CLACKAMAS COUNTY

BOARD OF COUNTY COMMISSIONERS

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

AGENDA

Thursday, July 26, 2012 - 10:00 AM
Board of County Commissioners Business Meeting

Beginning Board Order No. 2012-74

I. **CALL TO ORDER**
- Roll Call
- Pledge of Allegiance
- Approval of Order of Agenda

II. **CITIZEN COMMUNICATION** *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. This portion of Citizen Communication will end at 10:30. If we are unable to hear everyone who has signed up to speak during this time, we will continue Citizen Communication when our business items conclude after the Consent agenda. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

III. **PRESENTATION** *(Following are items of interest to the citizens of the County)*

1

1. Presentation of National Association of Counties 2012 Achievement Awards (Tracy Moreland, Public and Government Affairs)

IV. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

2

1. Second Reading of Ordinance No. 07-2012 Amending Chapter 7.03, Road Use, of the Clackamas County Code (Scot Sideras, County Counsel)

This item will be postponed until the Aug. 2, 2012 Business Meeting.

3

2. ~~Second Reading of Ordinance No. 08-2012 Amending Chapter 5.01, Animal Services, of the Clackamas County Code (Scott Ciecko, County Counsel, Diana Hallmark, Dog Services)~~

V. DISCUSSION ITEMS *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

~NO DISCUSSION ITEMS SCHEDULED

VI. CONSENT AGENDA *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Study Session. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

4 1. Approval of an Intergovernmental Agreement Amendment No. 3 with the City of Canby and Canby Adult Center to Provide Social Services for Clackamas County Residents - SS

5 2. Approval of a Medicare Mental Health/Addictions Provider Agreement with FamilyCare, Inc. for Behavioral Health Services – BH

6 3. Approval of an Interagency Agreement with Clackamas County Community Corrections to Provide Health Services to Community Corrections' Consumers - BH

7 4. Approval of an Interagency Agreement between Clackamas County Community Development and Social Services Division for a Housing Rights and Resources Program in Clackamas County- CD

8 5. Approval of a Grant from the US Department of Housing and Urban Development for the County's Homeless Management Information System - CD

B. Department of Transportation & Development

9 1. Approval of an Extension of the Terms and Conditions of Grant Agreement 11-001 with Clean Energy Works Oregon, Inc.

10 2. Approval of Amendment No. 2 to the 2003 Oregon Transportation Investment Act Modernization Program Agreement for the Sunrise Project – Industrial Way Preliminary Engineering and Design

11 3. Approval of a Contract with Knife River Corporation-Northwest for the Thiessen Road, Jennifer Street, 135th Avenue, Evelyn Street, and Mangan Drive Preservation Project

12 4. Approval of a Contract with NW Kodiak Construction LLC for the Dove Creek at Elisha Road Culvert Replacement Project

C. Elected Officials

13 1. Approval of Previous Business Meeting Minutes – BCC

14 2. Approval of an Intergovernmental Agreement between Clackamas County Sheriff's Office and the Oregon State Marine Board for Boat Safety Law Enforcement Services for Fiscal Year 2012-2013 - CCSO

15 3. Request by the Clackamas County Sheriff's Office to Accept Grant Funds and Enter into an Intergovernmental Agreement with the Oregon Department of Transportation to Support Multi-Unit Enforcement Related to Speed, Distracted Driving and Driving while Suspended - CCSO

D. County Counsel

16 1. Board Order No. _____ for the Initiation of the Formation of a Special Road District for Government Camp Village

E. Juvenile Department

17 1. Approval of the Grant Award from the Oregon Commission on Children and Families for Shelter Care Beds

F. Public and Government Affairs

18 1. Board Order No. _____ for the Renewal of the Cable Television Franchise Agreement for Use of the County Rights-of-Way by WaveDivision VII, LLC - CABLE

G. Technonlgy Services

19 1. Approval of the ORMAP Intergovernmental Agreement Contract #2966 with the State of Oregon Department of Revenue

H. Tourism and Cultural Affairs

20 1. Approval of a Contract with Borders Perrin Norrander for Marketing Agency Services for the Tourism & Cultural Affairs Department

VII. DEVELOPMENT AGENCY

21 1. Approval of a Contract with Robinson & Owen Heavy Construction Inc. for the Construction of Multopor Drive Improvements in Government Camp

VIII. WATER ENVIRONMENT SERVICES

22 1. Approval of an Engineering Services Agreement between Clackamas County Service District No. 1 and CH2M Hill Engineers, Inc. for the Hoodland Sewage Treatment Facility Effluent Discharge Alternatives Plan Phase II

IX. COUNTY ADMINISTRATOR UPDATE

X. COMMISSIONERS COMMUNICATION

NOTE: ***Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.***

http://www.clackamas.us/bcc/business/

CLACKAMAS COUNTY

1

GARY SCHMIDT
DIRECTOR

PUBLIC AND GOVERNMENT AFFAIRS

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

July 26, 2012
Board of County Commissioners
Clackamas County

Members of the Board:

PRESENTATION OF NATIONAL ASSOCIATION OF COUNTIES
2012 ACHIEVEMENT AWARDS

Public and Government Affairs is pleased to present to the Board of County Commissioners several County departments honored by the National Association of Counties (NACo) with a 2012 Achievement Award. NACo awards recognize effective and innovative programs which contribute to and enhance county government in the United States.

The following awards were presented to Clackamas County:

1. **GREEN Corps – Fresh Start**
   Program Category: Criminal Justice and Public Safety
   County Department: Clackamas County Juvenile Department

Clackamas County Juvenile Department GREEN Corps *Fresh Start* is a partnership with OSU Extension that teaches youth involved in the juvenile justice system gardening, business and time management skills as well as helping them earn money they can use to pay restitution. Participants improved community access to fresh fruits and vegetables by distributing produce to participants and their families, local food banks, volunteers and other community members involved with Juvenile Department programming. Select items were also sold at the Oregon City Farmers Market GREEN Corps *Fresh Start* booth. A grant has also been awarded to the program to fund the Fresh Start Cart - a coffee and juice cart at the Farmers Market - where youth work and learn a variety of customer service skills.

2. **Watershed Health Program**
   Program Category: Environmental Protection and Energy
   County Department: Water Environment Services

The Watershed Health Program is a partnership with North Clackamas School District and others to create a student curriculum in the science classes for select NCSD high schools. Students learn about local watersheds in and out of the classroom through curriculum specifically developed for the Kellogg/Mt. Scott and Rock Creek watersheds. Through interactive outreach, students engage and inform the community on what they learn in the classroom and in the field, why it is important, and how behaviors impact watershed health.

3. Diversity Advisory Council

Program Category: Personnel Management, Employee Training and Employee Benefits
County Department: All

Clackamas County's Diversity Advisory Council was organized in 2009 and is an employee-led committee whose goals are to raise awareness and promote diversity within the workplace and in the county. The Council has sponsored lunchtime discussions and workshops, guest speakers and cultural events including the first-ever diversity and cultural fair in 2011.

4. SE 172nd Ave.-SE 190th Drive Corridor Management Plan

Program Category: Planning
County Department: Department of Transportation and Development

The SE 172nd Ave.-SE 190th Dr. Corridor Management Plan was the result of an opportunity the Department of Transportation and Development had to plan the alignment of a future major transportation corridor in a rural area projected to see urban growth in the future. The plan involved input from partners and citizens from the affected areas of the county – including business-owners, churches, city officials, realtors, school staff and others. The county utilized traditional public outreach such as mailings and meetings, as well as online videos and virtual meetings.

This project also received the **Best in Category** award for the Planning category. This is a significant honor, considering NACo bestowed only 16 Best In Category Awards to projects across the nation. This is truly national recognition that the staff and partners involved in this project have demonstrated superior vision and innovation to better serve the citizens of Clackamas County.

Clackamas County was also listed 6th in the nation (for its population size) by the Center for Digital Government in the 2012 Digital Counties Survey which recognizes leading examples of counties using information and communications technology. The Center for Digital Government and Digital Communities program, in partnership with the National Association of Counties (NACo), identify best electronic practices among counties nationwide.

These awards are highly competitive with entries from throughout the United States. Public and Government Affairs is pleased recognize these departments for their hard work. Congratulations to all the staff that made these recognitions possible.

Respectfully submitted,

Gary Schmidt
Director, Public and Government Affairs

For information on this issue, please contact Gary Schmidt at (503) 742-5908

2

CLACKAMAS COUNTY

OFFICE OF COUNTY COUNSEL
PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

Stephen L. Madkour
County Counsel

David W. Anderson
Kimberley Ybarra
Kathleen Rastetter
Scot A. Sideras
Chris Storey
Scott C. Ciecko
Alexander Gordon
Rhett C. Tatum
Assistants

July 26, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

THE SECOND READING OF ORDINANCE No. 07-2012 AMENDING CHAPTER 7.03 OF THE CLACKAMAS COUNTY CODE

On July 12, 2012 the first reading of proposed amendments to County Code Section 7.03 was heard. It was explained that the proposed amendments were to the County's Road Use Ordinance, which addresses activity and construction in the right of way. The purpose of the amendments was to delete the technical specifications originally included in the Code, and to instead place them within the County Roadway Standards. The County Roadway Standards are easier to update than the Code, which is important when changes need to be made to protect the traveling public. The County Roadway Standards are also being updated and will be approved by the Department of Transportation and Development's Director concurrently.

The Commissioners' questions, and public comment, dealt with the amendments language regarding Roadside Memorials (7.03.090.J) Portable Storage Containers (7.03.090.I). No concerns were identified during the first reading of the ordinance.

RECOMMENDATION:

Staff respectfully recommends the Board of County Commissioners read the proposed Ordinance by title only, and ordain Ordinance Number 07-2012 as set out in the attachment.

Sincerely,

Scot A. Sideras
Legal Counsel, Senior
Attachments

For more information on this item, please contact Scot Sideras at (503)742-4332 or email at scotsid@co.clackamas.or.us

ORDINANCE NO. 07-2012

An Ordinance Amending Chapter 7.03, Road Use, of the Clackamas County Code

WHEREAS, Chapter 7.03, Road Use, of the Clackamas County Code contains technical specifications frequently updated by the state; and

WHEREAS, it has been determined by the Board of County Commissioners that because technical specifications are updated frequently by the state, they should not be included in the County Code; and

WHEREAS, this amendment deletes all technical specifications from Chapter 7.03; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 7.03, Road Use, of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

ADOPTED this 26th day of July, 2012.

BOARD OF COUNTY COMMISSIONERS

_____

Chair

_____

Recording Secretary

Chapter 7.03

7.03 ROAD USE

7.03.010 Purpose

This Chapter shall govern: a) road use impediments, entrances, utility placements, and other activities within the right-of-way of County roads, local access roads, and public roads; b) activities on private property which impact the safe use of these roads; and c) vacation proceedings and road status changes.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03]

7.03.020 Definitions

A. APPLICANT/OWNER – Shall mean the corporation, cooperative, company, firm, business, partnership, individual or individuals whose name and signature appear on a utility permit and to whom the permit is issued. The applicant/owner is presumed to have permanent care and maintenance of the utility.
B. BOARD – Shall mean the Board of Commissioners of Clackamas County.
C. CABLE/WIRE – Shall mean any and all aerial pole lines and direct buried cables and conduit protected cable.
D. CLEAR ZONE – Shall mean the area outside the traveled portion of the roadway that is available for safe use by errant vehicles, vehicles forced off the roadway, and pedestrians avoiding traffic when necessary. The clear zone may extend outside the right-of-way. See Clackamas County Roadway Standards.
E. COUNTY ROAD – See "ROAD/ROADWAY".
F. COUNTY ROAD OFFICIAL ("Road Official") – As used in Chapter 368 and defined in ORS 368.001(2) shall refer to the Director of DTD. Any authority granted to or act required or permitted by the Road Official by statute may be exercised or done by the Director. Subject to approval by the County Administrator, the Director may adopt written policies designating employees of DTD that are authorized to act as the Road Official for specified purposes.
G. CULVERT – Shall mean storm sewer pipe used for conveying storm water within the road right-of-way, and meeting the specifications of the Clackamas County Roadway Standards.
H. DTD – Shall mean the Clackamas County Department of Transportation and Development.
I. ENTRY PERMIT – Shall mean that written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. This written permission allows an applicant to place, build, or construct an entry, approach road, structure, culvert, ditch, or other facility, thing, or appurtenance on the right of way, or substantially alter a facility, thing or appurtenance, or change the manner of using the entry or approach road.
J. FACILITY – Shall mean any and all cables, wires, conduits, pipe lines, pedestals and/or related appurtenances placed on or beneath the ground and authorized by a County issued permit.
K. FIXED OBJECT – Shall mean any natural or man-made object, including vegetation, that could potentially cause harm to an errant vehicle or its' occupants. "Vegetation" specifically includes trees greater than 6 inches in diameter, among other things.
L. GATES – Shall mean any framework or structure that can be opened or closed, placed or installed in the right-of-way for the purpose of controlling or restricting the public travel.
M. INTERSECTION SIGHT DISTANCE (ISD) – See the Clackamas County Roadway Standards.
N. LOCAL ACCESS ROAD – See "ROAD/ROADWAY".
O. MUTCD – Shall mean the Manual on Uniform Traffic Control Devices in its most recent Oregon adopted edition and Oregon adopted supplements.
P. ORS - Shall mean Oregon Revised Statutes.

Q. PERSON – Shall mean and include individuals, cooperatives, corporations, associations, firms, partnerships, joint stock companies, trusts and estates, municipalities, and any other legal entities whatsoever.

R. PIPE LINE – Shall mean any and all pipe lines, hydrants, valve boxes, manholes, and/or related appurtenances authorized by the issuance of a permit.

S. POLE LINE – Shall mean any and all poles, wires, guys, anchors, and/or related appurtenances authorized by the issuance of a permit.

T. PRIVATE ROADWAY – Shall mean a roadway on private property, maintained with private funds, generally considered to provide practical and legal access to more than one parcel of property.

U. ROAD/ROADWAY – See ORS 368. For purposes of this chapter, all of the following are "roads":
   1. PUBLIC ROADS: See ORS 368.
   2. COUNTY ROADS: See ORS 368.
   3. LOCAL ACCESS ROADS: See ORS 368.

V. ROAD OFFICIAL - See "COUNTY ROAD OFFICIAL".

W. RIGHT-OF-WAY (ROW) – Shall mean a legal use or right of passage, given to the public, over a strip of ground under the jurisdiction of county, state, or federal agencies.

X. TRAFFIC CONTROL DEVICE – See ORS 801.540.

Y. TRAIL – Shall mean any easement over land that is not part of a road right-of- way and does not provide motor vehicle access of the type provided by a road, but which permits travel between places. For the purpose of this chapter, a trail must be under the sole jurisdiction of Clackamas County, and must be an easement over which the public has a right of non motor vehicular use. (A change in use from a road to a trail shall not change the designation of any easement as road right of way.)

Z. TRAVELED PORTION OF THE ROADWAY – Shall mean those areas used by and accessible to vehicles and pedestrians, including paved shoulders and bike facilities, and shall also include sidewalks or other pedestrian facilities.

AA. UTILITY – Shall mean privately, publicly or cooperatively owned line, network, or system for communications, cable television, power, electricity, light, heat, gas, oil, crude products, potable water, surface water or storm water, steam, waste water not connected with roadway drainage, or any other similar commodity, including any fire or police signal system, or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any substantially owned or controlled subsidiary. For the purposes of this ordinance, the term includes those utility-type facilities owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term utility includes facilities and appurtenances used solely by the utility that are a part of its operation.

BB. UTILITY PERMIT – Shall mean the written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. This written permission provides for the lawful construction of aerial pole lines, buried cables, pipe lines, and miscellaneous utility operations, and may include special permit provisions if deemed necessary by the Road Official.

CC. VIOLATION – Shall mean an activity that does not comply with the requirements of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03; Amended by Ord. 02-2009, 3/5/09]

7.03.030 Compliance

Every person shall comply with the requirements of this chapter in the location, construction, and alteration of any approach road, driveway, underground utility or any other facility, road use impediment, thing or appurtenance on or in the right-of-way of any County road, local access road, or public road under the jurisdiction of Clackamas County.

The Road Official or the Board may take any action deemed to safeguard the best interests of the traveling public, regardless of the provisions of this Chapter. This specifically includes the authority to erect gates when necessary to safeguard a public interest, without seeking a permit.
[Codified by Ord. 05-2000, 7/13/00; Amended Ord. 01-2003, 1/23/03]

7.03.040 Conflicting Requirements

The provisions of this chapter are minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law, rules, regulations, resolutions, easements, covenants or other agreements between parties, the provisions of this chapter shall control. Where other provisions of law are more restrictive than this chapter, the more restrictive provision shall control.
[Codified by Ord. 05-2000, 7/13/00]

7.03.050 Violation as Nuisance

A violation of this chapter is hereby declared to be a public nuisance and shall continue to be a nuisance until the offending road use violation is brought into compliance with this chapter.
[Codified by Ord. 05-2000, 7/13/00]

7.03.060 Issuance of Violation Notice

The Road Official or the Road Official's designee may issue violation notices. If issued, such notices shall give a brief description of the violation and shall be served upon the person responsible for the offense. The notice shall also contain:

A. The contact information for the County department and division issuing the violation,
B. The date the violation was issued, and
C. A statement that failure to correct the violation or to contact the appropriate County department within a specified time period, may result in civil or Compliance Hearings Officer proceedings to abate the nuisance.

[Codified by Ord. 05-2000, 7/13/00]

7.03.070 Remedies

In addition to any other remedies provided by law, if the violation has not been corrected within a minimum of ten (10) days after a violation notice is received, the County may refer the matter to the Compliance Hearings Officer for enforcement under the Compliance Hearings Officer Chapter or institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, correct or remove the installation which is in violation of the requirements of this chapter. These remedies shall exist in addition to all other remedies provided by law.
[Codified by Ord. 05-2000, 7/13/00]

7.03.080 Penalties

Violation of the provisions of this chapter may be sanctioned in any manner provided for by law, including, but not limited to,
For violations of Sections 7.03.090 – 7.03.230, by imposing civil penalties in the amounts authorized under ORS 203.065(1).
For violations of Sections 7.03.240 – 7.03.290, by imposing civil penalties in an amount to be set by the Board and as determined by the Compliance Hearings Officer.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03]

7.03.090 Road Use Impediments – Prohibited Activity

A. Potential Hazards – No person shall allow any of the following things to exist on any portion of the road right-of-way that abuts property s/he owns or occupies, including sidewalks, if it could create a potential hazard in the opinion of the Road Official:
   1. Earth;
   2. Rock;
   3. Vegetation;
   4. Structures;
   5. Objects;
   6. Debris;
   7. Anything that may cause a potential hazard to the public in their use of a sidewalk or other facility intended for pedestrians, including, but not limited to:
      a. Vertical displacements on the surface greater than 1/2" or vertical displacements between 1/4" and 1/2" not beveled with a slope of 50 percent or less across the entire vertical displacement.
      b. Cracks or disrepair.

B. Visual Impediments to Safe Road Use – No person shall allow any of the following things to exist on or in the road right-of-way, including intersecting corners, that abuts property s/he owns or occupies, or on property that abuts a road, or in the airspace above a road, if the thing obstructs the view necessary for safe operation of motor vehicles upon the road, or if it causes potential danger to the public that uses the road:
   1. Trees;
   2. Shrubs;
   3. Hedges;
   4. Any vegetation;
   5. Projecting overhanging limbs of vegetation;
   6. Temporary or permanent structures;
   7. Fences;
   8. Berms;
   9. Natural or man-made objects.

   The view necessary for safe use of the road by the public shall be described in the Clackamas County Roadway Standards.

C. Impediments that Compromise Clear Zone – No person shall allow any fixed object to exist within the road right-of-way, or on property that abuts a road that person owns or occupies, or in the airspace above a road if it compromises the clear zone criteria of the Clackamas County Roadway Standards.

D. Obstruction of Official Traffic Control Device –
   1. No person shall allow any of the following things to exist within the road right-of-way, or on property that abuts a road that person owns or occupies, or in the airspace above a road in a manner that wholly or partially obstructs the visibility of an official traffic control device from a distance of 200 feet:
      a. Vegetation;
      b. Overhanging or projecting limbs;
      c. Permanent or temporary structures;
      d. Fences;
      e. Berms;
      f. Natural or man-made objects.

2. When the traffic control device is a "Stop" sign, a "Yield" sign, or a traffic control signal, no thing shall obstruct its visibility from the distance described in the MUTCD, if that distance is greater than the 200 feet necessary for other traffic control devices under D 1 of this subsection.

E. Flow of Water Impeding Safe Use of traveled portion of the roadway. –No owner or lawful occupant of property abutting any road shall allow water to overflow, seep or otherwise discharge into the traveled portion of the roadway that abuts their property, if the water creates a nuisance condition or impedes the safe use of the traveled portion of the roadway. The source of the water flow shall be irrelevant to liability under this subsection.

F. Prohibition Against Blocking Drainage or Traveled Portion of the Roadway – No person shall allow any soil, rock, earthen material, dirt, bark dust, compost or similar processed vegetative material to erode, flow, discharge or otherwise be placed or deposited in the traveled portion of the roadway, or to block any drainage system within the road right-of-way.

G. Regulation of Basketball Hoops, Skate Board Ramps & Cycle Ramps –

1. No person shall allow the following to exist on or in the road right-of-way, or on property abutting a road, if its placement encourages approach from, or use in conjunction with the road right-of-way:
   a. Basketball hoop;
   b. Skateboard ramp;
   c. Cycle ramp;
   d. Any other thing or structure capable of being used from the road right-of-way.
2. Notwithstanding the prohibition set forth above, a basketball hoop, backboard and supporting structure may be located on dead-end local residential streets and local residential streets having expected traffic volumes of less than 250 vehicles per day, if all of the following conditions apply:
   a. The basketball hoop is no closer than 150 feet from any street intersection.
   b. Sight distance to the basketball hoop for approaching vehicles must not be less than 150 feet.
   c. No portion of the basketball hoop shall be located closer than 20 feet from an adjacent property line.
   d. In no case shall court markings be placed on the roadway.
   e. In no case shall the basketball hoop be used between the hours of 10 PM and 7 AM.

H. Regulations for Mail boxes, Newspaper Boxes, Other Receptacles – No person shall allow any mail box, newspaper box or other receptacle to exist on the road right-of-way unless it conforms to the safety standards outlined in the most recent editions of the AASHTO Roadside Design Guide, the clear zone standards of the County Roadway Standards, or the standards of the United States Postal Service.

I. Regulations for Portable Storage Containers – No person shall allow the placement of a portable storage container within the traveled portion of the roadway or within the clear zone.

J. Regulations for Roadside Memorials –

1. A roadside memorial may be authorized pursuant to Clackamas County's Roadside Memorial policy;
2. Unauthorized roadside memorials may be removed if:
   a. The roadside memorial is a safety hazard in the opinion of the Road Official;
   b. The roadside memorial creates a safety/operational/productivity issue for Transportation Maintenance personnel and/or equipment in the opinion of the Road Official, or;
   c. The County receives a complaint regarding the unauthorized roadside memorial.
3. If an unauthorized roadside memorial is to be removed, DTD will attempt to contact the person responsible for the roadside memorial. If contact is made with the person, 14 days will be provided to allow for removal. After a minimum of 14 days, DTD may remove the roadside memorial.

K. Regulations for Written or Graphic Displays – No person shall post, paste, paint, brand or otherwise place or attach notices, signs, pictures, advertisements, cards, posters, bills, notices or any other form of

written or graphic display to any building, fence, gate, bridge, tree, rock, board, structure, utility pole, traffic control device or its supporting structure, or anything whatever within the road right-of-way unless it is authorized under ORS 368.942–368.960.

L. Regulations on Obstructing View by Vending or Advertising Merchandise – No person shall allow the following things to be present on the traveled portion of the roadway or on property abutting a road, if it could obstruct the view of, or cause danger to, persons who use the road:
   1. Any vehicle that facilitates vending or merchandise sales;
   2. Any object or structure that facilitates vending or merchandise sales;
   3. Any object or structure that advertises, sells or offers merchandise for sale;
   4. Any utility trailer;
   5. Any recreational vehicle;
   6. Any mobile or modular home.

M. Prohibition of Gates on Roads – Public roads are open to the traveling public and should not be gated. Only under the most extraordinary circumstances will a gate be allowed. When extraordinary circumstances create an exception, the Board's express preference will be for permitted gates to be unlocked.
   1. No person shall install or allow the presence of any gate that blocks access to a road right-of-way unless:
      a. The person has made application to the Board, describing the reasons for construction of the proposed gate, and has paid the required application fee;
      b. The Board has held a public hearing, and met the notice requirements in ORS 368.086, to give interested parties an opportunity to describe their concerns regarding construction of the gate; and
      c. The Board has approved the placement of the gate and issued a permit for the gate's construction pursuant to ORS 368.056.
   2. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board shall place the following conditions on the permit:
      a. Except under extraordinary circumstances or when necessary for the health, welfare and safety of the public, the gate shall not be locked in a way that prevents access by the traveling public on the road right-of-way;
      b. If the road right-of-way has attained its public status due to ten years or more of adverse use under ORS 105.620, or ten years or more of uncontested public use under ORS 12.050, then the question of the road's status shall be considered in the public hearing on the gate permit, and a finding shall be made and written into the language of the permit that the road's public status has been clearly established and can no longer be contested; (This action shall fulfill the requirements of ORS 368.073(1) and ORS 368.096(2)(c).)
      c. The permit shall be limited in duration and renewable in five-year increments. If any condition existing when a gate permit is granted or renewed changes during the five year permit term, the Board may evaluate whether to revoke the permit and require the gate to be removed prior to expiration of the term. At the time set for renewal of a gate permit, the requirements for a public hearing set forth in Section 7.03.090.M.1.b may be waived by the Road Official if there are no record of objections surrounding the gate's presence or the permit renewal.
   3. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board may place the following conditions on the permit:
      a. Specifications regarding the method and means of construction of the gate;
      b. A requirement that the person issued the permit shall bear all costs of construction and maintenance of the gate; and/or
      c. Any other conditions the Board deems reasonable.

N. Road Official's Authority to Issue Revocable Permit – Pursuant to ORS 374.305, the Road Official is

authorized to make a case-by-case determination to allow structures, objects or other things to exist in public right-of-way, including sidewalks, so long as the things could not create a potential hazard or impediment. If the Road Official makes a determination to authorize such a thing, the Road Official may issue a revocable permit reflecting that revocable permission, and may impose any conditions s/he determines are necessary to protect the public interest.

[Codified by Ord. 05-2000, Amended by Ord. 01-2003, 1/23/03]

7.03.095 Vacation Proceedings and Road Status Changes

A. Vacation Proceedings.

1. Vacation of any public property listed in ORS 368.326 shall be carried out pursuant to ORS 368.326–368.366.
2. Partial vacations of public property, with reservations of rights in the form of easements (utility, ingress/egress, etc.) shall also be carried out pursuant to ORS 368.326–368.366.
3. A vacation of public property may eliminate rights of public access, but no vacation of public property shall be allowed if the vacation would deprive an owner of access to their property without their consent.
4. In determining whether vacation of public property is in the public interest, the Board shall consider the following criteria:
   a. Whether the vacation would inhibit or preclude access to an abutting property, and whether an access reservation would be adequate to protect that access;
   b. Whether it is physically possible to build a road that meets contemporary standards over the existing terrain or right of way;
   c. Whether it is economically feasible to build a road that meets contemporary standards over the existing terrain or right of way;
   d. Whether there is another nearby road that can effectively provide the same access as the right-of-way to be vacated;
   e. Whether the right-of-way to be vacated has present or future value in terms of development potential, use in transportation linkages, or use in road replacements;
   f. Whether there are present and future likely benefits of the right-of-way to the traveling public;
   g. Whether anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated;
   h. Whether the right-of-way proposed to be vacated leads to a creek, river, or other waterway that can be used for public recreation; and
   i. Whether the right-of-way proposed to be vacated leads to federal, state or local public lands that can be used for public recreation.
5. The Order issued pursuant to ORS 368.356 at the conclusion of any vacation proceeding shall not be a land use decision, but may be appealed by Writ of Review under ORS 34.102.

B. Road Status Changes.

1. The Board has the discretion to determine that it is necessary to change the status of a County road, local access road, public road or trail.
2. In order to change the status of any such right-of-way, the Board shall designate the proposed new status as a local access road, public road, or trail, and shall use the same procedure set forth in ORS 368.026 for withdrawal of County right-of-way status.
3. In determining whether to enter an Order changing the status of a right-of-way under this subsection, the Board shall consider the following criteria:
   a. County's cost of maintenance under existing status, given the general public benefit of such maintenance;
   b. Existing or reasonable future use of property or bodies of water being accessed by subject

road,

c. Impact to public facilities (e.g., public water supply) being served by subject road,

d. Existence of a long history of inappropriate use of the right-of-way, e.g., dumping of refuse/hazardous materials onto the right of way, trespassing onto or damaging of abutting property.

4. A change of status may temporarily or permanently eliminate rights of public access, but no change of status may deprive a recorded owner of access to their property. If a public right-of-way is to be changed into a private right-of-way, the Board Order shall follow ORS 368.326-368.366 and ensure that necessary rights of access are reserved through appropriate easements.

C. Simultaneous Acceptance and Vacation of Roads.

If the circumstances of a specific road project require both vacation of an existing right-of-way and acceptance of a new right of way, the vacation and acceptance may be consolidated for hearing before the Board when consolidation is likely to maximize the efficiency of the road project.

[Added by Ord. 01-2003, 1/23/03]

7.03.099 Utilities' Use of County Right of Way

A. Designating Location of Utilities; Costs; Construction Approval.

The Road Official has the authority to designate the location where lines, fixtures and facilities operated by Utilities may be located upon roads under Clackamas County's jurisdiction.

1. Except as provided in this Chapter, utilities shall not begin construction of a new facility or relocate an existing facility on County roads without doing the following things first:

   a. When the proposed work is more significant than routing service connections and ordinary maintenance, utilities must provide written notice to the Road Official, including plans and specifications of the proposed construction in the form and to the scale required by the Road Official; or

   b. When the proposed work is routine routing of service connections and ordinary maintenance, utilities must provide telephone or other appropriate notice to the Road Official; and

   c. No matter the scope or scale of the proposed work, utilities must first obtain the Road Official's approval of the proposed construction or relocation of an existing facility.

2. No advance approval shall be required when construction or relocation is necessitated by an emergency, but utilities shall give notice of work undertaken no later than the first workday following the emergency.

3. The Road Official shall approve utilities work proposals unless s/he finds that the proposed construction or relocation is contrary to the public interest.

B. Changing the Designated Location of Utilities; Costs; Notice/Orders.

The Road Official has the authority to order the designated location of lines, fixtures and facilities operated by utilities to be changed, either temporarily or permanently, at any time the Road Official deems it expedient. The cost of any temporary or permanent relocation of any utility required by the Road Official shall be paid by the utility.

1. The Road Official shall notify utilities in writing of proposed changes in grade, contours or alignments of County roads or of proposed vacations of roads or parts of roads that require the removal, relocation or repair of utilities' facilities.

2. Upon receiving the notice described in 7.03.099(B)(1) above, utilities shall determine the estimated requirements for accomplishing the action directed by the Road Official, and provide those requirements to the Road Official within thirty (30) days.

3. Upon receiving the estimated requirements, the Road Official may schedule a pre-construction meeting with other affected utilities and contractors.

4. The Road Official shall send a second notice to the utilities, directing them to complete the removal, relocation or repair of their facilities within a specified time frame and consistent with the coordinated plan established with other affected utilities and contractors under this Chapter. This notice shall constitute an Order from the Road Official requiring relocation of the specified utility facilities.
5. If the Road Official determines that the work must occur on a different date from that previously discussed with a utility, then s/he shall give the utility written notice of the date change no less than thirty (30) days prior to the rescheduled date. This notice shall be sent by first class mail, postage prepaid. This notice shall be an amended Order of the Road Official requiring relocation of the specified utility facilities.

C. Remedy for Failure of Utilities to Remove, Relocate or Repair Facilities as Directed.
Should a utility fail to temporarily or permanently remove, relocate or repair the lines, fixtures or facilities operated by the utility as ordered by the Road Official under this section, the lines, fixtures or facilities shall automatically become a public nuisance, which the Road Official may abate in any expedient manner. The total costs attributable to the failure of the utility to act as ordered by the Road Official, including the costs of completing the work the utility should have done under the Order, shall be itemized and an invoice shall be sent to the responsible utility. All such costs shall be promptly repaid to the County by the utility.

D. Prohibition of Interference with Public Travel, Maintenance and Improvement.
Work done by utilities shall always be in accordance with state statutes, Clackamas County Roadway Standards, and with other specifications adopted by the County. Utility work shall not endanger or interfere unduly with public travel on County roads, or with the maintenance and improvement of such roads by the County. Immediately following the opening of a road, utilities shall replace and restore the surface and grade to as good and safe a condition as it was in prior to opening. Repair of defects in openings made by utilities shall be undertaken by utilities within six (6) hours from notice by the Road Official when such defects endanger the public, and within one week of notice in all other cases.
1. When trenching across more than one-travel lane of the roadway, no more than one-half (1/2) of the traveled portion is to be opened at any one time. The relevant installation shall be made, then the opened half shall be covered and secured with steel running plates or be completely back filled and compacted before opening the remaining half.
2. No closure of intersecting streets, roadways, driveway approaches or other access points will be permitted without review and approval by the Road Official.
3. Upon trenching, steel running plates or other satisfactory methods shall be used to maintain traffic. No more than two hundred and fifty (250) feet of longitudinal trench along the roadway shall be open at one time and no trench shall be left open overnight

E. Requirement for Periodic Inspections of Utility Openings.
Utilities shall conduct periodic inspections of openings they have made during the preceding twelve months to ensure compliance with the provisions of this section. If, after the notice described in 7.03.099(D), a utility fails to replace or restore any pavement or road surface opened by it, the Road Official may, after written notice and demand, cause the work to be done at the utility's expense. Upon receiving a statement of the costs, utility shall promptly reimburse the County. If legal action is necessary to collect these amounts, then utility shall pay all legal costs and reasonable attorney fees.
[Added by Ord. 01-2003, 1/23/03]

7.03.100 Utility Placement Permits

A. Application Requirements – Application for a permit to establish, place and operate utilities within the right-of-way shall be made on the official permit application, available from DTD. The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the

permitting, design and construction of utilities.

B. Emergency Repair Work Rules – Emergency repair work done by the applicant/owner may proceed as needed if the Road Official is properly notified when traffic control is required. Proper notification is accomplished in the following ways:
   1. During work hours – telephone contact with DTD;
   2. After work hours – telephone contact with the County's central dispatch office.

   Permits for emergency repairs shall be obtained no later than the first business day following commencement of the work.

[Codified by Ord. 05-2000, 7/13/00]

7.03.110 Effective Period of Utility Placement Permits

A. Effective unless Revoked – Permits for utility occupation and operations shall be in effect upon issuance indefinitely, or until revoked. Revocation will occur only under the following circumstances:
   1. By mutual consent of the County and the applicant/owner or his successor or assign;
   2. By order of the Board or the Road Official, if the applicant/owner or his successor or assign fails to abide by the terms and conditions of the permit;
   3. By operation of law.

B. Effect of Violations of Permit Terms or Conditions – Any violation of the conditions or terms of the permit by the applicant/owner shall be cause to suspend, modify, annul and forfeit any and all rights acquired by the applicant/owner under the terms stated in the permit or these provisions. The applicant/owner acquires no rights in the road right-of-way through obtaining a permit, and is presumed to have waived any claims for damages or compensation as a result of revocation of the permit as described in subsection A of this Section.

C. Rules Regarding Commencement of Installation and Placement of Utility – If the applicant/owner fails to commence installation and placement of the utility by the starting date specified on the permit, the permit shall be deemed null and void, and all privileges there under shall be forfeited, unless a notice and acknowledgment of a different start date is confirmed with the Road Official. Change of a starting date may require a revision to the conditions of approval, which must be set out in special provisions.

D. Commencement of Surety Repair Period – Upon initial completion of the permitted installation and restoration repairs, the applicant/owner shall notify the Road Official. A Department inspection will be performed within 30 days of notification. If necessary, a corrective work list will be generated. Following a Road Official inspection that results in a finding that the installation and the repaired right-of-way are within County standards, a three year surety repair period shall begin, as set out in Section 7.03.130 of this Chapter.

[Codified by Ord. 05-2000, 7/13/00]

7.03.120 Liability, Control and *Responsibility* for Utilities

A. Necessity for Additional Permits – The applicant/owner shall be responsible for securing any other permits necessary or required from cities, counties, corporations, districts, state and federal governments or individuals.

B. Restoration or Repair of Roadway – If it is evident to the Road Official that the physical character of the roadway has been changed, degraded or damaged by the applicant/owner, the applicant/owner shall restore or repair the damage in compliance with the Clackamas County Roadway Standards, whether that damage is discovered at the time of utility installation or at a later date. If the applicant/owner fails to satisfactorily restore or repair the roadway, the Road Official may employ enforcement provisions of this Ordinance or make the necessary restoration or repairs using contractor or County forces. The applicant/owner under the terms set out in Section 7.03.200 shall pay all costs incurred by the County under these circumstances.

C. Responsibility for Relocating or Adjusting Pre-Existing Utilities – The applicant/owner shall be responsible for relocating or adjusting any other utilities located on County right-of-ways or other right-of-ways under the jurisdiction of the County if this is required to accommodate the utility or operation applied for. Construction of the utility or conduct of an operation by the applicant/owner, its agent or contractor, will be permitted only after the applicant/owner has furnished evidence to the Road Official that satisfactory arrangements for such relocations or adjustments have been made with the owners of the other affected utilities.

D. Notifying Abutting Property Owners about Impact of Utility or Utility Work – Mailboxes, lawns, landscapes and rain drain connections are considered the possession of abutting property owners or lawful occupants. The applicant/owner shall be responsible for notifying the abutting property owners and restoring or replacing any materials that are disturbed or removed because of utility construction, maintenance, or operation. The applicant/owner shall accomplish restoration or replacement of materials as expediently as possible. This responsibility continues through the life of the permit. The surrounding area shall always be restored to a comparable or better condition from that which it was in prior to commencement of utility work.

E. Liability for Injury or Damage to a Utility Covered by a Permit – The County, DTD, or employees thereof, shall not be responsible or liable for injury or damage that may occur to a utility covered by a permit, if caused by substandard installations, misallocated, non-located or non-locatable utilities, by reason of County maintenance and construction operations, or by motorist or road user operations, or County contractor or other permittee operations.

F. County Supervision Shall Not Impact Liability of applicant/owner – Any supervision or control exercised by County personnel shall in no way relieve the applicant/owner of any duty or responsibility to the general public, nor shall such supervision or control relieve the applicant/owner from any liability for loss, damage or injury to persons or property as provided in this Section.

G. Recorded and Unrecorded Public and Private Rights To be Honored, Regardless of Board Consent – The applicant/owner is subject to all existing public and private rights recorded and unrecorded within and appurtenant to the right-of-way of the roads. Consent of the Board for installation and operation of permitted utilities is only to the extent that the Board has legal authority to grant such consent. The expressed understanding is that the Board is granting said consent free of charge to the applicant/owner as a mere license, and the applicant/owner shall assume the entire responsibility incidental thereto.

[Codified by Ord. 05-2000, 7/13/00]

7.03.130 Required Insurance and Performance Bond for Utility Work

A. Comprehensive General Liability Insurance Requirement – The applicant/owner or its contractor shall furnish a certificate of insurance for comprehensive general liability insurance to the Road Official, in an amount established by Clackamas County's Risk Management Division. The insurance shall be for a combined single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees. It shall protect against liability for damages of any nature caused by the conduct or operation of the applicant/owner, its agents, subcontractors or employees, resulting in personal injury, bodily injury, death, or damage to property, including loss of use thereof, in any way related to the physical location, installation, construction, maintenance, repair, operation or use of said utility, repair, and restoration of the roadway, or in conducting any operation of this ordinance. The applicant/owner may submit evidence of insurance coverage annually in lieu of individual submissions for each permit.

B. Acceptable Substitutions – A utility company, cooperative or municipal authority may be relieved of the obligation of submitting a certificate of insurance if it submits satisfactory evidence that it is insured, or has adequate provisions for self-insurance, in accordance with the requirements of this section.

C. Indemnification Requirement – Both the applicant/owner and its contractor shall indemnify, save harmless and defend the County, its officers, commissioners and employees from and against all claims

and action, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the applicant/owner, any subcontractor, anyone directly or indirectly employed thereby or anyone for whose acts they may be liable, regardless of whether it is caused in part by a party indemnified hereunder.

D. Additional Assurances Required – The insurance shall include the County as an additional insured and refer to and support the applicant's/owner's obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide thirty (30) days written notice to the County in the event of cancellation, non-renewal, or material change, and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance.

E. Performance Bond Requirements:

1. The applicant/owner's contractor shall furnish a performance bond and a minimum of $1000 cash deposit for the period of time necessary to construct or install a utility or conduct an operation authorized by permit through a specified period of time determined by DTD following surface repair.
2. The dollar amount assigned to the performance bond shall equal the amount noted in the permit special provisions, and shall be based upon the estimated cost for the trench and surface repairs.
3. Bonds furnished must be written by a surety company duly qualified and licensed to do business in the State of Oregon, upon a form provided by DTD, certifying bond limits as set out in the permit's special provisions.
4. No work shall be commenced under the permit until the performance bond and cash deposit has been submitted to and received by DTD.
5. In lieu of furnishing a cash deposit and/or a performance bond, the applicant/owner, or its contractor, may file a security agreement form securing their performance through assignment of a savings account kept in a reputable savings institution, in an amount equal to the amount required in the permit's special provisions. The security agreement shall be on a form provided by DTD and shall be returned for review and acceptance.
6. A public utility company or municipal authority may be relieved of the performance bond and cash deposit requirements.

F. Rules for Retaining and Releasing Bonds and Cash Deposits – When the applicant/owner advises that all work set out in the permit has been completed and verified by DTD inspection, all bonds and cash deposits shall be held and shall remain in full force and effect for a three year surety repair period. At the end of this period, the Road Official shall cause the release and/or refund of all bonds, cash deposits, or other sureties to the provider after a DTD inspection confirms satisfactory surface restoration. If DTD incurs costs to achieve satisfactory surface restoration, those costs will be deducted from the surety bond or cash deposit prior to release or refund of the remainder.

[Codified by Ord. 05-2000, 7/13/00]

7.03.200 Allocation of Costs Connected to Utility Placement

A. Costs Incurred Incident to Utility Placement or Continuing Operation – The applicant/owner shall pay the entire cost of locating, constructing, installing, maintaining, repairing, operating, using or relocating and adjusting the utility. Any expense, whatsoever, which is incurred incident to the utilities or the operations authorized by the permit, shall also be paid by the applicant/owner.

B. Expense Reimbursement to County – The applicant/owner shall, in addition to Section 7.03.200.A, reimburse the County for any reasonable and necessary expenses that the County may incur in connection with and related solely to the installation of the utility or conducting the operation authorized by permit. A detailed cost breakdown of County incurred expenses may be requested and obtained from the County, and payment shall be made within thirty (30) days after receipt of billing from the County. When the Road Official deems it necessary to obtain an advance deposit, during the permit application

and review process, the amount required shall be filed with DTD before the permit work is begun.
[Codified by Ord. 05-2000, 7/13/00]

7.03.210 Protection of Survey Monuments in the Vicinity of Utilities

A. Location & Protection of Monuments as Responsibility of applicant/owner – It shall be the responsibility of the applicant/owner to determine the location of and to protect all survey monuments in the vicinity of a utility installation during the construction, operation and subsequent maintenance of the utility.

B. Removal, Disturbance or Destruction of Survey Monuments – Should it become necessary to remove, disturb or destroy any survey monument(s) of record in the course of the applicant's/owner's operation, the applicant/owner shall cause a registered professional land surveyor to preserve the monument(s) and shall do so in the manner described in ORS 209.140-209.150. The costs of referencing and replacing the survey monuments shall be paid by the applicant/owner and shall be ensured by the performance bond. Failure to comply with these terms may be prosecuted as stated in ORS 209.990.

[Codified by Ord. 05-2000, 7/13/00]

7.03.220 Maintenance and Operation of Utilities

A. Required Upkeep of Utilities Authorized by Permit – The applicant/owner shall at all times keep utilities authorized by the permit in a good state of repair to keep the roadway protected from damage and to protect the public from injury. If the County is notified of non-compliance with this provision, the County will respond by taking the corrective measures necessary to abate the hazard in accordance with ORS 368.251-368.281. The applicant/owner will be advised of the circumstances as soon as practical. The County will also respond by requiring the applicant/owner to undertake repairs or corrective action within six hours of advisement by the County when a defect endangers the public. Payment of all County costs shall be as stated in Section 7.03.200.

B. Pre-Approval Required for Some Maintenance Work – Prior to operating or performing any maintenance work on a permitted utility which will interfere with or interrupt traffic upon or along the roadway, the applicant/owner shall obtain prior approval from the Road Official.

C. Removal of Abandoned Utilities – All abandoned utilities belonging to the applicant/owner shall be removed from the right-of-way by the applicant/owner, unless the Road Official allows the utilities to remain by permit. No exemptions shall be made for aerial network. Should the County have to remove any such utilities, a bill will be presented to the applicant/owner. Reimbursement of all County costs shall be as stated in Section 7.03.200.

[Codified by Ord. 05-2000, 7/13/00]

7.03.230 Removal, Relocation or Repair of Utilities

A. Response Time Required Upon County Notification of Need for Aid – If utilities are encountered in day-to-day County maintenance operations, the County shall notify the applicant/owner, and the applicant/owner shall respond as soon as practical, or no later than 24 hours from the time of notification, to aid in the maintenance efforts and further protect the utilities.

B. Interest in Right-of-Way Supersedes Interest in Utility – Permits are issued by the County pursuant to state law, which authorizes the County to require the applicant/owner to remove, relocate or repair a permitted utility at the sole cost of the applicant/owner at any time subsequent to initial installation. If the Road Official determines that the presence of the utility is detrimental to the right-of-way itself, or to the proper repair, maintenance or reconstruction of the right-of-way, the Road Official may give written notice of the concern, and require the applicant/owner to remove, relocate or repair the utility.

C. Required Accommodations for Capital Improvements – In the case of a roadway capital improvement,

the following will apply:

1. Upon receipt of written notice as stated in Section 7.03.230(B), the applicant/ owner shall, within 30 days or within the time frame contained in the notice, respond with a time estimate for accomplishing the required action.
2. After the applicant/owner has provided an estimated time requirement for removal, relocation or repair of the relevant utility, the Road Official may schedule a pre-construction meeting to coordinate the requested activity with the applicant/owner, County personnel, and affected contractors.
3. In a second written notice, the Road Official shall direct the applicant/owner to complete the removal, relocation or repair of the utility, within a specified time frame and consistent with a coordination plan. The time frame outlined in this notice shall take into consideration the applicant's/owner's estimated time requirements. The costs of removal, relocation, or repair shall be paid by the applicant/owner as set out in the second notice and instructions received from the Road Official.
4. Before commencing removal, relocation or repair, the applicant/owner shall furnish insurance in the manner provided for in Section 7.03.130.
5. Should the applicant/owner fail to remove, relocate or repair the utility as provided in this section, the Road Official may remove, relocate or repair it by any means, and submit a statement of total costs for this work to the applicant/owner. Upon receiving the cost statement, the applicant/owner will reimburse the County in full, either:
   a. Immediately; or
   b. Within a period of time agreed on by the applicant/owner and the Road Official.

[Codified by Ord. 05-2000, 7/13/00]

7.03.240 General Requirements for Road Entry Permits

A. Road Entry Permit Required.

An entry permit is required:

1. For any new construction which requires a building permit;
2. For any new entry constructed onto a public, County or local access road;
3. For any change of occupancy (as defined under the Uniform Building Code);
4. For any driveway entry or approach road onto a public, County or local accesses road which, in the opinion of the Road Official or designee, affects traffic of any kind, including vehicular and pedestrian traffic.

B. Exceptions to the Requirement for a Road Entry Permit – Road entry permit standards shall not apply to single family residential replacements, single family residential remodels, additions to existing single family dwellings, or construction of accessory structures to single family dwellings, unless the driveway entry must be rebuilt or relocated, or a development permit is required by the Road Official or designee per the County Roadway Standards.

C. Prior Status of Road Entrances Preserved – Any lawfully constructed approach road, structure, culvert, ditch, or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way prior to the adoption of this chapter shall be maintained by the occupant of the property being served and may remain in place unless it is determined by the Road Official that a traffic or pedestrian hazard is created by this facility, thing, or appurtenance. That facility, thing, or appurtenance deemed in need of removal, repair, or maintenance shall be corrected to the satisfaction of the Road Official.

The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the permitting, design and construction of road entries.

[Codified by Ord. 05-2000, 7/13/00]

CLACKAMAS COUNTY

This item will be postponed until the August 2, 2012 Business Meeting

3

Dog Services
13141 SE Hwy 212, Clackamas, OR 97015

July 26, 2012

Board of County Commissioners
Clackamas County

Second reading of an ordinance amendment Chapter 5.01, Animal Services, of the Clackamas County Code

Members of the Board:

Clackamas County Dog Services and County Counsel recently conducted a review of Clackamas County Code, Chapter 5.01, Animal Services, and determined amendments are needed to enable the most effective and efficient use of resources. The changes suggested by staff are reflected in the proposed amendments that are attached hereto.

Proposed amendments include, in summary, the following changes and additions to the existing code:

1) **Add requirement that a person must be at least 18 years of age in order to purchase a dog license.**
Enforcement of the code becomes increasingly difficult when individuals under the age of 18 are involved. Therefore staff recommends only individuals above the age of majority should be allowed to license a dog so that staff can better ensure compliance with licensing renewal, minimum care standards, and nuisance situations.

2) **Add requirement that all dogs must be licensed by no later than six months of age or when they have their permanent canine teeth, whichever comes first.**
This addition conforms Code language to that of State Statute.

3) **Repeal the limitation on the number of dogs that can be owned on a particular property.**
Dog Services has found it to be more effective, a more efficient use of limited resources, and more meaningful, to focus on individuals' ability to provide for dogs in compliance with minimum care standards, rather than simply focusing on the number of dogs owned.

4) **Clarify that an error in transcribing information into a citation that is, in the judgment of the Hearings Office, non-prejudicial shall not be grounds for setting aside the citation.**

This amendment provides that a simple administrative error in transcribing information into a citation will not cause the citation to be dismissed or vacated.

5) **Repeal language relating to penalties for continuous annoyance as the continuous annoyance section of the code was previously repealed in 2010.**
Title 5 Animal Code was amended in 2010 to eliminate continuous annoyance as a violation. This action is to repeal the related penalty language that was inadvertently left in the code despite the repeal of the underlying violation.

6) **Add a requirement that all veterinarians doing business in Clackamas County report to Dog Services within 30 days all rabies vaccinations administered to dogs *along with information regarding purchase of a dog license.***
All dogs in Oregon are required by State statute to have a current rabies vaccination administered by a licensed veterinarian. All dogs over the age of six months and/or dogs with permanent canine teeth are required to have a dog license. Requiring veterinarians to provide this information to Dog Services enables us to be more efficient and effective in the enforcement of dog licensing. This information is also valuable in emergencies and in determining the vaccination status of impounded dogs with identification.

Beginning in the 2012-13 fiscal year, the anticipated financial impacts of the proposed amendments are as follows:

- Items 1, 2, 4 and 5 indicated above are anticipated to have no financial impact;
- Item 3 is anticipated to have no financial impact, but will permit the reallocation of enforcement resources to higher priority situations;
- Item 6 is anticipated to increase licensing revenues to Dog Services by up to 50% in the first full year of implementation and approximately 10% more per year after.

County Counsel has read and approved as to form the attached proposed amendments.

The Board of Commissioners reviewed the proposed amendments at a study session held April 24, 2012. The first reading of the proposed amendments was held on July 12, 2012.

Recommendation

Staff recommends the Board read the attached ordinance by title only and adopt the attached code amendments, with an effective date 90 days following this reading.

Respectfully submitted,

Diana Hallmark

Diana Hallmark
Manager, Clackamas County Dog Services

For more information on this item, please contact Diana Hallmark at (503) 650-3944 or dianahal@co.clackamas.or.us

ORDINANCE NO. 08-2012

An Ordinance Amending Chapter 5.01, Dog Licensing and Services, of the Clackamas County Code

WHEREAS, Chapter 5.01, Dog Licensing and Services, of the Clackamas County Code was last amended in 2010; and

WHEREAS, it has been determined by the Board of County Commissioners that amendments to Chapter 5.01 are necessary; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 5.01 of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

ADOPTED this 26th day of July, 2012.

BOARD OF COUNTY COMMISSIONERS

_____

Chair

_____

Recording Secretary

TITLE 5

ANIMALS

Summary

5.01 DOG LICENSING & SERVICES 1

TITLE 5

ANIMALS

5.01 DOG LICENSING & SERVICES 1

Table of Contents

5.01 DOG LICENSING & SERVICES 1
5.01.010 Enactment; Authority 1
5.01.020 Definitions; Exclusions; Fines and Fees 1
5.01.030 Licensing; Vaccinations 4
5.01.040 Control of Dogs 6
5.01.050 Biting Dogs; Dangerous Dogs 8
5.01.060 Impoundment; Release; Adoption 12
5.01.070 Citation; Complaint; Hearing Process 15
5.01.080 Penalties 19
5.01.090 Authority of Dog Services Manager 20
5.01.100 Transition 21
5.01.110 Severability 21
5.01.120 Enforcement of Other Laws 21

Chapter 5.01

5.01 DOG LICENSING & SERVICES

5.01.010 Enactment; Authority

The County is authorized by Oregon Revised Statutes (ORS) 203.035 to regulate matters of County concern. The Board of County Commissioners finds that dog licensing and services within the County is a matter of County concern that impacts the health and safety of the people of Clackamas County. ORS 609.015, ORS 609.135 and ORS 153.030 recognize the authority of the County to enact and enforce regulations and procedures that vary from related state law provisions. The Board of County Commissioners adopts the following dog licensing and services regulations and procedures pursuant to ORS 203.035. Matters that concern crimes of abuse, neglect, or abandonment of dogs will be investigated and prosecuted under state law. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.020 Definitions; Exclusions; Fines and Fees

A. Definitions. Terms used but not defined shall have their plain meaning.

1. BITE, BITING, BITTEN means the breaking of the skin of a person, domestic animal, or livestock by the teeth of a dog.
2. CONDITIONAL RELEASE means a security or non-security release of an impounded dog which imposes regulations and conditions on the activities and keeping of a dog pending final disposition of a violation of this chapter, including appeal.
3. COSTS mean any monetary assessment, other than fines and fees ordered by a Hearings Officer including, but not limited to, costs for veterinarian care, restitution, prosecution expenses and attorney fees.
4. DANGEROUS DOG means any dog that menaces, bites, injures or kills a person, domestic animal, or livestock.
5. DOG means the common dog (*Canis familiaris*) and any animal claimed by its owner to be a wolf-hybrid unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.
6. DOG AT LARGE means a dog that is off or outside the dog owner's property and not under the immediate control of a person.
7. DOG OWNER means the following, however any presumption of ownership raised in this section may be rebutted by proof to the contrary:
   a. Any person in whose name a dog license has been issued;
   b. Any person who has a possessory property right in a dog;
   c. In a family situation the adult head(s) of household shall be jointly and severally presumed to be the owner(s);
   d. Any person who without regard to any ownership interest, shelters a dog or who has a dog in that person's care, possession, custody or control, or who knowingly permits a dog to remain on property occupied by that person for more than 30 days shall be presumed to be the owner.
8. DOG SERVICES means Clackamas County Dog Services.

