

**STATE OF OREGON
PARKS AND RECREATION DEPARTMENT
COOPERATIVE AGREEMENT FOR TRAIL PROJECT WORK**

This cooperative agreement ("Agreement") is between the State of Oregon ("State") acting by and through its Oregon Parks and Recreation Department ("**OPRD**") and Northwest Youth Corps, an Oregon nonprofit corporation for public benefit ("**NYC**"). Throughout the Agreement, OPRD and NYC are referred to individually as "Party" and collectively as "Parties."

Pursuant to ORS Chapter 344.425, a public body may enter into a written cooperative agreement with a youth job development organization for the provision of services by youth participants in connection with a public resource project for the purpose of providing opportunities to develop job and workforce skills to the youth participants and to provide benefits to the public body.

Now, therefore, the Parties agree as follows:

- 1. DOCUMENTS; ORDER OF PRECEDENCE.** The Agreement consists of the following documents, which are listed in descending order of precedence: the Agreement less all exhibits, attached Exhibit A (Project Work), and attached Exhibit B (Insurance Requirements). Exhibits A and B are incorporated by this reference.
- 2. TERM OF AGREEMENT.** This Agreement is effective on the date it is signed by all Parties and continues in full force and effect until **June 30, 2021**. The Parties may extend the term of this Agreement for additional periods by written amendment in accordance with section 23.
- 3. SCOPE OF SERVICES.** OPRD desires to obtain and NYC desires to provide services in connection with the public resource project known as Oregon Coast Trail ("Project") which is described more fully in the attached Exhibit A (Project Work).
- 4. CONSIDERATION**
 - 4.1** OPRD shall pay NYC a total amount not to exceed **\$219,912** for NYC's completion and OPRD's acceptance of the Project work. OPRD shall not separately reimburse NYC for any travel or other expenses under this Agreement.
 - 4.2** OPRD's payment obligations under this Agreement are conditioned upon OPRD's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. NYC is not entitled to receive payment of OPRD's payment obligations under this Agreement from any part of Oregon state government other than OPRD. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.
 - 4.3 Invoicing.** NYC shall submit one invoice to OPRD's Authorized Representative upon Project completion and/or in conjunction with completion of week-long units of the Project
 - 4.4 Payment.** OPRD's Authorized Representative or designee shall review the invoice received and contact NYC promptly to report any discrepancies. OPRD shall pay NYC within 30 days of receipt of

invoice, unless OPRD has reported any discrepancy in which case payment will be made within 30 days of a corrected invoice. OPRD shall make payment in the form of a State of Oregon warrant payable to NYC. OPRD shall send payment to NYC at the address specified in the invoice. If OPRD fails to pay an invoice as set forth in this section, NYC may assess overdue account charges to OPRD in accordance with ORS 29 3.462.

5. **AUTHORIZED REPRESENTATIVES.** Unless stated elsewhere in the Agreement, the individuals named below are the designated contacts for all activities relating to this Agreement.

OPRD

Robin Wilcox
Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301
503-385-3246 (cell)
Robin.wilcox@oregon.gov

NYC

Matt Springer
Northwest Youth Corps 2621 Augusta Street
Eugene, OR 97403
541-349-7515 (office)
springerm@nwyouthcorps.org

6. **NOTICES.** All notices ("Notice(s)") required under this Agreement will be in writing and addressed to the Party's appropriate Authorized Representative, as identified in section 5. Mailed Notices are deemed received five (5) days after mailing when properly addressed and deposited prepaid into the U.S. postal service. Faxed Notices are deemed received upon electronic confirmation of successful transmission to the designated fax number. E-mail Notices are deemed received upon electronic confirmation of receipt. Notices delivered by personal delivery are deemed received when delivered to the Authorized Representative personally or to the Authorized Representative's physical address specified above.

7. **REPRESENTATIONS OF THE PARTIES**

7.1 **OPRD represents that:**

OPRD is a "Public body" and the project work described in Exhibit A qualifies as a "Public resource project" as those terms are defined in ORS 344.415;

The use of youth participants on the Project involves job training experiences for youth that are of limited, short duration and are not intended to displace, duplicate or replace the jobs of public or private employees involved in equivalent jobs or work tasks, impair existing contracts for services or prevent the hiring of seasonal employees; and

OPRD has sufficient appropriations and limitation for the current biennium to meet its payment obligation under this Agreement.

