

MEYERS ROAD COST SHARING AND IMPROVEMENT AGREEMENT

This AGREEMENT is made by and between the CITY OF OREGON CITY, an Oregon municipal corporation, (the “City”) and CLACKMAS COMMUNITY COLLEGE (“CCC”) this ____ day of _____, 2018.

WHEREAS, CCC owns approximately 157.8 acres of real property located at 19600 Molalla Avenue, more specifically identified as TL 800 on Clackamas County Map 32E 09C (the “Property”); and

WHEREAS, in 2008, CCC obtained Concept Master Plan approval authorizing future college development, City File: CP 07-01, which included Condition 4 requiring the dedication and construction of Meyers Road from Highway 213 to the eastern property line of the campus, including a local street connection to 19842 Molalla Avenue; and

WHEREAS, in 2015 CCC participated in the Meyers Road Concept Plan, including funding a portion of the work (33% of the actual amount) to complete the project. The scope of work included selection of a preferred alignment and cross section. The resulting plan was adopted by City Commission on October 7, 2015; and

WHEREAS, since this 2008 Master Plan approval and the 2015 Meyers Road Concept Plan, the City has designed Meyers Road Extension Corridor Plan extending Meyers Road from Highway 213 to High School Avenue, a portion of this length is set forth within a condition to the 2008 CCC Master Plan approval; and

WHEREAS, the City desires to build and construct the Meyers Road extension as one project, including that portion identified for improvement by CCC, and in order to do this, the parties agree to enter into this cost sharing agreement setting forth the terms and limitations that will govern construction and reimbursement necessary for the completion of this work; and

WHEREAS, CCC has applied to the City for approval of DeJardin Hall Expansion, Transit Hub, Amendment to Concept Master Plan (CP 18-01 & DP 18-01), for which the City has prepared a preliminary decision of approval, with conditions that mirror the obligations contained in the 2008 Concept Plan approval; and

WHEREAS, CCC has agreed to provide reimbursement to the City for the costs associated with the construction obligations imposed through the 2008 Concept Plan approval, the Meyers Road Concept Plan and the Meyers Road Extension Corridor Plan, as deemed necessary to serve CCC development.

NOW, THEREFORE, based on the foregoing recitals, the CITY COMMISSION FOR THE CITY OF OREGON CITY and CCC, hereby agree to the following:

1. **Scope of Work:** The CITY shall construct the Meyers Road Extension Project (or “Meyers Road Extension”) generally consistent with improvements depicted in the Project Improvements Map, attached herein as Exhibit 1, including the new connection from Meyers Road to Douglas Loop and incorporated herein by this reference (the “Improvements”). These improvements are described in greater detail in the Scope of Work, attached herein as Exhibit 2, and incorporated herein by reference.
2. **Dedication of Land:** CCC shall dedicate the land (right-of-way, slope easements and public utility easements) necessary to accommodate the extension as depicted in Exhibit 1 and necessary to accommodate the work described in Exhibit 2. The map and legal description of the land to be dedicated will be provided by CITY and will be processed by CITY through an appropriate land use process, once signed by CCC. This dedication shall occur prior to issuance of Certificate of Occupancy for the DeJardin Building (or the next building permit issued for construction activities occurring on the campus once the agreement is signed). Once the deed of dedication and easements are conveyed, this shall constitute full satisfaction of the dedication of Meyers Road right-of-way included in Condition 4.
3. **Transportation System Development Charges:** The CITY agrees that CCC shall be entitled to Transportation System Development Charge (TSDC) credits for the value of the right of way dedicated that is larger than a local street. Notwithstanding any future increases to CITY’s TSDC, no charges except those identified in Exhibit 3, will be imposed on or exacted against CCC or its successors or assigns with respect to the Meyers Road Extension Project improvements.

