



EAST MULTNOMAH SWCD
PARTNERS IN CONSERVATION PROGRAM (PIC)
PROJECT FUNDING AGREEMENT

Between

City of Portland, Bureau of Environmental Services

And

East Multnomah Soil and Water Conservation District ("District")

Project No: 08-011 Project Name: Rocky Butte Natural Area Invasive Plant Removal

PURPOSE

The purpose of this Project Funding Agreement is to clarify District and Partner responsibilities in carrying out a project ("Project") funded by the District's Partners in Conservation Program (PIC).

EFFECTIVE DATE, DURATION, AND DOLLAR LIMITS

This document constitutes the entire agreement between the District and the Partner. It incorporates and includes by this reference the following documents:

- This signed Agreement
- IRS W-9 form (to be kept in a secure file in the District office)
- Exhibit A: Scope of Work & Timeline
- Exhibit B: Project Budget
- Exhibit C: Indemnity Agreement for Third Party Contractors
- Exhibit D: Funds Request Form
- Exhibit E: Other attachments (diagrams, conceptual drawings, etc)

This Agreement shall be effective upon signing by all parties, and shall terminate on July 1, 2010, unless earlier terminated, or unless extended by mutual agreement of the parties hereto.

Work related to this Project is anticipated to be carried out between (dates) July 1, 2008 – June 30, 2009.

Funding in an amount not to exceed \$15,000 is awarded to the Partner for the purpose of carrying out the duties and obligations described in this Agreement. District funds shall be awarded on a reimbursement basis, based on written documentation acceptable to the District of the Partner's actual costs. Work that takes place before this Agreement is signed by all parties will not be reimbursed.

PARTNER RESPONSIBILITIES

The Partner is responsible for managing the Project. The Partner is fully accountable for all District funds received. To be eligible for reimbursement, such funds may be used only for purposes approved by the District.

The Partner shall:

1. Determine the need for and obtain any necessary permits before beginning work.
2. Purchase any materials needed for the Project.
3. Carry out, hire, or contract for the installation of the Project, as described in Exhibit A: Scope of Work. The Partner shall be responsible for the employment, supervision, and work assignments of its employees and/or contractors, and for executing and enforcing any contracts and agreements entered into by the Partner to carry out the Project.
4. Rent or provide any equipment needed for carrying out the Project.
5. The information provided to the District is that the total cost of the Project (cash and in-kind contributions from all sources, including the District) will be \$360,047. The Partner will follow the instructions in "a", "b", or "c", below, whichever is applicable.
 - a) If this figure is under \$5,000, the Partner will not be required to get bids for materials or labor.
 - b) If this figure is between \$5,000 and \$100,000 (for a public improvement, i.e., construction, reconstruction or major renovation on real property) or between \$5,000 and \$150,000 (for procurement of goods and services that is not a public improvement), the Partner shall provide written documentation to the District that the Partner has solicited at least three informal bids or price quotes from each provider of materials and/or services, including labor. The Partner may choose the provider whose bid or quote will best serve the interests of the Partner and the District, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose, and contractor responsibility.
 - c) If this figure is over \$100,000 (for a public improvement, i.e., construction, reconstruction or major renovation on real property) or over \$150,000 (procurement of goods and services that is not a public improvement), the Partner shall provide written documentation to the District that the Partner has undergone a formal bidding or request for proposal process according to the requirements of Oregon Revised Statutes 279A, 279B, and 279C, and has awarded the contract(s) according to Oregon law, as applicable.
6. If any Project that qualifies as a public improvement project (i.e., construction, reconstruction or major renovation on real property) is expected to or actually does exceed \$50,000 in expenses, the Partner and all contractors shall comply with all prevailing wage requirements pursuant to 279C.800 *et seq.*
7. If the Partner contracts with any contractor(s) to perform work related to this Agreement, the Partner will have the contractor(s) sign Exhibit B: Indemnity Agreement for Third Party Contractors and will forward that agreement to the District.
8. It is highly recommended that the Partner use only contractors who are licensed, bonded, and insured.
9. Ensure that Project work is carried out and practices are installed according to specifications provided by or agreed to by the District.
10. Within six months of the effective date of this Agreement, demonstrate to the District (through invoicing or a brief progress report) that progress has been made on the Project. Failure to make progress within a reasonable period of time may require an amendment to this Agreement to adjust the timeline and/or Scope of Work.
11. Provide the District with all receipts and invoices (original or photocopy) within 30 days after Project completion. For projects involving more than one phase, conservation

practice, or product, reimbursement may be requested (accompanied by receipts/invoices) as phases, practices, or products are completed, rather than at Project completion. Payment will not be made until the District has received the appropriate documentation for that reimbursement request.

