

RESOLUTION NO. 1252

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PRINEVILLE, CROOK COUNTY, AND OCHOCO IRRIGATION DISTRICT REGARDING DETERMINING THE FEASIBILITY OF A HYDROELECTRIC POWER GENERATION PROJECT ON THE CROOKED RIVER

WHEREAS, The City of Prineville (“City”), Crook County (“County”), and Ochoco Irrigation District (“District”), collectively the “Parties,” each have an interest in determining if a hydroelectric power generation project (the “Project”) at the Bowman Dam is feasible; and

WHEREAS, District’s engineer of record has experience with other hydroelectric power generation projects and is willing to conduct a feasibility study of the Project for \$24,000; and

WHEREAS, to protect their priority in the Project, a pre-application needs to be prepared and filed with the Federal Energy Regulatory Commission for a cost of \$5,000; and

WHEREAS, a \$12,000 Energy Trust of Oregon grant can be used toward the cost of the feasibility study; and

WHEREAS, the attached Intergovernmental Agreement has been drafted and agreed upon by the staff of each of the Parties and such Agreement has been approved by the District at its February 17, 2015, meeting; and

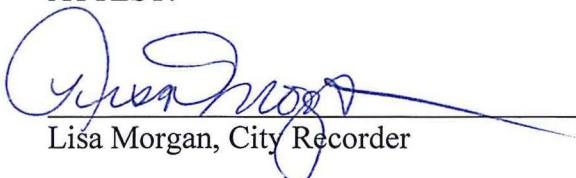
WHEREAS, because of the potential benefits to City being able to market a green energy source, City staff recommends approval of the attached Intergovernmental Agreement between the City, the County, and the District.

NOW, THEREFORE, the City of Prineville resolves that the attached Intergovernmental Agreement between the City of Prineville, Crook County, and Ochoco Irrigation District is hereby approved and that the Mayor and City Manager are authorized and instructed to sign such Agreement on behalf of the City of Prineville.

Passed by the City Council this 24th day of February, 2015.


Betty J. Roppe, Mayor

ATTEST:


Lisa Morgan, City Recorder

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INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL Agreement (“Agreement”) is entered into effective February 17, 2015, by and between the **City of Prineville**, an Oregon municipal corporation, (“City”), **Crook County**, a political subdivision of the State of Oregon, (“County”), and **Ochoco Irrigation District**, an Oregon Special District organized pursuant to ORS Chapter 545 (“District”), collectively the “Parties” and individually a “Party.”

RECITALS:

- A. City, County, and District are authorized, pursuant to ORS 190.003-190.110 to enter into this Agreement.
- B. The Parties share an interest in accessing and understanding the benefits of locating a hydroelectric power generation project (“Project”) at the Bowman Dam on the Crooked River.
- C. In order to determine the feasibility of the Project, including but not limited to possible site locations, review of river flows, permits with federal and state agencies, size of powerhouse and turbines, construction cost estimates, energy production estimates, revenue expectations, and potential grants and funding, a feasibility study of the Project is needed.
- D. District’s engineer of record, Kevin L. Crew, dba Black Rock Consulting, (hereinafter “Consultant”) has experience with similar projects and is willing to conduct a feasibility study of the Project for Twenty Four Thousand and no/100 dollars, to wit: (\$24,000.00).
- E. In order for the Parties to insure their ability to locate the Project at Bowman Dam a pre-application needs to be prepared and filed with the Federal Energy Regulatory Commission (“FERC”). The cost of preparing and filing the pre-application is Five Thousand and no/100 dollars, to wit: (\$5,000.00). Said amount is in addition to the Twenty Four Thousand dollars referenced in paragraph “D” above.
- F. The Parties have a Twelve Thousand and no/100 dollar (\$12,000.00) grant that can be used toward the cost of the Project feasibility study.
- G. The Parties desire to enter into this Agreement to set out the rights and responsibilities of the Parties regarding the feasibility study of and pre-application for the Project.

IN CONSIDERATION of the following covenants, the Parties agree as follows:

- 1. The above Recitals are made a part of this Agreement.
- 2. District shall contract with Consultant to complete a feasibility study of the Project.

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3. District shall also contract with Consultant for the preparation and filing with FERC of the pre-application for the Project.

4. Notwithstanding the Parties' agreement to share costs, the contracts referred to in paragraphs #2 and #3 above shall be between District and Consultant only. District shall be responsible for complying with all Public Contracting rules relative to those agreements. Each Party shall pay one-third of any cost of the feasibility study and the preparation and filing of the pre-application with FERC that are not paid by grants or from other sources. No Party's proportionate share shall exceed a total of Five Thousand Six Hundred and Sixty-Seven dollars (\$5,667.00) without that Party's prior written consent.

5. No Party is, by virtue of this Agreement, a partner or joint venturing with any other Party and no Party shall have any obligation with respect to any other Party's debts or liabilities of whatever kind or nature.

6. The failure by any Party to enforce any provisions of this Agreement shall not constitute a waiver by that Party of that provision or of any other provision of this Agreement.

7. Should any provision or provisions of this Agreement be construed by a court of competent jurisdiction to be void, invalid, or unenforceable, such construction shall affect only the provision or provisions so construed, and shall not affect, impair, or invalidate any of the other provisions of this Agreement which shall remain in full force and effect.

8. This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes any and all prior or contemporaneous agreements or understandings between the Parties, if any, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein.

9. Any alterations, variations, modifications or waivers of any provision of this Agreement shall be valid only when such has been submitted in writing and approved by signature of all the Parties.

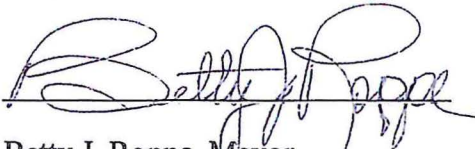
10. Except as otherwise expressly provided in this Agreement, no officer, employee or agent of any Party, unless authorized in writing by their governing body, has any authority to waive, alter, or enlarge this Agreement, or to make any new, substituted or different agreements, representations, or warranties.

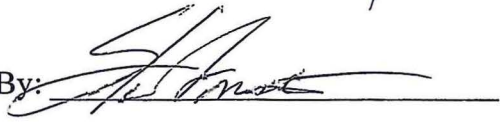
11. This Agreement has been prepared by the combined efforts of the Parties and their respective attorneys.

12. Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Oregon. It is further agreed that any court action regarding this Agreement shall be brought in Crook County Circuit Court.

13. This Agreement creates no rights in third parties and no third party beneficiaries.

City of Prineville

By: 
Betty J. Roppe, Mayor

By: 
Steve Forrester, City Manager

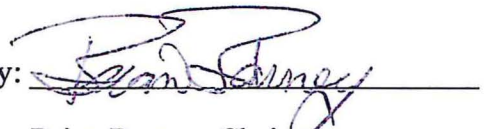
Crook County


By: _____
Mike McCabe, County Judge

By: _____
Ken Fahlgren, County Commissioner

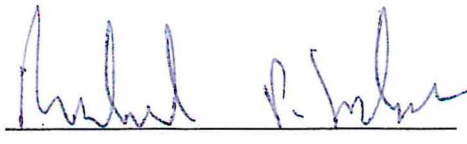
By: _____
Seth Crawford, County Commissioner

Ochoco Irrigation District

By: 
Brian Barney, Chairman

By: 
Wade Flegel, Board Member

By: 
Dean Davis, Board Member

By: 
Michael P. Kasberger, Secretary/Manager