Unless a more current property appraisal is provided by CCC, the value of the TSDC Credit will be based on value of the right of way as noted in the CCC Appraisal Report, prepared for the Meyers Road Extension project, with a Date of Value of March 29, 2017. The values will be \$2.50/SF for right of way outside the BPA lines, and the \$1.88/SF for right of way encumbered by BPA lines. The area to be dedicated is 116,805 SF and includes the following components:

Local Street, outside BPA Easement:	51,508 SF
Local Street, encumbered by BPA Easement:	13,883 SF
Greater than Local Street, outside BPA Easement:	43,032 SF
Greater than Local Street, encumbered by BPA Easement:	7,382 SF

The value of the area dedicated that is greater than a local street, shall be as follows:

Greater than Local Street, outside BPA Easement:
 $43,032 \text{ SF} * \$2.50/\text{SF} = \$107,580.00$

Greater than Local Street, encumbered by BPA Easement:
 $7,382 \text{ SF} * \$1.88/\text{SF} = \$13,878.16$

Total TSDC Credits \$121,458.16

The TSDC Credit for Right-of-Way greater than a local street shall be \$121,458.16 and applied to the TSDC Vehicle Fee only. These TSDC credits will not be applied to the proportional share calculation costs, but can be used towards the TSDC due for the DeJardin Hall Expansion or other future development projects on the campus. CCC shall not be entitled these TSDC credits until the right of way has been dedicated.

4. **Necessary Land Use or Permit Approvals:** CCC shall cooperate with the CITY in obtaining any land use approvals that may be necessary to construct the Improvements, including consenting to the submittal of the tree mitigation planting plan directed at lands currently owned by CCC but to be dedicated to the CITY.
5. **Proportional Share of Costs and Satisfaction:** CCC shall pay the CITY for the cost of constructing the Improvements required to be completed by CCC through Condition 4 of the 2008 Master Plan approval. The value of this work is \$2,637,712.00 as shown in Exhibit 3. This value is based on 95% construction plans & cost estimates. Payment of \$2,637,712.00 shall be made to the City prior to the issuance of Certificate of Occupancy for the DeJardin Building (or the next building permit issued for construction activities occurring on the campus once the agreement is signed).

Once paid, this amount shall constitute full payment for CCC's proportional share of the work related to the construction of Meyers Road from Highway 213 to eastern property line of the campus included in Condition 4. In the event that costs for the project are greater than or less than the 95% cost estimates, no additional funds will be requested and/or returned to CCC. The CITY will be responsible for all cost overruns and entitled to any savings. CITY is solely responsible for complying with all applicable Oregon Public Contracting Code provisions related to the construction of Meyers Road, including the payment of prevailing wage rates to laborers on the project.

6. **Cross-Access Easement:** CCC shall convey a cross-access easement necessary to allow for the City to construct a vehicular access to Meyers Road as part of the Improvements that will serve the 19842 Molalla Avenue property. Located to the south of the CCC property. The map and legal description of the cross-access easement will be provided by the CITY and will be processed through an appropriate land use process by CITY, once signed by CCC. The cross access easement shall be submitted to the City prior to the issuance of Building Permits of the DeJardin Building (or the next building permit issued for construction activities occurring on the campus once the agreement is signed). Once the easement is conveyed, this shall constitute full satisfaction of the local street connection to 19842 Molalla Avenue included in Condition 4.

7. **Tree Removal and Mitigation:** Tree removal necessary to accommodate the Meyers Road extension shall be accomplished pursuant to OCMC 17.41 requirements.

The Improvement area includes approximately 116 regulated healthy trees of varying sizes located on CCC property that need to be removed. The Timber Valuation Report, included in the Property Appraisal, states that a total of 104 trees within the Right-of-Way and 96 trees located on the remnant parcels have merchantable volume. Log quality is variable, but generally poor to medium, consisting primarily of Douglas Fir and Oregon White Oak. Timber was appraised using the conversion return method, which gives the net revenue anticipated after harvest costs. The Timber Valuation Report identifies the net revenue from the anticipated logging of the Right-of-Way on CCC property as \$7,900.00, and the Easement/Remnant as \$4,600, for a total credit of \$12,500, as shown in Exhibit 3. This timber value return was applied to reduce the estimated total fee required for tree mitigation.