7.2 **NYC represents that:**

NYC has the power and authority to enter into the Agreement and perform the Project Work, and the Agreement, when executed and delivered, shall be a valid and binding obligation of NYC enforceable in accordance with its terms;

NYC qualifies as a "Youth job development organization" and shall provide "Youth participants," as those terms are defined in ORS 344.415, to perform services related to the Project;

NYC has the skill and knowledge possessed by well-informed members of its industry, trade or profession and will apply that skill and knowledge with care and diligence to perform the Services in a timely, professional manner;

NYC shall, at all times during the term of the Agreement, be qualified, professionally competent and duly licensed, registered or certified as applicable to perform the Services in the State of Oregon.

NYC shall perform all Services as an independent contractor and shall act at all times as an independent contractor and not as an agent or employee of the State;

NYC is not an "officer," "employee," or "agent" of the State as those terms are used in ORS 30.265 and shall not make representations to third parties to the contrary;

NYC has no right or authority to incur or create any obligation for or legally bind OPRD in any way;

NYC shall be responsible for all federal or state taxes applicable to compensation or payments paid to NYC under the Agreement;

NYC is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to NYC under the Agreement except as a self-employed individual; and

NYC is not in violation of any tax laws described in ORS 305.380(4).

- 8. RESPONSIBILITIES OF THE PARTIES.** The general responsibilities of the parties are set forth below. Additional obligations specific to the Project Work are set forth in Exhibit A.

OPRD. OPRD shall provide necessary technical oversight for the Project to ensure the work is completed according to specifications.

OPRD shall not be responsible for supervision of the youth and young adult participants.

8.1 NYC. NYC shall:

- Perform the work described in the attached Exhibit A (Project Work) in accordance with the stated specifications, requirements, delivery schedule, and relevant industry standards.
- Provide the supervision, oversight, discipline, payment of wages or compensation, and workers' compensation coverage related to all youth participants performing services under the Agreement.
- Provide all labor required to complete the requested work, including:
 - One or more youth crews and/or young adult crews as negotiated between the Parties;
 - Trained adult crew leader(s) for each crew to fully supervise participants while at the Project site or any camp; and
 - Project manager to coordinate work crews and facilitate communication between the Parties.
- Provide necessary technical and safety training to youth participants serving on the Project.

- Provide necessary personal protective equipment and supplies for the youth participants unless otherwise stipulated in Exhibit A.
- Provide camping supplies, food, educational materials, basic tools and equipment required to complete the Project unless otherwise stipulated in Exhibit A.
- Provide all transportation for youth participants between assembly points and the Project site.
- Return any tools or equipment provided by OPRD in the same condition as when received excepting normal wear and tear.

NYC shall **not** enter into any subcontracts for any of the work scheduled under this Agreement or perform any additional work for the Project unless authorized by amendment in accordance with section 23.

- 9. EXCUSES FOR NON-PERFORMANCE.** Neither Party shall be held responsible for delay or failure to perform when such a delay or failure is due to fire, flood, epidemic, strikes, acts of God or the public enemy, unusually severe weather, legal acts of public authorities, or delays or defaults caused by public carriers, which cannot reasonably be foreseen or provided against.

10. EVENTS OF DEFAULT

10.1 Default by NYC. NYC shall be in default under the Agreement if:

- A. NYC no longer holds a license or certificate that is required for NYC to perform its obligations under the Agreement and NYC has not obtained such license or certificate within 14 calendar days after OPRD's notice or any longer period as OPRD may specify in the notice; or
- B. NYC commits any material breach or default of any covenant, warranty, obligation or other provision under this Agreement or fails to perform under this Agreement within the applicable time specified under this Agreement; and such breach, default or failure is not cured within 14 calendar days after OPRD's notice or any longer period as OPRD may specify in the notice.

10.3 Default by OPRD. OPRD shall be in default under the Agreement if:

- A. OPRD fails to provide NYC any cash payments or In-kind Services due pursuant to the terms of the Agreement, and OPRD fails to cure such failure within 14 calendar days after NYC's notice or any longer period as NYC may specify in the notice; or
- B. OPRD commits any material breach or default of any covenant, warranty, or obligation under the Agreement, and such breach or default is not cured within 14 calendar days after NYC's notice or any longer period as NYC may specify in the notice.

