

AGENDA: SPECIAL MEETING
Board of Directors Mid-Willamette Valley Council of Governments
Tuesday, October 24, 2023
3:30 P.M. – 4:00 P.M.

Hybrid Meeting – In Person/Zoom Webinar
MWVCOG Conference Room

100 High Street SE, Suite 200, Salem OR 97301

(Zoom invitations will be sent by separate email) Join Zoom Meeting

<https://us06web.zoom.us/j/86943301397?pwd=5dMFJME7AGKbgJVdS8l0aeXFWIKog8.1>

Meeting ID: 869 4330 1397

Passcode: 394396

CONTACT: Scott Dadson, Executive Director; 503-540-1601

CHAIR: Lisa Leno, Confederated Tribes of Grand Ronde

VICE CHAIR: Ian Davidson, Cherriots, Salem Keizer Transit District

A. CALL TO ORDER – *Lisa Leno, Chair*

B. INTRODUCTIONS – *Lisa Leno, Chair*

C. PUBLIC COMMENT (*This time is reserved for questions or comments from persons in the audience.*)

D. CONSENT CALENDAR

Minutes of September 19, 2023, meeting of the Board of Directors

Requested Action: Approve minutes.

E. ACTION ITEMS

**Packaging and Servicing Professional Services Agreement between CCD
Business Development Corp & MWVCOG.**

Requested Action: Approve agreement

J. BOARD DISCUSSION/ROUNDTABLE

This is an opportunity for Board members to introduce subjects not on the agenda and report on happenings in their respective jurisdictions.

K. ADJOURNMENT

BOARD MEETING: December 19, 2023
3:30 p.m. COG Office/Zoom

The Mid-Willamette Valley Council of Governments is pleased to comply with the Americans with Disabilities Act (ADA). If you need special accommodation to attend this meeting, please contact Linda Hansen, lhansen@mwvcog.org or 503-540-1602 at least 48 hours prior to the meeting. Hearing impaired, please call Oregon Telecommunications Relay Service, 7-1-1.

Thank you.

MINUTES OF SEPTEMBER 19, 2023

MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS BOARD OF DIRECTORS

Hybrid meeting - COG Conference Room/Zoom Webinar

BOARD MEMBERS PRESENT

CHAIR: Lisa Leno, Tribal Council Member, Confederated Tribes of Grand Ronde

VICE CHAIR: Ian Davidson, Salem-Keizer Transit District Board

Commissioner Jeremy Gordon, Polk County

Commissioner Kit Johnson, Yamhill County

Mayor Ken Woods, City of Dallas

Mayor Cathy Clark, City of Keizer

Councilor Sal Peralta, City of McMinnville

Councilor Roxanne Beltz, City of Monmouth

Mayor Frank Lonergan, City of Woodburn

Mayor John McArdle, Independence, representing Small Cities of Polk County

Mayor Linda Watkins, Carlton, representing Small Cities of Yamhill County

Matt Smith, Board Chair, Chehalem Park and Recreation District

Ms. Betsy Earls, Chemeketa Community College

BOARD MEMBERS ABSENT

Commissioner Danielle Bethell, Marion County

Mayor Bill Rosacker, City of Newberg

Mayor Chris Hoy, City of Salem

Mayor Jim Kingsbury, Small Cities of Marion County

Maria Hinojos Pressey, Member, Salem-Keizer School District Board of Directors

Darin Olson, Marion County Soil & Water Conservation District

Frank W. Pender, Jr., Board Member, Willamette Education Service District (WESD)

OTHERS PRESENT

Scott Dadson, Executive Director

McRae Carmichael, Community Development Director

Amber Mathiesen, Finance Director

Ray Jackson, Senior Transportation Planner for Mike Jaffe, Transportation Director

Linda Hansen, Administration Support Coordinator

CALL TO ORDER & INTRODUCTIONS

Chair Leno called the meeting to order at 3:31 p.m. The presence of a quorum was noted. Attendance was noted.

PUBLIC COMMENT

None.

CONSENT CALENDAR

MOTION by Mayor McArdle, **SECONDED** by Davidson, **TO APPROVE THE CONSENT CALENDAR, AS PRESENTED.**

1. *Minutes of June 20, 2023, meeting of the Board of Directors*
2. *Resolution 2023-09: Acceptance of Loan Loss Grant Funds*

Discussion: None.

