

RESOLUTION NO. 2026

A RESOLUTION AUTHORIZING APPROVAL OF AN AGREEMENT BETWEEN COSTA PACIFIC COMMUNITIES AND THE CITY OF WILSONVILLE FOR THE ADMINISTRATION OF A GRANT AGREEMENT WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

WHEREAS, based on a competitive request for proposals, by the State of Oregon, the State awarded to Costa Pacific Communities team the contract for purchasing and developing a sustainable community under the Dammasch Transportation Efficiency Land Use Plan (ORS 426.508(3)), which has been refined and is known as the Villebois Village Master Plan; and

WHEREAS, the civil engineering firm for the Costa Pacific Communities team is Alpha Engineering, Inc (AEI), now Alpha Community Development (Alpha); and

WHEREAS, the City of Wilsonville and Costa Pacific Communities, acting in its capacity as the Master Planner, have cooperated on the development of a Rainwater Management Program for the Villebois Village as a sustainable element of its original proposal and with Alpha providing the initial civil engineering design services; and

WHEREAS, as part of the development and monitoring of the Rainwater Management Program, the City of Wilsonville and Costa Pacific Communities have proposed grant funding from the U.S. Environmental Protection Agency (EPA). A copy of the grant proposal is marked as Exhibit A, attached hereto and incorporated by reference herein; and

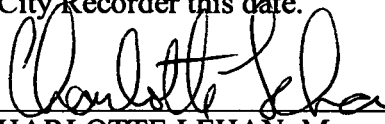
WHEREAS, the City of Wilsonville will be the recipient of the EPA grant funds and subsequently convey these funds to Costa Pacific Communities for the implementation of the project identified in the EPA Grant application; and

WHEREAS, the parties desire to enter into an Agreement for the administration of the grant agreement with the EPA.

NOW THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Based on the above recitals, the Community Development Director is authorized to execute on behalf of the City of Wilsonville the U.S. Environmental Protection Agency Grant Agreement, a copy of which is attached as Exhibit "A" and the Agreement with Costa Pacific Communities attached as Exhibit "B", and incorporated as if fully set forth herein.
2. This resolution is effective upon adoption

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 16th day of October, 20056 and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, Mayor

ATTEST:



Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Holt	Yes
Councilor Knapp	Yes
Councilor Ripple	Yes

Attachments:

- Exhibit A – U.S. Environmental Protection Agency Grant Agreement EM-96039401
- Exhibit B – Agreement Between the City of Wilsonville and Costa Pacific Communities

	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement	ASSISTANCE ID NO.			DATE OF AWARD
		PRG	DOC ID	AMEND#	
		EM -	96039401	- 0	07/18/2006
		TYPE OF ACTION New			MAILING DATE 07/25/2006
PAYMENT METHOD:			ACH#		
RECIPIENT TYPE: Municipal		Send Payment Request to: Las Vegas Finance Center FAX # 702-798-2423			
RECIPIENT: City of Wilsonville 8445 SW Elligsen Road Wilsonville, OR 97070 EIN: 93-0580494		PAYEE: City of Wilsonville 8445 SW Elligsen Road Wilsonville, OR 97070			
PROJECT MANAGER Eldon Johansen 8445 SW Elligsen Road Wilsonville, OR 97070 E-Mail: johansen@ci.wilsonville.or.us Phone: (503) 682-4960		EPA PROJECT OFFICER Joel Salter 811 SW 6th Ave., 3rd Floor, OWW-000 Portland, OR 97204 E-Mail: Salter.Joel@epamail.epa.gov Phone: 503-326-2653		EPA GRANT SPECIALIST Kathy Tsing-Choy Grants Administration Unit, OMP-145 E-Mail: Tsing-Choy.Kathy@epa.gov Phone: 206-553-4688	
PROJECT TITLE AND DESCRIPTION Rainwater Management Program This is the forth phase of a four phase innovative wet weather project (IWWP). In this phase the grantee will implement and demonstrate innovative wet weather management in a 50 acre urban setting. The grantee plans to mitigate a significant portion to the rainwater run-off and monitor flows in the "Villebois Village Center. This implementation study will provide useful information for determining facilities integration feasibility in dense urban environments.					
BUDGET PERIOD 06/01/2006 - 12/31/2009		PROJECT PERIOD 06/01/2006 - 12/31/2009		TOTAL BUDGET PERIOD COST \$744,000.00	
				TOTAL PROJECT PERIOD COST \$744,000.00	
NOTE: The Agreement must be completed in duplicate and the Original returned to the appropriate Grants Management Office listed below, within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA. Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the withdrawal of the offer by the Agency. Any change to the Agreement by the Recipient subsequent to the document being signed by the EPA Award Official, which the Award Official determines to materially alter the Agreement, shall void the Agreement.					
OFFER AND ACCEPTANCE					
The United States, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers Assistance/Amendment to the <u>City of Wilsonville</u> for <u>100.00</u> % of all approved costs incurred up to and not exceeding <u>\$744,000</u> for the support of approved budget period effort described in application (including all application modifications) cited in the Project Title and Description above, signed <u>06/08/2006</u> included herein by reference.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS EPA Region 10 Mail Code: OMP-145 1200 Sixth Avenue Seattle, WA 98101			ORGANIZATION / ADDRESS U.S. EPA, Region 10 Office of Water and Watersheds 1200 Sixth Avenue Seattle, WA 98101		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
SIGNATURE OF AWARD OFFICIAL 		TYPED NAME AND TITLE Michael F. Gearheard, Director - Office of Water and Watersheds		DATE 07/18/2006	
This agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2) the recipient agrees (a) that the award is subject to the applicable provisions of 40 CFR Chapter 1, Subchapter B and of the provisions of this agreement (and all attachments), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by EPA to have been overpaid will be refunded or credited in full to EPA.					
BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION					
SIGNATURE 		TYPED NAME AND TITLE Eldon Johansen, Community Development Director		DATE 8/17/06	

