



Staff Report

File #: 17-32

Version: 1

Date: 2/13/2017

Item #: 3.3c.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Peter Fernandez, PE, Public Works Director

SUBJECT:

Intergovernmental Agreement with U.S. Department of Agriculture, Animal and Plant Health Inspection Service-Wildlife Services for Migratory Bird Management

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

ISSUE:

Shall City Council authorize the City Manager to execute the attached Cooperative Service Agreement with the U. S. Department of Agriculture, Animal and Plant Health Inspection Service-Wildlife Service for Migratory Bird Management services?

RECOMMENDATION:

Authorize the City Manager to execute the attached Cooperative Agreement with the U. S. Department of Agriculture Animal and Plant Health Inspection Service-Wildlife Service for Migratory Bird Management services.

SUMMARY AND BACKGROUND:

The Migratory Bird Treaty Act of 1916 makes it illegal for anyone to take, possess, import, export, transport, sell, or offer for sale, purchase, or barter, any migratory bird, or other parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to federal regulations. The Migratory Bird Treaty Act protects more than 800 species of migratory birds in the U.S. and is administered by the U.S. Fish and Wildlife Service (USFWS). More than 200 species of migratory birds occur within the Salem area for all or part of their respective life histories.

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service -Wildlife Service (APHIS-WS) has statutory authority to conduct wildlife services, including removal and hazing of nuisance animals and birds. As such, the USFWS recognizes APHIS-WS as an approved agency to conduct migratory bird

management services for local jurisdictions.

Capital improvement projects constructed by the City, as well as certain routine vegetation management and maintenance activities, may adversely affect migratory birds and their nests. In 2016, following an unavoidable nest removal for the Madrona Avenue SE and 25th Street SE project, the U.S. Fish and Wildlife Service suggested that the City develop a *Migratory Bird Conservation Strategy* (Attachment 1) that would cover all City of Salem activities that have the potential to impact migratory birds. USFWS can then issue a permit for the City that will provide coverage for any unavoidable “take” of migratory birds. This permit requires annual reporting and can be renewed annually for no cost.

Public Works staff has developed a *Migratory Bird Conservation Strategy* that includes: assessment of the types of work that may affect migratory birds; description of best management practices to avoid and minimize impacts; assessment of potential effects and need for permits; and monitoring and reporting requirements.

Under the *Migratory Bird Conservation Strategy*, on occasions where, despite best management practices, migratory birds cannot be avoided and where unacceptable project delays could result, APHIS-WS may be hired under this cooperative agreement to conduct bird nesting prevention measures or active bird nest removal for nests with eggs and/or dependent juveniles.

The Cooperative Service Agreement (Attachment 2) with the APHIS-WS ensures the City will be in compliance with the Migratory Bird Treaty Act should the City need to enlist their services for bird hazing or removal of birds or their nests. These services will only be used if a City project or activity cannot avoid impacts to birds.

FACTS AND FINDINGS:

1. The U.S. Department of Agriculture, Animal and Plant Health Inspection Service -Wildlife Service (APHIS-WS) is an authorized agency that provides unique and specific services to ensure compliance with the Migratory Bird Treaty Act.
2. Authorizing the Cooperative Service Agreement (Attachment 2) and the associated Work and Financial Plan will aid in the City’s compliance with the Federal Migratory Bird Treaty Act. This cooperative agreement, along with the City’s *Migratory Bird Conservation Strategy*, will ensure that City projects use best management practices to avoid and minimize impacts to birds, while providing a means for a pre-approved federal agency to remove birds and active nests should that be necessary.
3. The cooperative agreement is valid for five years, with a cost for services from APHIS-WS not to exceed \$15,000 each year. The City will be billed quarterly for actual costs incurred, including the cost of supplies, material, and equipment. The City will report annually to USFWS on migratory bird actions undertaken under the permit.
4. In addition to providing direct services for wildlife management, APHIS-WS may also provide technical assistance and educational information at the request of the City.
5. The Cooperative Service Agreement and Migratory Bird Conservation Strategy recommended by staff in this report will not apply to wildlife management activities at the Salem Airport. APHIS-WS currently has a contract with the Salem Airport, which is a requirement of the Federal Aviation Administration

and is specific to the airport operations.

Robert D. Chandler, PhD, PE
Assistant Public Works Director

Attachments:

1. City of Salem Migratory Bird Conservation Strategy
2. Cooperative Service Agreement with U.S. Department of Agriculture Animal and Plant Health Inspection Wildlife Services
3. Work and Financial Plan to the Cooperative Service Agreement