Motion carried.

IN FAVOR: All present. **OPPOSED:** None. **ABSTAINED:** None.

ACTION ITEMS

1. **Resolution 2023-10 Authorizing Affiliate Memberships and Repealing and Replacing Resolution 2020-06.** Scott Dadson briefly explained the reason for the affiliate membership resolution and responded to questions about who would be offered affiliate membership status. The COG's lending services already go into Clackamas County. The COG would retain the right to refuse if staff was too busy to take on more work.

MOTION by Councilor Peralta, **SECONDED** by Smith, **TO APPROVE RESOLUTION 2023-10 AUTHORIZING AFFILIATE MEMBERSHIPS AND REPEALING AND REPLACING RESOLUTION 2020-06, AS PRESENTED.**

Discussion: None.

Motion carried.

IN FAVOR: All present. **OPPOSED:** None. **ABSTAINED:** None

2. **Resolution 2023-11 Establishing Rates for Services.** Scott Dadson said that the affiliate rate for services would be 10% higher than what members pay for the same service. Fees would be reevaluated each March.

MOTION by Mayor McArdle, **SECONDED** by Commissioner Gordon, **TO APPROVE RESOLUTION 2023-11 ESTABLISHING RATES FOR SERVICES, AS PRESENTED.**

Discussion: None.

Motion carried.

IN FAVOR: All present. **OPPOSED:** None. **ABSTAINED:** None

3. **Adopting Corrective Action Plans.** Dadson shared that the Board accepted the audit with the corrective actions previously and the actions are well underway. Everything has been moved into QuickBooks and the COG has a contract with Merina to assist in preparing statements and reconcile and make journal entries on a monthly basis. The State auditor has asked that the Board formally adopt the corrective action plans specifically.

MOTION by Mayor Clark, **SECONDED** by Mayor Lonergan, **TO ADOPT THE CORRECTIVE ACTION PLANS, AS PRESENTED.**

Discussion: None.

Motion carried.

IN FAVOR: All present. **OPPOSED:** None. **ABSTAINED:** None

ANNUAL DINNER PLANNING COMMITTEE APPOINTMENTS

Mayor McArdle, Councilor Peralta, Tribal Councilwoman Leno, Councilor Beltz, Ian Davidson and Mayor Kingsbury were appointed to the Annual Dinner Planning Committee. A first meeting in late October will be planned.

DEPARTMENT ACTIVITY REPORTS

Amber Mathiesen, Finance Director, outlined the good progress on the current audit as well as the revenue and expenses thus far this fiscal year.

McRae Carmichael, Community Development Director stated that she is working to coordinate a regional broadband group. She also mentioned the SEDCOR award that was given to the COG for its part in supporting the Latino Business Alliance with loans.

Ray Jackson, Senior Transportation Director, covered MWACT and ODOT projects. How to best include Aumsville in the MPO is a topic of discussion. The Travel Oregon Study will be starting soon.

EXECUTIVE DIRECTOR'S REPORT

Dadson shared that the Legislative Gathering would take place on September 28. The MWVCOG is organizing a convening to discuss the Mid-Willamette Valley Commuter Rail project in Woodburn in October. The COG has an audit RFP out.

BOARD DISCUSSION/ROUNDTABLE

Councilor Beltz shared that the grand opening of Monmouth's new City Hall would take place in November. The M-I Trolley has given 30,000 rides in the past 3 months.

The Oregon Main Street Conference will take place in Independence October 4-6.

ADJOURNMENT

Hearing no further business, Chair Leno adjourned the meeting at 4:29 p.m.

Lisa Leno, MWVCOG Board Chair

Date

Attest:

Scott Dadson, Executive Director

Date



- Changes from the prior agreement:

PACKAGING AND SERVICING PROFESSIONAL SERVICES AGREEMENT

**Between
CCD Business Development Corporation (CCD)
And
Mid-Willamette Valley Council of Governments (MWVCOG)**

This agreement ("Agreement") is made and entered into effective on _____ by and between CCD Business Development Corporation (hereinafter "CCD"), a U.S. Small Business Administration ("SBA") Certified Development Corporation and Mid-Willamette Valley Council of Governments (hereinafter referred to as "MWVCOG"), an ORS Chapter 190 Council of Governments public agency. CCD's address is 2270 NW Aviation Drive, Ste. 4, Roseburg, OR 97470. MWVCOG's address is 100 High Street SE, Ste. 200, Salem, OR 97301.

