

W. 17.a.
04-3-10-25

AGENDA COVER MEMO

DATE: March 10, 2004
TO: Lane County Board of Commissioners
DEPT.: Public Works/Parks Division
PRESENTED BY: Jake Risley, Parks Planner

AGENDA ITEM TITLE: RESOLUTION AND ORDER/In the Matter of Accepting a Sport Fish Restoration Grant from the Oregon Department of Fish and Wildlife for Boating Improvements at Perkins Peninsula Park, Appropriating \$144,633.00 in Fund 216, and Delegating Authority to the County Administrator to Sign the Cooperative Agreement.

I. MOTION

IN THE MATTER OF ACCEPTING A SPORT FISH RESTORATION GRANT FROM THE OREGON DEPARTMENT OF FISH AND WILDLIFE FOR BOATING IMPROVEMENTS AT PERKINS PENINSULA PARK, APPROPRIATING \$144,633.00 IN FUND 216, AND DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO SIGN THE COOPERATIVE AGREEMENT.

II. ISSUE OR PROBLEM

Shall Lane County accept a Sport Fish Restoration grant from the Oregon Department of Fish and Wildlife to improve boating facilities at Perkins Peninsula Park?

III. DISCUSSION

A. Background

On May 16, 2003, the Parks Division applied for four Boating Facilities grants with the Oregon State Marine Board (OSMB) and four Boating Facilities grants with the Oregon Department of Fish and Wildlife (ODFW) pursuant to Board Order 03-5-14-11.

The Oregon State Marine Board facilities staff, in cooperation with the Oregon Department of Fish and Wildlife, recommended that two State Marine Board grants and one Department of Fish and Wildlife grant be awarded to Lane County to complete boating improvements at Munsel Lake Landing and Perkins Peninsula Park.

Grant requests for boating improvements at Hendricks Bridge and Richardson Park were deferred to later funding rounds and Marine Board staff recommended that Lane County find some local cash match in order to be more competitive.

The Marine Board considered our request for funding Munsel Lake Landing and Perkins Peninsula Park at their June 25, 2003 Board meeting, recommended approval, and awarded \$17,308 for the Munsel Lake Landing project and \$48,212 for the Perkins Peninsula Park project for a combined total of \$65,520. The Oregon Department of Fish and Wildlife has approved \$144,633 for the Perkins Peninsula project. Lane County was not required to provide any cash match but was required to provide in-kind matching funds for design assistance, management, and administration of the projects. If approved, the grant will provide a new two-lane concrete boat ramp with a central boarding dock and adjacent transient dock at Perkins Peninsula Park.

B. Analysis

The proposed improvement at Perkins Peninsula Park is needed to provide safer, more efficient and accessible facilities for our visitors that use the park to launch and retrieve their boats. The existing 28' wide asphalt ramp is inadequate to meet the demands of the users and the access route, wooden gangway, wooden abutment, and transient dock are deteriorating and do not meet current ADA standards. A new double lane concrete ramp with a central boarding dock would relieve the congestion at the ramp, and new sidewalks and transient boarding floats would meet current accessibility standards and provide safer access for all our visitors.

The Oregon Department of Fish and Wildlife typically requires a 25% match from recipients. However, Lane County Parks was able to use Oregon State Marine Board Facility Grant monies (\$48,212.00) as our required match. Lane County Parks will provide design, administration, and project inspection/supervision responsibilities as our in-kind match for this project. For project development purposes these services are typically estimated at between 5% and 10% of the total project cost, which for this project would total \$35,000. No additional County contributions will be required. Grant funds will only be applied to direct facility construction project costs.

Jake Risley, Lane County Parks Planner, will assist with the development of the contract documents, advertise for bids, and monitor the contract requirements for the project. Requests for progress payments will be submitted to the grantor and parks staff will monitor and disperse the funds to contractors and suppliers.

Lane County currently receives \$3,750.00 per year from the Oregon State Marine Board Maintenance Assistance Program (M.A. P.) to assist with maintenance responsibilities of the existing boat ramp at Perkins Peninsula Park. We will continue

to receive these monies for maintenance of the new improvements and may see a slight increase in funding due to the addition of transient moorage facilities as part of this project.

APM Chapter 1, Section 2a, Issue 1, Item IV (B)

1. What is the match requirement, if any, and how is that to be covered for the duration of the grants? The Department of Fish and Wildlife requires a 25% match which will be matched with funds from the State Marine Board.

2. Will the grant require expenditures for Material and Services or capital not fully paid for by the grant? No, the only Parks funds required for this grant are the personnel costs for Parks staff for design assistance, project administration, and project supervision/inspection.

3. Will the grant funds be fully expended before county funds need to be spent? No, the County will be dispersing funds to cover labor and materials costs throughout the project and will submit progress payment requests to the Oregon Department of Fish and Wildlife to reimburse Lane County.

4. How will the administrative work of the grant be covered if the grant funds don't cover it? The administration of the grant is Lane Counties in-kind match for this project and will be completed by Lane County Parks employees using currently budgeted staff positions.

