

Contract Review Sheet

Purchase Order931638

Title: Mitigation Payment for North Fork Slide Repair

Contractor's Name: Oregon Dept of State Lands

Department: Public Works DepartmentContact: Jeniffer Scales

Analyst: Kathleen GeorgePhone #: (503) 588-5036

Term - Date From: Approval of POExpires: January 31, 2025

Original Contract Amount: \$117,041.80Previous Amendments Amount: \$-

Current Amendment: \$-New Contract Total: \$117,041.80Amd%0%

Outgoing Funds ☐ Federal Funds ☐ Reinstatement ☐ Retroactive ☐ Amendment greater than 25%

Source Selection Method: 20-0275 Sole SourceCMS#

Description of Services or Grant Award

Payment In Lieu (PIL) of waterways impact mitigation for the construction of the North Fork Slide Repair Project.

The North Fork Slide Repair Project at Milepost 5.0 will stabilize the road through construction of a shear key buttress. The buttress will be a massive wedge of approximately 110,000 cubic yards of stone embankment that will extend to bedrock beneath the roadway which will be paved as part of the project. This project requires a Joint Permit from USACE, DSL, and DEQ. Construction of the 900 ft. buttress requires impact (culverts) to 2 non-fishbearing streams at a total length of 330 feet. The Department of State Lands requires mitigation for these types of impacts. In this case, onsite mitigation is infeasible and there are no mitigation credits available for purchase, thus payment in lieu the only available option. The DSL Payment Calculator was used to determine the amount and was submitted as part of the Joint Permit Application.

CMS Record PW-6337-24

Desired BOC Session Date: 12/4/2024Contract should be in DocuSign by: 11/13/2024

Agenda Planning Date: 11/21/2024Printed packets due in Finance: 11/19/2024

Management Update: 11/19/2024BOC upload / Board Session email: 11/20/2024

BOC Session Presenter(s)Code: Y

REQUIRED APPROVALS

DocuSigned by: 11/15/2024

Finance - ContractsDate

DocuSigned by: Jeniffer Scales 11/18/2024

Contract SpecialistDate

Signed by: Scott Norris 11/15/2024

Legal CounselDate

DocuSigned by: Jan Fritz 11/15/2024

Chief Administrative OfficerDate



MARION COUNTY BOARD OF COMMISSIONERS

**Board Session Agenda Review Form**Meeting date: 12/4/24Department: Public WorksTitle: North Fork Slide Repair Project - Payment-in-Lieu Mitigation PaymentManagement Update/Work Session Date: 11/12/24 Audio/Visual aids ☐Time Required: 5 min Contact: Ryan Crowther Phone: 503-365-3112

## Requested Action:

Approve the Payment-in-Lieu (PIL) to the Oregon Department of State Lands (DSL) in the amount of \$117,041.80 for the mitigation of waterway impacts associated with the construction of the North Fork Slide Repair Project.

## Issue, Description &amp; Background:

The North Fork Slide Repair Project at North Fork Road Milepost 5.0 will stabilize the road through construction of a shear key buttress. The buttress includes approximately 110,000 cubic yards of stone embankment that will extend to bedrock beneath the roadway. This project requires permits from USACE, DSL, and DEQ due to 330 linear feet of impacts to two streams. The Department of State Lands requires mitigation for these types of impacts. In this case, on site mitigation is infeasible and there are no mitigation credits available for purchase, thus payment-in-lieu the only available option. The DSL Payment Calculator was used to determine the amount and was submitted as part of the Joint Permit Application.

## Financial Impacts:

The total cost of the payment is \$117,041.80, of which \$105,021.61 (89.73%) will be paid using federal grant funds. The remaining cost of \$12,020.19 (10.27%) will be paid using County Road Funds.

## Impacts to Department &amp; External Agencies:

There are no impacts to other departments or external agencies.