12. Provide documentation of the Partner's (and Landowner's, if applicable) in-kind contribution of labor and materials, and of matching funds received from other sources, including cash and in-kind contributions of labor and materials. The Partner is expected to secure matching funds to support the Project, in an amount equal to or exceeding the amount provided by the District. This 50% match may include cash, in-kind contributions, or a combination thereof.
13. Fill out and submit the attached Funds Request Form (Exhibit D) with each request for reimbursement, demonstrating in-kind match.
14. Fill out, sign and submit to the District an IRS form W-9 with or prior to request for reimbursement.
15. Complete the Project by the date provided in this Agreement.
16. Submit a written Project Completion Report (with photos) to the District within 60 days of the completion of the Project or before the termination date of this Agreement, whichever occurs first.
17. On-the-ground project: Manage the property and maintain the funded practices for their design life (or ensure that the Landowner does so) as described in the PIC Application forms or as follows (if applicable): Maintain site from the present through Dec 31, 2017.
18. Educational project: Use the products developed under this Agreement for a reasonable amount of time. (In other words, develop educational materials that will be usable for at least two years, and purchase items for workshops, etc. that are of sufficient quality that they will be usable for at least two years.)
19. Repair or replace work that is damaged by normal use or ordinary natural events. (The Partner is not responsible for repair or replacement due to catastrophic natural events.)
20. For the design life of the Project, permit the District, its officers, agents, employees, contractors and invitees to enter onto the property where the Project is located for purposes of inspecting the work as it is carried out, and to monitor the condition and effectiveness of the Project following completion. The District shall provide reasonable notice to the Partner of such entry, which shall be at times agreeable to the Partner.
21. Allow a sign to be placed at the site (at EMSWCD's expense) indicating project type and funding source, and/or allow one or more tours of the Project site if scheduled at a convenient time.
22. Provide recognition of the District in outreach and educational materials. This may include mention of the District as a sponsor/funder on the Partner's website, newsletters, annual reports, and at project-related events, and inclusion of the District's name and logo on workshop materials, as applicable.

DISTRICT RESPONSIBILITIES

The District is responsible for providing partial funding to the Partner to carry out the Project as described below and in the project budget.

The District shall:

1. Reimburse the Partner for agreed-upon Project costs incurred during the period of this Agreement, in the amounts established under this Agreement.
2. Monitor progress and effectiveness of the Project at agreed-upon frequencies.
3. Prepare reports about the Project, including but not limited to the results and condition of the work, which shall be public records.

4. Any time it is determined that the work to be completed under this Agreement is not being done in the prescribed time and manner, advise the Partner of any issues or concerns and request, if necessary, an amendment to this Agreement to reflect any adjustments, including the dollar amount of the contract.
5. If the Partner receives payments from the District exceeding \$600 in any calendar year, the payments may be considered reportable income by the IRS. The District may submit a 1099-MISC form to the IRS and to the Partner for the tax year(s) if applicable. The Partner should consult a tax advisor about reporting the payments as income and about whether the Project-related expenses may be included as deductions on the Partner's tax returns.

PROJECT MANAGERS

All reports, correspondence, and required documentation shall be directed to the appropriate Project Manager.