5. Have the stakeholders been informed of the grant sunset policy so there is no misunderstanding when the funding ends? Describe plan for services if funding does not continue? Parks staff currently provide maintenance services for the existing ramp. Upon completion of this project staff will continue to maintain the new boating improvements. Lane County Parks receives \$3,750.00 annually in Maintenance Assistance Program (MAP) Funds from the Oregon State Marine Board to assist with routine maintenance. We will continue to receive these monies and may see a slight increase in assistance due to the addition of transient moorage facilities as part of this project.

6. What accounting, auditing and evaluation obligations are imposed by the grant conditions? Lane County agrees to maintain records of costs reimbursed by ODFW that fully document and support the billings. All books, records and other documents relevant to the agreement shall be retained for either five (5) years after the effective date of the agreement, or any longer period that may be required to complete any audit or to resolve any pending audit findings.

Lane County accounting procedures shall provide for an accurate and timely recording of receipt of funds by source, of expenditures made from such funds, and

of unexpended balances. Controls shall be established which are adequate to ensure that all expenditures reimbursed under this Agreement are for allowable purposes and that documentation is readily available to verify that such charges are accurate. Lane County agrees to oversee the project with due diligence and shall notify ODFW when there is a proposed change order, overall plan design, cost modification or other proposed changes that will affect the total estimated cost of the project.

7. How will the department cover the accounting, auditing and evaluation obligations? How are the costs for these obligations covered, regardless whether they are in the department submitting the grant or a support service department? Does the department acknowledge that the county will need to cover these costs and it is an appropriate cost incurred by support service departments? Lane County Parks has administered a number of these grants in the past and has successfully completed our obligations to the Grantor for covering our accounting, auditing, and evaluation obligations. These are appropriate costs and they will be covered by the Lane County Parks personnel budget.

8. Are there any restrictions against applying the county full cost indirect charge? The Department of Fish and Wildlife shall not provide any funds to Lane County for administration, overhead or indirect costs associated with this agreement. However, Lane County is not asking for funds for these services so it is not applicable.

9. Are there unique conditions that trigger additional county work effort, or liability, i.e., maintenance of effort requirements or supplanting prohibitions or indemnity obligations? NO.

10. Grants involving technology issues require Information Services department review and approval prior to submission to the Board to ensure compatibility with existing county systems and development tools. Not Applicable.

11. Information Services department sign-off is required for all agenda items requesting funding for new or enhanced computer applications/systems that will interface with existing county systems/infrastructure. Not Applicable.

12. If this is a grant funded computer/software applications project..... Not Applicable.

C. Alternatives/Options

1. Approve the resolution and order and proceed with the project.

2. Do not accept the Oregon Department of Fish and Wildlife grant. If the Board decides to proceed with this alternative we will continue to provide boating facilities at Perkins Peninsula Park: however, the facilities are deteriorated, not ADA accessible and are congested due to extremely limited capacity and growing demand for boating access. In addition, we would be declining a \$48,212.00 grant from the Oregon State Marine Board that was approved by Board Order 03-8-27-6 as part of this project. Future re-award of this grant opportunity will most probably require a 25% cash match (\$48,000).

D. Recommendation

I recommend that the Board approve the Resolution and Board Order and accept the grant from the Oregon Department of Fish and Wildlife.

E. Timing

The Parks Division began site work and design for the Perkins Peninsula Park project in November 2003. Construction of the new facilities would most likely occur in the fall of 2004 during the drawdown of Fern Ridge Reservoir.

IV. IMPLEMENTATION/FOLLOW-UP

The County Administrator will need to sign the Cooperative Agreement.

V. ATTACHMENTS

Resolution and Board Order- 03-5-14-11

Resolution and Board Order- 03-8-27-6

Oregon Department of Fish and Wildlife-Sport Fish Restoration Agreement

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

) IN THE MATTER OF ACCEPTING A SPORT
) FISH RESTORATION GRANT FROM THE
) OREGON DEPARTMENT OF FISH AND
) WILDLIFE FOR BOATING IMPROVEMENTS
) AT PERKINS PENINSULA PARK,
) APPROPRIATING \$144,633.00 IN FUND 216,
) AND DELEGATING AUTHORITY TO THE
) COUNTY ADMINISTRATOR TO SIGN THE
) COOPERATIVE AGREEMENT.

RESOLUTION AND ORDER NO.