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 744,000	\$ 744,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 744,000	\$ 744,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.202 - Congressionally Mandated Projects	Clean Water Act	40 CFR PART 31

Fiscal									
Site Name	DCN	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
	MYG050	0508	B	10M0GTR	202B51E	4183			744,000
									744,000

Budget Summary Page: Rainwater Management Program

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$744,000
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$744,000
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$744,000
12. Total Approved Assistance Amount	\$744,000
13. Program Income	\$0

Administrative Conditions

1. Cost Principles/Indirect Costs Not Included (All Organizations)

The cost principles of OMB Circular A-21 (Educational Institutions), A-87 (State, Local or Indian Tribal Governments), or A-122 (Non-Profit Organizations) are applicable, as appropriate, to this award. Since there are no indirect costs included in the assistance budget, they are not allowable under this Assistance Agreement.

2. Financial Status Reports (FSRs)

FINAL FSR:

The final Financial Status Report (FSR), Standard Form 269A (or Standard Form 269 if program income is generated), for this award is due to EPA no later than 90 days after the budget period expires. The report can be faxed to (702) 798-2423 or mailed to:

US Environmental Protection Agency
Las Vegas Finance Center
P.O. Box 98515
Las Vegas, NV 89193-8515

INTERIM FSR:

If the budget period is longer than one year, or if the agreement is revised to extend the budget period beyond one year, the recipient must submit an annual FSR within 90 days after the end of each anniversary of the agreement. The Interim report can be faxed to (206) 553-4957 or mailed to:

US Environmental Protection Agency
Grants Administration Unit
1200 Sixth Avenue, OMP-145
Seattle, WA 98101

For agreements with multiple budget activities, separate FSRs must be provided for each of the activities, sites, or budgets, as applicable.

3. Audit Requirements

The recipient agrees to comply with the requirements of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

4. Hotel and Motel Fire Safety Act

Effective October 1, 1994, the recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds, complies with the Hotel and Motel Fire Safety Act of 1990.

5. Recycled Paper

ALL APPLICANTS:

In accordance with EPA Order 1000.25 and Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*, the recipient agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration. Please note that Section 901 of E.O. 13101, dated September 14, 1998, revoked E.O. 12873, *Federal Acquisition, Recycling, and Waste Prevention* in its entirety.

STATE AGENCIES AND POLITICAL SUBDIVISIONS:

Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of

an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

STATE AND LOCAL INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND NON-PROFIT ORGANIZATIONS:

Pursuant to 40 CFR 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

6. Lobbying

ALL RECIPIENTS:

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

PART 30 RECIPIENTS:

All contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

7. Lobbying and Litigation

ALL RECIPIENTS:

Pursuant to EPA's annual Appropriations Act, the chief executive officer of this recipient agency shall require that no grant funds have been used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. As mandated by this Act, the recipient agrees to provide certification to the award official via EPA Form 5700-53, *Lobbying and Litigation Certificate*, within 90 days after the end of project period.

Recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States. Any Part 30 recipient shall abide by its respective OMB Circular (A-21 or A-122), which prohibits the use of Federal grant funds to participate in various forms of lobbying or other political activities.

8. Suspension and Debarment

Recipient shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions." Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 40 CFR Part 32, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at <http://www.epls.gov>. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

9. Small and Disadvantaged Business Utilization Requirements (Non-SRF Recipients)

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements:

(a) The recipient accepts the applicable FY2003 Minority Business Enterprise (MBE)/Womens' Business Enterprise (WBE) "fair share" goals/objectives negotiated with EPA by the Oregon Department of Environmental Quality as follows:

Supplies:	0.46% MBE	1.83% WBE
Services:	2.67% MBE	4.56% WBE
Equipment:	0.83% MBE	1.66% WBE

(b) The recipient agrees to ensure, to the fullest extent possible, that at least the applicable "fair share" objectives of Federal funds for prime contracts or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially and economically disadvantaged individuals, women and Historically Black Colleges and Universities.

(c) The recipient agrees to include in its bid documents the applicable "fair share" objectives and require all of its prime contractors to include in their bid documents for subcontracts the negotiated "fair share" percentages.

(d) The recipient agrees to follow the six affirmative steps or positive efforts stated in 40 CFR 30.44(b), 40 CFR 31.36(e), or 40 CFR 35.6580, as appropriate, and retain records documenting compliance.

(e) The recipient agrees to submit an EPA form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" as follows:

For grants awarded under 40 CFR Part 35, Subpart A (refer to the Regulatory Authority box shown in the middle of Page 2 of the Assistance Agreement/Amendment), reports are due annually by October 30 of each year (covers the Federal Fiscal Year October 1 - September 30).

For Assistance Agreements/Amendments with institutions of higher education, hospitals and other non-profit organizations awarded under the Regulatory Authority of 40 CFR Part 30, reports are due annually by October 30 of each year (covers the Federal Fiscal Year October 1 - September 30).

Grants awarded under any other Regulatory Authority are due Quarterly. These reports are due beginning with the Federal Fiscal Year quarter the recipient receives the award and continuing until the project period ends. These reports must be submitted within 30 days of the end of the Federal Fiscal Quarter (due dates are January 30, April 30, July 30, and October 30).

All reports must be submitted to the Grants Administration Unit, OMP-145, 1200 Sixth Avenue, Seattle, WA 98101. For further information, please contact Valerie Badon at (206) 553-1141, email: Badon.Valerie@epa.gov.

(f) If race and/or gender neutral efforts prove inadequate to achieve a "fair share" objective, the recipient agrees to notify EPA in advance of any race and/or gender conscious action it plans to take to more closely achieve the "fair share" objective.

EPA may take corrective action under 40 CFR Parts 30, 31, and 35, as appropriate, if the recipient fails to comply with these term and conditions.

10. Small Business in Rural Areas (SBRA)

If a contract is awarded under this assistance agreement, the recipient is also required to utilize the following affirmative steps:

(a) Place SBRA on solicitation lists.

(b) Make sure that SBRA are solicited whenever there are potential sources.

(c) Divide total requirements, when economically feasible, into small tasks or quantities to permit

maximum participation by SBRAs.

(d) Establish delivery schedules, where the requirements of work permit, which would encourage participation by SBRAs.

(e) Use the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, as appropriate.

(f) Require the contractor to comply with the affirmative steps outlined above.

There is no formal reporting requirement for SBRAs at this time; it is recommended that the recipient keep records of SBRA participation.

11. Payment to Consultants

EPA participation in the salary rate (excluding overhead and travel) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2006, the limit is \$548.16 per day (\$68.52 per hour). This rate does not include overhead or travel costs and the recipient may pay these in accordance with its normal travel practices.

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j)(2), as applicable, for additional information.

NOTE: For future years' limits, the recipient may find the annual salary for Level IV of the Executive Schedule on the following Internet site: <http://www.opm.gov/oca>. Select "Salary and Wages", and select "Executive Schedule". The annual salary is divided by 2087 hours to determine the maximum hourly rate, which is then multiplied by 8 to determine the maximum daily rate.

12. Executive Order 13202 Preservation of Open Competition

The assistance recipient agrees to comply with Executive Order 13202 (Feb. 22, 2001, 66 Fed. Reg. 11225) of February 17, 2001, entitled "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended by Executive Order 13208 (April 11, 2001, 66 Fed. Reg. 18717) of April 6, 2001, entitled "Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects."