1. PURPOSE

The purpose of this agreement is to define the responsibilities and compensation of MWVCOG for providing professional services related to the Small Business Administration (SBA) 504 lending program offered by CCD. CCD is an entity unto itself and is not a shell for any other entity.

2. MWVCOG PERFORMANCE

During the term of this Agreement, MWVCOG shall stay educated on the policies and procedures in the SBA Standard Operating Procedures (SOP) for SBA 504 loans, provide current and correct forms for the packaging of SBA 504 loans, and shall perform the following:

Packaging of SBA 504 loans by MWVCOG

- 2.1 Screen and evaluate potential SBA 504 Loan applications.
- 2.2 Assist the borrower with finding a lead lender as necessary.
- 2.3 Package SBA 504 loan applications, collect the borrower's deposit and forward to CCD for approval.
- 2.4 Assist CCD with the resolution of application screen-outs.
- 2.5 Assist CCD in obtaining SBA final approval of SBA 504 loan applications.

Closing of SBA 504 loans packaged by MWVCOG

- 2.6 Assist CCD during the loan closing process.
- 2.7 Collect required closing documents/signatures from the borrower.
- 2.8 Collect required closing documents/signatures from the third-party lender.
- 2.9 Serve as the primary point of contact during the closing process.

CCD Servicing of SBA 504 loans packaged by MWVCOG

- 2.10 Monitor payments and follow-up with borrowers.
- 2.11 Monitor insurance and follow-up with borrowers.
- 2.12 Monitor property taxes and follow-up with borrowers.

2.13 Monitor borrower financial statements and follow-up with the borrowers.

2.14 Assist CCD with servicing issues, as needed.

3. MWVCOG EMPLOYEES PROVIDING SERVICES UNDER THIS AGREEMENT

During the term of this Agreement, the following MWVCOG employees shall provide the services outlined herein:

3.1 Executive Director.

3.2 Loan Program Manager.

3.3 Loan Officer.

3.4 Loan Documentation/Servicing Specialist.

3.5 Finance Administration.

3.6 Finance Staff.

MWVCOG shall not assign any other employees to provide services for SBA 504 loans without first obtaining CCD written consent, as SBA 1081 clearance may be required.

4. GENERAL RESPONSIBILITIES REGARDING SBA 504 LOANS PACKAGED BY MWVCOG

During the term of this Agreement, MWVCOG will:

4.3 Notify CCD immediately in writing if it learns of any materially adverse change in the borrower's financial condition or eligibility for an SBA 504 loan, both before and after the application is submitted, including the time before sale of the debenture.

4.4 Not assign or transfer its responsibilities under this Agreement to any other individual or entity other than the employees in Paragraph 3 above, without first obtaining the written consent of CCD.

4.5 During the term of this Agreement, MWVCOG may assist with servicing of those SBA 504 loans packaged by MWVCOG in coordination with CCD by being the primary point of contact for borrowers and banks regarding loan payments, ACH forms, site visits as needed, annual borrower financial information, borrower employment reports, other assistance needed by borrowers, other servicing issues, and borrower servicing requests.

4.6 Not participate as a voting or non-voting member of the CCD Board of Directors.

4.7 Market CCD as an SBA 504 lender.

4.8 Each MWVCOG employee performing services of the SBA 504 portfolio must receive a character determination in accordance with the SOP.

5. CCD RESPONSIBILITIES UNDER THIS AGREEMENT.

During the term of this Agreement, CCD will:

- 5.3 Provide support during the loan approval process and provide prompt CCD Board of Director's consideration of SBA 504 loan applications.
- 5.4 Promptly submit to SBA completed applications that have been approved by CCD.
- 5.5 Close approved SBA 504 loans with assistance from MWVCOG.
- 5.6 Service loans packaged by MWVCOG in coordination with MWVCOG.
- 5.7 Promptly process servicing requests in coordination with MWVCOG.
- 5.8 Pursuant to 13 CFR § 120.823, CCD's Board of Directors shall retain exclusive responsibility for the approval and servicing of all SBA 504 loans in its portfolio. Such responsibility must be carried out independently of any control of MWVCOG. Nothing in this Agreement shall be construed to limit or diminish the CCD Board of Director's responsibility for the governance, control, and operation of CCD.