WHEREAS, the Lane County Parks Division applied for a Sport Fish Restoration grant from the Oregon Department of Fish and Wildlife pursuant to Board Order 03-5-14-11 for boating improvements at Perkins Peninsula Park; and

WHEREAS, the Oregon Department of Fish and Wildlife has agreed to assist with the project at Perkins Peninsula Park by awarding the County a \$144,633.00 Sport Fish Restoration Grant for Perkins Peninsula Park; and

WHEREAS, the proposed project could not be completed without the assistance of the grant funds; and

WHEREAS, the Board of County Commissioners as the governing body of Lane County may, in accordance with ORS 294.326(2), appropriate by resolution unanticipated revenues and expenditures; and

WHEREAS, the Oregon Department of Fish and Wildlife requires the County to sign a 20 year cooperative agreement to receive the funds; now therefore

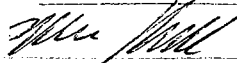
IT IS HEREBY RESOLVED AND ORDERED, that Lane County accept the boating facility grant from the Oregon Department of Fish and Wildlife, that \$144,633.00 in revenues and expenditures be appropriated in Fund 216 (Parks and Open Spaces – Capital Improvements) in the Department of Public Works; and

IT IS FURTHER ORDERED that the County Administrator be authorized to sign the Oregon Department of Fish and Wildlife cooperative agreement associated with this project.

DATED this _____ day of March, 2004.

APPROVED AS TO FORM

Date 3-2-04 lane county



COUNTY CLERK

Chair, Lane County Board of Commissioners

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

RESOLUTION AND ORDER NO.

03-8-27-6

) IN THE MATTER OF ACCEPTING TWO
)BOATING FACILITIES GRANTS FROM THE
)OREGON STATE MARINE BOARD FOR
)BOATING IMPROVEMENTS AT MUNSEL
)LAKE LANDING AND PERKINS PENINSULA
)PARK, APPROPRIATING \$65,520 IN FUND
)216, AND DELEGATING AUTHORITY TO
)THE COUNTY ADMINISTRATOR TO SIGN
)THE COOPERATIVE AGREEMENT.

WHEREAS, the Lane County Parks Division applied for two boating facility grants with the Oregon State Marine Board pursuant to Board Order 03-5-14-11 for boating improvements at Munsel Lake Landing and Perkins Peninsula Park; and

WHEREAS, the Marine Board has agreed to assist with the projects at Munsel Lake Landing and Perkins Peninsula Park by awarding the County a \$17,308 Boating Facility Grant for Munsel Lake Landing and a \$48,212 Boating Facility Grant for Perkins Peninsula Park; and

WHEREAS, the proposed projects could not be completed without the assistance of the grant funds; and

WHEREAS, the Board of County Commissioners as the governing body of Lane County may, in accordance with ORS 294.326(2), appropriate by resolution unanticipated revenues and expenditures; and

WHEREAS, the Marine Board requires the County to sign a 20 year cooperative agreement to receive the funds; now therefore

IT IS HEREBY RESOLVED AND ORDERED that Lane County accept the boating facility grants from the Oregon State Marine Board, that \$65,520 in revenues and expenditures be appropriated in Fund 216 (Parks and Open Spaces – Capital Improvements) in the Department of Public Works; and

IT IS FURTHER ORDERED that the County Administrator be authorized to sign the Oregon State Marine Board cooperative agreements associated with these projects.

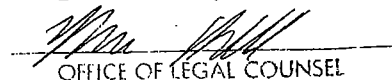
DATED this 27th day of August, 2003.



Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 8-19-03 lane county


OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

)IN THE MATTER OF RATIFYING THE
)COUNTY ADMINISTRATORS EXECUTION
)OF FOUR GRANT APPLICATIONS TO THE
)OREGON STATE MARINE BOARD AND
)FOUR GRANT APPLICATIONS TO THE
)OREGON DEPT. OF FISH AND WILDLIFE
)FOR BOATING IMPROVEMENTS AT
)PERKINS PENINSULA PARK, HENDRICKS
)BRIDGE PARK, RICHARDSON PARK, AND
)MUNSEL LAKE LANDING.

ORDER NO.

03-5-14-11

WHEREAS, the Oregon State Marine Board is accepting applications for Round 1 of the Boating Facilities Grants Program for the 2003-2005 biennium; and

WHEREAS, the Oregon Department Of Fish And Wildlife, in a cooperative effort with the Oregon State Marine Board, is accepting applications for FY 2002-2003 and FY 2003-2004 Sport Fish Restoration Grant Programs; and

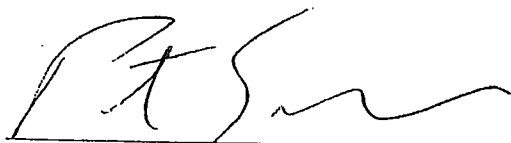
WHEREAS, the Lane County Parks Division desires to participate in this grant program to the greatest extent possible as a means of providing needed park system improvements and enhancements; and

WHEREAS, the Lane County Parks Division's Capital Improvement Plan and/or the Oregon State Marine Board Six-Year Boating Facility Plan recognizes the need to make boating facility improvements at Perkins Peninsula Park, Hendricks Bridge Park, Richardson Park, and Munsel Lake Landing; and

WHEREAS, the proposed projects could not be completed without the assistance of the grant funds; now therefore

IT IS HEREBY ORDERED that the Lane County Board of Commissioners ratify the County Administrator's execution of four Oregon State Marine Board Facility Grants for FY03-05, and four Oregon Department Of Fish And Wildlife FY02-03 and FY03-04 Sport Fish Restoration Grants for boating facility improvements at Perkins Peninsula Park, Hendricks Bridge Park, Richardson Park, and Munsel Lake Landing.