9. DOG SERVICES OFFICER means a person employed by or contracting with Clackamas County who is authorized to investigate violations and issue citations as provided in this chapter.
10. DOMESTIC ANIMAL has the meaning provided in ORS 167.310.
11. EUTHANASIA means the putting of a dog to death in any humane manner permitted under ORS 609.405.
12. EXPENSES mean expenditures incurred by Dog Services during impoundment, keeping and disposition of a dog.
13. HEARINGS OFFICER means any authority appointed by the Board of County Commissioners to hear and determine violations of this chapter.
14. IMPOUND means taking physical or constructive custody of a dog. A dog shall be considered impounded from the time Dog Services staff or a peace officer takes physical custody of the dog or serves an owner with a Notice of Impound and Conditional Release in accordance with this chapter.
15. LIVESTOCK has the meaning provided in ORS 609.125.
16. MANAGER means the Clackamas County Dog Services Manager or his/her designee.
17. MENACE means lunging, growling, snarling, chasing, attacking, or other behavior by a dog that would cause a reasonable person to fear for the person's safety, the safety of another person or the safety of a domestic animal or livestock.
18. MINIMUM CARE means but is not limited to, sufficient food to maintain the dog's health; access to potable water that is not snow or ice; access to an enclosed structure sufficient to protect the dog; continuous access to an area that is kept clean and has adequate space and ventilation with suitable temperature; and veterinary care to relieve distress from injury, neglect or disease.
19. MULTIPLE DWELLING means any building or portion thereof that is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of two or more families living independently of each other in separate units.
20. PEACE OFFICER has the meaning provided in ORS 161.015.
21. PHYSICAL INJURY has the meaning provided in ORS 167.310.
22. SECURE ENCLOSURE means any of the following:
    a. A fully fenced pen, kennel or structure that is in compliance with applicable County codes, that will remain locked with a padlock or combination lock, and which has secure sides at least five feet high. The County may also require that the structure have a secure top and/or floor that are attached to the sides, or require that the sides be embedded in the ground no less than one foot; or
    b. A house or garage that has latched doors kept in good repair to prevent the escape of the dog. A house, garage, patio, porch or any part of the house is not a secure enclosure if the structure would allow the dog to exit the structure of its own will; or
    c. For a dangerous dog, a fully fenced pen, kennel or structure at least six feet in height that is either anchored beneath the ground or is in concrete and which prevents the dog from digging under it. The enclosure must be of a design that prevents entry of children or unauthorized persons and also prevents those persons from extending an arm or leg inside the enclosure. The enclosure must remain locked with a padlock or

combination lock when occupied by the dog. A County approved sign must remain posted at all entry points of the dog owner's property that informs both children and adults that the dog is dangerous.

23. VIOLATION means any violation of this chapter for which a fine, condition or restriction or other sanction may be imposed.

24. WOLF-HYBRID means an animal that is either the result of cross breeding a purebred wolf and a dog, or an existing wolf-hybrid with a dog, or any dog declared by its owner to be a wolf-hybrid. A wolf-hybrid will be considered a dog under this chapter unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.

B. Exclusions.

This chapter does not regulate veterinarians, kennel operators or pet shop owners who for a period of not more than 90 days maintain on their property dogs owned by other persons.

C. Fines and Fees

All fines and fees associated with this chapter shall be set by resolution of the Board of County Commissioners.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05 2010, 7/1/10]

5.01.030 Licensing; Vaccinations

A. License.

1. Individual Dog License.

a. A person must be at least 18 years old to obtain a license for a dog.

b. Every dog owner shall license a dog by the time the dog has a set of permanent canine teeth or is six months old, whichever comes first, or within thirty (30) days of acquiring the dog.

c. A dog owner who has moved to Clackamas County and who does not have a current dog license from another Oregon city or county, shall obtain a dog license within thirty (30) days of moving into Clackamas County unless the dog has not yet reached six months of age. A dog with a current dog license from another city or county shall not require licensing under this chapter until expiration of the current license, if within thirty (30) days of moving into Clackamas County the owner notifies Dog Services of the dog's description, license number and city or county of issuance, and Clackamas County address.

2. Multiple Dog license.

a. Qualification; Application; Inspection. When an owner has more than one dog the owner may obtain or renew a multiple dog license after submission of a qualifying Multiple Dog License Application and after a County inspection of the applicant's premises to determine that minimum care standards exist.

b. Denial of a Multiple Dog License. An owner may appeal the denial of a multiple dog license to a Hearings Officer by delivering a written request to Dog Services within seven (7) days of the mailing date of the written notice denying the license. A hearing will follow the same procedures set forth in this chapter for a hearing on a violation except that the burden of proof will be on the owner to prove that the denial was improper.

c. Land Use Approval. Issuance of a Multiple Dog License does not constitute approval of a particular land use or indicate compliance with any zoning or land use planning restrictions that may apply. Applicant may be required to demonstrate compliance with city or county zoning or land use planning restrictions prior to issuance.

B. Rabies Vaccination

1. Individual or multiple dog licenses will not be issued without evidence of one of the following for each dog to be licensed:
   a. A rabies vaccination certificate issued by a licensed veterinarian that is valid for the license period; or,
   b. A written statement signed by a licensed veterinarian stating that for medical reasons the rabies vaccination cannot be administered to the dog.
2. A dog that does not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license, shall be apprehended and impounded at the owner's expense.
3. A veterinarian performing a rabies vaccination of any dog must transmit a copy of the vaccination certificate or written documentation that includes information contained on the certificate to Dog Services within 30 days of the vaccination. In the alternative, a veterinarian may issue a dog license in accordance with the rules adopted by this Chapter, and submit proof of license to Dog Services within 30 days of the vaccination.

C. License Term; Renewal; Fine

1. A license will be valid for one, two or three years from the date of issuance at the option of the dog owner and requires a rabies vaccination certificate for the licensing period.
2. Renewal of a license shall not be due until the last day of the month in which the license expires. If a person fails to renew a license prior to its expiration date, a fine may be assessed at the time the license is renewed.

D. Identification tags.

1. At the time an individual dog license is issued, the County will issue a free identification tag that is to be fastened to a collar or harness and kept on the dog at all times when the dog is not in the immediate possession of the owner.
2. When a multiple dog license is issued, the owner may obtain identification tags upon payment of a fee.
3. If a dog license tag is lost, the owner may obtain a duplicate tag from Dog Services upon payment of a fee.

E. License Fees Exemptions.

1. No license fee will be required for the following:
   a. Any dog that meets the definition of an "assistance animal" as defined in ORS 346.680, provided that the license applicant has filed a statement with Dog Services indicating that the dog is an "assistance animal" for a person who has a physical impairment in one or more of their daily life activities and resides in the applicant's household.
   b. Any dog in training to be an "assistance animal" as defined in ORS 346.680, in affiliation with a recognized organization for the training or placement of assistance animals, provided the trainer files a statement with Dog Services verifying that the dog is an assistance animal.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.040 Control of Dogs

A. Duties of Owners. For the purposes of this chapter a dog owner is responsible for the behavior of the dog regardless of whether the owner or another person allowed the dog to engage in the behavior that is the subject of the violation.

B. Violations.

1. It is unlawful to permit a dog to be a public nuisance. A dog is a public nuisance if it:
   a. Menaces, bites, injures or kills a person, domestic animal, or livestock. It is a defense to this section if the dog engages in such behavior as a result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property;
   b. Is a dog at large. It is a defense to this section that the dog was a working dog wearing a locating device and temporarily separated from the person in control of the dog;
   c. Chases a vehicle while off the dog owner's property;
   d. Damages or destroys property of another person while off the dog owner's property;
   e. Scatters garbage while off the dog owner's property;
   f. Is a female in heat (estrus) and is a dog at large.
2. It is unlawful to fail to comply with the requirements of this chapter that apply to keeping a dangerous dog.
3. It is unlawful to permit any dog to leave the confines of any prescribed quarantine area, and/or fail to comply with any other condition of quarantine.
4. It is unlawful to interfere with an identified County employee or peace officer who is enforcing any provision of this chapter by intentionally acting in any manner that prevents, or attempts to prevent a County employee or peace officer from performing their lawful duties.
5. It is unlawful to knowingly provide false information to a County employee or peace officer enforcing any provision of this chapter.
6. It is unlawful to permit a dog to be confined within a motor vehicle at any location under such conditions as may endanger the health or well-being of the dog, including but not limited to dangerous temperature, lack of food, water or attention.
7. It is unlawful to permit a dog to be unrestrained in an open portion of a vehicle.
8. It is unlawful to fail to reclaim an impounded dog.
9. It is unlawful to fail to comply with any fine, fee, cost, expense, condition or restriction or other order imposed by a Hearings Officer under this chapter.
10. It is unlawful to fail to surrender a dog for apprehension to the County when required by this chapter.
11. It is unlawful to fail to license a dog or renew a license as required by this chapter.
12. It is unlawful for an owner to fail to immediately notify Dog Services when the owner's dog has bitten a person, domestic animal, or livestock.

13. It is unlawful to keep a dog in a manner that does not meet minimum care standards of this chapter.
14. It is unlawful to fail to maintain a current rabies vaccination.
15. It is unlawful for a person who has been bitten by a dog, or a parent/guardian of a bitten minor, to fail to immediately notify Dog Services when required by this chapter.
16. It is unlawful for a dog owner to fail to follow any condition of release pending final disposition of a violation of this chapter, including appeal.

C. Lost Dogs; Duties of Finders. Any person who finds and shelters a dog without knowing the dog owner's identity shall notify Dog Services within three days with a description of the dog. A finder may surrender the dog to Dog Services, or retain possession subject to surrender upon County request.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.050 Biting Dogs; Dangerous Dogs

A. Reporting biting dogs.
1. The owner of a dog that bites a person, domestic animal, or livestock shall immediately notify Dog Services of the time and circumstances of the bite along with a description of the biting dog, its rabies vaccination status, the owner's name and address, and if known the name and address of the person who was bitten or the owner of the bitten domestic animal or livestock.
2. Any person who is bitten by a dog, or is the parent/guardian of a bitten minor, or owns a domestic animal or livestock bitten by a dog shall immediately notify Dog Services of the time and circumstances of the bite along with his/her name and address, a description of the biting dog, and if known the name and address of the dog owner.

B. Quarantine of biting dogs.
1. A dog suspected of biting a person will be quarantined at the owner's expense until the tenth day following the bite in accordance with state law.
2. At the discretion of the County, a dog that has proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license may be quarantined at the premises of a licensed veterinarian or at the premises of the owner providing the dog is kept within a secure enclosure or with approved restraint deemed adequate to prevent contact with any person or other animal, and is kept in accordance with any other conditions set by the County as permitted by this chapter or required by state law. It shall be a violation of this chapter if during home quarantine the dog leaves the confines of a prescribed quarantine area for any reason or otherwise violates the conditions of quarantine.
3. Dogs that have bitten a person and do not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license shall be apprehended and impounded as resources allow.

C. Dangerous Dogs.
1. Classification of Dog as a Dangerous Dog. A dog may be classified by the Hearings Officer as a dangerous dog when it has menaced, bitten, chased, injured or killed any person, domestic animal, or livestock.
2. Notice of Classification; Hearing.

a. Notice. Prior to a dog being classified as dangerous, the owner shall have a right to a hearing before a Hearings Officer. The County shall send a Dangerous Dog Notice to the dog owner by certified mail or personal service; if sent by mail the date of mailing will be considered the date of service. The notice shall inform the owner of:
   i. A description of the alleged incident and specific behavior that supports classification of the dog as dangerous.
   ii. The regulations that may be imposed following a dangerous dog classification, including the requirement of a dangerous dog certificate.
   iii. An opportunity to request a hearing.
   iv. Information that the dog owner must request a hearing within seven (7) days from the date of service by delivering a written request to Dog Services.
   v. Information that if the dog owner does not make a timely request for hearing, the dog owner shall be deemed to have waived his/her right to a hearing. Thereafter, following proof of sufficient evidence that the dog is dangerous, the Hearings Officer may so classify the dog and impose regulations consistent with this chapter.

b. Hearing.
   i. Following a timely request for hearing, the County will notify the dog owner and Hearings Officer of the date and time of the hearing. The hearing shall follow the procedures set forth in this chapter for a hearing on a violation.
   ii. The Hearings Officer may refrain from classifying a dog as dangerous upon a finding that the behavior was the result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser, or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property.
   iii. A hearing on classification of a dangerous dog may be consolidated with a hearing on any underlying violation for which the dog owner has been cited.

3. Regulation of Dangerous Dogs; Microchip Identification. When a dog has been classified as dangerous, the dog shall be microchip identified at Dog Services at the expense of the owner, as provided in ORS 609.168. In addition, a Hearings Officer may order the following regulations:
   a. That the dog be kept in a secure enclosure;
   b. That the dog owner obtain and maintain proof of public liability insurance;
   c. That the dog owner not permit the dog to be off the owner's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a competent person;
   d. That the dog owner successfully complete a County approved pet ownership program;

e. That the dog successfully complete obedience training certified by the American Temperament Testing Society or other similar County approved program;

f. That the dog be spayed or neutered;

g. After consideration of the factors set forth in ORS 609.093, require euthanasia when a dog has bitten or killed a person, domestic animal, or livestock. The Hearings Officer may also consider the public nuisance violation history of the dog and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred.

4. Certificate of Registration; Secure Enclosure; Notice to New Owner

a. Certificate of Registration. Within seven (7) days after a dog has been classified as dangerous, the owner must license the dog, if not licensed, and obtain a dangerous dog certificate of registration to be renewed annually until the dog is declassified or dies. The County will only issue certificates of registration and renewals to persons who are at least 18 years of age and who present sufficient evidence of:

i. A rabies vaccination certificate which will remain in effect for at least one year from the date the certificate of registration is issued;

ii. A secure enclosure to confine the dangerous dog;

iii. A clearly visible County approved warning sign to be posted and remain at all entry points of the owner's property that informs both children and adults that the dog is dangerous;

iv. Microchip identification as provided in ORS 609.168; and,

v. Payment of an annual dangerous dog registration fee.

b. Secure Enclosure. The owner of a dog classified as dangerous shall confine the dog in a secure enclosure. The owner must immediately notify Dog Services when a dangerous dog is at large, or has bitten a person, domestic animal, or livestock. A dangerous dog shall not be permitted to leave the confines of a secure enclosure unless the dog is muzzled and restrained by an adequate chain or leash and under control of a competent person.

c. Notice to New Owner. Prior to a dangerous dog being sold or given away the owner shall provide notice to the new owner that the dog has been classified as a dangerous dog and provide the County with the name, address and telephone number of the new owner whether or not the new owner resides in Clackamas County. The new owner must comply with all dangerous dog regulations imposed unless and until the dog is declassified or dies.

5. Declassification of Dangerous Dog.

a. Declassification. Following an owner's written request, the County may declassify a dog as dangerous and terminate the regulations ordered at the time of classification, except for microchip identification and secure enclosure, when the following conditions have been met:

i. For two years from the date of classification the dog has had no further incidents of behavior that would make it a dangerous dog;
ii. For two years from the date of classification there have been no violations of the regulations imposed;
iii. The dog owner has obtained a certificate of satisfactory completion of obedience training for the classified dog.

b. Appeal of Declassification Denial. A dog owner may appeal to a Hearings Officer the denial of a request to declassify a dangerous dog by delivering a written request for appeal to Dog Services within seven (7) days of the mailing date of the County's written notice denying declassification.
i. The County's written denial shall include information on how the dog owner may appeal the denial.
ii. On appeal the Hearings Officer shall determine whether the dog meets the criteria for declassification and shall either uphold the County's denial or order declassification.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.060 Impoundment; Release; Adoption

A. Impoundment
1. Any Dog Services Officer or peace officer may impound a dog that is in violation of this chapter, or when a Dog Services Officer or peace officer reasonably believes a dog requires medical assistance or care, or when ordered by a court or Hearings Officer.
2. If a person refuses to allow a Dog Services Officer or peace officer to enter the premises to apprehend and impound a dog as authorized by this chapter, the County may request the assistance of the local law enforcement official to obtain and execute a search warrant as authorized by law to search for and seize the dog subject to impound.
3. Any Dog Services Officer or peace officer is authorized to remove a dog from a motor vehicle to apprehend and impound the dog when the officer reasonably believes it is confined in a manner that endangers its health or well-being, including but not limited to dangerous temperature, lack of food, water or attention. A written notice of impoundment will be left on or in the vehicle with information on how to reclaim the dog.
4. Any person may immediately apprehend and hold for impoundment any dog that has trespassed upon the property of that person or another in violation of this chapter, or has menaced, bitten, injured or killed a person, domestic animal, or livestock.

B. Impound Holding Periods. Unless otherwise provided in this chapter, dogs impounded will be held for the following minimum time periods, unless sooner reclaimed by their owner:
1. Dogs not wearing a license tag shall be held for at least three consecutive days, not including the day of impoundment.
2. Dogs wearing a license tag shall be held for at least five consecutive days, from the date of notification of impoundment. If notification is by mail, the date of mailing shall be considered the date of notification.

C. Release of Impounded Dogs; Conditional Release.

1. Release.

a. Release Prohibited. Unless otherwise ordered by a Hearings Officer or court of competent jurisdiction, an impounded dog may not be released until final disposition of any violation alleging that the dog has killed a person, or when a dog is pending classification or has been classified as a dangerous dog.

b. Release Permitted. Unless prohibited by this chapter prior to final disposition of a violation or pending appeal, an impounded dog may be released subject to release conditions in subsection 5.01.060(C)(2)(a) and upon posting security in the amount equal to 50% of the base fine for each violation and payment of fees and costs owed to date including prior outstanding balances, except upon showing of good cause.

2. Conditional Release.

a. Conditions. As permitted by this chapter pending final disposition of a violation or appeal, the County or Hearings Officer may conditionally release an impounded dog to its owner and may impose any of the following release conditions, including but not limited to a requirement that the dog owner:

i. Obtain and provide proof of a rabies vaccination within a designated time;

ii. Provide proof of license within a designated time;

iii. Restrain the dog on the dog owner's property by means of a secure enclosure;

iv. Control the dog on a leash that is no longer than six (6) feet, and at all times handled by an adult who is able to control the dog;

v. Muzzle the dog at all times when off the dog owner's property;

vi. Obtain veterinary care for the dog within a designated time;

vii. Comply with minimum care standards consistent with this chapter;

viii. Keep the dog indoors during certain hours.

b. Revocation of Conditional Release; Violation; Security Forfeited.

i. Revocation. Upon reasonable ground to believe that a release condition has been violated the County may revoke release, and apprehend and impound the subject dog pending final disposition of the underlying violation or appeal.

ii. Violation. At the time of revocation the dog owner shall be cited for failure to follow condition(s) of release. A hearing on revocation may be made in accordance with section 5.01.070 of this chapter and consolidated with a hearing on the underlying violation(s).

iii. Security Forfeited. The security amount posted on conditional release shall be forfeited upon a finding that one or more conditions of release were violated or if no timely hearing is requested.

3. If a dog owner has been cited for a violation(s) of this chapter, and a Hearings Officer finds that no violation(s) occurred, then impoundment and board fees shall not be assessed until the first business day after notice of the Hearings Officer's Final Order.

4. An owner must reclaim a dog within five (5) business days after notice of a Hearings Officer's Final Order unless otherwise ordered or unless stayed by a court of competent jurisdiction.

D. Failure to Reclaim.
1. If an owner fails to reclaim a dog as provided in this chapter the dog will be deemed abandoned and shall become the property of the County without compensation paid to the owner.
2. An owner that fails to reclaim a dog will be civilly liable to the County for all penalties, fines, fees, costs and expenses authorized by this chapter, which may be collected in the same manner as any other debt allowed by law.

E. Diseased or Injured Dog. A dog owner shall be liable to the County for costs paid for medical treatment during impoundment. If the County determines a dog is seriously injured or seriously ill or its health condition causes a threat to public health or safety, the dog may be immediately euthanized without compensation paid to the owner.

F. Release for Adoption.
1. Fees. Adoption fees will be assessed consistent with this chapter.
2. Standards. The Dog Services Manager shall have the authority to develop and enforce adoption policies and procedures.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.070 Citation; Complaint; Hearing Process

A. Issuance of Citation.
1. Any Dog Services Officer or peace officer may issue and serve a dog owner with a citation when there are reasonable grounds to believe the owner or dog has committed a violation of this chapter. The citation shall serve as the County's complaint.
2. A citation shall be served by personal service or by certified mail with return receipt requested, no later than six (6) months from the date the alleged violation occurred. When mailed the date of mailing shall be considered the date of service. The failure of any person to receive notice properly given shall not invalidate or otherwise affect proceedings under this chapter.

B. Form of Citation.
1. The citation shall include:
   a. The name and address of the person cited;
   b. The date(s) the alleged violation(s) occurred;
   c. The number and title of the chapter section(s) violated;
   d. A description of the dog(s) involved;
   e. The base fine, to be equal to the minimum fine, along with the maximum fine for each violation as authorized by this chapter;
   f. Whether appearance before a Hearings Officer is optional, or if mandatory the date, time and place at which the person is to appear;
   g. The procedure for the person to follow to admit the violation and pay the fine, or contest the citation and appear before a Hearings Officer;
   h. A statement that if the person fails to pay the fine within the time allowed, or fails to appear before the Hearings Officer when required, then the person shall have waived his/her right to contest the citation and the Hearings Officer may enter a judgment against the person for an amount

up to the maximum fine, in addition to any fees, costs or expenses, conditions or restrictions authorized by this chapter;

i. A statement that when appearance before a Hearings Officer is mandatory the person cannot pay the fine in lieu of appearance.

2. An error in transcribing information into a citation, when determined by the Hearings Officer to be non-prejudicial to the defense of the cited person, may be corrected prior to or at the time of the hearing with notice to the cited person. Except as provided in this subsection, a citation that does not conform to the requirements of this section shall be set aside by the Hearings Officer upon motion of the cited person before any other proceedings at the hearing. Minor variations in the form of citation shall not be a basis for setting aside a citation. Nothing prohibits the Hearings Officer from amending a citation in the Hearings Officer's discretion.

C. Response to Citation

1. Unless an appearance before a Hearings Officer is mandatory, a dog owner who has received a citation may respond by:
   a. Appearing personally before the Hearings Officer on the cited appearance date and either admit or deny the violation; or
   b. Prior to the appearance date return a signed copy of the citation to Dog Services admitting the violation, along with a check or money order payable to Clackamas County for the total base fine amount. Admission and payment does not relieve the dog owner of the requirement to correct the violation; or
   c. Prior to the appearance date, return a signed copy of the citation to Dog Services denying the violation and requesting a hearing. Dog Services will set a time and place for the hearing and notify the Hearings Officer, and dog owner.

2. Mandatory Appearance. Personal appearance before a Hearings Officer at the time and place indicated on the citation shall be mandatory:
   a. When a dog owner has received a citation three (3) times or more within a twelve (12) month period or the issuing officer has determined the appearance should be mandatory;
   b. For violation of Failure to Surrender a Dog;
   c. For violation of Interfering with a County employee or Peace Officer;
   d. For violation of Providing False Information to a County employee or Peace Officer;
   e. For violation of Failure to Comply with Conditions of Quarantine;
   f. For violation of Failure to Comply with any Fine, Fee, Cost, Expense, Condition or Restriction authorized by this chapter;
   g. For violation of Dog as a Public Nuisance when a dog kills a person, domestic animal, or livestock;
   h. For violation of Failure to Comply with the Requirements of Keeping a Dangerous Dog.
   i. For failure to reclaim an impounded dog.
   j. For failure to meet minimum care standards.

3. Failure to Respond to Citation. If a person cited fails to respond to a citation as required by this chapter then the person shall be deemed to have waived his/her right to contest the citation. Following proof of sufficient evidence that the person has committed the cited violation(s) the Hearings Officer may

enter a Final Order against the person for an amount up to the maximum fine, in addition to any applicable fees, costs or expenses, and any other imposition consistent with this chapter. A copy of the Final Order shall be sent to the person cited by regular mail.

D. Hearing Process.

1. Informal Disposition. The County and dog owner may agree to an informal and final disposition of any violation before a Hearings Officer issues a Final Order.
2. Burden of Proof. The burden will be on the County to prove that the violation occurred by a preponderance of the evidence.
3. Testimony of Witnesses and Parties. The Hearings Officer shall have the authority to administer oaths or affirmations and take testimony of and question witnesses and parties. Parties may offer witness testimony on their own behalf. Written testimony must be submitted by sworn affidavit and may be admitted into the record subject to exclusion by the Hearings Officer and objections by the opposing party.
4. Cross-Examination of Witnesses. The person cited and attorneys may examine or cross-examine witnesses.
5. Evidence. Reliable and relevant evidence shall be admitted subject to the rules of privilege recognized by law. The burden of presenting evidence to support a fact or position shall be on the offering party. The Hearings Officer may establish procedures for the presentation of evidence to ensure that the hearing record reflects a full and fair inquiry into the facts necessary to determine the matter alleged. The Hearings Officer shall have the discretion to exclude any material or testimony that is accumulative, repetitious, irrelevant or immaterial.
6. Objections. Objections to admission of evidence shall be noted in the record and will be considered with respect to the weight to be given the particular evidence offered. The Hearings Officer shall have the discretion to admit or exclude any evidence presented and may reserve the ruling on the admissibility or exclusion of evidence until the time the Final Order is issued.
7. Subpoenas. The Hearings Officer may issue subpoenas to parties when a request is supported by a showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties, peace officers or employees of the County, shall be paid the same witness fees and mileage as allowed in civil cases from the party requesting the subpoena to be paid at the time the subpoena is issued. The party requesting the subpoena will be responsible for its service in accordance with the Oregon Rules of Civil Procedure.
8. Representation. The person cited may represent him/herself or may be represented by counsel at personal expense. The County may be represented at the hearing by any employee of the County. If the employee is not an attorney, the employee shall not present legal argument, examine or cross-examine witnesses, present rebuttal evidence or give legal advice to the Hearings Officer conducting the hearing.
9. Record. A verbatim written or mechanical record shall be made of all hearings. The record may be transcribed at the request of a party upon payment in advance of the cost of transcription.

10. Final Order. At the conclusion of the hearing the Hearings Officer shall issue a Final Order based upon reliable, relevant and substantial evidence which shall be the County's final determination. A Final Order shall be effective on the date that it is issued unless otherwise provided by the Hearings Officer. The order may be oral or written, but in all cases must be recorded in the record of the proceeding. The Hearings Officer may impose fines, fees, costs, expenses, conditions or restrictions and any other imposition authorized by this Chapter. Monetary obligations are due and payable on the effective date of the Final Order unless otherwise provided.
11. Judicial Review. Review of a Final Order of the Hearings Officer may be made by any party by writ of review as provided in ORS 34.010-34.100.
12. Enforcement of Final Order. The County may maintain civil proceedings in law or equity in a court of competent jurisdiction to enforce any provision of a Hearings Officer's Final Order.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.080 Penalties

A. Fines, Fees, Costs; Expenses.
   1. Upon a finding that a dog owner has violated this chapter, a Hearings Officer may impose fines, fees, costs and expenses, which shall become a debt owing to Clackamas County and may be collected in the same manner as any other debt allowed by law. If fines, fees, costs or expenses are not paid within sixty (60) days after payment is ordered, the County may file and record the Final Order for payment in the County Clerk Lien Record as authorized by ORS 30.460.
   2. If the Hearings Officer finds that the alleged violation did not occur, the County shall reimburse the dog owner for any fines, fees, costs and expenses previously paid by the owner for the alleged violation.
   3. The Hearings Officer may order payment of the County's attorney fees and prosecution costs to include staff time for any violation of this Chapter.

B. Conditions and Restrictions; Restitution; Euthanasia.
   1. Upon a finding by the Hearings Officer that a dog owner has violated a provision of this chapter, in addition to and not in lieu of any fine, fee, cost or expense, the Hearings Officer may impose restitution, euthanasia, and reasonable conditions and restrictions, including but not limited to:
      a. Suspend the owner's right to own or keep any dog in Clackamas County for a period not to exceed five (5) years;
      b. Upon sufficient proof order restitution to any person who has suffered actual monetary loss as a result of a violation of this chapter, including but not limited to expenses incurred for veterinarian care, burial and memorial expenses, repair or replacement of damaged property, or medical bills;
      c. Require the owner to spay or neuter the dog;
      d. Require the owner to remove the dog to a location where the dog does not present a threat to persons, domestic animals, or livestock;
      e. Require the owner to surrender the dog to the County;
      f. After consideration of the factors set forth in ORS 609.093, require euthanasia when a dog has bitten or killed a person, domestic animal, or

livestock. The Hearings Officer may also consider the public nuisance violation history of the dog and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred;

g. Require that the owner comply with any other condition or restriction reasonably designed to abate any future violation of this chapter;

h. Require that the owner obtain microchip identification for the dog;

i. Require the owner to reduce the number of dogs on the owner's premises.

2. Any condition or restriction imposed by a Hearings Officer must be complied with immediately unless otherwise ordered. The County may request that an owner provide proof of compliance by a date certain. If proof is not provided, or proof is insufficient, then a rebuttable presumption will exist that the owner has failed to comply and the owner may be cited for the violation of Failure to Comply in accordance with this chapter.

3. An owner shall be responsible for all costs incurred in complying with any condition or restriction imposed.

4. Upon a finding that an owner is guilty of a violation set forth in this chapter, regarding the same dog for the third time in a twelve (12) month period, the Hearings Officer may order that the owner surrender the dog to the County, without compensation paid to the owner.

When a dog has been ordered surrendered and the County has determined that the dog qualifies for adoption, the County may give placement preference to any person who had prior contact with the dog, including but not limited to the former owner's family members or friends who reside separately from the former owner and whom the County has determined will provide adequate care and follow all conditions or restrictions imposed by the Hearings Officer in order to maintain control of the dog.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.090 Authority of Dog Services Manager

In accordance with the provisions of this chapter the Dog Services Manager shall have the authority to:

A. Collect fines, fees, costs and expenses.

B. Authorize an owner to keep a licensed dog that has been impounded and quarantined, at the premises of the owner during the period of quarantine.

C. Declassify a dog as dangerous in accordance with the provisions of this chapter.

D. Request the assistance of local law enforcement officials to obtain and execute a warrant authorized under state law and this chapter for the search and seizure of property.

E. Require a dog owner to provide proof of compliance with a Hearings Officer's Final Order.

F. Inspect premises of a dog owner to ensure compliance with this chapter;

G. Develop and enforce policy, procedures, and standards to ensure the effective administration of this chapter.

[Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.100 Severability

If any clause, section or provision of this chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein.
[Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.120 Enforcement of Other Laws

A. Enforcement of Dogs. Pursuant to ORS 203.035; 153.030; 609.015 and ORS 609.135, this chapter supersedes enforcement in the County of the following state statutes regarding control of dogs: ORS 609.030 and 609.035 to 609.110; 609.155; 609.158; 609.165; 609.170; 609.180; 609.190.

B. Enforcement of Rabies Control. Rabies control shall be enforced by the Clackamas County Health Officer in cooperation with the Dog Services Manager in accordance with the provisions of ORS 433.340 through 433.390.

C. Enforcement of Violations Involving Livestock. When a dog is determined to be a Public Nuisance under this chapter for menacing, biting, injuring or killing livestock, in addition to all other provisions and regulations of this chapter the following state statutes apply: ORS 609.125; 609.156; 609.161; 609.162; 609.163; 609.167; 609.168.

D. Enforcement of Possession of Dogs. The number of dogs possessed by a person shall be limited as provided in ORS 167.374. In addition to all other provisions and regulations of this chapter, ORS 167.374 shall apply.

E. Other Laws Apply. Except as expressly provided in this chapter, this chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state and federal laws, rules and regulations, and other ordinances which relate to the requirements provided in this chapter.

[Added by Ord. 05-2010, 7/1/10]

Health, Housing & Human Services
CLACKAMAS COUNTY

4

Cindy Becker
Director

July 26, 2012

Board of Commissioners,
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement amendment #3 with the City of Canby/Canby Adult Center to provide Social Services for Clackamas County Residents

The Social Services Division of the Health, Housing & Human Services Department (H3S) requests the approval of an Intergovernmental Agreement Amendment #3 with the City of Canby/Canby Adult Center to provide social services to Clackamas County residents age 60 and over. This is a budget adjustment. This amendment provides funding for the provision of services during FY12/13 and changes the service dates for this funding to July 1, 2012 through June 30, 2013.

The goal in providing these services is to assist older residents in meeting their individual needs by linking them with County resources.

This amendment increases the agreement amount by $136,146; to a total of $278,870. This agreement is in the format approved by County Counsel as part of the H3S contract standardization project. No County General Fund dollars are involved. The agreement begins July 1, 2011 and continues through June 30, 2013.

Recommendation

We recommend the approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,

Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Brenda Durbin, # 503-655-8641

Contract Amendment
Health, Housing and Human Services

DHS Contract Number: SSD-17-11/12 Board Agenda Number: 062311-A1

Division: Social Services Amendment Number 3

Contractor: City of Canby/Canby Adult Center

Amendment Requested By Brenda Durbin, CCSS Director

Changes: (X) Contract Budget & Termination Date

Justification for Amendment:

This is a budget adjustment adding FY 12/13 funding and extending the termination date to June 30 2013. This results in an increase to the contract budget of $136,146.

I. AMEND: SCOPE OF SERVICES

D. Services required under the terms of this agreement shall commence July 1, 2011. This agreement shall terminate June 30, 2012

TO READ:

D. Services required under the terms of this agreement shall commence July 1, 2012. This agreement shall terminate June 30, 2013

II. AMEND: COMPENSATION AND RECORDS

Compensation. County shall compensate the Agency for satisfactorily performing the services identified in Section I on a fixed unit rate reimbursement basis as described in Exhibit 3 - Budget and Units of Service - attached hereto. The maximum compensation allowed under this contract is $12,797 in Older Americans Act III-B funds, $68,541 in Older Americans Act III-C funds, $1,426 in Older Americans Act III-D funds, $19,080 in SPD Medicaid funds for Medicaid client Home Delivered meals, $22,165 in NSIP funds, $18,712 in STF/Ride Connection funds for out of district rides, $311 in STF/Tri-Met funds for waivered transportation match, $529 of Medicaid funds for Medicaid client non-medical transportation services and $163 of LIEAP funds; for a total net compensation of $143,724.

TO READ:

A. Compensation. County shall compensate the Agency for satisfactorily performing the services identified in Section I on a fixed unit rate reimbursement basis as described in Exhibit 3 - Budget and Units of Service - attached hereto. The maximum compensation allowed under this contract is $12,797 in Older Americans Act III-B funds, $66,029 in Older Americans Act III-C funds, $1,426 in Older Americans Act III-D funds, $19,080 in SPD Medicaid funds for Medicaid client Home Delivered meals, $20,696 in NSIP funds, $15,279 in STF/Ride Connection funds for out of district rides, $310 in STF/Tri-Met funds for waivered transportation match, $529 of Medicaid funds for Medicaid client non-medical transportation services and $0 of LIEAP funds; for a total net compensation of $136,146.

Amend:

CITY OF CANBY - ADULT CENTER

Fiscal Year 2011-2012

Service Category	LIEAP Funds (1)	OAA III B Funds (2)	OAA III C Funds (3)	OAA III D Funds (4)	OAA III E Funds (5)	OAA Match (6)	NSIP Funds (7)	Out Dist. STF Funds (8)	TriMet STF Funds (9)	MEDICAID Funds (10)	Program Income (13)	NO. OF UNITS (14)	TOTAL COST (15)	Reimburse-ment Rate (16)
Case Management		$2,480				$276						107.25 hrs	$2,756	$23.12/hr
Reassurance		$1,810										87	$1,810	$20.86
Info. & Assistance		$2,262				$252						167	$2,514	$13.58
Public Outreach		$350				$39						7	$389	$50.00
Transportation - OAA		$5,895				$656					$842	1,684	$7,393	$3.50
PHYSICAL ACTIVITY/ FALLS PREVENTION				$763		$0						38	$763	$20.00
PREVENTIVE SCREENING, COUNSELING, AND REFERRALS				$663		$0						17	$663	$39.00
Caregiver Assistance						$0						0	$0	$21.35
Trans - Ride Con. Out of Dist						$0		$18,712			$1,248	2,496	$19,960	$7.50
Non Medical T19 Transportation						$0			$311	$529		60	$840	$14.00
OAA Meal Site Management			$34,782			$3,868						34,100	$38,650	$1.02
Food Service - OAA			$33,759			$3,754					$32,736	34,100	$70,249	$1.95
Food Service - NSIP						$0	$22,165					34,100	$22,165	$0.65
SPD Medicaid HDM						$0				$19,080		2,000	$19,080	$9.54
LIEAP Intakes	$163					$0						25	$163	$6.50
TOTALS	$163	$12,797	$68,541	$1,426	$0	$8,844	$22,165	$18,712	$311	$19,609	$34,826		$187,393	

Total Cost Equals (1 + 2 + 3 + 4 + 5 + 6 + 7 + 8 + 9 + 10 + 11 = 13)

OAA Food Service Reimbursement Rate (1 + 3 + 7 + 11 / 12 = 14)

Other Services Reimbursement Rate (1 + 4 + 5 + 7 + 8 + 9 + 10 + 11 / 12 = 14)

* County General Fund provided Services as specified in Section I.B. will be paid at OAA Reimbursement Rate listed above for same Service Category.

Source of OAA Match - City of Canby, additional support staff and Center volunteers

Contracted Amount: $143,724

To Read:

CITY OF CANBY - ADULT CENTER
Fiscal Year 2012-13

Service Category	LIEAP Funds (1)	OAA III B Funds (2)	OAA III C Funds (3)	OAA III D Funds (4)	OAA III E Funds (5)	OAA Match (6)	NSIP Funds (7)	Out Dist. STF Funds (8)	TriMet STF Funds (9)	MEDICAID Funds (10)	Program Income (13)	NO. OF UNITS (14)	TOTAL COST (15)	Reimburse-ment Rate (16)
Case Management		$2,480				$276						107.25 hrs	$2,756	$23.12/hr
Reassurance		$1,810				$201						87	$2,011	$20.86
Info. & Assistance		$2,262				$252						167	$2,514	$13.58
Public Outreach		$350				$39						7	$389	$50.00
Transportation - OAA		$5,895				$656					$842	1,684	$7,393	$3.50
PHYSICAL ACTIVITY/ FALLS PREVENTION				$763		$0						38	$763	$20.00
PREVENTIVE SCREENING, COUNSELING, AND REFERRALS				$663		$0						17	$663	$39.00
Caregiver Assistance						$0						0	$0	$21.35
Trans - Ride Con. Out of Dist						$0		$15,279			$927	1,853	$16,206	$8.25
Non Medical T19 Transportation						$0			$311	$529		60	$840	$14.00
OAA Meal Site Management			$33,507			$3,726						32,850	$37,233	$1.02
Food Service - OAA			$32,522			$3,616					$31,536	32,850	$67,674	$1.95
Food Service - NSIP						$0	$20,696					32,850	$20,696	$0.63
SPD Medicaid HDM						$0				$19,080		2,000	$19,080	$9.54
LIEAP Intakes	$0					$0						25	$0	$6.50
TOTALS	$0	$12,797	$66,029	$1,426	$0	$8,765	$20,696	$15,279	$311	$19,609	$33,305		$178,216	

Total Cost Equals (1 + 2 + 3 + 4 + 5 + 6 + 7 + 8 + 9 + 10 + 11 = 13)

OAA Food Service Reimbursement Rate (1 + 3 + 7 + 11 / 12 = 14)

Other Services Reimbursement Rate (1 + 4 + 5 + 7 + 8 + 9 + 10 + 11 / 12 = 14)

* County General Fund provided Services as specified in Section I.B. will be paid at OAA Reimbursement Rate listed above for same Service Category.

Source of OAA Match - City of Canby, additional support staff and Center volunteers

Contracted Amount: $136,146

AMEND: Page 2 - Unit Cost Schedule

TO READ: Page 3 – Unit Cost Schedule

All other terms and conditions of the original contract remain in full force and effect.

IN WITNESS HEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized officers.

AGENCY	CLACKAMAS COUNTY
Approved as to Content – Friends of the Canby Adult Ctr 6/11/12 By: Kathy Robinson Center Director CITY OF CANBY CANBY ADULT CENTER By Greg Ellis City Administrator Randy Carson By Randy Carson Mayor 6-20-2012 Date 182 N. Holly – PO Box 930 Street Address Canby, OR 97013 City/Zip (503) 266-4021 (503) 263-6192 Phone Fax 93-0943494 Tax ID Number	Commissioner Charlotte Lehan, Chair Commissioner Jim Bernard Commissioner Jamie Damon Commissioner Ann Lininger Commissioner Paul Savas Signing on Behalf of the Board Cindy Becker, Director Health, Housing, and Human Services Date

Health, Housing
& Human Services
CLACKAMAS COUNTY

Cindy Becker
Director

5

July 26, 2012

Board of Commissioners
Clackamas County

Members of the Board

Approval of a Medicare Mental Health/Addictions Provider Agreement with FamilyCare, Inc. for Behavioral Health Services.

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a Medicare Mental Health/Addictions Provider Agreement with FamilyCare, Inc. for the purchase of behavioral health services from the Behavioral Health Division for Oregon Health Plan (OHP) members.

The OHP members covered by this agreement are residents of Clackamas County who have access to physical health services at county clinics and are capitated to Family Care, Inc. for provision of physical health services.

This is a revenue agreement for Behavioral Health. The total amount of the agreement is unknown, because the number of clients who will be enrolled with FamilyCare, Inc. cannot be projected with certainty. No County General funds are involved. The agreement is effective upon signature by both parties and shall continue until either or both parties terminate the agreement. County Counsel previously reviewed and approved the language on May 8, 2012. This contract is being processed retroactively due to late submission by contractor.

Recommendation

We recommend approval of this agreement and further recommend that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,

/ for CB

Cindy Becker
Director

For information on this issue or copies of attachments,
please contact Emily M. Zwetzig at (503)742-5318.

MEDICARE ADVANTAGE
MENTAL HEALTH/ADDICTIONS PROVIDER AGREEMENT

between

FAMILYCARE HEALTH PLANS, INC.,
an Oregon non-profit corporation

and

Clackamas County Behavioral Health

TABLE OF CONTENTS

		Page
1.	Definitions	1
2.	Provider Services	4
3.	Provider Obligations	6
4.	FamilyCare Obligations	9
5.	Services and Compensation	10
6.	Term and Termination	12
7.	Addition of Plan or Amendment of Services and Compensation Attachment	14
8.	Relationship of the Parties	15
9.	Indemnification and Insurance	15
10.	Access and Maintenance of Records and Information	16
11.	Miscellaneous	17
Signature Page		20

THIS AGREEMENT ("Agreement") is made and entered into by and between FamilyCare Health Plans, Inc. (hereinafter referred to as "FamilyCare"), an Oregon non-profit corporation operating in Oregon as a health care service contractor, and Clackamas County Behavioral Health (hereinafter referred to as "Provider").

RECITALS

WHEREAS, FamilyCare offers or administers one or more health benefit plans and desires to enter into a written agreement to arrange for the provision of certain Covered Services to Members of such plans; and

WHEREAS, Provider is a mental health and/or addictions provider, and/or employs or contracts with mental health and/or addictions providers, all of whom are lawfully qualified to provide mental health care services and/or chemical dependency prevention, intervention, and treatment services and willing to provide such services to Members of FamilyCare mental health benefit plans; and

WHEREAS, the mental health benefit plan(s) covered by this Agreement include: Medicare Advantage and other Plans added to this Agreement as provided in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, it is agreed by and between the parties as follows:

AGREEMENT

1. Definitions. As used in this Agreement and its Attachments, each of the following terms (and the plural thereof, when appropriate) shall have the meaning set forth herein, except where the context makes it clear that such meaning is not intended:

1.1 Capitation Fee. A predetermined monthly payment to Provider or Provider Practitioners, if applicable, for Covered Services to be provided to each Member assigned to Provider or Provider Practitioners.

1.2 Care Management. A program of care coordination and case management developed to manage high cost and at-risk Members with complex medical needs.

1.3 Clean Claim. An accurate statement of services submitted to FamilyCare on a claim form acceptable to FamilyCare that has no defect, impropriety, lack of any required substantiating documentation (including the substantiating documentation needed to meet the requirements for encounter data) or particular circumstance requiring special treatment that prevents timely payment, with all CPT codes and modifiers, revenue codes, ICD-9 and DRG codes, in addition to patient identification, physician name, date of service and other insurance information such as motor vehicle, workers' compensation and third-party liability.

1.4 Coinsurance. The percentage or portion of the cost of care that a Member may be obligated to pay for a Covered Service.

1.5 Copayment or Copay. The fixed dollar amount that a Member may be obligated to pay for a Covered Service.

1.6 Covered Service. Medically Necessary health care services and supplies rendered or furnished to Member by Provider or Provider Practitioner for which benefits are available under a Member's Plan.

1.7 Deductible. The amount of out-of-pocket expense that Member is responsible to pay for Covered Services prior to being eligible to receive Plan benefits.

1.8 Emergency or Emergency Medical Condition. A mental health condition (a) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent lay person, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in (i) placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any bodily organ or part, or (b) with respect to a pregnant woman who is having contractions, for which there is inadequate time to effect a safe transfer to another hospital before delivery or for which a transfer posing a threat to the health or safety of the pregnant woman or the unborn child. An "Emergency Medical Condition" is determined based on the presenting symptoms (not the final diagnosis) as perceived by a prudent layperson and includes cases in which the absence of immediate medical attention would not in fact have had the adverse results described in the previous sentence.

1.9 Medical Director. Physicians who are designated by FamilyCare or a Plan and are responsible for quality management and utilization management review, including concurrent hospital review and, if appropriate under a Plan, making all final medical and behavioral health decisions relating to coverage or payment.

1.10 Medically Necessary or Medical Necessity. The decision as to whether a service or supply ordered by the provider was Medically Necessary, or as to whether services or supplies are required by Medical Necessity, for the purposes of qualifying for payment by FamilyCare rests with FamilyCare, subject to the procedures for reconsideration. Services and medical supplies are Medically Necessary or required by Medical Necessity if required for prevention (including preventing a relapse), diagnosis or treatment of mental disorders and are (a) consistent with the symptoms of a mental illness or treatment of a mental disorder; (b) appropriate with regard to standards of good practice and generally recognized by the relevant scientific community as effective; (c) not solely for the convenience of a Member or a provider of the service or medical supplies; and (d) the most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to a Member in FamilyCare's judgment. The fact that an item or service is Medically Necessary does not by itself mean that the item or service is eligible for payment by FamilyCare; to be eligible for payment, items and services must be Covered Services under the Plan and meet all requirements for eligibility for payment in addition to being Medically Necessary.

1.11 Member. A person who is enrolled in a FamilyCare Plan and is entitled to receive Covered Services.

1.12 Participating Hospital. A hospital that is contracted to provide Covered Services to Members. Participating status shall be contingent upon FamilyCare's designation as such.

1.13 Participating Practitioner. A physician or other health care professional who is contracted directly or as a member of a Participating Practitioner Group to provide Covered Services to Members under this Agreement or otherwise. Any Participating Practitioner who serves FamilyCare Members under this Agreement will be bound by its terms. Participating status shall be contingent upon FamilyCare's designation as such.

1.14 Participating Practitioner Group. An independent practice association; corporation, limited liability company, or partnership of professional providers; or other entity that employs or contracts with providers of professional medical services and contracts with FamilyCare to provide services to Members under this Agreement. Participating status shall be contingent upon FamilyCare's designation as such.

1.15 Participating Provider. A Participating Practitioner, Participating Practitioner Group, Participating Hospital or other facility or provider of health care items or services designated as a Participating Provider by FamilyCare.

1.16 Plan. The contract or agreement with FamilyCare setting forth the Covered Services to which a Member is entitled and, if a government health benefit program, the federal and state statutes and regulations governing the program. The Plan initially covered by this Agreement is the Medicare Advantage Plan administered by the Centers for Medicare and Medicaid Services ("CMS") pursuant to the Contract between CMS and FamilyCare and applicable rules and regulations.

1.17 Policies and Procedures. The criteria and procedures pertaining to credentialing and recredentialing, participation, compensation, payment rules, processing guidelines, medical policy, utilization management, quality improvement, fraud and abuse, health benefit plan standards, and such other matters determined from time to time by FamilyCare.

1.18 Primary Care Provider. A Participating Practitioner deemed a Primary Care Provider by FamilyCare for the Plan.

1.19 Primary Care Services. Those Covered Services routinely provided by Primary Care Providers in their practice of medicine or other health care profession or as may be further defined in the Plan.

1.20 Prior Authorization or Preauthorization. Prior authorization or Preauthorization is approval given by FamilyCare in advance of a proposed hospitalization, treatment, supply purchase or other Covered Service, in accordance with FamilyCare Policies and Procedures.

1.21 Referral. The process required by this Agreement by which a provider directs a Member to seek and obtain Covered Services from a Participating Practitioner or any other provider of Covered Services.

1.22 Scope of Service. Those services set forth in the Services and Compensation Attachment to this Agreement to be performed by Provider or Provider Practitioners. If no

Scope of Service is established in the Attachments, Scope of Service shall refer to those services which Provider or Provider Practitioners are professionally qualified to render.

1.23 Services and Compensation Attachment. An Attachment to this Agreement setting forth payment and other terms applicable to a Plan in which Provider is a Participating Practitioner or Participating Practitioner Group, which Attachment is made part of this Agreement upon execution or thereafter pursuant to paragraph 7.1.

1.24 Specialty Services. Those Covered Services provided by providers professionally qualified to practice a designated specialty as determined by FamilyCare which are within the provider's recognized scope of practice.

1.25 Standards of Care and Service. Standards which have been developed by FamilyCare, incorporating concepts from CMS, from medical group practice accreditation programs, and from community standards. These standards include, but are not limited to, access, accommodations, panel size, and medical record documentation, and are contained in the Policies and Procedures.

2. Provider Services.

2.1 Provider and Provider Practitioner. If Provider is an employer of health care and/or addictions professionals, Provider shall require all of its employed and contracted mental health care professionals who provide services to Members to comply with all of the provisions of this Agreement. If Provider contracts with individual mental health and/or addictions providers who are not employed by Provider, as a medical group, independent practice association, or otherwise, Provider shall ensure that it maintains current, valid contracts with each such individual health care provider who provides services to Members. Such employed or contracted professionals are referred to herein as "Provider Practitioners." Contracts with Provider Practitioners shall (a) require Provider Practitioner to comply with all of the provisions of this Agreement, (b) be in form acceptable to FamilyCare and (c) be available for inspection on request by FamilyCare. Provider shall ensure that each Provider Practitioner is credentialed by FamilyCare prior to providing services to Members, and continues to comply with FamilyCare's credentialing and recredentialing Policies and Procedures.

2.2 Covered Services. FamilyCare retains Provider and Provider Practitioners to render Covered Services to Members within Provider Practitioner's Scope of Service. All services shall be rendered subject to the terms and conditions of this Agreement and in accordance with FamilyCare's Policies and Procedures, including referral and Preauthorization procedures.

2.3 Performance. Subject to practice protocols and utilization standards adopted by FamilyCare, Provider and Provider Practitioners will determine the method, details, and means of performing Covered Services within the Scope of Services pursuant to this Agreement. Covered Services rendered will be provided as promptly as practicable, consistent with sound medical practice and in accordance with accepted community professional standards. Provider agrees at all times to maintain a sufficient number of Provider Practitioners to guarantee prompt

and adequate access to FamilyCare Members to provide Covered Services within Provider's Scope of Service.

2.4 Personnel, Equipment and Supplies. Provider or Provider Practitioners shall, at Provider or Provider Practitioner's sole cost and expense, arrange for the provision of Covered Services within the Scope of Service. Subject to practice protocols and utilization standards adopted by FamilyCare, FamilyCare may not control, direct, or supervise Provider or Provider Practitioners in the performance of Covered Services. Provider or Provider Practitioner will supply all necessary office personnel, equipment, instruments and supplies required to perform Covered Services and which are usual and customary for a medical practice in the community. Provider or Provider Practitioner shall be solely responsible for payment of all wages, salary, compensation, payroll and withholding taxes, unemployment insurance, workers' compensation coverage and all other compensation, insurance and benefits with respect to personnel employed or contracted by Provider or Provider Practitioner, as applicable.

2.5 Hours. Provider and Provider Practitioners will arrange for the provision of Covered Services within the Scope of Service during normal office hours or as otherwise necessary to provide reasonable access to services by Members. Provider and Provider Practitioners will arrange for call coverage for Medically Necessary services on a 24-hour per day, seven day per week basis.

2.6 Referral and Preauthorization Procedure. Provider and Provider Practitioners shall comply with Referral and Preauthorization procedures adopted by FamilyCare prior to referring a Member to any individual, institutional or ancillary health care provider. Except as permitted by FamilyCare Policies and Procedures, Provider and Provider Practitioners shall refer Members only to Participating Providers designated by FamilyCare to provide the service for which the Member is referred. Except as required by applicable law, failure of Provider and Provider Practitioners to follow such procedures may result in denial of payment for unauthorized treatment. Preauthorization is not required prior to provision of Covered Services in the event of an Emergency or Emergency Medical Condition.

2.7 Hospital Admission Authorization. Provider and Provider Practitioners shall admit Members for hospital services only to a Participating Hospital unless an appropriate bed or service is unavailable. Except as provided in paragraph 2.9 or otherwise required by applicable law, Provider and Provider Practitioners may not admit a Member to a hospital on a non-Emergency basis without first receiving Prior Authorization from FamilyCare, or its designated agent, in accordance with FamilyCare's Policies and Procedures.

2.8 Compliance With FamilyCare Pharmaceutical Formularies. When, and during such period of time, FamilyCare is financially responsible for the payment of prescription medications, Provider and Provider Practitioners shall comply with pharmaceutical formularies and pharmaceutical prior authorization requirements developed or adopted by FamilyCare, unless otherwise Medically Necessary. In prescribing medications for Members, Provider Practitioners shall select the most cost-effective medication that is clinically appropriate for the Member, including, when appropriate and available, generic equivalents and therapeutic equivalents.

2.9 Provision of Non-Covered or Unauthorized Services or Referral Care. Nothing in this Agreement is intended to or shall be construed to require Provider or Provider Practitioners to deny care to a Member for non-Covered Services or deny services or referral care not otherwise authorized under applicable procedures. The fact that FamilyCare does not or may not provide payment for a service shall not relieve Provider or Provider Practitioners of the duty to exercise independent professional skill and judgment in advising and treating Members. When referring Members to non-Participating Providers, Provider and Provider Practitioners shall inform Members of their potential responsibility for payment. When recommending or offering non-Covered Services to a Member, Provider Practitioners shall comply with paragraph 5.3.4.