11. REMEDIES

11.1 OPRD's Remedies. In the event NYC is in default under Section 10.1, OPRD may, at its option, pursue any or all of the remedies available to it under the Agreement and at law or in equity, including, but not limited to the remedies listed below. These remedies are cumulative to the extent the remedies are not inconsistent, and OPRD may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that NYC was not in

default under Section 10.1, then NYC shall be entitled to the same remedies as if the Agreement was terminated pursuant to Section 12.1.

- A. Termination of the Agreement under Section 12.2; and
- B. Withholding all monies due for Services that NYC has failed to deliver within any scheduled completion dates or has performed inadequately or defectively.

11.2 2 NYC's Remedies. In the event OPRD terminates the Agreement under Section 12.2, or in the event OPRD is in default under Section 10.2 and whether or not NYC elects to exercise its right to terminate the Agreement under Section 12.3, NYC's sole monetary remedy shall be a claim for unpaid invoices, costs incurred within any limits set forth in the Agreement but not yet billed, less previous amounts paid and any claim(s) that OPRD has against NYC. In no event shall OPRD be liable to NYC for any expenses related to termination of the Agreement, or for other consequential damages.

12. TERMINATION. Unless terminated earlier in accordance with this section 12 or extended in accordance with section 2, this Agreement automatically terminates on the end date set forth in section 2. Any termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

12.1 Termination by Mutual Consent. This Agreement may be terminated by written mutual consent of the Parties at any time.

12.2 OPRD's Right to Terminate. OPRD may terminate this Agreement immediately upon written notice to NYC's Authorized Representative, or at a later date as OPRD may establish in the notice, upon the occurrence of any of the following events:

- A. OPRD fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement; or
- B. Federal or state laws, regulations or guidelines are modified or interpreted in a way that the purchase of services by OPRD under this Agreement is prohibited; or
- C. NYC is in default under Section 10.1 of this Agreement.

12.3 NYC's Right to Terminate. NYC may terminate this Agreement immediately upon written notice to OPRD's Authorized Representative, or at a later date as NYC may establish in the notice, if OPRD is in default under Section 10.2 of this Agreement.

12.4 Cessation of Activities; Return and Removal of Property. Upon termination of the Agreement, NYC shall:

- A. Immediately cease all activities under the Agreement, unless OPRD expressly directs otherwise in a notice;
- B. Deliver to OPRD all of OPRD's property that is in the possession or under the control of NYC within the timeframe specified by OPRD; and
- C. Remove all personal property belonging to NYC or its youth participants that is stored or kept on OPRD property within the timeframe specified by OPRD

13. INDEMNIFICATION; INSURANCE

13.1 NYC's Indemnification of State. NYC shall defend, save, hold harmless, and indemnify the State of Oregon, its agencies, officers, directors, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever ("Claims") resulting from, arising out of, or related to the acts or omissions of NYC or its officers, employees, subcontractors, or agents under this Agreement.

13.2 State's Indemnification of NYC. Subject to the limitations of Article XI, § 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300), the State shall indemnify, within the limits of and subject to the restrictions in the Tort Claims Act, NYC against any liability for personal injury or damage to life or property arising from the State's negligent activity under this Agreement.

13.3 Defense and Counsel. OPRD shall reasonably cooperate in good faith, at NYC's reasonable expense, in the defense of claims, and NYC shall select counsel reasonably acceptable to the Oregon Attorney General to defend such claims and all costs of such counsel shall be borne by the NYC. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before such counsel may act in the name of, or represent the interests of, the State of Oregon, its agencies, officers, employees or agents. OPRD may elect to assume its own defense with an attorney of its own choice and its own expense at any time OPRD determines important governmental interests are at stake. OPRD agrees to promptly provide NYC with notice of any claim that may result in an indemnification obligation hereunder. Subject to the limitations noted above, NYC may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of OPRD.

13.4 Personal Property. NYC agrees that OPRD will not be responsible for the safekeeping of any personal property belonging to NYC or its youth participants that is stored or kept on OPRD property. NYC agrees to not hold OPRD liable for any personal property belonging to NYC or its youth participants that is destroyed by any fire, flood, earthquake or any other natural disaster. NYC shall be responsible for obtaining insurance to cover any and all personal property.