## List of attachments:

PO#931638, Contract Review Sheet, Signature Page, 65031 Mitigation Payment Form, DSL Payment Calculator

## Presenter:

Ryan Crowther

## Department Head Signature:

Brian Nicholas

Digitally signed by Brian Nicholas  
Date: 2024.10.27 09:02:55 -07'00'



# MARION COUNTY FINANCE DEPARTMENT

PO Box 14500

555 Court St NE #4247

Salem, OR 97309-5036

OREGON STATE OF  
DIVISION OF STATE LANDS  
775 SUMMER ST NE STE 100  
SALEM OR 97301

Purchase Order		
Purchase Order No	Revision	Page
931638		1
<b>Ship To:</b> MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		
<b>Bill To:</b> MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		

Customer Acct No	Supplier No 514268	Order Date / Buyer J SCALES	Revised Date / Buyer J SCALES
Payment Terms IMMEDIATE	Ship Via BEST METHOD	F.O.B DESTINATION	
Freight Terms PREPAID	Request Or Deliver To RYAN CROWTHER	Confirm To / Telephone ( )	

Line #	Description	Delivery Date	Quantity	Unit	Unit Price	Total
1	Payment In Lieu (PIL) of waterways impact mitigation for the construction of the North Fork Slide Repair Project.		1			\$117,041.80
<b>Total</b>						\$117,041.80

## INSTRUCTIONS TO VENDOR

1. Please direct any questions concerning this purchase order to invoiced department.
2. Purchase Order Number must appear on all invoices, packages and shipping documents relating to this order.
3. Separate invoices must be submitted for each Purchase Order.
4. Do not overship or substitute.
5. If you cannot supply the items requested, please notify issuing authority at once.

**Note :** Please notify department contact (above) for all inquiries regarding this Purchase Order

DocuSigned by:

Authorized By:

E4602AF8CAA542C...

MARION COUNTY PURCHASING

NOT VALID Unless Signed By Purchasing

**MARION COUNTY TERMS AND CONDITIONS**

**1. INSPECTIONS:** County may inspect and test the Goods and related Services (collectively, Goods). County may reject non-conforming Goods and require Contractor to correct them without charge or deliver them at a reduced price, as negotiated. If Contractor does not cure any defects within a reasonable time, County may reject the Goods and cancel the PO in whole or in part. This paragraph does not affect or limit County's rights, including its rights under the Uniform Commercial Code, ORS chapter 72 (UCC).

**2. DELIVERY:** Deliveries will be F.O.B destination. Contractor shall pay all transportation and handling charges. Contractor is responsible and liable for loss or damage until final inspection and acceptance of the Goods. Contractor remains liable for latent defects, fraud, and warranties.

**3. PAYMENT:** County shall pay Contractor within 30 days from (i) the date the Goods are delivered and accepted or (ii) the date the invoice is received, whichever is later

**4. COUNTY PAYMENT OF CONTRACTOR CLAIMS:** If Contractor does not pay promptly any claim that is due for Goods or Services furnished to the Contractor by any subcontractor in connection with this PO, the County may pay such claim and charge that payment against any payment due to the Contractor under this PO. The County's payment of a claim does not relieve the Contractor or its surety, if any, from their obligations for any unpaid claims.

**5. WARRANTIES:** Contractor agrees to perform its services with that highest standard of care, skill and diligence normally provided by a professional individual in the performance of similar services. Contractor represents and warrants that the Goods are new, current, and fully warranted by the manufacturer. Delivered Goods will comply with specifications and be free from defects in labor, material and manufacture. All UCC implied and expressed warranties are incorporated in this PO. Contractor shall transfer all warranties to the County.

**6. TERMINATION OF PO:** The PO may be terminated under the following conditions: a. By written mutual agreement of both parties. Termination under this provision may be immediate. b. Upon fifteen (15) calendar days written notice by either Party to the other of intent to terminate. c. The County may terminate all or part of this PO for the following reasons: (1) If the consultant fails to provide services, or fails to meet the performance standards as specified in this PO (or subsequent modifications of this PO), within the time specified herein or any extension thereof. Termination under this provision may be immediate; (2) If the consultant fails to start services on the date specified by Marion County in this PO or subsequent modifications to this contract. Termination under this provision may be immediate. (3) Failure of the consultant or Marion County to comply with the provisions of this PO and all applicable federal, state, and local laws and rules may be cause for termination of this contract. Such termination shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination. If this PO is terminated by either party, for reasons other than breach of contract, the County agrees to pay to the consultant all costs and expenses associated with services satisfactorily provided to the effective date of termination.

**7. INDEMNIFICATION.** The Contractor shall save harmless, indemnify, and defend the County for any and all claims, damages, losses and expenses including but not limited to reasonable attorney's fees arising out of or resulting from Contractor's performance of or failure to perform the obligations of this PO to the extent same are caused by the negligence or misconduct of Contractor or its employees or agents.

**8. GOVERNING LAW, VENUE:** This PO shall be governed by the laws of the State of Oregon. Any action commenced in connection with this PO shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing

is without limitation to or waiver of any other rights or remedies of the County according to law.