2.10 Nondiscrimination. Provider and Provider Practitioners agree that in accordance with the provisions of this Agreement, and within the limits of a Provider Practitioner's specialty, not to discriminate in the provision of Covered Services to Members on the basis of membership in a health benefit plan, source of payment, race, color, national origin, ethnicity, ancestry, religion, sex, marital status, sexual orientation, mental or physical disability, medical condition or history, age, or any other category deemed protected under State or Federal law; and to provide Covered Services to Members in the same manner, in accordance with the same standards, and within the same time availability as offered to other patients of Provider and Provider Practitioners.

3. Provider Obligations.

3.1 Acceptance of Members. Provider and Provider Practitioners agree to accept assignment of Members by FamilyCare, subject only to Provider Practitioner's Scope of Service. This paragraph does not prevent Provider or Provider Practitioner from limiting practice to a recognized specialty such as pediatric mental health services.

3.2 Practitioner Qualifications. Provider will require each Provider Practitioner to complete FamilyCare's credentialing process and be approved as a Participating Provider before providing services to Members. Provider warrants and represents that each Provider Practitioner is, and for the duration of this Agreement shall remain, duly licensed to practice Provider Practitioner's health care profession in all states in which Provider Practitioner provides services to Members and is, and for the duration of this Agreement shall remain, in good standing with the appropriate licensing board(s), a participating provider in Medicare, and the holder of a valid DEA Certificate (if applicable). Provider warrants that each Provider Practitioner shall maintain medical staff membership and clinical privileges appropriate to Provider Practitioner's professional practice at a Participating Hospital that is a hospital in good standing and without restriction or limitation unless such membership and privileges are not required under FamilyCare's credentialing Policies and Procedures. Provider warrants that each Provider Practitioner is currently, and for the duration of this Agreement shall remain, in compliance with FamilyCare's credentialing and recredentialing criteria. Provider and Provider Practitioner do not and will not during the term of this Agreement employ or contract with any person who is excluded from participation in Medicare or Medicaid.

3.3 Covering Provider. If Provider or a Provider Practitioner is, for any reason, from time to time unable to provide those Covered Services Provider has agreed to render under this Agreement when and as needed, Provider or Provider Practitioner may secure the services of a

qualified covering provider who shall render such Covered Services. The covering provider must be a provider approved by FamilyCare to provide the Covered Services to Members otherwise required of Provider or Provider Practitioner. Provider or Provider Practitioner shall be solely responsible for securing the services of such covering provider. Provider or Provider Practitioner shall ensure that the covering provider: (a) looks solely to Provider or Provider Practitioner, FamilyCare, or the Plan(s), as the case may be, for compensation; (b) accepts FamilyCare's credentialing and peer review procedures; (c) does not directly bill Members for Covered Services under any circumstances, unless expressly required by the Plan(s); (d) obtains authorization in accordance with FamilyCare's utilization management program prior to all elective hospitalizations; and (e) complies with the terms of this Agreement and policies, procedures, and rules adopted by FamilyCare related to performance of medical services under this Agreement.

3.4 Withdrawal from Care. Prior to withdrawing from a Member's care, Provider or Provider Practitioner shall contact FamilyCare to enlist assistance with resolution of issues giving rise to the proposed withdrawal. Provider or Provider Practitioner will cooperate with FamilyCare to attempt to resolve the issues for 30 days. In the event the issues cannot be resolved satisfactorily, Provider or Provider Practitioner shall give FamilyCare and the affected Member(s) at least 30 days' prior written notice of intent to withdraw from care of Member(s), shall cooperate fully with FamilyCare in transferring care of the Member(s) to another Participating Practitioner, and shall continue provision of care for urgent needs and prescriptions for at least 30 days from the date of notice of withdrawal. Notwithstanding the foregoing, if a Member has exhibited behavior that is verbally or physically threatening or if other unusual circumstances require prompt action for the protection of Provider, Provider Practitioners, the Member or others, Provider may withdraw from the care of a Member on such written notice to the Member and FamilyCare as is reasonable and consistent with accepted standards of professional practice considering the circumstances, and shall thereafter cooperate fully with FamilyCare in transferring care of the Member to another Participating Provider.

3.5 Compliance with Law and Ethical Standards.

3.5.1 Provider and Provider Practitioner shall at all times during the term of this Agreement comply with all applicable federal, state, and municipal laws, statutes, and ordinances, and any regulations promulgated thereunder; all applicable rules and regulations of each Provider Practitioner's licensing board(s); and the ethical standards of the applicable professional association.

3.5.2 In particular, and not to the exclusion of any other applicable law or regulation, Provider and FamilyCare acknowledge that in the course of performing under this Agreement, they may use or disclose to each other or to outside parties certain confidential health information that may be subject to protection under state and/or federal law, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations promulgated thereunder with respect to privacy and security of health information, and agree that each will comply with all applicable state and federal privacy laws. If requested to do so by FamilyCare, Provider will execute a Business Associate Agreement in a form acceptable to FamilyCare.

3.5.3 Provider will cooperate with and participate in FamilyCare's compliance plans, including provision of information, cooperation with auditing and monitoring activities, participation in training and education, and implementation of compliance initiatives and programs as reasonably requested by FamilyCare from time to time.

3.6 Compliance With FamilyCare Policies and Procedures. Provider agrees to be bound by the Policies and Procedures of FamilyCare as they may be amended from time to time. If Provider or Provider Practitioner violates any of the provisions of such Policies and Procedures, or any of the principles of professional conduct adopted by FamilyCare, or acts contrary to or in violation of any Medicare laws or regulations, all contractual rights under this Agreement which pertain to Provider or Provider Practitioner may be terminated in accordance with the Term and Termination section of this Agreement and applicable law.

3.7 Utilization Management and Quality Assurance Programs. FamilyCare has and will maintain utilization management and quality assurance and other operational programs and policies to guide and review individual and aggregate performance of Participating Providers in the delivery of Covered Services. Review may include but not be limited to Medical Necessity and compliance with clinical protocols, referral requirements, Preauthorization standards, and the evaluation of the results of care. Provider and Provider Practitioners shall cooperate fully with FamilyCare in any inquiries FamilyCare may make with respect to such programs. Provider and Provider Practitioners agree to comply with and, subject to Participating Provider rights of appeal or reconsideration, shall be bound by such policies and programs. Provider and Provider Practitioners agree that decisions of FamilyCare's utilization management or quality assurance committees may include denial of payment for Covered Services provided to a Member when services are provided in a manner inconsistent with FamilyCare's Policies and Procedures or, in appropriate situations, termination of this Agreement as provided herein.

3.8 Fraud and Abuse Programs. Provider and Provider Practitioners agree to comply with FamilyCare's fraud and abuse program and questionable or inappropriate billing practices Policies and Procedures.

3.9 Grievance Procedures. FamilyCare will have Policies and Procedures for appealing Member disputes related to prior authorization and referral procedures. Provider and Provider Practitioners shall comply with both Member and Participating Provider grievance and appeal procedures and shall be bound by such procedures.

3.10 Patient Advocate. Provider Practitioners practicing in conformity with ORS 677.095 may act as a patient advocate regarding a decision, policy, or practice without being subject to termination or penalty for the sole reason of such advocacy. Provider Practitioners can freely communicate with patients regarding the mental health and/or addiction treatment options available to them, including medication treatment options, regardless of benefit coverage limitations. When communicating about Non-Covered Services, Provider Practitioners shall comply with paragraph 2.9 and paragraph 5.3.4 of this Agreement.

3.11 Provider Directory. Provider and Provider Practitioner agree that FamilyCare may use the name, specialty, board certification, medical school(s), addresses, phone numbers,

and type of practice of Provider and Provider Practitioners with regard to access and acceptance of new patients, in the FamilyCare directory of Participating Providers.

3.12 Patient Consents. To the extent required under state or federal law, Provider and Provider Practitioners shall obtain the consent of Members to allow Provider and Provider Practitioners to use and disclose to FamilyCare and Participating Providers the Member's Protected Health Information (as defined by HIPAA) for purposes contemplated by this Agreement.

3.13 Medical Records. Provider or Provider Practitioners shall maintain with respect to each Member receiving Covered Services hereunder a single standard medical record in such form, containing such information, and preserved for such time period(s), as are required by state and federal law, accepted standards of practice and FamilyCare Policies and Procedures. Subject to confidentiality laws, and upon receipt of three business days' prior written notice from FamilyCare, Provider and Provider Practitioners shall share such records with Participating Providers in accordance with FamilyCare's Policies and Procedures, and permit FamilyCare, and its designated representatives, to review or inspect such records in accordance with payment, utilization management, quality assurance, peer review and other Policies and Procedures of FamilyCare. Copies of such records shall be made available to FamilyCare upon request without charge.

3.14 Required Information. Provider and Provider Practitioners shall provide FamilyCare with information necessary for FamilyCare to fulfill its obligations with and to comply with state and federal law. Provider and Provider Practitioners authorize FamilyCare to release information as required by state and federal law and shall promptly procure such additional consents as may be necessary from time to time for purposes of this paragraph.

3.15 Cooperation with Plan and FamilyCare Medical Directors. Provider and Provider Practitioners acknowledge that contracting Plans will place certain obligations upon FamilyCare regarding the quality of care received by Members and that contracting Plans in certain instances will have the right to oversee and review the quality of care administered to Members. Provider and Provider Practitioners agree to cooperate with FamilyCare's Medical Directors and the medical directors of contracting Plans in their review of the quality of care administered to Members and to submit information as requested.

3.16 Notice to FamilyCare. Provider and Provider Practitioners will notify FamilyCare, in writing, within three working days, of any of the following events affecting Provider or Provider Practitioner: loss of licensure, accreditation or participating provider status in Medicare; notice of any claim, demand or complaint involving a Member; termination, suspension, restriction or non-renewal of a Provider Practitioner's clinical privileges or staff membership with any hospital, health plan or provider organization; loss of insurance coverage required by this Agreement.

4. FamilyCare Obligations.

4.1 Eligibility Determinations and Reports. FamilyCare will make eligibility information available to Provider and Provider Practitioner by telephone or by electronic means.

4.2 Authorizations. FamilyCare will provide authorization for non-Emergency Covered Services in the form of a Preauthorization and shall certify or recertify lengths of stay if required by telephone contact or other mutually agreeable form of communication between Provider or Provider Practitioner, the Member's Primary Care Provider or referral provider and/or FamilyCare personnel, according to FamilyCare's Quality Improvement and Utilization Management Policies and Procedures.

4.3 Claims Processing. FamilyCare shall be responsible for adjudicating and paying claims for Covered Services consistent with the terms of this Agreement and FamilyCare's Policies and Procedures.

4.4 Policies and Procedures. FamilyCare will make its Policies and Procedures available to Provider and Provider Practitioner in accordance with applicable laws and regulations.

4.5 Compliance with Law. FamilyCare shall at all times during the term of this Agreement comply with all applicable federal, state, and local laws, statutes and ordinances, and any regulations promulgated thereunder.

5. Services and Compensation.

5.1 Compensation. FamilyCare agrees to pay Provider or Provider Practitioner for Covered Services rendered by Provider or Provider Practitioner to Members, within Provider or Provider Practitioner's Scope of Service at the lesser of Provider or Provider Practitioner's billed charges or the rate determined in accordance with the terms of the Services and Compensation Attachment, which is attached hereto as Attachment A and as attached made a part of this Agreement. Compensation amounts, methodologies or formulas may vary for other providers.

5.2 Payment of Compensation by FamilyCare.

5.2.1 To be considered for payment, Provider or Provider Practitioner shall submit to FamilyCare a Clean Claim on a completed CMS 1500 statement, CMS 1450 or HIPAA ANSI, or successor forms, within 60 days following the provision of Covered Services, including services reimbursed under a Capitation Fee. Provider and Provider Practitioners will submit such additional encounter data as FamilyCare may request, including accurate and specific data describing the services rendered. Provider and Provider Practitioners will follow Medicare Correct Coding guidelines, or other industry standard coding guidelines approved by FamilyCare in coding services in all claims and data submitted to FamilyCare. Claims for payment must reflect Co-payments, Coinsurance and Deductibles collected or to be collected. Claims submitted for payment beyond twelve months (or any shorter period established by applicable law or regulation) from the date Covered Services were provided may be denied in FamilyCare's sole discretion. FamilyCare agrees to pay a Clean Claim within the time required by applicable state and federal law.

5.2.2 FamilyCare shall not be obligated to make payment to Provider or Provider Practitioner if Provider or Provider Practitioner fails to obtain a referral in accordance with FamilyCare Policies and Procedures, if the patient is not a Member at the time of service, if

information provided to FamilyCare is materially inaccurate, or if the delivery of service does not comply with applicable FamilyCare Policies and Procedures.

5.2.3 Nothing herein requires FamilyCare to adopt, or prevents FamilyCare from adopting, different billing and payment policies with respect to workers' compensation cases or other situations in which FamilyCare is or could be a secondary or conditional source of reimbursement for Covered Services.

5.3 Patient Billing.

5.3.1 Provider and Provider Practitioners shall look only to FamilyCare for compensation for Covered Services and shall at no time seek compensation from Members or persons acting on their behalf for Covered Services. In the event of non-payment by FamilyCare for any reason, Provider and Provider Practitioners shall not bill or otherwise attempt to collect from Members any amounts owed by FamilyCare and shall continue providing services to Members for the duration of the period for which premium payment has been made by or on behalf of the Member and until Member is discharged from the hospital (if applicable). No surcharge to any Member shall be permitted. A surcharge shall, for purposes of this Agreement, be deemed to be any additional fee not provided for in the Plan.

5.3.2 Provider and Provider Practitioners shall bill and make reasonable efforts to collect all Co-payments, Coinsurance and Deductibles from Members as specifically permitted in the Plan, if such amounts have not been paid by a primary or secondary carrier in accordance with regulatory standards for coordination of benefits.

5.3.3 Provider and Provider Practitioners shall not bill a Member for otherwise Covered Services denied as a result of utilization management, Medical Necessity determination, or audit activity.

5.3.4 Provider and Provider Practitioners shall not bill Member for any non-Covered Services unless Provider or Provider Practitioner has obtained prior written agreement from the Member and such billing is permitted under the Plan or otherwise permitted by CMS. Provider or Provider Practitioner shall not bill Member for missed appointments.

5.3.5 Provider and Provider Practitioners agree the provisions of this Section 5 shall survive termination of this Agreement regardless of the cause giving rise to termination and shall be construed to be for the benefit of Members.

5.4 Coordination of Benefits and Third Party Liability.

5.4.1 Coordination of Benefits ("COB") refers to the determination of which two or more health benefit plans will apply, either as primary or secondary coverage, for the rendition of hospital, surgical or medical services to a Member. Such coordination is intended to preclude the Member from receiving an aggregate of more than 100 percent of covered charges from all coverage. When the primary and secondary benefits are coordinated, determination of liability will be in accordance with the usual procedures employed by the Oregon Department of Consumer and Business Services and applicable state and federal regulations.

5.4.2 Provider and Provider Practitioners shall maintain records to identify any third party or payor responsible for payment for services provided to Members. Provider and Provider Practitioners shall notify FamilyCare within 30 days of any potential responsible third party and shall provide FamilyCare with all relevant identifying information concerning the Member, the claim and the third party resource available to Provider or Provider Practitioners.

5.4.3 Provider or Provider Practitioners agree to coordinate with FamilyCare for proper determination of COB and third party liability, and to bill and collect from other payors those charges for which the other payor is responsible. Provider and Provider Practitioners shall report all collections received in accordance with this paragraph to FamilyCare. FamilyCare shall not be obligated to pay Provider or Provider Practitioners any amounts which, when added to the amounts paid to Provider or Provider Practitioners in accordance with this paragraph by other payors, would exceed the reimbursement for which FamilyCare would be obligated in the absence of such payments from other payors.

5.5 Overpayments. FamilyCare will conduct retrospective reviews of claims and reimbursements to Provider or Provider Practitioners. Provider and Provider Practitioners will refund to FamilyCare all overpayment amounts paid to Provider or Provider Practitioners, whether not properly payable under paragraph 5.2, due to clerical error, failure to apply or follow applicable Policies and Procedures, third party recovery or other reason. Overpayments shall be refunded to FamilyCare within 30 days of notification to Provider or Provider Practitioners that a refund is due or within 60 days of identification of an overpayment by Provider or Provider Practitioners, whichever is earlier. If Provider or Provider Practitioner fails to refund an overpayment within 30 days after FamilyCare's notification, FamilyCare may withhold any overpayment amount from future payments for services rendered by Provider or Provider Practitioners. If a refund is not timely received, FamilyCare may initiate a collection or legal proceeding to recover overpayment amounts; in a collection or legal proceeding to recover overpayment, FamilyCare shall be entitled to recover its reasonable attorneys' fees and costs incurred in such proceeding.

5.6 Accounting and Reports.

5.6.1 To the extent that payments to Provider or Provider Practitioners for Covered Service include financial risk withholds, FamilyCare shall provide an accounting of risk withhold funds on an annual basis or as required by law. Requests for information under this paragraph concerning such accounting must be made within two years after the end of the agreement term pertaining to the requested information.

5.6.2 Upon request by Provider, FamilyCare shall provide an annual accounting accurately summarizing the financial transactions between FamilyCare and Provider and Provider Practitioners for the preceding calendar year.

6. Term and Termination.

6.1 Term of Agreement. This Agreement will become effective on the Effective Date set forth on the signature page and will continue until terminated in accordance with this Section 6.

6.2 Immediate Termination. This Agreement may be immediately terminated upon delivery of written notice to the other party, or at such later date as may be set forth in the written notice, if any of the following occurs.

6.2.1 Federal or state regulations or guidelines are modified or changed in such a way that Covered Services are no longer allowable or appropriate for purchase under this Agreement;

6.2.2 Provider or Provider Practitioner or FamilyCare is found to be in violation of any state or federal law or regulation;

6.2.3 Any license, certification, or privilege required by law or regulation to fulfill obligations under this Agreement is for any reason revoked, restricted, limited, suspended or not renewed;

6.2.4 Provider or Provider Practitioner or FamilyCare is suspended or excluded from participating in the Medicare program;

6.2.5 Provider or Provider Practitioner fails to maintain insurance required by this Agreement; or

6.2.6 Provider or Provider Practitioner is convicted of a felony; dies; retires; is adjudicated incompetent; loses his or her hospital privileges (unless such privileges are not required under FamilyCare's credentialing Policies and Procedures); or voluntarily leaves active practice in FamilyCare's service area for a period of 6 months or more.

6.3 Termination by FamilyCare. FamilyCare may terminate this Agreement immediately on written notice to Provider if FamilyCare reasonably determines that the health, safety or welfare of Members may be jeopardized by continuation of this Agreement.

6.4 Termination Without Cause. This Agreement may be terminated without cause by Provider or FamilyCare upon 90 days prior written notice. Upon such termination, the rights of Provider and Provider Practitioners shall terminate; provided, however, that such action shall not release Provider and Provider Practitioners from obligations to persons then receiving treatment. If this Agreement is terminated under this paragraph 6.4, payment for Covered Services provided prior to termination shall be made in accordance with this Agreement.

6.5 Termination for Breach. If either party commits a material breach of this Agreement, the other party may commence to terminate the Agreement by giving written notice to the party committing the breach stating its intention to terminate and starting with particularity the alleged breach. If the breach is not cured within 30 days after the notice is given, the other party may terminate this Agreement immediately upon written notice. This right of termination shall be in addition to all other rights and remedies.

6.6 Responsibility for Members at Termination. Provider or Provider Practitioners shall continue to provide Covered Services to a Member who is receiving Covered Services from Provider or Provider Practitioners on the effective termination date of this Agreement until the Covered Services being rendered to the Member by Provider or Provider Practitioners are

completed (consistent with existing medical ethical/legal requirements for providing continuity of care to a patient), unless FamilyCare makes reasonable and medically appropriate provision for the assumption of such Covered Services by another Participating Provider. Provider or Provider Practitioner shall be compensated for those Covered Services provided to a Member pursuant to this paragraph (prior to and following the effective termination date) in accordance with compensation provisions stated in the applicable Services and Compensation Attachment or by mutual agreement.

6.7 Effect of Termination. Termination of this Agreement shall have no effect upon the rights and obligations of the parties arising under this Agreement prior to the effective date of termination or upon those provisions which are specifically identified as surviving termination.

6.8 Termination With Cause of Less Than Entire Agreement. FamilyCare may, at its sole discretion, choose to terminate an individual Provider Practitioner providing Covered Services under this Agreement whose conduct would otherwise give FamilyCare cause to terminate this Agreement in its entirety, who does not meet FamilyCare's credentialing requirements, or on request of a Plan. Upon such individual termination, the Agreement shall remain in effect as to Provider and all other Provider Practitioners.

6.9 Credentialing and Hearings Process. Provider and Provider Practitioners will comply with FamilyCare's hearings process as set forth in its Policies and Procedures. FamilyCare may suspend, restrict or terminate Provider or a Provider Practitioner's privileges to see Members in accordance with its Policies and Procedures. In the event that Provider Practitioner's status is terminated in accordance with such Policies and Procedures, Provider Practitioner's participation under this Agreement shall automatically terminate. If FamilyCare proposes to terminate Provider Practitioner's participation under this Agreement, Provider Practitioner may be entitled to a review or hearing as provided by FamilyCare's Policies and Procedures.

7. Addition of Plan or Amendment of Services and Compensation Attachment.

7.1 New Plan. FamilyCare may, in its sole discretion, notify Provider from time to time of new Plans by sending Provider a Services and Compensation Attachment covering each new Plan in which FamilyCare wishes Provider and Provider Practitioners to participate as provided in paragraph 11.1. If Provider rejects the proposed Attachment within 30 days in accordance with paragraph 11.1, such Attachment shall not go into effect. If such Attachment becomes effective as provided in paragraph 11.1, Provider shall notify its Provider Practitioners about the new Plan and shall make any contract amendments required to make the terms and conditions of the new Attachment binding on its Provider and Provider Practitioners.

7.2 Amendment of Services and Compensation Attachment. FamilyCare may amend a Services and Compensation Attachment from time to time. Any such amendment shall be sent to Provider as provided in paragraph 11.1. If Provider rejects the amended Attachment within thirty (30) days in accordance with paragraph 11.1, then either party may terminate this Agreement in accordance with Section 6; until any such termination is effective, the Services and Compensation Attachment effective prior to termination shall continue in effect.

8. Relationship of the Parties. Nothing in this Agreement shall create any relationship between FamilyCare and Provider or Provider Practitioner other than that of independent entities contracting with each other solely for purposes of effectuating the provisions of this Agreement. Neither of the parties nor any of their respective employees or agents shall be deemed to be the employee or agent of the other. Except as specifically provided otherwise in this Agreement, FamilyCare shall have no authority to control or direct the time, place or manner in which Covered Services are provided by Provider or Provider Practitioner to Members.

9. Indemnification and Insurance.

9.1 Indemnification.

9.1.1 The parties mutually agree to indemnify and to hold each other (including their officers, agents and employees) harmless against any and all claims, demands, damages, liabilities and costs incurred by the other party, including reasonable attorneys' fees, arising out of or in connection with, either directly or indirectly, the breach of this Agreement by or willful misconduct of the indemnifying party or its employees or agents. The fact that a person or entity is a Participating Provider does not make such person an agent of FamilyCare. The principles of comparative fault shall govern the interpretation and enforcement of this indemnity provision.

9.1.2 FamilyCare shall not be liable to Members for any act of malpractice on the part of Provider or Provider Practitioners and Provider and Provider Practitioners shall indemnify, defend, and hold harmless FamilyCare from any such liability. The indemnity in the immediately preceding sentence shall not apply to any alleged act of independent liability on the part of FamilyCare, or any of its respective employees or agents.

9.2 Liability Insurance. Provider and Provider Practitioners agree to ensure that it and all persons and entities performing services for Provider or Provider Practitioners under this Agreement maintain such policies of general liability and professional liability insurance or such other program of liability coverage as may be customary and acceptable to FamilyCare to insure Provider and Provider Practitioners, and its and their employees and agents, against any claim or claims for damages arising by reason of personal injuries or death occasioned directly or indirectly in connection with the performance of, or failure to perform, any health care service provided under this Agreement, the use of any property and facilities provided by Provider or Provider Practitioners, and activities performed by Provider or Provider Practitioners in connection with this Agreement. The amounts and extent of such insurance coverage shall be subject to the approval of FamilyCare, which approval shall not be unreasonably withheld. Certificates of Insurance for the above insurance policies shall be provided to FamilyCare upon request and shall provide that FamilyCare be given at least 30 days' prior written notice of reduction or cancellation of such coverage. Any declaration sheets, exclusions, endorsements, or information on any incident which might reasonably result or has resulted in a lawsuit or legal action may be requested by FamilyCare as deemed necessary. FamilyCare recognizes that if Provider is a public entity its liability may be limited by applicable law.

9.3 Tail Coverage. In the event that any policy required by this Section 9 is a "claims made" policy, a "tail" policy (extended reporting endorsement) shall be obtained by the insured party upon termination of such a policy as required to continuously maintain coverage under

such policy throughout the term of this Agreement and for a period of not less than five years following the date of termination of the policy required by this paragraph. The "tail" policy shall have the same policy limits as the policy it extends.

9.4 Contracted Providers. If Provider or Provider Practitioners contract with health care professionals to provide services to Members, each contract between Provider or Provider Practitioners and such health care professionals shall require such health professionals to agree to and comply with all of the provisions of this Agreement, including this Section 9, as if such providers were a party to this Agreement. FamilyCare must authorize the use of a contractor to perform services covered under this Agreement prior to any such services being provided. FamilyCare has the sole discretion to deny authorization for contracting of health care services to be provided for Members. Provider and Provider Practitioners, and not FamilyCare, shall be responsible for any compensation or remuneration owed to such contractor.

9.5 Survival. This Section 9 shall survive termination of this Agreement.

10. Access and Maintenance of Records and Information.

10.1 Access. This Agreement and all records which are directly pertinent to this Agreement necessary to verify the nature and extent of costs of services provided by Provider or Provider Practitioners, or relating to medical services, price, performance, compliance, quality of services and timeliness of services, will be made available to FamilyCare, the State of Oregon, the U.S. Department of Health and Human Services, the Centers for Medicare and Medicaid Services, the Comptroller General of the United States, and all of their duly authorized representatives as may be necessary for compliance by FamilyCare with all applicable federal and state laws and regulations. Such representatives shall have access to documents, papers, and records of Provider and Provider Practitioners, which are pertinent to the Plan for the purpose of making examination, excerpts and transcripts. Provider and Provider Practitioners shall, upon 30 days' notice, provide a suitable work area and copying capabilities or make such copies as requested to facilitate such a review upon reasonable written notice to Provider or Provider Practitioners. Such rights to inspect and copy records and information shall continue for 10 years following the date of termination of this Agreement or completion of any audit commenced prior to termination, whichever is later. Provider and Provider Practitioners shall include a provision requiring any contractor of Provider or Provider Practitioners providing services under this Agreement to comply with this paragraph, and shall require all organizations related to Provider and Provider Practitioners to comply with this paragraph.

10.2 Medical Records (Maintenance and Access). Medical records of Members shall be maintained and preserved by Provider and Provider Practitioners for a time period of no less than 10 years in accordance with general standards applicable to such records. Subject to confidentiality laws, and upon receipt of three business days' prior written notice from FamilyCare, Provider and Provider Practitioners shall permit FamilyCare, FamilyCare's designated representatives, or applicable state and federal regulatory agencies to inspect such records, and shall provide copies of such records to FamilyCare upon request. If an audit, litigation, or other action involving the records is started before the end of the 10-year period, the records must be retained until all issues arising out of the action are resolved or until the end of the 10-year period, whichever is later.

10.3 Financial Records (Maintenance and Access). Provider and Provider Practitioners agree to cooperate with FamilyCare so that FamilyCare may meet any state or federal access requirements imposed on FamilyCare and arising out of this Agreement. Provider and Provider Practitioners shall maintain financial records, including the amounts of any payments received from FamilyCare, Members or from others on behalf of Members, for at least ten years after final payment is made under this Agreement. If an audit, litigation, or other action involving the records is started before the end of the ten-year period, the records must be retained until all issues arising out of the action are resolved or until the end of the ten-year period, whichever is later. All such records shall be maintained pursuant to generally accepted accounting standards and in accordance with applicable state and federal law and all regulations issued pursuant thereto. Provider and Provider Practitioners shall provide access to such records to FamilyCare, FamilyCare's designated representatives, and state and federal regulatory agencies, as may be required.

10.4 Confidentiality and Proprietary Information. The parties agree to maintain the confidentiality of this Agreement and all documents, terms, and conditions relating to reimbursement rates and methods and other proprietary information of the other party. Upon request, the parties agree to return all copies of documents containing the other party's proprietary information upon termination of this Agreement and to otherwise keep such proprietary information confidential.

10.5 Review Charges. Medical or financial records requested by FamilyCare for claims payment, concurrent and/or retrospective review or for audit under the Quality Improvement and Utilization Management Programs shall be provided to FamilyCare by Provider or Provider Practitioners. Neither FamilyCare nor Member will be charged a fee for the cost associated with providing copies of such records or documents.

10.6 Access to Medical Records Upon Termination. Provider and Provider Practitioners shall provide FamilyCare and Members with reasonable access to medical records of Members maintained by Provider or Provider Practitioner for a period of ten years after the termination of this Agreement, and at any time thereafter that such access is required in connection with a Member's medical care. FamilyCare will be entitled to obtain copies of Member's medical records if it either makes arrangements to have such copies prepared on Provider or Provider Practitioner's premises (in which case, Provider or Provider Practitioner will be entitled to reimbursement for the reasonable costs incurred in collecting the records and supervising the copying process), or agrees to reimburse Provider or Provider Practitioner for the reasonable cost of preparing such copies. The provisions of this paragraph will not operate to waive or limit any restriction on release or disclosure of patient records established in any other provision of this Agreement or as otherwise required by law. The provisions of this paragraph will not operate to waive or limit any right of access to medical records that Members have under any provision of state or federal law.

10.7 Survival of Provisions. This Section 10 will survive the termination of this Agreement.

11. Miscellaneous.

11.1 Amendment. This Agreement may be amended, and an Attachment to this Agreement may be amended or added, at any time upon the written agreement of the parties. FamilyCare may amend this Agreement, or amend or add an Attachment to this Agreement, by notifying Provider in writing of the proposed amendment or addition. If no written objection to such amendment or addition is received by FamilyCare within 30 days of the date of the notice, such amendment or addition shall become effective without any further action required of FamilyCare or Provider and Provider Practitioners. If Provider or Provider Practitioner objects to such amendment or addition within the 30-day period, such amendment or addition will not go into effect. If state or federal law, government agency regulations or accrediting agency requirements change and affect any provisions of this Agreement or an Attachment to this Agreement, then this Agreement or the applicable Attachment will be amended to conform with such changes effective on notice to Provider or Provider Practitioners of the required amendments. FamilyCare will give Provider and Provider Practitioners written notice of such required changes.

11.2 Dispute Resolution and Arbitration. In the event of any dispute arising out of or relating to this Agreement, the parties shall first attempt in good faith mutually to resolve the dispute. If the parties are unable to resolve the dispute, then all matters in controversy shall be submitted to binding arbitration in accordance with the American Health Lawyers Association Alternative Dispute Resolution Service Rules of Procedure for Arbitration. The parties agree to be bound by the decision of the arbitrator, which shall be a final determination of the matter in dispute. The parties further agree to divide the cost of mediation or arbitration equally, including filing, administration, and mediator's or arbitrator's fees, but to be responsible each for its own attorneys' fees and other costs incurred. In the event suit or legal action is instituted by any party seeking interpretation of the terms hereof, seeking redress for a breach of this Agreement, or seeking to enforce or to invalidate an arbitration award, each party shall be responsible for its own attorneys' fees and costs, except as provided by paragraph 5.5.

11.3 Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the parties to it, and their respective heirs, legal representatives, successors and assigns. Provider or Provider Practitioner may not assign its rights, duties or obligations under this Agreement without the prior written consent of FamilyCare. Any merger, consolidation, share exchange or transaction involving a change in the ownership of more than 50 percent of any class of shares, membership units, partnership units or other such interests of Provider shall constitute an assignment for purposes of this paragraph 11.3. FamilyCare may assign this Agreement to a successor by affiliation, merger, acquisition or transfer of assets or otherwise without consent of Provider.

11.4 No Third Party Beneficiary. Except as expressly provided in paragraph 5.3 or a Services and Compensation Attachment, nothing in this Agreement, express or implied, shall be construed to confer upon any person, firm or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant or condition hereof, as third party beneficiaries or otherwise, and all of the terms, covenants and conditions hereof shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns as provided herein.

11.5 Notice. All notices required by this Agreement shall be in writing addressed to the party to whom the notice is directed at the address of that party set forth below the signatures on this Agreement and shall be deemed to have been given for all purposes upon receipt when personally delivered; one day after being sent, when sent by recognized overnight courier service; two days after deposit in United States mail, postage prepaid, regular or certified mail; or on the date transmitted electronically to the email address of the other party or by facsimile. Any party may designate a different address or a different person for all future notices by notice given in accordance with this paragraph.

11.6 Entire Agreement. This Agreement is the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained in this Agreement. This Agreement shall supersede all prior communications, representations, and agreements, oral or written, of the parties.

11.7 Interpretation. The paragraph headings are for the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the paragraphs themselves. Both parties have had the opportunity to review and negotiate this Agreement and consult with such attorneys and advisors as they deemed appropriate prior to execution of this Agreement. This Agreement shall not be construed against the drafting party.

11.8 Severability. The invalidity of any term or provision of this Agreement shall not affect the validity of any other provision.

11.9 Waiver. Waiver by any party of strict performance of any provision of this Agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.

11.10 Governing Law. This Agreement shall be interpreted and enforced according to the laws of the State of Oregon.

11.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which together shall constitute one agreement, even though all parties do not sign the same counterpart.

11.12 Required Medicare Contract Language. The contract provisions set forth in the attached Medicare Advantage – Specific Provisions Attachment are specifically incorporated into this Agreement by this reference. In the event there is a conflict between the language in this Agreement and the provisions in such Attachment, then the Medicare Advantage – Specific Provisions Attachment shall control.

11.13 Attachments. All Attachments referred to in this Agreement are incorporated by reference.

The parties, by signature of their authorized representatives on the signature page of this Agreement, agree to be bound by the terms and conditions of this Agreement.

[ORIGINAL SIGNATURE PAGE ON FILE AT FAMILYCARE OFFICE]

FAMILYCARE HEALTH PLANS, INC.
MEDICARE ADVANTAGE MENTAL HEALTH/ADDICTIONS PROVIDER AGREEMENT
SIGNATURE PAGE

This Agreement is made and entered into by the Parties named below, as evidenced by their signatures below:

FAMILYCARE HEALTH PLANS, INC.:

By: _____

Name/Title: _____

Dated: _____

Address: 825 NE Multnomah, Suite 300
Portland, OR 97232

PROVIDER:

By: _____
[signature]

Name/Title: _____

Dated: _____

Address: _____
_____

Tax Identification Number: _____

EFFECTIVE DATE: _____

6

Health, Housing & Human Services
CLACKAMAS COUNTY

Cindy Becker
Director

July 26, 2011

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Interagency Agreement with Clackamas County Community Corrections to Provide Behavioral Health Services to Community Corrections' Consumers

The Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a renewal interagency agreement with Community Corrections.

This agreement allows CCBHD to provide mental health and substance abuse consultation and services to targeted consumers served by Community Corrections' Residential Services and Field Services Divisions. This is a renewal agreement that was last approved by the Board in June 2010.

The amount of this agreement is $379,433. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. No County General Funds are involved. The agreement is effective July 1, 2011 and expires June 30, 2012.

Recommendation

We recommend approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,

Cindy Becker
Director

For information on this issue or copies of attachments,
please contact Emily Zwetzig/Office of Business Services at (503)742-5318

INTRA-AGENCY AGREEMENT

BETWEEN

CLACKAMAS COUNTY
HEALTH, HOUSING, AND HUMAN SERVICES DEPARTMENT
BEHAVIORAL HEALTH DIVISION

AND

CLACKAMAS COUNTY
COMMMUNITY CORRECTIONS

I. PURPOSE

This agreement between allows **Clackamas County Community Corrections**, herein referred to as CCCC, and **Clackamas County Behavioral Health Division**, herein referred to as CCBHD, to work together to provide substance abuse and mental health services to targeted clients within Corrections' Residential Services Division. The parties agree that it is appropriate to develop guidelines for their working relationship and for services to be provided.

II. SCOPE OF WORK AND COOPERATION

A. CCCC will:

1. Prioritize clients to receive service prior to referral. This prioritization will be coordinated through the CCCC liaison staff member who will monitor both the type and the flow of referrals.

2. Provide referral forms on each client to include a signed consent to release information at the same time the referral is made.

3. Provide accessibility of CCCC staff to the designated CCBHD liaison and CCBHD staff providing treatment services.

4. Provide assistance with personnel selection for CCCC/CCBHD services as requested.

5. Provide appropriate clinical office space for individual and group treatment services provided at CCCC facilities.

B. CCBHD will:

1. Provide timely written feedback using standard forms developed mutually by the parties on all CCCC clients involved with CCBHD.

2. Through CCBHD Crisis Program staff, provide crisis consultation to CCCC staff regarding clients at risk of hospitalization due to psychiatric crises. CCCC staff should initiate contact with CCBHD and provide relevant information. During regular office hours (7 am to 7 pm Monday through Friday), services will be accessed by calling 503-722-6200 and requesting the on-call adult crisis staff person. After 7 pm and on weekends and holidays, services will be accessed through the CCBHD crisis line by calling 503-655-8585.

3. Provide counseling to adults with mental or emotional problems through the Adult Outpatient Program (contact 503-655-8401). Clients will be rated as to severity of their problems and their coverage for mental health services and will be seen based on acuity and as resources permit. These referrals to be coordinated through CCBHD staff assigned to the two CCCC divisions.

4. CCBHD will ensure services are provided under the terms of this contract as scheduled except on County holidays or when staff providing services listed in item # 6 below are absent on leaves approved by CCBHD.

5. CCBHD staff stationed off site will be released for monthly Addictions Treatment Program staff meetings on a rotating basis.

6. The following are specific services to be provided:

   a. **Residential Services – Residential CSAP**

      With funds available from CCCC Residential Services, provide agency consultation services and substance abuse group treatment and psych/med reviews. Services will be delivered on site by three Mental Health Specialists (119.2 hours per week).

   b. **Residential Services – MED**

      With funds available from CCCC Residential Services, provide consultation services at Residential Services by a Mental Health Specialist (up to 3 hours per week). Referrals will be scheduled by Residential Services.

   c. **Residential Services – IDP**

      With funds available from Residential Services, provide agency consultation services and substance abuse, outpatient group treatment for 26 adult male and female offenders. Services will be delivered by a Mental Health Specialist (26.5 hours per week).

   d. **Psychiatric Services/Medication Evaluations**

      With funds available from CCCC, needed emergency psychiatric services/medication evaluations falling outside the scope of this contract as defined above will be available at $140.94 per hour for psychiatrist time or nurse practitioner time. CCCC will access these emergency services via a referral process established jointly by CCBHD and CCCC.

   e. **Training – CCBHD Required Training**

      Annual training provided to retain certifications for the three full-time contracted CCBHD staff. No cost to CCCC.

III. COMPENSATION

A. CCCC agrees to pay CCBHD an amount not to exceed **$293,493** for the services described in Section II.B. above except for the services described in Sections II.B.6.d. and e. The services described in Section II.B.6.d. shall be billed by CCBHD to CCCC on a fee for service basis outside of and in addition to the $293,493 contract base. CCCC will pay CCBHD at rates specified in III.B.2. below for all services described in Section II.B.d. not to exceed **$6,000**. The training described in Section II.B.6.e. is provided at no cost to CCCC.

B. Periodic payments from CCCC will be made to CCBHD on the basis of requests for payment submitted as follows:

   1. Bill Residential Services one-twelfth of **$293,493** for each month in which services are provided.

   2. Bill Residential Services and Field Services **$140.94 per hour** for psychiatrist time or nurse practitioner time **$104.70 per hour** for Mental Health Specialists (Individual Therapy), and **$47.73 per hour** for Group Therapy not to exceed **$6,000** as utilized under Section II.B.6.d. above.

   CCBHD will submit a payment request by the 25th of the month following service. CCBHD line items have been established in the CCCC budget for this purpose.

IV. LIAISON RESPONSIBILITY

CCCC will assign a liaison for the programs. CCBHD will assign a liaison from CCBHD for the program. Clinical supervision will be provided by CCBHD's Alcohol and Drug Program supervisory staff. Questions or concerns shall be resolved between the referring CCCC Residential Services and Field Services staff and the CCBHD therapist, whenever possible. Unresolved issues or concerns shall be referred to the respective liaisons as primary program contacts responsible for implementation of this agreement.

V. REVIEW

The designated liaison will conduct an informal assessment quarterly, or as needed, to determine the level of service delivery. Significant changes in the level of service may be cause for liaison staff to recommend that this agreement be amended as provided for below in Section VII.

VI. CONFIDENTIALITY

CCCC's confidentially policy No. 214 will be the basis for release of information from CCCC's files; the CCBHD Policy and Procedures on confidentiality of records will be the basis for release of information which is of a confidential nature will be safeguarded and not made available to unauthorized persons, and each party will uphold other contracted agreements concerning confidentiality pursuant to state and federal statutes.

Both CCCC and CCBHD will comply with all applicable provision of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, and 45 CFR Parts 160-164.

VII. AMENDMENTS

This agreement may be amended at any time with the concurrence of both parties. Amendments are effective only after signature by all persons signing this agreement.

VIII. TERM OF AGREEMENT

A. This agreement is effective **July 1, 2012** and expires **June 30, 2013**.

B. This agreement is subject to termination by either party on 30 days' notice to the other.

BEHAVIORAL HEALTH DIVISION

Terri Beemer, Director

7-18-12
Date

COMMUNITY CORRECTIONS DEPARTMENT

Chris Hoy, Director

07-10-12
Date

HEALTH, HOUSING, AND HUMAN SERVICES DEPARTMENT

Cindy Becker, Director

Date

Health, Housing & Human Services
CLACKAMAS COUNTY

7

Cindy Becker
Director

July 26, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Interagency Agreement between Clackamas County Community Development Division and Social Services Division for a Housing Rights and Resources Program in Clackamas County

The Community Development Division of the Health, Housing and Human Services Department requests approval of an Interagency Agreement with the Social Services Division to Housing Rights and Resources Program for 3 years. The contract would pay for:

- Administration and planning;
- Program outreach;
- Information and referral;
- Training on Fair Housing practices for housing-related professions;
- Testing of targeted properties based on specific complaints;
- Trying to make all housing programs more fair and;
- Lawyers to help some people not get evicted.

Financial Impact:		
	CDBG Funds (grant).....	$ 420,000
	Total Project Budget:	$ 420,000

No County General Fund dollars are involved. Community Development Block Grant funds will pay $140,000 dollars per year adding up to $420,000 for the three year period.

County counsel reviewed and approved this agreement on July 12, 2012. The agreement begins when signed and ends on June 30, 2015.

Recommendation
We recommend approval of this Agreement and that Cindy Becker be authorized to sign all related documents on behalf of the Board of County Commissioners.

Respectfully submitted,

Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Mark Sirois, # 503-650-5664

INTERAGENCY AGREEMENT
BETWEEN

CLACKAMAS COUNTY DEPARTMENT OF
HEALTH, HOUSING AND HUMAN SERVICES
COMMUNITY DEVELOPMENT DIVISION

AND

CLACKAMAS COUNTY DEPARTMENT OF
HEALTH, HOUSING AND HUMAN SERVICES
SOCIAL SERVICES DIVISION

I. Purpose

A. This Agreement provides the basis for a cooperative working relationship between Clackamas County Community Development Division, herein referred to as CDD, and Clackamas County Social Services Division, herein referred to as SSD, with the common goal of providing comprehensive **Housing Rights and Resources** program (Fair Housing) services to low- and moderate-income persons residing or wishing to reside in Clackamas County.

II. Scope of Cooperation

A. Under this agreement, the responsibilities of SSD shall be as follows:

1. SSD agrees to provide staff and materials necessary for the operation of a Housing Rights and Resources Program, which is described in detail in Attachment A of this Agreement and is summarized as a comprehensive program of services that includes the following:

   a. Administration and planning;

   b. Program outreach;

   c. Information and referral;

   d. Training on Fair Housing practices for housing-related professions;

   e. Testing of targeted properties based on specific complaints;

   f. Systems Advocacy and;

   g. Contracting with outside counsel for legal services.

2. SSD agrees to prepare and submit to CD, on a quarterly basis progress, reports that detail the activities of the Fair Housing Program and an annual summary report. Reports will be a combination of HMIS data and project narratives. See Attachment B.

3. SSD agrees to provide all requested program information and participate in program monitoring during the term of the Agreement.

B. Under this agreement, the responsibilities of CDD will be as follows:

1. CDD agrees to provide and administer available FY 2012, FY2013 and FY 2014 Community Development Block Grant (CDBG) funds granted by the U.S. Department of Housing and Urban Development (HUD) to finance the fair housing program.

2. CDD will monitor the performance of the SSD against goals and performance standards required herein. Substandard performance as determined by the CDD will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the SSD within ten (10) days after being notified by the CDD, Agreement termination and all funding will end. SSD must return any unused funds promptly.

3. CDD agrees to conduct necessary environmental reviews described in 570.604 of the CDBG regulations for compliance with requirements of the CDBG program.

III. Compensation

A. CDD agrees to pay SSD an amount not to exceed $140,000 annually for each of the three (3) years of FY 2012, FY 2013 and FY 2014 Community Development Block Grant (CDBG) funds for the services outlined in part II.A. The obligations of CDD are expressly subject to CDD receiving funds from HUD, and in no event shall CDD's financial contribution exceed the amount finally granted, released and approved by HUD.

B. SSD agrees to match the CDBG funding with at least 20% of the program budget and report those matching funds annually in the attached report (See Attachment D).

C. In the event the amount of CDBG funds granted by HUD in the subsequent fiscal years is less than the amount budgeted in the Community Development 3-Year Funding Recommendations, CDD and SSD shall jointly determine the effectiveness of the PROJECT in meeting its program objectives within the reduced funding limits, and will make the necessary operational adjustments.

D. Interim payments shall be made on requests for payment submitted to CCD on a quarterly basis. Payment requests must detail the PROJECT expenditures for allowable costs incurred during that quarter, pursuant to 24 CFR 85 and OMB Circular A-87 (effective 6/9/2004). All requests for payment are subject to the approval of CDD and shall be submitted to:

Mark Sirois, Project Coordinator
Clackamas County Community Development Division
2051 Kaen Road
Oregon City, OR 97045

IV. Liaison Responsibility

A. Liz Bartell will act as liaison from SSD. Mark Sirois will act as liaison from CDD.

V. Special Requirements

A. **Assignment and Subcontracting.** SSD shall undertake the work outlined in Attachment A and shall only assign portions of the work with written approval from CDD and in accordance with Local Contract Review Board Rules.

B. **Conflict of Interest.**

1. Interest of Officers, Employees, or Agents. No officer, employee, or agent of CDD or SSD who exercises any functions or responsibilities in connection with the planning and execution of activities under the CDBG Program, or any other person who exercises any functions or responsibilities in connection with the Program during their tenure or for one year thereafter, shall obtain a personal or financial interest in or benefit from this Agreement, or any contract, subcontract or agreement arising therefrom, either for themselves or for persons with whom they have family or business ties without appropriate prior HUD waiver; and SSD shall take appropriate steps to assure compliance.

2. Interest of Certain Federal Officials. No member of or delegate to the Congress of the United States and no Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.

C. **Program Benefit.** SSD will implement the program to give maximum feasible benefit to low and moderate income families and individuals. Income guidelines applicable to this Agreement are included in Attachment A.

D. **Non Discrimination.** SSD shall comply with Federal, State, and local laws prohibiting discrimination on the basis of age, sex, marital status, race, creed, color, national origin, or the presence of any mental or physical handicap. These requirements are specified in ORS Chapter 659; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.

E. **Non-substitution for Local Funding.** The CDBG funding made available under this Agreement shall not be utilized by SSD to reduce substantially the amount of local

financial support for fair housing counseling and referral activities below the level of such support prior to the availability of funds under this Agreement.

F. **Public Information.** CDD and SSD shall cooperate in public information efforts, such as contracts with neighborhood or consumer advocacy organizations, press releases, etc. In all news releases and other public notices relating to activities under this Agreement SSD shall include information identifying the source of funds as the Clackamas County CDBG program.

G. **Evaluation.** SSD agrees to participate with CDD in any evaluation project or performance report, as designed by the CDD or the appropriate Federal department, and to make available all information required by any such evaluations process.

H. **Audits and Inspections.** SSD will insure that CDD, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property pertaining to the funds provided under this Agreement for the purpose of making surveys, audits, examinations, excerpts and transcripts. SSD shall not be required to provide any information which in any way would deny the rights of confidentiality to any low or moderate income family or individual seeking or receiving assistance from the program.

I. **Record and Fiscal Control System.** SSD agrees to comply with the policies, guidelines and requirements of 24 CFR Part 85 with respect to funds pursuant to this Agreement. All financial and programmatic records, supporting documents, statistical records, and other records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.

J. **Citizen Participation.** SSD shall compile and maintain records including narratives or other documentation describing the process used to inform citizens concerning the program.

K. **Equal Opportunity.** SSD shall maintain and provide to CDD racial, ethnic, gender, age, head of household, and income data showing the extent to which these categories of persons have participated in, or benefited from, the activities carried out under this Agreement.

VI. Amendment

A. This Agreement may be amended at any time with the concurrence of both parties. Amendments become a part of this Agreement only after the written amendment has been signed by both Parties.

VII. Term of Agreement

A. This Agreement becomes effective when it is signed by both Parties.

B. The term of this Agreement is a period beginning July 1, 2012 and ending June 30, 2015.

C. This Agreement may be suspended or terminated prior to the expiration of its term by:

1. Written notice provided to CDD from SSD before any materials or services for improvements are procured, or;

2. Written notice provided by CDD in accordance with 24 CFR 85.43, included as Attachment C, resulting from material failure by SSD to comply with any term of this Agreement, or;

3. Mutual agreement by CDD and SSD in accordance with 24 CFR 85.44.

E. Upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with CDD.

CLACKAMAS COUNTY
COMMUNITY DEVELOPMENT DIVISION

Chuck Robbins, Director

7/17/12
Date

CLACKAMAS COUNTY
SOCIAL SERVICES DIVISION

Brenda Durbin, Director

7-16-12
Date

CLACKAMAS COUNTY

Chair: Charlotte Lehan
Commissioner: Jim Bernard
Commissioner: Jamie Damon
Commissioner: Ann Lininger
Commissioner: Paul Savas

Signing on Behalf of the Board:

Cindy Becker, Director
Department of Health, Housing and Human Services

Date

8

Health, Housing & Human Services
CLACKAMAS COUNTY

Cindy Becker
Director

July 26, 2012

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Grant from the U.S. Dept. of Housing & Urban Development for Grant Funds for the County's Homeless Management Information System

The Community Development Division of the Department of Human Services requests approval to sign a U.S. Department of Housing and Urban Development (HUD) contract for the County's Homeless Management Information System (HMIS). This new grant was secured to increase funding for our current HMIS and will be renewable every year as part of the annual Homeless Continuum of Care funding application process.

In response to a Congressional directive, HUD has required all recipients of Stewart B. McKinney Homeless Assistance Act funds to implement an HMIS electronic record-keeping system. This data collection system is designed to capture client-level information over time on the characteristics, housing and service needs of people experiencing homelessness.

This 2nd grant would fund expansion of Clackamas County's HMIS system and allow for the funding of a new HMIS administrator position. This new grant is for $36,193.

No County General Fund dollars are involved.

Recommendation

Staff recommends approval of this HMIS grant and authority for the Department Director, Cindy Becker, to sign related contract documents on behalf of the County.

Respectfully submitted,

R Scruffs/ for CB

Cindy Becker
Director

Attachments:

- HUD Contract Agreement

For information on this issue or copies of attachments
Please contact Mark Sirois, # 503-650-5664

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
400 SW 6th Avenue
Suite 700
Portland, OR 97204

Grant Number: OR0153B0E071100
Project Name: OR-507 - NEW - Clackamas County CoC HMIS 2
Total Award Amount: $36,193
Component: HMIS
Recipient: Clackamas County Department of Health, Housing & Human Services
Contact Person and Title: Joanne Desky, Policy Analyst
Telephone Number: (503) 655-8794
Fax Number: (503) 655-8889
E-mail Address: joannedes@co.clackamas.or.us
EIN/Tax ID Number: 93-6002286
DUNS Number: 096992656
Project Location(s): Clackamas County, Oregon

2011 SUPPORTIVE HOUSING PROGRAM
GRANT AGREEMENT - New

This Grant Agreement is made by and between the United States Department of Housing and Urban Development (HUD) and Clackamas County Department of Health, Housing & Human Services (the Recipient).

The assistance which is the subject of this Grant Agreement is authorized by the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11381 (hereafter "the Act"). The term "grant" or "grant funds" means the assistance provided under this Agreement. This grant agreement will be governed by the Act; the Supportive Housing rule codified at 24 CFR part 583, which is attached hereto and made a part hereof as Attachment B; the changes made by the Homeless Definition Rule that is at the end of Attachment B; and the Notice of Funding Availability (NOFA), that was published in two parts. The first part was the Policy Requirements and General Section of the NOFA, and the second part was the Continuum of Care Homeless Assistance Programs section of the NOFA, which are located at http://archives.hud.gov/funding/2011/fundsavail.cfm. The term "Application" means the application submissions on the basis of which HUD, including the certifications and assurances and any information or documentation required to meet any grant award conditions, on the basis of which HUD approved a grant. The Application is incorporated herein as part of this Agreement, however, in the event of a conflict between any part of the Application and any part of the Grant Agreement, the latter shall control. The Secretary agrees, subject to the terms of the Grant Agreement, to provide the grant funds in the amount specified at section 2 of Attachment A for the approved project described in the application. The Recipient agrees, subject to the terms of the Grant Agreement, to use the grant funds for eligible activities during the term specified at section 3 of Attachment A.

The Recipient must provide a 25 percent cash match for supportive services.

The Recipient agrees to comply with all requirements of this Grant Agreement and to accept responsibility for such compliance by any entities to which it makes grant funds available.

The Recipient agrees to participate in a local Homeless Management Information System (HMIS) when implemented.

If the Recipient is a State or other governmental entity required to assume environmental responsibility, it agrees that no costs to be paid or reimbursed with grant funds will be incurred before the completion of such responsibilities and HUD approval of any required Request for Release of Funds.

The Recipient and project sponsor, if any, will not knowingly allow illegal activities in any unit assisted with grant funds.

The Recipient agrees to draw grant funds at least quarterly.

If, in the application, the Recipient indicated that activities in any project will be carried out in an Empowerment Zone, an Enterprise Community, or an Enhanced Enterprise Community, as designated by HUD or the Department of Agriculture, the Recipient agrees to give priority placement in that project to eligible persons whose last known address was within the designated EZ/EC area or who are homeless persons living on the streets or in shelters within the designated areas.

HUD notifications to the Recipient shall be to the address of the Recipient as written above, unless HUD is otherwise advised in writing. Recipient notifications to HUD shall be to the HUD Field Office executing the Grant Agreement. No change may be made to the project nor any right, benefit, or advantage of the Recipient hereunder be assigned without prior written approval of HUD.