13.5 Insurance. NYC shall obtain and maintain in full force for the duration of the Agreement the type(s) and amount(s) of insurance coverage set forth in Exhibit B.

14. DISPUTE RESOLUTION. The Parties should attempt in good faith to resolve any dispute arising out of or relating to this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

15. GOVERNING LAW; VENUE; CONSENT TO JURISDICTION. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any claim, suit or action between the Parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the jurisdiction of the Circuit Court of Marion County in the State of Oregon. Each Party hereby consents to the exclusive

jurisdiction of such court, waives any objection to venue and waives any claim that such forum is an inconvenient forum. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court.

16. RECORDS

16.1 Records Generally. NYC shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, or a longer period as may be required by applicable law, following Agreement termination or full performance, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever ending is later ("Record Retention Period"). The Records must include true and complete books and accountings of all financial transactions of the operation of all activities resulting from this Agreement in accordance with generally accepted accounting principles.

16.2 Access to Records. During the Record Retention Period, NYC shall permit OPRD, its duly authorized representatives, and the federal government access to the Records at reasonable times and places for purposes of examination and copying.

16.3 Right to Audit. OPRD shall have the right to inspect and audit NYC's business activities related to this Agreement.

16.4 Public Records. OPRD's obligations under this section 16 shall be subject to the Oregon Public Records Laws, ORS 192.410 through ORS 192.505.

17. ASSIGNMENTS; SUCCESSORS

17.1 NYC shall not assign, delegate or transfer any of its rights or obligations under the Agreement without OPRD's prior written consent.

17.2 The provisions of the Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors, and permitted assigns, if any.

18. THIRD PARTY BENEFICIARIES. OPRD and NYC are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or will be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

19. SURVIVAL. In addition to all provisions which by their nature extend beyond Agreement termination or full performance, the following provisions remain in effect beyond any Agreement termination or full performance: Exhibit B (Insurance Requirements) and sections 4 (Consideration), 7 (Representations of the Parties), 11 (Remedies), 13 (Indemnification; Insurance), 15 (Governing Law; Venue; Consent to Jurisdiction), and 16 (Records).

- 20. **SEVERABILITY.** If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.
- 21. **WAIVER.** No waiver of or consent to terms of this Agreement binds either Party unless in writing and signed by OPRD and NYC, and all necessary approvals have been obtained. Waivers and consents are effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement is not a waiver by such Party of that or any other provision.
- 22. **INTEGRATION AND MERGER.** This Agreement, together with the Exhibit(s) attached hereto, constitutes the entire agreement between the Parties. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.
- 23. **AMENDMENTS.** The Parties may amend this Agreement at any time during the term of the Agreement. No amendment is effective unless it has been reduced to writing, signed by all Parties, and all approvals required by applicable law have been obtained.

Each Party, by the signature below of its authorized representative, hereby acknowledges that s/ he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

In witness whereof, the Parties hereto have made, executed and delivered the Agreement as of the last date each signatory below has signed the Agreement.

Northwest Youth Corps (NYC)

By: _____ Name _____ Date _____
Matt Springer, Programs Director

**State of Oregon acting by and through its
Oregon Parks and Recreation Department (OPRD)**

By: _____ Name _____ Date _____
[Robin Wilcox]

**Exhibit A
Project Work**

In conjunction with this agreement, NYC will complete up to 24 weeks of project work on OPRD pursuant to OPRD priorities using NYC's youth crews that contain 8-9 members and two leaders, and up to 4 weeks of Idaho Leadership Development Crew. NYC and OPRD will work together to identify the selected projects, the project specifications associated with those projects, and the contacts with whom NYC personnel should work to complete projects prior to beginning work.

OPRD will provide on-site project coordinators to meet the crews and commence work at individual sites. There will be contingency work plan options for each District (North, Central, and South). It is anticipated the Beach/Trail Rangers and Park Managers (or a Ranger appointed by the Park Manager) will be the local contact for the trail crews.