6. COMPENSATION

CCD has determined, based upon typical rates in Oregon for professional services (including commercial lenders, business development officers, accountants, and financial officers), that the fees under this Agreement are customary and reasonable for similar services in the area. All CCD payments to MWVCOG under this Agreement will only be made for services rendered by MWVCOG. Additional compensation to MWVCOG from CCD fee income, such as multipliers or bonuses, will not be made. All compensation from CCD to MWVCOG under this Agreement will be paid by CCD SBA 504 loan processing and servicing revenue. MWVCOG cannot charge borrowers for the same services. CCD will compensate MWVCOG for its services under this Agreement as follows:

- 6.1

Loan Program Manager:	\$163.00 per hour
Loan Officer:	\$120.00 per hour
Loan Documentation/Servicing Specialist:	\$99.00 per hour
Finance Administration:	\$155.00 per hour
Finance Staff:	\$99.00 per hour
- 6.2 CCD may require a borrower deposit of 1.0% of the net debenture amount due at the time of SBA approval per SBA regulations. CCD will compensate MWVCOG for SBA 504 loan packaging and processing assistance through SBA approval. MWVCOG agrees to charge CCD at the rates in Paragraph 6.1 above, not to exceed 1.0% of the SBA 504 net debenture for loan packaging services through SBA approval. MWVCOG will submit to CCD an itemized invoice for packaging services. If the borrower withdraws the application prior to SBA approval or SBA denies the application, MWVCOG agrees to reduce its packaging fees to zero.
- 6.3 CCD will compensate MWVCOG for SBA 504 loan processing and closing assistance from SBA approval through the debenture sale date. Upon the sale of the SBA 504 debenture, CCD will pay MWVCOG's invoice for any loan processing activity provided during the closing process at the same hourly rate as the packaging rate, at an amount not to exceed the difference between MWVCOG's invoice to CCD for packaging services and 1.5% of the net debenture amount. If the borrower withdraws the application after SBA approval and prior to the debenture sale, MWVCOG agrees to reduce its invoice for work done after the SBA approval date to zero.
- 6.4 CCD will compensate MWVCOG quarterly for servicing assistance for SBA 504 loans packaged by MWVCOG throughout the term of the loans and while this Agreement is in effect. MWVCOG agrees to invoice and charge CCD for servicing assistance, not to

exceed 50% of the CCD servicing fee for loans packaged by MWVCOG. CCD will pay the servicing fee monthly from CCD's General Fund. MWVCOG's fees for all services under this agreement shall not in any case exceed 75% of CCD's SBA 504 processing and servicing income.

- 6.5 Costs associated with servicing requests for MWVCOG closed SBA 504 loans are typically paid by the borrower and may include but are not limited to title fees, recording fees, etc. However, if there is a cost that is not paid by or able to be collected from the borrower the costs will be shared 50/50 between CCD and MWVCOG due to the 50% shared servicing fees as outlined in 6.4 above.

7. RECORDS

- 7.1 MWVCOG agrees to support CCD's obligation for file compliance, maintenance, and retention under the SBA SOP to the extent allowed by their governing rules and Oregon Public Records law. CCD agrees to support MWVCOG's obligation for file compliance, maintenance, and retention under Oregon Public Records law, to the extent allowed by its governing entity rules and the SBA SOP.
- 7.2 CCD shall keep and maintain copies of all loan files, records and documents concerning any loan packaged by MWVCOG, together with any records required by SBA regulations and Federal statutes and other records that are reasonably necessary for documenting CCD's performance under this agreement.
- 7.3 MWVCOG shall allow CCD to examine and copy records that are pertinent to this agreement and services provided hereunder at reasonable times while the agreement is in effect.

8. GOVERNING LAW

This agreement shall be deemed made under the laws of the State of Oregon, and for all purposes shall be construed in accordance with the laws of the State of Oregon.