Dated this 14th day of May, 2003.



Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5-13-03 lane county,



OFFICE OF LEGAL COUNSEL

**Cooperative Agreement for Federal Aid in Sport Fish Restoration Act Funds
Motorboat Improvement Project
Fern Ridge Reservoir – Perkins Peninsula (Lane County)**

This Agreement is entered into by and between the State of Oregon; acting by and through its Department of Fish and Wildlife, hereinafter called, "Department", and Lane County Parks Division, hereinafter called, "Recipient".

The purpose of this Agreement is to reimburse the Recipient for part of the costs of replacing the existing ramp with a two lane ramp, boarding floats and gangway. Perkins Peninsula located off I-5 at Eugene, West on Hwy 126 approximately 8 miles., hereinafter called, "Project", as described in the Recipient's attached letter to the Department, dated June 30, 2003. With this reference, the letter is attached as Attachment A and made a part of this Agreement. The total construction cost of the project is estimated to be \$192,845.00.

The Department has Federal Aid in Sport Fish Restoration Act funds (16U.S.C.777-777(k) 50 CFR Part 801 for motor boating projects; however, the funds are matching federal grants obtained through the Federal Aid in Sport Fish Restoration Program administered by the U.S. Fish and Wildlife Service, and therefore this Agreement is subject to their approval.

NOW THEREFORE, the Department and the Recipient agree to the following:

I. DEPARTMENT ACTIONS

The Department shall:

A. Provide Funds. Subject to funds legislatively appropriated, shall reimburse "Recipient" the total sum not to exceed \$144,633.00 or 75% of the total project cost. Any cost savings realized, after completion of the project, shall be prorated to each funding contributor based on the percent contribution by the parties.

1. These funds shall be provided after:

- a. the Department receives and approves the final engineering plans and specifications as prepared and stamped by a Registered Engineer in the State of Oregon and the cost estimates prior to bid advertisement or construction;
- b. the Recipient awards the construction contract;
- c. the Recipient provides the Department proof that requirements for all necessary state, federal and local permits and leases have been completed; and
- d. the Recipient provides the Department proof that the Recipient selected contractor, if other than the Recipient, has obtained a performance bond in the amount of the construction contract from a surety company authorized to do business in Oregon;
- e. the project is completed.

2. To the extent appropriate, the Department will use the following list of model contents to determine the completeness of the final drawings:

- a. Engineering specifications and dimensions for meeting physical disadvantaged accessibility requirements.

- b. A site plan including:
 - i. North arrow
 - ii. Scale
 - iii. Lot lines
 - iv. Adjacent uses
 - v. Project location
 - vi. Vehicular access
 - vii. Utilities
 - viii. Pedestrian ways
 - ix. Topography at two-foot contours
 - x. Drainage ways
 - xi. Existing vegetation
- c. A floor plan of any structure
- d. Architectural elevations (two side views or an isometric view) of any structures.
- e. A landscape plan, including:

- i. North arrow
- ii. Scale
- iii. Finished grade in two-foot contours
- iv. Location of utilities
- v. Pedestrian ways with surfacing
- vi. Vegetation to remain
- vii. New plants
- viii. Location of structures
- ix. Location of parking lots
- x. Location of picnic tables and other furniture
- xi. Location of permanent equipment
- xii. A list of materials and colors that is keyed to the drawings.

- 3. Reimbursement shall be provided only after:
 - a. substantial completion of the Project, including provision of the funding credit sign(s);
 - b. acceptance of the Project by the Department;
 - c. the Department receives final billing from the Recipient; and
 - d. inspection and approval by Department personnel.

B. **Recognize Responsibility.** Recognize that the Project, once completed will be the exclusive responsibility of the Recipient.

II. RECIPIENT ACTIONS

The Recipient shall:

The Recipient hereby agrees to be responsible for proper administration of all costs associated with the administration of the project. Recipient also agrees to oversee the project with due diligence and to fulfill the terms for Recipient Actions as specified below:

- A. **Contribute.** The Recipient will provide **\$48,212.00** or **25%** of the total project cost, which the Recipient will receive from **Oregon State Marine Board**. The Recipient will document and submit all in-kind contribution provided the in-kind contribution costs are part of the Recipient's contribution and were included in determining the total costs.

If any project cost saving is realized, all parties shall share equally in the cost saving. See VI.G. Cost Savings on Page 6 of this agreement.