Programmatic Conditions

1. Payment Information

All recipients must be enrolled to receive funds electronically via the EPA-EFT Payment Process. This electronic funds transfer process was initiated by EPA in response to the Debt Collection Improvement Act of 1996, P.L. 104-134 that requires all federal payments be made via Direct Deposit/Electronic Funds Transfer(DD/EFT). By signing the assistance agreement you are agreeing to receive payment electronically.

In order to receive payments electronically, the enclosed ACH Vendor/ Miscellaneous Payment Enrollment Form (SF3881) must be completed and faxed to Marge Pumphrey at (702) 798-2423.

After reviewing and processing the SF3881, the Las Vegas Finance Center (LVFC) will send you a letter

assigning you an EFT Control Number, an EPA-EFT Recipient's Manual, and the necessary forms for requesting funds and reporting purposes.

If you need further assistance regarding enrollment, please contact Marge Pumphrey at (702) 798-2492 or by e-mail to: pumphrey.margaret@epa.gov.

Any recipient currently using the Automated Standard Application for Payments (ASAP) system with another government agency should contact Marge Pumphrey at (702) 798-2492 or e-mail to: pumphrey.margaret@epa.gov.

Under any of the above payment mechanisms, recipients may request/draw down advances for their immediate cash needs, provided the recipient meets the requirements of 40 CFR 30.22(b) or 40 CFR 31.21(c), as applicable. Additionally, recipients must liquidate all obligations incurred within 90 calendar days of the project period end date. Therefore, recipients must submit the final request for payment, and refund to EPA any balance of unobligated cash advanced within 90 calendar days after the end of the project period.

Also, the recipient must obtain EPA Project Officer approval before the LVFC processes payments. This approval will be contingent on the recipient submitting appropriate documentation to the EPA Project Officer prior to requesting payment.

The information the recipient is to submit to the EPA Project Officer includes the following: Standard Form (SF) 270, including supporting documentation; and EPA Form 190-F-04-001. The SF 270 and EPA Form 190-F-04-001 can be found at <http://www.epa.gov/ogd/forms/forms.htm>.

Upon approval of the SF 270 by the PO, the PO notifies Las Vegas to make the payment.

2. Quarterly Performance Reports

The recipient shall submit quarterly performance reports, which are due 30 calendar days after the end of each Federal fiscal quarter. (Federal fiscal quarters end the last day of March, June, September, and December.) Reports shall be submitted to the EPA Project Officer and may be provided electronically.

In accordance with 40 CFR Part 30.51(d) and 40 CFR Part 31.40, as appropriate, the recipient agrees to submit performance reports that include brief information on each of the following areas:

- (a) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
- (b) the reasons for slippages if established outputs/outcomes were not met;
- (c) additional pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

In addition to the periodic performance reports, the recipient shall immediately notify the EPA Project Officer of developments that have a significant impact on the award-supported activities. In accordance with 40 CFR Part 30.51(f) and 40 CFR Part 31.40(d), as appropriate, the recipient agrees to inform the EPA Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

3. Final Performance Report

In addition to the periodic performance reports, the recipient shall submit a final performance report, which is due 90 calendar days after the expiration or termination of the award. The report shall be submitted to the EPA Project Officer and may be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period. After completion of the project, the EPA Project Officer may waive the requirement for a final performance report if the EPA Project Officer deems such a report is inappropriate or unnecessary.

4. NEPA Compliance

Project work will not be initiated until after the grantee has complied with the requirements of the National Environmental Policy Act (NEPA).

5. Contractors

Grant participation in contract costs are not authorized until the EPA Project Officer reviews the grantee's proposed procurement methods and approves the grantee's proposed award to contractors (e.g., professional services and construction contractor).

6. Retention of Records And Audits

The grantee agrees to maintain all project records until all claims, litigation, audits or other actions have been concluded or for at least 3 three years, whichever period is later (41 CFR 31.42).

7. Pre-award Costs

Pre-award costs incurred more than 90 days prior to award require the approval of the EPA Award Official. Grant recipients incur pre-award costs at their own risks (i.e., EPA is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

8. Grant Close-out

The grantee will comply with the provisions of Subpart D, 40 CFR Part 31.

The grantee and sub-grantee acknowledges that, in circumstances where the provisions of 40 CFR Part 31 are ambiguous, EPA will generally look for guidance to 40 CFR Part 33 and past determinations made pursuant to Part 33.

