

AGREEMENT FOR POST-CLOSURE MONITORING, REPORTING AND PERMIT
COMPLAINT TECHNICAL ASSISTANCE
FOR NEWBERG LANDFILL
(Yamhill County and Parametrix, Inc.)

THIS AGREEMENT ("Agreement"), effective the last date set forth adjacent to the signatures of the parties below, is between **Yamhill County**, a political subdivision of the State of Oregon, acting through its Planning Department and Board of Commissioners (herein, "County") and **Parametrix, Inc.**, a Washington corporation, located locally at 700 NE Multnomah, Suite 1000, Portland, OR 97232, (herein, "Consultant") for Post-Closure Monitoring, Reporting and Permit Compliance Technical Assistance for the Newberg Landfill, Newberg, Oregon (the "Project").

This Agreement is made to specify the obligations of County and Consultant for completion of the Project. In consideration of the covenants contained below, County and Consultant hereby agree as follows:

1. Scope of work. The Project is described in the attached December 15, 2017 "Scope of Work and Estimated Cost Proposal for Post-Closure Monitoring, Reporting and Permit Compliance Technical Assistance" for Newberg Landfill ("Proposal"), which is attached hereto as Exhibit A, and incorporated herein by this reference. The Proposal outlines the proposed work and services to be performed for the closed Newberg landfill in accordance with applicable local, state and federal regulations ("Services"). Unless extended by written agreement between the parties, this Agreement will expire at the close of county business on December 31, 2020.
2. Compensation. As set forth in the attached Proposal, the total estimated cost of the Project is \$53,560.00 over a three year period. The Services will be billed in accordance with Exhibit A but will not exceed the estimated costs listed herein without written agreement, signed by both parties.
3. Independent Contractor. Consultant is an independent contractor. Consultant will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary to provide the Services described in the attached Proposal.
4. Termination. County may terminate this Agreement in the event (i) County loses funding sufficient to complete the Project, (ii) it is deemed by County to be in the public interest, or (iii) Consultant fails to comply with a material term of this Agreement. If this Agreement is terminated, the County will pay for all work accepted by the Project Supervisor prior to termination.
5. Compliance with Law; Certification of Compliance with Tax Laws. Consultant shall comply with all requirements of any applicable federal, national, state or local law, rule or regulation. Consultant represents that it has all licenses and other authorizations required to enable it to perform the tasks outlined in the attached Proposal. The Consultant certifies, under penalty of perjury, that the Consultant is not in violation of any Oregon tax laws. In addition, Consultant that it has complied with the tax laws of the state of Oregon or a political subdivision of the state of Oregon, including ORS 305.620 and ORS Chapters 316, 317 and 318.

6. Professional Responsibility. (a) Consultant agrees to provide, in connection with performance of all Services under this Agreement, the standards of care, skill and diligence normally provide by competent professionals in the performance of services similar to those contemplated by this Agreement; and (b) Consultant represents that it has no conflicts of interest in rendering professional services to the County.
7. Incorporation of statutory provisions required for public contracts. Consultant shall comply with all applicable Public Contract Laws which may include, but are not limited to, ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.530. These Public Contract Laws are incorporated into this Agreement by reference.
8. Workers' Compensation. Consultants, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.
9. Work Made for Hire. Services rendered by Consultant under this Agreement are "work made for hire" by an independent contractor. Ownership to works covered by a copyright and all products and data produced by Consultant under this Agreement are the sole and exclusive property of the County. If for any reason the work would not be considered a work made for hire under applicable law, Consultant does hereby sell, assign, and transfer to the County the entire right, title and interest in and to the copyright in the work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon such work.
10. Certification of Reading and Understanding of Documents. The Consultant certifies it has read and fully understands all Agreement documents including the proposal documents and terms and conditions. The Consultant understands and acknowledges that in signing this Agreement the Consultant waives all rights to plead any misunderstandings regarding the same.
11. Status of the Project Supervisor. Kim Aldrich, Yamhill County Solid Waste Management Analyst, is the Project Supervisor (the "Supervisor"). The Supervisor or their designee shall perform technical inspections of Services and shall have authority to stop the work or Services whenever such stoppage shall be necessary to insure proper execution of the Agreement. The Supervisor or her designee may reject all work and Services, including any materials, that do not conform to the Agreement and shall decide questions that arise in the execution of the work or Services. The Supervisor has authority to reject or accept the work and Services.
12. Prohibition of Discrimination. In hiring employees for performance of work under this contract, no contractor, subcontractor or any person acting on their behalf shall, by reason of race, religion, age, color, creed, physical handicap, sex or sexual orientation, discriminate against a person who is qualified and available to perform work to which employment relates.

13. **Indemnification.** The Consultant shall indemnify and save harmless County from and against any suits, actions, legal or administrative proceedings, demands, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including interest and attorney fees, in any way connected with any injury to any person or damage to any property occasioned in any way by Consultant's or Consultant's subcontractors' willful misconduct or negligent work under this Agreement.