- B. Provide the following notices.** Recipient shall notify the Department immediately when there is a proposed change order, overall plan redesign, cost modification or adjustment or any other proposed change to the project that will change, modify or materially affect the total estimated cost of this project. Without exception, notices to other cooperators participating in this project of changes to the project shall not be construed as notice to the Department notwithstanding the fact that they are State or Federal Agencies.
- C. Pay all Costs Due to Unauthorized Changes.** Failure to notify the Department of any changes to the project as agreed to herein shall cause costs related to said changes to be charged to the Recipient as a cost overrun. This Department shall make reimbursement only for the portion of the project as approved and specified in this Agreement by the Department.

If the Recipient proposes changes to the project while the project is in progress, the Recipient shall request an Amendment to this Agreement as specified in Article II.E. below.

Formal contractual commitments signed by or agreed to by the Recipient authorizing change orders, term extensions or other contractual obligations related to the project prior to an Amendment request to the Department shall be the sole obligation of the Recipient as a cost overrun.

Retroactive review by the Department of any project changes made by the Recipient shall be solely for the purpose of assuring that the integrity of the project based on this Agreement is preserved; and to assure that the project has not deviated to a purpose and use not intended by this Agreement.

Review of unauthorized changes shall not require reimbursement by the Department notwithstanding the fact that they may be associated with the project.

- D. Provide Notice of Intent to Complete the Project.** The Recipient shall notify the Department in writing, at least 30 days prior to the completion of the construction of the project. If the Recipient finds that they cannot complete the construction by the budget period, which ends **June 30, 2005**, then Recipient shall request an Amendment to the Agreement for additional time.
- E. Request to Amend Agreement.** The request to amend the Agreement for an extension of project term, cost modification, design change, project reconfiguration, or change the original plan in any manner whatsoever is the sole responsibility of the Recipient. Amendment requests shall be made in the manner specified below.

A request to other Cooperators participating in this project to amend an Agreement with that Cooperator shall not be construed as being a request to the Department to amend this Agreement, notwithstanding the fact that the other Cooperator is a State or Federal Agency.

Any and all requests to the Department for Amendment of this Agreement shall be completed and acceptable in the following form:

1. In writing, addressed to the Department as stated in Article II.F. below.
2. The request to amend the Agreement shall be made to the Department at least 30 days prior to the expiration of the Agreement.
3. The request shall state the reasons for the need to amend the Agreement.
4. The request shall not become effective until such time as the Department has notified the Recipient in writing that the proposed changes have been reviewed by the Department and approved by the USFWS. Costs incurred by the Recipient prior to official, written notification of approval by the Department are not reimbursable.
5. Failure by the Recipient to exercise due diligence in oversight of the project and to follow-up on the necessary Amendment requests as specified herein shall result in the Recipient assuming all costs and related billings as a cost overrun.

- F. **Provide Adequate Notice to the Department.** Notices between the Department and the Recipient shall be addressed as follows:

Department: Thomas M. Wood, Manager
Facilities & Screens Programs
Oregon Department of Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303

Réipient: Jacob Risley, Project Manager
Lane County Parks Division
90064 Coburg Rd.
Eugene, OR 97408

- G. **Complete Tasks.** Complete the following tasks:

1. Submit one copy of draft engineering drawings to the Department.
2. Submit one copy of final engineering drawings to the Department.
3. Publish a construction contractor bid package.
4. Select a construction contractor and award the contract.
5. Obtain contractor's performance bond and submit a copy to the Department.
6. Submit one copy of all completed permits and leases to the Department.
7. Complete the Federal Aid in Sport Fish Restoration Act funded construction, including placement of the funding credit sign required in Section II. C by **June 30, 2005**.
8. Present the Department with a final itemized billing showing all financial, matching funds contributed to construction, on the closeout report on or before **June 30, 2005**.
9. Provide the Department with two copies each of a before and after photos of the subject.
10. Present the Department with a copy of all financial audits upon request.

- H. **Provide Funding Credit Sign.** Provide a sign, recommended at least three feet wide, in a conspicuous location during construction and on the completed Project. A temporary sign may be used during the construction period. The sign shall acknowledge Federal Aid in Sport Fish Restoration Program as a funding source and the Oregon Department of Fish and Wildlife as the granting agency. The suggested format, in no particular order is as follows:

PROJECT NAME
Recipient Name
Oregon Department of Fish and Wildlife
Federal Sport Fish Restoration Program
Oregon State Marine Board

The Recipient may contact the Department regarding the availability and obtaining of metal signs for both the Federal Sport Fish Restoration Program and the Oregon Department of Fish and Wildlife.

- I. **Provide Access For the Physically Challenged.** Throughout the term of the agreement ensure that all structures and facilities funded under this agreement are and remain accessible to the physically challenged in accord with Chapter 31 of the state of Oregon's Structural Specialty Code and Fire and Safety Regulations. Only those portions of this Project that are accessible to the physically challenged shall be funded.
- J. **Be Responsible For Project.** Throughout the term of this agreement be responsible for the maintenance and operation of the Project and related facilities.