For any project funded by this grant, which is also financed through the use of the Low Income Housing Tax Credit, the following applies:

> HUD recognizes that the Recipient or the project sponsor will or has financed this project through the use of the Low-Income Housing Tax Credit. The Recipient or project sponsor shall be the general partner of a limited partnership formed for that purpose. If grant funds were used for acquisition, rehabilitation or construction, then, throughout a period of twenty years from the date of initial occupancy or the initial service provision, the Recipient or project sponsor shall continue as general partner and shall ensure that the project is operated in accordance with the requirements of this Grant Agreement, the applicable regulations and statutes. Further, the said limited partnership shall own the project site throughout that twenty-year period. If grant funds were not used for acquisition, rehabilitation or new construction, then the period shall not be twenty years, but shall be for the term of the grant agreement and any renewal thereof. Failure to comply with the terms of this paragraph shall constitute a default under the Grant Agreement.

For any project receiving funds for acquisition, construction or rehabilitation, the following applies:

The Recipient is required to execute and file for record a deed restriction, covenant running with the land or similar arrangement that will assure to HUD's satisfaction, compliance with the twenty-year term of commitment and a lien against the property, in a form to be approved by HUD, to secure HUD's interest in the repayment of the grant.

If the Recipient and/or subrecipient wishes to sell or otherwise dispose of the assisted real property, they must request and receive written approval from the Department to dispose of the real property, advertise that disposition conditions apply to the assisted property, and abide by any other terms or conditions prescribed by HUD in the approval letter.

For projects involving acquisition, compliance with the recording requirement must be documented before release of any funds other than acquisition funds. For projects involving new construction or rehabilitation activities, compliance must be documented prior to the first release of federal funds. Evidence will be an original, executed document, in a form satisfactory to HUD, accompanied by a recording receipt. Upon completion of recordation, Recipient will provide HUD with an original, executed, recorded document.

A default shall consist of any use of grant funds for a purpose other than as authorized by this Grant Agreement, failure in the Recipient's duty to provide the supportive housing for the minimum term in accordance with the requirements of the Attachment A provisions, noncompliance with the Act or Attachment B provisions, any other material breach of the Grant Agreement, or misrepresentations in the application submissions which, if known by HUD, would have resulted in this grant not being provided. Upon due notice to the Recipient of the occurrence of any such default and the provision of a reasonable opportunity to respond, HUD may take one or more of the following actions:

(a) direct the Recipient to submit progress schedules for completing approved activities; or

(b) issue a letter of warning advising the Recipient of the default, establishing a date by which corrective actions must be completed and putting the Recipient on notice that more serious actions will be taken if the default is not corrected or is repeated; or

(c) direct the Recipient to establish and maintain a management plan that assigns responsibilities for carrying out remedial actions; or

(d) direct the Recipient to suspend, discontinue or not incur costs for the affected activity; or

(e) reduce or recapture the grant; or

(f) direct the Recipient to reimburse the program accounts for costs inappropriately charged to the program; or

(g) continue the grant with a substitute Recipient of HUD's choosing; or

(h) other appropriate action including, but not limited to, any remedial action legally available, such as affirmative litigation seeking declaratory judgment, specific performance, damages, temporary or permanent injunctions and any other available remedies.

No delay or omission by HUD in exercising any right or remedy available to it under this Grant Agreement shall impair any such right or remedy or constitute a waiver or acquiescence in any Recipient default.

Recipients of assistance for acquisition, rehabilitation, or new construction shall file a certification of continued use for supportive housing for each year of the 20-year period from the date of initial occupancy.

If the Recipient's application received a selection priority for projects located in 100 percent rural areas, projects must serve 100 percent rural counties, or county equivalents. HUD will not agree to amend this Grant Agreement to authorize projects outside of a qualifying 100 percent rural county, or county equivalent.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS), the Central Contractor Registration (CCR) database, and the Federal Funding Accountability and Transparency Act, including Appendix A to 2 CFR Part 25 (final guidance entitled *Financial Assistance Use of Universal Identifier and Central Contractor Registration,* published September 14, 2010 at 75 FR 55671) and Appendix A to 2 CFR Part 170 (interim final guidance entitled *Requirements for Federal Funding Accountability and Transparency Act Implementation,* published September 14, 2010 at 75 FR 55663).

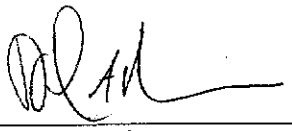
This Grant Agreement constitutes the entire agreement between the parties hereto, and may be amended only in writing executed by HUD and the Recipient. More specifically, the Recipient shall not change recipients, location, services, or population to be served nor shift more than 10 percent of funds from one approved type of eligible activity to another without the prior written approval of HUD. The effective date of this Grant Agreement shall be the date of execution by HUD, except with prior written approval by HUD.

SIGNATURES

This Grant Agreement is hereby executed as follows:

UNITED STATES OF AMERICA
Secretary of Housing and Urban Development

By:



July 16, 2012
Signature and Date

Douglas Carlson
Print name of signatory

Director
Title

RECIPIENT

Clackamas County Department of Health, Housing & Human Services
Name of Organization

By:

Authorized Signature and Date

Print name of signatory

Title

ATTACHMENT A

1. The Recipient is Clackamas County Department of Health, Housing & Human Services.

2. HUD's total fund obligation for this project is $36,193, which shall be allocated as follows:

a. Acquisition	$0
b. New construction	$0
c. Rehabilitation	$0
d. Leasing	$0
e. Supportive services	$0
f. Operating costs	$0
g. HMIS	$34,470
h. Administration	$1,723

3. Although this agreement will become effective only upon the execution hereof by both parties, the term of this agreement shall run for a period of 12 months, unless the grant includes funds for acquisition, construction or rehabilitation, in which case the term of this grant agreement shall run for a period of 15 months.

CLACKAMAS COUNTY

COPY 9

Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

July 26, 2012

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an extension of the terms and conditions of Grant Agreement 11-001 with Clean Energy Works Oregon, Inc.

ISSUE & BACKGROUND

The County received funds through the Energy Efficiency and Conservation Block Grant ("EECBG") established as part of the American Recovery and Reinvestment Act of 2009. A portion of these funds were granted to Clean Energy Works Oregon, Inc. (CEWO) to develop a streamlined energy efficiency remodel program. This program was been developed in collaboration with Energy Trust of Oregon, utilities, financial institutions, local communities and contractors. A copy of the Grant Agreement is attached.

By supporting CEWO financially, Clackamas County is considered a "contributing partner". The initial 150 Clackamas County homes have received added incentives and additional outreach is planned in the County. The goal of the grant agreement was that a second 150 homes would receive an additional incentive beyond that offered in communities not acting as a contributing partner. The original end date of the Grant was June 30, 2012. All funds in the original grant have been expended and no additional funds will exchange hands.

Due to the requirements of a larger federal grant received by CEWO, they are unable to sell their package of loans to finance these additional incentives until 2013. This extension to our Grant Agreement assures us that our residents will receive this additional consideration at that time.

County Counsel has reviewed and approved the extension to the Grant Agreement.

RECOMMENDATION

Staff respectfully recommends to the Board of County Commissioners approval of this extension of the terms and conditions of Grant Agreement 11-001 to further our efforts in energy efficiency.

Sincerely,

Susan Ziolko
Office of Sustainability

EXTENSION OF THE TERMS AND CONDITIONS OF
CLACKAMAS COUNTY, OREGON GRANT AGREEMENT 11-001

1. On June 23, 2011 Clean Energy Works Oregon, Inc., (CEWO) and Clackamas County, acting by and through its Office of Sustainability (County) entered into Grant Agreement 11-001 (Grant Agreement). The purpose of the Grant Agreement was to use American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 for streamlined energy efficiency remodels in Clackamas County, with CEWO as the Sub-Recipient. A copy of the Grant Agreement is attached as Exhibit A.

2. The County and CEWO now mutually agree to extend this Grant Agreement. The terms of the Grant Agreement, set out at Section 5, permit its amendment by means of a written instrument signed by both parties.

3. This document is the Extension of the Terms and Conditions of the Grant Agreement (Extension). The Extension shall extend the life of the Grant Agreement. Prior to this Extension, the Grant Agreement expired on June 30, 2012. As a result of this Extension, the Agreement shall have a life that shall continue past June 30, 2012 until its new expiration date of June 30, 2013.

4. The parties agree that this Extension shall qualify as an amendment of the Grant Agreement, done in the manner required by the Grant Agreement at Section 5.

5. The parties further expressly agree that this Extension shall not alter, modify, increase, or otherwise change the County's funding of the Grant Agreement. The purpose of the Extension is to allow the parties to more completely effectuate the Grant Agreement's Statement of Program Objectives, set out as Exhibit A to the Grant Agreement, and in particular to reach the goal set out as follows:

   "The second 150 homes participating from Clackamas County will receive an additional incentive beyond that offered in communities not acting as a contributing partner."

Done as of the last date appearing below.

Clackamas County

_____	_____
Chair	Derek Smith, Chief Executive Officer
Board of County Commissioners	Clean Energy Works
_____	7.16.12
Date	Date

10

CLACKAMAS COUNTY

Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

July 26, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment # 2 to the 2003 Oregon Transportation Investment Act Modernization Program Agreement for Sunrise Project - Industrial Way Preliminary Engineering and Design

On August 11, 2011 the County and ODOT entered into a 2003 Oregon Transportation Investment Act Modernization Program Agreement for Preliminary Engineering and Design (the Agreement) for the extension of Industrial Way in connection with the Sunrise Corridor Project.

ODOT and the County now propose to amend the Agreement. These amendments would:

- Extend the completion date of Preliminary Engineering and Design from August 2012 to December 31, 2012.
- Update ODOT's designated individual for Project liaison.

The proposed amendments have been reviewed by County Counsel.

RECOMMENDATION

Staff respectfully recommends the Board agree to these minor amendments, and delegate authority to the Chair to execute Amendment Number 02 to the Agreement.

Sincerely,

Mike Bezner, PE
Transportation Engineering Manager

For information on this issue or copies of attachments please contact Terry Mungenast at 503-742-4656

AMENDMENT NUMBER 02
2003 OREGON TRANSPORTATION INVESTMENT ACT MODERNIZATION PROGRAM AGREEMENT
FFO: SUNRISE PROJECT - INDUSTRIAL WAY
Preliminary Engineering and Design
Clackamas County

The **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "State," and **Clackamas County**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into an Agreement on August 11, 2011 and Amendment Number 01 on May 1, 2012. Said Agreement covers the Preliminary and Engineering Design Phase of the extension of Industrial Way in connection with the overall Sunrise Corridor project.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to update Project name, State contact information, and extend the completion date of Preliminary Engineering and Design. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

AGENCY OBLIGATIONS, Paragraph 3, Subsection a. i, Page 3, which reads:

i. PS&E shall be completed by: August, 2012

Shall be deleted in its entirety and replaced with the following:

i. PS&E shall be completed by: December 31, 2012

STATE OBLIGATIONS, Paragraph 3, which reads:

3. State's Project Liaison for this Agreement is Justin Shoemaker, Local Agency Project Development Liaison, 123 NW Flanders St. Portland, OR 97209; 503-731-8486, Justin.D.Shoemaker@odot.state.or.us or assigned designee upon individual's absence designated by the State's Region 1 Manager. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

Shall be deleted in its entirety and replaced with the following:

3. State's Project Liaison for this Agreement is Nathan Potter, ODOT – Region 1, Consultant Project Manager, 123 NW Flanders St., Portland, OR 97209; 503-731-4986, Nathan.K.Potter@odot.state.or.us or assigned designee upon individual's absence designated by the State's Region 1 Manager. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

This Amendment may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2010-2013 Statewide Transportation Improvement Program, (Key #16602) that was approved by the Oregon Transportation Commission on December 16, 2010 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

CLACKAMAS COUNTY

11

TRANSPORTATION MAINTENANCE DIVISION
McCOY BUILDING
902 ABERNETHY ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with Knife River Corporation – Northwest for the Thiessen Road, Jennifer Street, 135th Avenue, Evelyn Street, and Mangan Drive Preservation Project

Clackamas County is preparing to resurface Thiessen Road between Johnson Road and Oatfield Road, Jennifer Street between Evelyn Street and 135th Avenue, 135th Avenue between Jennifer Street and State Highway 212/224, Evelyn Street between Railroad Crossing (MP .42) and Mangan Drive, and Mangan Drive from Evelyn Street to Dead End. The pavement on all 5 locations is coming to the end of its life and resurfacing the road will avoid having to reconstruct the road in the near future. The preservation project of 5 locations will restore approximately 5 miles of roadway.

Staff has advertised the Thiessen Road, Jennifer Street, 135th Avenue, Evelyn Street, and Mangan Drive preservation for competitive bids. The lowest responsive and responsible bidder was Knife River Corporation - Northwest for $1,924,805.45

County Counsel has reviewed and approved this contract.

Recommendation

Staff respectfully recommends that the Board approve and sign the contract with Knife River Corporation - Northwest for the Thiessen Road Preservation- Johnson Road to Oatfield Road, Jennifer Street Preservation- Evelyn Street to 135th Avenue, 135th Avenue Preservation- Jennifer Street to State Highway 212/224, Evelyn Street Preservation- Railroad Crossing (MP .42) to Mangan Drive, Mangan Drive Preservation- Evelyn Street to Dead End.

Sincerely,

Randall A Harmon

Randall Harmon
Transportation Operations Supervisor

Placed on Board Agenda 7/26/2012
By Purchasing Division

For information on this issue or copies of attachments
Please contact Daryn Thorpe at (503) 722-6301

CLACKAMAS COUNTY

LANE MILLER
MANAGER

PURCHASING DIVISION

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

July 26, 2012

MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of **July 26, 2012** this contract with Knife River Corporation - Northwest for the **Thiessen Road, Jennifer Street, 135th Avenue, Evelyn Street, and Mangan Drive Preservation Project** for the Clackamas County DTD Road Maintenance Division. This project was requested by Randy Harmon, Project Manager. Bids were requested for all the materials and manpower necessary to complete specified work on the above-mentioned project. This project was advertised in accordance with ORS and LCRB Rules. Four bids were received: Knife River - $1,924,805.45; Eagle Elsner - $1,988,346.15; Lakeside Industries - $2,004,541.95; and Brix Paving - $2,324,929.29. After review of all bids, Knife River Corporation - Northwest was determined to be the lowest responsive and responsible bidder. The total contract amount is not to exceed $1,924,805.45. All work is to be completed by September 30, 2012. This contract has been reviewed and approved by County Counsel. Funds for this project are covered under budget line 215-2410-00-431900 for fiscal year 2012/2013.

Respectfully Submitted,

Kathryn M. Holder

Kathryn M. Holder
Purchasing Staff

12

CAMPBELL M. GILMOUR
DIRECTOR

CLACKAMAS COUNTY

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with NW Kodiak Construction LLC for the Dove Creek at Elisha Road Culvert Replacement Project

The culvert carrying Dove Creek under Elisha Road has reached the end of its service life and need to be replaced. The reconstruction will consist of replacing the culvert with an aluminum multi-plate culvert. The new culvert will meet current fish passage requirements.

Staff advertised the Dove Creek at Elisha Road Culvert Replacement Project for competitive bids. The lowest responsive bidder was NW Kodiak Construction with a bid of $172,554.50. This project is funded by the County Road Fund.

The contract has been reviewed and approved by County Counsel.

Recommendation

Staff respectfully recommends that the Board approves and signs the contract with NW Kodiak Construction for the Dove Creek at Elisha Road Culvert Replacement Project.

Sincerely,

Cam Gilmour

Cam Gilmour
Director

Placed on the July 26, 2012 agenda by the Purchasing Division.

For information on this issue or copies of attachments please contact Vince Hall at (503) 353-4650.

CLACKAMAS COUNTY

LANE MILLER
MANAGER

PURCHASING DIVISION

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

July 26, 2012

MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of **July 26, 2012** this contract with NW Kodiak Construction LLC for the **Dove Creek at Elisha Road Culvert Replacement Project** for the Clackamas County DTD Engineering Division. This project was requested by Vince Hall, Project Manager. Bids were requested for all the materials and manpower necessary to complete specified work on the above-mentioned project. This project was advertised in accordance with ORS and LCRB Rules. Five bids were received: NW Kodiak Construction - $172,554.50; D&T Excavation - $184,747.46; North Santiam Paving - $229,490.00; K&E Excavating - $ 252,115.00; and Elk Mountain - $267,270.00. After review of all bids, NW Kodiak Construction LLC was determined to be the lowest responsive and responsible bidder. The total contract amount is not to exceed $172,554.50. All work is to be completed by December 31, 2012. This contract has been reviewed and approved by County Counsel. Funds for this project are covered under budget line 416-2433-02103-481200-22160 for fiscal year 2012/2013.

Respectfully Submitted,

Kathryn M. Holder

Kathryn M. Holder
Purchasing Staff

14

Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

July 26, 2012

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an IGA Between The Oregon State
Marine Board and Clackamas County Regarding
Boat Safety Law Enforcement Services for FY 2012-2013

Attached is the Clackamas County Sheriff's Office annual IGA for law enforcement services with the Oregon State Marine Board for July 1, 2012 to June 30, 2013. This is a renewal of the IGA approved for fiscal year 2011-2012.

The funds in this IGA cover marine patrol enforcement on all waters within Clackamas County which includes six lakes with approximately 35.5 miles of shoreline and six major rivers with about 139.5 river miles. The emphasis is on the Willamette River, the Clackamas River and the High Lakes.

The Marine Board distributes funds based on their biennium funding cycle. Their portion of the agreement for the second half of the biennium (FY 2011-2013) is $396,010. Clackamas County's portion is $267,581.20 and is included in the 2012-2013 Sheriff's Office budget. The total program amount is $663,591.20.

Funds from the Marine Board pay for staffing to include Supervisor time, Marine Deputies, Marine Service Officers, overtime, marine fuel, training, insurance, boat maintenance, and other administrative costs.

County Counsel has approved this IGA.

RECOMMENDATION:

It is the Sheriff's Office recommendation that the 2012-2013 IGA with the State Marine Board be approved.

Sincerely,

Matt Ellington
Undersheriff

Intergovernmental Cooperative Agreement
Between
Oregon State Marine Board
&
Clackamas County

This agreement is entered into by the State of Oregon through the Oregon State Marine Board and **Clackamas County** under the authority of *ORS 830.110 and ORS Chapter 190.*

1. Cooperators
   This cooperative agreement is between the Oregon State Marine Board; hereafter called SMB and Clackamas County, hereafter called Agency.

2. Term of Agreement
   The period of the agreement shall be from **July 1, 2012 to June 30, 2013**.

3. Services Provided by Agency
   Agency agrees to:
   A. Enforce the applicable provisions of the Oregon Revised Statutes, Chapters 830 and 704 and Oregon Administrative Rules, Chapter 250.
   B. Investigate complaints of boating law violations and boating accidents as specified in the SMB Policy and Procedures Manual, revised most recently in 2005, incorporated by reference herein.
   C. Alert the public to unsafe boating conditions.
   D. Assign duties under this agreement to personnel who have completed training and received certification at the Marine Law Enforcement Academy. Boating law enforcement personnel assigned by the Agency shall be mentally and physically capable of performing required duties. Standards of performance, discipline of officers and the control of personnel performing services pursuant to this agreement shall be the responsibility of the Agency. The Agency agrees that assigned personnel shall wear a Coast Guard approved personal flotation device (life jacket) while on board a boat.
   E. Provide assistance to boaters and provide search and rescue services as noted in the policy and procedures manual.
   F. Provide law enforcement examinations of boats.
   G. Carry out all aspects of the Boating Safety Action plan described in Exhibit A, attached hereto and incorporated by reference herein.
   H. Provide SMB with monthly activity reports to the SMB database by the end of each month.
   I. Send quarterly invoices to: Boating Safety Program Financial Analyst, Oregon State Marine Board, 435 Commercial St. NE, Salem, OR 97309. Invoices must be submitted within forty-five (45) days following the end of the quarter.
   J. Furnish and supply all necessary labor, supervision, equipment, communications, facilities and supplies necessary to provide the level of service required to fulfill this agreement.

4. Services Provided by SMB

   SMB agrees to:

   A. Provide Agency an orientation to SMB policies, regulations, and administrative rules necessary to meet the purpose of this agreement.
   B. Provide required training through the Marine Law Enforcement Academy held once a year.
   C. Provide funds for the purchase of patrol boats, required equipment, fuel, and boat maintenance.
   D. Provide access to and training for the use of SMB's law enforcement data base.
   E. Make payment to Agency within 30 days of receiving and approving invoice from Agency.

5. Boat Ownership

   A. The ownership of any boat purchased by the Agency during the term of this agreement shall be vested with the Agency regardless of funding source, subject to Section 5B and Section 9.
   B. During the term of this agreement and for the useful life of the boat or major piece of equipment, the Agency agrees to maintain in good working condition any boat or major piece of equipment purchased in whole or in part by the Agency with funds received from SMB, pursuant to this agreement and prior agreements between Agency and SMB. Preventative maintenance schedules for boats and trailers will be established and adhered to. Further, upon the trade-in or sale of a boat or major piece of equipment purchased, in whole or part, with funds received pursuant to this agreement, Agency shall apply any proceeds from the trade-in or sale to law enforcement activities approved by SMB, with such approval not to be unreasonably withheld. Notwithstanding Section 9, upon default of this Agreement or notice from SMB to Agency of the termination of funding described in ORS 830.140, all boats and major pieces of equipment purchased, in whole or in part, with funds received pursuant to this agreement, or previous agreement between the SMB and Agency, shall be returned to the SMB for reassignment if SMB requests that the boat or major pieces of equipment be returned to SMB. Upon SMB's request, Agency agrees to permit the transfer of a boat purchased, in whole or part, with funds received pursuant to this agreement, to another county.

6. Consideration

   A. The SMB will, upon receipt and approval of expenditure documentation, pay to the Agency an amount not to exceed **$396,010** for the agreement term. Payment requests shall be only for authorized services provided by the Agency pursuant to this agreement and for costs actually incurred by the Agency in conjunction with such services (including salaries, supplies or purchases of boats/equipment).
   B. Agency shall be responsible for providing employment-related benefits and deductions that are required by law, including but not limited to federal and state income tax deductions, workers' compensation coverage, and contributions to the Public Employees Retirement System.

7. Insurance/Indemnification

A. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the SMB is jointly liable with the Agency (or would be if joined in the Third Party Claim), the SMB shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Agency in such proportion as is appropriate to reflect the relative fault of the SMB on the one hand and of the Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the SMB on the one hand and of the Agency on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The SMB's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the SMB had sole liability in the proceeding.

With respect to a Third Party Claim for which the Agency is jointly liable with the SMB (or would be if joined in the Third Party Claim), the Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the SMB in such proportion as is appropriate to reflect the relative fault of the Agency on the one hand and of the SMB on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Agency on the one hand and of the SMB on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

B. Alternative Dispute Resolution. The parties should attempt in good faith to resolve any dispute arising out of 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.

C. Indemnification by Subcontractors. The Agency shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Agency's contractor from and against any and all Claims.

D. During the term of this agreement, the Agency shall provide insurance to cover all loss, damage or injury to the equipment purchased under this agreement, in an amount no less than the purchase price thereof. Such insurance shall be provided by the Agency through an insurer duly authorized to do business in the State of Oregon but may be provided by self-insurance. Any proceeds from insurance or self-insurance shall be applied to the repair or replacement of the damaged equipment unless the Agency received prior written direction or authorization from the SMB to otherwise dispose of the proceeds.

E This agreement is subject to all applicable federal Assurances specified in Attachment 1 attached hereto and by this reference made a part hereof. If applicable, Agency shall provide the SMB its Annual Comprehensive Financial Report as required in the Single Audit Act of 1984, 31 U.S.C. §§7501-7507 (1994) *as amended by* Pub.L. 104-156, §§ 1-3, 110 Stat. 1397 (1996). At the end of each fiscal year during the term of this agreement, the Agency will be notified of the amount of federal pass-through dollars included in the payments made by the SMB to the Agency during that fiscal year.

8. Access to Records

Agency shall maintain all fiscal records relating to this agreement in accordance with generally accepted accounting principles. In addition, Agency shall maintain any other records pertinent to this agreement so as to document their performance. Agency acknowledges and agrees that representatives of the SMB and the Oregon Secretary of State's Office and the federal government shall have access to fiscal records and other documents of the Agency that are pertinent to this agreement to perform examinations and audits. Agency shall retain and keep

accessible all such fiscal records and documents for a minimum of seven (7) years, or such longer period as may be required by federal law, following final payment and termination of this agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this agreement, whichever date is later.

9. Security Interest

Agency, in consideration of SMB's provision of services described in section 4, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants SMB a continuing security interest in and so pledges and assigns to SMB all of the rights of Agency and all proceeds and products in the boats and equipment purchased pursuant to SMB's authority under ORS 830.140, including, but not limited to this agreement ("Collateral"). Agency hereby irrevocably authorizes SMB at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any financing statements and amendments thereto to complete the attachment, perfection and first priority of, and the ability of SMB to enforce, SMB's security interest in the Collateral, including, but not limited to, causing SMB's name to be noted as secured party on any certificate of title for a titled good. Agency will not, or will not offer to, sell or otherwise dispose of the Collateral or any interest in the Collateral except with receipt of SMB's prior written approval. Upon the failure by Agency to keep, observe or perform any provision of this agreement, without any other notice to or demand upon Agency, SMB shall have in any jurisdiction in which enforcement of this agreement is sought, in addition to all other rights and remedies, all rights, privileges, powers and remedies of a secured creditor provided by the Uniform Commercial Code and any additional rights and remedies which may be provided to a secured party in any jurisdiction in which the Collateral or a part thereof is located, at law, in equity, or otherwise, including, without limitation, its right to take immediate possession of the Collateral.

10. Termination

A. This agreement may be terminated by mutual consent of both parties.

B. SMB may terminate this agreement effective upon delivery of written notice to Agency under any of the following conditions.

   1. If SMB's funding is not continued at levels sufficient to allow for purchase of the specified services. The agreement may then be modified to accommodate a reduction in funds.
   2. If the Agency commits any material breach or default of any aspect of this agreement and such breach, default or failure is not cured within such 20-day period after delivery of the Board's notice.

C. Agency may terminate this agreement if the SMB commits any material breach or default of any aspect of this Agreement and such breach, default or failure is not cured within such 20-day period after delivery of the Agency's notice.

D. Either party may terminate this Agreement upon 60 days written notice to the other party.

E. Sections 5, 7, 8 and 9, shall survive termination of the Agreement.

11. Force Majeure

If either Agency or SMB is rendered unable to perform its duties under this agreement due to acts of God, riot, war, terrorism, bioterrorism, civil unrest, flood, earthquake, power outage, or government fiat (a "Force Majeure Event"), then during the Force Majeure Event, but for no longer period, the obligations of such Party will be suspended (or reduced, as applicable) to the extent the Force Majeure Event makes performance impossible. During the occurrence of a Force Majeure Event, the Agency shall use best efforts to continue to perform its duties under this agreement to the maximum extent possible notwithstanding such occurrence. Upon the occurrence of a Force Majeure Event, SMB is obligated to pay only for those deliverables actually delivered and accepted by SMB. If the Force Majeure Event continues to prevent performance for a period of thirty (30) consecutive days, then SMB has the right to suspend its performance or terminate this agreement or both.

12. Amendments

The terms of this agreement shall not be waived, altered, or amended, in any matter whatsoever, except by written consent by both parties.

13. Condition of Performance

In accordance with 44 CFR 13.36(i), the SMB's performance is conditioned upon the Agency's compliance with federal, state and local laws and regulations, including but not limited to, the following:

A. Agency shall comply and, if applicable, require a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."

B. The applicable Code of Federal Regulations (CFR) sections and OMB Circulars governing expenditure of federal funds. State, local and Indian Tribal Governments and governmental hospitals must follow OMB A-102. Agency shall ensure any organization to which funds are passed comply with CFR and OMB requirements

C. All applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

D. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163, 89 Stat. 871).

E. Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

F. The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

G. The Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).

H. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).

14. Designation of Forum and Choice of Law:
    Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. 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.
    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.

This document constitutes the entire agreement between the parties. The SMB and Agency are the only parties to this agreement and are the only parties entitled to enforce its terms. The Agency, by the signature below of its authorized representative, does acknowledge that it has read this agreement and agrees to its terms and conditions.

Signatures:

State Marine Board

6/13/13
Date

Clackamas County

7/12/13
Date

Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

15

July 26, 2012

Board of County Commissioners
Clackamas County

Request by the Clackamas County Sheriff's Office to Accept Grant Funds and enter into an Intergovernmental Agreement with the Oregon Department of Transportation for Clackamas County Distracted Driving and DWS Enforcement

The Clackamas County Sheriff's Office is requesting approval to enter into an Intergovernmental Agreement and accept a one year grant from the Oregon Department of Transportation in the amount of $70,000. The intent of this grant is to provide overtime funding to conduct multi-unit enforcement details related to speed, distracted driving and suspended driver enforcement.

The grant provides funds to pay overtime costs for Clackamas County Sheriff's Deputies to provide enhanced multi-unit traffic enforcement focusing on the three areas shown above to increase traffic safety in Clackamas County.

The grant application was approved by Steve Wheeler, County Administrator on June 13, 2012.

The project period runs from June 14, 2012 to September 30, 2012.

The Sheriff's Office requests approval to accept the Distracted Driving and DWS Enforcement Grant in the amount of $70,000 to continue promoting traffic safety in Clackamas County.

Sincerely,

Matt Ellington
Undersheriff

ORIGINAL

OREGON DEPARTMENT OF TRANSPORTATION
Transportation Safety Division

GRANT PROJECT APPLICATION

Project No: SC-12-35-05 CCS

Project Name: Clackamas Distracted Driving and DWS Enforcement

Answer each question in the boxes provided. Answer each question completely and according to the instructions in *Italics*. All fields are required. Do not attempt to paste images or Excel tables into the text fields provided.

I. *Project Description*

This project will provide enhanced multi-unit traffic enforcement to the Clackamas County Sheriff's Office Traffic Team. The primary focus will be Speed, Distracted Driving and Suspended Driver enforcement.

II. Problem Statement

A. Describe the problem(s) this project will try to impact:
(Describe the problem(s) you intend to impact with this grant.)

Between 2005 and 2009, there werer 145 Fatal Crashes, which killed a total of 160 people on Clackamas County Roadways. Over 8,000 injury crashes occured injuring over 12,000 people. Speed, Following too close, Right of Way, Lane Use, Improper Turns and Fail to Obey Traffic Control Device, Driver Inattention / Distraction violations are the largest contributor to these crash issues. Additionally, in Oregon there are over 500,000 vehicles registered that have at least one suspended owner. Clackamas County has a significant number of suspended drivers who continue to driver while suspended for both Criminal and Violation level reasons.

B. Provide summary data about the problem(s):
(Give summary data regarding the problem as it exists in your jurisdiction.)

2005-2009, 160 people were killed and over 12,000 people were injured in crashes in Clackamas County.

C. List current activities and associated agencies already involved in solving the problem(s):
(Include all related activities and agencies involved. If you have a current project, list the objectives of that project and progress in achieving them.)

The Clackamas County Sheriff's Office is dedicated to traffic safety and the traffic safety unit has been at the leading edge of technology. Through innovations, command support and out-of-the-box thinking they have come up with non-traditional ways to make a difference in some of Oregon's primary traffic safety problems.

III. Objectives

(Describe quantifiable products or outcomes that address those problems identified in Section I that should result from the proposed activities. Normally at least three very specific objectives should be given and each should include beginning and ending date.

The following are examples:

"To increase safety belt usage in (funded jurisdiction) from 85% to 90% by September 30, 2004, with the use rate determined by conducting observed use surveys."

"To reduce nighttime fatal and injury crashes occurring in (funded jurisdiction) by 20% from 60, the average for the 1998-2001 period, to 48 during the 12-month period starting October 1, 2003, and ending September 30, 2004."

"To provide intensive probation supervision to a minimum of 30 additional persons convicted of DUII in (funded jurisdiction) by making at least three face-to-face contacts with each person weekly from October 1, 2003, through September 30, 2004."

"To complete an evaluation by July 1, 2004, to determine if using photo radar will lead to a significant reduction in fatal and injury traffic crashes in that location.")

	Start Date	End Date	Objective
1.	4/20/2012	9/30/2012	Hold at least 3 DWS multi-unit enforcement details. Partner with TSD to obtain updated dataset prior to each to ensure updated data. Enforcement Priority should be given to Felony and Misdemeanor Suspended Drivers. If possible, have Clackamas A/V staff put together a video with various components of the details. Provide a copy of final to TSD during final report.

2.	4/20/2012	9/30/2012	Hold at least 4 Multi-Unit Distracted Driving Enforcement details using a variety of strategies to target those drivers who continue to hold their handset up to their ear while operating a motor vehicle. Where possible, create enforcement strategy that efficiently identifies drivers who try to conceal their cell/smart phone use by holding the device down below the dashboard to read/send email, text or activating APPs while driving.
3.	4/20/2012	9/30/2012	Hold at least 3 Multi-Unit Speed-focused enforcement details (May include other top crash causing violations) but the primary focus should be speed.
4.	4/20/2012	9/30/2012	Review laws below and, where possible, focus enforcement efforts: 1.) Fail to Obey TCD - 811.265 2.) Right of Way offenses and Impeding Traffic -811.130 3.) Fail to Maintain Lane (#1 in traffic death events - consider zero tolerance) 811.370 4.) Dangerous left hand turn and lane change violations-811.350/811.375 5.) Cell Phone Handset and Distracted Driving (Consider zero tolerance)-811.507 6.) Fail to maintain safe dist. from Em.Veh. - 811.147 7.) Speed and Following Too Close Offenses
5.	4/20/2012	9/30/2012	After grant is signed, hold a meeting with all traffic team members and ODOT program manager to go over the grant requirements, review reportbeam reporting, establish tactical zones and location geo spatial issues.

IV. Proposed Activities

A. Major Activities

*(List major activities to be carried out to achieve objectives stated in Section II above. List the start and end date for each activity, and include in your description **what** will be done, **who** will do it, and **who** will be affected.)*

	Start Date	End Date	Activity
1.	4/20/2012	9/30/2012	Hold at least 3 DWS multi-unit enforcement details - see Objective 1.
2.	4/20/2012	9/30/2012	Hold at least 4 Multi-Unit Distracted Driving Enforcement details- See Objective 2.

3.	4/20/2012	9/30/2012	Hold at least 3 Multi-Unit Speed-focused enforcement details - see Objective 3.
4.	4/20/2012	9/30/2012	Review laws below and, where possible, focus enforcement efforts. See Objective 4.

Plans for sharing the project activities with others:

This project is specific to the Clackamas County Traffic Team and this team should also utilize the unmarked ALPR equipped vehicles where appropriate for effectiveness.

B. Coordination

(List the groups and agencies with which you will be cooperating to complete the activities of the project. Explain how you will be working together. Include Letters of Commitment in Exhibit C if you will be relying on other agencies to accomplish the objectives of the project. In those projects not requiring the involvement of other agencies, a statement justifying the ability of the applicant to carry out the project independently should be included.)

Is coordination with outside agencies or groups required? If **yes**, check here: ☐

1) If you checked the box above, please fill in the following. Otherwise skip to item 2) below:

Name/role of groups and agencies involved:

2) Fill this if you did not check the box above:

Ability to complete the project independently:

The Clackamas County Traffic Team has the ability to complete the grant requirements of this grant.

C. Continuation

Plans to continue the project activities after funding ceases:

These are one-time project funds.

V. Evaluation Plan

A. Evaluation Questions

(You will be reporting on your objectives in your Project Evaluation. At a minimum each objective should be rephrased as an evaluation question. For example, what percentage of the public in (funded jurisdiction) wears a safety belt? What

percentage increase is this? Add questions that demonstrate expected or potential impact of the project on the state or jurisdiction's traffic safety environment. Avoid yes/no evaluation questions.)

	Evaluation Question
1.	Did you hold 3 separate DWS Enforcement Details? Priovide final statistics. Articulate any issues and resolutions (if applicable).
2.	Did you hold 4 separate Distracted Driving Enforcement Details? Priovide final statistics.
3.	Did you hold 3 separate Speed Focused enforcement details? Provide final statistics.
4.	Did you review the list of offenses / ORS in Objective 4 for focus effort and ensure all deputies have reviewed and are well versed in specific laws to be enforced. Describe.
5.	For DWS operations, did you review Oregon case law (focused on license plate queries) or other information to ensure that deputies are properly educated about differences in violation offenses versus criminal offenses to prevent bad case law? Describe.

B. Data Requirements

1. Data to be collected: The Data Table presented as Exhibit A will be submitted with required quarterly reports.

2. Data System

Describe how the data will be collected, stored, and tabulated:

Create Tactical Zone for each type of OT detail (Example: DWS, Dist, Speed) and ensure deputies are advised to select those on the officer notes page when working OT to ensure quick/accurate reports.

C. Evaluation Design

Describe how the data will be analyzed:

TSD will analyze the data to determine impact and design future strategies.

D. Project Evaluation Preparation

A Project Evaluation Report will be submitted to TSD following the requirements given in the Agreements and Assurances, Section B, Paragraph 6.

VI. Grant Project Budget Summary

A. List of major budget items:

Overtime Enforcement: $70,000, Match $20,000

B. Budget Allotment

The agency named in this document hereby applies for $70,000.00 in Transportation Safety funds to be matched with $20,000.00 in funds from source Straight Time Details to carry out a traffic safety project described in this document.

VII. Budget and Cost Sharing

*(**Complete Form 737-1003 Budget and Cost Sharing.** You may attach one page to explain specific requests. If you are applying for a multiple-year grant, you must include a separate budget for each year for which you are requesting funding.)*

VIII. Exhibits

A. Exhibit A: Data Table
(To be developed at a later date.)

B. Exhibit B: Job Descriptions
(Provide copy of job descriptions of all positions assigned to the project 500 hours or more paid with grant funds.)

C. Exhibit C: Letters of Commitment
(Provide copies of letters of commitment from those agencies you will be relying upon to accomplish the objectives of the project.)

D. Exhibit D: Conditions of Approval
(To be developed at a later date.)

IX. Agreements and Assurances

*(**READ**, sign and attach to the grant project application.)*

X. Approval Signatures

I have read and understand the Agreements and Assurances stipulating the conditions under which the funds for which are being applied will be available and can be utilized. **The agency named in this document is prepared to become a recipient of the funds should the grant funds be awarded.**

A. Agency Information

Agency Name*:	Clackamas County Sheriff's Office
Street Address:	12800 SE 82nd Ave.
City:	Clackamas
State:	OR
Zip:	97015

C. Project Director

First Name:	John	Last Name:	Naccarato
Title:	Sergeant	Email:	johnnac@co.clackamas.or.us
Phone:	(503) 655-8824	Fax:	(503) 353-8060
Street Address:	12800 SE 82nd Ave.		
City:	Clackamas		
State:	OR		
Zip:	97015		

Signature: _____ Date: 6/13/12

D. Authorizing Official of Agency Completing Application

First Name:	Craig	Last Name:	Roberts
Title:	County Sheriff	Email:	craigrob@co.clackamas.or.us
Phone:	(503) 655-8220	Fax:	(503) 353-8060
Street Address:	12800 SE 82nd Ave.		
City:	Clackamas		
State:	OR		
Zip:	97015		

Signature: _____ Date: 6-13-12

*Non-profit agencies must submit proof of exempt status under Code Sec. 501(c)(3)

Mail signed copies to: Oregon Dept. of Transportation
Transportation Safety Division
235 Union Street NE
Salem, OR 97301-1054

Email completed electronic copy to your TSD Program Manager.

16

CLACKAMAS COUNTY

OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

July 26, 2012

Stephen L. Madkour
County Counsel

David W. Anderson
Kimberley Ybarra
Kathleen Rastetter
Scot A. Sideras
Chris Storey
Scott C. Ciecko
Alexander Gordon
Rhett C. Tatum
Assistants

Board of County Commissioners
Clackamas County

Members of the Board:

THE INITIATION OF THE FORMATION OF A SPECIAL ROAD DISTRICT FOR GOVERNMENT CAMP VILLAGE

The landowners within Government Camp Village have presented a Petition in accordance with ORS 198.800 for the formation of a Special Road District for the purpose of improving roads and maintaining associated infrastructure within Government Camp Village. In lieu of proceeding according to ORS 198.765, which would place the question on the formation of the Special Road District before the electors of the Village no sooner than May 2013, the Board has the option of treating the Petition as the impetus for the initiation of the formation of the Special Road District according to ORS 198.835. If this option is selected, the question may be presented before the electors in November 2012. The ability to place the matter promptly upon the ballot is important due to the need to identify a timely and reliable source to pay for snow removal, lighting expenses, and important maintenance concerns, all of which are especially pressing given the climate of the Village.

RECOMMENDATION:

Staff respectfully recommends the Board of County Commissioners elect to treat the Petition as the impetus for initiating the formation of a Special Road District according to ORS 198.835, and order proceedings to be commenced accordingly.

Sincerely,

Scot A. Sideras
Legal Counsel, Senior
Attachments

For more information on this item, please contact Scot Sideras at (503)742-4332 or email at scotsid@co.clackamas.or.us

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of the Initiation of Formation of the Government Camp Village Special Road District

ORDER NO. _____

This matter coming before the Board at this time and it appearing that the landowners of the Government Camp Village by Petition, attached hereto as Exhibit A, have asked this Board to consider the formation of a Special Road District under ORS Chapter 371 as a maintenance funding mechanism for street related improvements in Government Camp Village; and

It further appearing that the formation of such a Special Road District may be in the best interests of the landowners, residents, and visitors of the area, or at least is worthy of further consideration by this Board, and would be financially viable as described in the Economic Feasibility Statement attached hereto as Exhibit B; and

NOW, THEREFORE, IT IS HEREBY ORDERED that this Board initiates formation of a Special Road District as a maintenance funding mechanism for street related improvements in Government Camp Village, to be known as the "Government Camp Village Special Road District," with a proposed boundary, absent minor or ministerial discrepancies as may be discovered upon further investigation, as shown on the attached Exhibit C; and

IT IS FURTHER ORDERED that a public hearing on the formation of the proposed district will be held by this Board at 10:00 a.m. on August 9, 2012, in the Commissioners' Hearing Room, Fourth Floor, 2051 Kaen Road, Oregon City, Oregon.

DATED July 26, 2012.

BOARD OF COUNTY COMMISSIONERS

_____
Chair

_____
Recording Secretary

EXHIBIT "A" TO SPECIAL DISTRICT ORDER OF JULY 26

TO THE CLERK OF CLACKAMAS COUNTY:

PETITION TO FORM A SPECIAL ROAD DISTRICT ACCORDING TO OREGON REVISED STATUTES CHAPTER 371.305 TO 371.360

THE FORMATION OF A SPECIAL ROAD DISTRICT FOR GOVERNMENT CAMP VILLAGE

Clackamas County, Oregon

WHEREAS, this petition has been signed and is now being filed in accordance with the provisions of ORS 198.705 – 198.955 to provide an on-going source of funding for the purpose of improving roads and the maintenance of associated infrastructure within the Government Camp Village Special Road District boundary in the area of Government Camp;

WHEREAS, this proposed ORS 371 Special Road District will be operating within Clackamas County and the affected districts are:

District	ORS Chapter
Hoodland Fire #74	478
Vector Control	452
Port of Portland	778
Mt. Hood Community College and Oregon Trail Schools	332
ESD Clackamas	334
County Soil & Water Conservation	568
San 2 Gov Camp	450

WHEREAS, the Village of Government Camp, through the Tax Increment Financing District, and Clackamas County have made significant investments in building roads and associated infrastructure and now find that funding must be established to support the on-going operations and maintenance associated with these roads and associated infrastructure in order to ensure that these facilities operate as designed and reach their useful life expectancy;

WHEREAS, the proposed Government Camp Village Special Road District boundary includes both inhabited and uninhabited land area consistent with the development patterns in Government Camp area;

WHEREAS, as stipulated in ORS 371.349(1), the District board shall consist of three commissioners elected by the electors of the District;

Sheet Number 1

WHEREAS, having developed cost estimates for the services to be provided and relating this total service cost of $62,638 to the assessed valuation within the Government Camp Village Special Road District area boundary of $156,448,560 the required taxation rate of $.400371 per $1000 of assessed value will be applied;

WHEREAS, the District will prepare an annual report detailing the work accomplished, expenditures made and tax revenue collected for the previous fiscal year;

WHEREAS, the signers of this petition are all landowners within the proposed boundary of the Government Camp Village Special Road District;

WHEREAS, the proposed boundary for the Government Camp Village Special Road District is defined in the attached map and description and includes approximately 560 acres in an irregularly shaped but contiguous area;

WHEREAS, a Chief Petitioner has come forward for the circulation and presentation of this Petition, identified as follows:

Ed Rogers, Jr.
30015 E. Alpen Way, Government Camp, OR 97028
503-789-0104

WHEREAS, the Chief Petitioner has caused an economic feasibility statement to be prepared for the proposed Government Camp Special Road District describing the services and functions to be provided or performed by the proposed district, with an analysis of the relationships between those services and functions and other existing or needed government services, and a proposed first year line item operating budget and a projected third year line item operating budget for the new district that demonstrates its economic feasibility, a copy of which is attached to this Petition;

WHEREAS, a map setting out the boundaries of the territory proposed to be included in the district is attached to this attached to this Petition;

WHEREAS, the Petition for the formation of the district is presented for filing with a security deposit of a kind and in an amount approved by the Board of County Commissioners;

WHEREAS, the Petition presents the signatures of property owners whose right to sign the Petition may be verified by the assessment roll of Clackamas County;

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

Ed Rogers

Circulator Name

30015 E. Alpen Way

Circulator Street Address

Sheet Number 2

WHEREAS, HAVING READ AND UNDERSTOOD THE NEEDS, COSTS AND FUNDING APPROACHES CONSIDERED, THE UNDERSIGNED PROPERTY OWNERS WITHIN THE PROPOSED DISTRICT BOUNDARY REQUEST THAT THE PROCEEDINGS NECESSARY FOR THE ORS 371 SPECIAL ROAD DISTRICT FORMATION PROCESS BE UNDERTAKEN BY CLACKAMAS COUNTY.

Name: EDWARD ROGERS JR Parcel Acreage:
Property Address: 30015 E. ALPEN WAY GOVT CAMP, OR 97028
Tax Lot No. 00989746 38Q14DC03203
Signature: Edward Rogers Jr **Date:** 6-5-12

Name: VALIANS SKI SHOP Parcel Acreage: 1/8 Acre
Property Address: 88510 E. Govt Camp Loop Govt Camp, OR
Tax Lot No. 00992732 38Q23AB03700
Signature: [signature] **Date:** 6/5/12

SAME OWNER 2 PROPERTIES

Name: Bud & Betsy Vallan Home Parcel Acreage: 1/3 Acre
Property Address: 88914 Round Mt Loop Rd. Govt Camp, OR 97028
Tax Lot No. 00993205 38Q23AB07112
Signature: [signature] **Date:** 6/5/12

Name: HANS WIPPER Parcel Acreage: .18
Property Address: 30539 E. DARR. ROAD
Tax Lot No. 00989078 38E24AB01700
Signature: [signature] **Date:** 6-5-12

Name: CAROLYN ROGERS Parcel Acreage: 00992199 38Q23AA06900 00991945 38Q23AA04800
Property Address: 88529 E GOVERNMENT CAMP LP
Tax Lot No. 8965 E STEEL LN. (2 properties)
Signature: Carolyn Rogers **Date:** 6/5/12

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

Edward Rogers Jr
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 3

Name: H-SKI CORP. Parcel Acreage: 5.99

Property Address:

Tax Lot No. 00988863 38E24A00401

Signature: **Date:**

Name: H-SKI CORP. Parcel Acreage: 1.92

Property Address:

Tax Lot No. 00993697 38Q23AC01100

Signature: **Date:**

Name: H-SKI CORP. Parcel Acreage: 1.33

Property Address:

Tax Lot No. 00993704 38Q23AC01200

Signature: **Date:**

Name: H-SKI CORP. Parcel Acreage: 3.59

Property Address:

Tax Lot No. 00993660 38Q23AC00800

Signature: **Date:**

Name: MT. HOOD HOLDING LLC Parcel Acreage: 1.97

Property Address:

Tax Lot No. 00993679 38Q23AC00900

Signature: **Date:**

Name: MT. HOOD HOLDING LLC Parcel Acreage: .47

Property Address:

Tax Lot No. 00993580 38Q23AC00106

Signature: [signature] **Date:** 6-5-12

ALL PROPERTIES ON PAGE 3 AND 4 BELONG TO KIRK HANNA.

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpenway
Circulator Street Address

Sheet Number 4

Name: WET AND WILD LLC Parcel Acreage: .27

Property Address:

Tax Lot No. 00990609 38Q14DC06400

Signature: **Date:**

Name: WET AND WILD LLC. Parcel Acreage: .05

Property Address: *Not valid as of 6/14/12

Tax Lot No. 00990627 38Q14DC06600

Signature: **Date:**

Name: MT. HOOD HOLDING LLC. Parcel Acreage: .56

Property Address:

Tax Lot No. 00988872 38E24A 00402

Signature: **Date:**

Name: MT. HOOD HOLDING LLC Parcel Acreage: .38

Property Address:

Tax Lot No. 00988836 38E24A 00301

Signature: **Date:**

Name: MT. HOOD HOLDING LLC. Parcel Acreage: .07

Property Address:

Tax Lot No. 00988809 38E24A 00100

Signature: **Date:**

Name: MT. HOOD HOLDING LLC. Parcel Acreage: .36

Property Address:

Tax Lot No. 00988845 38E24A 00302

Signature: **Date:**

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 5

Name: Stuart L Cato Parcel Acreage:
Property Address: 30530 E. Darr Rd 38E24AB00800
Tax Lot No. 00984989 N1/2 of Lot 1 1DAA DARR
Signature: [signature] Date: 6 June 2012

Name: F. Scott Fowleigh Parcel Acreage:
Property Address: 30010 E. Alpen Way
Tax Lot No. 00990280 38Q14DC03257
Signature: [signature] Date: 6/6/12

Multiple properties

Mt Hood Resort Lodging LLC
Name: John Ingersoll Parcel Acreage: 5000 SF 1/8 acre
Property Address: 30544 E Olive st Govt Camp
Tax Lot No. ? 01589052 38Q23AB00901
Signature: Date: 6/6/12

Mt Hood Resort Lodging LLC
Name: John Ingersoll Parcel Acreage: 5000 SF 1/8 acre
Property Address: 89048 E Little trail
Tax Lot No. 1600 00992527 38Q23AB01700
Signature: Date: 6/6/12

Mt Hood Resort Lodging LLC
Name: John Ingersoll Parcel Acreage: 4600 SF
Property Address: 89018 E Little trail Govt Camp
Tax Lot No. 1700 00992518 38Q23AB01600
Signature: [signature] Date: 6/6/12

Name: Mary Gunesch Parcel Acreage:
Property Address: 88535 Mossy Tree Ln
Tax Lot No. 00990146 38Q14DC03243
Signature: [signature] Date: 6/6/12

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 6

Name: Warren Neth Parcel Acreage: not valid as of 6-14-12

Property Address: 89055 E. Government Camp, OR

Tax Lot No. 00992503 38Q23AB02100

Signature: [signature] **Date:** 6/6/2012

Name: Lee Penny Parcel Acreage:

Property Address: 30047 E. Blossom Trail

Tax Lot No. 00989719 38Q14DC03000

Signature: [signature] **Date:** June 06-12

Name: HUCKLEBERRY INN, INC Parcel Acreage: 1/2 ACRE

Property Address: 88611 E. Gov't. Camp. Lp Gov't Camp, OR

Tax Lot No. 00992377 38Q23AB00300

Signature: [signature] **Date:** 6.6.12

Name: Susan M. Kolasky Parcel Acreage: Not valid as of 6/14/12

Property Address: 30074 E. Blossom Trail

Tax Lot No 00989461 38Q14DC00702

Signature: [signature] **Date:** 6-6-2012

Name: GEOFF A. ECKER Parcel Acreage:

Property Address: 31043 E BERGSTRASSE

Tax Lot No. ~~Acct #00~~ 00993553 38Q23AC00102

Signature: [signature] **Date:** 6/7/12

Name: Joseph L. Englesby Parcel Acreage:

Property Address: 30498 E Wy East Tr.

Tax Lot No. Acct # 00990299 38Q14DC03300

Signature: [signature] **Date:** 06-08-2012

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 7

Name: The Bridge Revocable Living Trust Parcel Acreage: .23 Acre
Property Address: Acct # 00992750
Tax Lot No. 38Q23AB03900
Signature: _____ **Date:** _____

Name: The Bridge Revocable Living Trust Parcel Acreage: .07 ACRE
Property Address: Acct # 00992803
Tax Lot No. 38Q23AB04300
Signature: _____ **Date:** _____

Name: The Bridge Revocable Living Trust Parcel Acreage: .07 ACRE
Property Address: Acct # 00992812
Tax Lot No. 38Q23AB04400
Signature: _____ **Date:** _____

Name: The Bridge Revocable Living Trust Parcel Acreage: .45 Acre.
Property Address: Acct # 00992821 38Q23AB04500
Tax Lot No. 88256 E. Steel LN.
Signature: _____ **Date:** _____

Name: The Bridge Revocable Living Trust Parcel Acreage: .15 Acre
Property Address: Acct # 00992830
Tax Lot No. 38Q23AB04600
Signature: _____ **Date:** _____

Name: The Bridge Revocable Living Trust Parcel Acreage: .15 Acre
Property Address: Acct # 00992849 38Q23AB04700
Tax Lot No.
Signature: [signature] Trustee **Date:** 6/7/2012

Note: All properties on page 7 are listed in name of the Bridge Revocable Living Trust.

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 8

Sperr Properties

3rd Name: Charles Mt View Parcel Acreage: .58

Property Address: 88462 Government Camp loop

Tax Lot No. 00992741 38Q23AB03800

Signature: _____ **Date:** _____

Sperr properties

Name: Charlie Sperr trust. Parcel Acreage: .12

Property Address: 30651 E Meldrum St.

Tax Lot No. 00992714 38Q23AB03500

Signature: _____ **Date:** _____

Sperr Properties

Name: Charlie Sperr trust. Parcel Acreage:

Property Address: 88350 E Govt Camp loop

Tax Lot No. 00993465 38Q23AB80010

Signature: _____ **Date:** _____

multiple properties

Name: Charles F Sperr RLT Parcel Acreage:

Property Address: 88370 E Govt Camp loop

Tax Lot No. 00993474 38Q23AB80011

Signature: _____ **Date:** _____

Name: Sperr Properties Parcel Acreage: .23

Property Address: _____

Tax Lot No. 00992885 38Q23AB05100

Signature: _____ **Date:** 6-7-12

RALPH L. JACOB

Name: R. L JACOB Parcel Acreage:

Property Address: 31087 E. Mutorpor Dr.