CCC shall either mitigate 377 trees (2" caliper deciduous or 6 foot high conifer) onsite, provide a cash in lieu in the amount of \$121,394 (\$322/tree), or some combination of the two. If CCC selects to mitigate trees on their campus, they shall meet all requirements as noted in OCMC 17.41 related to mitigation.

8. **Bonneville Power Administration (BPA) Power Line Clearance:** A number of BPA power lines and towers must be altered or relocated to provide adequate vertical clearance and accommodate the Meyers Road Extension project. At this time the CITY has deposited with BPA \$50,000 to complete preliminary work to identify options for providing the required vertical clearance to allow the construction of Meyers Road. Although the BPA towers, overhead lines and the proposed Meyers Road crossing the BPA Easement are nearly entirely located on CCC property the CITY is proposing to equally share the costs of engineering, design and construction. As the Preliminary Engineering/Scoping work has not yet been completed the estimates for Preliminary Engineering/Scoping, Final Design and Tower Modifications/Construction are approximations. The CITY has estimated the CCC share of this work as \$262,500.00, which has been included in the \$2,637,712.00 proportional share calculation. The CITY will be responsible for all cost overruns and/or entitled to any savings related to the costs of engineering, designing and constructing the alteration or relocation of the BPA power lines and towers.
9. **Relocation of the CCC 36" Storm Line:** The CITY has determined that accommodating a gravity sanitary sewer down the Meyers Road Extension will require redesigning and relocating an existing 36" CCC pipeline used to convey stormwater. Rerouting the line within the Meyers Road alignment will convert this line, as noted in Exhibit 1, to a public line subject to CITY responsibility and maintenance.

10. **Shared Use Path Re-Route:** The Meyers Road Extension includes the provision of a shared use, multi-modal path, which is similarly identified as part of the Oregon City Loop Trail. CCC has already constructed a portion of this path through a shared use, bicycle and pedestrian path connecting CCC with the Oregon City High School. The Improvements will require relocating this path, in part, and connecting it to an enlarged multi-modal path consistent with the Meyers Road Extension project. CCC shall dedicate a public access easement and maintenance covenant necessary to accommodate this path in its new location. The map and legal description of the easement will be provided by the CITY and will be processed through an appropriate land use process by CITY, once signed by CCC. The cross access easement shall be submitted to the CITY prior to the issuance of Certificate of Occupancy for the DeJardin Building (or the next building permit issued for construction activities occurring on the campus once the agreement is signed). The CITY shall be responsible for all construction costs for this path relocation, including signage and lighting, necessary to meet CITY standards. CITY is solely responsible for complying with all applicable Oregon Public Contracting Code provisions related to the construction of this path relocation, including the payment of prevailing wage rates to laborers on the project as necessary.
11. **DirectLink Communications Relocation:** An existing Communications Line Right-of-Way Easement, as noted in Exhibit 1 exists between CCC and North Willamette Telecom (aka Canby Telephone Association and DirectLink). The easement states that the company shall within six months of written notice, relocate its cable if necessitated by any future construction, at their cost. The existing underground line that traverses the CCC property will need to be relocated in order to construct the Meyer Road Extension Project. CCC shall notify DirectLink and ensure that the underground line is relocated on or before January 31, 2019. If CCC would like to modify their private easement agreement with the communications provider, the City will provide a map & legal description or exhibit of the area within the existing easement that will now be located in the Meyers Road right-of-way.
12. **CCC Connection Road:** The Meyers Road Extension includes the construction of the CCC Connection Road between Meyers Road & Douglas Loop, as noted in Exhibit 1. These Improvements will include all work related to design & construction of the CCC Connection Road to connect the campus to the new Meyers Road. The CCC Connection Road will be a private roadway on CCC property to be owned and maintained by CCC. The CITY will provide as-constructed drawings of the completed project. CCC will provide a temporary construction easement to the City for the purpose of constructing the CCC Connection Road.