- K. **Allow Indiscriminate Access.** Throughout the term of this agreement allow free and unencumbered access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.
- L. **Not Charge Use Fee.** Notify and request written approval from the Department of any user fees charged for the use of the improvements described herein throughout the term of this Agreement. Fees charged will be subject to reasonable review and approval by the Department. If user fees are charged for the use of the completed Project, the Recipient shall maintain sufficient records and accounting procedures that demonstrate all of the gross income from the fees is used to defray direct operational costs (for example, maintenance and repair costs) for the Project.
- M. **Cost Overruns.** The Recipient shall be responsible for any cost overruns.

III. TERM OF AGREEMENT

The term of this Agreement is twenty (20) years commencing on the date of execution by or in behalf of the Director of the Department and the Recipient. However, the budget period shall expire when the Department accepts Recipient's completed performance or on June 30, 2005, whichever date occurs first. Budget period is the time when the grant is available to fund the project.

Facilities constructed or improved with Federal Aid funds must continue to serve the purpose for which acquired or constructed by the Recipient. The Recipient must insure that the facilities will continue to serve their intended purposes throughout their useful life. The use of facilities must comply with Federal nondiscrimination requirements, including the provision of access for person with disabilities. The revenues from user fees must be used to offset operation and maintenance costs and a stipulation prohibiting uses of the facility, which may conflict with its intended purposes.

IV. TERMINATION PROVISIONS.

- A. **Termination for Convenience.** The Recipient may terminate this agreement at any time upon thirty (30) days prior written notice, delivered by certified mail or in person to the Department, provided, however, that upon any such termination of the agreement the Recipient shall, within thirty (30) days of such termination, reimburse by check payable to the Department all funds contributed by the Department to the Project.
- B. **Termination and Modification for Good Cause.** The Department, at any time upon thirty (30) days prior written notice delivered by certified mail or in person to the "Recipient", may modify or terminate this agreement for good cause or may modify or terminate this agreement should "Department" funding under Federal Aid in Sport Fish Restoration Act funds [(16U.S.C.777-777k) 50 CFR Part 80] not be obtained or continued at the levels necessary to complete the Project, or should federal or state regulations or guidelines be modified, changed or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for Federal Aid in Sport Fish Restoration Act [(16U.S.C.777-777k)50 CFR Part 80] funds.
- C. **Termination for Default.** The Department may at any time upon thirty (30) days prior written notice of default, delivered by certified mail or in person to the Recipient terminate this agreement if:
1. The design, permitting, or construction of the Project is not pursued with due diligence;
 2. Fee title to or other interest in the construction site is not sufficient, legal, and valid;
 3. The construction of the Project is not permissible under state, federal or local law;
 4. The Recipient does not construct, post, and maintain the funding credit sign required by this agreement;
 5. The Recipient does not abide by the nondiscrimination and affirmative action provisions of this agreement;
 6. The Recipient, without the prior and written approval of the Department, uses the funds provided by the Department to build any Project other than the Project described in the final architectural and engineering drawings approved by the Department;
 7. The construction is not performed in a good and workmanlike manner;

8. During the term of this agreement, the Recipient conveys the Project or the Project property or converts the use of the Project or the Project property to a use which precludes free and unencumbered public access or which is other than the use described by the Recipient in the proposed Project inclusive of all Amendments.
9. The Recipient does not abide by any other applicable provision of this agreement.

The Recipient shall, within thirty (30) days of its receipt of a notice of default reimburse by check payable to the Department all funds contributed by the Department to the Project.

V. FORCE MAJEURE

Neither the Department nor the Recipient shall be held responsible for delay or failure to perform when such act or delay or failure is due to fire, flood, epidemic, strikes, acts of God or the public enemy, legal acts of public authorities, or delays or defaults caused by public carriers, which cannot be reasonably foreseen or provided against.

VI. STANDARD CONDITIONS

- A. **Persons Not To Benefit.** No member or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Oregon Legislative Assembly, elected official of the state of Oregon, or official, agent, or employee of the state of Oregon, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the state of Oregon shall be admitted to any share or part of this agreement or derive any benefit that may arise therefrom.
- B. **Maintenance of Records.** The Recipient agrees to maintain records of costs reimbursed by the Department that fully document and support the billings. All books, records and other documents relevant to this Agreement shall be retained for either five (5) years after the effective date of this Agreement, or any longer period that may be required to complete any audit or to resolve any pending audit findings.
- C. **Disallowed Costs.** The Recipient agrees that any payment or payments made under this Agreement shall be subject to reduction for amounts charged thereto that are found on the basis of any audit examination not to constitute allowable costs under this Agreement. The Recipient shall refund by check payable to the Department the amount of such reduction payments under the completed, modified or terminated Agreement.
- D. **Accounting Procedures and Audits.** The Recipient accounting procedures shall provide for an accurate and timely recording of receipt of funds by source, of expenditures made from such funds, and of unexpended balances. Controls shall be established which are adequate to ensure that all expenditures reimbursed under this Agreement are for allowable purposes and that documentation is readily available to verify that such charges are accurate.
- E. **Right to Examine.** The Recipient agrees that the Director of the Department or any duly authorized state representative shall have access to and the right to examine directly any books, documents, papers, records, and transactions of the Recipient which are directly pertinent to this Agreement for the purposes of making audit, examination, excerpts, transcripts or performance evaluation for a period of five (5) years after the effective date of this Agreement.
- F. **Progress Payments.** The Department may disperse funds in the form of progress payments after the Recipient awards the contract for construction based on percentage of estimated project completion. The Recipient shall provide appropriate documentation to the Department. In no case shall the Department disperse more than 90 percent of the funds as described in Item I.A as progress payments.
- G. **Cost Savings.** Any cost savings realized during or after completion of the project shall be prorated to each funding contributor based on the percent of contribution by all parties.