Tax Lot No. 00993946 38Q23AC90304

Signature: _____ **Date:** 7 JUNE 2012

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

_____ 30015 E. Alpen Way

Circulator Name Circulator Street Address

Sheet Number 9

43

Name: KOHNSTAMM PACIFIC CORP Parcel Acreage: .95
Property Address: 87254 E GOV'T CAMP LP.
Tax Lot No. ACCT # 00989149 38E24AB02400
Signature: _____ **Date:** _____

Name: KOHNSTAMM PACIFIC CORP Parcel Acreage: .22
Property Address: 90149 E GOV'T CAMP LP
Tax Lot No. ACCT # 00992055 38Q23AA05800
Signature: _____ **Date:** _____

MULTIPLE PROPERTIES

Name: KOHNSTAMM PACIFIC CORP Parcel Acreage:
Property Address: 88515 E GOV'T CAMP LP.
Tax Lot No. ACCT # 05014203 38Q14DC700C1
Signature: _____ **Date:** _____

Name: JEFF & SALLY KOHNSTAMM Parcel Acreage: 1.0
Property Address: 36900 E DEERING RD G.C. 97028
Tax Lot No. 01068427 49E06A 01200
Signature: [signature] **Date:** 6/8/12

Name: Craig Sorenson Parcel Acreage:
Property Address: 30011 E. Alpen Way Gov't Camp
Tax Lot No. 00989737 38Q14DC03202
Signature: [signature] **Date:** 6/8/12

Name: Jim & Kathy Stromvig Parcel Acreage:
Property Address: 30031 Alpen Way Govt Camp.
Tax Lot No. 00989791 38Q14DC03208
Signature: [signature] **Date:** 6/9/12

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 10

Name: Lofteness Living Trust Parcel Acreage:
Property Address: 30018 E. Alpen Way
Tax Lot No. Acct # 00990253 38Q14DC03254
Signature: _____ **Date:** _____

Name: Lofteness Living Trust Parcel Acreage: .30
Property Address: _____
Tax Lot No. Acct # 01510671 38Q23AB01702
Signature: _____ **Date:** _____

Multiple properties

Name: Frank Lofteness Lofteness Living Trust Parcel Acreage:
Property Address: 30017 E Alpen Way 97028
Tax Lot No: Acct # 00989755 38Q14DC03204
Signature: [signature] HEC **Date:** 6-9-2012

Name: FRANK J. BAUMEISTER Parcel Acreage:
Property Address: 30530 E. Wy'East Trail
Tax Lot No. 00990565 38Q14DC01600
Signature: [signature] **Date:** 9 JUN 2012

Name: Charles C. Dobson Parcel Acreage:
Property Address: 30294 E. Camp Creek Trail
Tax Lot No. 00991145 38Q14DC11600
Signature: [signature] **Date:** June 9, 2012

Name: Holly Parks Iburg Parcel Acreage: .37 ? .27
Property Address: 38591 E Frontage Rd. 00993321 38Q23AB07400
Tax Lot No. 7400 (.23 Ac) and ½ of 7100 (.28Ac = .14)
Signature: [signature] **Date:** 6-9-2012
00993116

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 11

Name: MARGARET BRANSON Parcel Acreage: .5
Property Address: 88846 E. STEEL LN
Tax Lot No. 00992876 38Q23AB05000
Signature: Margaret Branson **Date:** 6/9/2012

Name: Florian & Mary Lou Wieser Parcel Acreage:
Property Address: 30609 E Ski Haus Lane
Tax Lot No. 11 00989014 38E24AB01100
Signature: _____ **Date:** 06-09-2012

Name: PEGGY DODD Parcel Acreage:
Property Address: 30548 E MUCKY ST
Tax Lot No. 00991467 38Q23AA00800
Signature: _____ **Date:** 6/9/12

Name: Sarah McGinnis Parcel Acreage:
Property Address: 90053 E LITTLE TMIL
Tax Lot No. 00991458 38Q23AA00700
Signature: _____ **Date:** 6/9/12

Name: Sally Niedermeyer Parcel Acreage:
Property Address: 89763 E Little Tr.
Tax Lot No. 00991537 38Q23AA01301
Signature: Sally Niedermeyer **Date:** 6/9/12

Name: Greg Fuhrer Parcel Acreage:
Property Address: 30603 East Ski Haus Lane
Tax Lot No. 00989005 38E24AB01000
Signature: _____ **Date:** 10 June 2012

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

_____
Circulator Name

30015 E. Alpen Way
Circulator Street Address

6

Sheet Number 12

Name: MARY ANN HILL Parcel Acreage: .16
Property Address: 30294 E. Blossom Tr.
Tax Lot No. 00989602 38Q14DC01900
Signature: _____ **Date:** _____

Multiple Properties

Name: MARY ANN HILL Parcel Acreage: .22
Property Address: 30410 E. Blossom Tr.
Tax Lot No. 00990770 38Q14DC08300
Signature: _____ **Date:** _____

Name: MARY ANN HILL Parcel Acreage: .09
Property Address: 30458 E Blossom Tr or 9th
Tax Lot No. 00990743 38Q14DC08000
Signature: Maryanne Hill **Date:** 6-10-12

Name: LESLIE ANN BEKINS Parcel Acreage: .19
Property Address: 89966 E. MORRISON LN
Tax Lot No. 05000579 38Q23AA 08116
Signature: _____ **Date:** _____

Multiple Properties

Name: LESLIE ANN BEKINS Parcel Acreage: .41
Property Address: 30294 E. WY EAST TRAIL
Tax Lot No. 00990413 38Q14DC04500
Signature: _____ **Date:** _____

Name: LESLIE ANN BEKINS Parcel Acreage: .03
Property Address: 87979 E. CREEK RIDGE RD
Tax Lot No. 05009251 38E24A 90016
Signature: Leslie A Bekins **Date:** 6/10/12

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

I _____
Circulator Name

30015 E. Alpine Way
Circulator Street Address

6

Sheet Number 13

Name: DAVID HORSTKOTTE Parcel Acreage:
Property Address: ~~6129~~ 89737 E. STEEL LANE
Tax Lot No. 00991939 38Q23AA04700
Signature: [signature] **Date:** 6-10-12

Name: Nick Rinard Parcel Acreage:
Property Address: 88245 E Frontage Rd.
Tax Lot No. 00993401 38Q23AB08200
Signature: [signature] **Date:** 6-10-12

SAME OWNER

Name: MATTHEW GREENSLADE Parcel Acreage: Not Shown
Property Address: 88762 E. ROUND MOUNTAIN LOOP
Tax Lot No. 00993152 38Q23AB07107
Signature: _____ **Date:** _____

Name: MATTHEW GREENSLADE Parcel Acreage: 0.32
Property Address: 88220 E. GOVERNMENT CAMP LOOP
Tax Lot No. 00992778 38Q23AB04000
Signature: [signature] **Date:** 6/11/12

MULT-PAP

Name: MT HOOD LLC III Parcel Acreage: 3.52
Property Address: _____ not valid as of 6-14-12
Tax Lot No. #00988916 38E24A 00406
Signature: _____ **Date:** _____

Name: YOSHIDA REAL ESTATE INV. Holding LLC Parcel Acreage: 5.95
Property Address: _____ Not valid as of 6/14/12
Tax Lot No. #00227 38E24A 30000
Signature: [signature] **Date:** 6/12/12

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

Sheet Number 14

Name: Mark Hinton Parcel Acreage: 40

Property Address:

Tax Lot No. 00994017 38Q23AD00100

Signature: [signature] **Date:** 6/12/2012

Name: Michael Marsh Parcel Acreage: 26.6

Property Address:

Tax Lot No. 00993535 38Q23AC00100

Signature: [signature] **Date:** 6/12/2012

Name: White Mt Development Parcel Acreage:

Property Address: East Morris Lane Box 319

Tax Lot No. 05000569 38Q23AA08106 not valid owner/ref 6-14-12

Signature: [signature] **Date:**

Name: Andrew Tagliafico Parcel Acreage: 5000 sq ft

Property Address: 89088 E. Yodel Ln

Tax Lot No. 00991029 38Q14DC10401

Signature: Andrew R Tagliafico **Date:** 6/12/12

Name: Four Fischers LLC Parcel Acreage:

Property Address: 88069 E Creek Ridge Rd

Tax Lot No. 05009243 38E24A 90008

Signature: [signature] **Date:** 6/12/12

Name: Cornelia Gunderson Parcel Acreage: 5000 SQ FT

Property Address: 88822 E Uge Ln

Tax Lot No. 00992466 38Q23AB01100

Signature: [signature] **Date:** 6-12-12

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

[signature]
Circulator Name

30015 E. Alpen Way
Circulator Street Address

Sheet Number 15

Name: Ulla Brunette Parcel Acreage:

Property Address: 88786 E Gov't Camp Loop, Gov't Camp, OR 97028

Tax Lot No. 00992634 38Q23AB02700

Signature: Ulla B Brunette **Date:** 6/12/2012

Name: William Lloyd, INC. Parcel Acreage:

Property Address: (Multiple Properties) 05021944

Tax Lot No. Taxlot # 2501 - Acct. # 05021937 38E24AB02501

Signature: 2508, 2510 **Date:** 6/13/2012

2510

05021944

Name: Parcel Acreage:

Property Address:

Tax Lot No.

Signature: **Date:**

I hereby certify that _____ signatures on this petition are those of landowners in Clackamas County whose property is within the boundaries of the proposed Special Road District for Government Camp Village .

Sherry Hall
Clerk

Date Certified

I hereby certify that- (1) the persons whose signatures appear on this page did sign this petition in my presence; (2) I believe each person is an owner of land in the proposed district; and (3) I am not being paid to circulate this petition.

Circulator Name

30015 E. Alpen Way

Circulator Street Address

2

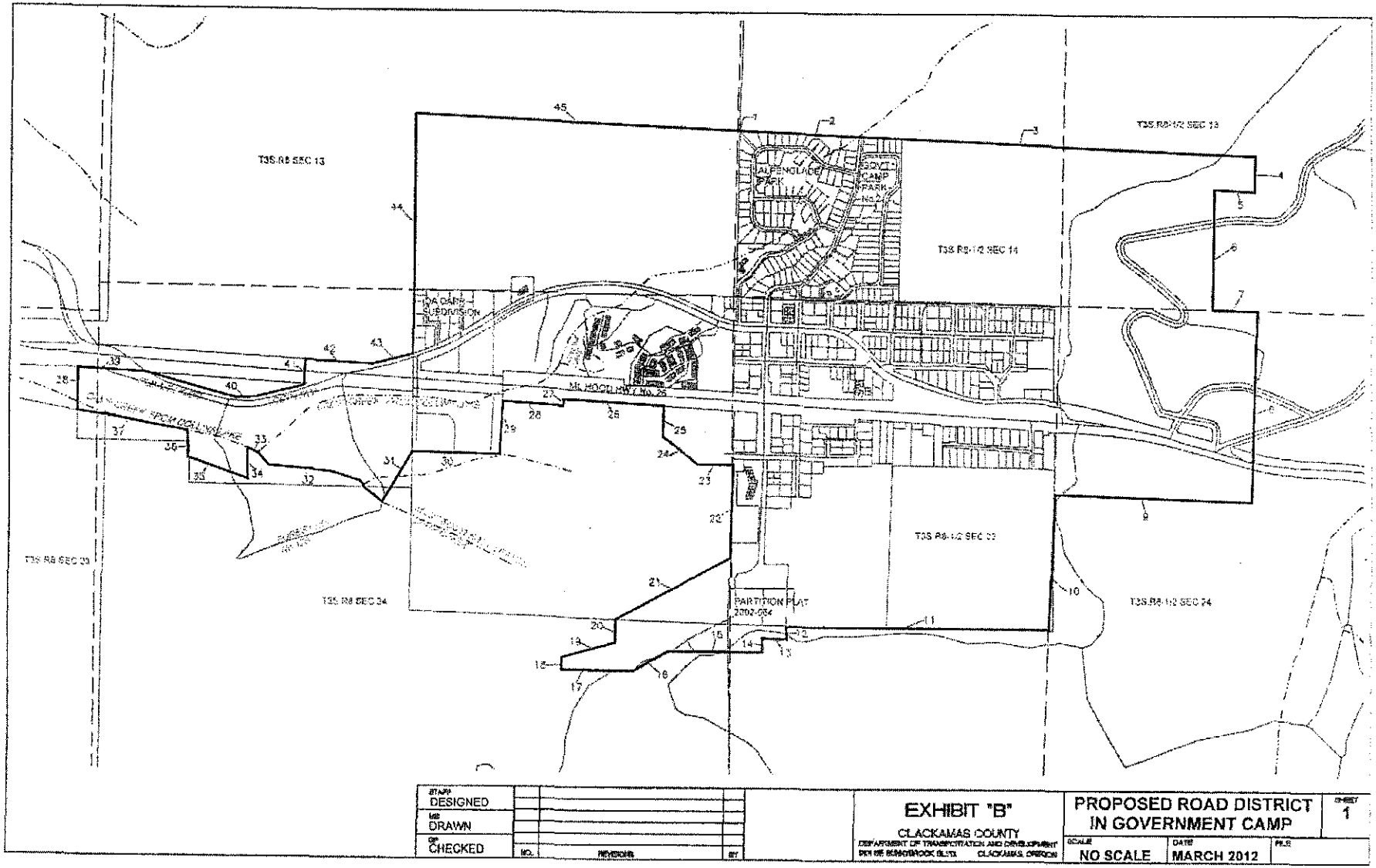

T3S R8 SEC 13
T3S R8-1/2 SEC 13
T3S R8-1/2 SEC 14
T3S R8-1/2 SEC 23
T3S R8 SEC 24
T3S R8-1/2 SEC 24
ALPENGLADE PARK
GOV'T CAMP PARK No. 2
IDA CARR SUBDIVISION
MT. HOOD HWY No. 26
PARTITION PLAT 2002-064
STAFF DESIGNED
DRAWN
CHECKED
NO.
REVISIONS
BY
EXHIBIT "B"
CLACKAMAS COUNTY
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
PROPOSED ROAD DISTRICT IN GOVERNMENT CAMP
SHEET 1
SCALE NO SCALE
DATE MARCH 2012
FILE

EXHIBIT A

Proposed Boundary Map for the ORS 371 Government Camp Special Road District

CERTIFICATIONS OF THE ASSESSOR FOR THE COUNTY OF CLACKAMAS

AS TO THE PETITION TO FORM A SPECIAL ROAD DISTRICT ACCORDING TO OREGON REVISED STATUTES CHAPTER 371.305 TO 371.360 FOR GOVERNMENT CAMP VILLAGE

ASSESSOR'S CERTIFICATION:

I DO HEREBY CERTIFY THAT-

1. I am Bob Vroman, the lawfully elected Assessor for the County of Clackamas;

2. My office did receive from the Clerk the Petition To Form A Special Road District For Government Camp Village (the "Petition"), attached to this Certification as Exhibit "A";

3. I have reviewed the Certifications of Counsel made by Scot A. Sideras, attached to this Certification as Exhibit "B";

4. The work of my staff has resulted in the conclusion that the Petition has been signed by the owners of 56 acres within the boundaries of the territory proposed for the Special Road District; and

5. I understand that this Certificate will be attached to the Petition in a demonstration that my office has complied with its responsibilities under ORS 198.765(3).

Bob Vroman

Bob Vroman, Assessor

6/20/2012

Date

EXHIBIT "B" TO SPECIAL DISTRICT ORDER OF JULY 26

Government Camp Village

Special Road District Economic Feasibility Statement

Pursuant to ORS 198.749

March, 2012

ORS 371 – Road Districts and Road Assessment Plans
for
Government Camp Village Special Road District
Economic Feasibility Statement (ORS 198.749)

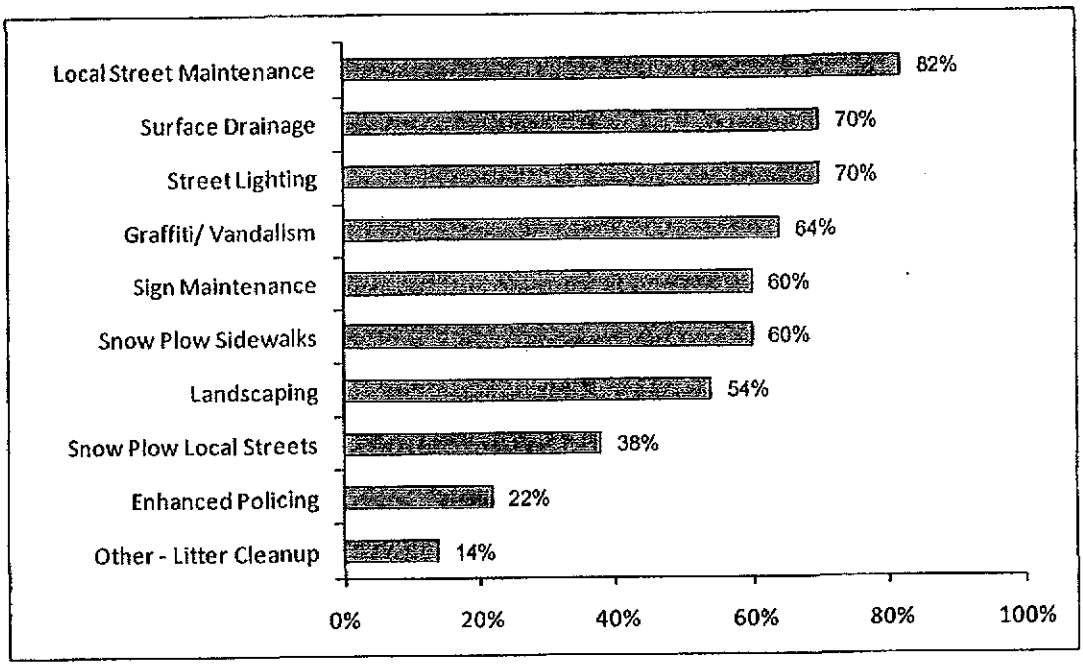
March, 2012

Government Camp Village is at an infrastructure sustainability crossroads. To date, through the proceeds of a Tax Increment Financing (TIF) District established in 1989 as well as other funding sources for infrastructure improvements, the Village has been the recipient of approximately $13 million in new infrastructure improvements. These have included paved local streets, sidewalks, street lighting, pedestrian area improvements, a village information kiosk and related signage. Beginning in 2003, attempts have been made to establish a long-term funding mechanism to provide maintenance for these infrastructure improvements. The process has been inclusive and directed at reviewing viable funding structures with Village stakeholders in order to develop a plan of action that met the criteria of establishing a sustainable level of funding while equitably allocating maintenance costs among Village users.

To facilitate this process, The TIF Advisory Committee hosted a number of open houses for Village residents and property owners during the summer of 2003. These meetings culminated in a final community meeting that was held on September 26, 2003 for the purpose of polling the community on specific issues related to infrastructure maintenance. This meeting was well attended by 71 people and yielded insights into the concerns of the property owners and voters of Government Camp. At the close of the meeting , the TIF Committee received 50 survey responses. Of those 50, 49 were from property owners in Government Camp of which 18 were from registered voters in Government Camp.

The survey asked respondents four basic questions as follows:

1. *Maintenance Services Priorities:* The survey asked respondents to select their preferred maintenance services. No attempt was made on the survey to establish a weighting of the priorities. Respondents chose from the list of services identified by the Maintenance Subcommittee (formed by the TIF Advisory Committee). In addition, an "other" line item was included in the survey to allow respondents the opportunity to add their own services. Each maintenance service shown in the following chart was reviewed as part of the presentation.



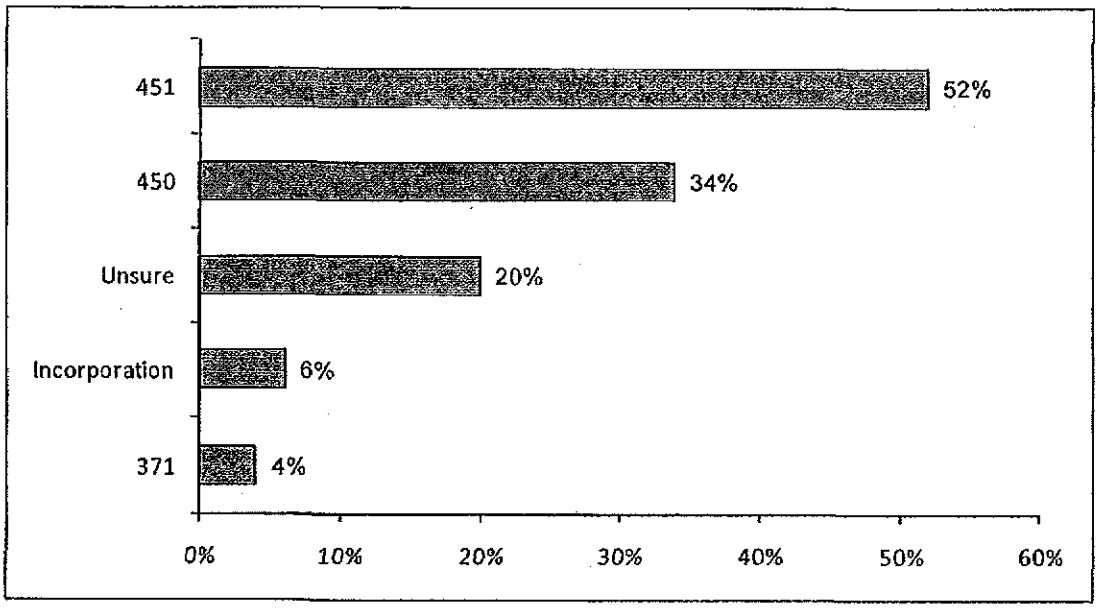
2. *Reasonable Costs:* Respondents were asked if the costs for maintenance services were reasonable. During the September 26, 2003 community meeting, annual costs estimates for each maintenance activity were presented and discussed to give context to the question of reasonableness. The breakdown of the responses to this question was:

    a. Percent of respondents saying YES (the costs were reasonable): 66%
    b. Percent of respondents saying NO (the costs were not reasonable): 8%
    c. Percent of respondents saying they DID NOT KNOW: 26%

3. *Funding Source for Maintenance Services:* This section of the survey asked respondents if they would consider funding infrastructure maintenance through property tax assessments. The breakdown of the responses was:

    a. Percent of respondents saying YES (willing to fund via property tax assessments): 78%
    b. Percent of respondents saying NO (not willing to fund via property tax assessments): 10%
    c. Percent of respondents saying they DID NOT KNOW: 12%

4. *Governance Structure:* Respondents were asked to choose a governance structure. This was the last question on the survey and all respondents had the opportunity of seeing the pros and cons of each option as discussed during the presentation. It should be noted, the issue of governance structure was a topic of conversation at all of the Community open houses that were held by the TIF District Steering Committee during the summer of 2003. The following chart shows the responses to this question.



- "451" – County Service Facilities as defined in ORS 451; Often referred to as a County Service District.
- "450" – Sanitary Districts and Authorities; Water Authorities; special purposes specific to sewer, drainage and water.
- "Incorporation" – i.e., form the City of Government Camp
- "371" – Road District; as defined by ORS 371; special purpose specific to road maintenance and improvement.

Subsequent to the 2003 community outreach and education effort, two maintenance funding proposals have been prepared and both proposals were rejected by Village voters. The first effort to establish a permanent maintenance funding mechanism occurred in May of 2004. The proposal was to form a County Service District (ORS 451). The second effort came in November of 2010 as an incorporation referral (ballot measure 3-354). While the results have been close, the key factors tipping the negative outcome have been local control and the long-standing belief among some that Village infrastructure maintenance costs should be a countywide responsibility and not that of the Village alone. The following economic feasibility statement attempts to address both of these issues as a precursor to moving forward with a permanent maintenance funding mechanism.

Since the rejection of the incorporation referral in November, 2010, a group of Village citizens have been meeting to find an alternative mechanism that will meet the requirements of local control, affordability, and transparency. Throughout 2011 this group met and reviewed all of the alternative permanent funding mechanisms discussed above. The effort culminated in a January, 2012 "straw poll" of some 74 Village property owners. The results of that poll indicated a preference for a streamlined strategy that focused on the key maintenance activities of snow plowing, street lighting, road maintenance, and roadway drainage management. The poll also indicated the preferred governance structure for these priority maintenance activities would be the formation of a road district as defined in ORS 371. The straw poll result was 58 for and 16 against the road district formation. Under ORS 371, local control of funding is mandatory as any moneys collected within the district must be expended in the district. The statute also states that the funds collected from property taxes levied and assessed by a road district shall be expended under the supervision of the locally elected board of the road district and not the Board of Clackamas County Commissioners.

While ORS 371 for road districts provides the governance and financial structure for both construction of improvements and their on-going maintenance, this Statement is specifically limited to establishing a maintenance funding mechanism for street related improvements. Therefore this Statement refers to formation of a road district only for maintenance of existing road/street improvements under ORS 371. The maintenance priorities and costs contained in this feasibility analysis provide the boundary within which the district's board makes all decisions regarding management of its funds. Local priorities established as part of this formation process which are supported by local taxes approved by Village voters define the parameters within which the maintenance district and its board must function.

The other issue is responsibility for Village maintenance costs and whether that should be at the County or local level. Stipulations within the urban renewal plan assigned the long term maintenance of all infrastructure improvements to those within the TIF District. The TIF did not include (and under ORS 457 cannot provide) funding for these maintenance costs. Similarly, Village improvements funded from other funding sources were also specific in stating that the maintenance of these improvements would be the responsibility of the direct beneficiaries of this infrastructure. In both cases, the agreement was that the infrastructure provided under the TIF or County would become the maintenance responsibility of the Village.

Overarching all of these issues is the fact that Village infrastructure, particularly infrastructure serving a severe climate area like Government Camp, demands preventative levels of maintenance in order to function properly and maximize useful life. The last 9 years have seen maintenance service levels decline and this trend will continue because the County no longer has the financial flexibility to subsidize maintenance services intended to be a Village responsibility. Funding decisions by the County as a whole have provided the infrastructure that helps to make Government Camp a vibrant village. This Maintenance Economic Feasibility Statement (Statement) is a final attempt at establishing a governance structure and funding mechanism to maintain this critical infrastructure, essential to the Village's long term sustainability.

This Statement is prepared in compliance with ORS 198.749 which requires that Clackamas County's district formation process include development of an analysis that establishes the economic viability of the proposed ORS 371 special road district. The Statement is specifically required to address three information areas identified in the statute:

I. "Description of the services and functions to be performed or provided by the District"

The proposed Government Camp Village Special Road District (Maintenance District) is 563 acres and includes a year-around population of approximately 160 people with seasonal and weekend populations up to 750 people. As the major corridor for cross-state traffic along Highway 26 and as the hub for winter recreation on Mt Hood, infrastructure within the Government Camp area is under year-around usage pressure. Apart from the effect of 365 day a year usage, Village infrastructure must handle the stress and wear associated with, on average, 326 inches of annual snowfall. Clearly, an effective maintenance program for infrastructure is essential in order to maximize the useful life of this infrastructure and to assure operation at design capacity.

The land uses within the proposed maintenance district boundary are low density residential, mountain recreational, community commercial, public & community use and buffer areas. The proposed maintenance district boundary is identical to that of the Government Camp Rural Community, and the Government Camp Sanitary District.

The maintenance district is being formed to address the need for an on-going funding mechanism to support regular maintenance of infrastructure within the Government Camp Village area. The need is immediate and stems, in part, from the facilities constructed through funding by the TIF District established for the Government Camp area in 1989. The maintenance services being anticipated through formation of this ORS 371 District will also address infrastructure maintenance needs for facilities pre-dating TIF improvements but represent a long-standing and unfunded street related maintenance requirement in the area. Specifically, the services to be provided will include maintenance of designated streets, sidewalks, common driveway areas, street drainage and street lighting. A map of the proposed boundary for the Government Camp Village Special Road District is attached as Exhibit A.

Itemized below, are the specific maintenance services and costs proposed for the maintenance district. These maintenance functions are specifically authorized as services that may be provided through an ORS 371 special road district.

- Local Streets
- Street Lighting
- Snow Plowing – Sidewalks
- Sidewalks
- Street Drainage
- Street Signage

These services are detailed in Exhibit B and described as specific maintenance activity standards which represent the basis for the Statement's cost estimates.

All direct maintenance services identified for the Government Camp Special Road District will be contracted out for the foreseeable future. Maintenance cost estimates are based not only on industry standards for these types of field activities, but are also based on local contractor contacts and their estimates of maintenance costs in terms of labor, equipment and materials.

II. "Analysis of the relationships between these services and functions and other existing or needed government services"

The TIF District was established in 1989 under ORS 457 to address the revitalization of the Government Camp area then classified as "blighted." Since that time, funding through the TIF District has produced a significant investment in facility improvements including paved local streets, sidewalks, street lighting, pedestrian area improvements, and a Village information kiosk and related signage. However, ORS 457 does not allow for TIF funds to be used for maintenance of these improvements. Accordingly, Government Camp has been evaluating methods for establishing a revenue stream for maintenance of this TIF funded infrastructure along with other facilities. The implementation of the property tax rate proposed for the Special Road District is expected to occur from the date of election.

Among the options considered by the community was incorporation as the city of Government Camp. This option was evaluated in 1996, 2000, and again in 2010. At all of these points, the start-up costs for incorporation when compared to the very small year-around population resulted in city incorporation being a longer term consideration. However, if and when incorporation is again considered by Government Camp, dissolution of this maintenance district may also be assessed as part of the incorporation re-evaluation.

Wastewater treatment and collection services are provided to the area via the Government Camp Sewer District established under ORS 450. While the districts' boundaries would overlap to an extent, there is no conflict in purpose or funding. The ORS 371 Special Road District will neither be involved with any sanitary sewer operations nor be funded by service charges. The Special Road District will be funded through property taxes and focused solely on streets and street-related field maintenance activities in the areas specified. As an ORS 371 Special Road District, the board will be elected by voters within the district's boundary.

There is also a privately owned water company serving the area within the proposed maintenance district boundary. If and when this water infrastructure were to shift to public ownership and management, the likely institutional structure will be a water district or as an expanded authority under ORS 450 which specifically identifies water and wastewater as the primary services. The establishment of this proposed ORS 371 Special Road District would not preclude these other water service institutional options in the future.

III. *"Proposed first year line item budget for the District and projected third year line item budget to demonstrate economic feasibility"*

The services to be provided are itemized below in the operating budget for years 1 through 5 of the maintenance district. These maintenance costs also include adequate contingencies and factor in the costs for administrative support for the district.

Village of Government Camp
Economic Feasibility Statement
Line Item Budget for Preferred Maintenance Services
Under the Proposed Government Camp Road District
March, 2012 Update

	Fiscal Years July 1 through June 30						
	Historical	Estimated	Five Year Projection Under a ORS 371 Governance Structure				
Maintenance Item Description	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Local Street Maintenance	$ 14,742	$ 15,184	$ 15,640	$ 16,109	$ 16,592	$ 17,090	$ 17,603
Street Lighting	7,500	7,725	7,957	8,195	8,441	8,695	8,955
Snow Plowing - Sidewalks	20,000	20,600	21,218	21,855	22,510	23,185	23,881
Sidewalk Maintenance	5,000	5,150	5,305	5,464	5,628	5,796	5,970
Signage Maintenance	1,000	1,030	1,061	1,093	1,126	1,159	1,194
Trunk Drainage Maintenance	5,000	5,150	5,305	5,464	5,628	5,796	5,970
Subtotal Direct Expenses	53,242	54,839	56,484	58,179	59,924	61,722	63,574
Reserve for Administration and Operating Reserve (at 15%)	9,396	9,677	9,968	10,267	10,575	10,892	11,218
Total Expenses	$ 62,638	$ 64,517	$ 66,452	$ 68,446	$ 70,499	$ 72,614	$ 74,792
Assessed value of real property within the proposed Government Camp Maintenance Service District[1]	156,448,560	161,142,017	165,976,277	170,955,566	176,084,233	181,366,760	186,807,762
Rate per $1,000 of assessed value for maintenance services	$ 0.400371	$ 0.400371	$ 0.400371	$ 0.400371	$ 0.400371	$ 0.400371	$ 0.400371

[1] Forecasted to increase at the Annual Measure 50 Limit of 3.00%
[2] Forecasted Annual Inflation Rate For Expenses 3.00%

The total annual budget for the district's operations in FY'14, the anticipated first year of District operation, is estimated to be $66,452 which translates to a tax rate of $.400371 per $1000 of assessed valuation. Total assessed valuation within the proposed maintenance district boundary for that same year is projected to be $165,976,277. A property with an assessed value of $150,000 would pay approximately $60.06 annually. A 3% cost escalation factor for maintenance services through the 5 year planning period results in an FY'18 budget of $74,792. At the constant rate of $.400371 per $1000 and an estimated increased assessed valuation to $186,807,762 the District would continue to generate adequate revenues to support maintenance services.

EXHIBIT A

Proposed Boundary Map for the ORS 371 Government Camp Special Road District

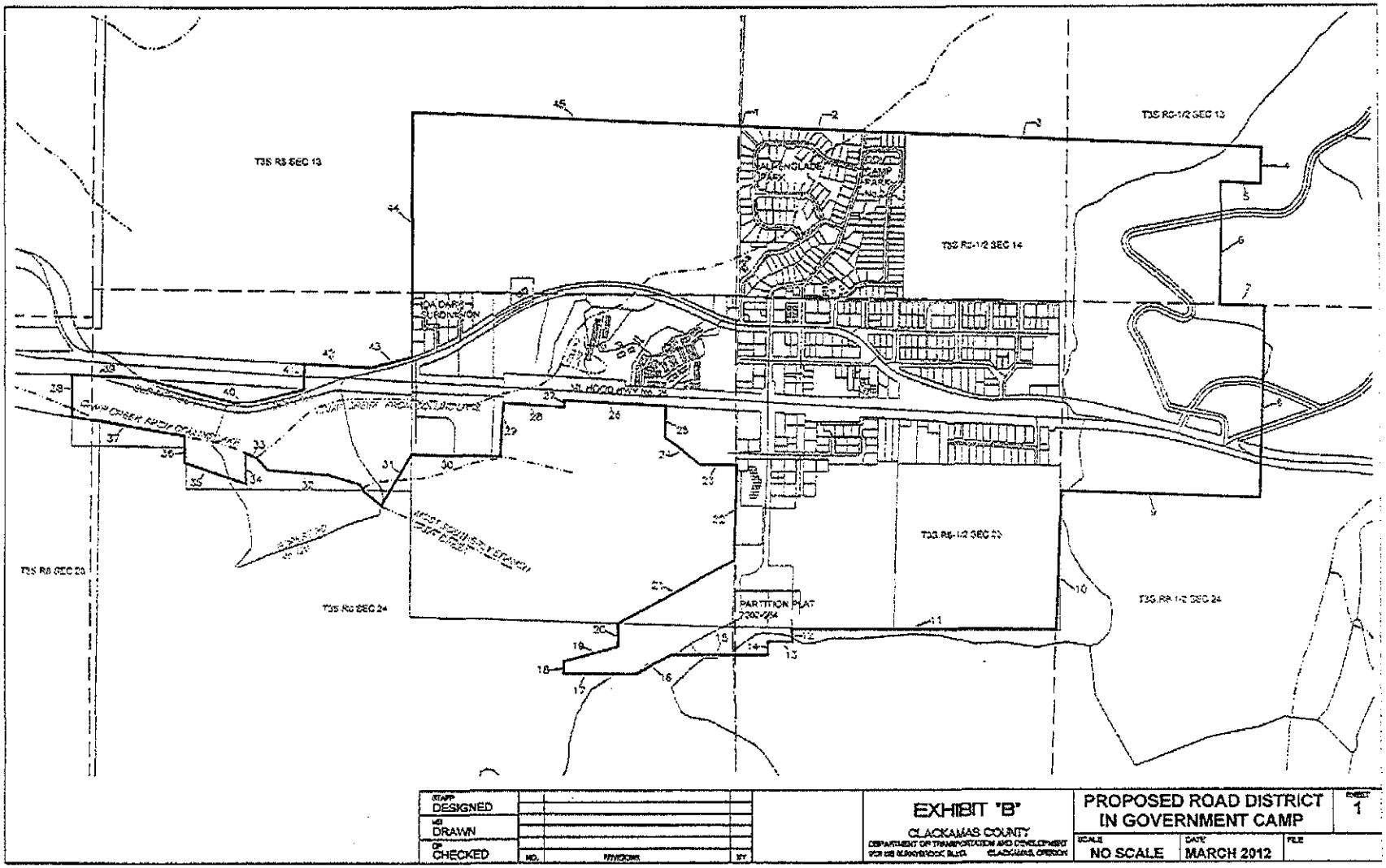

T3S R3 SEC 13
T3S R2-1/2 SEC 13
T3S R2-1/2 SEC 14
T3S R3 SEC 23
T3S R3 SEC 24
T3S R2-1/2 SEC 24
PARTITION PLAT
DESIGNED
DRAWN
CHECKED
EXHIBIT "B"
CLACKAMAS COUNTY
PROPOSED ROAD DISTRICT
IN GOVERNMENT CAMP
NO SCALE
MARCH 2012
1

EXHIBIT B

Proposed Maintenance Activities, Service Level Standards and Costs

VILLAGE OF GOVERNMENT CAMP
ROAD AND ROAD-WAY FIELD MAINTENANCE STANDARDS

FIELD MAINTENANCE ACTIVITY NAME		DATE
Public Roads ONLY	**Asphalt Pavement**	March, 2012

DESCRIPTION OF MAINTENANCE ACTIVITY

This activity is intended to keep road material crowned and graded to allow both drainage of stormwater from the road while maintaining the surface in a consistent manner which enables light vehicles safe access and egress from residences. The *Development Agency*, under the authority of the urban renewal plan, paved most local roads in the study area within the past 10 years.

PURPOSE OF ACTIVITY

To keep the road surface consistent, and maintain the design life of the local public and County roads.

MAINTENANCE FREQUENCY

General maintenance should be done on a semi annual (2 times per year) basis which may need to be increased depending on traffic volume. The established asphalt road bed will need to be inspected and any faults/holes should be patched with cold or hot mix depending on the problem at hand. Shoulders should be routinely pulled as part of the road and roadway maintenance process.

Private road maintenance activity is not included in this analysis. It is estimated there are 4,300 lf of private roads in the proposed maintenance district boundary. Maintenance of these roads are assumed to be the responsibility of private property owners served by these roads.

INVENTORY REFERENCE

Road	Type	Length (ft)	Paved Width (ft)	Area (s.f)
Camp Creek Trail	Public	650	12	7,800
Yodel Lane	Public	400	12	4,800
Meldrum	Public	700	12	8,400
Yule	Public	200	12	2,400
Olive	Public	300	12	3,600
Church	Public	-	-	-
Union	Public	200	12	2,400
Montgomery	Public	200	12	2,400
Pompeii	Public	-	-	-
McCoy	Public	900	12	10,800
Lige	Public	2,100	12	25,200
Little Trail	Public	1,600	12	19,200
Steel	Public	1,350	12	16,200
Darr	Public	550	12	6,600
Ski Haus	Public	450	12	5,400
Public Total		9,600		115,200

CREW REQUIREMENTS

All local road maintenance will need be done with a 2 person crew.

EQUIPMENT REQUIREMENTS

Pick-up, Back Hoe for ditch maintenance
Back Hoe with a bucket or blade will also be used for grading and shoulder work as a road grader cannot access these narrow rights of way.

MATERIAL REQUIREMENTS

cold mix hot mix seam sealing tar
aggregate (3/4 minus)

PLANNING VALUE AND UNIT COST

Industry estimates are that maintaining an engineered 3" asphalt local road would be approximately $0.5906/foot or $11,340 per year...with 1.3 mobilization factor = $14,742 annually (assuming 2 maintenance cycles per year).

VILLAGE OF GOVERNMENT CAMP
ROAD AND ROADWAY FIELD MAINTENANCE STANDARDS

FIELD MAINTENANCE ACTIVITY NAME	DATE
Street Lighting	March, 2012

DESCRIPTION OF MAINTENANCE ACTIVITY

The Village of Government Camp owns 53 custom street lights (community maintained). PGE owns 5 standard cobra lights (PGE maintained). The Village only pays for power for the cobras at a total cost of $580.20 (2004 rate) per year. The custom, Village-owned lights have a power cost total of $3,456.96 (2004 rate). Other costs with the custom lights would be periodic bulb and lens replacement and staining of the wood poles. On average it is estimated these costs would be about $1,500 per year for this.

PURPOSE OF ACTIVITY

To maintain adequate illumination of the core area.

MAINTENANCE FREQUENCY	INVENTORY REFERENCE
PGE provides maintenance, and repair for their five lights, poles, and luminaries. Maintenance frequencies for Village-owned lights is based on standards established by the Illuminating Engineers Society (IES) Handbook.	Village-owned • 28 custom wooden street lights, halogen luminaires • 25 customer fiberglass poles, halogen luminaires PGE-owned – 5 aluminum cobra type street lights (east end)
CREW REQUIREMENTS	**EQUIPMENT REQUIREMENTS**
None - contract services provided by Portland General Electric	None - contract services provided by Portland General Electric
MATERIAL REQUIREMENTS	**PLANNING VALUE AND UNIT COST**
None - contract services provided by Portland General Electric	Village-owned (FY10 actual): Power $3,456.96 Maintenance 1,500.00 PGE-owned (FY10 actual): Power 580.20 Total $5,537.16 Proposed budget $7,500.00

VILLAGE OF GOVERNMENT CAMP
ROAD AND ROADWAY FIELD MAINTENANCE STANDARDS

FIELD MAINTENANCE ACTIVITY NAME	DATE
Snow Removal - Sidewalks	March, 2012

DESCRIPTION OF MAINTENANCE ACTIVITY

Mechanical and hand removal of snow from core area sidewalks and pedestrian conveyances. Snow removed from these areas will be placed in designated snow storage areas within the Government Camp village.

PURPOSE OF ACTIVITY

During the winter season, snow removal from sidewalks in the core area is required to facilitate pedestrian movements and commerce.

MAINTENANCE FREQUENCY	INVENTORY REFERENCE
As needed during the snow season, but not less than 24 hours after a storm event that results in a snow accumulation of 6 inches or more.	0.91 miles (4,800 lineal feet) of sidewalks and pedestrian conveyances. This includes Core area sidewalks, Multorpor sidewalks, and 5,000 sq. ft. of frontage way.
CREW REQUIREMENTS	**EQUIPMENT REQUIREMENTS**
None - contract services provided by selected snow removal contractor.	None - contract services provided by selected snow removal contractor.
MATERIAL REQUIREMENTS	**PLANNING VALUE AND UNIT COST**
None - contract services provided by selected snow removal contractor.	Annual costs will vary with snow fall. In fiscal 2008-09 the cost was $26,000. In fiscal 2009-10 the cost was $16,000. For planning purposes, assume an annual budget of $20,000. Unit cost for 4,800 lf of sidewalk comes to $4.1667 per lf. This includes snow removal in driveways.

VILLAGE OF GOVERNMENT CAMP
ROAD AND ROADWAY FIELD MAINTENANCE STANDARDS

FIELD MAINTENANCE ACTIVITY NAME	DATE
Core Area Sidewalks Maintenance	March, 2012

DESCRIPTION OF MAINTENANCE ACTIVITY

Periodic maintenance of sidewalks and pedestrian conveyance in the village core and Multorpor drive. Maintenance activities include but are not limited to, joint grinding, pressure washing, paver replacement, and masonry repair.

PURPOSE OF ACTIVITY

To keep the sidewalk and pedestrian conveyance surfaces safe, consistent, and maintain the design life of the facilities.

MAINTENANCE FREQUENCY	INVENTORY REFERENCE
General maintenance should be done on a semi annual (2 times per year) basis which may need to be increased depending on pedestrian volume. 4,800 lineal feet of sidewalks need to be inspected and any failures should be repaired depending on the problem at hand. Due to freeze/thaw cycles, enhanced maintenance activities should be anticipated in the Spring season.	0.91 miles (4,800 lineal feet of varied width) of sidewalks and pedestrian conveyances. This includes Core area sidewalks and Multorpor drive sidewalks.
CREW REQUIREMENTS	**EQUIPMENT REQUIREMENTS**
All sidewalk and pedestrian conveyance maintenance will need be done with a 2 person crew.	Pick-up, pressure washer, hand tools, power grinder, masonry repair supplies; bobcat/skid steer; and other equipment as needed for general flat work repair
MATERIAL REQUIREMENTS	**PLANNING VALUE AND UNIT COST**
Masonry supplies, concrete patch mix, and other materials as needed for general flat work repair	Industry estimates are that maintaining an engineered variable width brick paver sidewalk would be approximately $1.042/ lineal foot or $5,000 per year.

VILLAGE OF GOVERNMENT CAMP
ROAD AND ROADWAY FIELD MAINTENANCE STANDARDS

FIELD MAINTENANCE ACTIVITY NAME	DATE
Signage Maintenance	March, 2012

DESCRIPTION OF MAINTENANCE ACTIVITY
Repair and replace directional and street signage within the urban improvement area of Government Camp

PURPOSE OF ACTIVITY
To keep informational signage in good repair to assist residents and visitors.

MAINTENANCE FREQUENCY	INVENTORY REFERENCE
Annually; does not include ODOT signage on the loop road or state Hwy 26.	Street, road, and roadway signage in the kiosk area, west end of loop road, and the core area.

CREW REQUIREMENTS	EQUIPMENT REQUIREMENTS
1 public works tech	Pickup truck, tools, and associated equipment.

MATERIAL REQUIREMENTS	PLANNING VALUE AND UNIT COST
Hardware, paint, and related materials.	$1,000 annually, for all Village street, road, and roadway signage.

VILLAGE OF GOVERNMENT CAMP
ROAD AND ROADWAY FIELD MAINTENANCE STANDARDS

FIELD MAINTENANCE ACTIVITY NAME	DATE
Drainage System Maintenance	March, 2012

DESCRIPTION OF MAINTENANCE ACTIVITY
Road side ditch clearing and cleaning of culverts.

PURPOSE OF ACTIVITY
The drainage system within the government camp urban improvement area consists of roadside ditches and culverts. There is minimal piped system with manholes and catch basins. This system of ditches and culverts requires annual maintenance to convey stormwater and snow melt from the public right of way and away from private property.

MAINTENANCE FREQUENCY	INVENTORY REFERENCE
Annually	20,000 lineal feet

CREW REQUIREMENTS	EQUIPMENT REQUIREMENTS
Minimum crew configuration of 2, with flagging support	Pick-up, Back Hoe for ditch maintenance Back Hoe with a bucket or blade will also be used for grading and shoulder rework; contract vactor as required

MATERIAL REQUIREMENTS	PLANNING VALUE AND UNIT COST
	Preliminary estimate for contract services = $5,000 per year.

EXHIBIT C

Model Timeline for the Formation of a ORS 371 Special Road District

DRAFT

SCHEDULE FOR THE FORMATION OF AN ORS 371 SPECIAL ROAD DISTRICT
— VILLAGE OF GOVERNMENT CAMP —

Process Deadlines	Month 1	2	3	4	Month 1	2	3	4	5	Month 1	2	3	4
Develop service levels, costs and governance with Maintenance Subcommittee													
Prepare preliminary draft of feasibility analysis & petition													
Maintenance Subcommittee review of feasibility analysis & petition													
Present package to Board for review/approval													
Prepare draft feasibility analysis													
Service area needs; boundary													
Services and/or facilities to be provided													
Costs & funding alternatives; tax rates													
Line item budget for years 1 - 3													
Petition (> 15% or 100 electors; or > 15 landowners or 10% of acreage)													
Present petition and feasibility analysis to Maintenance & Full Committees													
Legal review of draft feasibility analysis & petition													
Present petition & feasibility analysis to Board for approval													
Issuance of Board decision regarding district													
Public hearing on district formation (not less than 20 days after Board action)													
Filing deadline (biennial; general election = 180 days from Board action)													
Final order of Board (< 30 days after election)													
Establishment of district											★		

EXHIBIT "C" PART 1 TO SPECIAL DISTRICT ORDER OF JULY 26

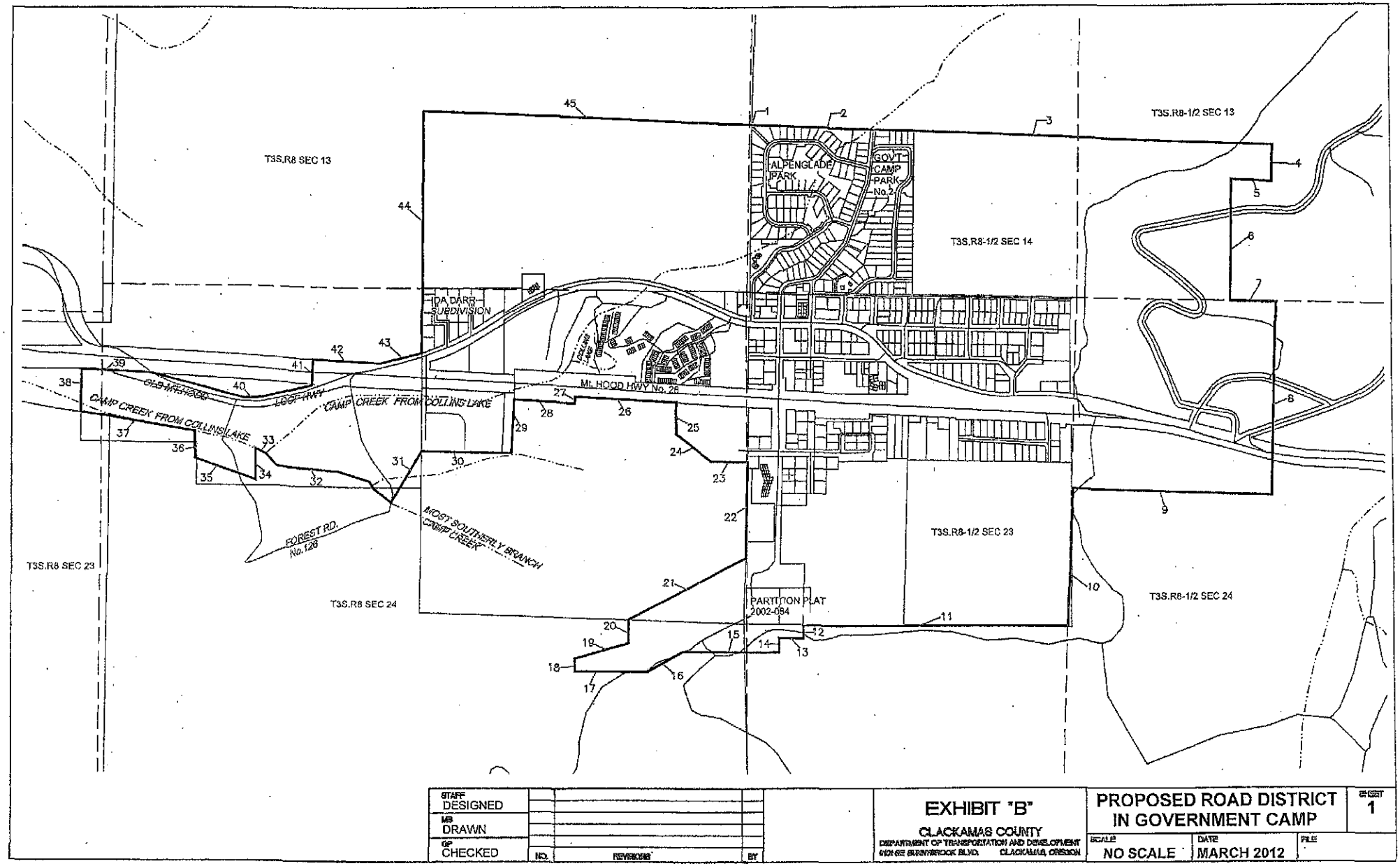


EXHIBIT "C" PART 2 TO SPECIAL DISTRICT ORDER OF JULY 26

EXHIBIT "A"

BOUNDARY DESCRIPTION FOR PROPOSED
ROAD DISTRICT IN GOVERNMENT CAMP

A tract of land, as shown on attached exhibit "B", located in Sections 13, 23 and 24, Township 3 South, Range 8 East and Sections 13, 14, 23 and 24, Township 3 South, Range 8 1/2 East, of the Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

1. Beginning at the northwest corner of the plat of "ALPENGLADE PARK" (Plat No. 2371), Survey Records of Clackamas County;

2. thence East, along the north line of said "ALPENGLADE PARK" and the north line of the plat of "GOVERNMENT CAMP PARK No. 2" (Plat No. 616), Survey Records of Clackamas County, a distance of 1,301.24 feet, more or less, to the northeast corner of said plat of "GOVERNMENT CAMP PARK No. 2;

3. thence continuing East a distance of 3,320 feet to a point;

4. thence South a distance of 200 feet to a point;

5. thence West a distance of 300 feet to a point;

6. thence South a distance of 1,120 feet, more or less, to a point on the north line of Section 24, Township 3 South, Range 8 1/2 East, W.M.;

7. thence East, along the north line of said Section 24, Township 3 South, Range 8 1/2 East, a distance of 300 feet to a point;

8. thence South a distance of 1,520 feet, more or less, feet to a point that is 300 feet south of the north line of the south 1/2 of the northwest 1/4 of said Section 24, Township 3 South, Range 8 1/2 east;

9. thence West, parallel with the north line of the south 1/2 of the northwest 1/4 of said Section 24, Township 3 South, Range 8 1/2 East, a distance of 2,000 feet, more or less, to the east line of that certain tract of land (Assessor's map 3 81/2E 23AD, TL 100) conveyed to STILL CREEK DEVELOPMENT CO., by the deed recorded as instrument No. 93-89796, Deed Records of Clackamas County;

10. thence Southerly, along the east line of said STILL CREEK DEVELOPMENT CO. tract, a distance of 1,020 feet, more or less, to the southeast corner thereof;

11. thence Westerly, along the south line of said STILL CREEK DEVELOPMENT CO. tract and the south line of that certain tract of land (Assessor's map 3 81/2E 23AC, TL 100) conveyed to Michael E. Menashe, by the deed recorded as instrument No. 2001-04825, Deed Records of Clackamas County, a distance of 2,160 feet, more or less, to the southeast corner of Parcel 2, Partition Plat No. 2002-64, Survey Records of Clackamas County;

12. thence South a distance of 130 feet to a point;

13. thence West a distance of 200 feet to a point;

14. thence South a distance of 150 feet to a point;

15. thence West a distance of 880 feet to a point;

16. thence South 50° West a distance 350 feet to a point;

17. thence West a distance of 350 feet to a point;

18. thence North a distance of 100 feet to a point;

19. thence North 59° East, a distance of 300 feet, more or less, to a point that is south (measured along a line that is parallel with the east line of the southeast 1/4 of Section 24, Township 3 South, Range 8 East, W.M.) of the most westerly corner of that certain tract of land (Assessor's map 3 8E 24A, TL 401) conveyed to H. SKI CORP., an Oregon corporation, referred to as PARCEL II in the deed recorded as instrument No. 87-54912, Deed Records of Clackamas County;

20. thence North, parallel with the east line of the southeast 1/4 of Section 24, Township 3 South, Range 8 East, W.M., a distance of 250 feet, more or less, to the most westerly corner of said H. SKI CORP. tract;

21. thence North 61°42'15" East, along the northwesterly line of said H. SKI CORP. tract and also along the southeasterly line of that certain tract of land (Assessor's map 3 8E 24A, TL 403) conveyed to SUNRIVER ENVIRONMENTAL, L.L.C., an Oregon limited liability company, by the deed recorded as instrument No. 2000-03576, Deed Records of Clackamas County, a distance of 1092.09 feet, more or less, to a point on the east line of said Section 24, Township 3 South, Range 8 East, and the most easterly southeast corner of said SUNRIVER ENVIRONMENTAL, L.L.C. tract;

22. thence North 01°15'54" East, along the east line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract, a distance of 773.56 feet to the most easterly northeast corner thereof;

23. thence North 88°44'06" West, along the northerly line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract, a distance of 300.00 feet to a Brass Cap;

24. thence North 52°17'40" West, continuing along the northerly line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract, a distance of 369.15 feet to a Brass Cap;

25. thence North 01°15'54" East, along the most northerly east line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract, a distance of 246.98 feet to a Brass Cap on the south right-of-way line of Mt. Hood Highway No. 26;

26. thence North 86°30'00" West, along the northerly line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract and said south right-of-way line of Mt. Hood Highway No. 26, a distance of 833.13 feet to a point;

27. thence South 03°30'00" West, continuing along the northerly line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract and said south right-of-way line of Mt. Hood Highway No. 26, a distance of 55.32 feet to a point;

28. thence North 86°30'00" West, continuing along the northerly line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract and said south right-of-way line of Mt. Hood Highway No. 26, a distance of 500.00 feet to a Brass Cap at the most northerly northwest corner of said SUNRIVER ENVIRONMENTAL, L.L.C. tract;

29. thence South 00°34'10" West, along the most northerly west line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract, a distance of 430.95 feet to a Brass Cap;

30. thence North 88°33'15" West, along the most westerly north line of said SUNRIVER ENVIRONMENTAL, L.L.C. tract, a distance of 742.63 feet to the most westerly northwest corner thereof;

31. thence Southwesterly a distance of 540 feet, more or less, to a point at the intersection of the centerline of Forest Service Road No. 126 and the most southerly branch of Camp Creek;

32. thence Westerly, along the thread of said southerly branch of Camp Creek, a distance of 1,000 feet, more or less, to a fork in said Creek where said southerly branch intersects the branch of Camp Creek feeding from Collins Lake;

33. thence continuing Westerly, along the thread of said Camp Creek feeding from Collins Lake, 100 feet to a point;

34. thence, leaving said Camp Creek feeding from Collins Lake, South a distance of 200 feet to a point;

35. thence Westerly, parallel to said Camp Creek feeding from Collins Lake, a distance of 500 feet to a point;

36. thence North a distance of 200 feet to a point in said Camp Creek feeding from Collins Lake;

37. thence Westerly, along the thread of said Camp Creek feeding from Collins Lake, a distance of 850 feet to a point;

38. thence North a distance of 450 feet, more or less, to a point on the south right-of-way line of Mt. Hood Highway No. 26;

39. thence Easterly, along the south right-of-way line of said Mt. Hood Highway No. 26, a distance of 450 feet, more or less, to a point at the intersection of said south right-of-way line of said Mt. Hood Highway No. 26 and the northerly right-of-way line of Old Mt. Hood Loop Highway;

40. thence Easterly, along said northerly right-of-way line of Old Mt. Hood Loop Highway, a distance of 1,550 feet, more or less, to a point at the intersection of said northerly right-of-way line of Old Mt. Hood Loop Highway and said south right-of-way line of said Mt. Hood Highway No. 26;

41. thence North a distance of 150 feet, more or less, to a point on the north right-of-way line of Mt. Hood Highway No. 26;

42. thence Easterly, along the north right-of-way line of Mt. Hood Highway No. 26, a distance of 420 feet, more or less, to a point at the intersection of said north right-of-way line of Mt. Hood Highway No. 26 and said northerly right-of-way line of Old Mt. Hood Loop Highway;

43. thence Northeasterly, along said northerly right-of-way line of Old Mt. Hood Loop Highway, a distance of 350 feet, more or less, to a point on the west line of the Plat of "IDA DARR SUBDIVISION" (Plat No. 677), Survey Records of Clackamas County;

44. thence Northerly, along the west line of said Plat of "IDA DARR SUBDIVISION" and the northerly extension thereof, a distance of 1,900 feet, more or less, to a point at the intersection of the northerly extension of the west line of said Plat of "IDA DARR SUBDIVISION" and the westerly extension of the north line of the plat of "ALPENGLADE PARK" (Plat No. 2371), Survey Records of Clackamas County;

45. thence Easterly, along the westerly extension of the north line of said plat of "ALPENGLADE PARK", a distance of 2,700 feet, more or less, to the Point of Beginning.

