersheds. Subdivisions with connected downspouts will be identified through GIS and field verification. Candidate subdivisions will be evaluated for feasibility of successful disconnection based on soil type, lot size, and infiltration potential.

- 1.1. Identify candidate drainage areas within Cougar Creek and Salmon Creek subwatersheds. Using the county's existing L7StmCatchments GIS layer, select drainage catchments lacking flow control facilities, water quality treatment facilities, or both. Priority will be given to catchments lacking both, followed by those lacking flow control or water quality treatment, in that order.
- 1.2. Identify candidate subdivisions within the priority catchments. Using the county's existing subdivision GIS layer, select subdivisions constructed prior to 2000. Development prior to 2000 was more likely to include roof drains connected to the MS4 through direct piping or weep holes at the curb.
- 1.3. Field verify candidate subdivisions. Staff will visit each candidate subdivision to confirm the presence of connected downspouts; in some cases this may be accomplished through street-view reconnaissance using Google Maps or other suitable applications.
- 1.4. Evaluate subdivisions for feasibility of disconnection. Using the county's existing soils and tax lot GIS layers, along with infiltration potential maps from the Public Works design section, rank subdivisions as feasible or infeasible. Soil types in the county's SG1, SG2, and SG3 categories, and with sufficient depth to groundwater (10 feet or greater) are likely suitable for downspout disconnection. Larger lot sizes allow for more area to disperse and infiltrate water without infringing on neighboring properties. At minimum, candidate lots must have sufficient space to comply with program guidelines from Portland and Gresham.
- 1.5. Generate mailing list for all tax lots within areas where disconnection appears feasible.

## **Task 2 Outreach**

Homeowners in priority subdivisions will be contacted initially via mailer inviting participation in the project. Information will be patterned after existing disconnection programs in Portland and Gresham, OR, and will include steps to disconnecting, materials lists, safety considerations, and contact information for technical assistance. A map of eligible areas will be provided on the county's website, along with electronic versions of program materials. Outreach will include existing resources such as neighborhood association connections (newsletters and meetings), social media, temporary yard signs, and programs such as Green Neighbors.

- 2.1. Develop project outreach plan and supporting documents based on materials from similar projects in Portland and Gresham, OR. Documents will include design guidelines, safety considerations, material lists, potential suppliers, etc.
- 2.2. Develop technical assistance forms to be used on site while meeting with homeowners to document site specific conditions and considerations.
- 2.3. Develop project application form.
- 2.4. Develop marketing brochure promoting the project.
- 2.5. Create page on the county Clean Water website containing map of the project area, application materials, and supporting documents.
- 2.6. Contact up to 800 homeowners in candidate subdivisions via mailer, inviting participation in the project.
- 2.7. Participating homeowners will be determined during project planning and marketing.
- 2.8. Participating homeowners will sign an agreement to maintain the disconnection of downspouts for a period of ten years.

## **Task 3 Technical Assistance**

Technical assistance will be provided to participating homeowners, on request, to assess site conditions, design options and safety considerations. Clark County staff will provide technical assistance for up to

40 homeowners. Clark Conservation District will partner on this project to provide technical assistance. They will conduct site visits for up to an additional 40 homeowners. Regardless of whether technical assistance is provided, Clark County staff will conduct a site visit to confirm disconnection has been properly completed before authorizing reimbursement.

- 3.1. Confirm participation by individual homeowners in the project and complete homeowner agreement forms.
- 3.2. Provide up to 4 hours of on-site evaluation and technical assistance for up to 80 homeowners. Clark County staff and Clark Conservation District staff will provide technical assistance for up to 40 homeowners each. Technical assistance may include site assessment (e.g. safety, feasibility, etc.), measurements, design options, and advice on obtaining materials.

#### **Task 4 Reimbursement Program**

For each confirmed disconnected downspout, Clark County will reimburse the homeowner \$60, up to \$240 per home. Reimbursements will be administered by Clark Conservation District.

- 4.1. County staff will visit each participating property to confirm correct and functional disconnection.
- 4.2. County confirmation is required prior to issuing homeowner reimbursement.
- 4.3. Upon confirmation of disconnection, Clark Conservation District will issue payment of \$60 per eligible downspout to participating homeowners.
- 4.4. Clark Conservation District will provide detailed expense reports identify each homeowner receiving payment and the date and amount of the payment.

#### **Task 5 Project Reporting**

- 5.1. Document project tasks, including completion of outreach plan, outreach activities, technical visits, follow up visits (including homeowner assessment) and reimbursements.
- 5.2. Develop project analysis and recommendations for future phases.