- H. **Overpayment.** In the event that the amount of the Department initial and interim payments to the Recipient exceed the reimbursable expenses of the final billing presented by the Recipient to the Department, the Recipient agrees to refund the payments in excess of billing by check payable to the Department within thirty (30) days.
- I. **Dual Payment.** The Recipient shall not be compensated for or receive any other form of dual payment for work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party.
- J. **Administration and Indirect Costs.** The Department shall not provide any funds described in Item I.A to the Recipient for administration, overhead or indirect costs with this Agreement.
- K. **Compliance with Applicable Law.** The Recipient shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.
- L. **Attorney Fees.** In the event a lawsuit of any kind is instituted on behalf of the State of Oregon to collect any payment due under this agreement, or to obtain performance of any kind under this agreement, the Recipient, agrees to pay such additional sums as the court may adjudge for reasonable attorney fees and to pay all costs and disbursements incurred therein.
- M. **Payments by the Recipient.** The Recipient agrees to:
1. Make payment promptly as due to all persons supplying labor or materials for the Project;
 2. Pay all contributions or amounts due to the State Industrial Accident Fund on behalf of the Recipient or any of its contractors for liability incurred in the performance of this Agreement; and
 3. Not permit any lien or claim to be filed or prosecuted against the State of Oregon, the Department, or the Recipient as a result of any labor or material furnished for the Project.
- N. **Compliance with Workers' Compensation.** The Recipient shall require that the contractor, its subcontractors, if any, and all employers working under this Cooperative Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.
- O. **Affirmative Action.** The Recipient must take affirmative steps to utilize small business and minority-owned business sources of supplies, equipment, constructions, and services. Affirmative steps shall include the following:
1. Including qualified small and minority business on solicitation lists.
 2. Assuring that small and minority businesses are solicited whenever they are potential sources.
 3. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
 4. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.
 5. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce is required.
 6. Additionally, the Recipient shall take similar appropriate affirmative action in support of women's business enterprises.
 7. Also, the Recipient is encouraged to procure goods and services from labor surplus areas.
- P. **Nondiscrimination.** The Recipient assures that the program supported by the financial assistance will be conducted in compliance with all applicable state civil rights and rehabilitation laws and with Title VI of the Civil Rights Act of 1964 (P.L. 878-352), as amended (42 USC 2000d), and the requirements imposed by the regulations of the Department of Commerce (15 CFR Part 8) issued pursuant to that title. In accordance therewith, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance and will immediately take any measures necessary to effectuate this agreement. This assurance is consistent with the executed "Assurances" of the application.

Q. Statutory Requirements for Construction Contracts and Subcontracts. The Recipient shall comply, and require each contractor or subcontractor to comply with the following federal laws and all applicable standards, orders, or regulations issued pursuant thereto:

1. The Copeland "Anti-Kickback" Act, as amended (18 USC 874) as supplemented in Department of Labor regulations (14 CFR Chapter 60).
2. Nondiscrimination, Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 USC 2000d), and the requirements imposed by the regulations of the Department of Commerce (15CFR Part 8) issued pursuant to that title.
3. The Flood Disaster Protection Act of 1973 (P.L. 93-234), as amended. The Recipient will fulfill any flood insurance requirements under this act any regulations issued thereunder by the U.S. Housing and Urban Development or that may be issued by NOAA.
4. Architectural Barriers Act (P.L. 90-480), 42 USC 4151, as amended, and the regulations issued or to be issued thereunder, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or which may result in the employment of handicapped persons therein.
5. Rehabilitation Act of 1973, 29 USC 794, Executive Order 11914. No otherwise qualified handicapped individual shall, solely by reason of the individual's handicap, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.
6. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (P.L. 91-646, as amended) 15 CFR Part 916.
7. The National Environmental Policy Act of 1969 (P.L. 90-190); the National Historic Preservation Act of 1966 (80 Stat 915, 16 USC 470); The Executive Order No. 1 11593 of May 31, 1971.
8. Equal Employment Opportunity, Executive Order 11245, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). The Recipient shall cause or require to be inserted in any construction contract or subcontract for more than \$10,000, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at CFR Chapter 60, which is paid for in whole or in part with assistance provided under this agreement, the attached "Affirmative Action Requirements."
9. Certification of Non-segregated Facilities as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor. Prior to the award of any construction contract or subcontract exceeding \$10,000, the Recipient shall require the prospective prime contractor and each prime contractor shall require each subcontractor to submit the following certification:

By submission of this bid, the contractor or subcontractor certifies that he or she does not and will not maintain or provide any segregated facilities for the employees at any of the contractor's or subcontractor's establishments, and that the contractor or subcontractor does not and will not permit his or her employees to perform their services at any location under the contractor's or subcontractor's control where segregated facilities are maintained. The contractor or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are segregated on the basis of race, creed, color or national origin because of habitat, local custom, or otherwise.