**9. FORCE MAJEURE:** Neither party is responsible for delay or default caused by an event beyond its reasonable control. County may terminate this PO without liability to Contractor upon written notice after determining the delay or default reasonably prevents performance of this PO.

**10. SUBCONTRACTING/NONASSIGNMENT.** No portion of the PO may be contracted or assigned to any other individual, firm or entity without the express and prior approval of the County.

**11. MAINTENANCE, RETENTION, AND CONFIDENTIALITY OF RECORD.** The Contractor agrees to establish and maintain records and statistics as follows: Financial records, which indicate the number of hours of service provided under this contract and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved. To the extent applicable, client records shall be kept confidential in accordance with ORS 179.505, OAR 309-11-020, 45 CFR 205.50 and 42 CFR Part 2.

**12. COMPLIANCE WITH APPLICABLE LAWS:** The Contractor shall comply with all applicable Federal, State and local laws, rules and regulations. All provisions of ORS 279B (Public Contracts and Purchasing) are incorporated herein to the extent applicable to POs.

**13. WORKERS' COMPENSATION:** Contractor shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless exempt under ORS 656.126(2). Contractor shall ensure that its Subcontractors, if any, comply with these requirements.

**14. SAFETY AND HEALTH REQUIREMENTS:** Contractor represents and warrants that the Goods comply with all federal and Oregon safety and health requirements.

**15. MATERIAL SAFETY DATA SHEET:** Contractor shall provide County with a Material Safety Data Sheet for any Goods which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use (OAR 437- 002-0360 and 29 CFR 1910.1020). Contractor shall label, tag or mark such Goods.

**16. AMENDMENTS:** All amendments to this PO must be in writing, signed by County.

**17. SEVERABILITY:** If a court of competent jurisdiction declares any provision of this PO to be invalid, the other provisions and the rights and obligations of the parties remain in effect.

**18. WAIVER:** Failure of either party to enforce any provision of this PO is not a waiver or relinquishment of that party's rights to such performance in the future or to enforce any other provisions.

**19. TAX CERTIFICATION:** Contractor hereby certifies under penalty of perjury: (a) the number shown on this form is the correct Federal Employer Identification Number; (b) it is not subject to backup withholding because (i) it is exempt from backup withholding, (ii) it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and (c) it is not in violation of any Oregon tax laws.

**Payment Calculator DSL-provided Stream Mitigation and for Estimating Financial Securities for Permittee-Responsible Mitigation**  
**Effective June 1, 2021**

Step 1: Check your impact site location on the [Mitigation Banks Map](#). If there is a mitigation provider with appropriate stream credits serving your area please contact the provider to determine eligibility, credit availability, price, and terms.

Step 2: If there is no mitigation provider with appropriate stream credits for your project location, proceed with the payment calculator below. Fill in impact area, land value, and zoning for the development site per the instructions below to determine the payment for mitigation credits. The payment calculator may also be used to estimate financial securities for permittee-responsible mitigation. Please be aware payment in lieu does not satisfy mitigation requirements for the US Army Corps of Engineers.

*Instructions: Insert the requested information in yellow highlighted cells.*

*Payment required is calculated in the green highlighted cell.*

<b>Enter the DSL Application Number:</b>	APP0065031; 65031-GP	<b>Enter the DSL-assigned application number, if known (APP0000000)</b>
Linear feet of stream impact	330	<i>Insert the linear feet of the stream impact that must be mitigated.</i>
Width of stream at ordinary high water level	2	<i>Insert the average stream width. Average stream width should be measured at the level of ordinary high water.</i>
Tax lot acreage (impact site)	268.34	<i>Insert the total acreage of the tax lot where the impact is located.</i>
Real market land value of tax lot	\$ 170,740.00	<i>Insert the real market land value for the tax lot; do not include the value of structures or improvements. Refer to the most recent property tax statement from the county assessor* or from a recent land appraisal. The proportional cost of the area to be mitigated is used in the payment calculation.</i>
Zoning Adjustment Factor	1	<i>Insert the correct adjustment from table 1 based on the zoning of the tax lot being impacted.</i>
Restoration Cost (per liner foot)	\$248	<i>Insert the restoration cost from table 2 for the basin where the impact is located.</i>
<b>PAYMENT REQUIRED:</b>	\$ 117,041.80	Payment = (RMV + R + LT + A)*mm. See information below.