END OF ASSISTANCE AGREEMENT NO. EM-960394-01-0

**AGREEMENT BETWEEN
THE CITY OF WILSONVILLE
AND COSTA PACIFIC COMMUNITIES**

This agreement ("Agreement") is entered into by and between the City of Wilsonville, Oregon, a political subdivision of the State of Oregon (City) and Costa Pacific Communities (CPC), Master Planner for the Villebois Village.

RECITALS

- A. The City of Wilsonville and Costa Pacific Communities, acting in its capacity as the Master Planner, have cooperated on the development of a Rainwater Management Program for the Villebois Village.
- B. As part of the development and monitoring of the Rainwater Management Program, the City of Wilsonville and Costa Pacific Communities have obtained grant funding from the U.S. Environmental Protection Agency (EPA).
- C. The EPA Grant Agreement is described in Attachment A, and the Project Work Plan and Budget for the EPA Grant Agreement are described in Attachment B.

THEREFORE, the parties agree to the following:

AGREEMENT

1. Overview of Parties' Roles

A. Overview of Costa Pacific Communities' Role

In accordance with the approved Project Work Plan and Budget for the EPA Grant Agreement, CPC shall design, acquire, construct, install, equip, own and operate the Project. CPC shall be responsible for complying with all of the administrative and programmatic conditions of the EPA Grant Agreement.

B. Overview of City Role

City shall ensure compliance with the administrative and programmatic conditions of the EPA Grant Agreement. City will be responsible for submitting payment requests to EPA for work identified in the Project Work Plan and Budget.

2. Effective Date and Duration

This Agreement shall become effective upon City Council approval of Resolution No. . Unless earlier terminated or extended, this Agreement shall expire upon completion of the EPA Grant Agreement Project Period identified as December 31, 2009.

3. Project Management

A. Costa Pacific Communities

Costa Pacific Communities hereby appoints the person identified below to act as its Project Manager with regard to this Agreement:

Christina Skellenger
Project Specialist
Costa Pacific Communities

B. City

The City hereby appoints the person identified below to act as its Project Manager with regard to this Agreement:

Kerry Rappold
Natural Resources Program Manager
City of Wilsonville

4. Grant Distribution Terms

- a. Subject to the terms and conditions of the EPA Grant Agreement and in reliance upon CPC's approved Project Work Plan and Budget and certifications made by CPC in it, City agrees to submit payment requests to EPA not to exceed \$744,000.
- b. City will not be obligated to submit payment requests to EPA if CPC fails to fully comply with all administrative and programmatic conditions of the EPA Grant Agreement.
- c. The submittal of payment requests by the City to the EPA will be made upon receipt of reimbursable costs from CPC that are documented, reasonable, necessary and allocable to the project. Supporting documentation (e.g. description of work, copy of invoice and canceled check) must accompany the payment requests forwarded to the City. CPC agrees that its records will maintain the documentation required by Federal regulations to support all grant eligible costs.
- d. Requests for payments by the City will not be made beyond 95% of the EPA Grant Agreement until after: the City's certification of completion is submitted to EPA, final inspection is complete and deficiencies are corrected to EPA's satisfaction,

5. Quality Assurance Requirements

Acceptable Quality Assurance documentation shall be submitted to the EPA Project Officer within 30 days of the city's acceptance of the EPA Grant Agreement. CPC

shall coordinate with the city to provide the documentation necessary to meet this requirement in a timely and acceptable manner.

6. Procurement and Contracting Procedures

CPC shall comply with all federally required contracting and procurement methods, including "fair share" goals and objectives negotiated with EPA by the Oregon Department of Environmental Quality.

7. Matching Non-Grant Resources

CPC has provided non-grant resources which are available and committed to fulfilling the requirements of the EPA Grant Agreement. CPC has complete responsibility for the allocation and commitment of matching non-grant resources for the project.

8. Financial Status Reports

CPC shall prepare annual Financial Status Reports (EPA Standard Form 269A) for the project. These reports shall be submitted to the City within 45 days after the end of each anniversary of the agreement. Separate Financial Status Reports shall be provided for each of the activities, sites, or budgets, as applicable.

9. MBE/WBE Utilization Reports

CPC shall prepare quarterly MBE/WBE utilization reports (EPA Form 5700-52A) for the project. These reports shall be submitted to the City within 15 days after the end of the Federal Fiscal Quarter which are on January 30, April 30, July 30, and October 30.