13. **CCC Construction Plan Review:** CCC shall use best efforts to review and provide comments to the CITY on construction plans, tree survey and any review applications within 30 days of submission of those applications.
14. **Effective Date, Term and Modification:** This Cost Sharing and Improvement Agreement shall be effective upon signature by both parties and will terminate ten years from the effective date or when construction of the Improvements is complete, whichever is later. This Agreement may be modified or terminated sooner than the period described in the preceding sentence only upon a written agreement signed by authorized representatives of both parties.
15. **Completion of Public Improvements:** The CITY shall cause construction of the Improvements to be completed within ten years of the effective date of this Agreement.
16. **City Financial Obligations Contingent on Budget Process:** All City obligations to expend moneys under this Agreement shall be contingent upon future appropriations as part of the local budget process. The City represents that sufficient moneys have been appropriated to fund the Improvements identified in this Agreement.
17. **Satisfaction of Condition 4:** Upon CCC's conveyance of the right-of-way dedication described in paragraph 2 of this Agreement, CCC's payment of the figure identified in paragraph 5 of this Agreement, and CCC's conveyance of the easement described in paragraph 6 of this Agreement, Condition of Approval No. 4 in City File CP 07-01 is fully satisfied.
18. **Remedies for Breach:** Should either party materially breach this Agreement, the parties reserve all legal and equitable rights available to them to remedy such a breach. The termination or expiration of this Agreement shall not relieve any party of any obligation arising under this Agreement that accrues prior to such expiration or termination.
19. **Controlling Law and Venue for Disputes:** This Agreement is governed by the laws of the State of Oregon, without respect to conflict of laws principles. Any action or suit arising out of or related to this Agreement shall be filed in the Circuit Court for the State of Oregon in Clackamas County. The parties consent to the personal jurisdiction of that court.
20. **Entire Agreement:** The CITY and CCC acknowledge and agree that no promises or representations have been made which do not appear written herein and that this Agreement contains the entire understanding of the parties as to the subject matter contained in this Agreement.
21. **Severability Clause:** If any term, provision, covenant, condition or portion of this Agreement is held to be illegal, invalid, void, voidable or unenforceable, the

remainder of the provisions shall remain in full force and effect to the maximum extent permitted by law.

22. **Assignment:** CCC may not assign all or any portion of its right and interest in and to this Agreement, whether by disposition of its property or otherwise, whether by direct or indirect assignment or transfer, by operation or law or by any stock sale, merger, consolidation or other means in any one or more transactions, without the prior written consent of the City, which consent shall not be unreasonably withheld.
23. **Third-Party Beneficiaries:** CCC and CITY are the only parties to this Agreement. There are no third-parties, intended or otherwise, which benefit from it.

CITY OF OREGON CITY:

City Manager

Date

**CLACKAMAS COMMUNITY
COLLEGE:**

Joanne Truesdell, President

Date

Approved as to form:

City Attorney

Attachments:

Exhibit 1 – Project Improvements Map

Exhibit 2 – Scope of Work

Exhibit 3 – CCC Proportional Share Costs

Exhibit 4 – Replacement Tree Calculations & Cash-in-Lieu Planting Cost



MEYERS ROAD EXTENSION PROJECT

Project Improvements Map, Exhibit 1



OFFICE:
5000 MEADOWS ROAD, SUITE 420
LAKE OSWEGO, OR 97035

LEGEND

- Total Meyers R/W Dedication
- Meyers as a Local Road R/W Dedication
- Meyers R/W Outside of Local Road Section