Containing 560 Acres, more or less.

17

CLACKAMAS COUNTY

ELLEN CRAWFORD
DIRECTOR

JUVENILE DEPARTMENT

JUVENILE INTAKE AND ASSESSMENT CENTER
2121 KAEN ROAD | OREGON CITY, OR 97045

July 26, 2012

Board of Commissioners
Clackamas County

Members of the Board:

APPROVAL OF GRANT AWARD FOR SHELTER CARE BEDS

The Juvenile Department received a $24,370 Award Notice from Oregon Commission on Children and Families to be used for shelter care beds for Clackamas County youth. The Department proposed to contract for 187 shelter care bed days to be utilized during the 2012-2013 fiscal year. This service provides an alternative to detention for Clackamas County youth that are not able to be returned to their families and for youth that are bumped from detention due to over crowding and no viable family resource exists. Youth placed into shelter care will receive, in addition to the shelter home, case management and assessment services.

RECOMMENDATION: Staff recommends the Board of County Commissioners approve the attached Grant Award Notice.

Sincerely,

Ellen Crawford

Ellen Crawford
Director

For information on this issue or copies of attachments please contact Crystal Wright at (503) 655-8342 ext 7112

JUVENILE ACCOUNTABILITY BLOCK GRANT– CFDA # 16.523

GRANT AWARD, CONDITIONS AND CERTIFICATIONS

PROGRAM TITLE:
Juvenile Accountability Block Grant

GRANT NO: 2011-6339

GRANTEE:
Clackamas County

AWARD: $ 24,370

ADDRESS:
2121 Kaen Road
Oregon City, OR 97045

AWARD PERIOD: 7/1/2012 – 6/30/2013

PROGRAM CONTACT:
Ellen Crawford, Director
Clackamas Co. Juvenile Dept

TELEPHONE: (503) 655-8342 x3171

E-MAIL: ellencra@co.clackamas.or.us
FAX: (503) 655-8448

FISCAL CONTACT:
Jason Kirkpatrick
2051 Kaen Road
Oregon City, OR 97045

TELEPHONE: (503) 742-5406

E-MAIL: jkirkpatrick@co.clackamas.or.us

APPROVED PROGRAM BUDGET

REVENUE

Juvenile Accountability Block Grant Funds	$ 24,370
Matching Funds	2,708

TOTAL REVENUE: $ 27,078

EXPENDITURES

Personnel/Fringe Benefits	$ 0
Travel/Training/Conferences	0
Equipment	0
Supplies	0
Contractual Services	27,078
Grant Administration / Indirect Costs	0
Other Costs	0

TOTAL EXPENDITURES: $ 27,078

This document along with the attached terms and conditions, the grant application, and any other document referenced, constitutes an agreement between the Oregon Commission on Children and Families (OCCF) and the Grantee. No waiver, consent, modification or change of terms of this agreement shall be binding unless agreed to in writing and signed by both the Grantee and OCCF. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein

OMB Circular A-133. Copies of all audits must be submitted to OCCF within 30 days of completion. If Grantee expends less than $500,000 in its fiscal year in Federal funds, Grantee is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section I.D.1 herein.

4. Audit Costs. Audit costs for audits not required in accordance with OMB Circular A-133 are unallowable. If Grantee did not expend $500,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.

G. Funding.

1. Matching Funds. **The Grantee acknowledges by accepting grant funds that all reported program match is in the form of cash match and not in-kind or other federal funds.** The Grantee acknowledges that all rules that apply to grant funds apply to match funds. Grant and match funds must be used only for JABG grant funded programs during the grant period to support the activities as identified in the grant application. Match funds cannot be used to support activities that are not concurrently supported by JABG grant funds. The grantee certifies that match funds required to pay the non-Federal portion of the program shall be in addition to funds that would otherwise be made available to fund programs within the JABG grant guidelines.

2. Supplanting. The Grantee certifies that federal funds will not be used to supplant state or local funds, but will be used to increase the amount of funds that, in the absence of federal aid, would be made available to the Grantee to fund programs consistent with JABG grant guidelines.

H. Reports. **Failure of the Grantee to submit the required financial, program or audit reports, or to resolve financial, program, or audit issues may result in the suspension of grant payments and/or termination of the grant agreement.**

1. Progress Reports. The Grantee agrees to submit a report each quarter on its progress in meeting each of its agreed upon goals and objectives. Reports must be received **no later than 45 days following the end of each calendar quarter. Any progress report that is outstanding for more than one month past the due date may cause the suspension and/or termination of the grant.** Grantee must receive prior written approval from OCCF to extend a progress report requirement past its due date.

2. Requests for Reimbursement.

a. In order to receive reimbursement, the Grantee agrees to submit the original signed Request for Reimbursement (RFR) which includes **supporting documentation for all grant and match expenditures.** Supporting documentation must be kept on file at the program's office for a minimum of 3 years after the close of the grant period. RFRs must be received no later than **45 days following the end of the calendar quarter.** Reimbursements for expenses will be withheld if progress reports are not submitted by the specified dates or are incomplete. **Any RFR that is outstanding for more than one month past the due date may cause the suspension and/or termination of the grant.** Grantee must receive prior written approval from OCCF to extend an RFR requirement past its due date.

b. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the times, dates, and places of travel, and the actual expenses or authorized rates incurred.

c. Reimbursements will only be made for actual expenses incurred during the grant period. **The Grantee agrees that no grant funds may be used for expenses incurred before July 1, 2012 or after June 30, 2013.**

d. Grantee shall be accountable for and shall repay any overpayment, audit disallowances or any other breach of grant that results in a debt owed to the Federal Government. OCCF shall apply interest, penalties, and administrative costs to a delinquent debt owed by a debtor pursuant to the Federal Claims Collection Standards and OMB Circular A-129.

N. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Grantor, Grantee, and their respective successors and assigns, except that Grantee may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of Grantor.

O. Survival. All provisions of this Agreement set forth in the following sections shall survive termination of this Agreement: Section I.C (Maintenance, Retention and Access to Records; Audits); Section I.E (Reports); and Section I.F (indemnification).

P. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

Q. Relationship of Parties. The parties agree and acknowledge that their relationship is that of independent contracting parties and neither party hereto shall be deemed an agent, partner, joint venturer or related entity of the other by reason of this Agreement.

II. Grantee Compliance and Certifications

A. Debarment, Suspension, Ineligibility and Voluntary Exclusion. The Grantee certifies by accepting grant funds that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency. (This certification is required by regulations published May 26, 1988, implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 69 and 28 CFR Part 67.)

B. Standard Assurances and Certifications Regarding Lobbying. The Anti-Lobbying Act, 18 U.S.C. § 1913, was amended to expand significantly the restriction on use of appropriated funding for lobbying. This expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between $10,000 and $100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. § 1352. The Office of Management and Budget (OMB) is currently in the process of amending the OMB cost circulars and the common rule (codified at 28 C.F.R. part 69 for DOJ grantees) to reflect these modifications. However, in the interest of full disclosure, all applicants must understand that no federally-appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express approval of the U.S. Department of Justice. Any violation of this prohibition is subject to a minimum $10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB circulars.

C. Compliance with Applicable Law. The Grantee agrees to comply with all applicable laws, regulations, and guidelines of the State of Oregon, the OCCF and the Federal Government in the performance of this agreement, including but not limited to:

1. Financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
2. The provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Non-Discrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures, and Federal laws or regulations applicable to Federal assistance programs.
3. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646).
4. Section 102(a) of the Flood Disaster Protection Act of 1973, P.L. 93-234, 87 Stat.97, approved December 31, 1976.
5. Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569a-1 et seq.)
6. National Environmental Policy Act of 1969, 42 USC 4321 et seq.

E. Civil Rights Compliance. All recipients of federal grant funds are required, and Grantee agrees, to comply with nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq. (prohibiting discrimination in programs or activities on the basis of race, color, and national origin); Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. §3789d(c)(1) (prohibiting discrimination in employment practices or in programs and activities on the basis of race, color, religion, national origin, and gender); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. (prohibiting discrimination in employment practices or in programs and activities on the basis of disability); Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 (prohibiting discrimination in services, programs, and activities on the basis of disability); The Age Discrimination Act of 1975, 42 U.S.C. § 6101-07 (prohibiting discrimination in programs and activities on the basis of age); and Title IX of the Education Amendments of 1972, 20 U.S.C § 1681 et seq. (prohibiting discrimination in educational programs or activities on the basis of gender).

The Grantee agrees that the person in its agency or unit of government who is responsible for reporting civil rights findings of discrimination will submit a copy of any findings made within the last three years prior to the grant award and findings made during the project period to the federal Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

F. Equal Employment Opportunity Program. If the Grantee, or any of its contractors or subcontractors, has 50 or more employees, is receiving more than $25,000 pursuant to this agreement, and has a service population with a minority representation of three percent or more, the Grantee, or any of its contractors or subcontractors, agrees to formulate, implement and maintain an equal employment opportunity program relating to employment practices affecting minority persons and women. If the Grantee, or any of its contractors or subcontractors, has 50 or more employees, is receiving more than $25,000 pursuant to this agreement, and has a service population with a minority representation of less than three percent, the Grantee or any of its contractors or subcontractors, agrees to formulate, implement and maintain an equal employment opportunity program relating to its practices affecting women. The Grantee, and any of its contractors and subcontractors, certifies that an equal employment opportunity program as required by this section will be in effect on or before the effective date of this agreement. Any Grantee, and any of its contractors or subcontractors, receiving more than $500,000, either through this agreement or in aggregate grant funds in any fiscal year, shall in addition submit a copy of its equal employment opportunity plan at the same time as the application submission, with the understanding that the application for funds may not be awarded prior to approval of the Grantee's, or any of its contractors or subcontractors, equal employment opportunity program by the Office for Civil Rights, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

If required to formulate an Equal Employment Opportunity Program (EEOP), the Grantee must maintain a current copy on file, which meets the applicable requirements.

G. Services to Limited English Proficient (LEP) Persons. Recipients of federal financial assistance are required to take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). For more information on the civil rights responsibilities that grantees have in providing language services to LEP individuals, please see the website at http://www.lep.gov.

H. National Environmental Policy Act (NEPA): Special Condition for U.S. Department of Justice Grant Programs.

1. Prior to obligating grant funds, Grantee agrees to first determine if any of the following activities will be related to the use of the grant funds. Grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the Grantee, a contractor, subcontractor or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:
   a. new construction;
   b. minor renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year floodplain;
   c. a renovation, lease, or any other proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; and
   d. implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or educational environments.

E. Failing to comply substantially with any other applicable federal or state statute, regulation, or guideline.

Before imposing sanctions, the Oregon Commission on Children and Families will provide reasonable notice to the Grantee of its intent to impose sanctions and will attempt to resolve the problem informally.

IV. Grantee Representations and Warranties

Grantee represents and warrants to Grantor as follows:

A. Existence and Power. Grantee has full power and authority to transact the business in which it is engaged and full power, authority, and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.

B. Authority, No Contravention. The making and performance by Grantee of this Agreement (a) have been duly authorized by all necessary action of Grantee, (b) do not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative agency or any provision of Grantee's articles of incorporation or bylaws and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Grantee is a party or by which Grantee or any of its properties are bound or affected.

C. Binding Obligation. This Agreement has been duly authorized, executed and delivered on behalf of Grantee and constitutes the legal, valid, and binding obligation of Grantee, enforceable in accordance with its terms.

D. Approvals. No authorization, consent, license, approval of, filing or registration with, or notification to, any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement.

Iris Bell

6/27/12

Iris Bell, Transition Director — Date
Oregon Commission on Children and Families
530 Center Street NE, Suite 100
Salem, OR 97301
(503) 373-1283

Steve Wheeler

6/20/12

Signature of Authorized Grantee Official — Date

County Administrator

Name/Title

OUTCOME PERFORMANCE MEASURES					
#	OUTCOME MEASURE	DEFINITION	REPORTING FORMAT	REPORTING TERM	
				SHORT	LONG
	program youth who OFFEND	youth who were arrested or seen at a juvenile court for a delinquent offense during the reporting period. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source. The number of youth tracked should reflect the number or program youth that are followed or monitored for arrests or offenses. Ideally this number should be all youth served by the program during the reporting period. A youth may be 'committed' to a juvenile facility anytime that he/she is held overnight. Certain jurisdictions refer to adjudications as 'sentences'. Other sentences may be community based sanctions, such as community service, probation, etc.	served B. Number of program youth tracked during the reporting period C. Of B, the number of program youth who had an arrest or delinquent offense during the reporting period D. Number of program youth who were committed to a juvenile facility during the reporting period E. Number of program youth who were sentenced to adult prison during the reporting period F. Number of youth who received another sentence during the reporting period G. Percent OFFENDING (C/B)		
6	Number and percent of program youth who OFFEND	The number and percent of participating program youth who were arrested or seen at a juvenile court for a delinquent offense during the reporting period. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source. The number of youth tracked should reflect the number or program youth that are followed or monitored for arrests or offenses 6-12 months after exiting the program. A youth may be 'committed' to a juvenile facility anytime that he/she is held overnight. Certain jurisdictions refer to adjudications as 'sentences'. Other sentences may be community based sanctions, such as community service, probation, etc.	A. Total number of program youth who exited the program 6-12 months ago that you are tracking B. Of A, the number of program youth who had an arrest or delinquent offense during the reporting period C. Number of program youth who were committed to a juvenile facility during the reporting period D. Number of program youth who were sentenced to adult prison during the reporting period E. Number of youth who received another sentence during the reporting period F. Percent OFFENDING (B/A)		X
7	Number and percent of program youth who RE-OFFEND	The number and percent of participating program youth who were arrested or seen at a juvenile court for a delinquent offense during the reporting period. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source. The number of youth tracked should reflect the number or program youth that are followed or monitored for new arrests or offenses. Ideally this number should be all youth served by the program during the reporting period. Certain jurisdictions refer to adjudications as 'sentences'. Other sentences may be community based sanctions, such as community service, probation, etc.	A. Total number of program youth served B. Number of program youth tracked during the reporting period C. Of B, the number of program youth who had a new arrest or delinquent offense during the reporting period D. Number of program youth who were recommitted to a juvenile facility during the reporting period E. Number of program youth who were sentenced to adult prison during the reporting period F. Number of youth who received another sentence during the reporting period G. Percent RECIDIVISM (C/B)	X	
8	Number and percent of program youth who RE-OFFEND	The number and percent of participating program youth who were arrested or seen at a juvenile court for a new delinquent offense during the reporting period. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source. The number of youth tracked should reflect the number or program youth that are followed or monitored for new arrests or offenses 6-12 months after exiting the program.	A. Total number of program youth who exited the program 6-12 months ago that you are tracking B. Of A, the number of program youth who had a new arrest or delinquent offense during the reporting period C. Number of program youth who were recommitted to a juvenile facility during the reporting period D. Number of program youth who were sentenced to adult prison during the		X

OUTCOME PERFORMANCE MEASURES					
#	OUTCOME MEASURE	DEFINITION	REPORTING FORMAT	REPORTING TERM	
				SHORT	LONG
	modifications that resulted in more restrictive conditions	grantees that can modify a youth's conditions of release or probation requirements. Report the raw number of times that modifications include more restrictive conditions on youth. Percent is the raw number divided by the total number of modifications to conditions of release.	for more strict sanctions B. Number of modifications to release conditions C. Percent (A/B)		
425	**Number and percent of youth to complete their justice requirements successfully**	To determine if youth are acting more accountably as indicated by their fulfillment of their program requirements. Report the raw number of youth to complete the program successfully. Percent would be the raw number divided by the total number of youth served.	A. Number of youth to successfully complete program requirements B. Number of youth in the program C. Percent (A/B)	X	

18

CLACKAMAS COUNTY

Debbie McCoy
Manager

CABLE COMMUNICATIONS
PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

July 26, 2012

Board of Commissioners
Clackamas County

Members of the Board:

BOARD ORDER FOR RENEWAL OF THE CABLE TELEVISION FRANCHISE AGREEMENT FOR USE OF THE COUNTY RIGHTS-OF-WAY BY WAVEDIVISION VII, LLC

The County has concluded negotiations with WaveDivision VII, LLC (WaveDivision) for the Canby and Molalla area with terms and conditions for use of the County's rights-of-way to provide a cable communications system to residents in unincorporated Clackamas County. Maps of the areas to be served are represented as Exhibits A in the franchise agreement. These two areas were previously two separate franchise agreements; WaveDivision Canby Franchise Agreement that expires on August 10, 2012 and WaveDivision Molalla that expires on August 17, 2012. WaveDivision will pay franchise fees, the same as other cable television providers, of 5% of gross revenues.

Provisions of the Franchise Agreement include broadcast of up to two (2) Public, Educational and Government (PEG) Access channels with additional channels, upon request of the Board of County Commissioners to a maximum total of six (6) Access Channels, when expansion criteria for channel capacity is met. Also included are customer service standards and interconnection requirements with all other contiguous cable systems in Clackamas County in addition to the continuation of the existing Institutional Network (I-Net) connection with Clackamas Community College. WaveDivision has further agreed to provide, without charge, one outlet of basic cable upon request to seven (7) public buildings in the service area. The cable company has also agreed to support PEG and I-Net Access with a monthly contribution of $1.00 per subscriber, beginning January 1, 2013.

RECOMMENDED ACTION:
Staff respectfully recommends the Board approve the Cable Television Franchise Renewal Agreement with WaveDivision VII, LLC for a term of twelve (12) years.

County Counsel has seen and approved the attached Board Order

David W. Anderson
David Anderson, Assistant County Counsel

Respectfully submitted,

Debbie McCoy
Debbie McCoy, Manager
Cable Communications
rc

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Renewal
Of the Cable Television
Franchise Agreement For Use
of the County Rights-of-Way
By WaveDivision VII, LLC

ORDER NO.

This matter coming on at this time, and it appearing that WaveDivision VII, LLC has been providing cable television service utilizing the County rights-of-way pursuant to franchise agreements that will expire on August 10 and 17, 2012 respectively and;

It further appearing that the County and Wave have conducted negotiations as provided by federal law concerning the franchise renewal and;

It further appearing that the issuance of a renewal subject to the terms and conditions of the attached Franchise Agreement would be in the best interests of the citizens of the County;

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Franchise Agreement be approved and executed, and be subject to the terms and conditions as specified in the Agreement for a term of twelve (12) years as specified in Section 3.4.

DATED this _____ day of July, 2012

BOARD OF COUNTY COMMISSIONERS

_____
Chair

_____
Recording Secretary

CABLE TELEVISION FRANCHISE AGREEMENT

between

CLACKAMAS COUNTY, OREGON

and

WAVEDIVISION VII, LLC
(Canby/Molalla)

July 26, 2012

TABLE OF CONTENTS

1. **PURPOSE AND INTENT** 1
2. **DEFINITIONS** 1
3. **GRANT OF FRANCHISE** 8
   - 3.1 Grant 8
   - 3.2 Extension 9
   - 3.3 Use of Public Streets and Ways 10
   - 3.4 Duration and Effective Date of Franchise 10
   - 3.5 Franchise Area 11
   - 3.6 Periodic Public Review of Franchise 11
   - 3.7 Franchise Not Exclusive 12
   - 3.8 Franchise Non-Transferable 12
   - 3.9 Franchise Acceptance 14
4. **CONSTRUCTION AND SERVICE REQUIREMENTS** 14
   - 4.1 General 14
   - 4.2 Right of Inspection of Construction 15
   - 4.3 Availability of Residential Service 15
     - 4.3.1 Density for Normal Extension of Service 15
     - 4.3.2 Isolated Areas 15
     - 4.3.3 New Subdivisions 16
     - 4.3.4 Annexation 17
   - 4.4 Erection of Poles 17
   - 4.5 Trimming of Trees or other Vegetation 17
   - 4.6 Repair & Restoration of Streets, and Public Ways 18
   - 4.7 Construction Codes 18
   - 4.8 Reservation of Street Rights 18
   - 4.9 Street Vacation and Abandonment 19
   - 4.10 Movement of Facilities 19
   - 4.11 Undergrounding 20
   - 4.12 As Builts 20
   - 4.13 Emergency 21
5. **SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS** 21
   - 5.1 Equal and Uniform Service 21
   - 5.2 System Configuration 21
   - 5.3 Channel Capacity 21
   - 5.4 Satellite Earth Stations 22
   - 5.5 Interconnection 22
   - 5.6 Emergency Alert Capability 24
   - 5.7 Standby Power 24
   - 5.8 Status Monitoring 25
   - 5.9 Parental Control Lock 25
   - 5.10 Technical Standards 25
   - 5.11 Performance Testing 25
6. **SERVICES AND PROGRAMMING** 26
   - 6.1 Programming Categories 26

6.2 Changes in Video Programming Services 27
6.3 Interactive Residential Services 27
6.4 Leased Channel Service 27
6.5 Obscenity 28
6.6 Public, Educational and Government Use of System 28
6.6.1 Public and Government Access Channels 28
6.6.2 Access Interconnections 30
6.6.3 Support for Access Costs 30
6.6.4 Access Support Not Franchise Fees 31
6.6.5 Cable Service to Public Facilities 31
6.6.6 Change in Technology 31
6.6.7 Technical Quality 32
7. FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS 32
7.1 Intent 32
7.2 Areas of Regulation and Administration 33
7.3 Rate Regulation 33
7.4 Remedies for Franchise Violations 34
7.5 Public Disclosure 36
7.6 Remedies Not Exclusive 37
7.7 Consumer Protection Standards 37
7.7.1 Customer service and telephone responsiveness 37
7.7.2 Service and Repair Calls 38
7.7.3 Disconnection 39
7.7.4 Credits Upon Outage 40
7.7.5 Downgrade Charges 40
7.7.6 Billing information required 40
7.7.7 Information to subscribers 41
7.7.8 Complaint resolution 42
7.7.9 Failure to Resolve Complaints 43
8. GENERAL FINANCIAL AND INSURANCE PROVISIONS 43
8.1 Compensation 43
8.2 Faithful Performance Bond 45
8.3 Damages and Defense 46
8.4 Liability Insurance and Indemnification 46
9. RIGHTS RESERVED TO GRANTOR 48
9.1 Grantor Acquisition of the Cable System 48
9.2 Right of Inspection of Records 48
9.3 Right to Perform Franchise Fee Audit 49
9.4 Right of Inspection of Construction 49
9.5 Intervention 49
9.6 Right to Require Removal of Property 50
9.7 Inspection of Facilities 50
10. RIGHTS OF INDIVIDUALS PROTECTED 50
10.1 Discriminatory Practices Prohibited 50
10.2 Unauthorized Monitoring or Cable Tapping Prohibited 51
10.3 Privacy and Other Rights 51
10.4 Permission of Property Owner Required 52
10.5 Sale of Subscriber Lists and Personalized Data Prohibited 52

10.6 Landlord - Tenant 52
11. TERMINATION AND EXPIRATION 53
11.1 Revocation 53
11.2 Expiration 55
11.3 Continuity of Service Mandatory 55
12. OPERATION AND MAINTENANCE 55
12.1 Open Books and Records 55
12.2 Communications with Regulatory Agencies 56
12.3 Reports 56
12.4 Safety 58
13. MISCELLANEOUS PROVISIONS 58
13.1 Compliance with Laws 59
13.2 Severability 59
13.3 Captions 59
13.4 No recourse Against the Grantor 60
13.5 Nonenforcement by Grantor 60
13.6 Force Majeure 60
13.7 Entire Agreement 60
13.8 Consent 61
13.9 Time Limit for Grantee Communications 61
13.10 Consistency of Franchise with Cable Act 61
13.11 Comparability of Other Cable Franchises 61
13.12 Franchise Review 61
13.13 Notice 62
13.14 Public Disclosure 62
13.15 Time is of the Essence 62
13.16 Reservation of Rights 62
EXHIBIT A: FRANCHISE AREA 63
EXHIBIT B: ACCEPTANCE 64
EXHIBIT C: INTERCONNECTIONS 65
EXHIBIT D: SERVICE TO PUBLIC BUILDINGS 66

1. PURPOSE AND INTENT

1.1 Clackamas County, Oregon (hereafter Grantor) is authorized to and by this franchise agreement does grant to WaveDivision VII, LLC (hereafter Grantee) a non-exclusive twelve (12) year franchise, ("Initial Term") revocable as provided herein, to construct, operate and maintain a cable communications system in the franchise area comprised of a portion of the area within the unincorporated territory as described in Exhibit A.

1.2 The purpose of this franchise agreement is to create a binding, enforceable contract between Grantor and Grantee.

2. DEFINITIONS

For the purposes of this franchise agreement and all attachments included hereto, the following words, terms, phrases, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words used in this franchise which are not defined hereunder but defined in the Cable Communications Policy Act of 1984, the Cable Communications Policy Act of 1992, and the Telecommunications Act of 1996, as may be amended from time to time, shall have the meaning specified in the Cable Act definition.

a. "Access" or "Community Access" or "Public, Educational and Government (PEG) Access" means the availability for use by various agencies, institutions, organizations, groups and individuals in the community, including the County and its designees, of the Cable System to acquire, create, and distribute non-commercial Programming not under the Grantee's editorial control.

b. "Access Channel" or "Public, Educational or Government Access (PEG) Channel" means any channel or portion of a channel utilized for non-commercial programming, where any member of the general public or any organization may be a programmer, without charge by the Grantee.

i. "Educational Access Channel" means any channel or portion of a channel available for educational programming by individuals or institutions.

ii. "Government Access Channel" means any channel or portion of a channel available for programming by government agencies.

iii. "Public Access Channel" means any channel or portion of a channel where any member of the general public may be a programmer on a non-discriminatory basis.

Nothing in this Franchise shall prevent the Grantor or its designee from carrying out fundraising activities to supplement access capital or operating funds, and such fundraising activity shall not in itself constitute a commercial use of access channels, facilities and equipment.

c. "Addressability" means the capability of the cable communications system to provide programming to specific subscribers on a per program, program package, and premium channel basis without the need for a major system upgrade to activate the capability. An upgrade that requires only the installation of a piece or pieces of equipment between the point at which a subscriber's drop line connects to the system and the point at which the drop connects to the subscriber's television receiver shall not be considered a major system upgrade.

d. "Affiliate" when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

e. "Availability of Service" means the ability of a subscriber to obtain a service within sixty (60) days by requesting the service and paying applicable installation and/or usage charges.

f. "Basic Cable Service" means cable programming services, not included in the Local Broadcast Service, excluding digital tiers, on demand, premium or pay-per-view services.

g. "Broadcast Signal" means a television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by the cable communications system off-the-air, whether by microwave link, by satellite receiver, or by other means.

h. "Cable Act" means collectively the federal Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as may be amended from time to time.

i. "Cable Operator" means any Person or group of Persons, including Grantee, who provide Cable Service over a Cable System and directly or through one or more Affiliates own a significant interest in such Cable System or who otherwise control or are responsible for, through any arrangement, the management and operation of such a Cable System.

j. "Cable Service" means a) the one-way transmission to subscribers of video programming or other programming service; and b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service covered by the Cable Act.

k. "Cable Communications System" or "Cable System" or "System" shall have the meaning specified in the definition of "Cable System" in the Cable Act. In every case of its use in this Franchise, unless otherwise specified, the term shall refer to the Cable System constructed and operated by the Grantee in the County under this Franchise.

l. "Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering video signal whether in an analog or digital format. This definition does not restrict the use of any channel to the transmission of analog video signals.

m. "County" means Clackamas County, an Oregon statutory County, and all of the territory within its boundaries.

n. "County Commission" means the governing body of the Grantor.

o. "Converter" means an electronic device for changing the frequency of a television signal or, where IPTV is implemented, for changing the data packets. A set-top Converter changes the frequency of the mid-band, superband, or hyperband signals to a suitable channel which the television receiver is able to tune or, where IPTV is implemented, a set-top Converter changes the data packets into a signal that can be viewed through the television.

p. "FCC" means the Federal Communications Commission.

q. "Franchise" or "Franchise Agreement" means the authorization granted by this document, or renewal thereof (including renewal of an authorization which has been granted subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system. Unless otherwise specified, "Franchise" shall designate this agreement, including all referenced material, adopted in the appropriate manner by the Grantor.

r. "Franchise Area" means all territory within Clackamas County, depicted on the attached Exhibit A.

s. "Grantee" or "Franchisee" means WaveDivision VII, LLC, and the lawful successors, transferees, or assignees thereof.

t. "Grantor" means Clackamas County, a statutory County in the State of Oregon.

u. "Gross Revenues" means all amounts received by the Grantee, or any Affiliate in whatever form and from all sources, derived from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area in accordance with Generally Accepted Accounting Principles. Gross Revenues shall include all Cable Services, premium services, receipts obtained from advertising, commissions on sales of goods or services by third parties utilizing the Cable System (e.g., home shopping networks), installations, leasing, renting or selling of system capacity, and all other revenues derived from the operation of Grantee's Cable System to provide Cable Services, regardless of whether initially recorded to another entity and however characterized.

"Gross Revenues" shall not include:

i. Revenues received from Grantee by any Affiliate or other Person in exchange for supplying goods or services used by Grantee to provide Cable Service over the Cable System;

ii. Bad debts written off by Grantee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected;

iii. Refunds, rebates or discounts made to Subscribers or other third parties;

iv. Any revenues classified, in whole or in part, as non-cable services revenue under federal or state law including, without limitation, revenue received from telecommunications services; revenue received from information services; charges made to the public for commercial or cable television that is used for two-way communication; and any other revenues attributed by Grantee to non-cable services in accordance with FCC or state public utility regulatory commission rules, regulations, standards or orders;

v. Any revenue of Grantee or any other Person which is received directly from the sale of merchandise through any Cable Service distributed over the Cable System, notwithstanding that portion of such revenue that represents or can be attributed to a Subscriber fee or a payment for the use of the Cable System for the sale of such merchandise, which portion shall be included in Gross Revenue;

vi. The sale of Cable Services on the Cable System for resale in which the purchaser is required to collect cable franchise fees from purchaser's customer;

vii. Any tax of general applicability imposed upon Grantee or upon Subscribers by a city, state, federal or any other governmental entity and required to be collected by Grantee and remitted to the taxing entity (including, but not limited to, sales and use tax, gross receipts tax, excise tax, utility users tax, public service tax, communication taxes and franchise fees for non-cable services);

viii. Any foregone revenue which Grantee chooses not to receive in exchange for its provision of free or reduced cost cable or other communications services to any Person, including without limitation, employees of Grantee and public institutions or other institutions designated in the Franchise; provided, however, that such foregone revenue which Grantee chooses not to receive in exchange for trades, barters, services or other items of value shall be included in Gross Revenue;

ix. Sales of capital assets or sales of surplus equipment;

x. Reimbursement by programmers of marketing costs incurred by Grantee for the introduction of new programming pursuant to a written marketing agreement; and

xi. Directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement and electronic publishing.

"Gross Revenues," however, shall not be double counted. Revenues of both Grantee and an Affiliate that represent a transfer of funds between the Grantee and the Affiliate, and that would otherwise constitute

"Gross Revenues" of both the Grantee and the Affiliate, shall be counted only once for purposes of determining "Gross Revenues."

Revenues derived from an institutional network shall not be considered "Gross Revenues" for purposes of this Franchise, but shall be the subject of future and separate negotiations in the event an institutional network is built and/or operated by Grantee, subject to state and federal law.

The definition of "Gross Revenues" includes those revenues collected as franchise fees and paid to a local government.

v. "Institutional Service" means video, audio, data and other services provided to institutional subscribers on an individual application, private channel basis. These services may include, but are not limited to, two-way video, audio or digital signals among institutions, or between institutions and residential subscribers.

w. "Institutional Network" or "I-Net" means that part of a cable communications network designed for the provision of non-commercial interactive services to schools or public agencies only for use in connection with the ongoing operations of such institutions.

x. "Institutional Subscriber" means a place of business, public agency, school or non-profit corporation receiving institutional services on the institutional subscriber network.

y. "Interactive Services" means services provided to subscribers where the subscriber either (a) both receives information consisting of either television or other signals and transmits signals generated by the subscriber or equipment under the subscriber's control for the purpose of selecting what information shall be transmitted to the subscriber or for any other purpose; or (b) transmits signals to any other location for any purpose.

z. "Leased Channel" means any channel or portion of a channel available for programming by persons or entities other than Grantee for a fee or charge.

aa. "Local Broadcast Services" means any service tier that includes the retransmission of local television broadcast signals.

bb. "Monitoring" means observing a one way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

cc. "Non-Broadcast Signal" means a signal that is transmitted by the cable communications system and that is not involved in an over-the-air broadcast transmission path.

dd. "Open Channel" means any channel that can be received by all subscribers having cable-ready television sets, without the necessity of special descrambling equipment.

ee. "Pay Channel" or "Premium Channel" means a channel on which television signals are delivered to subscribers for a special fee or charge over and above the regular charges for standard subscriber service, on a per program, per channel, or other subscription basis.

ff. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

gg. "Programmer" means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other storage methods or media, to subscribers, by means of the cable communications system.

hh. "Programming" means the process of causing television programs or other patterns of signals in video, voice or data formats to be transmitted on the Cable System, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the Cable System.

ii. "Record" means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, magnetic and laser disk files, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, and photographs to the extent related to the enforcement or administration of this Franchise.

jj. "Resident" means any natural person residing within the Franchise Area.

kk. "Residential Service" means services delivered on the residential subscriber network.

ll. "Residential Subscriber" means a subscriber who receives services on the residential subscriber network.

mm. "Residential Network" means a cable communications network designed principally for the delivery of entertainment, community access, or interactive services to residents.

nn. "School" means any public educational institution, including primary and secondary schools, community colleges, colleges, universities and extension centers, and all similarly situated private and parochial educational institutions which have received the appropriate accreditation from the State of Oregon and, where required, from other authorized accrediting agencies, and which serve a minimum of twenty (20) students.

oo. "Section" means any section, subsection, or provision of this Franchise Agreement.

pp. "Streets and Public Ways" means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the Franchise Area, and any easements, rights of way or other similar means of access to the extent Grantor has the right to allow Grantee to use them.

qq. "Subscriber" means any person who elects to subscribe to, for any purpose, a service provided by the Grantee by means of, or in connection with, the cable communications system whether or not a fee is paid for such service.

rr. "Tapping" means observing a two-way communications signal exchange where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.

ss. "WaveDivision VII, LLC" means Grantee and the lawful successors, transferees, or assignees thereof.

tt. "Year" means a full twelve-month calendar year, unless designated otherwise, such as a "fiscal year"

3. GRANT OF FRANCHISE

3.1 Grant.

Grantor hereby grants to the Grantee a non-exclusive, revocable franchise for an Initial Term of twelve (12) years from and after the effective date hereof, revocable as provided herein to construct, operate and maintain a cable system within the franchise

area. This franchise constitutes the authority, right, privilege and obligation to provide cable services over the cable system as required by the provisions of this franchise agreement and nothing herein shall be deemed to prohibit Grantee from providing other lawful services.

3.2 Extension

During the seventh year of the franchise term, Grantor may undertake a review of the Grantee's system in order to determine whether a system upgrade by year twelve (12) of the franchise term will be reflective of:

a. The non-experimental state of the art of cable communications systems, in technical capacity and proven performance;

b. General parity of overall cable service with the most advanced non-experimental cable service provided in the Portland metropolitan area;

c. The economic viability of providing the upgrade; and

d. Overall market conditions.

If after undertaking the year seven (7) review Grantor determines that an upgrade of Grantee's cable system to at least 860 Mhz meets the above-referenced upgrade criteria, then if Grantee upgrades its cable system to at least 860 MHz on or before the expiration of the Initial Term, the Initial Term of the franchise shall be extended for a period of five (5) years.

This franchise is subject to the laws of the United States and the State of Oregon, and to the general codes of the Grantor affecting matters of general County concern and not merely existing contractual rights of Grantee, whether now existing or hereafter enacted. In particular this Franchise supersedes any of Grantor's Ordinances in any matter in which the Franchise and the Ordinance are in conflict. The Grantor shall make a good faith effort to notify the Grantee of any County proceedings which would substantially affect the Grantee's operations, and shall upon request supply the Grantee with copies of any County laws or regulations affecting Grantee's operations.

Grantee promises and guarantees a condition of exercising the privileges granted by this Agreement, that any Affiliate or joint

venture or partner of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this Agreement.

3.3 Use of Public Streets and Ways

For the purpose of constructing, operating and maintaining a cable communications system in the franchise area, the Grantee may erect, install, audit, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets and ways within the franchise area such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary, convenient and appurtenant to the operation of the cable communications system. Prior to construction or alteration, however, the Grantee shall in each case file plans as required with the appropriate agencies of Grantor and in accordance with any agreements with utility providers and companies, pay applicable fees, and receive approval as necessary before proceeding. Nothing in this section shall relieve the Grantor of the obligations of Section 4.5 regarding the trimming of trees and other vegetation.

3.4 Duration and Effective Date of Franchise

Except as otherwise provided herein for revocation, or early termination in accordance with Section 11.1, the Initial Term of this franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be twelve (12) years from the effective date of this agreement, at which time the franchise shall expire and be of no force and effect unless the Initial Term is extended for a period of five (5) years pursuant to Section 3.2 The effective date of the franchise shall be the date the Board Order granting the franchise takes effect, unless the Grantee fails to file the Franchise acceptance in accordance with Section 3.9 herein, in which event this Franchise shall be null and void.

During the six-month period beginning five (5) years after the effective date of this Franchise, the Grantor and Grantee may undertake a review of Grantee's system and performance to date, in order to determine whether the Franchise should continue in effect for the full twelve (12) year Initial Term or should terminate early at the end of seven (7) years

from the effective date. The Grantor may terminate the Franchise early if the Grantee has been found to have committed a pattern of material violations of the Franchise or fails to complete, by the end of the seventh (7th) year of the Franchise, an upgrade of the system such that the system will be upgraded to at least 750 Mhz with a capacity of at least 200 activated analog and/or digital channels.

Any proposal by the Grantor to terminate the Franchise early shall be subject to the same procedural requirements as for a revocation under Section 11.1 hereof. If the Grantor does not terminate the Franchise early as provided herein, the Franchise shall continue for its full twelve (12) year term and, if later extended pursuant to Section 3.2, for an additional five (5) year term.

3.5 Franchise Area

The franchise area shall be that area designated on the attached map, Exhibit A. Except for any annexations or incorporations of the franchise area, any future modifications of the franchise area must be approved by the Board of Commissioners, as an amendment to this franchise. Any expansion area beyond that shown in Exhibit A, as granted must include terms for initiation of construction within twelve (12) months and coverage of area with complete service availability by eighteen (18) months after initial construction.

3.6 Periodic Public Review of Franchise

The County may at approximately three (3)-year intervals during the term of the Franchise, and at such other times as the County deems appropriate, conduct a public review of the Franchise. The purpose of the review shall be to ensure, with the benefit of full opportunity for public comment, that the Franchise continues to effectively serve the public in light of new developments in cable law and regulation, cable technology, cable company performance, local regulatory environment, community needs and interests, and other such factors. Both the County and Wave agree to make a full and good faith effort to participate in the review and both parties will mutually agree on the actions required to implement the findings. The County shall establish a procedure for ensuring orderly review, full discussion of any proposed policy changes between the County and Wave, and full public hearing regarding all matters discussed during the review.

Matters appropriate for discussion at the public reviews in

accordance with this Section include without limitation:

a. Wave's overall compliance with the Franchise;

b. Policies and practices necessary to ensure continued support for public, educational and government access at substantially the same level provided for in this Franchise;

c. System upgrade and rebuild requirements; and

d. The resolution of any evident patterns of customer service problems.

The periodic public reviews described in this Section may be but need not be made coincident with public reviews involved in the consideration of Wave requests for franchise renewal, franchise extension, or approval of transfer of system ownership.

3.7 Franchise Not Exclusive

The franchise granted herein is not exclusive. This franchise shall not be construed as any limitation upon the right of the Grantor, through its proper officers, to grant to other persons or corporations, rights, privileges or authority the same as, similar to or different from the rights, privileges or authority herein set forth, in the same or other streets and public ways or public places by franchise, permit or otherwise subject to the provisions of Section 13.11 herein.

3.8 Franchise Non-Transferable

Subject to Section 617 of the Cable Act (47 U.S.C Section 537) no transfer of the Franchise or change in control of Grantee shall occur without the prior written consent of Grantor, provided that such consent shall not be unreasonably withheld, delayed or conditioned.

If the Grantee wishes to transfer this franchise, the Grantee and Grantor shall proceed pursuant to Section 617 of the Cable Act and related rulemakings of the FCC. In any event, Grantee shall give Grantor written notice of the proposed transfer, and shall request consent of the transfer by the Grantor. Grantee shall furnish all information required by law and/or reasonably requested by Grantor with respect to the consideration of the franchise. For the purpose of determining whether it will consent

to such transfer, Grantor may inquire into the legal, financial and technical qualifications of the prospective transferee to perform the obligations of the Grantee under this franchise agreement. The Grantee shall assist Grantor in any such inquiry by providing all information reasonably requested in writing by the Grantor that is reasonably necessary to determine the legal, financial and technical qualifications of the proposed transferee in order to determine whether it will consent to the proposed transfer.

In cases where the Grantor finds it inappropriate to give unconditional consent to the proposed transfer, the Grantor may offer its consent upon such terms and conditions as it deems appropriate, related to the qualifications of the prospective transferee to perform the obligations of the Grantee under this franchise; provided however, any such terms and conditions so attached shall be related to the legal, financial and technical qualifications of the proposed transferee and to the resolution of outstanding and unresolved issues of Grantee's noncompliance with the terms and conditions of the Franchise. Any transfer of ownership affected without the written consent of the Grantor shall render this franchise subject to revocation. The Grantor shall have one hundred and twenty (120) days to act upon any request for approval of a transfer that contains or is accompanied by such information as is required in accordance with FCC regulations and by the Grantor. If the Grantor fails to render a final decision on the request within said one hundred and twenty (120) days, the request shall be deemed granted unless the Grantee and the Grantor agree to an extension of time.

The Grantee, upon the execution of the transfer documents, shall within thirty (30) days thereafter file with the Grantor a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such sale, lease, mortgage, assignment or transfer, certified and sworn to as correct by the Grantee.

Every such transfer as heretofore described, whether voluntary or involuntary, shall be deemed void and of no effect unless Grantee shall within thirty (30) days after the execution of the transfer documents, file such certified copy as is required.

The Grantee may, without obtaining prior consent of the Grantor, from time to time (a) assign or transfer its assets, including the Franchise to a parent or affiliate of Grantee; (b) restructure its debt or change the ownership interests among its affiliates (c) pledge or grant a security interest in its assets, including but not limited to

the Franchise, or of interests in the Grantee to any lenders(s) for purposes of securing indebtedness. However, the cable communications system franchised hereunder, including portions thereof used as collateral, shall at all times continue to be subject to the provisions of this franchise.

The requirements of this Section shall not be deemed to prohibit the sale of tangible assets of the cable system in the ordinary conduct of the Grantee's business without consent of the Grantor.

3.9 Franchise Acceptance

Within sixty (60) days after the execution of the Franchise by the Grantor, the Grantee shall file in the office of the Grantor's cable franchise manager a written acceptance executed by Grantee, in the form attached hereto as Exhibit B. In the event Grantee fails to file the acceptance as required herein, then this Franchise shall be null and void.

4. CONSTRUCTION AND SERVICE REQUIREMENTS

4.1 General

The Grantee shall maintain on its cable system a minimum practical capacity of one hundred and twenty (120) activated channels, defined under the Cable Act as those channels engineered at the headend of the cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided. In all its construction and service provision activities, Grantee shall meet or exceed the construction, extension and service requirements set forth in this franchise agreement.

Prior to beginning any construction, Grantee shall provide Grantor with a construction schedule for work in the Streets. All construction shall be performed in compliance with this Agreement and all applicable Grantor Ordinances and Codes. When obtaining a permit, Grantee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, grantees, permittees, and franchisees so as to reduce as far as possible the number of Street cuts.

4.2 Right of Inspection of Construction

Grantor shall have the right to inspect all construction or installation work performed within the franchise area and to make such tests as it shall find necessary to ensure compliance with the terms of this franchise agreement and other pertinent provisions of law. Grantor shall notify Grantee on times and location of inspection with the intent Grantee representative shall have the opportunity to accompany Grantor during any inspection. For permits issued under Chapter 7.03 of the County Code, notification to Grantee is not required prior to inspection.

4.3 Availability of Residential Service

4.3.1 Density for Normal Extension of Service

The Grantee shall provide availability of service to every potential subscriber in all areas of the Franchise Area where the average density is equal to or greater than twenty-five (25) occupied residential dwelling units per mile or six (6) occupied residential dwelling units per quarter (1/4) mile as measured in strand footage from the nearest technically feasible point on the existing cable distribution plant. Should, through new construction, an area within the Franchise Area meet the density requirements after the effective date of this Franchise, Grantee shall use commercially reasonable efforts to provide Cable Service to such area within ninety (90) days of the date that Grantee is notified of a request from a potential Subscriber of an occupied residential dwelling unit and Grantee verifies that the density requirement is satisfied.

No charge in addition to the standard installation charge shall be made by the Grantee to subscribers for: the extension of the cable system under this subsection; nor the provision of a cable drop to the premises of any subscriber requesting service, so long as the drop does not exceed one hundred and twenty-five (125) feet in length.

4.3.2 Isolated Areas

Potential subscribers requesting service but not entitled to availability of service under Section 4.3.1 shall be provided service under the following circumstances, through contractual agreement between the Grantee and the person requesting service for payment of line extension construction costs:

a. Grantee shall provide service at its normal, published installation charge for the initial one hundred and twenty-five (125) feet of extension.

b. Grantee and the subscriber shall share equally the actual cost of the extension for the distance over one hundred and twenty-five (125) feet but less than five hundred (500) feet.

c. The subscriber shall pay all costs for the extension for the distance greater than five hundred (500) feet.

d. Basis for the cost sharing will be computed as follows:

The starting point shall be a point at the nearest reasonably usable existing cable plant using public right-of-way, exclusive of a street crossing; provided that the Grantee shall make a reasonable effort to secure and use private rights of way if the use of such rights of way reduces the cost of the line extension to the subscriber. The actual length of cable needed from the starting point to the subscriber's home shall be the total number of feet. The cost of the project from the starting point to the home shall be divided by the total number of feet. The resultant cost per foot shall be used to compute each party's share. Street bores or crossings needed to bring the existing cable plant to the requesting subscriber's side of the street shall be included as part of any line extension greater than one hundred twenty-five (125) feet, otherwise these costs shall not be charged to the subscriber.

e. If more than one person becomes a subscriber along a cable line constructed in accordance with this subsection, during a period of three years following the completion of the construction, the Grantee shall fairly divide the subscriber charges for such construction among all the subscribers along the line, by means of proration and rebates, as necessary. Following the three (3)-year period, any additional subscribers may be charged normal published installation rates.

4.3.3 New Subdivisions

a. Subject to Sections 4.3.1 and 4.3.2, Grantee will be required to build, activate, proof and sell cable in new subdivisions within sixty (60) days of the time when 50% of the subdivision's potential dwelling units have been issued

building permits and the developer is actively engaged in construction, or 25% of the subdivision's potential dwelling units have contracted for cable television service.

b. Grantee shall be responsible for ascertaining building permit activity in new subdivisions.

c. Where jurisdictional approval of a subdivision includes provision for the construction of separate phases of the subdivision each phase will be considered a separate subdivision for the purpose of this section.

4.3.4 Annexation

In the event any portion of the franchise area is annexed by a City, resulting in that portion having two or more cable communications franchises, then to the extent permitted by law the Grantee's rights hereunder shall continue in effect but the Grantee shall not be required to construct a cable system passing the same homes as are passed by an existing cable system operating under the authority of an existing City franchise.

4.4 Erection of Poles

If additional poles in an existing aerial utility system route are required, Grantee shall negotiate with the utility company or provider for the installation of the needed poles. Grantee shall not erect, for any reason, any pole on or along any street or public way in an existing aerial utility system unless approved by the Grantor. The Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions, and shall comply with all applicable ordinances, resolutions, rules and regulations of the Grantor.

4.5 Trimming of Trees or other Vegetation

In the conduct of its business, it may be necessary for Grantee to trim trees or other vegetation in order to provide space for its facilities. Tree or vegetation trimming shall be done only in accordance with the codes and other rules and regulations of Grantor and if the tree or vegetation is located on private property, with the permission of the owner of the property on which the tree or vegetation stands. Nothing contained in this franchise agreement shall be deemed to empower or authorize Grantee to cut, trim or otherwise disturb any trees or other vegetation, whether ornamental or otherwise.

4.6 Repair & Restoration of Streets, and Public Ways

Whenever the Grantee shall disturb the surface or otherwise damage any street, alley, public highway, other public way or ground for any purpose mentioned herein, it shall repair and restore the same to the condition in which it was prior to the opening or other damage thereof. And when any opening is made by the Grantee in any hard surface pavement, in any street, alley, public highway or other way, the Grantee shall promptly refill the opening and restore the pavement to its original condition. The Grantor may refill and/or repave in case of neglect of the Grantee, provided that Grantor first notifies and provides Grantee fifteen (15) days to cure. The cost thereof, including the cost of inspection, supervision and administration shall be paid by the Grantee. All excavations made by the Grantee in the streets, alleys, public highways or other ways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and codes of Grantor as now or hereafter in effect.

4.7 Construction Codes

The Grantee shall strictly adhere to all applicable building, zoning or other laws and codes currently or hereafter in force in Grantor's jurisdiction. The Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference, as determined by the Grantor, with the use of said public or private property by any person. In the event of such interference, Grantor may require the removal of Grantee's lines, cables and appurtenances from the property in question following thirty (30) days notification to the Grantee.

4.8 Reservation of Street Rights

Nothing in this franchise agreement shall be construed to prevent any public work of the Grantor, including without limitation constructing sewers, grading, paving, repairing and/or altering any street, alley, or public highway, or laying down, repairing or removing water mains or maintaining, repairing, constructing or establishing any other public property. If any property of the Grantee shall interfere with the construction or repair of any street or public improvement, whether it be construction, repair or removal of a sewer or water main, the improvement of a street or any other public improvement, then on reasonable notice from the Grantor all such property including poles,

wires, conduits or other appliances and facilities shall be removed, replaced or relocated in a timely manner as shall be directed by the Grantor, so that the same shall not interfere with the said public work of the Grantor, and such removal, replacement or relocation shall be at the expense of the Grantee. In the event of failure, neglect or refusal of the Grantee, to relocate its facilities or to repair, restore, or reconstruct such street, the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee.

4.9 Street Vacation and Abandonment

In the event any street, alley, public highway or portion thereof used by the Grantee shall be vacated by the Grantor, or the use thereof discontinued by the Grantee, during the term of this franchise, the Grantee shall forthwith remove its facilities therefrom unless specifically permitted in writing to continue the same by the new controlling jurisdiction or property owner, as appropriate. At the time of removal thereof the Grantee shall restore, repair or reconstruct the street area where such removal has occurred, and place the street area where such removal has occurred in such condition as may be reasonably required by Grantor. In the event of failure, neglect or refusal of the Grantee, to remove its facilities or to repair, restore, or reconstruct such street, damage, following thirty (30) days notification the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee.