**Table 1: Zoning Adjustment Factor**

Description of Zoning	Proportion of RMV to be included
Residential zoned properties with improvements such as utilities and subdivision infrastructure	0.5
Properties zoned commercial, industrial, or zoned residential without improvements	0.8
Properties zoned for agriculture, forestry, conservation use, and public reserve	1

**Table 2: Restoration Cost by Basin**

Basin (6 digit hydrologic unit code)*	Streams (liner foot)
Black Rock Desert (160402)	\$191
Deschutes River Basin (170703)	\$174
John Day River Basin (170702)	\$209
Klamath River Basin (180102)	\$191
Lower Columbia (170800)	\$147
Lower Snake (170601)	\$168
Middle Columbia River Basin (170701)	\$251
Middle Snake-Boise (170501)	\$108
Middle Snake-Powder (170502)	\$267
Northern Oregon Coastal (171002)	\$278
Oregon Closed Basins (171200)	\$191
Southern Oregon Coastal (171003)	\$193
Upper Sacramento (180200)	\$163
Willamette River Basin (170900)	\$248

**Mitigation Payment Form**Please include this form with your check made out to: Department of State Lands & mail to:

Oregon Dept. of State Lands  
775 Summer St NE Ste 100  
Salem, OR 97301

Please fill in your current contact information below & be sure to write your file # on your check. Your cancelled check is your receipt.

**\*\*Payments by Credit Card are now available\*\*****[Online Store \(Choose Mitigation Payments\) /](https://www.oregon.gov/dsl/Pages/payments.aspx)****<https://www.oregon.gov/dsl/Pages/payments.aspx>**

**NOTE: Transactions are limited to \$25,000. If your mitigation payment is more, you will need to complete multiple transactions if you wish to pay by credit card.**

DSL APP# or ENF #	65031	Payment Amount Due	\$117.041.80 for 330 linear feet of waters impact
Applicant	Marion County	Affiliation	
Phone Number	503-588-7919	Email Address	stencza@co.marion.or.us

For ILF payments, DSL will send a copy of the Bill of Sale for mitigation credits to the Corps and the Applicant, acknowledging that DSL is accepting the mitigation obligation.

*DSL Office only:*

Mitigation source:

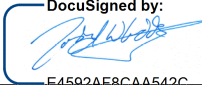
Impact amount	Pay to		PCA	PCA split
X	PIL	Statewide	100% 13011-0218	
	ILF	Halfmile Lane 90-2009-02	100% 13012-0218	
	ILF	Tamara Quays 90-2009-01	70% 13012-0218	30% 13013-0218
	ILF	Pixieland 90-2010-01	70% 13012-0218	30% 13013-0218
	ILF	Clear Lake 90-2013-01	70% 13012-0218	30% 13013-0218
	ILF	Kilchis River 90-2014-02	70% 13012-0218	30% 13013-0218

Impact location:

Impact	HUC	Basin	Impact	HUC	Basin
<input type="checkbox"/>	170701	Middle Columbia	<input type="checkbox"/>	180102	Klamath
<input type="checkbox"/>	170800	Lower Columbia	<input type="checkbox"/>	170702	John Day
<input type="checkbox"/>	171002	North Coast	<input type="checkbox"/>	171200	Malheur
<input type="checkbox"/>	171003	South Coast	<input type="checkbox"/>	170601	Lower Snake
<input type="checkbox"/>	170900	Willamette	<input type="checkbox"/>	170502	Middle Snake / Powder
<input type="checkbox"/>	170703	Deschutes	<input type="checkbox"/>	170501	Middle Snake / Boise
			<input type="checkbox"/>		Other – CA border

SIGNATURE PAGE FOR  
MITIGATION PAYMENT FOR NORTH FORK SLIDE REPAIR - PW-6337-24  
between  
MARION COUNTY and OREGON DEPT OF STATE LANDS

MARION COUNTY SIGNATURES  
BOARD OF COMMISSIONERS:

Chair		Date
Commissioner		Date
Commissioner		Date
Authorized Signature:	<div>DocuSigned by: Brian Nicholas 9793BA7ACD6D443...</div>	11/15/2024
	Department Director or designee	Date
Authorized Signature:	<div>DocuSigned by: Jan Fritz DC16351248DE4EC...</div>	11/15/2024
	Chief Administrative Officer	Date
Reviewed by Signature:	<div>Signed by: Scott Norris 60C98A6F708240B...</div>	11/15/2024
	Marion County Legal Counsel	Date
Reviewed by Signature:	<div>DocuSigned by:  E4592AF8CAA542C...</div>	11/15/2024
	Marion County Contracts & Procurement	Date