MU	Park	Trail	Projects Identified*	Estimated # of Weeks
North				
Nehalem Bay	Ecola	Tillamook Head to Hiker Camp	Boardwalk removal/repair	3
		Hiker Camp to Indian Point		
	Oswald West	Arch Cape Creek to 101		2
		101 to Cape Falcon	Social trail repair at Cape Falcon	
		Cape Falcon Trail	Hold for RTP grant; coordinate basic maintenance with TKO	
		Elk Flats to Neahkahnie North TH		
Neahkahnie Mtn	Hold for RTP grant; basic maintenance okay			
Cape Lookout	Munson Creek	Munson Trail**		.5
	Clay Meyers	Whalen Island**		.5
	Bob Straub	Bob Straub**	Horse trail restoration	2
	Cape Lookout	North Trail		2
		Cape Lookout Trail	Hold for RTP grant; basic maintenance okay	
		South Trail		
Central				
Beverly Beach	Fishing Rock	Cape Meares		1
	Fogarty Creek	Fogarty to Boiler Bay		1
Carl Washburne	Carl Washburne	Hobbit Trail		2
		Heceta Head		
South				
Cape Blanco	Floras Lake			2
	Cape Blanco			2
	Humbug			1
Harris Beach	Cape Sebastian	333 Trail**		1
		South parking lot → South Beach Access**		
	Samuel Boardman	Arch Rock North		4
		Arch Rock South to Thomas Creek (Secret Beach → China Beach North Access, North Island Viewpoint/Thomas Creek Bridge North→China Beach South Access **)		
		Thomas Creek Bridge Viewpoint South→Indian Sands Parking Lot, Indian Sands Loop Trail**		
Indian Sands to House Rock (Indian Sands Parking				

		Lot→Whaleshead Upper Parking→Whaleshead Lower Parking Lot, Whaleshead Viewpoint→House Rock Viewpoint**)		
		House Rock Viewpoint South	Waterbar installation first ¼ mile***	
		Cape Ferrelo Loop		
		Lone Ranch Beach Access→Rainbow Rock TH**		

* Scope of work for all projects is anticipated to be limited to minor maintenance (in-kind, in-tread brushing, drainage, treadwork lite, log-out with hand tools). If no specific project is identified, assume basic maintenance only as defined.

** These projects were not reported to have been addressed in 2019 so they were carried over pending further information.

***May require Archy survey.

**EXHIBIT B
INSURANCE REQUIREMENTS**

1. REQUIRED INSURANCE

NYC shall obtain at NYC's expense the insurance specified in this section prior to performing under this Agreement and shall maintain it in full force and at its own expense throughout the duration of this Agreement and all warranty periods. NYC shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OPRD.

1.1 Workers Compensation. All employers, including NYC, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

1.2 Commercial General Liability. Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverage that is satisfactory to the State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. NYC shall provide proof of insurance of not less than the following amounts:

A. Per occurrence limit for any single claimant

Bodily Injury/Death:\$2,073,000
Property Damage:\$113,400

B. Per occurrence limit for multiple claimants

Bodily Injury/Death:\$4,147,100
Property Damage:\$566,900

1.3 Automobile Liability. Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). NYC shall provide proof of insurance of not less than the following amounts:

A. Per occurrence limit for any single claimant

Bodily Injury/Death:\$2,073,000
Property Damage: \$113,400

B. Per occurrence limit for multiple claimants

Bodily Injury/Death:\$4,147,000
Property Damage:\$566,900

2.0 EXCESS/UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance is acceptable to meet the minimum insurance requirements. If Excess/Umbrella coverage is used, the Certificate of Insurance must

include a list of the policies that fall under the Excess/Umbrella insurance. For example: "The Excess/Umbrella policy is excess over General Liability, Auto Liability, etc."

3.0 ADDITIONAL INSURED

The Commercial General Liability insurance and Automobile Liability insurance required under this Agreement shall include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to NYC's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

4.0 CERTIFICATE(S) OF INSURANCE

NYC shall provide to OPRD, at the following address, Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Agreement.

**Oregon Parks and Recreation Department, Procurement Division
725 Summer Street NE Suite C, Salem, OR 97301**

OR FAX (503) 986-0648

The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). NYC shall pay for all deductibles, self-insured retention and self-insurance, if any.

NYC shall immediately notify OPRD of any change in insurance coverage.