14. **Insurance.** Consultant, at its expense, shall obtain the following insurance coverage and keep them in effect during the entire term of this Agreement:

- a. Workers Compensation Insurance in compliance with statutory requirements;
- b. Comprehensive General Liability Insurance (including contractual liability and completed operations coverage) on an occurrence basis, with not less than \$2,000,000 per occurrence for bodily injury and property damage liability, with an annual aggregate limit of \$3,000,000;
- c. Professional Liability Insurance, including Errors and Omissions coverage, with a per claim and aggregate limit of not less than \$1,000,000, to protect against all loss suffered by County or third parties, including financial and consequential loss, caused by error, omission, or negligent acts related to the Project work or Services provided under the Agreement.
- d. Commercial Automobile Liability Insurance, with a combined single limit, or the equivalent of not less than \$1,000,000 per occurrence, for bodily injury and property damage with respect to Consultant's vehicles, whether owned, hired, or non-owned, assigned to, or used by Consultant in connection with the Services provided under the Agreement;

The required insurance coverages shall be (i) with insurance companies admitted to do business in the state of Oregon and rated A or better by Best's Insurance Rating, and (ii) acceptable to County. Evidence of such insurance will be furnished to County before commencing Project work or Services. The certificates of insurance shall indicate (a) the types of insurance coverage, (b) the identity of all persons or entities covered, (c) the amounts of insurance coverage, and (d) the period of insurance coverage. Any required insurance coverage shall provide that it may not be canceled except after at least 30 days written notice to County.

The Commercial General Liability and Commercial Automobile Liability shall (i) name County, its directors, officers, and employees as additional insured, (ii) name the State and its directors, officers and employees as additional insureds, (iii) provide that it is primary insurance with respect to the interests of County and that any insurance maintained by County is excess and not contributory, and (iv) include a cross-liability and severability of interest clause and a waiver of subrogation clause.

15. **Nonwaiver.** No waiver of any breach of this contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of County to enforce at any time any of the terms of this contract, or to exercise any option which is

provided, or to require at any time performance by Consultant of any of the provisions, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of any part of this contract, or the right of County to thereafter enforce each and every provision.

16. Consultant's Representation. Consultant, by entering into this Agreement, represents that its bid for this Project is made without connection with any person, firm or corporation making or refraining from making a bid for the same or similar project and was in all respects fair and without collusion or fraud.

17. Severability. Should any clause or section of this Contract be declared by a court of competent jurisdiction to be void or voidable, the remainder of this Contract shall remain in full force and effect.

18. Dispute resolution through mediation and litigation. Any dispute between the parties to this Agreement shall be resolved according to the following process:

(a) The parties first shall submit to mediation of the dispute to be conducted by a mutually acceptable mediator. If the parties cannot agree on a mediator, they shall request a mediator to be appointed by the U.S. Mediation and Arbitration service in Portland, Oregon. The mediator's charges and expenses shall be borne equally by the parties. All other expenses, including attorney fees and costs, shall be borne exclusively by the party requiring the service or for which payment is to be made.

(b) If the dispute is not resolved in mediation, the parties shall then submit the dispute to litigation.

19. Attorney fees and costs. In the event that either party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this contract, each party shall be wholly responsible for its own expenses which it may incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any non-judicial action.

17. Applicable laws. This Agreement is executed in the State of Oregon and is subject to Oregon law and jurisdiction in Yamhill County.

18. Subcontractors. The Consultant may not engage any subcontractor(s) to perform work under this Agreement without the express written consent of the County. If the County does grant consent, the Consultant covenants and agrees to bind any and all Subcontractor(s) for performance of work under this Agreement. Any reference to Consultant shall include any and all Subcontractor(s) ad infinitum.

19. Written changes required. The rights and duties under this Contract shall not be modified, delegated, transferred, or assigned, except upon written signed consent of both parties.

20. Successors bound. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

THIS AGREEMENT AND THE ATTACHED PROPOSAL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE IN TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY FOR THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. THE CONSULTANT, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed on the date indicated by their duly authorized officials, this Agreement singularly or in duplicate and if in duplicate, each of which shall be deemed an original on the date executed by all parties.

PARAMETRIX, INC.

By: [Signature]
(signature)
Date: 3/15/18

Richard Roché
Printed name)

Title: Operations Manager

Fed. Tax I.D. No: 91-0914810

Consultant
Registration No: _____

YAMHILL COUNTY, OREGON

[Signature]
MARY STARRETT, Chair
Date: 4/26/18

[Signature]
KIM ALDRICH
Yamhill County Solid Waste Management Analyst
Date: 4/26/18

FORM APPROVED BY:

By: [Signature]
CHRISTIAN BOENISCH
County Counsel

Accepted by Yamhill County
Board of Commissioners on
4/26/18 by Board Order
18-124