10. Progress Reports

- a. CPC shall submit quarterly performance reports to the City which contain the status of the project that is a comparison of the actual accomplishments to the objective established for the budget period. These reports shall be submitted to the City within 15 days after the end of the reporting period which are on June 30, September 30, December 31, and March 31.
- b. CPC shall submit a final performance report to the City, which is due 45 calendar days after the expiration or termination of the Project Period. The report shall generally contain the same information as in the quarterly reports, but should cover the entire project period.

11. Retention of Records and Audits

CPC agrees to maintain all project records until all claims, litigation, audits or other actions have been concluded or for at least three (3) years, whichever period is later.

12. Indemnity/Hold Harmless

Each party agrees to indemnify and hold harmless the other, the other's officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character, including the cost of defense thereof, including attorney fees, arising in favor of any person on account of personal injury, death, or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, the indemnitor's employees, agents, and sub-contractors representatives.

13. Ownership of Work Product

Either party may use information developed during the performance of Tasks identified in the grant application for its own purposes, consistent with the statutory responsibilities required of each party, and may exchange information related to this project as deemed appropriate by the parties. Each party may publish results of research by mutual agreement.

14. Final Agreement/Binding Effect/Attorney Fees

This document contains all of the terms and conditions of the parties' agreement and supersedes all previous and contemporaneous agreements of understandings, whether oral or written. Any waiver or modification of the terms of this agreement must be in writing. This agreement shall be construed so that the singular shall include the plural and the plural shall include the singular. This agreement shall be binding upon the parties, their successors and assigns.

15. Severability/Survival

If any of the provisions contained in this agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. Any provisions concerning the limitation of liability or indemnity shall survive the termination of this agreement for any cause.

16. Interpretation of Agreement


All provisions of this agreement have been negotiated at arms length. This agreement shall not be construed for or against either party by reason of the authorship or alleged authorship of any provision.

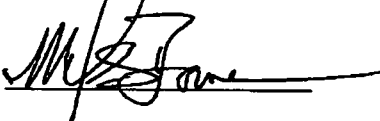
17. Termination

This agreement may be terminated by either party upon thirty (30) days written notice for any reason determined by the terminating party to be in the public interest. This agreement may also be terminated by either party at any time following the occurrence of a substantial breach by the non-terminating party, written notice of said breach within five (5) days of the receipt of notice of breach.

COSTA PACIFIC COMMUNITIES

CITY OF WILSONVILLE

By: 

By: 

Skip Rotticci
Senior Vice President

Michael Bowers
Community Development Director

Date: 10/9/06

Date: 10/10/06

**CITY OF WILSONVILLE, OREGON – VILLEBOIS COMMUNITY
RAINWATER MANAGEMENT PROGRAM**

PROJECT WORK PLAN (PHASE FOUR)

Summary of Project

This Program, spanning four-phases, covers the design, development, construction, monitoring, and demonstration of specific rainwater management components that combine innovative architecture and site design to model the natural hydrological processes of evaporation, infiltration, and detention. The components will detain and treat rainwater by combining progressive ideas and management practices from hydrology, engineering, and environmental science. More specifically, this work plan outlines the components proposed for the fourth and final phase of the Program, which include the implementation and demonstration of an innovative rainwater system, with a goal to mitigate a significant portion of the rainwater in the 50 acres of the Village Center. This implementation study will provide useful information for determining facilities integration feasibility in dense urban environments, and as such will contribute to the U.S. EPA National Stormwater Best Management Practices Database.

The Rainwater Management Program (RMP) has been developed through a partnership between the City of Wilsonville and Costa Pacific Communities. In collaboration, this four-phase Program has been devised to integrate innovative rainwater management components into Villebois, a 480-acre mixed-use community development being constructed in Wilsonville, Oregon. This project is proposed as the implementation of phase four in an overall four-phase program in development of the RMP. It incorporates Low Impact Development (LID) to control and treat stormwater runoff and improve watershed health by managing rainfall at pre-Dammasch Hospital (pre-1958) levels for rainfall events that precipitate one-half inch or less. These half-inch storms have significant impact as they account for approximately 90% of all storms during a one-year period.

Please refer to the table below for an outline of the four phases, and the elements of each.