#### **DELIVERABLES AND WORK PRODUCTS**

Final Project Report incorporate information for Tasks 1 through 4 including a written explanation of the work performed, materials developed, technical assistance provided and site visit inspections. For future project implementation, please discuss how you might improve the program – what worked, what didn't, next steps. Please include a discussion on any unforeseen constraints, challenges and safety issues faced and suggested solutions for the future. The report will also provide copies of:

- Map of targeted subdivisions;
- Mailing list identify homeowners and addresses;
- Project outreach plan;
- Web address and home page .jpg of the Downspout Disconnection Web page;
- Number of homeowners receiving technical assistance and a brief description of the consultation;
- Photos of representative pre- and post-site visits conducted;
- List of homeowners completing agreement forms;
- One copy of the program guide and supporting materials;



- A sample of the Year 1 and Year 2 marketing mailers;
- List of homeowners participating in site assessment;
- List of homeowners participating in post-project site visits; and
- List of homeowners reimbursement (see contract special conditions for reimbursement process)

**Due Date: October 31, 2018**

<b>Task</b>	<b>Time Period</b>
Project begins	Oct 2016
<b>Year 1</b>	
Complete Yr1 program development and outreach plan	Oct 2016-Mar 2017
Identify target homeowner	Apr-Aug 2017
Develop program guide, forms and agreement docs.	Jan-Apr 2017
Conduct site visits and technical assistances	Apr-Jun 2017
Secure homeowner agreements	Apr-Jun 2017
Conduct post disconnection site visit	Aug-Sep 2017
Reimburse homeowners	Sep 2017
<b>Year 2</b>	
Complete Yr1 program development and outreach plan	Oct 2017-Mar 2018
Identify target homeowner	Apr-Aug 2018
Develop program guide, forms and agreement docs.	Jan-Apr 2018
Conduct site visits and technical assistances	Apr-Jun 2018
Secure homeowner agreements	Apr-Jun 2018
Conduct post disconnection site visit	Aug-Sep 2018
Reimburse homeowners	Sep 2018
Final Project Report and closeout	October 2018

**COST SCHEDULE**

	<b>Total</b>	<b>Grant</b>	<b>Match</b>
Clark County Labor (Sal/Ben)	\$ 48,000	\$ 48,000	\$ 0
Contract Labor (Sal/Ben)	18,500	18,500	0
Goods and Services	25,000	25,000	0
Travel	0	0	0
Donated Labor and in-kind support	9,428	0	9,428
<b>Total</b>	<b>\$100,928</b>	<b>\$ 91,500</b>	<b>\$9,428</b>

**Lower Columbia Fish Recovery Board  
Quarterly Progress Report**

Please provide monthly progress reports for all tasks. The report will summarize activities completed during the month, the current status of all tasks and percent complete, and the task budget and percent spent to date. The report shall identify problems encountered, their impacts to the schedule and budget and corrective actions taken or planned. Progress reports should accompany all reimbursement requests.

Sponsor Name Clark County Environmental Services

Project Title Downspout Disconnection Project

Please check quarter you are reporting

Oct-Dec 2016	<input type="checkbox"/>	Jan-Mar 2017	<input type="checkbox"/>	Jan-Mar 2018	<input type="checkbox"/>
		Apr-Jun 2017	<input type="checkbox"/>	Apr-Jun 2018	<input type="checkbox"/>
		Jul-Sep 2017	<input type="checkbox"/>	Jul-Sep 2018	<input type="checkbox"/>
		Oct-Dec 2017	<input type="checkbox"/>	Oct-Dec 2018	<input type="checkbox"/>

1. Description of work performed during the reporting period

*Proceed to next page*

2. Overall percentage of work completed by task:

Task	% Complete	Is the task on schedule? (Yes/No) If No, complete #3 below
Year 1		
Complete Yr1 program development and outreach plan		
Identify target homeowner		
Develop program guide, forms and agreement docs.		
Conduct site visits and technical assistances		
Secure homeowner agreements		
Conduct post disconnection site visit		
Reimburse homeowners		
Year 2		
Complete Yr1 program development and outreach plan		
Identify target homeowner		
Develop program guide, forms and agreement docs.		
Conduct site visits and technical assistances		
Secure homeowner agreements		
Conduct post disconnection site visit		
Reimburse homeowners		

3. For those tasks not on schedule please provide an explanation and how you expect to address the constraints and uncertainties.