9. INDEMNIFICATION

MWVCOG agrees to defend, indemnify, and hold harmless CCD from any Third-Party claims or actions arising from negligent actions or other wrongful acts or omissions of its members, employees, agents, or assigns. CCD agrees to defend, indemnify, and hold harmless MWVCOG from any Third-Party claims or actions arising from negligent actions or other wrongful acts or omissions of its employees, agents, or assigns. MWVCOG agrees to maintain its own insurance policies for claims arising out of negligence of its officers, directors, and employees. CCD agrees to maintain Errors and Omissions and Directors and Officers Insurance per SBA regulations for claims arising out of the negligence of its officers and directors and employees.

10. NO AGENCY/THIRD PARTY BENEFICIARIES/PROHIBITIONS

- 10.1 MWVCOG, its employees and agents are independent contractors under this Agreement and not CCD's partners, agents, or employees.
- 10.2 The employees and agents of MWVCOG are not third-party beneficiaries of this Agreement. CCD is not obligated to pay any person or entity who performs services under this Agreement other than MWVCOG.

- 10.3 MWVCOG agrees that it will not assert any separate claim for packaging services against its customers but will seek payment for those services only from CCD.
- 10.4 MWVCOG agrees that it will not require SBA 504 loan borrowers to purchase other services as a condition of performing its obligations under this Agreement.

11. ATTORNEYS FEES

In the event litigation is necessary to interpret or enforce this Agreement, the prevailing party will be entitled to reasonable attorney fees and other costs incurred in collection or in that action or proceeding and in any appellate proceeding relating thereto, in addition to any other relief to which the prevailing party may be entitled.

12. TERM

The term of this Agreement is five (5) years from the effective date of this Agreement.

13. MODIFICATIONS

Any changes or modifications to this Agreement must be approved in writing by CCD, MWVCOG, and SBA.

14. DEFAULT

14.1 Either party will be in default under this Agreement if that party fails to comply with any provision of this Agreement within fifteen (15) days after the other party gives notice in writing specifying the breach.

14.2 If a default occurs, before either party may proceed with litigation the parties must first seek in good faith to resolve the dispute through negotiation or mediation.

14.3 If a default occurs and it is not resolved through good faith negotiation or mediation, the Party injured by the default may enforce its rights under this Agreement by any equitable or legal remedies available under Oregon law. Exercising one remedy will not impair any other remedy.

15. TERMINATION WITHOUT CAUSE

This Agreement may be terminated by either Party for any reason without penalty and with or without cause with sixty (60) days' written notice to terminate. Compensation shall be paid for accrued services rendered through the date of termination. During the sixty (60) day period, each Party shall continue to perform under the terms of this Agreement and shall cooperate in any transition of services to a new provider. Once this agreement is terminated MWVCOG will not use or disclose to others any information CCD has identified as "confidential" such as marketing strategies or internal financial information, loan costing information, forms, processes, etc.

16. CONFIDENTIALITY CLAUSE

All notes, correspondence, entity documentation, financial information, credit Memoranda, loan authorizations, drafts, photographs, papers, documents, and records as defined in their broadest sense (collectively "Records") which CDC allows Service Provider to review and/or otherwise inspect or utilize in connection with this Agreement shall be considered confidential.

Service Provider agrees, represents, and warrants that it will only use the Records in performing the functions of and duties as set forth herein and/or otherwise in relation to his/her association with CDC. Service Provider shall not appropriate or otherwise use any of the Records and/or any information contained in any of the Records provided by CDC for any purpose other than as set forth herein. This prohibition applies to, without limitation, appropriating, or disclosing, names of CDC customers, trade secrets, vendor names, financial information, and personal information.

CDC agrees not to disclose to any third party (other than those parties specifically related to assignments to be performed under this Agreement) the name, address, or telephone number of Service Provider without Service Provider's prior approval. CDC agrees not to disclose to any party other than SBA, the party the terms of compensation paid to Service Provider pursuant to this Agreement.

This constitutes the entirety of this Agreement and supersedes any prior written or verbal agreement between CCD and MWVCOG. The below signed agree to and acknowledge the terms and responsibilities set forth in this Agreement.

CCD Business Development Corp.(CCD)

Mid-Willamette Valley Council of Governments
(MWVCOG)

By: _____
Theresa Haga, Executive Director

By: _____
Scott Dadson, Executive Director

Date: _____

Date: _____