4.10 Movement of Facilities

In the event it is necessary temporarily to move or remove any of the Grantee's wires, cables, poles or other facilities placed pursuant to this Franchise, in order to lawfully move a large object, vehicle, building or other structure over the streets, alleys or highways of the Grantor, Grantee, upon reasonable notice, shall move at the expense, paid in advance, of the person requesting the temporary removal such of its facilities as may be required to facilitate such movements; provided that, if the Grantor is the party requesting the removal, for movement of buildings or structures or other public purposes of the Grantor, then the removal shall be done at the expense of the Grantee. Should Grantee fail to remove or relocate any such facilities by the date established by Grantor, Grantor may effect such removal or relocation, and the expense thereof shall be paid by Grantee.

If public funds, other than the funds of the Grantor, including pass through funds, are available to any Person using such street or public right-of-way for the purpose of defraying the cost of any of the

relocation of facilities as provided under Sections 4.8, 4.9 and 4.10, hereof, Grantee shall be afforded equal treatment subject to applicable law and regulations and Grantor shall, upon written request of the Grantee, use its best efforts to make application for such funds on behalf of Grantee.

4.11 Undergrounding

a. Cable must be installed underground where:

   i. all existing utilities are placed underground,

   ii. required by statute or an ordinance, or other regulation lawfully imposed by the County,

   iii. overhead utility lines are moved underground (Grantee shall bear the cost of such movement of its facilities unless specific exemption is given by Grantor in any individual case or unless preemptive state or federal law or regulation provides otherwise),

   iv. Grantee is unable to get or maintain proper clearances,

   v. underground easements are obtained from developers of new residential areas, or

   vi. utilities are overhead but residents prefer underground (undergrounding is to be paid by the residents, which shall be provided by the Grantee to the residents at cost).

b. Grantee shall use conduit or its functional equivalent on 100% of undergrounding, except for drops from pedestals to subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the industry standards for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

4.12 As Builts

Grantee shall maintain strand map drawings or the functional equivalent of the Cable System, and make them available to the Grantor for inspection upon request. Said drawings or their functional equivalent shall be updated as changes occur in the Cable System. The Grantee

shall provide the Grantor, on request, a copy of as-builts or CAD maps showing the location and nature of Grantee's facilities in the streets and public ways.

4.13 Emergency

In the event of an emergency, or when the cable equipment creates or is contributing to an imminent danger to health, safety or property, the Grantor may remove or relocate Grantee's cable system without prior notice. Subject to the limits of the Oregon Torts Claims Act and the Oregon Constitution, Grantor will defend, indemnify and hold Grantee harmless for any negligent actions or gross negligence by Grantor's employees or agents pursuant to this Section 4.13

5. SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS

5.1 Equal and Uniform Service

Grantee shall provide no less than one hundred and twenty (120) activated channels in the franchise area currently served as well as those areas newly activated during the term of this Agreement. Reasonable efforts shall be made to provide equal and uniform access and rates to customers within the franchised area unless otherwise permitted by State or federal law.

5.2 System Configuration

Grantee shall rebuild or modify its cable system to upgrade the system to 750 MHz throughout the franchise area with a capacity of at least 200 activated analog and/or digital channels. The modification of the system shall be completed within thirty (30) months from the effective date of this Franchise Agreement. The system as upgraded shall have the forward and return capacity to provide pay-per-view, video-on-demand and other services requiring addressability. In all its construction and service provision activities, Grantee shall meet or exceed the construction, technical performance, extension and service requirements set forth in this Franchise agreement.

5.3 Channel Capacity.

The system shall throughout the franchise term carry reverse signals in the upstream direction. At a minimum the reverse spectrum of the residential network shall have the capability of permitting return signals within the total 5-40 MHz bandwidth, from any subscriber tap to the head end facility serving that subscriber. Customers ordering tiers of

service that require other than the minimum reverse bandwidth shall be provided with access to those upstream signals required by the service. This section will be satisfied in the event that Grantee upgrades its system to 750 Mhz and the reverse spectrum of the network shall have the capability of permitting return signals within the total 5-40 Mhz bandwidth from any subscriber tap to the head end facility serving that subscriber.

5.4 Satellite Earth Stations

Grantee shall provide a sufficient number of earth stations to receive signals from enough operational communications satellites that carry cable television services accessible to the Grantee throughout the life of the franchise to enable Grantee to carry out its obligations under this Franchise.

5.5 Interconnection

a. Grantee shall continue without limitation all Interconnections in effect on the effective date of this Franchise, including the interconnections listed in Exhibit C.

b. Upon Grantor's request and as needed to distribute PEG programming, Grantee shall interconnect the Cable System with all other major, contiguous cable systems in Clackamas County, specifically including but not limited to the City of Sandy, and unincorporated Clackamas County. The Grantor shall not direct interconnection in this case except under circumstances where it can be accomplished without undue burden or excessive cost to the Subscribers. Grantee shall not be required to interconnect with the other cable system unless the cable operator of that system is willing to do so and pay for its own costs of constructing and maintaining the interconnect to the demarcation point, which shall be at a meet point located at or near the border of the neighboring jurisdictions, except as may otherwise be agreed by the parties. Grantee shall use reasonable efforts to agree with the other cable operator upon mutually convenient, cost effective and technically viable interconnections of the PEG Access Channel signals. Grantee agrees to not object to or impede any connection established by a Grantor designated access provider, whether on the property of the Grantor, a designated access provider, or another cable operator, by means of which another cable operator obtains access to the PEG Access Channels, and not to object or impede the transmission of such signals by any other cable operator. The Grantee shall not charge the other party a fee for PEG programming in connection with transporting PEG

signals or programming on Grantee's Cable System to the meet point or other location agreed upon between Grantee and the other cable operator if Grantee is not required to pay a fee to obtain such programming.

c. Grantee shall ensure that all interconnections on its own property are securely housed and maintained, and shall establish and continue in effect a routing system satisfactory to the Grantor that meets FCC technical requirements for carriage of signals for PEG access signals.

With respect to installing the capacity required under this Section, the Grantor understands that interconnection requires cooperation from other cable system operators as to engineering, design, and technical operation issues. In addition, Grantee's interconnection obligation, with respect to equipment and construction, shall be limited to providing only such equipment needed, and performing such construction work required, within Grantee's Franchise Area in order to enable the required interconnections to occur. In order to actually establish the interconnections, it may be necessary for the operators of cable systems interconnecting with the Grantee's system to provide equipment needed, and perform construction work required, within their respective Franchise Areas; and the provision of such equipment and performance of such construction work shall be the obligation of Grantee only within its own Franchise Area. Therefore Grantor shall make every reasonable effort to assist Grantee in achieving the cooperation of interconnecting cable system operators necessary to establish the interconnections, and Grantee's interconnection obligations hereunder shall be subject to such cooperation being obtained.

All interconnections shall be accomplished in a manner that permits the transmission of signals meeting the technical standards of this Franchise on all interconnected Channels.

d. Any equipment and construction costs borne by Grantee in connection with the obligation to provide for PEG Access Channel interconnection shall be considered "external cost" as such term is used in 47 C.F.R. § 76.922 on the date of this Franchise, and as such, the cost is permitted under federal law and regulation to be passed through to Subscribers, to the extent and in a manner provided for in federal regulations governing the same. The cost of interconnection shall be in addition to any PEG capital contribution made by Grantee pursuant to Section 6.6.3 hereof and shall not be deducted from the amount of such contribution.

e. Notwithstanding the foregoing, interconnection may be waived by the Grantor if not technically feasible. Grantee may after consultation with Grantor, terminate an interconnection for any period where an interconnecting system is delivering signals in a manner that endangers the technical operation of Grantee's Cable System.

5.6 Emergency Alert Capability

a. In accordance with the provisions of FCC Regulations Part 11, Emergency Alert System (EAS), and as such provisions may from time to time be amended, the Grantee shall install, if it has not already done so, and maintain an Emergency Alert System (EAS) for use in transmitting Emergency Act Notification (EAN) and Emergency Act Terminations (EAT) in local and state-wide situations as may be designated to be an emergency by the local primary, state primary, and/or the state Emergency Operations Center, as those authorities are identified and defined within FCC Reg. Section 11.51 and other applicable state and local laws.

b. The Grantor shall permit only appropriately trained and authorized persons to operate the EAS equipment and shall to the extent permitted by law indemnify and hold harmless the Grantee, its employees, officers and assigns from any claims arising from use of the cable system or the EAS equipment by the Grantor, its employees, authorized representatives, or designees, including, but not limited to, reasonable attorneys' fees. Additionally, the Grantor shall to the extent permitted by law indemnify, save and hold harmless the Grantee against damage, loss or inappropriate use of the equipment and shall agree to use due care and to take reasonable precautions against such damage, loss or inappropriate use of the EAS equipment or other cable system equipment which may be used during a declared emergency.

5.7 Standby Power

Grantee shall provide standby power generating capacity at the Cable System control center. Grantee shall maintain standby power system supplies, rated at least at two (2) hours duration at each node or remote location. In addition, Grantee shall have in place and have filed with the Grantor throughout the Franchise term a plan and all resources necessary for implementation of the plan, for dealing with outages of more than two (2) hours.

Standby power to those portions of the Cable System serving County-

owned facilities will be provided within one (1) hour of notice from the County to Grantee of the need for such standby power.

5.8 Status Monitoring

Grantee shall implement status monitoring during the upgrade of the cable system which will continually monitor the system for signal quality on the forward and return spectrums of the system. In addition, the Grantee shall install status monitoring for all power supplies in its headend(s) and hub(s) as well as the distribution system.

Status monitoring shall be capable of notifying the Grantee, 24/7 of system problems, including utility power outages that will negatively affect its customers.

5.9 Parental Control Lock

Grantee shall provide subscribers (by sale or lease or otherwise), upon request, with a parental control locking device or digital code that permits inhibiting the viewing of premium channels or designated PEG programming.

5.10 Technical Standards

The Federal Communications Commission (FCC) Rules and Regulations, Part 76, Subpart K (Technical Standards), as now or hereafter constituted, shall apply, and may be enforced by the Grantor. The Grantor may establish and enforce higher or additional reasonable technical standards, following consultation with the Grantee, to the extent that applicable law allows the Grantor to do so.

5.11 Performance Testing

Grantee shall perform all system tests required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this franchise. These tests shall include, at a minimum:

- Initial proof of performance for any construction
- Semi-annual compliance tests
- Tests in response to subscriber complaints
- Tests requested by the Grantor to demonstrate franchise compliance.

Written records of all system test results performed by or for the Grantee shall be maintained for a period of two (2) years, and shall be available for Grantor inspection upon request.

System tests shall be performed at intervals of no greater than every six (6) months, at a minimum of five (5) randomly chosen subscriber television receiver connections in the franchise area, or connections to the system which are the equivalent of standard subscriber connections, including one hundred twenty (120) foot drop and converter. Grantor shall be given the opportunity to review and approve test sites in advance. At least two (2) of the test locations shall be the far end of the distribution trunk cables. The tests may be witnessed by representatives of the Grantor, and Grantee shall inform the Grantor of the time and place of each test no less than three weeks prior to the test. Written test reports shall be submitted to the Grantor. The Grantor may conduct independent tests of the system for which the Grantee shall give its fullest cooperation. If one or more of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated at the locations which failed, and at least five (5) additional randomly chosen locations. If results of a second test indicate failure of the system to meet the technical performance requirements of this franchise, then the Grantor may apply such remedy or remedies as it deems appropriate, unless the circumstances of the failure are caused by conditions which are beyond the Grantee's control, as determined, acknowledged and verified by the Grantor.

6. SERVICES AND PROGRAMMING

6.1 Programming Categories

The Grantee shall provide broad categories of video programming in at least the number and of the type offered at the time the franchise is granted until the system upgrade required by this franchise is completed. Upon completion of the system upgrade required in this franchise, the Grantee shall provide video programming services in at least the following broad categories:

- News & Info. (Local, Public, Distant Broadcast)
- Sports
- General Entertainment
- Arts, Culture, Performing Arts

- Children / Family
- Science
- Travel Information
- Weather Information
- Governmental and Educational Programming
- Movies
- Religious Programming
- Foreign language / Ethnic Programming

The identification of these broad categories of programming in no way infers regulatory authority by the Grantor over specific programming services or networks which may be carried on the Cable Communications Systems.

6.2 Changes in Video Programming Services

In the event any applicable law or regulation materially alters the terms and conditions under which Grantee carries programming within the broad programming categories described in Section 6.1, then the Grantee shall be obligated to carry such programming only upon reasonable terms and conditions.

Grantee shall provide written notice to the County and to subscribers for any proposed deletions, additions, or rearrangements of individual programming service at least thirty (30) days in advance. The County reserves the right to regulate to the fullest extent permitted by law to ensure maintenance of the mix, level and quality of service.

6.3 Interactive Residential Services

The Grantee shall make Interactive Services available to residential subscribers on or before the completion of the upgrade and not later than 30 months after the effective date of the this Agreement.

6.4 Leased Channel Service

The Grantee shall offer leased channel service to the extent required by 47 U.S.C. Section 532 (Section 612 of the Cable Act), or regulations adopted thereunder.

6.5 Obscenity

Grantee shall not transmit over the Cable System programming which is obscene or otherwise unprotected by the Constitution of the United States, or the State of Oregon, provided, however, Grantee shall in no way be responsible for programming over which it has no editorial control, including public, educational and governmental access programming.

6.6 Public, Educational and Government Use of System

6.6.1 Public and Government Access Channels

a. Grantee shall, upon the effective date of this Agreement and throughout the term of the Agreement, provide to the Grantor, for independent administration by the Grantor or its designee throughout the term of the Franchise, two (2) Access Channels to be cablecast throughout the Franchise Area.

b. At such time that Grantee migrates its cable services to an all-digital platform, Grantee shall convert the activated analog PEG Access Channels to digital channels and Grantor may require Grantee to provide four (4) additional digital downstream PEG access channels when the Channel for a particular type of PEG access programming meets the criteria stated below. Grantor shall provide at least 120 days prior written notice of required additional Access Channels.

i. Grantor must show that during any eight (8) consecutive weeks, the Public Access Channel is in use for Locally Produced, Locally Scheduled Original Programming eighty percent (80%) of the time, seven (7) days per week, for any consecutive five (5) hour block during the hours from noon to midnight; or

ii. Educational Access Channels: During any eight (8) consecutive weeks, the Educational Access Channel is in use for Locally Scheduled Original Programming eighty percent (80%) of the time, five (5) days per week, Monday through Friday, for any consecutive five (5) hour block during the hours from 6:00 AM to 11:00 PM, or

iii. Governmental Access Channels: During any eight (8) consecutive weeks, the Governmental Access Channel is in use for Locally Scheduled Original Programming eighty percent (80%) of the time, five (5) days per week, Monday through Friday, for any consecutive five (5) hour block during the hours

from 6:00 AM to 11:00 PM; and,

The applicable PEG Access Channel capacity expansion criteria as set forth in Subsections i, ii, or iii, has been met, or exceeded, by the Grantor or the Designated Access Provider with responsibility for programming the PEG Access Channel. For the purpose of Section 6.6:

(A) "Locally Produced" means programming produced in the Clackamas, Multnomah, or Washington Counties, or the Vancouver/Clark County, Washington metropolitan areas; and

(B) "Original Programming" means Programming in its initial cablecast on the Cable System or in its first or second repeat; and

(C) "Locally Scheduled" means that the scheduling, selection, and or playback of Original Programming on a per-program basis is determined in consultation with, or pursuant to the operating procedures of, the Designated Access Provider or, with respect to programming received over the Interconnection, the provider transmitting the programming over the Interconnection. However, carriage on any Access Channel of all or a substantial portion of any non-local programming which duplicates programming otherwise carried by Grantee as part of its Basic or Expanded Basic Cable Services shall not be considered "Locally Scheduled."

c. The Education Channel may be shared between educational resources until such time as utilization justifies the need for separate college and K-12 usage.

d. Grantee shall provide advance written notification to Local Broadcast or Basic Cable Subscribers at least 30 days in advance of the digital conversion and shall provide the technical capability to receive PEG Channels at no additional cost to those Subscribers receiving PEG Channels without a converter at the time of digital conversion. The channel number designation for the two (2) PEG Access Channels provided as of the effective date of this Agreement shall be same after digital conversion as they were prior to digital conversion, and the signal quality of the digital PEG Access Channels shall be equivalent to commercial programming on Grantee's Cable System, except as provided in subsection

6.6.7.b.

The Grantor acknowledges that pursuant to Section 611 of the Cable Act that Grantee has no editorial control over the Access Channels except as provided in the Cable Act.

6.6.2 Access Interconnections

The Grantee shall install and maintain all access interconnection of PEG access channels in accord with the requirements of Section 5.5. In addition to the interconnection requirement in Section 5.5 Grantee shall make a reasonable effort to install and maintain all access interconnections needed for future Access Channels required under this Franchise.

6.6.3 Support for Access Costs

Beginning January 1, 2013, Grantee shall provide one dollar ($1.00) per month, per Residential Subscriber, or such lesser amount if authorized by Grantor, for (i) Public, Educational, and Governmental Access capital costs and (ii) Institutional Network capital facilities and equipment so long as any such facilities or equipment are not owned by another cable operator. The contribution shall continue throughout the term of this Agreement. If the Grantee elects to include the contribution on the bills of Residential Subscribers, the Grantee shall provide notice to the Grantee's Residential Subscribers of such inclusion at least thirty (30) days prior to including the contribution on any bills. The Grantee shall coordinate with the Grantor on the content of the notice. The Grantee shall make such payments quarterly, following the effective date of this agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter.

The Grantor shall provide a report annually to the Grantee on the use of the funds provided to the Grantor under this Section 6.6.3. The annual report shall be submitted to Grantee within 120 days of the close of the Grantor's fiscal year, which fiscal year runs for twelve consecutive months from July 1 to and including June 30. Grantee may review records of Grantor regarding the use of funds described in such report. The Grantor agrees that the report shall document the amounts spent or encumbered for operating support for PEG access.

If Grantor enters into a franchise agreement or amends an existing

franchise agreement with another cable operator after the effective date of this Franchise to provide Cable Service in all or a portion of the Grantee's Franchise Area that includes PEG financial support calculated based on a per month, per residential subscriber basis that is less than $1.00 per month, per residential subscriber, then Grantee shall be entitled to reduce the PEG contribution to match that of the other cable operator or operators.

6.6.4 Access Support Not Franchise Fees

a. The Grantor recognizes that that the financial support for Access set forth in subsection 6.6.3 is to be used for capital costs consistent with Federal law and FCC Rules and Regulations. The Grantee agrees that neither such financial support nor other costs arising from or relating to the obligations set forth in this Section shall in any way modify or otherwise affect the Grantee's obligations to pay franchise fees to the Grantor. The Grantee agrees that although the sum of franchise fees and the payments set forth in this Section may total more than five percent (5%) of the Grantee's Gross Revenues in any twelve (12) month period, the additional commitments shall not be offset or otherwise credited in any way against any franchise fee payments under this Agreement. In the event the financial support set forth in subsection 6.6.3 is used for non-capital costs, Grantee may offset the amounts used for non-capital costs against franchise fee payments required under Section 8.1 herein, consistent with Federal law and FCC Rules and Regulations.

b. The Grantor recognizes franchise fees and certain additional commitments are external costs as defined under the Federal Communications Commission rate regulations in force at the time of adoption of this Agreement and, in accordance with federal law, the Grantee has the right and ability to include franchise fees and certain other commitments on the bills of cable customers.

6.6.5 Cable Service to Public Facilities

The services Grantee shall provide to public facilities are identified in Exhibit D.

6.6.6 Change in Technology

In the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly substantially affects the signal quality or transmission of Access Programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition or replacement of all necessary equipment at Grantee's headend, to ensure that the capabilities of Access Providers or Access Programmers are not diminished or adversely affected by such change. Designated Access Providers shall be responsible for acquisition of necessary equipment at their respective facilities.

6.6.7 Technical Quality

a. Grantee shall maintain all Upstream and Downstream Access Channels and Interconnections of Access Channels at the same level of technical quality and reliability required by this Franchise and all other applicable laws, rules and regulations for Residential Subscriber Channels.

b. Grantee shall have no responsibility for the technical production quality of the Access programming distributed on the Access Channels. If the technical production quality of the Access programming distributed on the Access Channels impacts, interferes or otherwise prevents the signal quality of the PEG Access Channels from being equivalent to commercial programming on Grantee's Cable System then Grantee shall distribute the programming in at least the same quality as received.

c. The Grantee shall not cause any programming other than emergency alert signals to override Access Programming on any Access Channel, except by specific written permission from the Access Provider.

7. FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS

7.1 Intent

It is the intent of the Grantor to administer and enforce the provisions of this Franchise. Grantor may delegate all or a part of its administrative and regulatory authority under this franchise to an entity designated by the Grantor.

7.2 Areas of Regulation and Administration

The Grantor (or its designee) has authority for regulation in the following areas:

a. Administering and enforcing the provisions of this franchise agreement, including the adoption of administrative rules and regulations to carry out this responsibility;

b. Coordination of the operation of public, government and educational access channels;

c. Interfacing the Grantee's technical, programming and operational assistance and support to public agency users, such as County departments, schools and health care institutions;

d. Formulating and recommending long-range cable communications policy for the franchise area;

e. Disbursing and utilizing franchise revenues paid to the Grantor.

f. Regulating rates, to the extent permitted by law;

g. Customer service, to the extent permitted by law;

h. Planning and facilitating development of public uses of the cable system on the residential and institutional networks, both within the County and through interconnection with adjacent systems.

7.3 Rate Regulation

a. Rate Regulation Right Reserved. Grantor reserves the right to regulate Grantee's rates and charges to the full extent authorized by applicable federal, state and local law, as these may change during the period of the franchise; and to establish rate regulation policies and guidelines for carrying out its authority.

b. Notice of Change in Rates and Charges. Throughout the term of this Franchise, Grantee shall give all subscribers within the unincorporated area at least thirty (30) days' notice of proposed rate changes, as required by FCC. Nothing in this subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns for the purpose of arbitrating subscribers or users.

c. Rate Discrimination Prohibited. Grantee shall apply non-discriminatory rates and charges to all subscribers purchasing similar services, regardless of race, color, creed, sex, marital or economic status, age, national origin, sexual preference, or neighborhood of residence, except as otherwise provided herein; provided that nothing in this franchise shall prevent the Grantee from establishing discounted rates and charges for low-income or elderly subscribers, or from temporarily reducing or waiving rates and charges in connection with promotional campaigns.

d. The provisions of this Section 7.3 shall be subject to the provisions of 47 U.S.C. Section 543 (Section 623 of the Cable Communications Policy Act of 1984), as amended from time to time. It is not intended that this Section expand or diminish the rights of the Grantor in relation to regulation of rates and charges under those provisions of the Act, and any provision of this Section or of any other provision of this franchise that purports to expand or diminish such rights shall be deemed superseded by those provisions of the Act.

7.4 Remedies for Franchise Violations

a. In addition to any other remedies as specified in this Franchise and in the event that Grantor determines that Grantee has violated any material provision of this Agreement, subject to Section 7.4(c) below Grantor may impose as liquidated damages, and not as a penalty, up to five hundred dollars ($500) per incident for non-continuing violations and up to one thousand dollars $1,000 per incident for continuing violations, not to exceed a total of ten thousand dollars $10,000 per year. For purposes of this Section, the term "per incident" means a single occurrence of a violation without regard to number of customers.

b. If Grantor believes that Grantee has failed to perform any obligation under this Agreement or has failed to perform in a timely manner, Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged violation.

The date of the violation will be the date of the event and not the date Grantee receives notice of the violation except in cases where Grantee did not know and could not reasonably have been expected to know that a violation occurred, in which case penalties shall accrue from the date Grantee knew or should have known of the violation. Without limiting the foregoing, Grantee is presumed to

know whether it violated a customer service standard that is measured based upon aggregate performance.

Grantee shall have thirty (30) calendar days from the date of receipt of such notice to:

i. Respond to Grantor, contesting Grantor's assertion that a violation has occurred, and request a hearing in accordance with subsection (e) below, or;

ii. Cure the violation, or;

iii. Notify Grantor that Grantee cannot cure the violation within the thirty (30) days, and notify the Grantor in writing of what steps the Grantee shall take to cure the violation including the Grantee's projected completion date for such cure. In such case, Grantor shall set a hearing date within thirty (30) days of receipt of such response in accordance with subsection (c) below.

c. In the event that the Grantee notifies the Grantor that it cannot cure the violation within the thirty (30) day cure period, Grantor may within thirty (30) days of Grantor's receipt of such notice, set a hearing. At the hearing, Grantor shall review and determine whether the Grantee has taken reasonable steps to cure the violation and whether the Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are found in Grantor's sole discretion to be reasonable, the same may be approved by the Grantor, who may waive all or part of the penalties for such extended cure period in accordance with the criteria set forth in subsection (g) of this section. Following the hearing, Grantor may also in its sole discretion, modify Grantee's proposed extended cure period.

d. In the event that the Grantee fails to cure the violation within the thirty (30) day basic cure period, or within an extended cure period approved by the Grantor pursuant to subsection (c), the Grantor may set a hearing to determine what penalties, if any, shall be applied.

e. In the event that the Grantee contests the Grantor's assertion that a violation has occurred, and requests a hearing in accordance with subsection (b)(i) above, the Grantor shall set a hearing within sixty (60) days of the Grantor's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what penalties shall be applied.

f. In the case of any hearing pursuant to this section, Grantor shall notify Grantee of the hearing in writing and at the hearing, Grantee shall be provided an opportunity to be heard and to present evidence in its defense. The Grantor may also hear any other Person interested in the subject, and may provide additional hearing procedures as Grantor deems appropriate.

g. The penalties set forth in this section of this Agreement may be reduced at the discretion of the Grantor, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

   i. Whether the violation was unintentional;

   ii. The nature of any harm which resulted;

   iii. Whether there is a history of overall compliance, and/or;

   iv. Whether the violation was voluntarily disclosed, admitted or cured.

h. If, after the hearing, Grantor determines that a violation exists, Grantor may utilize one or more of the following remedies:

   i. Order Grantee to correct or remedy the violation within a reasonable time frame as Grantor shall determine;

   ii. Establish the amount of penalties, taking into consideration the criteria provided for in subsection (g) of this Section as appropriate in Grantor's discretion;

   iii. Revoke this Agreement, and/or;

   iv. Pursue any other legal or equitable remedy available under this Agreement or any applicable law.

i. The determination as to whether a violation of this Agreement has occurred shall be within the sole discretion of the Grantor, and shall be in writing. Grantee may appeal the decision of Grantor to a court of competent jurisdiction as provided by Oregon law.

7.5 Public Disclosure

Subject to the Oregon Public Records Law, whenever, pursuant to this franchise agreement, Grantee shall make available for inspection by the

Grantor or submit to the Grantor reports containing information considered proprietary by the Grantee, the Grantor shall not disclose or release such reports or information to the public without Grantee's prior written consent provided Grantee has noted such information as proprietary in writing at the time of submission.

7.6 Remedies Not Exclusive

The Grantor has the right to apply any one or any combination of the remedies provided for in this Franchise, including without limitation all remedies provided for in this Section 7, and may without limitation pursue any rights, remedies or actions that it may have in law or equity regardless of whether they are specifically mentioned in this Franchise.

7.7 Consumer Protection Standards

The Grantee shall meet minimum Federal Consumer Protection Standards.

7.7.1 Customer service and telephone responsiveness

a. The Grantee shall maintain an office or customer service location within the Sandy/Wemme metropolitan area that is capable of accepting payments and changing out customer equipment. The office/customer service location must be adequately staffed for subscribers to make payments and drop off equipment not less than forty (40) hours per week, and until at least 7:00 PM at least one night per week.

b. The Grantee must also maintain a regional office-which must be adequately staffed and able to respond to subscribers and the public not less than forty nine (49) hours per week, with a minimum of nine (9) hours per day on weekdays and four (4) hours on Saturdays. As used herein, "adequately staffed" means toll-free telephone lines are open and customer service representatives are available to respond in at least the following ways: to accept payments; to exchange or accept returned converters or other company equipment; to respond to inquiries; and to schedule and conduct service or repair calls.

c. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational twenty-four (24) hours a day, including weekends and holidays.

e. The Grantee shall maintain, on average as verifiable by statistical data:

i. Sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers. Under normal operating conditions, the customer will receive a busy signal less than 3% of the time.

ii. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds. Grantee may use an Automated Response Unit ("ARU") or Voice Response Unit ("VRU") in answering and distributing calls from customers and the wait time not to exceed thirty seconds will commence once the ARU or VRU forwards the call to a queue for a live representative. If a call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than 90% percent of the time under normal operating conditions, measured on a quarterly basis.

7.7.2 **Service and Repair Calls**

a. Under normal operating conditions, at least 95% of the time measured on a quarterly basis, requests from subscribers for repair and maintenance service must be responded to, and repairs must commence within twenty-four (24) hours or prior to the end of the next business day, whichever is earlier. Repair and maintenance for service interruptions or other repairs not requiring on-premises work must be completed within twenty-four (24) hours under normal circumstances. All other repairs should be completed within seventy-two (72) hours under normal circumstances.

b. Under normal operating conditions, at least 95% of the time measured on a quarterly basis, as a normal operating procedure, upon subscriber request the Grantee shall offer either a specific appointment time or a pre-designated block of time (not to exceed four hours) for subscriber service appointments to be scheduled Monday through Saturday in the morning, the afternoon, and after 5:00 p.m.

The Grantee shall not cancel an appointment with a customer after the close of business on the business day prior to the

scheduled appointment.

If a Grantee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

c. With regard to the needs of mobility-limited customers, upon subscriber request, the Grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer). It is further the intent of Grantee to accommodate customer's working schedules by arranging, upon customer request, for pickup and/or replacement of converters or other company equipment at the customer's address.

d. Under normal operating conditions, at least 95% of the time measured on a quarterly basis, where the service requested is installation of service, standard installations shall be performed by the Grantee within seven (7) business days after an order has been placed. "Standard" installations, for the purposes of this section, shall mean those installations that are located up to one hundred and twenty-five (125) feet from the existing distribution system.

7.7.3 Disconnection

a. The Grantee may disconnect a subscriber if:

i. at least thirty (30) days have elapsed without payment after the due date for payment of the bill of the affected subscriber; and

ii. the Grantee has provided at least ten (10) days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.

b. Regardless of subsection (a) hereof, the Grantee may disconnect a subscriber for cause at any time if the Grantee in good faith determines that the subscriber has tampered with, stolen or abused company equipment, or is or may be engaged unlawfully in theft of cable services, or is causing a

system violation of FCC rules or regulations, or threatened or assaulted employees of the Grantee during the course of their employment.

c. The Grantee shall promptly disconnect any subscriber who so requests from the Grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by the Grantee. No charge may be imposed by the Grantee for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to Grantee, the Grantee shall under normal operating conditions, within thirty (30) days return to such subscriber the amount of the deposit, if any, collected by Grantee from such subscriber, less any disputed amounts owed to Grantee for cable services or charges prior to the date of disconnection.

7.7.4 Credits Upon Outage

Except for planned outages where subscribers are provided reasonable notification in advance, upon a subscriber's request the Grantee shall provide a pro-rated 24-hour credit to the subscriber's account for any period of two (2) hours or more during which that subscriber experienced the effective loss or substantial impairment of video or audio service on the system.

7.7.5 Downgrade Charges

Grantee may impose Downgrade Charges only if:

a. the Subscriber has been notified, at the time of initiating Cable Services, of Grantee's Downgrade Charges; and

b. the Downgrade Charge does not exceed the Grantee's costs of performing the downgrade as determined under FCC rate regulation rules, subject to applicable law.

7.7.6 Billing information required

The Grantee bill to subscribers shall itemize each category of service, equipment, or other applicable fees, and state clearly the charge there of. The Grantee shall make its best effort to inform subscribers as clearly as possible when payments are due and when late fees and disconnection may occur.

7.7.7 Information to subscribers

a. Upon installing initial service to or reconnecting each customer, and upon request thereafter, the Grantee shall advise the customer, in writing, of:

i. the equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;

ii. the amount and criteria for any deposit required by Grantee, if applicable, and the manner in which the deposit will be refunded;

iii. the Grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;

iv. the toll-free telephone number and address of the Grantee's office to which complaints and inquiries may be reported;

v. the company's practices and procedures for protecting against invasions of subscriber privacy;

vi. service termination policy;

vii. billing procedures. Billing procedures shall be clearly explained in the manual and in addition, the company's phone number for information and requesting the manual shall be placed on the part of the bill retained by customers;

viii. the notice and referral information, as set forth in subsection (b) hereof;

ix. liability specifications;

x. converter/subscriber terminal policy; and

xi. breach of agreement policy.

b. Notice to Subscribers.

i. The Grantee shall inform the Grantor and subscribers

within thirty (30) days, prior to any changes in programming or increases in rates, costs, or charges to subscribers, or any channel repositioning within the control of Grantee.

ii. All Grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all Grantee-prepared promotional materials must clearly and accurately disclose price terms and any restrictions for use. Likewise, in the case of telephone orders, the Grantee shall take appropriate steps to ensure that Grantee customer service representatives clearly and accurately disclose price terms and any restrictions for use to potential customers in advance of taking the order.

iii. The Grantee shall, upon request by the Grantor and at least annually, send written notice approved by the Grantor to all subscribers that any complaints or inquiries not satisfactorily handled by the Grantee may be referred to the Grantor or its designee, giving the address and phone number of the appropriate Grantor office. Such notification may be included with a billing statement.

c. Written Complaint Acknowledgment

Within ten (10) days following receipt of a written complaint, as defined in Section 7.7.8.b, received at the Grantee's principal business office by first class mail, from a subscriber, the Grantee shall provide an acknowledgement to the subscriber of receipt of the complaint and of any action, the Grantee has taken or intends to take in response to the complaint. This requirement does not apply to complaints submitted for processing by a regulatory agency other than the County, such as the FCC.

7.7.8 <u>Complaint resolution</u>

a. The Grantor may take all necessary steps to ensure that all subscribers and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the Grantee has not settled the complaint to the satisfaction of the person initiating the complaint.

b. For purposes of this section, a "complaint" is a grievance related to the service of the cable communications system within the franchise area that is reasonably remediable by the Grantee, but does not include grievances regarding the content of programming or information services, other than grievances regarding the inclusion or exclusion of broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the customer's problem satisfactorily to the customer or inquiries by the customer.

7.7.9 Failure to Resolve Complaints

If Grantee fails to resolve a complaint within thirty (30) days following the date the complaint was made to the Grantee, and after the Grantor follows the processes set forth in Section 7.4 herein Grantor finds that Grantee has failed to satisfactorily resolve the complaint, then Grantee shall be deemed in violation of the Franchise, and the Grantor may assert any of the remedies set out in Sections 7.4, 11 and other applicable subsections.

8. GENERAL FINANCIAL AND INSURANCE PROVISIONS

8.1 Compensation

a. Franchise Fee.

As compensation for the Franchise to be granted, and in consideration of permission to use the streets and public ways of the Grantor for the construction, operation, and maintenance of a cable communications system within the Franchise Area and to defray the costs of Franchise regulation, the Grantee shall pay to Grantor an amount equal to five percent (5%) of the Gross Revenues generated in any manner through the operation of the cable system to provide cable services as defined in this Franchise. In the event any law or valid rule or regulation applicable to this Franchise limits franchise fees below the five percent (5%) of Gross Revenues required herein, the Grantee agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, then Grantee shall pay the higher amount up to the maximum allowable by law, not to exceed five percent (5%).

Any bad debts or other accrued amounts deducted from Gross Revenues shall be included in Gross Revenue at such time as they are actually collected.

The Grantee shall at all times during the term of this Franchise maintain on file with the County an up-to-date list of all affiliated entities receiving Gross Revenues as such revenues are defined in this Franchise.

In the event the obligation of Grantee to compensate Grantor through franchise fees is lawfully suspended or eliminated, in whole or in part, then the Grantee shall pay to Grantor compensation equivalent to the compensation paid to Grantor by other similarly situated users of the streets for Grantee's use of the Streets, to the extent Grantor has the legal right to require such compensation.

b. Bundling.

If Cable Service subject to the Franchise fee required under this Franchise are sold to Subscribers in conjunction with non-Cable Services, the Franchise fee shall be applied only to the value of the Cable Services, as reflected on the books and records of Grantee in accordance with applicable FCC or state rules, regulations, standards or orders. Grantee shall not allocate revenue between Cable Services and non-Cable Services for the purpose or with the intent of evading or substantially reducing Grantee's franchise fee obligations to Grantor.

c. Payment of Franchise Fees.

i. Payments due under this provision shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty five (45) days after the dates listed in the previous sentence. A quarterly report shall be made as hereinafter provided in Section 12.3.

ii. No acceptance of any payment shall be construed as accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim Grantor may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and recomputation by Grantor.

iii. In the event that a franchise fee payment or other sum is not received by the Grantor on or before the due date, or is underpaid, the Grantee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to the legal interest rate in the State of Oregon.

iv. Payment of the franchise fees under this Agreement shall not exempt Grantee from the payment of any generally applicable license, permit fee or other generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be imposed by Grantor.

8.2 Faithful Performance Bond

a. Upon the effective date of this Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond running to the County with good and sufficient surety approved by the County, in the penal sum of Ten Thousand Dollars ($10,000.00), or the deposit of $10,000 in a restricted account satisfactory to the County, conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition of this Franchise. Such bond shall be maintained by the Grantee throughout the term of this Franchise.

b. Grantee shall pay all premiums charged for any bond required under Section 8.2(a), and shall keep the same in full force and effect at all times through the later of either:

i. The remaining term of this Franchise; or

ii. If required by the County, the removal of all of Grantee's system installed in the County's Streets and Public Ways.

c. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days written notice first being given to the County. The bond shall be subject to the approval of the County Attorney as to its adequacy under the requirements of Section 8.2. During the term of the bond, Grantee shall file with the County a duplicate copy of the bond along with written evidence of payment of the required premiums unless the bond otherwise provides that the bond shall not expire or be terminated without thirty (30) days prior written notice to the County.

d. In a form approved by the County, the Grantee may provide an irrevocable letter of credit, guaranty in lieu of bond, or other form of financial assurance in lieu of a faithful performance bond. The

alternative form of financial assurance shall give the County substantially the same rights and guarantees provided by a faithful performance bond.

e. The Board of County Commissioners may at any time during the Initial Term or extension thereof reduce or eliminate the bond requirements.

8.3 Damages and Defense

a. The Grantee shall defend, indemnify and hold harmless Clackamas County, and its officers, agents, and employees, from and against all claims, damages and penalties, including but not limited to attorney fees, arising as a result of any actions of the Grantee under this Franchise unless such claims, damages and penalties are the result of Grantor's negligence or willful misconduct. These claims, damages and penalties shall include, but shall not be limited to: damages arising out of copyright infringement; defamation or anti-trust actions; and all other damages arising out of the Grantee's actions under the franchise or the construction, operation, maintenance or reconstruction of the cable communications system authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this franchise.

b. If the Grantee fails to defend as required in Section 8.3(a), above, then the Grantee agrees to and shall pay all expenses incurred by Clackamas County, and their officers, agents, and employees, in defending itself with regard to all claims, damages and penalties mentioned in section (a) above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by any employees of the Grantor.

8.4 Liability Insurance and Indemnification

a. Grantee shall maintain automobile and Worker's Compensation insurance, as well as public liability and property damage insurance, that protects the Grantee and the County, its officers, agents and employees, from any and all claims for damages or personal injury including death, demands, actions and suits brought against any of them arising from operations under this Franchise or in connection therewith, as follows:

b. The insurance shall provide coverage at all times for not less than $1,000,000 for personal injury to each person, $1,000,000 aggregate

for each occurrence, and $500,000 for each occurrence involving property damages, plus costs of defense; or a single limit policy of not less than $1,000,000 covering all claims per occurrence, plus costs of defense. The insurance shall be equal to or better than commercial general liability insurance.

The minimum amounts of insurance set out in subsection (b) of this section shall be increased from time to time to the extent necessary to provide coverage at least as great as the limits on the County's liability under the Oregon Tort Claims Act.

The evidence of coverage for Workers' Compensation shall show that it includes State of Oregon Statutory Limits, and Employer's Liability limits of at least $1,000,000.

Any insurance carrier shall have an A.M. Best rating of A or better, and be authorized to do business in the State of Oregon.

c. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the County and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.

d. The insurance shall provide that the insurance shall not be canceled or materially altered so as to be out of compliance with the requirements of this Section 8.4 without thirty (30) days written notice first being given to the County. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this Section 8.4 within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in the amounts required, for the duration of this Franchise.

e. Grantee shall file prior to the effective date of this Franchise and shall maintain on file with the County a certificate of insurance certifying the coverage required above, which certificate shall be subject to the approval of the County Attorney as to the adequacy of the certificate and of the insurance certified under the requirements of this Section 8.4. At a minimum, the certificate shall be signed by a representative with authority to bind the insurance carrier.

The certificate shall show that the general liability portion of the insurance includes:

i. Broad form property damage;

ii. Products and completed operations;

iii. Explosion, collapse, and underground exposures;

iv. Contractual liability; and

v. Owners and contractors protective coverage.

f. Failure to maintain adequate insurance as required under this Section 8.4 shall be cause for termination of this Franchise by the County as provided in Section 11.1 herein.

g. The Grantee shall also indemnify, defend and hold harmless the County and its officers, agents and employees for any and all claims for damages or personal injury which exceed the limits of insurance provided for in this Section.

9. RIGHTS RESERVED TO GRANTOR

9.1 Grantor Acquisition of the Cable System

The parties shall be subject to the provisions of 47 U.S.C. 547 (Section 627 of the Cable Act), as amended from time to time. It is not intended that this Agreement diminish the rights of either Grantor or Grantee under Section 627 of the Act, and any provision of the Agreement that purports to diminish such right shall be deemed superseded by the Act.

9.2 Right of Inspection of Records

In order to assist the Grantor in keeping adequate records of the activities of the Grantee under this franchise, the Grantee shall provide the following information as may be required by the Grantor for its review:

a. With respect to the cable system and its operation authorized under this franchise, and to the extent necessary for the enforcement of this franchise, information pertaining to the operations of the Grantee, and for the specific purposes of a bona fide enforcement effort being conducted by the Grantee, including but not limited to: the true and entire cost of construction, upgrade and replacement of plant and

equipment for the cable system authorized under this franchise, and of the maintenance, administration and operation thereof, including any operations or revenue generated from the cable system by any parent company or affiliate within the franchise area indicated or implicated as direct or indirect revenue to WaveDivision VII, LLC.

b. The amount collected by the Grantee from users of services of the Grantee's cable communications system under this Franchise and the character and extent of the services rendered therefore to them.

The information, along with any further data which may be reasonably required by the Grantor to adequately understand the information, shall be furnished by the Grantee to the Grantor upon request, and at the Grantee's own cost and expense.

9.3 Right to Perform Franchise Fee Audit

In addition to all rights granted under Section 9.2, the Grantor shall have the right to perform, or cause to have performed, a formal audit of the Grantee's books and records and, the books and records of any parent or affiliate company, for the purpose of determining the gross revenues of the Grantee generated in any manner through the operation of the cable system under this franchise and the accuracy of amounts paid as franchise fees to the Grantor by the Grantee, provided that any audit must be commenced not later than three (3) years after the date on which franchise fees for any period being audited were due. The cost of any such audit shall be borne by the Grantor, except that if through the audit it is established that the Grantee has made underpayment of 3% or more in franchise fees than required by this franchise, then the Grantee shall, within thirty (30) days of being requested to do so by the Grantor, reimburse the Grantor for the cost of the audit up to $15,000.

9.4 Right of Inspection of Construction

The Grantor or its representatives shall have the right to inspect all construction or installation work performed pursuant to the provision of this franchise agreement and to make such tests as it shall find necessary to ensure compliance with the terms of this franchise and other pertinent provisions of law.

9.5 Intervention

The Grantee shall not hinder the Grantor's lawful intervention in any suit or proceeding to which the Grantee is party which may have an effect upon the construction, upgrade, maintenance or operation of the system.

9.6 Right to Require Removal of Property

At the expiration of the term for which the franchise is granted providing no renewal is granted, or upon its forfeiture or revocation, as provided for herein, the Grantor shall have the right to require the Grantee to remove, at Grantee's own expense, all or any part of the cable communications system from all streets and public ways within the franchise area. If the Grantee fails to do so, the Grantor may perform the work and collect the cost thereof from the Grantee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of the Grantee effective upon placement in the lien books of the Grantor. Notwithstanding the other provisions of this section, the Grantee, by written notice to the Grantor, may elect to abandon underground cable in place, in which event the Grantee shall have no further obligation hereunder as to the abandoned cable; except that the Grantor may nevertheless, by written notice, require the Grantee to remove cable as deemed necessary by the Grantor to provide space for other authorized uses or to accomplish or enable the accomplishment of other public purposes.

9.7 Inspection of Facilities.

Grantor may inspect upon request any of the Grantee's facilities and equipment to confirm compliance with this Agreement at any time upon at least forty-eight (48) hours' notice, or, in case of an emergency, upon demand without prior notice.

10. RIGHTS OF INDIVIDUALS PROTECTED

10.1 Discriminatory Practices Prohibited

a. The Grantee shall not deny service, deny access, or otherwise unlawfully discriminate against subscribers or persons on the basis of race, color, religion, national origin, sex, age, disability, income, or, except as otherwise provided herein, the area in which such person lives. The Grantee shall comply at all times with all applicable federal, state, or local laws, rules and regulations relating to nondiscrimination.

b. The Grantee shall use best efforts to assure maximum practical availability of Grantee services and facilities to all subscribers, regardless of disability, including the provision of a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's

household is mobility limited.

c. For hearing impaired customers, the Grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, the Grantee must have TTY (or equivalent) equipment at the company office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.

d. Upon request by a subscriber or potential subscriber, the Grantee shall make a reasonable effort as determined by Grantor to provide information required under Section 7.7.7, or otherwise provided in the normal course of business, in both English and the primary language of the requestor.

e. Nothing in this Section shall be construed to prohibit: 1) the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns; or 2) Grantee from offering reasonable discounts to senior citizens or discounts to economically disadvantaged citizens.

10.2 Unauthorized Monitoring or Cable Tapping Prohibited

The Grantee shall not, nor shall Grantee allow any other person, agency, or entity to tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, without the subscriber's written consent or a valid court order or a valid request from a law enforcement agency permitting the tapping.

10.3 Privacy and Other Rights

The Grantee and the Grantor shall maintain constant vigilance with regard to possible abuses of the right of privacy and any other civil right of any subscriber, programmer, or person resulting from any device or signal associated with the cable communications system. The Grantee shall not place in the building, structure or any facility of any subscriber any equipment capable of two-way communications not associated with the normal reception of services, without the written consent of the subscriber, revocable at the discretion of the subscriber and shall not utilize the two-way communications capability of the system for unauthorized or illegal subscriber

surveillance of any kind. For purposes of this subsection, tenants who occupy premises shall be deemed to be subscribers, regardless of who actually pays for the service. Written consent, as required herein, shall not be required of any subscriber by Grantee as a condition of receiving any other cable service.

10.4 Permission of Property Owner Required

No cable, line, wire, amplifier, converter, or other piece of equipment owned by the Grantee shall be installed by the Grantee without first securing the written permission of the owner or tenant of any property involved except where there is an existing utility easement or other easement reserved by plat or other conveyance. If such permission or easement is later lawfully revoked, whether by the original or a subsequent owner or tenant or Grantor, the Grantee shall remove forthwith on request of the owner or tenant any of its equipment and promptly restore the property to its original condition. The Grantee shall perform all installations and removals in a workmanlike manner and shall be responsible for any damage to residences or other property caused by the installation.

10.5 Sale of Subscriber Lists and Personalized Data Prohibited

The Grantee shall be subject to 47 U.S.C Section 551 (Section 631 of the Cable Act), as amended from time to time, regarding limitations on the cable company's collection and use of personally identifiable information, and other issues involving the protection of subscriber privacy.

10.6 Landlord - Tenant

Grantee shall provide to individual units of a multiple housing facility, such as a duplex, apartment or condominium unit, all services offered to other dwelling units within the franchise area, providing the owner of the facility consents in writing, if requested by Grantee, as follows:

a. To Grantee's providing the services to units of the facility;

b. To reasonable conditions and times for installation, maintenance and inspection of the system on facility premises;

c. To reasonable conditions promulgated by Grantee to protect

Grantee's equipment and to encourage widespread use of the system; and

d. To not demand payment from Grantee for permitting Grantee to provide service to the facility and to not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not.

e. However, Grantee shall have no obligation to provide service if the cost of installation per unit exceeds the Grantee's standard per foot rate for line extension construction multiplied by one hundred twenty-five (125) feet. To determine unit costs, the total project cost is divided by the number of units. The total project cost shall include only the costs of cable installed on the property including line extension and pre/post wiring of the units.

11. TERMINATION AND EXPIRATION

11.1 Revocation

In addition to any rights set out elsewhere in this document, the Grantor reserves the right to declare a forfeiture or otherwise revoke this franchise, and all rights and privileges pertaining thereto, in the event that:

a. the Grantee is in violation of any material provision of the franchise agreement after application by the Grantor of a remedy lesser than franchise revocation pursuant to this franchise agreement, and fails to correct the violation after written notice of the violation and proposed forfeiture and a reasonable opportunity thereafter to correct the violation;

b. the Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt;

c. the Grantee is found to have engaged in fraud or deceit upon the Grantor, persons or subscribers;

d. the Grantee fails to obtain and maintain any permit required by any federal or state regulatory body, relating to the construction, maintenance and operation of the system; provided, however, that the Grantee shall be allowed a reasonable time to cure failure to obtain any permit; or

e. the Grantee fails to maintain the full amount of its insurance or to

post a performance bond as required under the terms of this franchise.

Upon the occurrence of one of the events set out above, and after following the due process procedure set forth in Section 7.4 of the Franchise, including the public hearing described therein, the Grantor shall provide written notice to Grantee of such intent. The notice shall set forth the specific nature of the noncompliance. The Grantee shall have ninety (90) days from receipt of such notice to object in writing and to state its reason for such objection. In the event the Grantor has not received a satisfactory response from Grantee, it may then seek revocation of the Franchise at a second public hearing. The Grantor shall cause to be served upon the Grantee, at least thirty (30) business days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Grantor, to compel the testimony of other persons as permitted by law, and to question and/or cross examine witnesses. A complete verbatim record and transcript shall be made of such hearing at Grantee's request and expense.

Following the public hearing, Grantee shall be provided up to thirty (30) days to submit its proposed findings and conclusions in writing and thereafter the Grantor shall determine (i) whether an event of default has occurred (ii) whether such event of default is excusable; and (iii) whether such event of default has been cured or will be cured by the Grantee. The Grantor shall also determine whether to revoke the Franchise based on the information presented or, where applicable, grant additional time to the Grantee to affect the cure. If the Grantor determines that the Franchise shall be revoked, the Grantor shall promptly provide Grantee with a written decision setting forth in reasoning. Grantee may appeal such determination of the Grantor to an appropriate court, which shall have the power to review the decision of the Grantor in accordance with Oregon law, Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Grantor.

The Grantor may, at its sole discretion, take any lawful action which

it deems appropriate to enforce the Grantor's rights under the Franchise in lieu of revocation of the Franchise.

The parties agree that the limitation of Grantor liability set forth in 47 U.S.C. § 555a is applicable to this Franchise Agreement.

11.2 Expiration

Upon expiration of the franchise, the parties shall have the obligation to abide by the renewal provisions of the Cable Communications Policy Act of 1984, as amended from time to time. It is not intended that this section diminish the rights of either the Grantor or the Grantee under the Act, and any provisions of this section that purports to diminish such rights shall be deemed superseded by the Act.

11.3 Continuity of Service Mandatory

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the system, or Grantor revokes or fails to renew the franchise, the Grantee shall make its best effort to ensure that all subscribers receive continuous uninterrupted service.

12. OPERATION AND MAINTENANCE

12.1 Open Books and Records

The Grantee shall maintain a business office or customer service location within a fifteen mile radius from the boundaries of the City of Woodburn for managing the cable system, and, subject to the provisions of Section 10 of this franchise and, to such privileges as may be established under Oregon Law, shall manage all of its operations in accordance with a policy of accessible open books and records to the Grantor. The Grantor shall have the right as necessary, in the Grantor's sole and reasonable discretion, for effectively administering and enforcing the franchise, to inspect at any time during normal business hours upon ten (10) business days' notice, all records of the Grantee, and for the specific purposes of a bona fide enforcement effort being conducted by the Grantor, also of any affiliate or any cable operator, which relate to the operation of the franchise. Access to the aforementioned records shall not be denied by the Grantee to representatives of the Grantor on the basis that said records contain "proprietary information", nor on the basis that they contain trade secrets unless the Grantor cannot protect the trade secrets from

disclosure under Oregon law. To the extent allowed under Oregon law, the Grantor shall protect proprietary information including trade secrets of the Grantee from disclosure. The franchisee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years.

The Grantee shall also provide, in the manner set forth in this Section and as provided in Section 13.14, the following information: (a) for the specific purpose of a bona fide audit or enforcement effort being conducted by the Grantor, the true and entire cost of construction, upgrade and replacement of plant and equipment for the cable system authorized under this Franchise; the true and entire cost of the maintenance, administration and operation of the cable system, including any operations or revenue generated from the cable system by any parent company or affiliate within the Franchise Area indicated or implicated as direct or indirect revenue to the Grantee from the provision of Cable Services; and (b) the amount collected by the Grantee from Subscribers of Cable Services of the Grantee's Cable System under this Franchise and the character and extent of the Cable Service rendered therefore to them.

12.2 Communications with Regulatory Agencies

A list and copies of all material written petitions, applications, communications, and reports submitted by the Grantee, and also by any affiliate or any cable operator of the system authorized by this Franchise, to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to this franchise agreement, shall be submitted to the Grantor upon written request. In addition, copies of any communications to and from any regulatory agency pertaining to any alleged, apparent or acknowledged violation of an applicable rule or law of the agency related to or affecting operations within the franchise area, shall be immediately submitted to the Grantor, if the communications are to or from the Grantee, or upon written request from the Grantor if the communications are to or from an affiliate or cable operator of the cable system authorized by this franchise

12.3 Reports

a. Quarterly Reports.

Within thirty (30) calendar days after the end of each fiscal quarter

of the Grantee, Grantee shall, upon written request of the Grantor, submit to the Grantor a report of all trouble call complaints received by or referred to Grantee within the report quarter. The reports shall contain, as a minimum, the name, address, and telephone number of the complaining party, the specific nature of the complaint, remedial action taken if any, and the current status of the complaint. Upon written request by the Grantor, Grantee shall also provide outage reports, summary statistics on patterns of complaints or service problems, and other customer service information, provided that such information may be reasonably generated by the Grantee. Within forty five (45) days after the end of each of the Grantee's fiscal quarters, the Grantee shall submit a written report to the Grantor, verified by an officer of Grantee, or the officer's designee, which shall contain an accurate statement of all gross revenues earned and collected by the Grantee or any cable operator, related to operation of the cable system franchised hereunder, in sufficient detail to enable the Grantor to verify the accuracy of franchise fee payments.

b. Annual Report.