The contractor or subcontractor further agrees that (except where he or she has obtained identical certifications from proposed subcontractors for specific time periods) he or she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that the contractor or subcontractor will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PERSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NON-SEGREGATED FACILITIES

A Certification of Non-Segregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 1967) on Elimination of Segregated Facility, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000, which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (that is, quarterly, semiannually, or annually).

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

10. The Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.
11. The Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3318 P.L. 95-620) relating to the conservation of petroleum and natural gas. The Recipient shall comply with the requirements of the American Society of Heating, Refrigeration, and Air Conditioning Engineers Standard 90-75, "Energy Conservation in New Building Design."
12. The Davis Bacon Act (40 USC 276a et seq.) regarding minimum wage and fringe benefit rates for labors and mechanics. Rate determinations made by the Secretary of Labor are published in Vol. 3 of General Wage Determinations Under the Davis Bacon and Related Acts, 2nd edition (1986), by the federal Dept. of Labor, Employment Standards Administration, Wage and Hour Division. These determinations are updated by weekly supplements that are available on a subscription basis or through purchase from the federal Government Printing Office. Notice of the weekly supplements is published in the *Federal Register*.

R. Suits Resulting from this Agreement. To the full extent permitted by Article XI, Section 10 of the Oregon Constitution and by the Oregon Tort Claims Act, the Recipient agrees to defend, save, and hold harmless the State of Oregon and the Department, its officers, agents, employees, and members, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of the Recipient, the Recipient's contractors, subcontractors, and the Recipient's agents and employees under this Agreement.

S. State Tort Claims Act. Recipient is not an officer, employee, or agent of the state as those terms are used in ORS 30.265.

VII. BINDING AGREEMENT

The provisions of this Agreement shall be binding upon and shall inure to the benefits of the Department and the Recipient and the respective successors and assigns.

A. SEVERABILITY

Department and the Recipient agree that 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 the Agreement did not contain the particular term or provision held to be invalid.

B. FAILURE TO ENFORCE

The failure of the State of Oregon to enforce any provision of this Agreement shall not constitute a waiver by the State of Oregon of that provision or any other provision.

C. WAIVER OF TERMS

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by both the Department and the Recipient.

D. MERGER CLAUSE

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE DEPARTMENT AND THE RECIPIENT. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH THE DEPARTMENT AND THE RECIPIENT. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. THE RECIPIENT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT THE RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

STATE OF OREGON:
Department of Fish and Wildlife

By: _____
Kris Kautz
Deputy Director for Administration

Date: _____

Address:
ATTN: Realty Services
3406 Cherry Avenue NE
Salem, OR 97303
Telephone 503-947-6260

RECIPIENT:
Lane County Parks Division

By: _____

Print Name _____

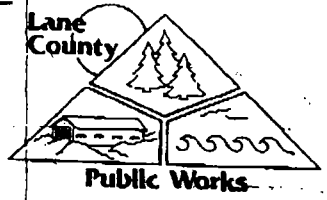
Title: _____

Date _____

Address _____

Telephone No. _____

Federal Employer Identification # _____



June 30, 2003

**Tom Wood, Manager
Facilities and Fish screens Programs
Oregon Department of Fish and Wildlife
PO Box 59
Portland, Oregon 97201**

**RE: FG #1184
Perkins Peninsula Ramp and Floats**

Dear Mr. Wood:

We are requesting a partnership with the Department of Fish and Wildlife (ODFW) for the Perkins Peninsula ramp and floats project in Lane County. The total estimated cost of the project is \$192, 845.00. The Oregon State Marine Board will provide \$48, 212.00 in grant monies and we, as sponsor for the project, respectfully request \$144, 633 from ODFW, using Federal Sport Fish Restoration funds.

The Marine Board will assist with the final design and technical specifications for the project, in cooperation with Lane County. All in-water construction will occur during the required in-water work window, pending approval of federal funds by ODFW.

We hope that ODFW can expedite approval of this grant award, since we have already obtained a facility grant from the Oregon State Marine Board. Please do not hesitate to contact me at (541) 682-2005 if you have any questions or need additional information.

Sincerely,

**Jacob S. Risley
Park Planner/Project Manager**

Cc: Ronald Rhodehamel, OSMB Facilities Program Manager