For the District:

Catherine Sherraden, Interim Grants Coordinator, or replacement
East Multnomah Soil & Water Conservation District
5211 N Williams Ave
Portland, OR 97217
Phone: 503-222-7645 x 115
Fax: 503-935-5359
Email: catherine@emswcd.org

For the Partner:

James Allison
City of Portland Bureau of Environmental Services
1120 SW 5th Ave, Room 1000
Portland, OR 97204
jamesa@bes.ci.portland.or.us
503-823-2024

OTHER TERMS of this Agreement

Ownership:

- On-the-ground project: After completion of the Project, all improvements funded with District funds and affixed to the land shall become the property of the Partner or Landowner, whichever is applicable. Improvements not affixed to the land and funded with District funds, such as unused/excess materials and portable equipment, will become the property of the District at the District's discretion.
- Educational project: After completion of the Project, all educational materials and other products funded with District funds shall become the property of the Partner or Fiscal Agent, whichever is applicable. Supplies not used for the Project and funded with District funds, such as unused/excess materials and portable equipment, will become the property of the District at the District's discretion. Upon receiving permission from the Partner (or other original author), the District may use these products in its own outreach and program work, and may incorporate all or part of the content of these products into District materials (such as workshop notebooks and lists of resources). In doing so, the District must acknowledge the Partner (or other original author) as the author/developer of the relevant materials.

Compliance with applicable law:

- The Partner will comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement.
- The Partner is responsible for complying with Oregon public contracting laws (e.g., Oregon Revised Statutes 279A, 279B, 279C) as they may apply to the Project.
- If the Project qualifies as a public improvement project (i.e., construction, reconstruction or major renovation on real property) and is expected to or actually does exceed \$50,000, the Partner and all contractors working on the Project shall comply with all prevailing wage requirements pursuant to 279C.800 *et seq.*

Liability and indemnification:

- The Partner and the District shall each be solely responsible for any damage or any third-party liability which may arise from that party's respective acts or omissions under this Agreement, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution.
- In carrying out its duties and obligations under this Agreement, the Partner shall indemnify, hold harmless, and defend the District, its officers, directors, agents and employees, against any and all losses, claims, damages and expenses, including reasonable and necessary attorney's fees, to the extent any such losses, claims, damages and expenses are due to the acts or omissions of the Partner, its officers, directors, agents and employees. The Partner shall have no obligation to indemnify the District should any such losses, claims, damages and expenses result; in whole or in part, from acts, omissions, willful misconduct or gross negligence of the District, its affiliates, officers, directors, agents and employees.
- Any contractor or other third party that enters into an agreement with, or on behalf of, the Partner pursuant to this Agreement shall be required to execute the Indemnity Agreement attached hereto as Exhibit B.

Nondiscrimination:

- For work related to this Agreement, the Partner agrees to comply with the District's policy of prohibiting discrimination on the basis of race, color, national origin, age, disability, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisals, or because all or part of an individual's income is derived from any public assistance program.

Return of District funds:

- If any of the practices or products funded under this Agreement fail within their design life due to circumstances within the Partner's control (e.g., neglect, failure to protect and maintain the practices, destruction of the practice before the expiration of its design life, or other actions which cause the funded practice to become non-viable), the Partner hereby agrees to refund to the District some or all of the funds provided for those practices or products, as determined by the District.
- The Partner shall not be responsible for, and the District shall not be obligated to replace, failed practices or products if such failure is caused by force majeure (e.g., catastrophic weather events, earthquake, wildfire, drought, or other significant events beyond either party's control).
- Any funds disbursed to the Partner under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement must be returned to the District promptly, not later than 30 days after the District's written demand.

Termination of agreement:

- The District or the Partner may terminate this Agreement at any time by giving thirty (30) days written notice to the other.
- If a notice of termination is given, the Partner shall halt work and shall make all reasonable efforts to cancel any commitments that are dependent on District funds.

EXHIBIT A

Scope of Work & Timeline

The Project to be carried out under this Agreement is described as follows:

Intervention: City of Portland Watershed Revegetation Program (WRP) will design and implement an adaptive revegetation plan to effectively manage the most aggressive invasive plant species. BES will remove English ivy, clematis and other invasive plant species from approximately 150 acres of forested upland with steep, erodible slopes. Primary activities include cutting and pulling invasive plant species, followed by herbicide application and native groundcover seeding.

Monitoring: The site will be monitored for natural recruitment and regeneration (which is anticipated on this site that was not previously graded or tilled) following invasive removal. Contingencies will be developed for planting in the event that regeneration does not occur.