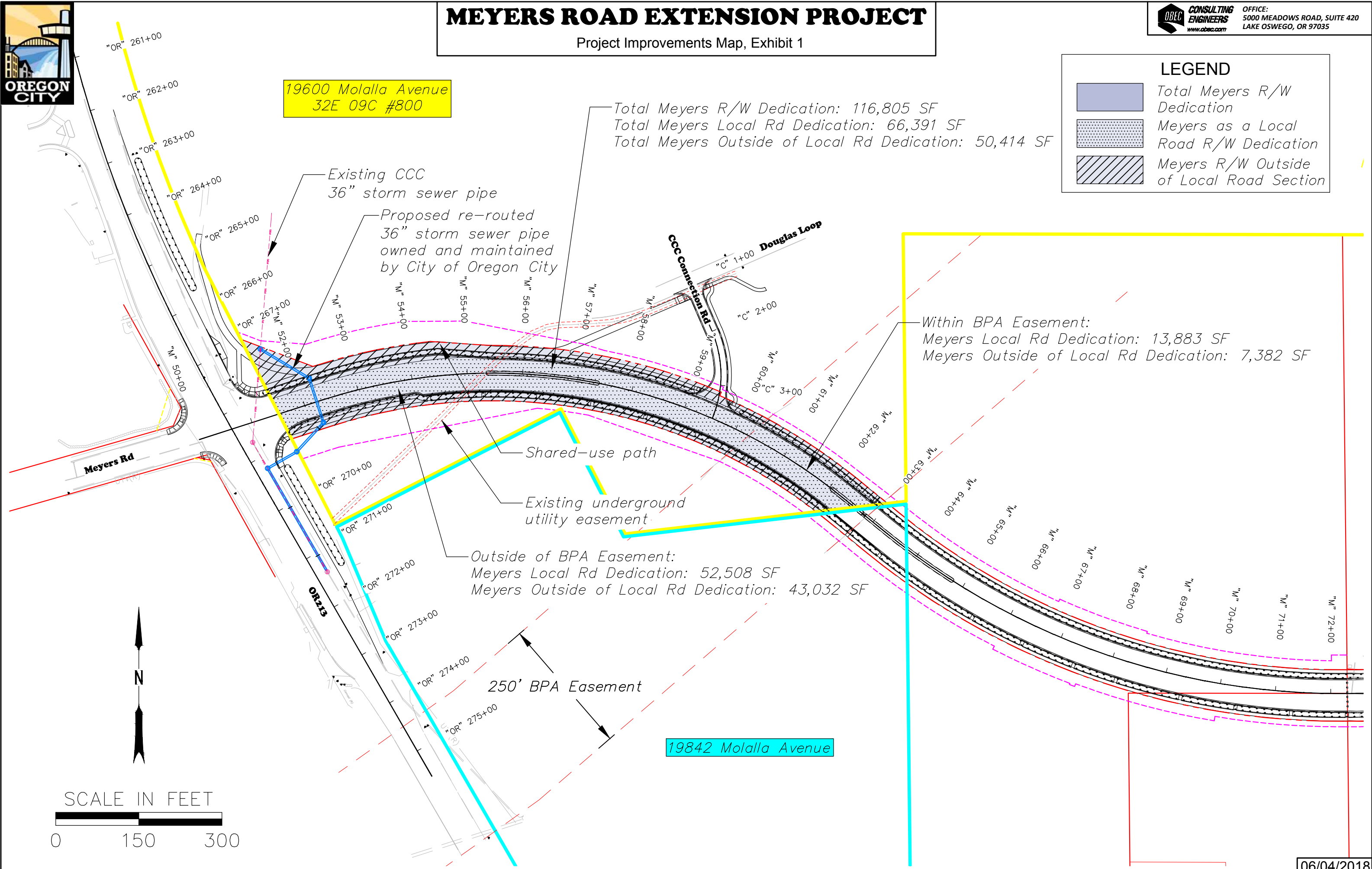


Exhibit 2 – Scope of Work

Construction of Meyers Road Extension from Hwy 213 to High School Avenue as an Industrial Minor Arterial as set forth in OCMC 12.04.180 including 59 feet of pavement, including 2 travel lanes, center turn lane, buffered bike lanes, landscape strip/vegetated swales, parking lane on the south side, 6 foot sidewalk on the south side and 12 foot shared use path along the north side, all located within a 97 foot wide right-of-way. The work shall include the installation of a southbound left turn lane on Hwy 213, replacement of the signal and intersection at Highway 213 and Meyers Road including the replacement off all pedestrian curb ramps.

The Meyers Road Local Street Cross Section that CCC is responsible for is described as a Local Industrial Road, with 38-foot wide pavement section, curb & gutter on both sides, 5-foot sidewalk on the north side and 5-foot wide landscape strip on the north side, located on CCC property.