Phase One	2003 - 2004	Develop Policies and Plans
Phase Two	2005	Establish Baseline Data and Testing Program, Education Materials, Preliminary Design
Phase Three	2005 - 2007	Monitor, Testing, and Analysis
Phase Four	2006+	Implement and Demonstrate Innovative Rainwater Management Components (current phase)

Combined, the initial *three phases* included the following components, which incorporate STAG funds from a 2004 appropriation:

- Development of the overall Rainwater Management Program for Villebois
- Development of Rainwater Management Plans for specific areas within Villebois
- Estimation of the pre-development (1958) condition
- Testing, Monitoring, and Analysis of two green roof panels, 12 rainwater planters, and 1000 square feet of permeable pavers in the Village Center

**CITY OF WILSONVILLE, OREGON – VILLEBOIS COMMUNITY
RAINWATER MANAGEMENT PROGRAM**

- Design and development of other rainwater management components which will manage large portions of the rainwater from the Village Center
- Development and distribution of a Rainwater Management Manual to inform future homeowners and the general public about our approach
- Design and integration of kiosks with green roofs on site to display educational material on rainwater management

This last phase, which incorporates funding from EPM funds, will include:

- Development, construction, and demonstration of innovative Rainwater Management Components used to mitigate rainwater from the Village Center (i.e. the 42 acres in the center of the community with a density of around 22.6 units/acre, excluding parks).

I. Background

Villebois sits atop a watershed including several creeks that drain to the Willamette River providing unique stormwater management and monitoring opportunities. The long-term goal of the RMP is to contribute to the building of a sustainable community sensitive to the natural drainage/hydrological cycle to the benefit of the local and regional watershed. A rainwater management system will be incorporated throughout Villebois to minimize downstream degradation.

Funding from the U.S. EPA Grant will be used to construct and demonstrate innovative rainwater management components used to mitigate the rainwater in the Village Center, the high density, mixed-use center of the community, with a density of around 22.6 units per acre. The goal is to mitigate a significant portion of the rainwater using innovative LID techniques. In developing and implementing the rainwater management system, a new precedent will be set which demonstrates that it is feasible to integrate LID techniques in a dense, urban environment. Currently, it appears all large-scale mitigation efforts are found in less densely populated, residential developments. This project will provide evidence that rainwater management can be integrated not only as an amenity, but as a component for large-scale mitigation.

The City of Wilsonville is requesting \$750,000 (as adjusted by recent actions by Congress) from the U.S. EPA.

II. Project Objectives

Construct innovative Rainwater Management Components into Villebois' Village Center to demonstrate feasibility for building a master-planned rainwater management system which mitigates a significant portion of the rainwater in a dense, urban environment.

**CITY OF WILSONVILLE, OREGON – VILLEBOIS COMMUNITY
RAINWATER MANAGEMENT PROGRAM**

III. Work Plan Elements

1. Design, site preparation, landscaping and construction of permeable pavers.
Cost: \$533,259 Timeline: June 2006 – June 2009
Deliverables: An estimated 97,294 square feet of permeable pavers

2. Design, site preparation, landscaping and construction of a green roof.
Cost: \$16,082 Timeline: June 2006 – June 2009
Deliverables: An estimated 5,000 square feet of green roof

3. Design, site preparation, landscaping and construction of bio-retention cells.
Cost: \$21,750 Timeline: June 2006 – June 2009
Deliverables: An estimated 16,906 square feet of bio-retention cells

4. Design, site preparation, landscaping and construction of rainwater planters.
Cost: \$130,851 Timeline: June 2006 – June 2009
Deliverables: An estimated 26,585 square feet of rainwater planters

5. Design, site preparation and planting of deciduous trees.
Cost: \$48,058 Timeline: June 2006 – June 2009
Deliverables: An estimated 815 deciduous trees planted

IV. Joint Evaluation of Performance

The City of Wilsonville, Costa Pacific Communities, Portland State University, and the U.S. EPA Project Officer will monitor progress and prepare reports as needed. Update reports will be submitted to the U.S. EPA Project Officer and will include information on our progress including milestones that have been reached and next steps, indication of project or personnel changes, and reimbursement requests.

V. Role & Responsibilities of EPA in Carrying Out Work Plan Commitments

The U.S. EPA project officer will monitor progress through a review of performance reports.