Analysis and publication:

WRP has treated ivy on many sites throughout Portland, and staff botanists have recorded plot and treatment data. Few comprehensive ivy studies and publications exist. BES will prepare pre-treatment vegetation plots for an invasive plant eradication study focused on all invasive plant species within the plots. Plot data and treatments on ivy and clematis will be analyzed and published to share regionally with land managers and interested landowners. Additional plot data will be recorded with the express purpose of preparing a paper for regional distribution, as well as for informational use for the general public as part of Stop the Invasion (a partnership between the Oregon Zoo, The Nature Conservancy, Oregon Public Broadcasting, and SOLV) and City of Portland's Invasive Species Initiative.

Stewardship: BES will educate and offer stewardship opportunities to the hundreds of annual visitors to Rocky Butte. WRP staff will provide signs and information brochures to visitors to the partner properties. City staff will assist volunteer crews with invasive removal projects. Hundreds of volunteers and visitors will become aware of the problems caused by invasive plants. More importantly, the City and partners will demonstrate a successful large-scale invasive plant removal on a heavily infested site—a type of work considered impossible by most of the general public.

Landowner education and capacity development: WRP staff will conduct trainings and will share information with grounds maintenance staff and volunteer coordinators for the partnering landowners. This transfer of knowledge and collaboration will build knowledge, skills and abilities of landowners to manage invasive species following site stabilization. Managing lands properly into the future will require more than a City-implemented project. The project selected all

the public and institution landowners with significant acreage on the butte. The remaining landowners are residential. The project will provide annual mailings for volunteer events and information on eradicating invasive plants on surrounding properties. In addition to an annual mailing, a minimum of two volunteer stewardship events and two site tours will be conducted annually.

The timeline for the activities is as follows:

July 1, 2008- Dec 31, 2017

City funds are sufficient to fund activities during Year 1 and part of Year 2. Committed partner funds and grant funds will make up needed funds for Year 2. All grant funds will be expended in Year 2, between July 1, 2008 and June 30, 2009. Additional partner and Environmental Services funds are being sought for years 3-5. The site will be stabilized in 5 years. Annual monitoring treatments and plot data will determine the level of funding needed for years 6-10, to ensure long-term forest regeneration.

Exhibit B: Project Budget

Name of organization paying/donating	Item description	Unit Cost	No. of Units	Cash Match (secured)	Cash Match (pending)	In-Kind match	EMSWCD Funds Requested
PROJECT MANAGEMENT (PAYROLL EXPENSES)							
City of Portland ES	Proj. mgmt.	\$85.00	1,425hr	\$	\$	\$121,125	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
TRAVEL (USE CURRENT FEDERAL RATE)							
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
CONTRACTED SERVICES (Work crews, equipment operators, etc. Include paid & donated services)							
City and Partners	Hourly cutting	\$28.00	1,715 hrs	\$33,320	\$7,200	\$	\$7,500
City and Partners	Veg. pulling	\$20.00	1,225 hrs	\$17,000		\$	\$7,500
City and Partners	Spray general	\$142.0	496 acre	\$17,608	\$52,824	\$	\$
City and Partners	Spray ivy	\$170.0	496 acre	\$21,080	\$63,240	\$	\$
		\$		\$	\$	\$	\$
Volunteers	Stewardship	\$12.50	900	\$11,250	\$	\$	\$
SUPPLIES/MATERIALS (Seed, fencing, pipes, gravel, logs, plants, film, etc.)							
City and Partners	Seed	\$8.00	800 lbs	\$6,400	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
EQUIPMENT (Purchase, rental or use of equipment for the project)							
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
PRE-IMPLEMENTATION (Design, permits, inspection)							
		\$		\$	\$	\$	\$
		\$		\$	\$	\$	\$
Subtotal				\$106,658	\$123,264	\$121,125	\$15,000
Indirect/administrative costs				\$0	\$0	\$0	\$0
Total				\$100,258	\$123,264	\$121,125	\$15,000
GRAND TOTAL						\$366,047	

EXHIBIT C

Indemnity Agreement for Third Party Contractors

**East Multnomah Soil and Water Conservation District
Partners in Conservation Program**

This Indemnity Agreement ("Agreement") is entered into by and between East Multnomah Soil and Water Conservation District ("District") and _____ ("Contractor"), and shall be effective upon signing by both parties hereto.