Table of Cost Allocations

Project Component	CCC Obligation	City Obligation
Meyers Road Design Costs of full project	26%	74%
Meyer Road Extension Local Street Cross Section on CCC Property	100%	0%
Meyers Road Extension greater than Local Street Cross Section	0%	100%
CCC Connection Road	100%	0%
Meyers Road Westbound Right Turn Lane	50%	50%
Hwy 213 Southbound Left Turn Lane	50%	50%
Hwy 213 and Meyers Road intersection, traffic signal and ADA ramps	50%	50%
Tree mitigation	All mitigation (including recovery of any timber value) within CCC property	All mitigation (including recovery of any timber value) outside CCC property
BPA Power Line Adjustments	50%	50%
Shared Use Path	0%	100%

Exhibit 3 – CCC Proportional Share Costs

Based on OBEC 95% Design & Construction Costs
3/13/2018

	OBEC Estimates
Construction Cost Estimates	
Meyers Road (Local Road)	\$1,471,000.00
Meyers WBRT	\$70,350.00
OR 213 SBLT	\$96,700.00
50% of Signal	\$178,800.00
CCC Connection Road	\$277,200.00
CCC Construction Costs Total	\$2,093,850.00
Project Construction Cost Estimate	\$8,099,700.00
CCC Share of Project Construction Cost Estimate	26%
Design Costs	
Design Phase Costs (OBEC Contract)	\$667,163.00
CCC Share of Design Costs (based on % above)	\$172,468.00
Design & Construction Costs	
Construction Costs	\$2,093,850
Design Costs	\$172,468.00
CCC Design & Construction Costs Total	\$2,266,318.00
Trees	
Net Value of Timber in Full Roadway R/W	-\$7,900.00
Net Value of Timber in Easement/Remnant Parcels	-\$4,600.00
Cash in Lieu, if not mitigated on-site (see attached for breakdown)	\$121,394.00
Tree Costs	\$108,894.00
BPA Clearance	
BPA Preliminary Engineering/Scoping Deposit (50%)	\$25,000.00
BPA Tower Final Design Estimate (50%)	\$37,500.00
BPA Tower Modification/Construction Estimate (50%)	\$200,000.00
BPA Costs	\$262,500.00
Total CCC Proportional Share	\$2,637,712.00

Exhibit 4 – Replacement Tree Calculations & Cash-in-Lieu Planting Costs

Size of Tree Removed (DBH)	Quantity of Regulated Healthy Trees Within Meyers Road Construction Easement to be Removed on CCC Property	Tree Replacement Multiplier	Number of Trees to be Planted (Removed Within)	Cash-in-lieu of Planting Cost (\$322 per Tree)
6-12"	17	1	17	\$5,474
13-18"	24	2	48	\$15,456
19-24"	22	3	66	\$21,252
25-30"	20	4	80	\$25,760
31 and Over	11	5	55	\$17,710
Total	94		266	\$85,652

Size of Tree Removed (DBH)	Quantity of Regulated Healthy Trees Outside of CCC Driveway Construction Area to be Removed on CCC Property	Tree Replacement Multiplier	Number of Trees to be Planted (Removed Outside)	Cash-in-lieu of Planting Cost (\$322 per Tree)
6-12"	4	3	12	\$3,864
13-18"	2	6	12	\$3,864
19-24"	2	9	18	\$5,796
25-30"	2	12	24	\$7,728
31 and Over	1	15	15	\$4,830
Total	11		81	\$26,082

Size of Tree Removed (DBH)	Quantity of Regulated Healthy Trees Within CCC Driveway Construction Area to be Removed on CCC Property	Tree Replacement Multiplier	Number of Trees to be Planted (Removed Within)	Cash-in-lieu of Planting Cost (\$322 per Tree)
6-12"	2	1	2	\$644
13-18"	4	2	8	\$2,576
19-24"	2	3	6	\$1,932
25-30"	1	4	4	\$1,288
31 and Over	2	5	10	\$3,220
Total	11		30	\$9,660