

WASCO COUNTY BOARD OF COMMISSIONERS
SPECIAL SESSION / AGENDA MONDAY MARCH 21, 2011
LOCATION: Wasco County Courthouse, Deschutes Meeting Room
511 Washington Street, The Dalles, Oregon

NOTE: This Agenda is subject to last minute changes.

9:00 a.m. **CALL TO ORDER**

Executive Session as authorized by ORS 192.660(2)(a) for the purpose of considering the employment of a public officer, employee, staff member or individual agent.

Return to Special Session

Discussion and Deliberation on the appointment of the Wasco County Planning & Development Director.

Consideration and Approval of the 2009/2010 Fund Exchange Agreement with the Oregon Department of Transportation.

Consideration of the Fee Waiver Request from Columbia Land Trust.

NEW/OLD BUSINESS

ADJOURN

Meetings are ADA accessible. If special accommodations are needed please contact the Board of Commissioners Office in advance at (541) 506-2520. TDD 1-800-735-2900. Wasco County does not discriminate against individuals with disabilities.

2009/2010 FUND EXCHANGE AGREEMENT
Pavement Restoration and Equipment Purchase
Wasco County

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and Wasco County, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Agency has submitted a completed and signed Part 1 of the Project Prospectus, or a similar document agreed to by State, outlining the schedule and costs associated with all phases of the pavement restoration on Fifteenmile Road, Kelly Cut-off and Wrentham Market Road; purchase of 2 water trucks, and a hydralulic hammer, hereinafter referred to as "Project."
2. State has reviewed Agency's prospectus and considered Agency's request for the Fund Exchange. State has determined that Agency's Project is eligible for the exchange of funds.
3. To assist in funding the Project, Agency has requested State to exchange federal funds in the following manner:

Fiscal Year	Federal Funds	Exchange Rate	State Funds
2010	\$209,614	94%	\$197,037

2009	\$10,280	94%	\$9,663
20	\$	94%	\$
20	\$	94%	\$
Total	\$219,894		\$206,700

4. Agency shall exchange a total of \$219,894 federal funds for state funds at the ratios defined in the above table. State shall reimburse Agency up to the total of \$206,700 state funds for eligible costs incurred.
5. The term of this Agreement will begin upon execution and will terminate 2 years from the date all required signatures are obtained unless extended by an executed amendment.
6. The Parties agree that the exchange is subject to the following conditions:
 - a. The federal funds transferred to State may be used by State at its discretion.
 - b. State funds transferred to Agency must be used for the Project. This Fund Exchange will provide funding for specific roadway projects and may also be used for the following maintenance purposes:
 - i. Purchase or Production of Aggregate. Agency shall ensure the purchase or production of aggregate will be highway related and used exclusively for highway work.
 - ii. Purchase of Equipment. Agency shall clearly describe how it plans to use said equipment on highways. Agency shall demonstrate that the equipment will only be used for highway purposes.
 - c. State funds may be used for all phases of the Project, including preliminary engineering, right of way, utility relocations and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible to account for expenditure of state funds.
 - d. This Fund Exchange shall be on a reimbursement basis, with state funds limited to a maximum amount of \$206,700. All costs incurred in excess of the Fund Exchange amount will be the sole responsibility of Agency.

- e. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
- f. Agency, and any contractors, shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
- g. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency 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.
- h. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; purchase all necessary right of way in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.
- i. Agency shall submit invoices to State on a quarterly basis, for actual costs incurred by Agency on behalf of the Project directly to State's Project Manager for review and approval. Such invoices will be in a form identifying the Project, the agreement number, the invoice number or account number or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$206,700, including all expenses. Travel expenses will not be reimbursed.
- j. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and service demand.
- k. All employers, including Agency, that employ subject workers 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. Agency shall ensure that each of its subcontractors complies with these requirements.

- I. This Agreement may be terminated by either party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
 - i. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - A. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - B. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - ii. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by the terminating Party, under any of the following conditions:
 - A. If either Party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow either Party, in the exercise of their reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - B. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.
 - iii. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
- m. State and Agency agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, 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 the Agreement did not contain the particular term or provision held to be invalid.

7. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
8. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
9. 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.
10. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The funding for this Fund Exchange program was approved by the Oregon Transportation Commission on December 16, 2010, as a part of the 2010-2013 Statewide Transportation Improvement Program (STIP).

The Program and Funding Services Manager approved the Fund Exchange on March 11, 2011.

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

DO 2(1)

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

SDO 5(10)

On August 2, 2005, the Director, Deputy Director, Highways and Chief Engineer approved Subdelegation Order No. 5, in which the Director, Deputy Director, Highways and Chief Engineer delegate authority to the Region Managers to approve and sign intergovernmental agreements over \$75,000 up to a maximum of \$500,000 when the work is related to a project included in the Statewide Transportation Improvement Program (STIP) or in other system plans approved by the Oregon Transportation Commission or in a line item in the legislatively adopted biennial budget.

Wasco County, by and through its
elected officials

By _____

Date _____

By _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Counsel

Date _____

Agency Contact:
Arthur Smith
Wasco County Public Works
Project Manager
2705 East 2nd Street
The Dalles, OR 97058-4097
(541) 506-2640
Arthurs@co.wasco.or.us

State Contact:
Darrell Newton
ODOT – Region 4
Local Agency Programs Coordinator
63030 OB Riley Road
Bend, OR 97701
(541) 388-6272
Darrell.r.newton@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 4 Manager

Date _____

APPROVAL RECOMMENDED

By _____

Date _____

By _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By N/A
Assistant Attorney General

Date _____

WASCO COUNTY PLANNING AND DEVELOPMENT
Todd R. Cornett, Director
2705 East Second Street
The Dalles, Oregon 97058



Phone: (541) 506-2560
Fax: (541) 506-2561
www.co.wasco.or.us

REQUEST FOR FEE WAIVER

Date Submitted: 8/10/11

Applicant/Owner Information:

Applicant(s) Columbia Land Trust ^{aka Virginia Bowers} Property Owner(s) Columbia Land Trust

Mailing Address 1351 Officers Row Mailing Address same
Vancouver, WA 98661

Phone (H) (W)360-213-1207 Phone (H) (W)

Email vbowers@columbialandtrust.org Email

Explanation For Fee Waiver Request (Please give complete detailed explanation):

Columbia Land Trust, a nonprofit conservation organization, recently purchased property off of Cherry Heights Rd. The purpose of the purchase is to conserve wildlife habitat and scenic views. The Trust wishes to honor the previous County Commissioners' request to pay property taxes at the open space assessment rate. The application fee for the Open Space Assessment application is \$702.7, this is equivalent to 2 years of property taxes at the open space rate. The high fee is hard to justify to our Board,

(To be completed by Planning and Development Office) when we could apply for a property tax exemption at no cost, and which is our normal process.

Fee Structure:

APPLICATION TYPE	WAIVABLE PLANNING FEES		OTHER FEES	TOTAL FEE
	PLANNING FEE	PENALTY FEE		
Open space Lands Tax Assessment	750.00		71.00	821.00

Other Information: Planning Department has no preference whether or not to grant the fee waiver.

Fees Verified by: Jeanette Montour
Planners Signature

(To be completed by Executive Assistant to the Board of County Commissioners)

TOTAL WAIVED FEES: _____

TOTAL FEES NOT WAIVED: _____

Board of County Commissioners Authority signature _____