WHEREAS, the Contractor has been retained by, or on behalf of, a Partner of the District pursuant to an underlying agreement ("Underlying Agreement") entered into between the District and the Partner to provide services relating to, or otherwise carry out, a project that is partially or completely funded by the East Multnomah Soil and Water Conservation District ("District"),

THEREFORE, for the mutual consideration contained herein, the District and the Contractor hereby agree as follows:

1. This Agreement shall apply to services performed by the Contractor pursuant to any Underlying Agreement for the purposes herein described, whether or not this Agreement is attached to, or expressly made a part of, such Underlying Agreement.

2. In carrying out its duties and obligations under the Underlying Agreement, the Contractor shall indemnify and hold harmless the District, its officers, directors, agents and employees, against any and all losses, claims, damages and expenses, including reasonable and necessary attorney's fees, to the extent any such losses, claims, damages and expenses are due to the acts or omissions of the Contractor, its officers, directors, agents and employees. The Contractor shall have no obligation to indemnify the District should any such losses, claims, damages and expenses result, in whole or in part, from acts, omissions, willful misconduct or gross negligence of the District, its affiliates, officers, directors, agents and employees.

DATED this _____ day of _____, 20__.

CONTRACTOR:

Signature: _____ Firm/DBA: _____

Name & Title: _____ CCB#: _____

Phone: _____

DISTRICT:

Signature: _____

Name & title: _____

(funds request form here)

Exhibit D: East Multnomah Soil & Water Conservation District Funds Request Form

Cooperator's Name: _____ Project No: _____

In order to receive reimbursement, please deliver the following to your staff contact at EMSWCD:

- Copies of all receipts or invoices for which you are requesting reimbursement
- Record of in-kind contributions, including the number of hours donated as labor
- IRS W-9 form (if it hasn't already been submitted)
- All completed Indemnity Agreements for Third Party Contractors
- This form, completed and signed (see back)

Name of Practice/Event/Activity: _____

Expenses (list materials, labor, equipment rental, etc.)	Number of Units	Unit Price	Cooperator Share	EMSWCD Funds Requested	Total Cost
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
Value of volunteer labor (\$12.50 per hour)		\$	\$		\$
Value of no-cost materials		\$	\$		\$
Value of no-cost equipment (including use of Cooperator's existing equipment)		\$	\$		\$
Total			\$	\$	\$
Percentage of Cost			%	%	

Name of Practice/Event/Activity: _____

Expenses (list materials, labor, equipment rental, etc.)	Number of Units	Unit Price	Cooperator Share	EMSWCD Funds Requested	Total Cost
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
		\$	\$	\$	\$
Value of volunteer labor (\$12.50 per hour)		\$	\$		\$
Value of no-cost materials		\$	\$		\$
Value of no-cost equipment (including use of Cooperator's existing equipment)		\$	\$		\$
Total			\$	\$	\$
Percentage of Cost			50%	50%	

I have incurred the above costs related to my project and hereby request payment from EMSWCD. I declare that this statement is true, correct, and complete.

Cooperator Signature: _____ Date: _____

FOR OFFICE USE ONLY

Certification of Completed Practices

This is to certify that the practice(s) _____ have been completed in accordance with the standards and specifications of the EMSWCD and comply with the agreement.

Name: _____ Signature: _____ Date: _____

Check Request

Grant program: CLIP PIC OWEB sm gr SPACE Other _____

Make check payable to:

Payee address:

Date(s) expense incurred: W9 on file? yes / no

Expense code (acct#): Funder: Program Code (class):

Check amount: \$ Check #:

Return check to (staff name):

Approval

This is to further certify that the district has reviewed this voucher and attached receipts from the installation of the above described practices, including in-kind contributions, and find the quantities and costs to be practical and reasonable.

Approved by: Jean Fike, EMSWCD District Manager

Signature: _____ Date: _____