**CITY OF WILSONVILLE, OREGON – VILLEBOIS COMMUNITY
RAINWATER MANAGEMENT PROGRAM**

DETAILED BUDGET

I. Contractual

<u>Description</u>	<u>Amount</u>
Bio-retention Cells	
<i>Design</i>	2,210
<i>Site Preparation</i>	4,419
<i>Materials</i>	11,048*
<i>Construction</i>	4,419
Subtotal	\$22,096
Permeable Pavers	
<i>Design</i>	54,801
<i>Site Preparation</i>	219,204***
<i>Materials</i>	164,403**
<i>Construction</i>	109,602
Subtotal	\$548,010
Rainwater Planter Boxes	
<i>Design</i>	11,497
<i>Site Preparation</i>	22,994
<i>Materials</i>	57,485*
<i>Construction</i>	22,994
Subtotal	\$114,970
Greenroof	
<i>Design</i>	1,473
<i>Site Preparation</i>	2,946
<i>Materials</i>	7,366*
<i>Construction</i>	2,946
Subtotal	\$14,731
Deciduous Trees	
<i>Design</i>	4,419
<i>Site Preparation</i>	8,838
<i>Materials</i>	22,098*
<i>Construction</i>	8,838
Subtotal	\$44,193
<u>Total Direct Costs</u>	<u>\$744,000****</u>
<u>Total Project Cost</u>	<u>\$744,000****</u>

- * Materials, excluding pavers, include landscaping, bio-retention soil and plumbing components
- **Materials for pavers exclude pavers and sand set layer over base (included in Site Preparation estimate)
- ***Site Preparation for pavers include the sub-base containing rock, geotextile and plumbing components
- ****Subject to change based on inflation and market rate for building components

**Community Development
Staff Report and Recommendation**

To: Honorable Mayor and City Council

From: Kerry Rappold, Natural Resources Program Manager

Date: October 10, 2006

Subject: Recommendation to Approve an Agreement between the City of Wilsonville and Costa Pacific Communities for the Administration of a Grant Agreement with the U.S. Environmental Protection Agency

Summary:

The City of Wilsonville and Costa Pacific Communities have cooperated over the last few years on the development of a rainwater management program for the Villebois Village. Rainwater Management is a key element of incorporating sustainability in the Villebois development. In 2005, the United States Congress initially awarded a \$200,000 appropriation to the City of Wilsonville for the installation of a rainwater and stormwater management system for the Villebois development. A second appropriation in the amount of \$750,000 has also been approved for the project. The City of Wilsonville has worked with Costa Pacific Communities to develop a work plan and budget for the development of the rainwater management project. Funding for the rainwater management project is provided through grants of \$192,900 and \$744,000, which are administered by the U.S. Environmental Protection Agency (EPA). The City Council approved a previous resolution that authorized a grant agreement between the city and Costa Pacific for the administration of the \$192,900 EPA grant. The purpose of the resolution is to formalize a second agreement between the City of Wilsonville and Costa Pacific Communities for the management of the EPA grant funds (i.e. \$744,000) and corresponding administrative and programmatic requirements.

Recommendation:

Staff respectfully requests that the City Council adopt the accompanying resolution that approves an agreement between Costa Pacific Communities and the City of Wilsonville for the administration of a grant agreement with the U.S. Environmental Protection Agency.

Discussion:

Included in the resolution packet materials are the City of Wilsonville's grant agreement with the U.S. Environmental Protection Agency (Exhibit A) and the proposed agreement with Costa Pacific Communities (Exhibit B).

The City of Wilsonville will have responsibility for managing the grant funds and ensuring compliance with all of the administrative and programmatic conditions. Costa

Pacific Communities will be responsible for design, construction and operation of the rainwater management system. Costa Pacific Communities will administer all of the contracts related to completing the project work plan, provide any necessary grant matching funds, and be responsible for compliance with all of the administrative and programmatic conditions of the EPA grant.

The rainwater management project will provide an opportunity to implement and monitor rainwater components. The components include a green roof, rainwater planters, bio-retention cells, and permeable pavers, which will be designed and constructed as part of the Village Center. Four phases have been identified for the overall rainwater management project, which includes work previously completed:

- 1) Develop policies and plans (2003-2004)
- 2) Establish baseline data and testing program, education materials, and preliminary design (2005)
- 3) Monitor, testing, and analysis ((2005-2007)
- 4) Implement rainwater management techniques (2006+)

The \$744,000 in grant funding from the EPA will be used to complete phase four of the rainwater management program. Rainwater management components will be designed and constructed within the Village Center, which is the 42 acres in SAP-Central with a density of approximately 22.6 units/acre, excluding park areas.

Monitoring and testing of the rainwater components will provide an opportunity to determine the effectiveness of the components, and educate the public about their use. This project will also provide useful information for determining the rainwater component performance and effectiveness as part of the EPA National Stormwater Best Management Practices Database.