No later than three-and-one-half (3 ½) months following the end of the Grantee's fiscal year each year and upon written request, Grantee shall present a written report to the Grantor which shall include:

i. Financial reports that are normally prepared for the Grantee for the previous fiscal year, including gross revenues from all sources, gross subscriber revenues from each category of service, as well as an income statement, statement of cash flow, and a balance sheet.

All financial reports required under this section shall be presented to the Grantor accompanied by such notes and explanations as are required to fully understand the reports. Such notes and explanations shall include, but not be limited to, an explanation of any and all deductions made from Gross Revenues in order to arrive at Gross Receipts for the calculation of franchise fees to be paid to the Grantor.

ii. A summary of the previous year's activities including, but not limited to, subscriber totals in each category and new services.

c. Monitoring and Compliance Reports.

Upon written request, the Grantee shall provide a written report of any FCC technical performance tests for the residential network required in FCC Rules and Regulations as now or hereinafter constituted. In addition, the Grantee shall upon request provide reports of the test and compliance procedures established by this franchise agreement, no later than thirty (30) days after the completion of each series of tests.

d. Additional Reports Expense.

The Grantee shall prepare and furnish to the Grantor, at the times and in the form prescribed, such additional reports with respect to its operations, affairs, transaction, or property, as may be reasonably necessary and appropriate to determine compliance with the Franchise.

All reports and records required under this or any other Section shall be furnished to Grantor at the sole expense of Grantee. Grantee shall not be required to develop or create reports that are not part of its normal business procedures and reporting or that have not been defined specifically within this Franchise in order to meet the requirements of this Franchise.

12.4 Safety

a. The Grantee shall, at all times, employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to employees of the Grantor.

b. The Grantee shall install and maintain its wires, cable, fixtures, and other equipment, including the drop to the subscriber's premise in accordance with the requirements of the National Electrical Safety Code (NESC) and National Electrical Code (NEC), and in such manner that they shall not interfere with the installations of any public utility.

c. All lines, equipment and connections in, over, under, and upon either the streets and public ways of Grantor or private property within boundaries of Grantor, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

13. MISCELLANEOUS PROVISIONS

13.1 Compliance with Laws

The Grantee shall comply with all applicable federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all general ordinances, resolutions, rules and regulations of the Grantor heretofore or hereafter adopted or established during the entire term of this franchise, provided that any such ordinances, resolutions, rules and regulations of the Grantor hereafter adopted or established shall not conflict or interfere with the existing rights of the Grantee hereunder.

13.2 Severability

Subject to the provisions of Section 13.7 below, if any section, subsection, sentence, clause, phrase or word of the franchise agreement is held to be invalid or unconstitutional by any court of competent jurisdiction or pre-empted by federal or state regulations or law, such section, subsection, sentence, clause, phrase or word shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

If any material provision of this Franchise is for any reason held invalid or unenforceable by any court of competent jurisdiction, or superceded by state or federal law, rules, regulations or decision so that the intent of these provisions is frustrated, the parties agree to immediately negotiate replacement provisions to fulfill the purpose and intent of the superseded provisions consistent with applicable law.

In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Franchise, then the provision shall be read to be preempted to the extent and for the time required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, the parties shall discuss the regulatory changes and mutually agree to modify the Franchise consistent with such regulatory change.

13.3 Captions

The captions to sections throughout this franchise agreement are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this franchise agreement.

13.4 No recourse Against the Grantor

Except as provided by applicable law, the Grantee shall have no recourse whatsoever against the Grantor or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this Franchise Agreement or any part thereof is determined to be invalid.

13.5 Nonenforcement by Grantor

The Grantee shall not be relieved of its obligations to comply with any of the provisions of this franchise agreement by reason of any failure of the Grantor to enforce prompt compliance.

13.6 Force Majeure

If by reason of force majeure the Grantee is unable in whole or in part to carry out its obligations hereunder, the Grantee shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of the government of the United States of America, or of the State of Oregon, or their departments, agencies, political subdivisions, or officials; acts of any civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities; documented work delays caused by waiting for utility providers to service or monitor utility poles to which Grantee's facilities are attached and documented unavailability of materials and/or qualified labor to perform the work necessary and similar occurrences outside the control of the Grantee. The Grantee agrees, however to give its best efforts to remedy as soon as possible, under the circumstances, the cause or causes preventing Grantee from carrying out its responsibilities and duties under this franchise agreement.

13.7 Entire Agreement

This franchise agreement contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

13.8 Consent

Wherever the consent or approval of either the Grantee or the Grantor is specifically required in this agreement, such consent or approval shall not be unreasonably withheld.

13.9 Time Limit for Grantee Communications

Grantee shall provide any written communication required by this franchise within sixty (60) days of being requested to do so by the Grantor, in each case in which no other specific minimum time limit for a communication is identified in the franchise.

13.10 Consistency of Franchise with Cable Act

The parties intend and believe that all of the provisions hereof are consistent with and permitted by the Cable Communications Policy Act of 1984, and the Cable Act of 1992, and the Telecommunications Act of 1996.

13.11 Comparability of Other Cable Franchises

The Grantee acknowledges and agrees that the Grantor may be required by federal law, and reserves the right, to grant one or more additional franchises to provide Cable Service within the Franchise Area. If the Grantor issues a franchise to a cable operator to enter upon the streets and public rights of way for the purpose of operating a Cable System to provide Cable Service to any part of the franchise area, except to the extent that state or federal laws or regulations permit or require more favorable or less burdensome terms or conditions, the Grantor shall ensure that, considering all the circumstances, including any limitations on its regulatory authority, the material provisions of such other franchise are, taken together, reasonably comparable to the material provisions of this Franchise. The parties agree that, notwithstanding any provision of this subsection 13.11, the Grantor shall not be obligated to comply with the provisions of this subsection to the extent doing so would cause the Grantor to violate applicable laws or FCC rules.

13.12 Franchise Review

During the six (6) month period beginning two (2) years after the

effective date of this franchise, the Grantor and Grantee may undertake a review of Grantee's system and performance to date, in order to determine whether Grantee has upgraded the system as described in Section 5.2 of the Franchise.

13.13 Notice

Any notice provided for under this Franchise shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such address as the receiving party specifies in writing:

If to the County: Cable Communications Manager
Clackamas County
2051 Kaen Rd
Oregon City, OR 97045

If to the Grantee: Wave Broadband
401 Kirkland Parkplace, Suite 500.
Kirkland, WA 98033
Attention: Steve Weed and Jim Penney

13.14 Public Disclosure

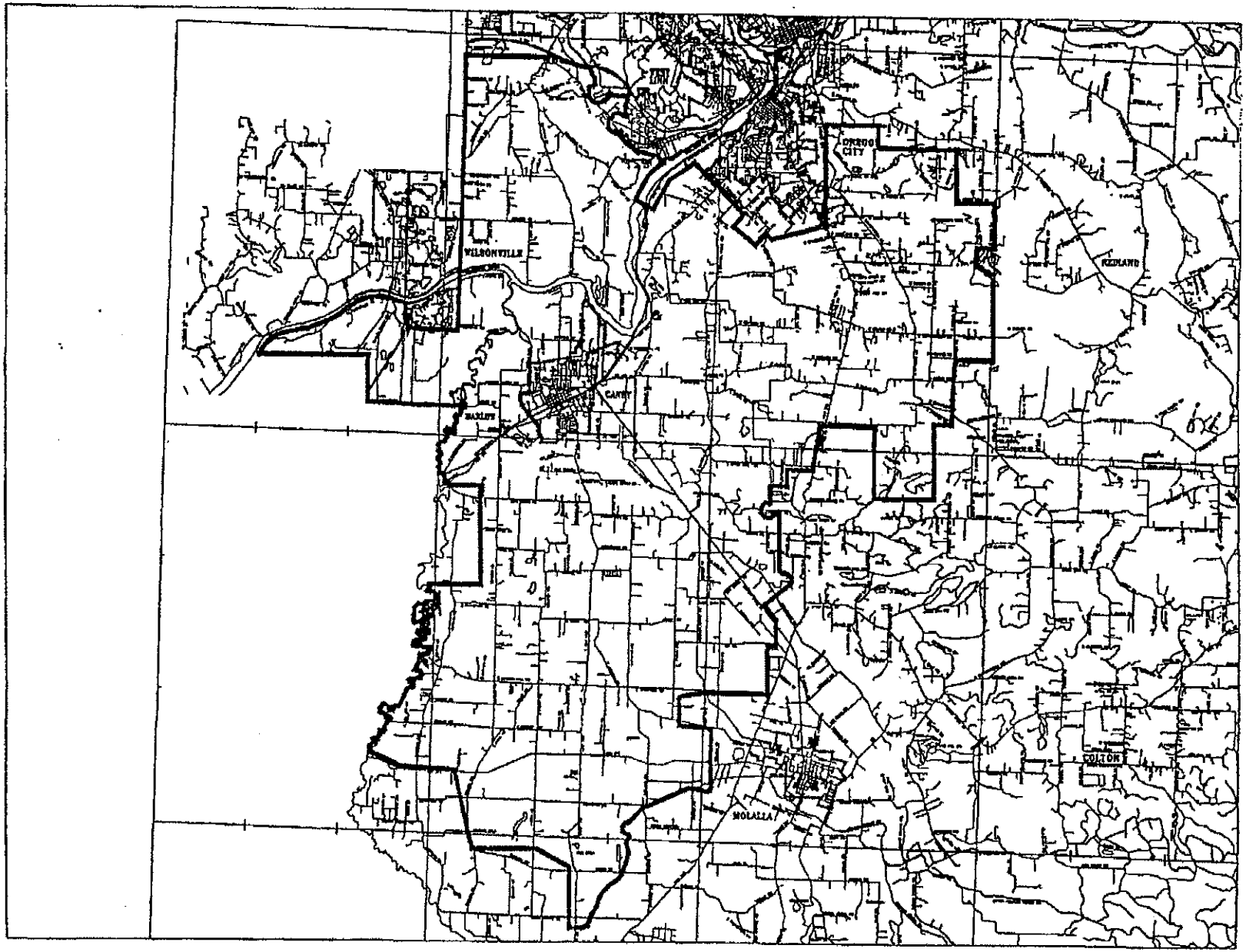
Subject to the Oregon Public Records Law, whenever, pursuant to this Franchise Agreement, Grantee shall make available for inspection by the Grantor or submit to the Grantor reports containing information considered proprietary by the Grantee, the Grantor shall not disclose or release such reports or information to the public without Grantee's prior written consent.

13.15 Time is of the Essence

Whenever this Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence.

13.16 Reservation of Rights

Notwithstanding any provision to the contrary, the parties reserve any and all rights at law or in equity regarding any enforcement proceeding or other matters hereunder.

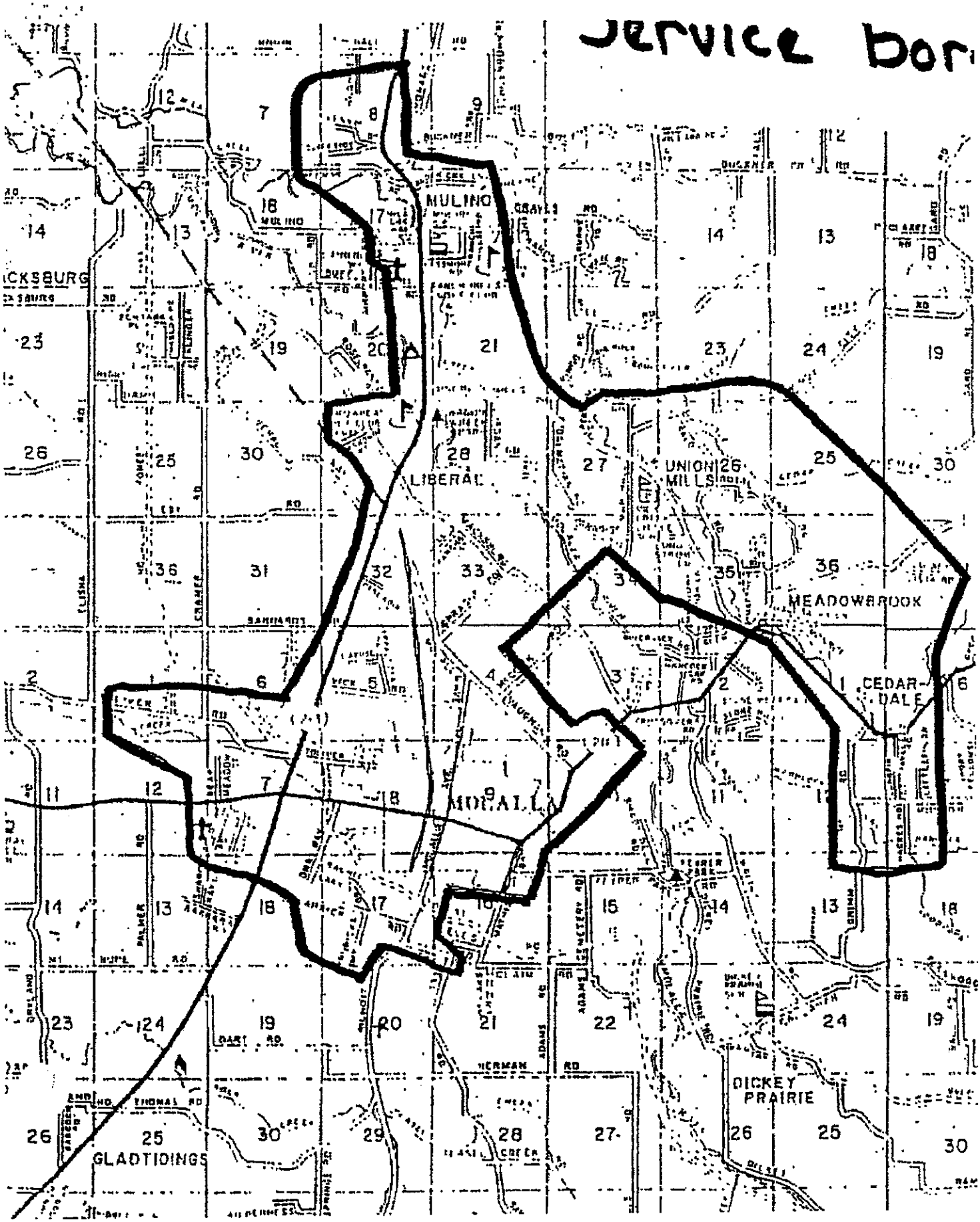


SHEET 1

DATE 4.18.00

DWG TITLE: FRANCHISE

Direct Link


Service Bor
MULINO
LIBERAL
UNION MILLS
MEADOWBROOK
CEDAR-DALE
MORAL
DICKEY PRAIRIE
GLADTIDINGS
CKSBURG

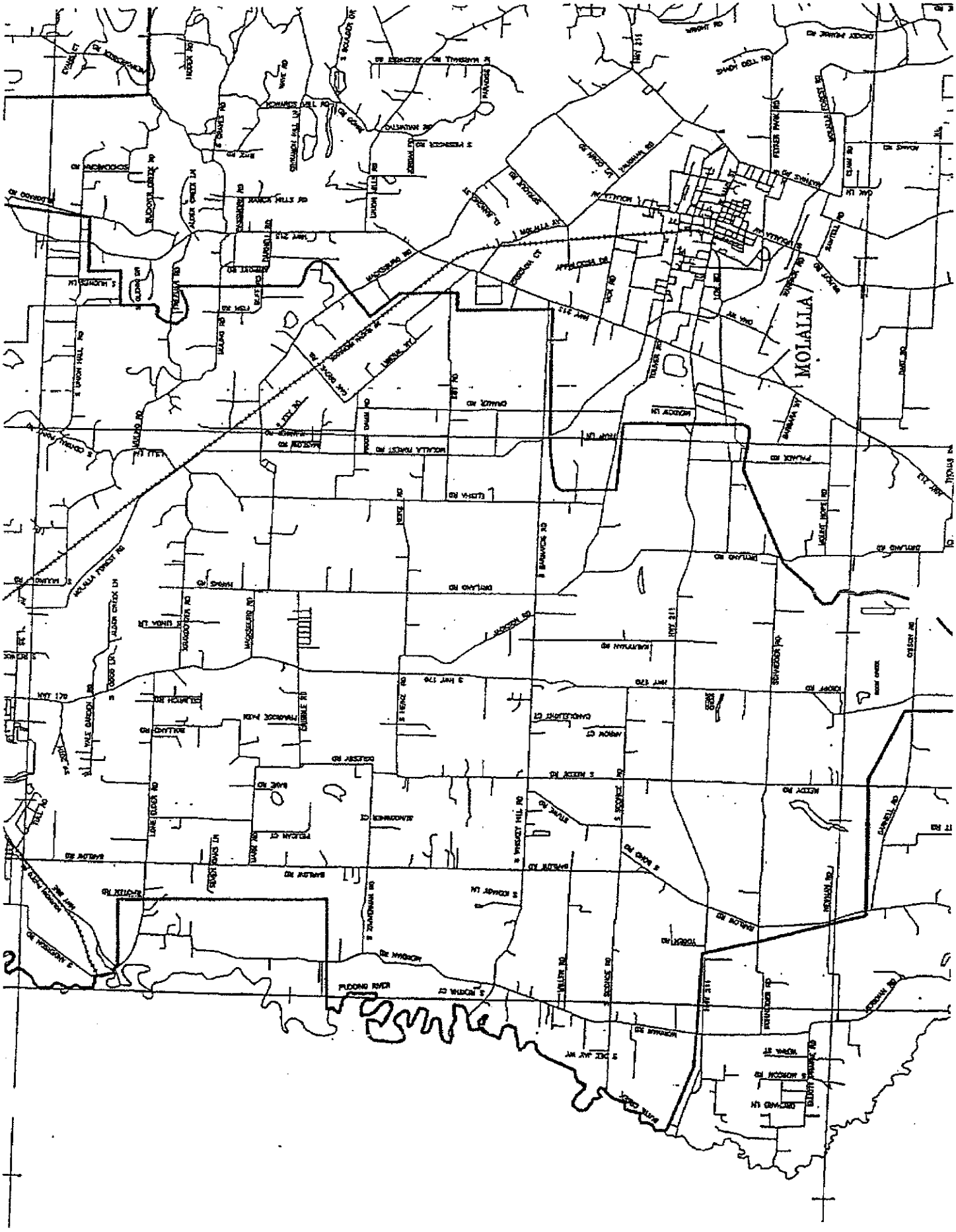

MOLALLA
PUDDING RIVER

EXHIBIT B: ACCEPTANCE

ACCEPTANCE

Cable Manager
Clackamas County
2051 Kaen Rd
Clackamas County, OR 97045

The undersigned, WaveDivision VII, LLC does hereby accept the Franchise granted pursuant to Board Order No._____, passed and approved on_____, 2012, and does hereby agree that it will comply with and abide by all of the provisions, terms and conditions of the Franchise, subject to applicable federal, state and local law.

WAVEDIVISION VII, LLC

BY: _____

TITLE: Executive Vice President

DATE: 7-26-12

EXHIBIT C: INTERCONNECTIONS

Clackamas Community College
19600 S. Molalla Ave
Oregon City, OR 97045

EXHIBIT D: SERVICE TO PUBLIC BUILDINGS

As a voluntary initiative, upon request the Grantee shall provide, without charge, a standard installation and one (1) outlet of Local Broadcast Service to those buildings set forth below. Such installations shall be provided to the facilities within sixty (60) days of Grantor's request. Furthermore, Grantee shall be permitted to recover, from any School or other public building owner entitled to free service, the direct cost of installing, when requested and if Grantee agrees to do so, more than (1) one outlet or concealed inside wiring. Grantee may charge for the provision of Local Broadcast Service to the additional service outlets once installed. The Local Broadcast Service provided shall not be distributed by Grantor beyond the originally installed outlet without written authorization from the Grantee. In the alternative, Grantor may distribute the Local Broadcast Service throughout the building for County purposes at Grantor's cost including necessary equipment to maintain signal quality so long as Grantor's use does not adversely affect Grantee's signals outside of any such building, and provided that any deterioration of the signal caused by Grantor's distribution of the signal throughout the building will be the responsibility of the Grantor. The Local Broadcast Service provided shall not be used for commercial or public viewing purposes. The County shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System.

TVF&R Station 57
24242 Southwest Mountain Rd
West Linn, OR 97068

Canby Fire District #2
Substation #65
26815 S. Hwy 170
Canby, OR 97013

Monitor Fire District #2
32101 S. Kropf Road
Canby, OR 97013

Ninety-One School
511 S. Whiskey Hill Rd
Hubbard, OR 97023

Rural Dell Elementary
10500 S. Hwy 121
Molalla, OR 97038

Molalla Fire Station #81
27689 S. Hwy 213
Mulino, OR 97042

Mulino Elementary
26660 S. Hwy 213
Mulino, OR 97042

CLACKAMAS COUNTY

19

Dave Cummings
Chief Information Officer

INFORMATION SERVICES

INFORMATION SERVICES BUILDING
121 LIBRARY COURT | OREGON CITY, OR 97045

July 26, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

APPROVAL OF THE ORMAP INTERGOVENMENTAL AGREEMENT CONTRACT #2966 BETWEEN THE STATE OF OREGON, DEPARTMENT OF REVENUE AND CLACKAMAS COUNTY

Attached is the Intergovernmental Agreement Contracts #2966 between the State of Oregon, Department of Revenue and Clackamas County for participation in the ORMAP revenue sharing program.

This program, legislated in 1999 as ORS 306.135, provides for the funding of GIS digital tax lot capture and the creation of digital Assessor's tax lot maps. The ORMAP program collects $1.00 from each recorded document. These funds go into a pool administered by the Oregon State Department of Revenue. Funds are distributed to Counties based on competitive grant applications twice a year, in the Spring and Fall. This contract represents our award of our grant request for continuing work on conversion ownership parcel lines based on survey information to the County's GIS database.

This IGA contract benefits the County and the State as well as the public. It provides mutually beneficial data to all parties. Funds from this contract total $24,146.00 for this grant request period. Acquisition of this funding from the State is partially based on matching funds from the County. This has been satisfied by the on-going tax lot enhancement project, initiated in 1998. The funds from the State will supplement our current efforts. This particular grant funds a specific project being done by Technology Services to use various GIS data capture techniques to greatly enhance spatial accuracy of tax lots as well as conversion from paper maps to digital. These projects move the County closer to completing digital tax lot maps as required by the State Department of Revenue ORMAP program.

This revenue sharing is a collaborative effort between the Clackamas County's Assessor's Office and the GIS Division of the Technology Services Department. Both parties will be instrumental in the success of this program. Also assisting in this effort is the County's Surveyor. The primary focus with this funding is to continue the tax lot enhancement project, the ultimate goal in the ORMAP statewide tax lot project.

RECOMMENDATION:
Staff respectfully recommends that the Board approve and sign the Intergovernmental Agreement Contract #2966 between the State of Oregon Department of Revenue and Clackamas County for ORMAP. County Counsel has reviewed these on-going ORMAP contracts and has approved as to form.

Sincerely,

David Cummings
Director, Technology Services

For more information please contact Eric Bohard at 503-723-4814

OREGON'S MT. HOOD TERRITORY™

CLOSE TO PORTLAND...A WORLD AWAY™

2D

July 26, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

APPROVAL OF A CONTRACT WITH BORDERS PERRIN NORRANDER FOR
MARKETING AGENCY SERVICES FOR THE TOURISM & CULTURAL AFFAIRS DEPARTMENT

The Tourism Development Council (TDC), on behalf of the County, has a contract with a marketing agency to work with the TDC and Tourism & Cultural Affairs staff to create and execute marketing strategies that promote to visitors this destination we call Oregon's Mt. Hood Territory.

The contract is based each year on a "not to exceed" amount that is determined in the County budgeting cycle. The amount for 2012-13 is $705,000 and is broken down as Advertising (432400) $535,000; Marketing Materials (432403) $115,000; and Professional Services (431000) $55,000. These categories will be identified into specific projects and an estimate for each project will be agreed to before any funds are allocated.

A Request for Proposals was advertised on April 9, 2012. Seven (7) responsive and responsible proposals were received at the time of closing on April 30, 2012: borders perrin narrander, Grady Britton, Turtledove Clemens, Fish Marketing, Coates Kokes, Sasquatch and Frause. An evaluation committee reviewed the proposals. Based upon the criteria contained in the Request for Proposals, the four highest scoring proposers, borders perrin norrander, Grady Britton, Turtledove Clemens and Fish Marketing, were invited to participate in phase two of the selection process. Phase Two required each of the four proposers to prepare a creative brief and present it to the evaluation committee. At the conclusion of Phase Two, the proposal from borders perrin norrander and their financial component terms dated June 28, 2012 was determined to be the one best meeting the County's needs for this project.

The total amount of this contract shall be $705,000. Funds for this service contract are included in Tourism & Cultural Affairs FY 2012/2013 budget. The term of this contract is one year with the option to renew for up to four additional one year terms. County Counsel has reviewed the marketing services contract.

Recommended Action:
Approval of a contract with borders perrin norrander marketing agency services and delegate authority to sign contract renewals to the Tourism & Cultural Affairs Executive Director.

Sincerely,

Danielle Cowan, Executive Director
Tourism & Cultural Affairs

For information on this or copies of attachments, please contact Jeannine Breshears at 503-655-8419.

Placed on the agenda of _____ by the Purchasing Division

CLACKAMAS COUNTY TOURISM & CULTURAL AFFAIRS

150 BEAVERCREEK ROAD, SUITE 245, OREGON CITY, OREGON 97045
503.655.8490 • FAX 503.742.5907 • WWW.MTHOODTERRITORY.COM

CLACKAMAS COUNTY

LANE MILLER
MANAGER

PURCHASING DIVISION

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

July 26, 2012

MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of July 26, 2012, approval of a contract for Marketing Agency Services with borders perrin norrander. This contract was requested by Danielle Cowan, Executive Director, Tourism and Cultural Affairs.

A Request for Proposals was advertised on April 9, 2012. Seven (7) responsive and responsible proposals were received at the time of closing on April 30, 2012: borders perrin narrander, Grady Britton, Turtledove Clemens, Fish Marketing, Coates Kokes, Sasquatch and Frause. An evaluation committee reviewed the proposals. Based upon the criteria contained in the Request for Proposals, the four highest scoring proposers, borders perrin norrander, Grady Britton, Turtledove Clemens and Fish Marketing, were invited to participate in phase two of the selection process. Phase Two required each of the four proposers to prepare a creative brief and present it to the evaluation committee. At the conclusion of Phase Two, the proposal from borders perrin norrander and their financial component terms dated June 28, 2012 was determined to be the one best meeting the County's needs for this project.

The total amount of this contract shall be $705,000. Funds for this service contract are included in Tourism & Cultural Affairs FY 2012/2013 budget. The term of this contract is one year with the option to renew for up to four additional one year terms. County Counsel has reviewed this contract.

RECOMMENDATION:

Staff respectfully requests approval of a contract for Marketing Agency Services with borders perrin norrander, and delegate authority to sign contract renewals to the Executive Director, Tourism & Cultural Affairs

Respectfully submitted,

Tom Averett, CPPB
Buyer

21

CLACKAMAS COUNTY

Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with Robinson & Owen Heavy Construction Inc. for the Construction of Multorpor Drive Improvements in Government Camp

Development Agency is preparing to construct street improvements to Multorpor Drive in Government Camp, which includes approximately 450 feet of sidewalk, drainage facilities and streetlights. This project extends previous improvements to Multorpor Drive and completes the pedestrian connection from the commercial core area to east Skibowl. Adjacent property owners have agreed to assume all maintenance responsibilities of the improvements until a permanent community wide maintenance district is established.

A request for bids was advertised and seven bids were received by the June 28th deadline. Robinson and Owen submitted the low bid of $154,662.30. The next lowest bid was $172,162.00.

This proposed contract with Robinson and Owen Heavy Construction Inc. has been reviewed and approved by County Counsel. The Development Agency will oversee construction and administer the contract. Adequate urban renewal funds have been budgeted for this project

Recommendation

Staff respectfully recommends that the Board of County Commissioners approve the contract with Robinson and Owen Heavy Construction Inc. for the construction of Multorpor Drive improvements in Government Camp.

Sincerely,

DJQ

David Queener
Project Manager

Placed on Board Agenda of July 26, 2012
By Purchasing Division

For information on this issue or copies of attachments please contact David Queener at (503) 742-4322

CLACKAMAS COUNTY

LANE MILLER
MANAGER

PURCHASING DIVISION

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

July 26, 2012

MEMORANDUM TO THE BOARD OF COUNTY COMMISSIONERS

Please place on the Board Agenda of **July 26, 2012** this contract with Robinson & Owen Heavy Construction Inc. for the **Construction of Multorpor Drive Improvements in Government Camp** for the Clackamas County Development Agency. This project was requested by David Queener, Project Manager. Bids were requested for all the materials and manpower necessary to complete specified work on the above-mentioned project. This project was advertised in accordance with ORS and LCRB Rules. Seven bids were received: Robinson & Owen Heavy Construction - $154,662.30; PCR - $172,162.00; Elk Mountain - $178,743.00; Collins & Sons - $179,580.50; Bill Erickson Heavy Construction - $183,859.00; Jim Smith Excavating - $208,594.00; and Banzer Construction - $257,341.00. After review of all bids, Robinson & Owen Heavy Construction Inc was determined to be the lowest responsive and responsible bidder. The total contract amount is not to exceed $154,662.30. All work is to be completed by October 31, 2012. This contract has been reviewed and approved by County Counsel. Funds for this project are covered under budget line 452-6620-00-481200-30229 for fiscal year 2012/2013.

Respectfully Submitted,

Kathryn M. Holder

Kathryn M. Holder
Purchasing Staff

22

WATER ENVIRONMENT SERVICES

Beyond clean water.

Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Michael S. Kuenzi, P.E.
Director

July 26, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

APPROVAL OF AN ENGINEERING SERVICES AGREEMENT BETWEEN CH2M HILL ENGINEERS, INC. AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 FOR THE HOODLAND SEWAGE TREATMENT FACILITY EFFLUENT DISCHARGE ALTERNATIVES PLAN PHASE II

Frequent flooding of the Sandy River has impacted the Hoodland effluent discharge infrastructure on several occasions. The District, in coordination with DEQ, has agreed to look at potential alternatives to minimize or eliminate the need to be totally dependent on an effluent point source discharge to the Sandy River.

The District advertised in the Daily Journal of Commerce a request-for-proposals for the Hoodland Sewage Treatment Facility Effluent Discharge Alternatives Plan and received proposals from four consultants. A selection committee was organized and the proposers were ranked and scored in accordance with the proposal criteria. After a thorough review, the selection committee scored CH2M Hill Engineers, Inc., as the most responsive candidate.

District staff negotiated a contract for Professional Engineering Services with CH2M Hill Engineers, Inc., for an amount not to exceed $150,000. The Director of Water Environment Services executed the agreement under the Directors signature authority with the understanding that once an alternative or alternatives that are feasible and satisfactory to the District and permitting agencies the District would negotiate phase II of the work.

Phase I of the agreement has been completed and the District has identified a preferred alternative for long-term wastewater disposal to replace the Hoodland Sewage Treatment Facility (STF) outfall that was destroyed in the January 2011 flood event. The preferred alternative is indirect or hyporheic discharge at the county-owned property to the north of Emigrant Trail Lane, between the privately held tax-lots and the Sandy River. The District is ready to proceed with pre-design at the Emigrant Trail site but will in parallel collect site specific groundwater data at the second preferred alternative (Timberline Rim) with the intent of not delaying the implementation of a permanent long term solution if it is later determined that the indirect discharge at the Emigrant Trail is not possible.

District staff has negotiated Phase II of the agreement for preliminary design between CH2M Hill Engineers Inc. and the District for an Amount not to exceed $507,481.00. The activities that will be completed as part of the preliminary design include:

- Conduct surface and subsurface characterization of the proposed Emigrant Trail Lane project site to validate assumptions about technical feasibility of the hyporheic discharge solution.
- Develop preliminary design drawings showing installation of diversion manhole, new conveyance to Emigrant Trail Lane, the hyporheic discharge system, and the backup system for discharge via the existing outfall.
- Prepare a predesign report summarizing the analysis and recommendations in accordance with DEQ Guidelines.

The District will negotiate phase III of the agreement for final design and services during construction for Board approval at the completion of Phase II.

RECOMMENDATION:

District staff respectfully recommends that:

1) The Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of Clackamas County Service District No.1, approve Phase II of the agreement for Professional Engineering Services between CH2M Hill Engineers Inc. and Clackamas County Service District No.1 for the Hoodland Sewage Treatment Facility Effluent Discharge Alternatives Plan Project, and;

2) Authorize the Director of Water Environment Services to execute the Agreement for an amount not to exceed $507,481.00

Sincerely,

Michael Kuenzi, PE
Director

For information on this issue or copies of attachments, please contact Trista Crase at (503) 742-4566

AGREEMENT TO FURNISH CONSULTING SERVICES
TO
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
FOR

HOODLAND SEWERAGE TREATMENT FACILITY
EFFLUENT DISCHARGE ALTERNATIVES PLAN PHASE II

THIS AGREEMENT TO FURNISH CONSULTING SERVICES (this "Agreement"), made and entered into on this _____ day of _____ in the year 2012 by and between CLACKAMAS COUNTY SERVICE DISTRICT NO. 1, a county service district formed under Oregon Revised Statutes ("ORS") 451 (the "DISTRICT") and **CH2M HILL ENGINEERS, Inc.**, a Delaware corporation (the "CONSULTANT").

RECITALS

WHEREAS, the DISTRICT intends to engage the CONSULTANT to assist with a predesign as more fully described on Exhibit A, attached hereto and incorporated by reference, hereinafter called the "PROJECT".

NOW, THEREFORE, the DISTRICT and the CONSULTANT for the considerations hereinafter set forth agree as follows:

ARTICLE 1 - SERVICES OF THE CONSULTANT

The CONSULTANT agrees to perform, in accordance with applicable District, local, state and federal laws, statutes, ordinances, rules and regulations, professional services in connection with the PROJECT as stated and defined in Exhibit A (the "Services").

ARTICLE 2 - DISTRICT'S RESPONSIBILITIES

Unless otherwise specifically modified in Exhibit A the DISTRICT will:

2.1 Provide adequate information to the CONSULTANT regarding the DISTRICT's requirements for the PROJECT.

2.2 Assist the CONSULTANT by making available all reasonably available information and technical data pertinent to the PROJECT.

2.3 Obtain approvals and permits from governmental authorities having jurisdiction over the PROJECT, and such approvals and consents from others as may be necessary for completion of the PROJECT (excepting any personal qualifications or certifications required for CONSULTANT to perform the work contemplated hereunder).

ARTICLE 3 – CONSULTANT'S RESPONSIBILITIES

3.1 The CONSULTANT agrees to complete the Services according to the schedule and budget set forth in Exhibit A. If the DISTRICT has requested modifications or changes in the scope of the PROJECT pursuant to Section 3.3, the time of performance and budget for the CONSULTANT's services shall be adjusted accordingly.

3.2 Standards of Performance

3.2.1 The standard of care for all professional services performed or furnished by CONSULTANT under this Agreement will be the care and skill ordinarily used by a competent member of CONSULTANT's profession.

3.2.2 CONSULTANT shall be responsible for the accuracy of its services and documents resulting there from, and DISTRICT shall not be responsible for discovering deficiencies therein. CONSULTANT shall correct such deficiencies without additional compensation, except to the extent such action is solely attributable to deficiencies in DISTRICT-furnished information.

3.2.3 CONSULTANT and DISTRICT shall comply with applicable Laws or Regulations and DISTRICT-mandated standards. Any changes to these requirements during the term of this Agreement shall not be the basis for any modifications to CONSULTANT's scope of services, times of performance, or compensation.

3.3 Notice of Changes

In the normal course of administering the work under this Agreement, the DISTRICT may give directives to the CONSULTANT, either written or verbal, which may constitute a change to the Services or Schedule. If an instruction, directive or decision is given that the CONSULTANT believes is a change in scope or schedule, the CONSULTANT shall notify the DISTRICT within seven (7) calendar days of receiving such directive or instruction. The notice shall state the general nature of the change, but need not include a detailed cost or impact estimate. Failure to give timely written notice relieves the DISTRICT from any obligation to adjust the contract amount, scope or schedule as an amendment to the Agreement. To the extent District agrees that a change in the Services required or the Schedule has occurred, the parties shall agree to an amendment to this Agreement pursuant to the process set forth in Paragraph 6.24 hereof.

3.5 CONSULTANT's Project Manager

The CONSULTANT shall assign personnel to do the work in the capacities and amounts designated in Exhibit A. The CONSULTANT shall not change these personnel assignments without the prior written consent of the DISTRICT's Project Manager (as defined in Paragraph 4.3), which consent shall not be unreasonably withheld.

ARTICLE 4 - AUTHORIZATION AND PROJECT MANAGER

4.1 Specific authorization to proceed with the Services shall be granted in writing by the

DISTRICT within a reasonable time after the execution of this Agreement. The CONSULTANT shall not proceed with the work without such authorization. The DISTRICT's Project Manager shall have authority to give such authorizations.

4.2 This Agreement shall be effective as of the CONSULTANT's receipt of the written authorization to proceed and shall be completed as set forth in the Schedule.

4.3 DISTRICT's Project Manager

The DISTRICT's Project Manager is authorized to approve work and billings hereunder, approve subconsultants, give notices referred to herein, terminate this Agreement as provided herein and carry out any other DISTRICT actions referred to herein. The DISTRICT's Project Manager shall be Randy Rosane.

ARTICLE 5 - PAYMENTS TO CONSULTANT

In accordance with the terms and conditions of this Agreement, the DISTRICT shall compensate the CONSULTANT as follows:

5.1 Compensation

5.1.1 The DISTRICT agrees to pay the CONSULTANT on a time and material basis with a not-to-exceed amount equal to FIVE HUNDRED AND SEVEN THOUSAND, FOUR HUNDRED AND EIGHTY ONE and 00/100 Dollars ($507,481.00) for the Services, as billed monthly. Notwithstanding anything else to the contrary herein, the total compensation under this Agreement shall not exceed FIVE HUNDRED AND SEVEN THOUSAND, FOUR HUNDRED AND EIGHTY ONE and 00/100 Dollars ($507,481.00) without prior written approval of the DISTRICT.

5.1.2 The CONSULTANT is entitled to no compensation for the correction or revision of any errors or deficiencies in the services provided.

5.1.3 The DISTRICT may withhold from payments due the CONSULTANT such sums as are necessary, in the DISTRICT's sole and absolute discretion, to protect the DISTRICT against any loss or damage which may result from negligence or unsatisfactory work by the CONSULTANT, the failure of the CONSULTANT to perform as required under this Agreement, or claims filed against the CONSULTANT or the DISTRICT relating to the CONSULTANT's services or work under this Agreement.

5.2 Billing and Payment Procedure

5.2.1 The CONSULTANT will provide monthly invoices to the DISTRICT for work performed during the preceding month. The invoices will be accompanied with a summary cost itemization and supported by a monthly progress report. The CONSULTANT shall maintain detailed records to support these charges and such

records shall be available to the DISTRICT for audit and copying. The DISTRICT shall pay monthly payments to the CONSULTANT within 30 days of the DISTRICT's receipt of the CONSULTANT's monthly statement. Interest on unpaid payments due shall accrue at the rate of 1% per month beginning the 60th day after the DISTRICT's receipt of the CONSULTANT's statement. No interest shall be paid on disputed amounts.

ARTICLE 6 - GENERAL CONDITIONS

6.1 Early Termination of Agreement

6.1.1 The DISTRICT and the CONSULTANT, by mutual written agreement, may terminate this Agreement at any time.

6.1.2 The DISTRICT, on thirty (30) days' prior written notice to the CONSULTANT, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

6.1.3 Either the DISTRICT or the CONSULTANT may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving a written notice of termination stating the effective date of the termination.

6.2 Payment on Early Termination

6.2.1 In the event of termination under Paragraphs 6.1.1 or 6.1.2, hereof, the DISTRICT shall pay the CONSULTANT for work performed in accordance with the Agreement prior to the termination date.

6.2.2 In the event of termination under Paragraph 6.1.3 hereof by the CONSULTANT due to a breach by the DISTRICT, then the DISTRICT shall pay the CONSULTANT as provided in Paragraph 6.3.3.

6.2.3 In the event of termination under Paragraph 6.1.3 hereof by the DISTRICT due to a breach by the CONSULTANT, then the DISTRICT shall pay the CONSULTANT as provided in Paragraph 6.3.1, subject to set off of excess costs, as provided for in Paragraphs 6.1.3 and 6.3.

6.2.4 In the event of early termination, all of the CONSULTANT's work product will become and remain property of the DISTRICT.

6.3 Remedies

6.3.1 In the event of termination under Paragraph 6.1.3 by the DISTRICT due to a breach by the CONSULTANT, then the DISTRICT may complete the work either itself, or by agreement with another consultant or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the compensation provided under Paragraph 6.1.1 hereof, then the CONSULTANT shall promptly pay to the DISTRICT the amount of the excess.

6.3.2 The remedies provided to the DISTRICT under Paragraph, 6.1, 6.2, and 6.3 hereof for a breach by the CONSULTANT shall not be exclusive. The DISTRICT also shall be entitled to any other equitable and legal remedies that may be available.

6.3.3 In the event of breach of this Agreement by the DISTRICT, then the CONSULTANT's remedy shall be limited to termination of the Agreement and receipt of payment as provided in Paragraphs 6.1 and 6.2 hereof.

6.4 Indemnification and Insurance

6.4.1 The CONSULTANT agrees to indemnify, save harmless and defend the DISTRICT, its officers, commissioners, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, errors, or omissions of the CONSULTANT or CONSULTANT's officers, owners, employees, agents, or its subcontractors or anyone over which CONSULTANT has a right to control.

6.4.2 The CONSULTANT agrees to furnish the DISTRICT evidence of comprehensive general (including contractual liability) and automobile liability insurance in the amount of not less than $1,000,000 combined single limit for personal injury and property damage for the protection of the DISTRICT, its officers, commissioners, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to the CONSULTANT's, or any subcontractors, in the performance of this Agreement. The insurance shall include the DISTRICT, its officers, commissioners, agents and employees, as additional insureds and refer to and support the CONSULTANT's obligation to hold harmless the DISTRICT, its officers, commissioners, agents, and employees.

6.4.3 The CONSULTANT agrees to furnish the DISTRICT evidence of professional liability insurance coverage (errors and omissions, on a claims-made basis) in the amount of not less than $1,000,000 because of personal injury, bodily injury, death or damage to property.

6.5 Oregon Law and Forum

6.5.1 This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

6.5.2 Any litigation between the DISTRICT and the CONSULTANT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon. The parties agree, however, to resolve any disputes between the parties in the manner described in Paragraph 6.23.

6.6 Workers' Compensation Coverage Requirements

The CONSULTANT is an independent contractor for purposes of the Oregon Workers' Compensation Law, as set forth in ORS Chapter 656 ("Workers' Comp Law") and is solely liable for any workers' compensation coverage under this Agreement. If the CONSULTANT hires subconsultants for the performance of this Agreement, the CONSULTANT agrees to require that the subconsultant(s) shall comply with ORS Chapter 656. The signing of this Agreement shall constitute the declaration of independent contractor status by the CONSULTANT.

6.6.1 The CONSULTANT will be solely responsible for payment of any local, state or federal taxes required as a result of this Agreement.

6.6.2 This Agreement is not intended to entitle the CONSULTANT to any benefits generally granted to DISTRICT, officers, or employees. Without limitation, but by way of illustration, the benefits not intended to be extended by this contract to the CONSULTANT are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime pay, Social Security, workers' compensation, unemployment compensation, or retirement benefits (except so far as benefits are required by law if the CONSULTANT is presently a member of the Public Employees Retirement System).

6.7 Subcontracts

The CONSULTANT shall not subcontract its work under this Agreement, in whole or in part, without the prior written approval of the DISTRICT. The CONSULTANT shall require subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the CONSULTANT as specified in this Agreement. Notwithstanding DISTRICT approval of a subcontractor, the CONSULTANT shall remain obligated for full performance hereunder, and the DISTRICT shall incur no obligation other than its obligations to the CONSULTANT hereunder. The CONSULTANT agrees that if subcontractors are employed in the performance of this Agreement, the CONSULTANT and its subcontractors are subject to the requirements of the Workers' Comp Law.

6.8 Assignment

The CONSULTANT shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the DISTRICT which may be granted or withheld in its sole and absolute discretion. The DISTRICT may assign this Agreement at any time and shall provide CONSULTANT with notice of such assignment within thirty (30) days of such assignment.

6.9 Notice

Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing with such notice deemed delivered either upon actual receipt or three (3) days after deposit in U.S. Mail, whichever shall first occur:

If to the DISTRICT: Clackamas County Service District No. 1
c/o Water Environment Services
150 Beavercreek Rd., 4th Floor
Oregon City, OR 97045
ATTN: Randy Rosane

Copy to: County Counsel
c/o Water Environment Services
150 Beavercreek Rd. , 4th Floor
Oregon City, OR 97045
ATTN: Chris Storey

If to the CONSULTANT: Matt Noesen
CH2M HILL
2020 SW 4th Avenue, Suite 300
Portland, OR 97201

6.10 Severability

If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

6.11 Integration

This Agreement contains the entire agreement between the DISTRICT and the CONSULTANT and supersedes all prior written or oral discussions or agreements.

6.12 Funds

The DISTRICT certifies that sufficient funds are available and authorized for expenditure pursuant to this Agreement in Fiscal Year 2012-2013. The funds needed for the balance of the Agreement are subject to appropriation by the Board of County Commissioners, acting as the governing body of the DISTRICT (the "Board"), during budget processes. If the Board does not appropriate funds for subsequent fiscal years for the balance of this contract, the DISTRICT may immediately terminate this Agreement by giving written notice of termination to the CONSULTANT. The CONSULTANT shall not be entitled to compensation for any work performed after the date of such written termination notice. The DISTRICT shall also have the right to accelerate or decelerate the work to match funding limitations. Any termination for lack of funds shall not constitute an "Early Termination" as such term is used in Paragraph 6.1.

6.13 Estimates of Cost

The estimates of cost for a PROJECT provided for herein are to be prepared by the CONSULTANT through exercise of experience and judgment in applying currently available cost data. The CONSULTANT will keep the DISTRICT appraised of changes throughout the PROJECT that significantly impact the estimated costs provided.

6.14 Ownership of Documents

6.14.1 All work the CONSULTANT performs under this Agreement shall be considered work made for hire and shall be the sole and exclusive property of the DISTRICT. The DISTRICT shall own any and all data, documents, plans, copyrights, specifications, working papers and any other materials the CONSULTANT produces in connection with this Agreement. On completion or termination of the Agreement the CONSULTANT shall promptly deliver these materials to the Project Manager.

6.14.2 The CONSULTANT may retain for its own records and at its own cost copies of the materials referred to in Paragraph 6.14.1 hereof.

6.14.3 Any use the DISTRICT makes of the materials referred to in Paragraph 6.14.1 hereof, except for purposes of the work contemplated by this Agreement, shall be at the DISTRICT's risk.

6.15 Commencement of Work

The Engineer agrees that work being done pursuant to this Agreement will not be commenced until after:

6.15.1 Workers Compensation Insurance is obtained, as specified in Paragraph 6.6.

6.15.2 This Agreement is fully executed by all parties and approved by the Board of County Commissioners and/or Director when applicable.

6.15.3 The receipt of a written authorization to proceed from the Project Manager

6.16 Release of Information

No information relative to the PROJECT shall be released by the CONSULTANT for publication, advertising, communication with the media, the public, other clients of the CONSULTANT, or any other person for any other purpose, without prior written approval of the DISTRICT.

6.17 Maintenance of Records

The CONSULTANT shall maintain books and accounts of payroll costs, travel, subsistence, field contracted services of others and reimbursable expenses pertaining to each PROJECT in accordance with generally accepted professional practices, appropriate accounting procedures and applicable local, state or federal laws, statutes, ordinances, or rules and regulations. The DISTRICT or its authorized representative shall have the authority to inspect, audit and copy, on reasonable notice and from time to time, any records of the CONSULTANT regarding its billings or any record arising from or related to this Agreement. Records shall be maintained and available until three (3) years after the date of final PROJECT billing or until three (3) years after the date of resolution of any litigation or claim.

6.18 Audit of Payments

6.18.1 The DISTRICT, either directly or through a designated representative, may audit the records of the CONSULTANT at any time during the three (3) year period established by Paragraph 6.17.

6.18.2 If an audit discloses that payments to the CONSULTANT were in excess of the amount to which the CONSULTANT was entitled, then the CONSULTANT shall immediately repay the amount of the excess to the DISTRICT.

6.19 Public Contracting Law

Pursuant to the requirements of ORS Chapters 279A and 279C, the following terms and conditions are made a part of this Agreement:

6.19.1 The CONSULTANT agrees that it shall:

6.19.1.1 Make payments promptly, as due, to all persons supplying to CONSULTANT labor or materials for the performance of work contemplated by this Agreement.

6.19.1.2 Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of this Agreement.

6.19.1.3 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167 or its successor statutes.

6.19.1.4 Not permit any lien or claim to be filed or prosecuted against the State of Oregon, Clackamas County, the DISTRICT, any municipality, municipal corporation, or subdivision thereof, on account of any labor or material furnished for the performance of work contemplated by this Agreement.

6.19.2 If the CONSULTANT fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the CONSULTANT by any person in connection with this Agreement, as such claim becomes due, the proper office representing DISTRICT may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the CONSULTANT by reason of this Agreement. Further, the CONSULTANT or any first-tier subcontractor under this Agreement fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the CONSULTANT by any person in connection with this Agreement within thirty (30) days after receipt of payment from DISTRICT or the CONSULTANT, as applicable, then such person shall owe the unpaid person the amount due plus interest charges commencing at the end of the ten (10) day period under ORS 279C.580(4) and ending upon final payment unless subject to a good faith dispute as defined in ORS 279C.580. The rate of interest shall be as set forth in ORS 279C.515(2).

6.19.3 No person shall be employed for more than eight (8) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100(5) or as defined in the DISTRICT's Contract Review Board Rules, the laborer shall be paid at least time and a half pay for all overtime in excess of eight (8) hours a day and for work performed on Saturday and on any legal holiday, as specified in ORS 279C.

6.19.4 If this Agreement is for personal services as defined in ORS 279C or as defined in the DISTRICT's Contract Review Board Rules, the laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.

6.19.5 The CONSULTANT shall promptly, as due, make payment to any person, partnership, association, corporation, or other entity furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of the CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

6.19.6 The CONSULTANT and all employers working under this Agreement are subject employers under ORS 656.017.

6.19.7 The CONSULTANT shall demonstrate that an employee drug testing program is in place before commencing work on the Project.

6.20 Equal Employment Opportunity

During the performance of this Agreement, the CONSULTANT agrees as follows:

6.20.1 The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, age, mental or physical handicap or a national origin. The CONSULTANT agrees that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, marital status, age, mental or physical handicap, or national origin. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided setting forth the provisions of this Equal Opportunity Clause.

6.20.2 The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, marital status, age, physical or mental handicap or national origin.

6.20.3 The CONSULTANT will send to each labor union or representative of workers with which CONSULTANT has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representative of the CONSULTANT's commitments under this Equal Opportunity Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

6.21 Survival

All express representations, indemnifications or limitations of liability included in this Agreement shall survive its completion and/or termination for any reason.

6.22 Headings

The headings used in this Agreement are for general reference only and are not part of the contract language. This Agreement should be construed without giving any meaning to any headings included herein.

6.23 Dispute Resolution

Any controversy or claim arising out of or relating to this Agreement or any related agreement shall be settled by arbitration in accordance with the following provisions:

6.23.1 Disputes Covered. The parties agree to arbitrate all disputes of every kind relating to or arising out of this Agreement. Disputes include actions for breach of contract with respect

to this Agreement, as well as any claim based upon tort or any other causes of action relating to the Agreement or the PROJECT, such as claims based upon an allegation of fraud or misrepresentation and claims based upon a federal or state statute. In addition, the arbitrators selected according to procedures set forth below shall determine the arbitrability of any matter brought to them, and their decision shall be final and binding on the parties.

6.23.2 Forum. The forum for the arbitration shall be Clackamas County, Oregon.

6.23.3 Law. The governing law for the arbitration shall be the law of the State of Oregon, without reference to its conflicts of laws provisions.

6.23.4 Selection. There shall be three arbitrators, unless the parties are able to agree on a single arbitrator. In the absence of such agreement within ten (10) days after the initiation of an arbitration proceeding, DISTRICT shall select one arbitrator and CONSULTANT shall select one arbitrator, and those two arbitrators shall then select, within ten (10) days, a third arbitrator. If those two arbitrators are unable to select a third arbitrator within such ten (10)-day period, a third arbitrator shall be appointed by the commercial panel of the American Arbitration Association. The decision in writing of at least two of the three arbitrators shall be final and binding upon the parties.

6.23.5 Administration. The arbitration shall be administered by the American Arbitration Association.

6.23.6 Rules. The rules of arbitration shall be the Commercial Arbitration Rules of the American Arbitration Association, as modified by any other instructions that the parties may agree upon at the time, except that each party shall have the right to conduct discovery in any manner and to the extent authorized by the Federal Rules of Civil Procedure as interpreted by the federal courts. If there is any conflict between those Rules and the provisions of this section, the provisions of this section shall prevail.

6.23.7 Substantive Law. The arbitrators shall be bound by and shall strictly enforce the terms of this Agreement and may not limit, expand or otherwise modify its terms. The arbitrators shall make a good faith effort to apply substantive applicable law, but an arbitration decision shall not be subject to review because of errors of law. The arbitrators shall be bound to honor claims of privilege or work-product doctrine recognized at law, but the arbitrators shall have the discretion to determine whether any such claim of privilege or work product doctrine applies.

6.23.8 Decision. The arbitrators' decision shall provide a reasoned basis for the resolution of each dispute and for any award. The arbitrators shall not have power to award damages in connection with any dispute in excess of actual compensatory damages and shall not multiply actual damages or award consequential or punitive damages.

6.23.9 Expenses. Each party shall bear its own fees and expenses with respect to the arbitration and any proceeding related thereto and the parties shall share equally the fees and expenses of the American Arbitration Association and the arbitrators.

6.23.10 Remedies; Award. The arbitrators shall have power and authority to award any remedy or judgment that could be awarded by a court of law in the State of Oregon. The award rendered by arbitration shall be final and binding upon the parties, and judgment upon the award may be entered in any court of competent jurisdiction in the United States.

6.24 Amendments

The DISTRICT and the CONSULTANT may amend this Agreement at any time only by written amendment executed by the DISTRICT and the CONSULTANT. Any amendment that increases the amount of compensation payable to the CONSULTANT in excess of the amounts authorized in prior Board approvals shall be subject to approval by the Board. The Director or person designated by Board order may execute amendments to the Agreement to increase compensation within the limits of the authority established by the DISTRICT's Contract Review Board Rules and within the limits authorized by prior Board approvals. The Project Manager may agree to and execute any other amendment on behalf of the DISTRICT.

6.25 Waiver

The DISTRICT and the CONSULTANT shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

6.26 Time is of the essence of this Agreement.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

CONSULTANT:

CH2M HILL ENGINEERS, INC.
Company

2020 SW 4th Avenue, Suite 300
Address
Portland, OR 97201
City, State, Zip Code

Mark R. Johnson

Title
32-0100027
Federal Tax ID Number

Date

CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

Michael S. Kuenzi, Director

Date